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federal register

Friday
August 31, 1979

Highlights

Briefings on How to Use the Federal Register— For details on briefings in **Washington, D.C.**, and **Long Island, New York**, see announcement in the Reader Aids Section at the end of this issue.

51177 **Columbus Day** Presidential proclamation

51179 **Leif Erikson Day** Presidential proclamation

51181 **White Cane Safety Day** Presidential proclamation

51542 **Medicare and Medicaid Programs** HEW/HCFA sets initial schedule of limits on adjusted skilled nursing facility inpatient routine service costs that may be reimbursed; effective 10–1–79 (Part V of this issue)

51402 **Domestic Oil and Gas Reserves** DOE gives notice to well operators of data due for annual survey for Report Year 1978 (Part II of this issue)

51233 **Lead in Food Supply** HEW/FDA requests information and data on prior sanction status of lead and problem of presence in food; comments by 11–29–79

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51211, 51230 Poison Prevention Packaging CPSC issues requirements (effective 2–27–80) and proposed rule (comments by 10–30–79) on child-resistant packaging of acetaminophen preparations (2 documents)

51218 Food Additives HEW/FDA amends regulations to provide for use of chemical as antioxidant and/or stabilizer in olefin polymers; effective 8–31–79

51217 Food Additives HEW/FDA amends regulations for adhesives; effective 8–31–79; comments by 10–1–79

51217 Food Additives HEW/FDA provides for safe use of N-methyldiallylamine hydrochloride polymer with epichlorohydrin in paper and paperboard; effective 8–31–79; objections by 10–1–79

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51219 Junior Reserve Officers' Training Corps and National Defense Cadet Corps DOD/Army prescribes policies for organization, administration, operation, and support; effective 1–22–79

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Federal Register
Vol. 44, No. 171
Friday, August 31, 1979

Presidential Documents

Title 3—

The President

Proclamation 4676 of August 29, 1979

Columbus Day, 1979

By the President of the United States of America

A Proclamation

Four hundred and eighty-seven years have passed since an Italian navigator in the service of Spain left the Old World to find the New. Christopher Columbus was determined to test an audacious theory: to reach the East, sail west. On the morning of October 12, 1492, with ninety men in three small ships, he sailed into immortality.

The voyage of this intrepid explorer marked the convergence of American and world history. His discovery opened a new age—an age that gave the world a new center.

We are the inheritors of Columbus' legacy. As a nation which has always striven for the same qualities as the Great Navigator, we must continue the search for new horizons.

It is fitting that, on the observance of this October 12, we once again recall to mind Columbus' extraordinary voyage and, in the spirit of that undertaking, rededicate ourselves to that which is best and most courageous in us.

In tribute to Columbus' achievement, the Congress of the United States of America, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Monday, October 8, 1979, as Columbus Day; and I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in his honor.

I also direct that the flag of the United States of America be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-27495
Filed 8-30-79; 12:08 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4677 of August 29, 1979

Leif Erikson Day, 1979

By the President of the United States of America

A Proclamation

From time immemorial, explorers have sought new frontiers to explore and new worlds to conquer. Their insatiable curiosity, their willingness to face new challenges remain inspirations to the modern world.

Few people can surpass the courage and accomplishments of Leif Erikson, a remarkable representative of a remarkable people. His voyage west to uncharted waters epitomized the virtues of bravery, skill and imagination.

In honoring this great Norseman, we honor the representative of a people whose respect for law and whose early devotion to representative government mirrors our own commitments. We honor, too, Americans of Scandinavian descent, who have made such notable contributions to the development of the United States.

To express our respect for the accomplishments of Leif Erikson and his followers, the Congress of the United States, by joint resolution approved September 2, 1964 (78 Stat. 849, 36 U.S.C. 169) designated October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Tuesday, October 9, 1979, as Leif Erikson Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate ceremonies in suitable places throughout the land.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-27496
Filed 8-30-79; 12:09 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4678 of August 29, 1979

White Cane Safety Day, 1979

By the President of the United States of America

A Proclamation

Most of us take it for granted that we can walk unaided through a crowded store or street. We give little thought to our freedom to come and go as we please, yet there are over six million Americans whose vision is so impaired that every corner is a place of danger.

For many of these people, help comes in the form of a white cane. This eight-ounce, long white stick is as useful as it is simple. For a blind person, it is a kind of beacon. In the hands of someone trained in its skillful use, the white cane becomes an extension of the body, providing assurance that the path ahead is clear.

Upon encountering someone using a white cane, those of us who are fortunate enough to see well should slow our pace for a moment to notice if the person seems to need assistance. Offering an arm to a blind person crossing the street or guiding him or her around a barrier requires only a few moments. Indeed, just yielding the right of way to a blind person can make the difference between a pleasant and safe excursion or a frustrating and possibly hazardous one. Motorists, cyclists, and joggers should be especially alert to the person with a white cane.

To heighten public awareness of the importance of the white cane to the independence and safety of blind and visually handicapped Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d) has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1979, as White Cane Safety Day.

On this occasion, I urge all Americans to consider the needs and accomplishments of those who successfully overcome the difficulties imposed by visual disability and blindness. Such individuals merit recognition and respect for the special efforts they must make to function independently in a world where the ability to see is taken for granted.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

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Rules and Regulations

Federal Register
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Friday, August 31, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 308

Volunteer Service

AGENCY: Office of Personnel Management.

ACTION: Final Regulations.

SUMMARY: These regulations implement a Volunteer Service Program for students, as required by 5 U.S.C. 3111, and in accordance with program guidelines established by the Office of Personnel Management. These regulations are intended to provide a broad framework to ensure uniform acceptance of volunteer services within the executive branch of the Federal Government.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Poole, Student Employment Programs Section, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C., 20415, (202) 632–5678.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1979, the Office of Personnel Management published interim regulations to implement the acceptance of Volunteer Service. The Office also issued program guidance through the Federal Personnel Manual (FPM) System on January 22, 1979. Both publications invited comments. During the public comment period, a total of 17 written comments were received—15 from Federal agencies and 2 from Labor organizations. All were addressed to the FPM guidance and none recommended changes to the regulations.

The major issues raised requested clarification of: (1) definitions, (2) the impact of guidance published pursuant to 5 U.S.C. 3111 upon existing volunteer programs conducted under different statutes, (3) procedures related to documentation and reports, and (4) program guidance language considered by commenters to be ambiguous. There are also recommendations for expanding coverage to include statements related to EEO, security clearances, Privacy Act, and relationships with Labor organizations.

The Office of Personnel Management has examined and considered all comments brought to its attention during the public comment period, and has modified, where appropriate, its program administration guidance to be published in subchapter 7, FPM chapter 308 in the Federal Personnel Manual.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is adding a new Part 308 to Title 5, Code of Federal Regulations, as set forth below:

PART 308—VOLUNTEER SERVICE

Secs.
308.101 Definitions
308.102 Eligibility and status
308.103 Authority

Authority: 5 U.S.C. 3111.

§ 308.101 Definitions.

In this part: "Student" is an individual who is enrolled not less than half-time in a high school, trade school, technical or vocational institute, junior college, college, university or other accredited educational institution. An individual who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if such individual shows to the satisfaction of the agency that the individual has a bona fide intention of continuing to pursue a course of study or training in the same or different educational institution during the school semester (or other period into which the school year is divided) immediately after the interim.

"Volunteer Service" under the Act is limited to services performed by a student, with the permission of the institution at which the student is enrolled, as part of an agency program established for the purpose of providing educational experience for the student. Such service is to be uncompensated and will not be used to displace any employee or to staff a position which is a normal part of the agency's work force.

§ 308.102 Eligibility and status.

(a) *Minimum Age.* The selection of students to participate under the program should be in conformance with either Federal, State, or local laws and standards governing the employment of minors.

(b) *Status.* A student participating under an agency volunteer program is not considered to be a Federal employee for any purposes other than injury compensation or laws related to the Tort Claims Act. Service is not creditable for leave accrual or any other employee benefits.

§ 308.103 Authority.

Section 301 of the Civil Service Reform Act of 1978, Pub. L. 95–454, authorized Federal departments and agencies to establish programs designed to provide educationally related work assignments for students in nonpay status.

[FR Doc. 79–27232 Filed 8–30–79; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 235

State Administrative Expense Funds; Interim Rule—Use of Discretionary Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This regulation amends existing State Administrative Expense (SAE) Fund regulations (7 CFR Part 235) by establishing guidelines under which allocations of a portion of the SAE funds authorized by section 7(a) of the Child Nutrition Act of 1966 will be made. The rule provides that State agencies and other State-level agencies which administer the Child Care Food Program (7 CFR Part 226) and the Food Distribution Program (7 CFR Part 250) will receive allocations of additional SAE funds to assist them in strengthening their program administration.

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DATE: Effective August 31, 1979. To be assured of consideration, comments must be received by October 31, 1979.

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, FNS–USDA, Washington, D.C. 20250. Comments received will be available for inspection by interested parties in Room 4300B, Auditors Building, 14th Street and Independence Avenue, SW., Washington, D.C. during regular business hours (8:30 a.m. to 5:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, at the above address or by phone (202) 447–8130.

SUPPLEMENTARY INFORMATION: Section 7 of Public Law 95–627, enacted on November 10, 1978, amended section 7 of the Child Nutrition Act of 1966 and established a new allocation formula for the allocation of SAE funds to State agencies which administer the child nutrition programs.

Under section 7(a)(1) as amended, by Pub. L. 95–627, the Department annually has available to it one and one-half percent of the total program funds expended by all administering agencies during the second preceding year in the National School Lunch, School Breakfast, Special Milk, Food Service Equipment Assistance, and Child Care Food Programs. Under section 7(a)(2), each State agency is allocated not less than one-percent of program funds expended by it during the second preceding year in the school feeding programs (i.e., the National School Lunch, School Breakfast, Special Milk and Food Service Equipment Assistance Programs). State agencies which administer the Child Care Food Program (CCFP) are allocated SAE funds for that program based on the application of a different formula as set forth in section 7(a)(3) of the Child Nutrition Act of 1966, as amended. Section 7(a)(3) also allows the Department to "adjust any State's allocation to reflect changes in the size of its program."

Section 7(a)(4) as amended, that provides, after the required allocations of sections 7(a)(2) and (3) have been made, the remaining monies be "allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs. . . . including, but not limited to, improved program integrity and the quality of meals served to children." The Department has decided to allocate these discretionary funds in several ways. First, the Department is developing a system to assist in improving program management at the State and local levels. The system, known as AIMS (Assessment, Improvement and Monitoring System) will be issued in interim rulemaking in the near future. For the current fiscal year, $4 million in appropriated funds have been earmarked for AIMS. The Department expects that specific sums such as this will be needed as long as the system is being utilized. This interim regulation is intended to outline the Department's other plans for use of the remaining discretionary funds.

Child Care Food Program

Public Law 95–627 made several significant changes in the legislation governing the CCFP. These changes include the availability of start-up and advance payments to participating institutions, different reimbursement procedures by type of institution, and alternative institution approval procedures where licensing is not available. All of these changes will undoubtedly increase the administrative burden of State agencies by causing them to adjust existing systems or develop new ones and by requiring increased monitoring to ensure proper implementation. This fact, combined with the fact that in some States SAE funds are already being used in the CCFP in excess of that which will result from the new formula, has led the Department to believe that a portion of available discretionary SAE funds should be allocated for use in the CCFP.

As provided for in this regulation, each State which administers the CCFP will receive an additional $30,000 (the amount FNS estimates as necessary to employ one administrative staff person for one year, including salary, benefits, support staff, travel and other related expenses) in discretionary SAE funds annually. To be consistent with existing regulations, State agencies will not be required to spend these funds on CCFP administration but will have them available if needed.

Food Distribution Program

Current regulations (§ 235.6(c)) provide that SAE funds may be used in the administration of the Food Distribution Program. No specific funds or amount of funds are now set aside for this purpose. However, § 235.6, paragraph (d) further provides that the amount of total SAE funds which may be used for the Food Distribution Program is limited in each fiscal year to ten percent of the total amount of SAE funds made available to the State for that year.

This regulation establishes a minimum $30,000 payment to each State agency, which administers the food distribution program for child nutrition programs, whether it is the State Department of Education or other State-level agency, including the State distributing agency. It also eliminates the ten percent limitation in § 235.6(d). When funds remain after all other allocations of discretionary SAE monies have been made, such State agencies would also get a pro rata share of those remaining funds, based on the amount of donated food assistance provided under all child nutrition programs during the second preceding year. In those States where a different State agency services institutions, all SAE payments for food distribution will be provided to State agencies which administer the Food Distribution Program in schools. This limitation is intended to put SAE funds where they are most needed (i.e., where the larger food distribution program exists) and is based on an awareness that administrative funds are already being provided to some agencies which serve other than child nutrition programs under the Food Distribution Program. The Department is particularly interested in comments on the implications of this limitation.

The Department feels strongly that agencies administering the Food Distribution Program need administrative funding support. Some need additional qualified staff for monitoring contracts under which donated foods are processed or repackaged; others, improved accountability and tracking systems. Allocations in the amounts proposed could help eliminate these needs and the related problems.

Consistent with the intent for which SAE funds are provided, funds used by distributing agencies must be restricted to the administration of the Food Distribution Program in schools and institutions participating in the child nutrition programs.

This amendment also limits the eligible distributing agencies receiving SAE funds to public entities. Formerly, these regulations allowed private agencies to act in this capacity. This is a technical change which will bring the regulations into conformance with existing child nutrition program regulations.

Adjusted School Program Allocation

This regulation gives FNS the authority to adjust the amount of the school program allocation when the amount "does not accurately represent the level of funding intended by this formula" (i.e., one percent of second preceding year expenditures). This provision was included to give a reasonable amount of flexibility in allocating school program funds when unique situations arise. For example, if the level of program funding in a State during the second preceding year was significantly lowered by extraordinary circumstances such as the need to close schools for long periods of time, the school program allocation for the current year could be based on estimates of funding levels which would have been attained if schools had not been closed.

Public Comment

The decision to allocate these discretionary funds as described above was made to meet certain specified needs. Issuing these regulations on an interim basis was intended to expedite their allocation. At this point, the Department plans to use these allocation formulae for fiscal year 1979 and until such time as a more effective usage and/or methodology is deemed to be necessary. To this end, the Department is asking for public comment (1) on the merits of the interim system and (2) suggesting alternative systems.

Accordingly, the Department is amending 7 CFR Part 235 on an interim basis to read as follows:

1. Section 235.1 is amended to read as follows:

§ 235.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for making payments of funds to State agencies for use in meeting administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (7 CFR Part 210), the Special Milk Program (7 CFR Part 215), the School Breakfast Program (7 CFR Part 220), the Child Care Food Program (7 CFR Part 226), the Food Service Equipment Assistance Program (7 CFR Part 230) and the Food Distribution Program (7 CFR Part 250).

2. In § 235.2, paragraphs (d) and (s) are amended to read as follows:

§ 235.2 Definitions.

* * * * *

(d) "Distributing agency" means a State agency which enters into an agreement with the Department for the distribution of donated foods pursuant to Part 250 of this title.

* * * * *

(s) "State agency" means (1) the State educational agency or (2) such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer programs under Parts 210, 215, 220, 226, 230 or 250 of this title. Unless otherwise indicated, "State agency" shall also mean "distributing agency", as defined in § 235.2(d), when such agency is receiving funds directly from FNS under this part.

* * * * *

3. In § 235.4, a sentence is added to the end of paragraph (a), new paragraphs (b–1), (b–2) and (b–3) are added and paragraphs (c), (d) and (h) are amended to read as follows:

§ 235.4 Allocation of funds to States.

* * * * *

(a) * * * FNS may adjust the amount of funds allocated to any State under this paragraph when it determines that such amount does not accurately represent the level of funding intended by this formula.

(b)(1) For the fiscal year ending September 30, 1979, and for each succeeding fiscal year, FNS shall allocate $30,000 to each State agency which administers the Child Care Food Program (7 CFR Part 226).

(2) For the fiscal year ending September 30, 1979, and for each succeeding fiscal year, FNS shall allocate $30,000 to each State agency which administers the Food Distribution Program (7 CFR Part 250) in schools and institutions which participate in programs governed by Parts 210 and 220 of this title. *Provided, however,* That any State in which the Food Distribution Program in schools, as defined in § 235.2(o)(1) of this part, and the Food Distribution Program in institutions, as defined in § 235.2(o)(2) of this part, is administered by different agencies, this allocation and that provided for in paragraph (b)(3) of this section shall be made to the State agency which administers the Food Distribution Program in schools.

(3) Funds which remain after the allocations required in paragraphs (a), (b), (b)(1) and (b)(2) of this section, and after any payments provided for under paragraph (f) of this section, shall be allocated to State agencies which administer the Food Distribution Program (7 CFR Part 250). The amount of funds to be allocated to each State agency under this paragraph shall bear the same ratio to the total amount of such funds as the value of donated foods delivered to the State for schools and institutions participating in programs under Parts 210, 220 and 226 of this title during the second preceding fiscal year bears to the value of donated foods delivered to all the States for such schools and institutions during the second preceding fiscal year.

(c) Funds allocated under paragraphs (a), (b), (b)(1), (b)(2) and (b)(3) of this section and 7 CFR Part 225 shall be used by the State agency for administrative costs incurred by it in connection with the programs governed by Parts 210, 215, 220, 225, 226, and 230 of this title. In addition, funds allocated under paragraphs (a), (b), (b)(1), (b)(2) and (b)(3) of this section may be used for the Food Distribution Program (7 CFR Part 250), as provided for in § 235.6(c).

(d) As part of its State Plan of Child Nutrition Operations, required by § 210.4a of this title, each State agency except for distributing agencies, shall submit to FNS a plan for the use of State administrative expense funds in the school nutrition programs and in the Child Care Food Program, including a staff formula for State personnel, system level supervisory personnel and operating personnel, and school level personnel. By May 15 of each year, each distributing agency shall submit to FNS a plan for the use of SAE funds for the following fiscal year in a format prescribed by FNS.

* * * * *

(h) FNS shall have available to it the applicable amounts provided for in paragraphs (a), (b), and (b)(1) of this section, and Part 225 of this title, when it is responsible for the administration of a program or programs within a State.

4. In § 235.5, the last sentence is amended to read as follows:

§ 235.5 Payments to States.

* * * Funds shall not be made available before approval of the State Plan of Child Nutrition Operations provided for under § 210.4a and § 226.7 of this title or the plan required under § 235.4(d) of this Part.

5. In § 235.6, an additional sentence is added to paragraph (c) and paragraph (d) is deleted and reserved as follows:

§ 235.6 Use of funds.

* * * * *

(c) * * * The amounts of State administrative expense funds paid by a State agency to a distributing agency shall be based on the amount of additional funds needed to perform such supervisory and technical assistance deemed necessary by the State agency.

(d) [Reserved]

* * * * *

6. In § 235.8, paragraph (b) is amended to read as follows:

§ 235.8 Management evaluation and audits.

* * * * *

(b) Each State agency shall develop a plan for the conduct of such audits which shall (1) provide a description of the State agency in adequate detail to demonstrate the independence of the audit organization, and (2) provide a systematic method to assure timely and appropriate resolution of audit findings and recommendations. Each State agency shall include the plan in its State Plan of Child Nutrition Operations, except that distributing agencies which receive funds directly under this part shall provide such information in the plan referred to in § 235.4(d).

* * * * *

Authority: (Sec. 7, Pub. L. 95–627, 92 Stat. 3621 (42 U.S.C. 1776).)

Note.—In accordance with Executive Order 12044, a copy of the draft impact analysis for this proposed regulation is available at the Office of the Director, School Programs Division, USDA–FNS, Washington, D.C. 20250 during regular business hours.

Dated: August 28, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–27334 Filed 8–30–79; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

[Amendment 6]

Marketing Quota Regulations for the 1972 and Succeeding Crops of Extra Long Staple Cotton and Recordkeeping Requirements for Extra Long Staple and Upland Cotton

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule announces the rate of penalty applicable to the 1979 crop of extra long staple cotton as prescribed by the Agricultural Adjustment Act of 1938, as amended. Also, since Title VI of the Food and Agriculture Act of 1977 suspended the statutory requirement with respect to marketing quotas for upland cotton for 1978 through 1981, this rule eliminates the recordkeeping requirement for upland cotton from the provisions of this subpart. All requirements for upland cotton may now be found in Part 713 of this chapter, as amended.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Charles Riley, Production Adjustment Division, ASCS, USDA, 3644 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7633.

SUPPLEMENTARY INFORMATION: Section 347(c) of Agricultural Adjustment Act of 1938, as amended, specifies that the rate of penalty with respect to each crop of extra long staple cotton shall be the higher of 50 percent of the parity price as of June 15 of the calendar year in which the crop is produced or 50 percent of the support price of extra long staple cotton. The parity price effective for June 15 as published in "Agricultural Prices" was 161.0 cents per pound and the extra long staple cotton loan rate applicable for the 1979 crop is 92.95 cents per pound.

Accordingly, 7 CFR Part 722 is amended as follows:

1. The title of the first subpart is revised to read as follows:

Subpart—Marketing Quota Regulations and Recordkeeping Requirements for the 1972 and Succeeding Crops of Extra Long Staple Cotton

2. Section 722.61 is revised by deleting and reserving paragraph (b) and revising paragraph (d) to read as follows:

§ 722.61 Applicability.

* * * * *

(b) [Reserved]

* * * * *

(d) The marketing quota provisions of this subpart shall not apply to upland cotton produced in 1971–81, since marketing quotas are not in effect for those years under the statutory authority and amendments contained in the Agricultural Act of 1970 (Pub. L. 91–524, 84 Stat. 1358 et seq., approved November 30, 1970), the Agriculture and Consumer Protection Act of 1973 (Pub. L. 93–86, 87 Stat. 233, approved August 10, 1973), and the Food and Agriculture Act of 1977 (Pub. L. 95–113, 91 Stat. 933, approved September 29, 1977). The recordkeeping provisions of this subpart shall not apply to upland cotton produced in 1979–81.

* * * * *

3. Section 722.73 is amended by deleting paragraphs (c) (1) through (6) and revising paragraph (c) to read as follows:

§ 722.73 Rate of penalty.

* * * * *

(c) The 1979 ELS cotton penalty rate is 80.5 cents per pound.

(Secs. 346, 347, 373, 63 Stat. 674, as amended, 63 Stat 675 as amended; 52 Stat. 65, 66, as amended; 7 U.S.C. 1346, 1347, 1373, 1375)

Note.—The rate of penalty is a mathematical determination. The other changes make the regulations conform to the law by removing requirements no longer applicable to the public or are editorial in nature.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant", and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Ray Fitzgerald, Administrator, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Signed at Washington, D.C., August 22, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79–26985 Filed 8–30–79; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 214]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 2–8, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 2, 1979.

FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on August 28, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.514 Lemon Regulation 214.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 2, 1979, through September 8, 1979, is established at 200,232 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: August 29, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–27487 Filed 8–30–79; 11:28 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1488

Export Programs; CFR Correction

In the January 1, 1979 edition of Title 7, Code of Federal Regulations, Parts 1200–1499, under Subchapter C of Chapter XIV—Commodity Credit Corporation, the text of § 1488.12(a) which appears on pages 543 and 544 is incorrect and should read as follows:

§ 1488.12 Coverage of bank obligations.

(a) U.S. banks and branch banks shall be liable without regard to risk (i) for payment of bank obligations issued by them or (ii) for payment of bank obligations confirmed by them without regard to risk if a requirement for such confirmation is included in the financing agreement or (iii) as provided in paragraphs (c) and (d).

* * * * *

BILLING CODE 6820–27–M

Food Safety and Quality Service

9 CFR Part 381

Poultry Products Inspection Regulations; Definitions and Standards of Identity or Composition; Standards for Turkey Ham

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the poultry products inspection regulations by providing a standard for "Turkey Ham." The standard, among other things, provides that "Turkey Ham" shall be fabricated from cured, boneless turkey thigh meat with the skin and the surface fat attached to the skin removed, and that the product name "Turkey Ham" shall be qualified with the statement, "Cured Turkey Thigh Meat." This standard is necessary to assure that a product labeled as "Turkey Ham" would have the characteristics associated with the product name, and that consumers are fully informed of the nature of the product.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Irwin Fried, Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1978, the Department published a document in the **Federal Register** (43 FR 24064–66) proposing a standard for "Turkey Ham." As explained in the proposal, the Department since 1975 has permitted certain cured poultry products fabricated from turkey thigh meat to be labeled as "Turkey Ham" without further qualification. The decision to permit this labeling was based on the view that the term "ham" when prefixed by the species name of an animal refers to the hind limb of that animal. Poultry products are subject to the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and the poultry products inspection regulations (9 CFR Part 381). The Act and regulations do not define the term "ham"; however, this conclusion concerning the meaning of the term "ham" was based on § 317.8(b)(13) of the Federal meat inspection regulations (9 CFR 317.8(b)(13)), which provides:

> The word "ham," without any prefix indicating the species of animal from which derived, shall be used in labeling only in connection with the hind legs of swine.

This provision implies that the term "ham" when prefixed by the species name of an animal refers to the hind limb of that animal.

Section 4(h)(1) and (3) of the Poultry Products Inspection Act (21 U.S.C. 451(h)(1) and (3)) provide that a poultry product is misbranded "if its labeling is false or misleading in any particular," or "if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and immediately thereafter the name of the food imitated." In this connection, the American Meat Institute (AMI) and the National Pork Producers Council (NPPC) petitioned the Department to amend the Fedeal meat inspection regulation and the poultry products inspection regulations to restrict the use of the term "ham" to the labeling of meat products prepared from the hind legs of swine. AMI and NPPC assert that the labeling of a turkey product merely as "Turkey Ham" would falsely indicate that the product contains pork, and that a "Turkey Ham" is an imitation of a pork ham. The proposal also referred to a market survey that the Department had conducted for the purpose of determining the consumers' understanding of the term "Turkey Ham." A substantial group of consumers indicated that the term "Turkey Ham" referred to a product that contained some pork or was made from meat only of pork.

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Under these circumstances, the Department proposed that a standard be adopted for a product made from cured turkey thigh meat and that the product name be "Turkey Ham" qualified with the statement "Cured Turkey Thigh Meat."

Summary of Comments

A total of 553 submittals were received representing the views of 854 individuals and organizations. Of those individuals and organizations, 369 expressed support for the proposal, 481 were in opposition to the proposal (most were against the use of the word "Ham"), three were uncommitted, and one was a recorded duplicate.

There were 319 comments submitted from representatives of meat plants, pork producers, and their associations. Representatives of poultry plants, turkey growers, and their associations submitted 85 comments. A total of 428 consumers submitted comments on the proposal. The remainder of the comments were from feed suppliers; representatives of farm publications, agricultural colleges, State Boards of Agriculture, and Farm Bureaus; and persons who indicated that they raise both hogs and turkeys. Some of the comments submitted were in the form of congressional referrals.

Name of the Product

The majority of comments submitted in response to the proposal discussed reasons for and against the use of the word "ham" in the name of the product.

Many commenters referred to dictionary definitions and § 317.8(b)(13) of the Federal meat inspection regulations in support of their claim that "ham" is generally understood to mean the hind leg of swine. Others also referred to dictionary definitions and the same provisions of the Federal meat inspection regulations to support their position that the word "ham" should be permitted to be used in the product name when shown with the species "turkey." Several commenters indicated that at the time they purchased the product labeled as "Turkey Ham" they mistakenly thought it was turkey and pork ham combined. Another commenter wrote that because her husband cannot eat pork, she never purchased "Turkey Ham" until the recent publicity, because she previously was not aware that the product did not contain pork. One commenter stated that turkey is a favorite of the elderly, that some of the elderly are not permitted to eat "ham", and that the words, "Turkey Ham", could be particularly confusing to the elderly. Another said that using the word "ham" in the product name, regardless of the qualifiers proposed, will imply to at least some consumers that the product is made or contains the flesh of the hind legs of swine.

A number of commenters indicated that a ham style product made from meat other than pork satisfies the needs of many consumers who for ethnic or religious reasons cannot eat pork and that the name "Turkey Ham" qualified by "Cured Turkey Thigh Meat" is sufficient to differentiate between a pork product and a turkey product. One commenter suggested naming the product "Ham Style Turkey." Another commenter indicated that the product is being produced and marketed to resemble the pork ham and as such should be labeled "Imitation Ham." Some commenters wanted the phrase "No Pork Added" on the label. A large number of commenters indicated that the term "Turkey Ham" should be completely deleted from the product name and that the product name merely should be "Cured Turkey Thigh Meat." Other commenters suggested simply naming the product "Smoked Turkey" or "Smoked Turkey Loaf."

The results of the market survey and the comments submitted in response to the proposal indicate that the term "Turkey Ham" without further qualification appears to have been incorrectly understood by many persons to represent a product containing pork. Accordingly, it has been determined that the name "Turkey Ham" without further qualification would cause such products to be misbranded and, therefore, could not be used as the standard name for the product.

Consideration has been given to names suggested by the comments.

The names "Ham Style Turkey", "Smoked Turkey", and "Smoked Turkey Loaf" are not acceptable because they do not reflect that the turkey used in the product comes only from the "ham" portion of the turkey. Further, the products are not required to be smoked.

The name "Imitation Ham" would also not be acceptable. The product, although having certain unique characteristics, has some characteristics similar to a "pork ham." However, it would not be an "imitation" of a "pork ham" within the meaning of the Poultry Products Inspection Act. This document establishes a standard for the product and it is an established policy of the Department not to require a standardized product to be labeled as an "imitation." This is required pursuant to the Poultry Products Inspection Act which provides that a product represented as a standardized product must bear the standard name (21 U.S.C. 453(h)(7)). The Federal Meat Inspection Act contains provisions identical to the provisions in the Poultry Products Inspection Act concerning the term "imitation." In this connection, it should be noted that the standardized product "beef patties" must be labeled as "beef patties" and not "imitation ground beef" or "imitation hamburger" (see 9 CFR 319.15).

The name "Cured Turkey Thigh Meat" accurately describes the product now known as "Turkey Ham." However, the term "Turkey Ham" has been used as the name of the product since 1975 and better connotes the characteristics which have become associated with the product. As noted above, the term "Turkey Ham" has been misleading to some consumers because they thought it represented a product containing pork. This problem, of course, has been lessened somewhat as more persons have become acquainted with the name and the product. However, in order to assure that consumers are not misled, it has been determined that the product should be named "Turkey Ham" but also qualified by the term "Cured Turkey Thigh Meat" in order to clearly inform consumers that the product consists of turkey but not pork. This is also in accordance with the proposal.

In addition, some comments indicated that the name should be qualified by the statement "No Pork Added." The Department does not favor the adoption of negative labeling requirements if the information intended to be presented can be feasibly presented otherwise. This is because some persons may wrongly interpret certain negative labeling in a pejorative sense. In this case, some persons might incorrectly interpret the term "No Pork Added" to include the concept that pork is inferior to turkey, rather than merely what was intended; i.e., that the product does not contain pork. It is the view of the Department that the qualifying term "Cured Turkey Thigh Meat" adequately informs consumers of the true nature of the product and that negative labeling is not necessary to indicate the absence of pork.

Miscellaneous

Section 381.171(a) of the proposed standard reads, in part, that "'Turkey Ham' shall be fabricated from boneless turkey thigh meat with the skin and surface fat removed." Many commenters claimed that the determination of whether surface fat is adequately removed would be inherently subjective and will vary from inspector to inspector. It was also pointed out that surface fat removal is not required of pork hams. There is a misunderstanding with respect to what was meant by "surface fat removed." Some surface fat is attached to skin and is removed along with the skin. It was merely intended that this fat would not be used as part of the product. This is clarified in the final rule.

Section 381.171(b) of the proposed standard provides that the product, among other things, may contain "seasonings." Comments requested clarification with respect to what was intended by the term "seasonings." This term was intended to include common salt, sugars, spices, spice extractives, dehydrated garlic, and onions, as well as flavoring agents as provided for in § 381.147(f) of the current poultry products inspection regulations (9 CFR 381.147(f)); i.e., approved artificial smoke flavorings, approved smoke flavoring, autolyzed yeast extract, corn syrup solids, corn syrup, glucose syrup, disodium inosinate, diosodium guanylate, hydrolyzed plant protein, malt syrup, milk protein hydrolysate, monosodium glutamate, sodium sulfoacetate (derivative of mono- and diglycerides) and approved sugars (sucrose and dextrose). The final rule was amended accordingly.

Also, it was evident from the proposal that water would be used in the product for the purpose of dissolving many of the added ingredients, such as curing agents, cure accelerators, and phosphates. Accordingly, water is added to the list of permitted ingredients.

The following statement in § 318.171(c) of the proposal was confusing to many commenters: "The finished product weight after cooking shall be no more than the original weight of the turkey thigh meat used prior to curing." The exact intent of the term "after cooking" was not clear to many commenters. Some comments questioned whether "after packing" was closer to what was intended. The phrase "after cooking" was intended to indicate the cooked finished product which allows for shrinkage up to the time of packaging. To clarify this concept, the Administrator has rephrased the requirement to read "The cooked finished product weight shall be no more than the original weight of the turkey thigh meat used prior to curing."

Commenters questioned whether a protein multiplier would be utilized to determine whether the finished product weighs more than the original weight prior to curing. A protein multiplier has not been established for turkey meat. This determination will be made on a weight basis.

The proposal provided that "qualifying statements shall not be less than one-half the size of the product name, but the letters shall not be less than one-eighth inch in height." A number of poultry establishments claimed that a minimum type size of one-eighth inch for the qualifying statement "Cured Turkey Thigh Meat" would be proportionally too large for the product name and for small packages of sliced product. A number of other commenters claimed that a qualifying statement of only one-eighth inch would be too small. In particular, it was stated that the small black print on a red background is difficult to read, and small type is a disadvantage to the elderly. One of the commenters noted that the term "Water Added" on labels for water added hams is required to be three-eighths inch in height and asserted that the qualifying statement "Cured Turkey Thigh Meat" should also be required to be three-eighths inch in height. In support of this assertion, the commenter stated that there is more possibility of confusion in the consumer's mind regarding "Turkey Ham vs. Real Ham" than there is with "Ham vs. Water Added Ham."

The name of the product and the qualifying statement must be close enough in size to assure that they are both read and understood by consumers. There does not appear to be any valid reason for permitting the qualifying statement to be smaller in comparison to the product name than was proposed.

Also, particularly with respect to color combinations and small packages, it should be noted that the Poultry Products Inspection Act specifically provides that ". . . information required to appear on a label must be prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use . . . ." Color combinations, of course, must be reviewed as part of the label on an individual basis, and may not be used if they cause information to be difficult to read. Also, first priority for label space must be given to mandatory label information. If this requires elimination of designs, advertising logos, and the like to prominently display mandatory labeling information, then that is the only course left for the processor. In addition, there are relevant differences between the qualifying statement "Cured Turkey Thigh Meat" and the term "Water Added." The term "Water Added" under the provisions of the Federal meat inspection regulations (9 CFR 319.104) is required to be three-eighths inch in height on consumer-sized packages. However, the term "Water Added" indicates that the product contains a substance in addition to ham: i.e., water, and is required to be part of the product name and the term "Cured Turkey Thigh Meat" clarifies the name "Turkey Ham." It does not appear that a phrase which merely clarifies the meaning of a product name should be required to be in letters as large as the product name itself. Further, it appears that the proposed requirements with respect to minimum heights would be sufficient and necessary to assure that consumers would be informed of the nature of the product. Accordingly, they are adopted as proposed.

The proposal provides that a product would be required to be labeled with the qualifying statement "Chunked and Formed" if fabricated from chunks of turkey thigh meat or "Ground and Formed" if fabricated from ground turkey thigh meat. Comments from poultry processors questioned what criteria would be utilized to determine when a product would be classified as "Chunked or Formed" or "Ground and Formed." Poultry processors further asserted that the product should not be labeled with the term "chunked" if it consists of whole thighs, even if separated into a few pieces during removal of the bone. The Department agrees that clarification should be made with respect to these matters. As noted in the proposal, there is a textural difference among products prepared from whole thighs, chunked thigh meat, and ground thigh meat. The final rule is changed to more clearly reflect these differences and help consumers better understand what general texture to expect from such products. Accordingly, it has been determined that pieces of turkey thigh meat that result from the cutting through the muscle (as opposed to whole thighs intact or whole thighs with some incidental separation of muscle tissue during removal of the bone) should be labeled with the qualifying statement "Chunked and Formed" if the pieces are at least the equivalent of a one-half inch cube. Smaller pieces of turkey thigh meat used in the product will be required to be qualified by the term "Ground and Formed" or "Chopped and Formed" as appropriate.

The final rule was also clarified to specify that qualifying statements must be contiguous to the product name and that no intervening type or designs may be placed between the qualifying statement "Cured Turkey Thigh Meat" and the product name "Turkey Ham." This will help assure that the qualifying

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statements are conspicuous and likely to be read and understood by consumers. Further, the additional requirement for the qualifying statement "Cured Turkey Thigh Meat" will help to assure that the name and the qualifying statement are read together and thereby clearly identify the nature of the product.

Some comments suggested that any required information relating to texture; e.g., "Chunked and Formed", be permitted to be combined with the qualifying phrase "Cured Turkey Thigh Meat" in order to conserve label space. An example of this suggested combination would be "Cured Chunked and Formed Turkey Thigh Meat." This suggestion was not adopted. As explained above, it is intended that the qualifying statement "Cured Turkey Thigh Meat" be read together with the product name in order to clearly identify the nature of the product; i.e., that it is a turkey product and that it does not contain pork. This statement will be more forcefully presented and more likely to be correctly understood if it does not contain additional information.

A few processors requested that the poultry products inspection regulations be further amended to provide a separate standard for canned "Turkey Ham" and to provide an additional standard for a "Water Added Turkey Ham", similar to that provided in the Federal meat inspection regulations for pork hams. These concepts were not included in the proposal. However, consideration will be given concerning whether such standards should be proposed in the future.

The standard provides that "Turkey Ham" shall be cured using one or more of the approved curing agents "as provided in § 381.147(f) of this Part." Nitrates and nitrites are listed therein as curing agents. The matter of the use of nitrates and nitrites in poultry products is under active review by the Food and Drug Administration. The provisions in the standard prescribing the use of nitrites may be affected by action undertaken in the future by the Food and Drug Administration.

On July 18, 1979, the National Advisory Committee on Meat and Poultry Inspection was consulted regarding this standard. Members of the Committee expressed comments both in support of the proposal and in opposition to it. The Committee members did not raise issues outside the scope of the written comments as discussed above, but their views were also considered in the preparation of this final rule.

Under the circumstances referred to above, the poultry products inspection regulations (9 CFR Part 381) are amended as follows:

1. The table of contents for Part 381, Subpart P, is amended to add

Sec.
"381.171 Definition and standard for "Turkey Ham."

2. A new section 381.171 is added to Part 381, Subpart P, to read as follows:

§ 381.171 Definition and standard for "Turkey Ham."

(a) "Turkey Ham" shall be fabricated from boneless, turkey thigh meat with skin and the surface fat attached to the skin removed. The thighs shall be that cut of poultry described in § 381.170(b)(5) of this Part.

(b) The product may or may not be smoked, and shall be cured using one or more of the approved curing agents as provided in § 381.147(f) of this Part. The product may also contain cure accelerators, phosphates, and flavoring agents as provided in § 381.147(f) of this Part; common salt, sugars, spices, spice extractives, dehydrated garlic, and dehydrated onions; and water for purpose of dissolving and dispersing the substances specified above.

(c) The cooked finished product weight shall be no more than the original weight of the turkey thigh meat used prior to curing.

(d) The product name on the label shall show the word "Turkey" in the same size, style, color, and with the same background as the word "Ham" and shall precede and be adjacent to it.

(e) The product name shall be qualified with the statement "Cured Turkey Thigh Meat." The qualifying statement shall be contiguous to the product name, without intervening type or designs, shall be not less than one-half the size of the product name but not less than one-eighth inch in height, and shall be in the same style and color and with the same background as the product name.

(f) If the product is fabricated from pieces of turkey thigh meat that result from the cutting through the muscle (as opposed the whole thighs intact or whole thighs with some incidental separation of muscle tissue during removal of the bone), the product name shall be further qualified by a descriptive statement. The product name of product fabricated from such pieces of turkey thigh meat equivalent in size to a one-half inch cube or greater shall be further qualified to specify that the product is "Chunked and Formed." The product name of product fabricated from such pieces of turkey thigh meat smaller than the equivalent of a one-half inch cube shall be further qualified to specify that the product is "Ground and Formed" or "Chopped and Formed" as appropriate. The qualifying statement shall immediately follow and be contiguous to the statement required in paragraph (e) of this section, and shall be not less than one-half the size of the product name but not less than one-eighth inch in height, and shall be in the same style and color and with the same background as the product name.

(Sec. 14, 71 Stat. 447, as amended 21 U.S.C. 463; 42 FR 35625, 35626, 35631)

It does not appear that additional relevant information would be available by further public participation in rulemaking proceedings on this amendment. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice or other public procedures with respect to this amendment are impracticable and unnecessary.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been designated "significant." An Approved Final Impact Statement is available from Mr. Fried, Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. The alternatives considered during the analysis are listed in the Final Impact Statement.

Done at Washington, D.C., on August 15, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-27148 Filed 8-30-79; 8:45 am]
BILLING CODE 3410-37-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule (Change in discount rates).

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that in view of emerging economic and financial considerations, these amendments must be adopted immediately.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3257).

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	10½	August 20, 1979.
New York	10½	August 17, 1979.
Philadelphia	10½	August 17, 1979.
Cleveland	10½	August 17, 1979.
Richmond	10½	August 17, 1979.
Atlanta	10½	August 20, 1979.
Chicago	10½	August 20, 1979.
St. Louis	10½	August 17, 1979.
Minneapolis	10½	August 17, 1979.
Kansas City	10½	August 17, 1979.
Dallas	10½	August 20, 1979.
San Francisco	10½	August 20, 1979.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	11	August 20, 1979.
New York	11	August 17, 1979.
Philadelphia	11	August 17, 1979.
Cleveland	11	August 17, 1979.
Richmond	11	August 17, 1979.
Atlanta	11	August 20, 1979.
Chicago	11	August 20, 1979.
St. Louis	11	August 17, 1979.
Minneapolis	11	August 17, 1979.
Kansas City	11	August 17, 1979.
Dallas	11	August 20, 1979.
San Francisco	11	August 20, 1979.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	11½	August 20, 1979.
New York	11½	August 17, 1979.
Philadelphia	11½	August 17, 1979.
Cleveland	11½	August 17, 1979.
Richmond	11½	August 17, 1979.
Atlanta	11½	August 20, 1979.
Chicago	11½	August 20, 1979.
St. Louis	11½	August 17, 1979.
Minneapolis	11½	August 17, 1979.
Kansas City	11½	August 17, 1979.
Dallas	11½	August 20, 1979.
San Francisco	11½	August 20, 1979.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	13½	August 20, 1979.
New York	13½	August 17, 1979.
Philadelphia	13½	August 17, 1979.
Cleveland	13½	August 17, 1979.
Richmond	13½	August 17, 1979.
Atlanta	13½	August 20, 1979.
Chicago	13½	August 20, 1979.
St. Louis	13½	August 17, 1979.
Minneapolis	13½	August 17, 1979.
Kansas City	13½	August 17, 1979.
Dallas	13½	August 20, 1979.
San Francisco	13½	August 20, 1979.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, August 24, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-27289 Filed 8-30-79; 8:45 am]
BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule addresses Federal credit union compliance with the Fair Housing Act of 1968. The rule prohibits a Federal credit union from denying a real estate related loan (or offering it on less favorable terms and conditions) based upon certain criteria, including the age or location of the dwelling, and the race, color, sex, religion, or national origin of the borrower or of the people who reside (or may reside) in the vicinity of the dwelling securing the loan. The rule also enables any requesting member/applicant to obtain a copy of the appraisal and states that complaints will be received by the National Credit Union Administration. Finally, the rule contains guidelines for compliance with its provisions.

DATES: Effective date: October 29, 1979. However, comments will be considered if received on or before September 28, 1979. If necessary, an amended rule will be issued prior to October 29, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT: Edward J. Dobranski, Senior Attorney, Office of General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: On January 18, 1979, the Administration published a proposal (44 FR 3722 (1979)) to broaden its non-discrimination regulation (Part 701.31) and to guide and monitor Federal credit unions (FCU's) with respect to compliance with the Fair Housing Act of 1968 (42 U.S.C. 3601 *et seq.*). Public comment upon the proposed rule was requested to be received by February 28, 1979. Based upon consideration of the numerous comments received, and after a thorough review of the proposed rule by the Administration, various changes have been made. The Administration believes that this comprehensive final rule will help Federal credit unions comply with non-discrimination laws.

Analysis of Changes and Comments

1. *Definition of "Application".* In § 701.31(a)(1) of the proposed regulation, the term 'application' was defined in accordance with the definition of that term in 12 CFR 202.2(f) (Regulation B). One commenter stated that such a definition appears too limited, in that it does not call attention to the illegality of discouraging loan applications on a basis prohibited by the Fair Housing Act. The Administration agrees that such a practice, commonly known as prescreening, should be prohibited by this regulation. However, rather than expand the definition of application, subsection (b)(1) has been changed by adding a provision prohibiting an FCU from discouraging an application on a basis prohibited by the Fair Housing Act.

2. *Definition of "Dwelling" and of "Real Estate Related Loan".* The proposed regulation did not define the term 'dwelling', although that term appeared in the regulation. Based upon

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its review, the Administration has determined that the term should be defined. Consequently, in order to ensure that the scope of the regulation is consistent with the scope of the Fair Housing Act, the Administration has incorporated the Fair Housing Act definition of 'dwelling'. (With respect to the scope of this definition, note *United States* v. *Grooms*, 348 F. Supp. 1130 (M.D. Fla. 1972), which held that the term 'dwelling' encompasses a mobile home site.)

The proposed definition of the term 'real estate related loan' referenced specific lending provisions of the Federal Credit Union Act (e.g., § 107(5)(A)(i)). In this final rule, the Administration has deleted reference to those provisions, and the definition of 'real estate related loan' has been changed to reflect the wording of the Fair Housing Act. This change is necessary because a Federal credit union could make a 12 year loan for the purchase of a dwelling which would fall within the scope of the Fair Housing Act, but which would not have been a 'real estate related loan' as defined in the proposed rule, because the loan would not have been made pursuant to section 107(5)(A)(i) of the Federal Credit Union Act.

A few commenters stated that only those home improvement loans which are over a certain dollar amount and which are secured by a lien on the dwelling should be covered by the regulation. The Administration has not chosen to so limit the scope of the regulation because the Fair Housing Act is not so limited.

3. *Nondiscrimination in Lending.* Commenters addressing proposed § 701.31(b) requested that it be changed and clarified in various respects: first, that this section specifically refer to the "effects test," as section (c)(1) does; second, that guidelines be adopted which would explain the "effects test"; third, that the regulation proscribe the use of certain criteria, in addition to age and location, which when used often have a discriminatory effect and which bear little or no relation to the applicant's creditworthiness; and fourth, that Regulation B should be cross-referenced. The Administration agrees with these suggestions and has revised the regulation accordingly, as explained below.

With respect to *per se* and in effect discrimination, the Administration has changed the regulation to state explicitly that an FCU's lending policies and criteria may not discriminate, either *per se* or in effect, on the basis of race, color, sex, religion, or national origin. This has been accomplished by addresing each type of discrimination separately in the regulation.

Section 701.31(b)(1) proscribes the *per se* violations. That is, it prohibits an FCU from treating an applicant differently because of racial, religious, ethnic, or sexual considerations. FCU's should therefore ensure that prohibited considerations are not present in their general lending policies, lending procedures, or in their criteria used in reviewing applications (e.g., prescreening minority applicants, encouraging married female applicants to bring in their husbands, or gathering racial data about the neighborhood where a dwelling is located, are all prohibited).

Section 701.31 (b)(2) prohibits the use of criteria or the exercise of lending policies or procedures which have the *effect* of making real estate related loans unavailable or less available on the basis of race, color, religion, sex, or national origin, unless a legitimate business necessity exists justifying the use of such procedures, criteria, or policies. For purposes of § 701.31(b)(2) and (c)(2), the Administration has included guidelines in the regulation which explain the "effects test" and the business necessity exception. § 701.31(e)(1).) This approach was chosen in response to the suggestions of a number of commenters. Also in response to the comments, reference is made in the guidelines to the Equal Credit Opportunity Act and Regulation B to emphasize that they prohibit discrimination on the basis of age, marital status, receipt of public assistance, or the exercising of rights under the Consumer Credit Protection Act.

Many commenters also pointed out that, in addition to age and location of the dwelling, there are other criteria which lenders have used in their lending procedures which usually have the effect of discriminating on a basis prohibited by the Fair Housing Act, which bear little or no relation to the applicant's creditworthiness and which lack a business necessity justification for their use. They are: zip code of the present residence of the applicant; age or location of dwellings in the neighborhood of the dwelling; absence of prior home ownership; and the income level of residents in the neighborhood of the dwelling.

The Administration agrees that consideration of any of these factors cannot be justified as a valid consideration in the review of a real estate related loan application, and since their use often has the effect of discriminating on a basis prohibited by the Fair Housing Act, the consideration of such factors has been proscribed by this regulation. For purposes of clarification, the Administration has given guidelines on the meaning of the prohibited factors. § 701.31(e)(2).) For example, the guidelines explain that an FCU may consider an applicant's payment history on a prior loan as evidence of creditworthiness even if that prior loan was secured by a purchase money home mortgage. The distinction, of course, lies in the fact that the emphasis is on the payment record on the prior *loan*, and not on the existence of prior home *ownership*.

Finally, the Administration has changed § 701.31(b) to specifically preclude an FCU from discriminating on a basis prohibited by the Fair Housing Act when it exercises its rights under the terms or conditions of a real estate related loan contract. Thus, for example, racially discriminatory foreclosure is prohibited. (*See Harper* v. *Union Savings Association*, 429 F. Supp. 1254 (E.D. Ohio 1977).)

4. *Nondiscrimination in Appraisals.* The proposed regulation would have imposed liability upon an FCU for reliance upon a discriminatory appraisal, even if the FCU could not determine that the appraisal was discriminatory. Most of the commenters, however, believed that FCU reliance upon a discriminatory appraisal should result in a violation of this section only if the FCU knew or should have known that the appraisal was discriminatory. The commenters pointed out that on many loans (e.g., FHA and VA), the FCU neither sets the standards nor controls the process by which appraisers are chosen. Consequently, the FCU would be unable to screen appraisers so that liability (under a strict liability standard) could often be avoided. The Administration finds this argument persuasive and has therefore changed the regulation to prohibit reliance upon an appraisal the FCU knew or should have known was discriminatory.

This section also has been changed to require specific documentation in the appraisal of any consideration of the location of the dwelling. In addition, any location factors relied upon must be listed in precise fashion in the appraisal. A statement such as "declining neighborhood" would not be sufficient. In response to the comments, guidelines are also given on certain location factors that may be used in the appraisal. (Section 701.31(e)(3).) These guidelines should enable an FCU to determine whether the appraisal was discriminatory because it relied on location factors.

Section 701.31(c)(5) requires an FCU to make the appraisal available to an applicant for 25 months after the FCU notifies the applicant of the action taken on the loan application. This time period coincides with the record retention requirement of Regulation B.

Finallly, § 701.31(c) has been restructured for the purposes of clarity and now makes specific mention of the considerations which constitute *per se* violations of the Fair Housing Act. As in section 701.31(b), specific reference is made to consideration of factors that have a discriminatory effect. Also following the format of § 701.31(b), § 701.31(c)(3) prohibits consideration of certain factors, in addition to the age and loc. ion of the dwelling, which generally have a discriminatory effect, and which have no business necessity justifying their use in the appraisal. These factors are: the location of dwellings in the neighborhood of the dwelling; and the income level of residents in the neighborhood of the dwelling.

5. *Nondiscrimination in Advertising.* A number of commenters pointed out that proposed subsection (d)(3) would require that the Fair Housing logotype and the entire notice appear in every real estate related loan advertisement. This result was not intended by the Administration. The regulation has been changed to require that the logotype and notice appear on a poster in the lobby/offices of the FCU, and that only the logotype (symbol, Equal Housing Lender, "We do business in accordance with the Federal Fair Housing Law") appear in advertisements. In addition, in any radio advertisement, it must be stated that the FCU is an equal housing lender that complies with the Federal Fair Housing Law.

Based upon various comments, the Administration has changed the notice appearing under the logotype in order to present its content in plain English.

Monitoring

A few commenters stated that the information an FCU complies pursuant to other laws (such as the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act) will not always be sufficient to enable NCUA to detect violations of the Fair Housing Act. Consequently, they asked that additional monitoring information be maintained, either by all FCU's engaged in real estate related lending, or by FCU's over a certain asset size.

The Administration has not adopted these recommendations. As stated in the preamble to the proposed rule, NCUA presently believes that it can adequately determine compliance with the Fair Housing Act without imposing additional record keeping requirements on FCU's. Of course, as the number of long term real estate loans made by Federal credit unions increases, the Administration will review the effectiveness of its consumer examination compliance procedures. Any such review will entail consideration of requiring FCU use of a version of the FNMA/FHLMC application form that requires a loan officer to insert the applicant's race/national origin and sex if the applicant does not volunteer this information. Should the Administration eventually decide that such an application form must be used, its long term real estate regulation (12 CFR 701.21–6) would be amended accordingly.

Effective Date

Given the fact that substantive changes have been made (e.g., the Administration has added a prohibition on consideration of the income level of the neighborhood's residents), the Administration has decided to provide an opportunity for further comment. Therefore, comments received on or before September 28, 1979, will be considered, and should a demonstrated need arise, further amendments to the rule will be made prior to the effective date of the regulation. Finally, since this regulation was published in proposed form prior to NCUA's promulgation of its Final Report "In Response to E.O. 12044: Improving Government Regulations," some of the procedures contained in such Final Report were rendered inapplicable or unnecessary.

Dated: August 23, 1979.

Authority: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789). 42 U.S.C. 3601–3610; 42 U.S.C. 1981; 15 U.S.C. 1601 et seq.; 12 U.S.C. 1757, 1759, 1786 and 1789.

Lawrence Connell,
Chairman.

Accordingly, 12 CFR § 701.31 is revised as follows:

§ 701.31 Nondiscrimination requirements.

(a) *Definitions:* As used in this Part, the term: (1) "Application" carries the meaning of that term as defined in 12 CFR 202.2(f) (Regulation B), which is as follows: "An oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested";

(2) "Dwelling" carries the meaning of that term as defined in 42 U.S.C. 3602(b) (Fair Housing Act), which is as follows: "Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof"; and

(3) "Real estate related loan" means any loan for which application is made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.

(b) *Nondiscrimination in lending:* (1) A Federal credit union may not deny a real estate related loan, nor may it discriminate in setting, or exercising its rights pursuant to, the terms or conditions of such a loan, nor may it discourage an application for such a loan, on the basis of the race, color, religion, sex, or national origin of:

(i) Any applicant or joint applicant;

(ii) Any person associated, in connection with a real estate related loan application, with an applicant or joint applicant;

(iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate related loan is requested;

(iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate related loan is requested.

(2) With regard to a real estate related loan, a Federal credit union may not consider a lending criterion or exercise a lending policy which has the effect of discriminating on the basis of race, color, religion, sex, or national origin. Guidelines concerning possible exceptions to this provision appear in § 701.31(e)(1) of this Part.

(3) Consideration of any of the following factors in connection with a real estate related loan is not necessary to a Federal credit union's business, generally has a discriminatory effect, and is therefore prohibited:

(i) The age or location of the dwelling;

(ii) Zip code of the applicant's current residence;

(iii) Previous home ownership;

(iv) The age or location of dwellings in the neighborhood of the dwelling;

(v) The income level of residents in the neighborhood of the dwelling.

(c) *Nondiscrimination in appraisals:* (1) A Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of the race, color, religion, sex, or national origin of:

(i) Any applicant or joint applicant;

(ii) Any person associated, in connection with a real estate related loan application, with an applicant or joint applicant;

(iii) The present or prospective owners, lessees, tenants, or occupants of

the dwelling for which a real estate related loan is requested;

(iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate related loan is requested.

(2) With respect to a real estate related loan, a Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of a criterion which has the effect of discriminating on the basis of race, color, religion, sex, or national origin. Guidelines concerning possible exceptions to this provision appear in § 701.31(e)(1) of this Part.

(3) A Federal credit union may not rely upon an appraisal that it knows or should know is based upon consideration of any of the following criteria, for such criteria generally have a discriminatory effect, and are not necessary to a Federal credit union's business:

(i) The age or location of the dwelling;

(ii) The age or location of dwellings in the neighborhood of the dwelling;

(iii) The income level of residents in the neighborhood of the dwelling.

(4) Notwithstanding paragraph (c)(3) of this section, it is recognized that there may be factors concerning location of the dwelling which can be properly considered in an appraisal. If any such factor(s) is relied upon, it must be specifically documented in the appraisal, accompanied by a brief statement demonstrating the necessity of using such factor(s). Guidelines concerning the consideration of location factors appear in § 701.31(e)(3) of this Part.

(5) Each Federal credit union shall make available, to any requesting member/applicant, a copy of the appraisal used in connection with that member's real estate related loan application. The appraisal shall be available for a period of 25 months after the applicant has received notice from the Federal credit union of the action taken by the Federal credit union on the real estate related loan application.

(d) *Nondiscrimination in advertising.* (1) *Advertising notice of nondiscrimination compliance.* (i) No Federal credit union may directly or indirectly engage in any form of advertising of real estate related loans which implies or suggests that the Federal credit union discriminates in violation of the provisions of the Fair Housing Act of 1968 or of this Part. Advertisements of such loans shall include a facsimile of the following:

Equal Housing Lender

We do business in accordance with the Federal Fair Housing Law.

(ii) Advertisements of real estate related loans which are broadcast on the radio shall contain the following statement: "The [insert name] Federal Credit Union is an equal housing lender which does business in accordance with the Federal Fair Housing Law."

(2) *Lobby notice of nondiscrimination compliance.* Every Federal credit union which engages in real estate related lending shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype and notice appearing in paragraph (d)(3) of this section. Posters containing this notice and logotype may be obtained from the regional offices of the National Credit Union Administration.

(3) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraph (d)(2) of this section shall be as follows:

Equal Housing Lender

We do business in accordance with the Federal Fair Housing Law and the Equal Credit Opportunity Act.

It is illegal, because of the race, color, religion, sex, national origin, marital status, or age of any person, or because a person receives income from a public assistance program, or has in good faith exercised any rights under the Consumer Credit Protection Act, to:

Deny a loan, including a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or

Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of a loan.

If you believe you have been discriminated against, you may send a complaint to: National Credit Union Administration, Division of Consumer Affairs, Washington, D.C. 20456, or U.S. Department of Housing and Urban Development, Assistant Secretary for Fair Housing and Equal Opportunity, Washington, D.C. 20410.

(e) *Guidelines:* (1) Compliance with the Fair Housing Act is achieved when each loan applicant's creditworthiness is evaluated on an individual basis, without presuming that the applicant has certain characteristics of a group. If certain lending policies or procedures do presume group characteristics, they may violate the Fair Housing Act, even though the characteristics are not based upon race, color, sex, religion, or national origin. Such a violation occurs when otherwise facially nondiscriminatory lending procedures (either general lending policies or specific criteria used in reviewing loan applications) have the effect of making real estate related loans unavailable or less available on the basis of race, color, sex, religion, or national origin. Note, however, that a policy or criterion which has a discriminatory effect is not a violation of the Fair Housing Act if its use achieves a legitimate business necessity which cannot be achieved by using less discriminatory standards. (See *Albermarle Paper Co. v. Moody*, 422 U.S. 405 (1975) and *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).)

It is also important to note that the Equal Credit Opportunity Act and Regulation B prohibit discrimination, either *per se* or in effect, on the basis of the applicant's age, marital status, receipt of public assistance, or the exercise of any rights under the Consumer Credit Protection Act.

(2) Paragraph (b)(3) of this section prohibits considerations of certain factors because of their likely discriminatory effect and because they are not necessary to make sound real estate related loans. For purposes of clarification, the prohibited use of location factors in this section is intended to prevent abandonment of areas in which a Federal credit union's members live or want to live. It is not intended to require loans in those areas that are geographically remote from the FCU's main or branch offices or that contravene the parameters of a Federal credit union's charter. Further, this prohibition does not preclude requiring a borrower to obtain flood insurance protection pursuant to the National Flood Insurance Act and Part 760 of NCUA's Rules and Regulations, nor does it preclude involvement with Federal or state housing insurance programs which provide for lower interest rates for the purchase of homes in certain urban or rural areas. Also, the legitimate use of location factors in an appraisal does not constitute a violation of the provision of paragraph (b)(3) of this section, which prohibits consideration of location of the dwelling.

Finally, the prohibited use of prior home ownership does not preclude a Federal credit union from considering an applicant's payment history on a loan which was made to obtain a home. Such action entails consideration of the payment record on a previous loan in determining creditworthiness, it does not entail consideration of prior home ownership.

(3)(i) Paragraph (c)(3) of this section prohibits consideration of the age or location of a dwelling in a real estate related loan appraisal. These restrictions are intended to prohibit the use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling or the physical or economic characteristics of an area. Appraisals should be based on the present market value of the property offered as security (including consideration of specific improvements to be made by the borrower) and the likelihood that the property will retain an adequate value over the term of the loan.

(ii) The term 'age of the dwelling' does not encompass structural soundness. In addition, the age of the dwelling may be used by an appraiser as a basis for conducting further inspections of certain structural aspects of the dwelling. Paragraph (c)(3) of this section does, however, prohibit an unsubstantiated determination that a house over X years in age is not structurally sound.

(iii) With respect to location factors, paragraph (c)(4) of this section recognizes that there may be location factors which may be considered in an appraisal, and requires that the use of any such factors be specifically documented in the appraisal. These factors will most often be those location factors which may negatively affect the short range future value (up to 3–5 years) of a property. Factors which in some cases may cause the market value of a property to decline are recent zoning changes or a significant number of abandoned homes in the immediate vicinity of the property. However, not all zoning changes will cause a decline in property values, and proximity to abandoned buildings may not affect the market values of a property because the cause of abandonment is unrelated to high risk. Proper considerations include the condition and utility of the improvement, and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and municipal services, and exposure to flooding and land faults.

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12 CFR Part 703

Interpretative Ruling—Investment Activities

AGENCY: National Credit Union Administration.

ACTION: Interpretation of General Applicability.

SUMMARY: The purpose of this interpretative ruling is to set forth the Administration's position on certain activities resulting from 12 CFR 703.3 published on July 20, 1979 (44 FR 42673), and to establish accounting procedures to be used in conjunction with the investment authorities permitted by that rule. The accounting procedures will be reflected in future changes to the Accounting Manual for Federal Credit Unions, NCUA 8022.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert F. Schafer, Chief, Supervision Section, Office of Examination and Insurance, at the above address. Telephone (202) 254–8760.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Administration published a proposed rule (43 FR 47731) to restrict Federal credit unions from engaging in certain investment activities, which the Administration believed to be unauthorized, or unsafe and unsound in that they resulted in losses to Federal credit unions and/or in a risk to the National Credit Union Share Insurance Fund. The comment period on the rule ended on December 15, 1978, but was extended to March 15, 1979 (43 FR 58096, December 12, 1978). The final rule was published July 20, 1979 (44 FR 42673).

As a result of the final rule the Administration has established certain accounting procedures for those investment activities which are permissible. It is the Administration's opinion that the new procedures are necessary for Federal credit unions to provide for "full and fair disclosure" which is required by § 702.3 of the rules and regulations (12 CFR 702.3).

Some of the accounting procedures were cited in the preamble to the proposed regulation while others are the result of comments which were received. The Administration has reviewed all comments on accounting procedures and made changes as discussed below.

1. Procedures for Investment Activities

a. Background. The current Accounting Manual for Federal Credit Unions (accounting manual) does not address some of the accounting procedures necessary to implement the investment activities permitted under § 703.3 of the National Credit Union Administration rules and regulations (the investment rule). Prior to the publication of the investment rule the Administration did recommend certain procedures for reverse repurchase transactions, which were distributed to all Federal credit unions in a letter from the Administrator. Additionally, the preamble to the proposed investment rule cited additional accounting procedures for investments. A copy of the proposed rule was also sent to all Federal credit unions for comment.

Numerous comments were received regarding the accounting procedures listed in the preamble to the proposed rule. Most of the comments objected to recognition of losses due to the mark to the lower of cost or market concept on forward placement contracts or to various aspects of fuller disclosure on the Statement of Financial Condition.

(A) Marking to the Lower of Cost or Market

Most of the comments received objected to recording securities purchased via forward placement contracts (forwards) at the lower of cost or market on settlement date. Commenters claimed that it is unfair or inconsistent to do so for forwards when the same was not done for cash/immediate purchases. Others commented that this procedure does not comply with Generally Accepted Accounting Principles (GAAP). Some suggested that a footnote would suffice to provide full disclosure.

The Administration believes that there is a general misunderstanding of the basis for marking forwards to the lower of cost or market, as well as the basis for recording cash purchases at cost.

Federal credit unions have traditionally recorded investment purchases at cost. This price however, is also the market value of the security on the date of purchase. Under current

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accounting procedures Federal credit unions may choose to reflect declines in market value if the board determines that the securities purchased will not be held to maturity. Premiums and discounts are amortized or accreted, respectively, over the life of the security.

The accounting procedures for forward placement contracts are similar to cash purchases, except for the initial recording of the asset. The Administration believes that the requirement to record forwards at the lower of cost or market prevents the recording of an inflated asset on the books which could materially distort the financial statement. Thus the Administration believes its position complies with GAAP. Once the asset is recorded all other accounting procedures for investments prevail.

Marking forwards to the lower of cost or market on settlement date is not a new concept as the Comptroller of the Currency requires it for all national banks. Additionally, Federal credit unions may be interested to know that approved common trust funds are required to reflect market fluctuation of forward commitments not only at settlement date, but also during the period between trade date and settlement date. The reflection of market changes, ultimately affects the rate of return on these accounts.

Accordingly, the Administration believes that in order to provide for full and fair disclosure under § 702.3 of the rules, it would be necessary for Federal credit unions to mark to the lower of cost or market on settlement date any security purchased via a cash forward agreement (which is the only forward placement contract permitted under the investment rule).

(B) Commitment Fees on Standby Commitments.

Several commentors stated that it is inconsistent to prohibit the recording of commitment fees received as income until settlement date, while requiring the recording of commitment fees paid as an expense on the date of payment. The discrepancy is now moot since Federal credit unions are prohibited from purchasing or selling securities via a standby commitment.

(C) Footnotes to the Financial Statements

Several commentors objected to footnoting financial statements to reflect the current market value of outstanding commitments. Some pointed out that present accounting procedures do not require that Federal Credit Unions footnote their Statements of Financial Condition to reflect the current market value of the investment portfolio, and wondered why commitments should be footnoted. Others objected because they did not want to disclose large discrepancies between book and market value to their members "who would not understand."

The Administration has considered the former comment and determined that its policy on footnoting the impact of investment market conditions must be consistent for both recorded investments and commitments. The importance of this information in providing full and fair disclosure for recorded investments apparently had been overlooked in the past.

The Administration believes that the latter comment is contrary to the purpose of "full and fair disclosure". A Federal credit union has a responsibility to provide its members and creditors with sufficient and accurate information to make an informed decision on investing their funds.

Therefore Federal credit unions must footnote their Statements of Financial Condition to reflect the current market value of the investment portfolio as well as the value of outstanding commitments.

(D) Investment-type Repurchase Transactions

An noted in the preamble to the investment rule, the Administration reconsidered its position on the requirements necessary for delivering securities under an investment-type repurchase agreement. In light of this change, the Administration believes that some of the accounting procedures contained in the preamble to the proposed investment regulation are no longer applicable. These procedures required that interest and dividends on the securities purchased be recorded separately from a gain or loss on the sale of the securities. The Administration now believes that the purpose of repurchase agreements is to obtain a specified yield on the investment made and that this yield represents operating income. As such, it should be recorded in account No. 121, Income from Investments.

(E) Amortization/Accretion of Premiums/Discounts

The current Accounting Manual for Federal Credit Unions requires that premiums on investments be amortized over a period from the purchase date to maturity date, or in the case of call bonds to the call date. Discounts in all cases are accreted from purchase date to maturity date.

It was suggested that the Administration review that position in light of the increased use of pass-through securities backed by mortgage loans such as Government National Mortgage Association securities (Ginnie Maes) and Federal Home Loan Mortgage Corporation securities (Freddie Macs). These securities provide for principal repayments on a monthly basis that may be repaid prior to maturity. As a standard for comparing yield, mortgage-backed pass-through securities, such as Ginnie Maes and Freddie Macs which have 30-year maturities, are considered to have a 12-year average life. The average life is based upon data published by the Federal Housing Administration (FHA). Other pass-through securities, such as SBA guaranteed loans have no established average life.

In order to meet the needs of credit unions that have extensive pass-through security portfolios, the Administration has determined that it is necessary to provide alternative methods for amortizing or accreting premiums and discounts as set forth below in section (a)(8) of the Interpretative Ruling and Policy statement.

2. Adjusted Trading.

As noted in the preamble to the final investment rule the Administration has documented a growing number of instances where Federal credit unions have attempted to hide or defer losses occurring from their investment transactions. The reasons for such actions have varied but generally can be attributed to the desire of officials to pay dividends when sufficient earnings would not be available had the investment losses been recognized. In some cases the officials may not have been aware of the impact of their actions, or that the adjusted trading was in violation of National Credit Union Administration Rules and Regulations. Thus, the Administration prohibited such activity in § 703.3(b)(8) of the rules and regulations, and now spells out some of the types of transactions that constitute this activity in section (b) of the Interpretative Ruling and Policy Statement.

3. Other Investment Transactions

The final rule prohibits certain investment activities, such as standby commitments, adjusted trading and short sales, and limits other activities such as cash forward agreements and reverse repurchase transactions. The Administration has determined that Federal credit unions have engaged in transactions which in whole or in part are prohibited by the rule. Therefore, the Administration believes it is necessary to clarify those transactions which it has determined are prohibited by § 703.3 of the rules. The fact that a particular transaction is not described in section (c) of this Interpretative Ruling does not mean that it would necessarily be permitted. Each transaction must be reviewed on its own merits in light of the investment rule. Should the Administration determine in the future that other transactions violate the rule, additional Interpretative Rulings will be issued.

Interpretative Ruling—IRPS No. 79-4

a. *Accounting Procedures.* The Administration believes that for the transactions listed below the following accounting procedures provide for full and fair disclosure as required by § 702.3 of the National Credit Union Administration Rules and Regulations.

(1) Cash Forward Agreement to Purchase Securities

(A) Federal Credit Unions must be able to provide information on the type of security purchase by use of a cash forward agreement to include a complete description, trade date, settlement date, amount, coupon rate, purchase price, and name of the seller. Such information should be kept in a current register for that purpose.

(B) Written cash flow projections evidencing the credit union's ability to purchase the underlying securities must be prepared prior to making a commitment to purchase the securities, as required by § 703.3(b)(3) of the investment rule.

(C) Prior to settlement the amount of the cash forward agreement represents a contingent liability to the credit union. Therefore, in accordance with the Accounting Principles and Standards for Federal Credit Unions it must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding. The footnote will reflect the agreed upon purchase price and the market price on the statement date.

(D) When purchased, the underlying security shall be recorded at the lower of cost or market. Losses, if any shall be shown in account No. 420, Gain (Loss) on Investments.

(2) Cash Forward Agreement to Sell Securities

(A) A Federal Credit Union must be able to provide information on the type of security sold by use of a cash forward agreement to include a complete description, trade date, settlement date, sale price and name of the purchaser. Such information should be kept in a current register for that purpose.

(B) Prior to settlement the amount of the cash forward agreement represents a contingent liability to deliver securities. Therefore, in accordance with the Accounting Principles and Standards for Federal Credit Unions it must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding.

(C) The gain or loss on the sale of the underlying security will not be recognized until the settlement date and will be recorded in account No. 420, Gain (Loss) on Investments.

(3) Investment-Type Repurchase Transaction

(A) A Federal Credit Union must be able to provide information on the type of security purchased by use of an investment-type repurchase transaction to include an identification of the security (type, face value, coupon rate), trade date, settlement date, amount, repo rate, purchase price and the name of the seller. Such information should be kept in a current register for that purpose.

(B) Each investment-type repurchase transaction must be documented by the following as required by § 703.3(a)(4) of the investment rule.

(i) For those securities in the physical possession of the credit union, there must be clear evidence of ownership of the security.

(ii) For those securities held in safekeeping, there must be a copy of the "bailment for hire contract" from the third party bank or other financial institution, and a safekeeping receipt.

(C) The security purchased will be recorded at cost in the appropriate investment account (series 740).

(D) The credit union's Statement of Financial Condition will be footnoted to reflect the amount of securities which are subject to resale and the date of resale.

(E) Income earned on the securities purchased will be recorded in account No. 121 Income from investments.

(4) Loan-Type Repurchase Transaction

(A) Loan-type repurchase agreements to members must be made in accordance with within the limitations established in the Federal Credit Union Act, the Federal Credit Union Bylaws, the National Credit Union Administration Rules and Regulations, and policies established by the board of directors. These requirements include but are not limited to a maximum loan limit of 10 percentum of unimpaired capital and surplus to one member, the receipt of a properly supported loan application, approval of the loan by the credit committee, and execution of a note supported by documentation of the collateral. Account No. 705, Loans Subject to Repurchase Agreements, will be used to record these loans.

(B) Loan-type repurchase agreements to other credit unions must conform with limitations contained in sections 107(5)(C) and 107(7)(C) of the Act and Section 703.2 of the National Credit Union Administration Rules and Regulations. These loans will be recorded in account 747, Loans to Other Credit Unions.

(C) Loan-type repurchase agreements to approved credit union organizations must be in compliance with section 107(5)(D) of the Act and National Credit Union Administration Rules and Regulations. Account No. 744 Loans to Credit Union Service Corporations, will be used to record these loans.

(D) Where material in amount the securities used as collateral for the loan-type repurchase agreement will be identified in a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the repurchase agreement is outstanding. The footnote will reflect the market price of the securities on the statement date.

(E) Income received from loans to members will be recorded in account No. 111, Interest on Loans. Income received from loans to credit union organizations and loans to other credit unions will be recorded in account No. 121, Income from Investments.

(5) Reverse Repurchase Transaction

(A) Since Reverse repos represent a borrowing activity, such activity must be approved by the board of directors or a duly appointed executive committee as required by section 113 of the Federal Credit Union Act.

(B) Funds received from reverse repos will be recorded as borrowed funds in account No. 812, Notes Payable—Other.

(C) The securities used as collateral for the reverse repos will be identified in a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the reverse repo is outstanding. The footnote will reflect both the book value and the market price on the statement date.

(D) Interest paid on reverse repos will be recorded in account No. 340, Interest on borrowed Money.

(6) Commitment Fees

Section 703.3(b)(2) of the investment rule prohibits Federal credit unions from entering into standby commitments to purchase or sell securities. Those credit

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unions, that prior to the publication of the final rule entered into standby commitments to purchase or sell securities, need not adjust their records to reflect the accounting procedure for commitment fees which was noted in the preamble to the proposed rule.

(7) Footnotes to Financial Statements

In order to provide for full and fair disclosure as required by § 702.3 of the National Credit Union Administration Rules and Regulations, Federal credit unions must footnote their statements of Financial Condition to reflect the market value of the securities recorded in accounting series 740.

(8) Amortization/Accretion of Premiums/Discounts on Pass-through Securities

Federal credit unions may select from the following methods for amortizing and accreting premiums and discounts on pass-through securities, provided the method selected is used for all such securities.

(A) For pass-through securities backed by mortgage loans:

(i) Maturity method. The maturity method calls for amortization or accretion of premiums or discounts from date of purchase to date of maturity.

(ii) Average life method. This method provides for amortization or accretion from the purchase date to 12 years from the date the security was originally issued.

(iii) Repayment factor method. This method provides for amortization or accretion based upon the percentage of the principal repaid to the par value of the security on the purchase date.

(B) For pass-through securities not backed by mortgage loans:

(i) Maturity method

(ii) Repayment factor method

(9) Examples

Examples of the accounting entries for the transactions discussed above are found in Appendices A through F.

b. *Adjusted Trading.* The Administration believes that the following types of transactions constitute adjusted trading (as defined in § 703.3(a)(10)), and therefore, are prohibited. The most common form of adjusted trading occurs when a credit union cannot meet its commitment to purchase a security on the settlement date and the market price is below the commitment price. Thus, if the credit union is forced to immediately sell the security it will incur a loss. In order to prevent the loss, the credit union would enter into an agreement to resell the security to the broker at the commitment price and to enter into another commitment to purchase a different security at a price that exceeds its market value. Thus the credit union has deferred its loss in hopes that the market price of the security underlying the new commitment will increase by the new settlement date.

A less common form of adjusted trading occurs when a credit union swaps or exchanges a lower yielding security for a higher yielding security. In this case, the sale of the low yielding security would result in a loss, which the credit union does not wish to recognize during the current accounting period. Again the credit union agrees to sell its security and buy the new security at prices above market. Another name for these transactions is overtrading.

A variation of the adjusted trade involving a forward commitment is known as "fee trading" or "reposition trading." This transaction is the same as the first example above except that the broker is unwilling to take the risk of purchasing the initial security the credit union would sell at a price above market. Therefore, the broker requires that the credit union pay a fee, which is the difference in the commitment price and the market price when they enter into the transactions. When the credit union purchases the new security, the broker returns the fee. Often, this type of transaction occurs repeatedly. The fee is usually recorded by the credit union as a receivable, deferred expense, or other asset.

The Administration believes that the transactions described above, under whatever name, constitute adjusted trading and thus are prohibited under § 703.3(b)(8) of the final investment regulation.

c. *Other Investment Transactions.* The Administration believes that the following transactions are in whole or in part in violation of § 703.3 of the National Credit Union Administration Rules and Regulations and thus are prohibited.

(1) Yield maintenance contract

(A) *Definition.* A yield maintenance contract, also known as a pair-off hedge, is the concurrent commitment to purchase a security via a cash forward agreement and to sell the same security on the same settlement date via a standby commitment. The credit union is required to pay a commitment fee to the vendor which is generally exorbitant. The purpose of the transaction is to "guarantee" a specified yield which is based upon the commitment fee paid. Generally, the purchase and sale prices are not related to the current market price.

(B) *Basis for Prohibition.* Yield maintenance contracts violate § 703.3(b)(2) which prohibits a Federal credit union from entering into a standby commitment and § 703.3(b)(10) which requires that all purchases and sales of securities be done at market prices. Additionally, the Administration believes that a yield maintenance contract is an unsecured loan to a broker (a non-member) and thus is in violation of section 107(5) of the Federal Credit Union Act.

(2) Pair-Off Transaction

(A) *Definition.* A pair-off transaction is the matching or netting of commitments to purchase and sell securities via cash forward agreements. Generally a Federal credit union would commit to purchase a security and sometime thereafter commit to sell the security on the same settlement date. The purpose in engaging in pair-off transactions is not to take delivery of the security purchased, but to speculate that the market price will increase before settlement date and a gain will result from its sale. Many times the commitment to sell is made the same day as the commitment to purchase. There may even be a standard order with the vendor to sell when a certain market price is reached.

(B) *Basis for Prohibition.* Pair-off transactions are prohibited by § 703.3(b)(3) which prohibits Federal credit unions from selling securities via a cash forward agreement that they do not own. The Administration also believes that pair-off transactions represent a speculative activity which is unsafe and unsound. Additionally, there is strong evidence to show that it has been used as a means of "churning" credit union accounts to benefit brokers commission.

It should be noted that a short sale, which is a pair-off transaction in reverse, is prohibited under § 703.3(b)(9).

(3) Dollar Price Repurchase Agreement (dollar price repo)

(A) *Definition.* A dollar price repurchase agreement means a contract whereby a Federal credit union sells a security that it owns and agrees to purchase another security on a future date. Because of the reasons set forth below, the Administration has determined that the dollar price repo does not represent borrowing by a Federal credit union as does a reverse repurchase transaction defined in § 703.3(a)(5) of the investment regulation.

In the case of a reverse repurchase agreement, the transaction represents borrowing because ownership of the security "sold" does not change; that is, the "seller" of the security still has title and still receives the dividend or interest income from the security. Interest based upon the balance of the proceeds received from the transaction are paid by the "seller." Additionally, the same security "sold" must be "repurchased." As such the essential elements of a sale and repurchase do not exist.

In the case of a dollar price repo, the essential elements of a sale do exist, i.e., ownership of the security does change. The buyer now receives the dividend or interest income on the security. No interest is paid by the seller for funds received. The same security sold is not required to be repurchased.

The Administration believes that some Federal credit unions have been encouraged to adopt accounting practices that make a dollar price repo appear to be a reverse repurchase transaction.

Such practices include:

(i) Not recording gains and losses when the security is sold.

(ii) Prorating the difference between the price of the security sold and the price of the security purchased over the transaction period and recording this difference as interest income or expense.

(iii) Accruing or accreting premiums or discounts on the security that is sold.

(iv) Not recording the purchase of the new security.

(B) *Policy.* The Administration believes that a dollar price repo represents the sale of a security and a simultaneous agreement to purchase another security at a future date by use of a forward placement contract. As such a Federal credit union may enter into such an agreement only if:

(i) Gains and losses on the sale of the security sold are recognized on the settlement date of the sale.

(ii) The limitations cited in § 703.3(b)(3) for purchasing a security under a cash forward agreement are met.

Lawrence Connell,

Chairman.

August 23, 1979.

Appendix A—Accounting Entries for a Cash Forward Agreement To Purchase a Security

Assume that an FCU entered into a Cash Forward Agreement to purchase a $1 million par value Federal Agency security on March 16 at 95, which is the market price for a 90 day forward. The FCU had written projections which showed that it had a $1 million CD maturing on June 15, the settlement date of the forward. The market value of the security was 93 on June 14.

Entries:

March 16

The commitment is recorded in the cash forward agreement register.

Future financial statements of the Federal credit union are footnoted.

June 15

Dr. Federal Agency Securities (742)..... 930,000
Dr. Gain (Loss) on Investments (420)..... 20,000
Cr. Cash (731)..... 950,000

To record purchase of security at lower of cost or market.

Footnote is removed from the financial statements.

Appendix B—Accounting Entries for a Cash Forward Agreement To Sell a Security

Assume that an FCU owns a Federal Agency Security recorded on its books for $950,000. It commits on June 10 to sell the security on August 20 for $975,000.

Entries:

June 10

The commitment is recorded in the cash forward agreement register.

Future financial statements are footnoted.

August 20

Dr. Cash (731)..... $975,000
Cr. Federal Agency Securities (742)..... 950,000
Cr. Gain (Loss) on Investments (420)..... 25,000

To record the sale of the security and recognize the gain on the sale.

Footnote is removed from the financial statements.

Appendix C—Accounting Entries for an Investment-Type Repurchase Transaction

Assume that an FCU entered into an investment-type repurchase transaction on September 30 to purchase a mortgage-backed Federal agency security with a face value of $2,142,857 and a coupon rate of 8.50. The parties agreed upon a repo rate of 9.0. The purchase price was 98. Also assume that the FCU agreed to resell a similar type security to the vendor on October 1 at 98.0245.

Entries:

September 30

The funds are transferred to the broker through the credit union's custodial bank, which transmits a custodial slip to the FCU. The transaction is recorded in the repurchase transaction register.

The financial statements of the Federal credit union are footnoted.

Dr. Federal Agency Securities (742) ($2,142,857 x 98)..... 2,100,000
Cr. Cash (731)..... 2,100,000

To record the purchase of the security.

October 1

Dr. Cash (731)..... 2,100,525
Cr. Federal Agency Securities (742)... 2,100,000
Cr. Income from Investments (121)..... 525

To record repurchase of security and receipt of income.

Footnote is removed from financial statements.

Appendix D—Accounting Entries for a Loan-Type Repurchase Agreement

Assume FCU "A" enters into a Repurchase Agreement with FCU "B" whereby "A" lends $1 million to "B" on February 1 and receives as collateral a $1 million Federal Agency security valued at par. FCU "B" agrees to repay the loan on August 1. The interest rate is 6 percent.

Entries on the books of FCU "A"

February 1

Dr. Loans to Other Credit Unions (747)..... 1,000,000
Cr. Cash (731)..... 1,000,000

To record loan.

The records of the Federal credit union are footnoted.

August 1

Dr. Cash (731)..... 1,030,000
Cr. Loans to Other Credit Unions (747)..... 1,000,000
Cr. Income from Investment (121)..... 30,000

To record repayment of loan with interest.

Footnote is removed from records.

Entries for FCU "B" are contained in Appendix E.

Appendix E—Accounting Entries for a Permissible Reverse Repurchase Transaction

Referring to Appendix D, FCU "B" would record the transaction as a Reverse Repurchase Agreement. In addition to the information given in that example, assume also that FCU "B" is unable to repay the loan from available funds on settlement date. FCU "B" chooses to sell the underlying security at its fair market value of 99½. The security is booked at par.

Entries on the books of FCU "B"

February 1

Dr. Cash (731)..... 1,000,000
Cr. Notes Payable—Other (812)..... 1,000,000

To record the Reverse Repo as borrowed funds.

The records of the Federal credit union are footnoted.

August 1

Dr. Cash (731)..... 995,000
Dr. Gain (Loss) on Investments (420)..... 5,000
Cr. Federal Agency Securities (742)... 1,000,000

To record sale of the underlying security recognizing a $5,000 loss.

Dr. Notes Payable (812)..... 1,000,000
Dr. Interest on Borrowed Money (340)..... 30,000
Cr. Cash (731)..... 1,030,000

To record payment of notes payable and interest due.

Footnote is removed from records.

Appendix F.—Repayment Factor Method of Amortizing/Accreting Premiums and Discounts for Modified Pass Through Securities

Assume that an FCU purchases a modified pass through security with a par value $932,577 on March 1 at 92²⁸⁄₃₂. Principal repayments in March, April and May were $500, $625, and $750. Accretion of the discount would be as follows:

1. Determine the amount of the discount—

Par value on date of purchase	$932,577
Less purchase price (par × 92²⁸⁄₃₂)	860,302
Discount	72,275

2. Determine the repayment factor—

$$\frac{\text{Premium or discount}}{\text{Par value}} = \text{Repayment factor}$$

$$\frac{\$72,275}{932,577} = .0775$$

3. Determine the amortization/accretion—

	Principal repayment		Repayment factor		Amortization/accretion
April	$500	×	.0775	=	$38 75
May	625	×	.0775	=	48 44
June	750	×	.0775	=	58 13

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12 CFR Part 742

Liquidity Reserves

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule applies to all credit unions that are insured by the National Credit Union Share Insurance Fund and either (i) have assets of $2,000,000 or more, or (ii) operate share draft or equivalent programs. The rule requires that such credit unions hold liquid assets in an amount equalling at least 5% of their member accounts and notes payable (excluding certain non-volatile accounts). The rule is needed to address significant declines in credit union liquidity and capital which, if continued, may threaten the interests of insured credit unions, their members and the National Credit Union Share Insurance Fund. The rule will enhance the ability of insured credit unions to meet member demands for liquid funds and avoid asset losses. The Administration is at this time also repealing the existing share draft liquidity reserve requirement for Federal credit unions (12 CFR 701.34(c)(5)(xiv)).

EFFECTIVE DATE: October 31, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert H. Dugger, Director, Office of Policy Analysis, 1375 K Street NW., or Robert M. Fenner, Assistant General Counsel, at the above address. Telephone: (202) 633-6775 (Mr. Dugger), (202) 632-4870 (Mr. Fenner).

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1979, the National Credit Union Administration ("Administration") issued a proposed rule, "Liquidity Reserves of Insured Credit Unions" (12 CFR Part 742, published at 44 FR 33094). The proposed rule was to appy to all credit unions whose member accounts are insured by the National Credit Union Share Insurance Fund ("insured credit unions"). It was proposed that insured credit unions be required to maintain at least a prescribed minimum portion of their assets in the form of liquid assets, or in other words, that they maintain minimum liquidity reserves. The proposed minimum amount of liquid assets was set at 5% of member accounts (shares, share certificates and similar accounts) and notes payable. The liquid assets, including such interest earning assets as short-term insured deposits and government securities, would be depletable if share outflows necessitated.

The rule was proposed as a result of significant declines in liquidity and capital among insured credit unions. These declines have contributed to substantial demands for assistance (in the form of loans and guarantees) from the National Credit Union Share Insurance Fund, and, if not averted, the declines may threaten the interests of insured credit unions and their members. The proposed rule was intended to address these declines and enhance the ability of insured credit unions to meet member demands for liquid funds and avoid asset losses. The Draft Regulatory Analysis issued in connection with the proposed rule (pursuant to the Administration's Final Report on Improving Government Regulations, which voluntarily implements Executive Order 12044) provided additional information concerning the need for and benefits of the rule, and the costs of the rule to insured credit unions.

Public participation in the proposed rule was requested in the form of written comments. Comments were originally to be received on or before July 25, 1979. In response to requests by some commenters, the comment period was extended to August 10, 1979. A notice of extension was published on July 23, 1979, at 44 FR 43001. The Administration also accepted and considered comments received as late as August 13, 1979.

Commenters

A total of one hundred and seventy-six comment letters were received on the proposed rule: 119 from Federal credit unions, 32 from federally-insured state credit unions, 9 from state credit union leagues and other local trade associations, 8 from state agencies that supervise credit unions (and, in some cases, other financial institutions), 5 from national credit union trade associations and their affiliates, one from the National Association of State Credit Union Supervisors, one from a credit union service center and one from a securities brokerage firm.

Of the one hundred and seventy-six commenters, seventy-two expressed clear opposition to any rule requiring liquidity reserves. Included among those opposing the rule were one national trade association, five state credit union leagues and the National Association of State Credit Union Supervisors. Thirty-nine commenters expressed support for the rule, but many suggested significant changes. Included among these commenters were one national trade association and three state financial institution supervisory agencies. The remaining sixty-five commenters recommended various changes without expressing a clear position on whether the regulation is advisable.

Based upon its review of the comments and further analysis, the Administration has decided to issue a final regulation. A summary of the Administration's decision and an analysis of the comments and changes follow.

Decision

The Administration has proceeded, as proposed, with a final rule requiring a minimum level of liquid assets determined as 5% of an affected credit union's liability base. There are, however, significant changes from the proposal. First, the rule will apply only to insured credit unions that have $2,000,000 or more in assets, or that operate share draft or equivalent programs. (This excludes some 13,000 small credit unions from any regulatory burden. It does not, however, except them from requirements of sound liquidity management as explained below.) Second, while the rule will apply to federally-insured state chartered credit unions, special provisions have been added to accommodate the concerns of state credit unions and their supervisors. Third, the definition of reserve-qualifying "liquid assets" has been significantly expanded, for example by the inclusion of common trust fund investments and similar authorized investments that are designed to provide liquidity for participating credit unions. Fourth, the liability base against which the 5% reserve must be determined has been narrowed by the exclusion of certain non-volatile accounts. A further explanation of these and other changes is set forth in the following analysis of comments and changes.

Analysis of Comments and Changes

Authority

The rule is based both on the special reserve authority of sections 116(b) and 201(b)(6) of the Federal Credit Union Act ("the Act") (12 U.S.C. 1762(b), 1781(b)(6)), and the general rulemaking authority of sections 120(a) and 209(a)(11) (12 U.S.C. 1766(a) and 1789(a)(11)). (The citation to the latter Section was inadvertently omitted from the proposed rule. In any event, the general rulemaking authority of Section 120(a) relates to the entire Act.)

A few commenters questioned the Administration's reading of its authority. One suggested, in a rather lengthy analysis, that the intent of the special reserve authority is only to protect against unusual loan losses. Other commenters suggested that the special reserve authority only allows the Administration to require a faster build-up, or a higher goal, of reserved assets, but not to require that a portion of the credit unions' assets be held in any specific form as proposed.

The Administration has studied the Act and legislative history, and believes its authority to impose liquidity reserves on insured credit unions is well founded. Both section 116(b) (in the case of Federal credit unions) and section 201(b)(6) (in the case of all insured credit unions) authorize the Administration to impose "special reserves" by regulation in order "to protect the interest of [credit union] members." There are at least two instances of historical precedent for liquidity reserves; the existing share draft liquidity reserve, and the 5% cash reserve that was prescribed for Federal credit unions as early as 1934 (by Article XIII, section 2 of the then Standard FCU Bylaws). While portions of the Act's legislative history may indicate that the authors of the special reserve authority were concerned that the Administration have the ability to increase the regular reserve in the event of unusual loan losses, an exercise of the special reserve authority is not limited to that use. Sections 116 and 201(b) of the Act simply specify the purposes of reserve requirements; to protect against loan losses and *other asset losses* and to protect the interests of insured members. The purpose of the liquidity reserve rule is to protect against asset loss as a result of unexpected share withdrawals, and thus to protect the soundness of insured credit unions and the interests of their members.

Finally, if it were determined that liquidity reserves are not within the scope of the reserve provisions of the Act, the Administration believes the difference in the nature of liquidity reserves as compared to the regular or "surplus" reserve (i.e., liquidity reserves entail a segregation of existing assets as compared to a required build-up of reserved assets) allows the imposition of liquidity requirements under the general rulemaking authority of sections 120(a) and 209(a)(11).

Need for a Liquidity Reserve Requirement

The most frequently cited reason in opposition to the liquidity reserve proposal, expressed in various ways by the commenters, was that for those credit unions that do not presently maintain 5% "liquid assets" (as defined in the rule), required asset adjustments will mean a reduction in income that will hamper the credit unions' ability to provide optimum member services. The commenters noted that unless a credit union is presently making regular additions to undivided earnings, a reduction in income will over time require some combination of increased loan interest rates or reduced dividends and expenses. Various commenters also suggested that the proposal is a disincentive for credit union management to establish individually tailored funds management programs, and that a uniform percentage liquidity reserve against all liability accounts is not realistically related to individual credit unions' needs, which vary according to factors such as liability and asset structure and characteristics of the credit union's field of membership. It was also suggested that the imposition of liquidity reserves at this time is inappropriate, in view of the apparent trend (as reflected in legislative *proposals*) away from fixed liquidity reserves on non-demand accounts. Finally, it was suggested that the proposed rule and the draft regulatory analysis do not properly assess the costs of the rule and demonstrate that other, less burdensome alternatives are unacceptable (such as the "Michigan plan", requiring that each credit union board of directors adopt a written liquidity management plan based on criteria developed by the regulatory agency).

In response to these comments, the Administration believes the need for action is well established by the evidence, set forth in both the draft regulatory analysis and the proposed rule, of recent substantial declines in credit union liquidity and capital. The need for action is further supported by the fact that the National Credit Union Share Insurance Fund presently has outstanding more than $25 million dollars in assistance (including $15.5 million in loans and other "cash" assistance) to insured credit unions, much of which was required in part because of liquidity problems. The Final Regulatory Analysis issued in connection with this rule (which is available upon request) contains further information concerning the magnitude of the liquidity problem. In any event, the proposal is preventive in its intent, and need not be founded on a demonstration that it is already overdue.

As to the suggestion that the Administration should further consider alternatives to a liquidity reserve requirement, it is noted that the only realistic alternative (other than to maintain the status quo and deal with individual cases) is that of requiring written liquidity management plans of each insured credit union. The substantial costs to credit unions in the form of increased fees resulting from the monitoring of such a requirement, and the questionable value of plans that are developed only because of a legal requirement and that afford no minimum level of protection, cause the Administration to seriously question the utility of such a proposal. As to the argument that liquidity reserves are a disincentive to more creative, individually tailored liquidity management plans, the Administration believes this is true only for those insured credit unions that would not have developed such plans anyway. Finally, it is noted that pending legislative proposals to abolish reserves on bank time deposits relate to fixed, sterile reserves that are of questionable value for either liquidity or monetary control. In contrast, the Administration's proposed liquidity reserve does provide for depletion as necessary to meet share withdrawal demands.

The Draft Regulatory Analysis on the proposed rule estimated that no more than 2% of insured credit unions would face a 5% or more reduction in income (as a result of adjustments into lower earning "liquid assets"). As a result of the exclusion, in the final rule, of most insured credit unions with less than $2,000,000 in assets, and changes in the definition of liquid assets and in the liability base that must be reserved against, it is now estimated that only 89 insured credit unions will face a reduction in income of 5% or more. This is roughly one-half of one percent of all insured credit unions.

For the reasons discussed above, and based on its evaluation—further addressed in the Final Regulatory Analysis—that the benefits of the rule will far exceed the costs involved, the

Administration has proceeded with a final rule.

Exclusion for Most Small Credit Unions

A number of commenters expressed concerns about the burden of required liquidity reserves on small credit unions. The Administration is sensitive to the difficulties of small, largely volunteer-operated credit unions in contending with increasing regulatory burdens. Further, considering the provisions of the rule, discussed below, regarding notification of depletion (of the minimum liquidity reserve) and processing of requests for extensions, the rule would, if applied to all insured credit unions, impose a substantial monitoring burden on the Administration.

The Administration has reviewed the share account structure of insured credit unions, and determined that in credit unions of asset-sizes below $2,000,000, the volume of large (above $5,000) and traditionally volatile accounts is substantially below 50% (as compared to higher percentages for larger credit unions). Further, these smaller credit unions have not required significant assistance from the National Credit Union Share Insurance Fund related to liquidity problems.

It is recognized, however, that some liquidity resource must be available to those small credit unions that operate share draft programs. It is the Administration's judgment that this rule is less costly to comply with and enforce than the existing share draft liquidity reserve requirement for Federal credit unions (12 CFR 701.34(c)(5)(xiv)). Therefore, the share draft liquidity reserve requirement is being repealed, and all insured credit unions that operate share draft or equivalent programs are covered by this rule.

With the exception of those operating share draft programs, the Administration has decided to exclude insured credit unions with less than $2,000,000 in assets from the coverage of the rule. These changes are set forth in Section 742.1 of the final rule. Excluded credit unions are not, however, excepted from the need for sound asset/liability management. The Administration will continue to monitor liquidity in these credit unions and will not hesitate to take appropriate action in individual cases or at some future date by regulation.

Definitions of Liquid Assets

Section 742.2(a) of the proposed rule defined the "liquid assets" that would qualify for the required 5% reserve. A number of commenters raised concern about various aspects of the proposed definition:

(a) *Common trust fund investments.* The proposed rule excluded common trust fund investments from the definition of liquid assets. The exclusion was based on the reasoning that the securities held in common trust funds are of varying and in some cases long-term maturities, presenting an apparent potential for loss of capital in the event a fund is faced with heavy withdrawal demands.

The exclusion of common trust fund investments was addressed by sixty commenters. All opposed the exclusion. In support of the common trust funds, the commenters cited their relative high earning potential, the low average maturity of the underlying investments, the historical record of the funds in handling substantial withdrawal demands on a daily basis without advance notice and without loss of capital, and the fact that if the funds are excluded many credit unions will be forced to opt for lower earning demand or passbook accounts because they do not have the experience to invest in other short-term liquidity instruments.

Considering the unanimity of comments on this issue and the good historical record of common trust funds in providing daily liquidity, the Administration agrees that they should be included as liquid assets. Their inclusion is, however, subject to two conditions. First, to address the Administration's concern regarding a potential for loss of capital, common trust fund investments are to be valued, for purposes of the liquidity reserve determination, net of any deferred loss. Second, in order to exclude funds that invest largely in long-term securities or impose restrictions on withdrawal rights, only investments in funds the objectives of which are to provide daily liquidity will qualify as liquid assets. Also, to avoid the possibility of having to amend the rule at a future date, the authorization includes common trust funds *and* similar authorized investment funds. These changes are reflected in §§ 742.2(a)(4) and 742.3(c) of the final rule.

(b) *Insured deposits and government securities.* The proposed rule included, in the definition of liquid assets, federally-insured deposits in banks and savings and loan associations (and deposits in central credit unions) with remaining maturities of 6 months or less, and certain United States Government and agency obligations with remaining maturities of 1 year or less. Twenty-nine commenters addressed these provisions. All recommended that the maturity limits on one or both types of investments be extended. Many of the commenters noted that insured time deposits are available via early withdrawal at any time without loss of principal, and thus suggested that it is inconsistent that the maximum maturity on such deposits would be any less than that on government obligations (one year). The Administration agrees that the maximum remaining maturity on insured deposits should be extended to one year.

A majority of the twenty-nine commenters also requested some form of relaxation of the 1 year limit on qualifying government securities. Most simply requested that the maturity ceiling be raised, to anywhere from 2 to 5 years. Other commenters requested that all government securities qualify, but at their market value. A few commenters suggested that long-term securities be grandfathered for a period, to avoid having to sell them at a loss to meet the reserve requirement. Others suggested that the Administration allow a set percentage of the reserve to be comprised of long-term securities. Finally, three commenters requested that they be allowed to include the guaranteed annual pay down (presumably for 1 year forward) on GNMA and FHLMC participation certificates that they hold.

While the guaranteed annual paydowns on GNMA and FHLMC certificates do represent a reliable short-term source of funds, these payments are different from a short-term (1 year or less) security in one important sense: They cannot be converted to immediate cash, not even at a loss of principal. Thus, the paydowns are not considered a liquid asset.

The other various suggestions for relaxing the qualifications for government securities all fail for one reason: The market fluctuation potential inherent in government securities weighs against their consideration as liquid assets. Securities with remaining maturities up to 1 year were included because of their flexibility. They can either be sold (possibly at a small loss) or they can be held to maturity, in which case they are self liquidating over a fairly short term (1 year at most). Longer term securities provide liquidity only at a risk of greater loss of capital, and this is inconsistent with the purpose of the rule (to meet withdrawal demands while avoiding asset losses). In further response to the request that the Administration grandfather existing long-term securities, so that they need not be sold at a loss, it is noted first that the sale of such securities is not the only possible way to make asset adjustments in order to meet a liquidity requirement, second that an equitable period of time will be allowed to make necessary adjustments (see the discussion below on the effective date of the rule) and third, a short-term depletion of undivided earnings may be a necessary expense of assuring liquidity and avoiding later, more serious losses.

As a final point regarding qualifying securities, the proposed rule was inadvertently worded so as to qualify only U.S. Government and agency *issued* securities. The Administration believes that U.S. and agency backed securities should qualify as well, assuming they are authorized for investment under the Federal Credit Union Act and the maturity limitations are met.

Accordingly, the definition of liquid assets has been revised to include (i) share or deposit accounts with remaining maturities of *one year or less* maintained in central credit unions or in institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and (ii) investments in obligations of the United States or an agency thereof, *or securities fully guaranteed as to the principal and interest thereby*, which are authorized under 12 U.S.C. 1757(7) and which have a remaining maturity of one year or less. These changes are reflected in § 742.2(a)(2) and (3) of the final rule.

(c) *Loans and deposits in insured credit unions.* The proposed rule did not include deposits in insured credit unions (except centrals) in the definition of liquid assets. Sixteen commenters noted this, and all objected. Some of these commenters noted that the rule included deposits in other insured institutions, but not credit unions, and suggested that this promotes the profitability of other institutions at the expense of credit unions. A few commenters suggested that it is inconsistent to include centrals but not other credit unions. Finally, three commenters suggested that demand and short-term loans to insured credit unions also be qualified as liquid assets.

The inclusion of deposits in, and loans to, insured credit unions as reserve-eligible assets would allow credit unions to "cross-liquidify" each other. Looking at such credit unions individually, they would meet minimum standards. Looking at any two or more cross-liquidified credit unions as a group, however, there is no liquidity. It is for this reason that deposits in insured credit unions were excluded. The Administration believes it is a valid reason and thus the exclusion has been retained. The distinction relevant to central credit unions is that they serve a broad base of credit unions which are less likely to experience serious drains on liquidity all (or in substantial numbers) at the same time.

(d) *Book versus market value.* A few commenters noted that the proposed rule did not specify whether liquid assets are to be valued at book or market value for the reserve computation. They suggested that the assets be valued at book, because of the burden of monitoring fluctuations in market value. Also, it is noted that the qualifying assets are for the most part subject to little fluctuation in value or can be redeemed at little loss of principal if any, and in any event, because of their short-terms, can be held to maturity in order to avoid loss of capital and still provide liquidity. Except in the case of common trust funds and similar investments (discussed above), the Administration agrees that liquid assets should be counted at book value. This point is clarified in § 742.3(c) of the final rule.

(e) *Central Liquidity Facility Stock.* The proposed rule included, in the definition of liquid assets, shares of stock in the National Credit Union Administration Central Liquidity Facility (CLF). Two commenters, suggesting that CLF stock is not in fact liquid, recommended that it not be included in the definition of liquid assets. A number of other commenters asked about the relationship between the liquidity reserve proposal and the CLF.

The Administration believes the inclusion of CLF stock (both the actual amount of stock held by a credit union, and its "on-call" portion which will contribute to the credit union's liquidity requirements by virtue of being held in other qualifying assets) is well founded for the following reasons: (i) CLF stock can be liquidated in six months, (ii) membership in the CLF provides access to an institution whose sole function is to provide liquidity, in an amount which exceeds the credit union's initial investment, (iii) in contrast to contracted liquidity sources (e.g., lines of credit) discussed below, the CLF is statutorily mandated to provide liquidity, and (iv) in large part the success of the CLF and its ability to function as intended depend upon general credit union participation and the overall liquidity position of the industry. Accordingly, CLF stock has been retained, as a reserve-eligible asset, in § 742.2(a)(5) of the final rule.

(f) *Lines of credit and other sources of borrowing.* Sixteen commenters recommended that some consideration be given to lines of credit and other sources of borrowing (such as reverse repurchases on government securities) as liquidity tools. The form that the suggested consideration would take was in most cases unclear. Presumably, however, these commenters would have it that the amount of the otherwise required reserves for an individual credit union (i.e., 5% of its liability base) would be offset by the amount of any contractually guaranteed source of borrowing.

The Administration perceives a fundamental problem with this suggestion and has decided against its adoption. Lines of credit, reverse repurchases and other sources of borrowing, including guaranteed ones, are only as good as the capacity of the other party. Contracts are subject to breach, and the only recourse is through the judicial process which may be unacceptably time-consuming. (In contrast, a credit union has an irremovable right to sell its own unpledged assets). Further, the times when credit unions face illiquidity are likely to be precisely those times when potential lenders will wish to avoid extending credit.

(g) *Federally-insured state chartered credit unions.* Several commenters expressed concern about the imposition of the liquidity reserve rule on federally-insured state chartered credit unions. These concerns and the Administration's response are discussed in greater detail below. In partial response to these concerns, the Administration has revised the definition of liquid assets to include, for covered federally insured state credit unions, any asset held in satisfaction of liquidity requirements imposed by applicable state law or regulation. This change is found at § 742.2(a)(6) of the final rule.

Liabilities that Must Be Reserved Against; Shares and Notes Payable

As proposed, the 5% reserve would be calculated against all shares (and similar liability accounts) and notes payable. This fact drew 18 comments. Most recommeded that reserves not be required against notes payable, inasmuch as they have a definite term and their payoff can be readily met by planning cash flows. Other commenters questioned whether the rule intends to require reserves against a credit union's mortgage and other long-term notes.

The Administration agrees that notes payable having a set maturity do not generally present the kind of volatile demands on credit union funds that the rule attempts to solve. Notes payable with remaining maturities of one year or less do, however, represent a potential

near-term demand for funds that should be considered in determining a minimum level of liquid assets. Thus notes payable with *remaining maturities in excess of one year* have been *excluded* from the liability base against which the minimum 5% liquidity reserve is determined. (A definition of "liability base" has been added to the final rule in this regard. See § 742.2(c)(2).)

Several commenters also suggested that reserves not be required against share certificate accounts (and similar member time accounts), as they are generally not a source of unanticipated withdrawals. While share certificate accounts are subject to potential early withdrawal (limited, for Federal credit unions, only by the interest penalty and the 30 day notice of withdrawal requirement that may be imposed on any share account), past patterns of conduct indicate a low likelihood of early withdrawal. As with notes payable, however, the Administration believes that short-term share certificates should be considered in determining a minimum prudent level of liquid assets. Accordingly, share certificate accounts with *remaining maturities in excess of one year* are *excluded* from the liability base for determining minimum liquidity reserves. (See § 742.2(c)(1) of the final rule.)

A few commenters suggested that shares that have been pledged as security on loans are not volatile and should be excluded from the liability base. The Administration agrees with such an exclusion, but does not believe it should extend to shares that "secure" loans merely by virtue of either the statutory lien of Section 107(11)) of the Federal Credit Union Act (12 U.S.C. 1757(11) (which is activated only to the extent of a delinquency or default) or a similar provision of state law, or a "boilerplate" pledge-of-shares contract clause. Thus, the final rule excludes, from the liability base, shares in which the credit union has received a loan-related security interest *in a specific amount*, and then only to the extent of the existing balance on the secured debt. (See § 742.2(c)(3) of the final rule.)

Question of 5% Level Reserves

Forty-nine commenters questioned NCUA's decision to propose a 5% uniform reserve on various types of liability accounts. Twenty-two felt the minimum level should be set somewhat lower, ranging from 2 to 4 percent. A dozen commenters suggested that the reserve level should vary for different types of liability accounts, e.g., a graduated scale of required reserves for share certificates, regular shares and share draft or other transactional accounts. Twelve commenters requested an explanation of how the proposed 5% figure was arrived at, some suggesting that it is an arbitrary figure.

Admittedly, the basis for the 5% figure might have been more clearly explained in the proposed rule. The 5% determination was necessarily somewhat judgmental. As the proposal and the draft analysis imply, however, the figure was arrived at from a process of balancing a perception of the ideal minimum level of liquidity against a sensitivity to avoid any unreasonable regulatory or economic burden on insured credit unions. As discussed in the final regulatory analysis, in view of the changes in the liability base and the definition of liquid assets, the minimum 5% reserve level will, it is hoped, at least maintain average liquidity at its present levels (which are somewhat low from an historical standpoint) for affected credit unions, while limiting adverse economic impact in the form of significantly reduced earnings to something around 2% of affected credit unions, or one half of one percent of *all* insured credit unions. While a higher minimum level might be desirable purely from a standpoint of liquidity planning, the Administration has avoided imposing a higher level by regulation (it may still be done in individual cases) in order to minimize the economic impact and the number of adversely affected credit unions.

While the suggestion that different percentage reserve requirements be established for different types of liability accounts (based on the volatility of the accounts) may have some theoretical merit, the Administration does not believe such a revision would significantly alter the already slight economic impact of the regulation. Nor would it significantly enhance the utility of minimum liquidity reserves, which must in any event be supported by a sound plan of asset/liability management. Thus, in the interest of simplicity, the uniform 5% requirement has been retained. (See § 742.3(a) of the final rule).

Daily Reserves

The proposed rule would have required a *daily* 5% liquidity reserve. Technically, this would require that affected credit unions close out their general ledgers, or at least conduct some monitoring of their assets and liabilities, on every business day. Twelve commenters objected to this requirement, noting that it would mean a considerable expense of time and effort for those credit unions that are not presently on a system of daily posting. (A great number of such credit unions are likely to be covered by the exclusion of most insured credit unions with assets less than $2,000,000).

The Administration believes, nonetheless, that this is a legitimate concern and that the daily requirements would impose an unnecessary regulatory burden. While a few of the commenters suggested that the liquidity reserves be adjusted each month on the basis of the previous month's average daily liability base, this too would require a daily monitoring of liabilities. The Administration has determined instead that liquid assets should be adjusted monthly—not later than on the tenth day of the month—but that the required level of liquid assets be determined simply as 5% of the credit union's liability base *on the last business day* of the previous month. In addition to accommodating the concern with the proposed daily reserve, this revision—with its month-end determination of the liability base—avoids distortions that might otherwise result in credit unions that have substantial payroll inflows and liquid asset holdings early in the month. This change is reflected in § 742.3(b) of the final rule.

Duality; State Regulators' and Credit Unions' Concerns

The proposed liquidity reserve rule would have application to federally-insured state credit unions as well as Federal credit unions. Most of the Administration's existing rules (all but those related to mergers, liquidations, insurance and administrative actions) apply only to Federal credit unions. Twenty commenters addressed this change of approach. One supported including all federally-insured credit unions, on the reasoning that federally-insured state credit unions share the benefits of the National Credit Union Share Insurance Fund and they should share on an equal basis with Federal credit unions in the responsibilities—such as maintaining liquidity reserves—that ensure the security of the fund. Thirteen of the twenty commenters expressed blanket opposition to including state credit unions. These and other commenters expressed various concerns, including that the proposal by-passes state supervisory authorities, raises questions of pre-emption of state liquidity requirements and creates duplication and confusion if state requirements are not pre-empted. A few commenters suggested that state credit unions should not be included in the proposal because the economic justification did not isolate and provide a separate analysis of the need for and effect of liquidity reserves on federally-insured state credit unions.

The Administration's analyses (in the draft regulatory analysis) of the need for and costs of liquidity reserves were based on data for all federally-insured credit unions. While it is true that neither state nor Federal charters were isolated and studied as a separate group, the Administration believes that this is neither required nor warranted. It is, after all, illiquidity among insured credit unions as a whole that is of concern to the Administration, because of its responsibilities to protect both the National Credit Union Share Insurance Fund and the credit unions' members. The final rule applies to all insured credit unions, subject to the "small credit union" exclusion discussed above. Certain other charges have been made, however, in response to state concerns.

First, to clarify the relationship between the final rule and any state liquidity requirements, the definition of liquid assets has been revised, as previously indicated, to include, for state credit unions, unpledged assets held in satisfaction of a liquidity requirement imposed by state law or regulation. It is not the Administration's intent to pre-empt liquidity requirements applicable to state credit unions unless, in some unexpected way, compliance with the state requirements would cause federally-insured state credit unions to be in violation of this final rule. (Any state requirements *are pre-empted* with respect to *Federal credit unions.*) Second, to respond to the concerns of Federal encroachment upon state supervisory jurisdiction, the rule has been revised such that the depletion and replenishment procedures for state credit unions are channeled to the appropriate state supervisor. (The state should determine the appropriate supervisor in those cases where the credit union department functions under another official such as the Banking Superintendent or the Secretary of Commerce). Both the initial notification that liquidity reserves have been depleted (below the 5% level) and any extension request should, for federally-insured state credit unions, be submittted to the appropriate state supervisor. The state supervisor may rule on extension requests for federally-insured state credit unions.

Prior to the effective date of the rule, the Administration will poll state supervisors to assure they are willing to assume this role. In any case where the supervisor is unwilling, affected federally-insured state credit unions will be advised that they may submit notification and extension requests to the Administration.

Finally, in any case where an extension has not been obtained or the reserve has not been replenished within the required period, the insured credit union is responsible to notify the Administration, unless the state supervisor assumes that role.

Sections 742.4 (b)(2) and (c) of the final rule reflect these changes.

Effective Date of the Regulation

Forty-five commenters raised questions concerning the effective date of the rule. They generally requested that the Administration delay the effective date as much as possible. Many suggested that the Administration phase in the 5% requirement over an extended period. The commenters noted that the shorter the timing of the effective date or of any phase-in period, the greater the adverse impact will be on those credit unions that do not presently hold the minimum required liquid assets. It was noted that an early effective date will mean more abrupt adjustment costs for such credit unions, resulting from sale of existing assets at a capital loss or borrowing at a negative income flow (i.e., the rate paid for borrowed funds will be greater than the credit union can earn on the "liquid asset" investments).

As noted earlier, a short-term drain on undivided earnings (resulting from an unanticipated asset sale or short-term borrowing) may not be undesirable, if it protects against a more severe crisis at a later date. Further, inasmuch as it is estimated that only 89 insured credit unions will face significant earnings reductions, this would suggest that only a small percentage of insured credit unions will have to make significant asset adjustments to meet the liquidity reserve. Thus the overall impact of even a short-term effective date should not be severe. The Administration believes these considerations and the seriousness of the present liquidity problem weigh against an extensively delayed effective date.

Thus, the final rule is issued with an effective date of October 31, 1979. Credit unions not in compliance on that date will be required to notify the Administration (or the state supervisor in cases of federally-insured state credit unions) and will then have a period of sixty days—until year end—to reach the 5% level. Credit unions that are unable to meet that time frame must apply for an extension in accordance with the discussion below.

Replenishment Period and Extension

The rule allows depletion of the 5% liquidity reserve to meet share withdrawals, but will require replenishment within 60 days, unless an extension is granted by the Administration or, where applicable, the state supervisor. Thirty-two commenters addressed this facet of the regulation. All objected to the initial sixty day replenishment period and suggested that it be extended. Most commenters suggested a period of 120 or 180 days. Some credit unions serving school employees noted that they would face a special problem with such a short replenishment period, in that they have a very predictable annual drain on liquidity during the summer months (due to heavy share withdrawals and loan demand, and a cut-back in payroll deduction) that is often not replenished until early in the following year.

Instead of increasing the original 60 day replenishment period, the Administration chooses to use the extension process to accommodate credit unions that cannot replenish within the required period. Extension requests should contain a statement of the difficulty in replenishing within 60 days and a plan for replenishment within a reasonable, longer period. The Administration will issue guidelines in the near future concerning the general standards that it will apply, and that it would hope participating state supervisors will apply, in ruling on extension requests. The guidelines will also include a sample form that may be used in requesting extensions.

An insured credit union that is subject to the rule, depletes its reserve, and either does not receive an extension after 60 days, or receives an extension but does not replenish its reserve by the end of the extension period, will be in violation of the final rule, and subject to possible cease and desist action and other administrative remedies.

The provisions regarding depletion, replenishment and extensions are set forth at § 742.4 of the final rule.

Definition of Corporate Central Credit Union

The proposed rule included, in the definition of liquid assets, short-term shares or deposits in "corporate central credit unions." That term was defined in the proposed liquidity reserve rule, as has been done in recently issued rules regarding the CLF (12 CFR 725), based on a "50% of activity" test (i.e., a credit union is a "corporate central" if its loans to and deposits from other credit unions amount to 50% or more of its total loans and deposits), rather than the more

restrictive "75% of activity" test of the Administration's existing rules regarding Federal corporate central credit unions (12 CFR 704). This relaxed test was adopted in order to allow certain state chartered central credit unions to qualify for agent membership in the CLF.

To avoid confusion, the term "central credit union" (dropping the "corporate") is used in the final liquidity reserve rule as was done in the CLF rule. The 50% of activity test is retained, thus providing a slightly broader base of liquid assets. There is also one technical change: The proposed rule set the activity test as 50% of shares and deposits plus loans *to members*. Since the test is one of activity with other credit unions as a percentage of *total activity*, the words "to members" are dropped from the final rule.

The definition of central credit union is found at § 742.2(b) of the rule.

Public Hearings

A few commenters requested that the Administration hold public hearings on the liquidity reserve proposal. Under the Administrative Procedure Act, oral hearing is a matter for agency discretion in this type of rulemaking (5 U.S.C. 553(c)). The requirements of notice and an opportunity for the submission of written views have been met, and the Administration believes the record of comments provides more than an adequate basis for deciding on a final rule. Accordingly, the Administration has determined not to hold public hearings on the proposed rule.

Regulatory Analysis

In accordance with the Administration's Final Report on Improving Government Regulations, a Final Regulatory Analysis has been prepared in connection with this rule and is available upon request.

Lawrence Connell,

Chairman.

August 23, 1979.

Accordingly, effective October 31, 1979:

§ 701.34 [Amended]

1. 12 CFR 701.34(c)(5)(xiv) (Share Draft Liquidity Reserves) is repealed.

2. A new Part 742 (12 CFR 742) is added to read as follows:

PART 742—LIQUIDITY RESERVES

742.1 Scope and purpose.
742.2 Definitions.
742.3 Liquidity reserve.
742.4 Depletion and replenishment.

Authority: 12 U.S.C. 1762(b), 12 U.S.C. 1766(a), 12 U.S.C. 1781(b)(6), 12 U.S.C. 1789(a)(11).

§ 742.1 Scope and purpose.

(a) This part applies to all credit unions that are insured by the National Credit Union Share Insurance Fund and either

(1) have assets of $2,000,000 or more; or

(2) operate share draft (as defined at 12 CFR 701.34(a)(1)) or equivalent programs.

(b) The purpose of this part is to establish a liquidity reserve requirement that enhances the ability of covered credit unions to meet member demands for liquid funds and avoid asset losses.

§ 742.2 Definitions.

As used in this part:

(a) "Liquid Assets" means the following unpledged assets:

(1) Cash on hand;

(2) Share or deposit accounts with remaining maturities of 1 year or less maintained in central credit unions or institutions insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation;

(3) Investments in obligations of the United States or an agency thereof, or securities fully guaranteed as to principal and interest thereby, which are authorized under 12 U.S.C. 1757(7) and which have a remaining maturity of 1 year or less;

(4) Common trust investments, and similar investments in funds of securities authorized for Federal credit unions, the objectives of which are to provide daily liquidity for participating credit unions;

(5) Shares in the National Credit Union Administration Central Liquidity Facility;

(6) In the case of a federally-insured state chartered credit union, any asset held in satisfaction of liquidity requirements imposed by applicable state law or regulation.

(b) "Central credit union" means a credit union operated primarily to serve other credit unions and in which the total dollar amount of shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans.

(c) "Liability base" means an insured credit union's member accounts (as defined at 12 U.S.C. 1752(5)) and notes payable, excluding

(1) Share certificates (as defined at 12 C.F.R. 701.35(a)(2)) and equivalent member accounts with remaining maturities in excess of 1 year,

(2) Notes payable with remaining maturities in excess of one year, and

(3) Member accounts that have been provided in a specific amount as security on a loan, up to the amount of the loan balance.

§ 742.3 Liquidity reserve.

(a) Each credit union that has assets of $2,000,000 or more and is insured by the National Credit Union Share Insurance Fund shall maintain a reserve of liquid assets ("liquidity reserve") the amount of which shall equal, at a minimum, 5% of the total dollar value of the credit union's liability base.

(b) The liquidity reserve shall be determined on a monthly basis, not later than the tenth day of each month, and shall be based on the insured credit union's liability base as of the last day of business of the previous month.

(c) Liquid assets shall be valued at their book value for purposes of the liquidity reserve, except that common trust investments and similar investments shall be valued net of any deferred loss.

§ 742.4 Depletion and replenishment.

(a) The liquidity reserve may be depleted below the level required by this part only to meet outflows of shares or deposits.

(b) In the event of depletion of the liquidity reserve below the level required by this part:

(1) A Federal credit union shall immediately notify the appropriate National Credit Union Administration Regional Director and shall replenish the reserve within 60 days unless an extension is approved by the Regional Director;

(2) A federally-insured state chartered credit union shall immediately notify its state supervisory authority and shall replenish the reserve within 60 days unless an extension is approved by the state supervisory authority.

(c) In any case where the liquidity reserve has been depleted below the level required by this part, and the reserve has not been replenished within 60 days or any extended time period in accordance with paragraph (b) of this section, the credit union must notify the appropriate National Credit Union Administration Regional Director (unless, in the case of a federally-insured state chartered credit union, the state supervisory authority assumes this responsibility).

[FR Doc. 79-27028 Filed 8-30-79; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 380

[Reg. SPR-165; Amdt. No. 7]

Modification of Bond Requirements for Charter Operators

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is amending its Public Charter rules to allow charter operators to furnish, instead of surety bonds, security agreements issued by banks that provide equivalent or greater protection of charter participants' funds. These alternative agreements have been frequently used in the past after special Board approval, and this rule is intended to remove the expense and inconvenience of obtaining special approval in each case.

DATES: Adopted: August 23, 1979. Effective: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

Public Charter operators are required to maintain a surety bond in a specified amount to assure the performance of the services contracted for by charter participants. Many bonding companies, in addition to charging a premium, require charter operators to put up 100 percent of the amount of the bond as collateral. Charter operators have, in turn, sought approval from the Board for alternative arrangements that would provide equivalent protection to charter participants, but with reduced premium or collateral requirements. In many individual cases, the Board has permitted the use of alternative arrangements by waiver of its regulations upon application and payment of a $300 filing fee.

City National Bank of Detroit (Detroit National) filed a petition for rulemaking to amend 14 CFR Part 389 to eliminate the filing fee charged for requesting a waiver when a charter operator seeks to furnish a "surety trust agreement" in lieu of a surety bond. In response to the petition, we proposed to amend the Public Charter rules to allow the use of security agreements provided by banks, to the extent that the agreements provide equal or better protection than is provided by surety bonds. SPDR-66, 43 FR 40880, September 13, 1978. Although the petition discussed only arrangements called "surety trust agreements," we proposed to allow any type of security agreement, as long as it provided protection comparable to a bond.

Comments were filed by Detroit National, Maryland National Bank (Maryland National), Barclays Bank of California (Barclays), Western Federal Savings, the Comptroller of the Currency (Comptroller), Hamilton, Miller, Hudson & Fayne Travel Corporation, Pan American World Airways (Pan Am), and the American Society of Travel Agents (ASTA). Having considered the comments, we now amend our regulations to permit the use of alternative security agreements to satisfy our financial security regulations. This change will obviate the need to pay a filing fee whenever these security agreements are used. We expect that this change will aid charter operators who now have difficulty finding a bonding company willing to issue a surety bond, and we hope that it will reduce the cost of maintaining financial protection.

We are amending the Public Charter rule (14 CFR Part 380) by replacing the term "surety company" with "securer," and the term "surety bond" with "security agreement" wherever they appear. Security agreement includes the traditional surety bond (which, if it is used, must still adhere to the form prescribed in Appendix A to Part 380), as well as any other type of agreement that meets the requirements of § 380.34. Some of the possible security devices discussed in the comments to SPDR-66 are letters of credit, trust agreements, and assignments of savings accounts.

In the past, surety trust agreements have often been allowed in place of surety bonds. The Board has distributed a standard form for surety trust agreements upon request, which has provided adequate protection over several years of use. Therefore, we are permitting the use of either the bond or the surety trust agreement in the form prescribed in Appendices A and E, respectively. The words of the standard surety trust form describing the scope of protection have been changed to be consistent with the bond language. In addition, we are allowing any type of arrangement that provides equivalent or greater protection than a surety bond, in order to permit maximum latitude in devising agreements that suit particular needs. Our primary interest is in protecting the funds of charter participants, and any arrangement that will do so to the same extent as the traditional bond is acceptable.

We have chosen to allow an unrestricted variety of alternatives so that operators do not in the future face the same problem that led to this rulemaking—the need to obtain a special waiver to use a preferred form of security agreement. Many different arrangements may be devised to provide protection equivalent to a bond, and the Board cannot predict which types of arrangements will satisfy present or future needs for all operators. Charter operators should be free to use the form that is most attractive to them.

With a broad variety of permissible alternatives, it is impracticable for the Board to review each agreement for legal sufficiency. Therefore, where an agreement other than the standard bond or surety trust agreement is used, we have placed the responsibility on the bank to insure that its agreement provides the requisite degree of protection.

The Board has jurisdiction over banks that enter into security agreements with tour operators.[1] Banks should examine their agreements for compliance with our regulations in the course of reviewing for their own purposes. We find it a reasonable condition on permitting the use of variant agreements that the banks, who will derive commercial benefit from them, guarantee that they provide as much protection to participants as is now provided by bonds. Thus, if a participant would otherwise be injured because any such agreement does not provide at least as much protection as a bond would have provided, the bank will be held liable as though it had furnished a bond for the tour operator.

Maryland National stated that it did not clearly understand the bank's liabilities in the event that an alternative security agreement does not give as much protection as a bond. The language (in § 380.34(c)(2)) describing these liabilities has been redrafted to be clearer. First, if the standard surety trust agreement is used as a substitute for the bond, the bank's liabilities will be defined by the terms of the surety trust agreement. Alternatively, if an agreement other than the standard bond or surety trust forms is used, the bank guarantees that it provides protection equivalent to the standard bond. Thus, if a non-standard form of agreement is used, the bank will be responsible for the stated coverage, even if the security agreement assets prove to be worth less than the coverage, or if the assets are claimed by the charter operator's trustee in bankruptcy. We do not mean to imply that the bank has a lesser duty under the standard surety trust agreement to

[1] *C.A.B. v. Tour Travel Enterprises*, 440 F. Supp. 1265, 1267 (N.D.Ill. 1977)

insure the availability and adequacy of trust assets.

Maryland National argued that a broadly worded general provision on bank liability might discourage bank participation in security agreements because of the risk of litigation over the limits of the liability. We find, however, that a securer's liabilities under a bond, which must follow a prescribed form, are clear enough that it will not be unreasonably difficult to decide whether a security agreement provides equivalent protection. If a bank has enough doubts about an agreement to refrain from using it, it would indicate that the agreement might not provide the required degree of protection, and should not be used.

Western Federal Savings specifically suggested that an "assignment of savings account" be permitted as a substitute for a surety bond. Under such an arrangement, the tour operator could deposit money in a savings account, and then pledge the funds to the CAB, authorizing their release upon demand to the CAB. Funds could be returned to the charter operator only upon written authorization from the CAB. Meanwhile, the funds earn a high rate of interest.

We make no judgment as to whether savings account assignments are an adequate substitute for surety bonds. However, the Board will not become involved in authorizing the release of funds to any person under a security agreement.

In SPDR-66, we requested comments on whether the Board should require State banks to obtain an opinion from the State attorney general or other responsible official that it is authorized under State law to issue the security agreement. Such agreements appear to be authorized for national banks under 12 CFR 7.7010(a), although the Comptroller and Maryland National indicated that this view was not clearly accepted. In any case, Pan Am, Hamilton, Miller, Hudson & Fayne, Barclays, and ASTA recommended against requiring an official opinion, because of the anticipated delay involved. Instead, Pan Am and ASTA suggested requiring a statement from the bank that it was authorized to enter into the agreement. We have decided to require neither an official opinion nor a statement from the bank. We are persuaded that obtaining an official government opinion could be unduly time consuming, and since the opinion might be limited to the facts of a particular case, a new opinion might have to be obtained in each case. We see no need for a separate written statement from the banks, as the very fact that the bank makes an agreement is an implicit representation that it has power to do so.

The regulation requires that all banks providing security agreements be insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation. This requirement is intended to assure the financial fitness of the bank, rather than to insure the security agreement assets as such. Although the $40,000 maximum coverage under FDIC or FSLIC will be less than the amount of most security agreements, the FDIC and FSLIC have standards for evaluating the financial condition of the banks they insure. We have decided that these standards provide a convenient and satisfactory indication of fitness for entering into security agreements under this rule.

The notice of proposed rulemaking requested comments on whether the agreements should be filed with the Board for approval, or whether a simple statement of compliance with § 380.34 would be sufficient. Maryland National, Detroit National, and Barclays all recommended that a copy of the agreement be filed with and approved by the Board. Detroit National specifically opposed certifying to the Board that the security agreement complies with the regulations, fearing that changes in staff interpretations might cause unpredictable liability. Also, it was concerned that a representation of compliance might lead to liability apart from the security agreement. Pan Am favored using a short statement of certification.

Although banks have a strong interest in avoiding the potential risks of certifying compliance, we think that certification is reasonable and necessary in order to permit a variety of security options. If a bank is wary of staff interpretations or unexpected liabilities, it may use the standard form surety trust agreement, in which its liabilities are defined by the document itself.

Since we do not intend to screen new agreements for compliance, a copy of each agreement need not be filed. A statement of compliance will require less paperwork of the charter operator and securer, while still assuring adequate protection for participants. We have revised the statement form, Appendix C, to use the words "securer" and "security agreement" instead of "surety company" and "surety bond", and to require specification of the type of security agreement used.

Detroit National requested in its comments that a participant filing a claim under a security agreement be required to file notice with *both* the securer and the charter operator. Currently, the participant must file with the securer only if the charter operator is unavailable. In the alternative, Detroit National asked the Board to establish a 1-year statute of limitations for filing suit to recover under the security agreement. These suggestions were intended to allow expeditious termination of a security arrangement, which is hindered when the securer cannot definitely ascertain the number of outside claims. Although participants must file a claim within 60 days after termination of the charter, the securer must rely on the charter operator's representations in determining the number or amount of claims outstanding. Consequently, the securer may decide to retain control of the collateral until it is convinced that no more claims on the security will be pursued. Meanwhile, the charter operator is deprived of the use of the collateral.

The problem of notice to the securer is one that has been brought to the Board's attention before. The suggestion that claims should be filed with the securer as well as the operator, however, has been rejected because many securers object to the paperwork burden of handling every claim. And we see no reason to make participants forfeit potential rights for the benefit of tour operators and banks by imposing a shorter statute of limitations. Therefore, we are retaining our current claim procedures.

Detroit National also commented that the "termination" date of a canceled charter is unclear, and should be better defined. We agree that a more precise definition of "termination" is called for, since the period for filing a claim runs from that time. We have considered four possible definitions: (1) The date that notice of the cancellation is sent to participants by the charter operator, (2) the date that notice of cancellation is received by the participant, (3) the intended departure date of the outbound charter flight, or (4) the intended arrival date of the returning charter flight. We have chosen the fourth alternative as the date on which a charter will be considered terminated.

The first option is unsatisfactory because not all cancellation notices may be sent out on the same day, and it would be confusing to keep track of which day was applicable to each participant. The second option is not helpful, since notices would probably be received at different times, and it would be difficult to prove the applicable day in most cases. The third solution is unacceptable because a vacation traveler whose charter is canceled may find alternative transportation and go ahead with the vacation, or pursue other vacation activities. Those days of vacation, often inflexible and planned far in advance, should not count against the time for filing a claim. The fourth alternative is easy to determine with certainty, and fair to participants who may not turn their attention to filing a claim until after their intended vacation plans are completed. In the event that there is no return charter in a participant's itinerary, the claim period runs from the departure of the last flight in the itinerary.

Effectiveness

This rule is being made effective immediately so that charter operators may use alternative agreements, and avoid paying the waiver fee, without delay. Because the rule relieves a restriction, the Board finds that it may be made effective less than 30 days after publication.

Final Rule

The Civil Aeronautics Board amends 14 CFR Part 380 as follows:

1. The Table of Contents is amended to read as follows;

PART 380—PUBLIC CHARTERS

* * * * *

Sec.
§ 380.34 Security and depository agreements.
* * * * *

§ 380.2 [Amended]

2. Section 380.2 is amended by adding the following definitions in the proper alphabetical order:

* * * * *

"Securer" means the charter operator's surety company, if a surety bond is used, or the bank making the security agreement, if a security agreement other than a bond is used.

"Security agreement" means either a surety bond in the form set forth in Appendix A, a surety trust agreement in the form set forth in Appendix E, or an arrangement with a bank that provides protection of charter participants' funds equivalent to or greater than that provided by the bond.

* * * * *

3. Section 380.25 is amended to read as follows:

§ 380.25 Prospectus filing and related requirements.

A charter operator may organize and operate a Public Charter only in accordance with this part, and subject to the following conditions:

* * * * *

(c) The following deviations from a filed prospectus may be made only in accordance with paragraph (d) of this section:

* * * * *

(3) A change in or addition of any direct air carrier, securer, or depository bank.

(d) * * *

(e) The charter operator shall notify the depository bank (if any) and the securer of any change described in paragraph (c)(1) or (c)(2) of this section not later than when he files a prospectus amendment to reflect the change. If the securer is unable to adjust the security agreement as required by the change, it shall notify the Board (Special Authorities Division, Bureau of Domestic Aviation) of this fact within 2 business days after receiving notice of the change for the charter operator.

4. Section 380.28 is amended to read as follows:

§ 380.28 Charter prospectus.

(a) The charter prospectus shall include an original and one copy of the following:

(1) From the charter operator and the direct air carrier: (i) The proposed flight schedule, listing the origin and destination cities, dates, type of aircraft, number of seats, and charter price for each flight; (ii) the tour itinerary (if any) including hotels (name and length of stay at each), and other ground accommodations and services; and (iii) a statement that they have entered into a charter contract that covers the proposed flight schedule, that the contract complies with all applicable Board regualtions, and that a copy of the schedule has been sent to the depository bank (if any) and the operator's securer. The schedule shall be identified with a number assigned by the charter operator that does not duplicate any schedule numbers assigned by the operator to other proposed flight schedules. The proposed flight schedule, tour itinerary (if any), and statement shall be in the form set out in Appendix B to this part.

(2) From the charter operator and the securer, a statement: (i) That they have entered into a security agreement covering the proposed flight schedule that complies with § 380.34, including the amount of the coverage, the number assigned to it by the securer, and the amount of any outstanding claims against it, and (ii) that the securer has received a copy of the proposed flight schedule. The statement shall identify the proposed flight schedule by the schedule number assigned by the charter operator in accordance with paragraph (a) of this section. If there are any outstanding claims against the agreement, the charter operator and securer shall also state that they have executed a rider or amendment increasing the coverage by the amount of the claims, or that the securer will separately pay any claims for which it may be liable without impairing the agreement or reducing the amount of its coverage. These statements shall be in the form set out in Appendix C to this part.

(3) * * *

* * * * * *

5. Section 380.32(v) is amended to read as follows:

§ 380.32 Specific requirements for operator-participant contracts.

Contracts between charter operators and charter participants shall state:

* * * * *

(v) The name and address of the surety company or bank issuing the security agreement; and that unless the charter participant files a claim with the charter operator or, if he is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to that participant. Termination means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary;

* * * * *

6. Section 380.34 is amended to read as follows:

§ 380.34 Security and depository agreements.

(a) Except as provided in paragraph (b) of this section, the charter operator or foreign charter operator shall furnish a security agreement in an amount for not less than the charter price for the air transportation, if only air transportation is involved, or, if the charter involves land accommodations in addition to air transportation, a security agreement in one of the following amounts dependent upon the length of the charter or series of charters: (1) For a charter or series of charters of 14 days or less, security in an amount of not less than the charter price for the air transportation to be furnished in connection with such charter or series of charters; (2) for a charter or series of charter of more than 14 days but less than 28 days, security in an amount of not less than twice the charter price; and (3) for a charter or series of charters of 28 days or more, security in an amount of not less than three times the charter price: *Provided, however,* That the

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liability of the securer to any charter participant shall not exceed amounts paid by that participant to the charter operator with respect to the charter.

(b) The direct air carrier and the charter operator or foreign charter operator may elect, in lieu of furnishing a security agreement as provided under paragraph (a) of this section, to comply with the requirements of paragraphs (b)(1) and (b)(2) of this section, as follows:

(1) The charter operator shall furnish a security agreement in an amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000. The liability of the securer to any charter participant shall not exceed the amount paid by the participant to the charter operator for that charter.

(2) * * *

* * * * *

(viii) Notwithstanding any provisions above, the amount of total cash deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of the security agreement in the form prescribed herein in excess of the minimum coverage required by subparagraph (1) of this paragraph; an escrow with the designated bank of Federal, State, or municipal bonds or other securities, consisting of certificates of deposit issued by banks having a stated policy of redeeming such certificates before maturity at the request of the holder (subject only to such interest penalties or other conditions as may be required by law), or negotiable securities which are publicly traded on a securities exchange, all such securities to be made payable to the escrow account: *Provided,* That such other securities shall be substituted in an amount no greater than 80 percent of the total market value of the escrow account at the time of such substitution: *And provided, further,* That should the market value of such other securities subsequently decrease, from time to time, then additional cash or securities qualified for investment hereunder shall promptly be added to the escrow account, in an amount equal to the amount of such decreased value;

* * * * *

(c)(1) The security agreement required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter operator or foreign charter operator and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter operator or foreign charter operator and the charter participants.

(2) The security agreement may be either—

(i) A surety bond in the form set forth as Appendix A to this part;

(ii) A surety trust agreement in the form set forth as Appendix E to this part; or

(iii) An arrangement with a bank (for instance, a standby letter of credit) that provides protection of charter participants' funds equivalent to or greater than that provided by the bond in Appendix A. An arrangement that furnishes a lesser degree of protection than would be provided under the bond shall be invalid to that extent, and instead the bank, the charter operator or foreign charter operator, and the charter participants shall have the same rights and liabilities as provided under a bond in the form of Appendix A. If the arrangement does not give as much protection as a bond against the risk of the charter operator's bankruptcy, the bank shall be liable in the event of bankruptcy to the same extent as if it had entered into a bond.

(3) Any agreement under paragraph (c)(2)(iii) of this section shall include a statement that, in the event that the other provisions of the agreement do not provide protection to charter participants comparable to that provided under a bond in the form of Appendix A, the bank shall assume, for the benefit of the charter participants, all the liabilities it would have if it entered into the bond.

(4) The security agreement shall be effective on or before the date the charter prospectus is filed with the Board.

(5) The security agreement shall be specifically identified by the issuing securer with a numbering system so that the Board can identify the security agreement with the specific charter or charters to which it relates. These data may be set forth in an addendum attached to the security agreement, which addendum must be signed by the charter operator or foreign charter operator and the securer.

(6) When security is provided by a surety bond, such bond shall be issued by a bonding or surety company (i) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (ii) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia.

(7) When security is provided by a security agreement other than a bond, the agreement shall be issued by a national bank complying with the provisions of 12 CFR 7.7010(a), or by a State bank complying with applicable State laws that give authority to issue such agreements, and all such banks must be insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation.

(d) The security agreement required by this section shall provide that unless the charter participant files a claim with the charter operator or foreign charter operator, or, if it is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to such charter participant. Termination means the date of arrival (or in the case of a canceled charter, the intended date of arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary.

7. Appendix C is amended and a new Appendix E is added, to read as set forth below.

Appendix C

Statement of Charter Operator and Securer

We,———(charter operator) and———(securer), certify that we have entered into a security agreement, No.———, in the amount of $—, on———(date). This agreement covers proposed flight schedule number———, a copy of which has been received by———(securer). This agreement complies with § 380.34 of the Civil Aeronautics Board's Special Regulations (14 CFR 380.34). This agreement is a:

—surety bond
—surety trust agreement
———(specify type of agreement if other than a bond or surety trust agreement).

(check one)

—There are no outstanding claims against this agreement.
—There are outstanding claims against this agreement in the amount of $———. We have executed a rider or amendment to the agreement on———(date) increasing the coverage by this amount.*

Charter Operator

By: (Signature and date) ———
(Title) ———
(Address) ———

Securer

By: (Signature and date) ———

* In the place of this sentence, the following statement may be used: "———(securer) will separately pay any claims for which it may be liable without impairing the security agreement or reducing the amount of its coverage."

(Title) ———
(Address) ———

8. A new Appendix E is added to read as follows:

Appendix E

No.———

Public Charter Surety Trust Agreement

This Trust Agreement is entered into between———(Charter operator) incorporated under the law of———with its principal place of business being——— (hereinafter referred to as the Operator), and———(Bank) with its principal place of business being———(hereinafter referred to as the "Trustee"), for the purpose of creating a trust to become effective as of the——— which trust shall continue in force until terminated as hereinafter provided.

The Operator intends to become a Public Charter operator pursuant to the provisions of Part 380 of the Board's Special Regulations and other rules and regulations of the Board relating to insurance or other security for the protection of charter participants, and has elected to file with the Civil Aeronautics Board such a Surety Trust Agreement as will insure financial responsibility with respect to all monies received from charter participants for services in connection with a Public Charter to be operated subject to Part 380 of the Board's Special Regulations in accordance with contracts, agreements, or arrangements therefor.

This Surety Trust Agreement is written to assure compliance by the Operator with the provisions of Part 380 of the Board's Special Regulations and other rules and regulations of the Board relating to insurance or other security for the protection of charter participants. It shall inure to the benefit of any and all charter participants to whom the Operator may be held legally liable for any of the damages herein described.

It is mutually agreed by and between the operator and Trustee that the Trustee shall manage the corpus of the trust and carry out the purposes of the trust as hereinafter set forth during the term of the trust for the benefit of charter participants (who are hereinafter referred to as "Beneficiaries.")

Beneficiaries of the trust created by this Agreement shall be limited to those charter participants who meet the following requirements:

1. Those charter participants who have contractually bound themselves to participate in charters operated or proposed to be operated by the Operator;

2. Who have legal claim or claims for money damages against the Operator by reason of the Operator's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangments made by that Operator while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Board's Special Regulations; and

3. Who have given notice of such claim or claims in accordance with this Trust Agreement, but who have *not* been paid by the Operator.

The Operator shall convey to the Trustee legal title to the trust corpus, which has a value of ——, by the time of the execution of this Agreement.

Trustee shall assume the responsibilities of the Trustee over the said trust corpus and shall distribute from the trust corpus to any and all Beneficiaries to whom the Operator, in its capacity as a Public Charter operator, may be held legally liable by reason of the Operator's failure faithfully to perform, fulfull, and carry out all contracts, agreements, and arrangements made by the Operator while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Board's Special Regulations in connection with said charters, such damages as will discharge such liability while this trust is in effect; *Provided, however,* That the liability of the trust to any Beneficiary shall not exceed the charter price (as defined in Part 380 of the Board's Special Regulations) paid by or on behalf of any such Beneficiary; *Provided further,* That there shall be no obligation of the trust to any Beneficiary if the Operator shall pay or cause to be paid to any Benficiary any sum or sums for which the Operator may be held legally liable by reason of its failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangments made by the Operator in its capacity as charter operator while this trust is in effect with respect to the receipt of monies and proper disbursement thereof pursuant to Part 380 of the Board's Special Regulations; *And provided still further,* That the liability of the trust as administered by the Trustee shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to——. Notwithstanding anything herein to the contrary, in no event shall the obligation of the trust or the Trustee hereunder exceed the aggregate amount of ——.

The Trustee agrees to furnish written notice to the Civil Aeronautics Board forthwith all suits or claims filed and judgements rendered (of which its has knowledge), and of payments made by the Trustee under the terms of this trust.

The trust shall not be liable hereunder for the payment of any damages hereinbefore described which arise as a result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Operator after the termination of this trust as herein provided, but such termination shall not affect the liability of the trust hereunder for the payment of any damages arising as a result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Operator prior to the date that such termination becomes effective.

Liability of the trust shall in all events be limited only to a Beneficiary or Beneficiaries who shall within sixty days after the termination of the particular charter give written notice of claim to the Operator or, if it is unavailable, to the Trustee, and all liability of the trust with respect to participants in a charter shall automatically terminate sixty days after the termination date of each particular charter covered by this trust except for claims filed in the time provided herein.

Sixty-one days after the completion of the last charter covered by this Trust Agreement, the trust shall automatically terminate except for claims of any Beneficiary or Beneficiaries previously made in accordance with this Agreement still pending on and after said sixty-first day. To the extent of such claims, the trust shall continue until those claims are discharged, dismissed, dropped, or otherwise terminated; the remainder of the trust corpus shall be conveyed forthwith to the Operator. After all remaining claims which are covered by this Trust Agreement pending on and after the said sixty-first day have been discharged, dismissed, dropped, or otherwise terminated, the Trustee shall convey forthwith the remainder of the trust corpus, if any, to the Operator.

Either the Operator or Trustee may at any time terminate this trust by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty days after the actual receipt of said notice by the Board.

In the event of any controversy or claim arising hereunder, the Trustee shall not be required to determine same or take any other action with respect thereto, but may await the settlement of such controversy or claim by final appropriate legal proceedings, and in such event shall not be liable for interest or damages of any kind.

Any Successor to the Trustee by merger, consolidation, or otherwise, shall succeed to this trusteeship and shall have the powers and obligations set forth in this Agreement.

The trust created under this Agreement shall be operated and administered under the laws of the State of ——.

IN WITNESS WHEREOF, the Operator and Trustee have executed this instrument on the —— day of ——, 19—.

Trustee ———
Charter Operator ———

(Secs. 101(3), 204(a), 401, 402, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757, and 92 Stat. 1731; (49 U.S.C. 1301, 1324(a), 1371, 1372, and 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27254 Filed 8-30-79; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for Child-Resistant Packaging of Acetaminophen Preparations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission requires child-resistant packaging for Acetaminophen-containing preparations that are in a dosage form intended for oral administration and that contain more than one gram of acetaminophen in a single package. The requirement is issued in order to protect children under

5 years of age from serious personal injury and serious illness resulting from ingesting such preparations.

DATES: The requirement shall be effective February 27, 1980, for products packaged after that date.

As to effervescent acetaminophen preparations, and acetaminophen preparations in powder form, that meet criteria specified in proposals published elsewhere in today's issue of the **Federal Register**, the effective date of the requirement is stayed pending Commission consideration of issuing final exemptions.

FOR FURTHER INFORMATION CONTACT: Sandra Eberle, Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207. (301) 492–6400.

SUPPLEMENTARY INFORMATION:

Background

The Poison Prevention Packaging Act of 1970 (the "PPPA," 15 U.S.C. 1471–1476) authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging is often referred to as "child-resistant packaging" and is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14).

By a letter dated March 16, 1976 (Petition PP 76–9), Steven D. Steckel, Assistant Director for Pharmacy of Strong Memorial Hospital, Rochester, New York, requested that the Commission require that acetaminophen be packaged in child-resistant containers. Acetaminophen is an analgesic and antipyretic which is widely used as a substitute for aspirin. (The Commission had already begun a study of this substance with the intent of targeting it for future regulatory action.)

Although acetaminophen is safe and effective when taken in its proper dosage, and is also valuable for those individuals who are sensitive or allergic to aspirin, ingestion of large amounts of acetaminophen can cause serious toxic effects.

Liver damage and deterioration of liver function are the major toxic effects of ingestion of large amounts of acetaminophen.

After considering the medical literature, injury data, and death certificates that are available to the Commission, the Commission's staff concluded that a regulation was needed that would require preparations containing more than one gram of acetaminophen in a single package to be in special packaging in order to protect children under five years of age.

The Commission requested comments from the members of the Technical Advisory Committee for Poison Prevention Packaging on the desirability of a special packaging requirement for products that contain more than one gram of acetaminophen in a single package. Ten of the Technical Advisory Committee members responded. All of those members indicated that child-resistant packaging should be required. Eight of the members concurred with the recommended level of one gram, while two of the members believed that a lower level should be established.

The Food and Drug Administrations's Panel for Over The Counter Drugs (Internal Analgesic, Antipyretic, and Antirheumatic Products) also recommended the packaging of acetaminophen products in child-resistant packaging (see 42 FR 35368; July 8, 1977).

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA to find that the special packaging is "technically feasible, practicable, and appropriate." The information available to the staff showed that there were numerous forms of special packaging available for use with each form of acetaminophen and that the available packaging would not be detrimental to the integrity of the substance or interfere with its storage or use.

After considering all of the available information, the Commission preliminarily concluded that preparations containing more than 1 gram of acetaminophen in a single package should be in special packaging in order to protect children under five years of age and that special packaging for acetaminophen preparations is technically feasible, practicable, and appropriate. It also preliminarily concluded that an appropriate effective date for such a requirement would be 180 days after the final regulation is published in the **Federal Register**. Accordingly, the Commission published a **Federal Register** notice proposing such a requirement (43 FR 4632; February 3, 1978). That **Federal Register** notice contains a more detailed discussion of the reasons for the Commission's decision.

Comments on the Proposal

In response to its proposal, the Commission received 11 comments. All of the comments supported the general idea of requiring acetaminophen preparations to be in special packaging. However, some of the comments raised other issues that are discussed separately below.

Effective date for blister packs. The regulations that specify the minimum effectiveness of child-resistant packaging with respect to unit packaging (16 CFR 1700.20) state that it is a test failure if, during the 10 minute test period, a child is able to open or gain access to the number of individual units which constitute the amount that may produce serious personal injury or serious illness in a 25 pound child. In the case of acetaminophen, under the standard issued below, it would be a test failure if the child gained access to 4 325 mg tablets or 3 500 mg tablets. For unit packaging, the child-resistant effectiveness must be such that not more than 20 percent of the children produce a test failure.

Blister packaging is a commonly used form of unit packaging in which the item is secured between a preformed (usually transparent plastic) dome or bubble and a paperboard surface or other carrier.

Warner-Lambert Company, while not disputing the need for child-resistant packaging for acetaminophen-containing preparations, stated that the majority of such preparations that they market are packaged in blister packaging and that blister packs suitable for use with acetaminophen that comply with special packaging requirements had not been developed. They stated that "[w]e have examined all known currently available (blister pack) configurations, and all wholly or partially expose at least four (4) dosage units in any one opening operation." They conclude from this that suitable blister packs are not available. The Commission agrees that a blister pack that exposed 4 units of acetaminophen during the test period would not comply with the standard.

Warner-Lambert stated that they had begun the process of developing a suitable package, but that they did not believe the program "could be completed by six (6) months following publication of the final order, assuming the latter occurs reasonably soon after the close of the comment period." They request an effective date of 12 months after the final order is published.

The Commission notes that over a year has passed since this comment, requesting a 12 month effective date, was submitted. The commenter has recently informed the Commission that it has developed a blister pack that meets the special packaging criteria that allows access to less than 3 500 mg tablets. However, the package the company has developed for its 325 mg tablets allowed access to at least 4 tablets more often than allowed by the special packaging regulations.

A survey by the Commission's staff of two major contract packagers, and a review of relevant test data, indicate that child-resistant blister packs are available that do not permit more than the allowable number of children to gain access to 3 or more tablets during the effectiveness test. One of these packagers indicated that he could manufacture one million such packages within 6 to 8 weeks. Thus, these commenters could use packages supplied by a contract packager if the commenter does not develop its own package before the rule becomes effective. Accordingly, the Commission finds that special packaging for blister packages of acetaminophen is technically feasible, practicable, and appropriate and that the proposed 180 day period for the effective date will be adequate for manufacturers to comply with the special packaging requirement.

Exemption for effervescent formulations. Warner-Lambert Company also requested that the regulation exempt effervescent formulations, which are those in which the presence of moisture causes the rapid liberation of carbon dioxide. They contend the exemption should be granted because:

1. In the granular form, such products are difficult for children to ingest or consume.
2. Effervescence while the product is on the tongue is markedly unpleasant.
3. The volume of foam and carbon dioxide that is produced when the product is ingested in undissolved form tends to produce gagging.
4. In undissolved form, the products have an objectionable salty taste.
5. It is possible for nausea and vomiting to be caused by the product's salinity.

They note that the Commission has previously exempted effervescent aspirin tablets from the regulation that requires child-resistant packaging for aspirin (16 CFR 1700.14(a)(1)).

After considering this exemption request, the Commission has preliminarily concluded that special packaging is not necessary to protect children from serious personal injury or serious illness caused by effervescent acetaminophen products. Accordingly, elsewhere in this issue of the **Federal Register**, the Commission has proposed that this form of acetaminophen be excluded from the scope of the requirement being issued below. The reasons for the proposed exemption are discussed more fully in the notice that proposes the exemption. The effective date of the regulation issued below is stayed as to effervescent acetaminophen products pending the Commission's consideration of the exemption request.

Exemption for acetaminophen products in powder form. Block Drug Company Inc. commented that they generally agreed with the proposed requirement but requested that powdered acetaminophen preparations should be exempt. They stated that there should not be a problem with ingestion by children of this form of the product because of its unpleasant taste and because the child is likely to spill much of it before it can be ingested. They contend that this product is analagous to the powdered aspirin products that have been previously exempted by the Commission. See 42 FR 20291, April 19, 1977, and 43 FR 173330, April 21, 1978.

After considering this exemption request, the Commission has preliminarily concluded that special packaging is not necessary to protect children from serious personal injury or serious illness caused by powdered acetaminophen products. Accordingly, elsewhere in this issue of the **Federal Register**, the Commission has proposed that this form of acetaminophen be excluded from the scope of the requirement being issued below. The reasons for the proposed exemption are discussed more fully in the notice that proposes the exemption. The effective date of the regulation issued below is stayed as to acetaminophen products in powder form pending the Commission's consideration of the exemption request.

Exemption for dilute solutions of acetaminophen. Richardson-Merrell, Inc. requests an exemption for liquid products containing less than 1 gram acetaminophen per fluid ounce. It contends that these products have "high impact flavors" which should be unpalatable to children. The company does not define "high impact" flavor nor does it provide supporting data for the contention that high impact flavoring would be a deterrent to accidental ingestion. In fact, there are flavoring agents in use that could be considered to have "high impact" that are intended to enchance the palatability of drug products and would not necessarily be a deterrent to ingestion by children.

In 1977, the company had submitted to the Commission the results of a toxicity study in rats for a product within the requested exemption, and these data were referred to in the comment requesting the exemption. The manufacturer concludes from this study that the toxicity of acetaminophen must be low for this formulation since the toxicity of the combination (acetaminophen and vehicle) did not differ from that of the vehicle alone.

However, the Commission does not believe the results of the study sufficiently support this conclusion. In the study, the volumes of test materials administered to the animals were larger than those generally considered appropriate for the size of the animals tested. As a general rule, for rats of this size (100 to 200 gram rats), the maximum dosage volumes should not have exceeded 1 ml. The volumes given in this study ranged from 3 to 10 ml. In a weight to weight comparison, for a person weighing 70 kg (154 lb), these volumes would be equivalent to 1 to 3½ quarts given at one time. In addition, no attempt was made to standardize the volume administered to all the animals tested. Therefore, it is possible that the toxicity of acetaminophen was masked by the combined effects of alcohol toxicity and fluid overload.

In addition, it has been reported in the literature that humans are more susceptible to acetaminophen toxicity than are most laboratory animals. Therefore, human experience data is much more reliable in determining a toxic level for humans than are animal toxicity studies. The Commission has determined that more than one gram of acetaminophen may be potentially hepatotoxic if ingested by a child. For a formulation containing 600 mg in 30 cc, or approximately 600 mg per ounce, a child would obtain a potentially toxic amount by ingesting approximately 2 ounces of the product (600 mg/oz × 2 oz = 1.2 grams acetaminophen). These products are sold in 6 and 10 ounce sizes, containing 3.6 and 6 grams acetaminophen, respectively. It is conceivable that a child might ingest the entire contents of either package size, obtaining an amount of acetaminophen

greatly exceeding the estimated toxic level.

The commenter also submitted data to the Commission showing that in a number of cases where ingestion of more than 1 gram of acetaminophen in a liquid product by young children was alleged, there was no identifiable injury. In view of the considerable evidence that ingestion of more than 1 gram of acetaminophen can cause serious personal injury or serious illness in small children, the Commission does not find this data persuasive. In the first place, the amount of a product that is reported ingested is usually only an estimate. In addition, there are difficulties in diagnosing many cases of liver damage or in associating liver damage with the ingestion of acetaminophen.

Accordingly, the Commission cannot conclude that such liquid products involve any less of a risk of serious personal injury or serious illness than the other acetaminophen products to which the requirement will apply, and the request for an exemption of these liquid products is therefore denied.

The requirement should be more stringent. The American Society of Hospital Pharmacists commented in support of the proposal. However, they also indicated that they believed that the threshold level for invoking the requirement should be lower than the 1 gram level that was proposed. They contend this is needed because "acetaminophen is perceived by consumers as safe and harmless and * * * this misconception may make people careless in securing and placing the product to protect against access by children." However, no alternative level was suggested nor were any data provided to establish that a lower level is indeed necessary. For the reasons stated in the proposal, the Commission still believes that the proposed 1 gram level is sufficient to protect children against serious personal injury or serious illness from ingesting acetaminophen. The available human experience data and medical literature do not reveal any instance in which one gram or less of acetaminophen has caused serious injury or illness after ingestion, nor do they indicate that such an amount has the potential to produce serious injury or illness. Accordingly, the 1 gram threshold level of the proposal is adopted in the final requirement.

Exemptions for elderly or handicapped persons or for households without small children. Mallard, Incorporated commented that the final regulation should provide exemptions for the elderly and handicapped and for households without small children.

In passing the Poison Prevention Packaging Act, Congress recognized that some aged or infirm persons might have difficulty in gaining access to products contained in special packaging. Therefore, section 4(a) of the act provides for the marketing of a noncomplying size of the product to accommodate these consumers. Since this provision is contained in the act itself, it need not be repeated in each individual regulation. Each over-the-counter product for which regulations have been issued is permitted this noncomplying size unless otherwise specified.

Toxicity of acetaminophen. McNeil Consumer Products Company indicated that it supports the principle of the Commission's proposal and had voluntarily initiated a program to convert its products to special packaging prior to the Commission's proposal. However, the company expressed its belief that the preamble of the proposal could create the inaccurate impression that acetaminophen is more toxic than it actually is. McNeil's specific contentions are addressed below.

McNeil believes the proposal did not sufficiently point out the safety of acetaminophen at normally recommended doses. It cites data which it contends show that acetaminophen is safer than aspirin in normal use.

The proposal states only that the ingestion of excessive amounts of acetaminophen can cause serious toxic effects. The Commission did not state, and does not mean to imply, that acetaminophen is not safe at recommended doses. [The Commission has required child-resistant packaging for both aspirin and acetaminophen.] In discharging its statutory responsibility to protect children by the issuance of special packaging regulations, the Commission addresses whether such regulations are needed for the product in question. It need not analyze which of two drugs, both subject to special packaging requirements, might be more toxic under certain conditions. The general questions of safety and efficacy of drugs are within the province of the Food and Drug Administration.

The commenter also alleges that the proposal creates the inaccurate impression that hepatic toxicity from acetaminophen overdosage is a common and major cause of drug overdosage toxicity in children. The Commission notes that what constitutes a common or major cause is a somewhat subjective determination. However, the literature provides many examples of hepatic toxicity and abnormal liver function in adults following an overdose of acetaminophen. Similar effects would be expected to occur in overdosages involving young children.

The commenter also disagreed with the proposal's statement that there are indications in the medical literature that all acute ingestions of acetaminophen produce some degree of liver damage. This statement in the proposal pertained only to the overdose situation. However, even if liver damage is not always associated with acetaminophen overdoses, the Commission believes that a special packaging requirement for acetaminophen is required to protect children from serious injury or illness. For this reason, and since there can be some uncertainty about the minimum amount that must be ingested to produce liver damage, the Commission has omitted such a statement from this notice.

This commenter also believes that because of duplicate reports to the Commission, only 2 of the 3 deaths attributed to acetaminophen during the period of 1969–1975 in the data referred to in the proposal actually occurred. Because of the confidential nature of the information provided in the death certificate file, the Commission is unable to determine whether this contention is correct. However, even if the correct figure is 2 and not 3, a special packaging requirement would be warranted for the reasons explained in this notice and in the preamble to the document in which the Commission proposed the regulation.

The commenter also contends that in the 2 remaining deaths there is insufficient evidence to establish a causal role for acetaminophen.

In one of the cases referred to, products other than acetaminophen had also been ingested. Since the amount of acetaminophen reported ingested in this incident is lower than that usually considered to be a potentially fatal dose, it is likely that the other products ingested had a significant effect on the toxicological outcome of this ingestion. However, the coroner determined the cause of death to be acetaminophen overdose, and the Commission does not have enough information to warrant contradicting the coroner's verdict.

In the other case, the cause of death was reported to the National Clearinghouse for Poison Control Centers (NCPCC) as an overdose of acetaminophen. Although the possibility that this report may be in error cannot be ruled out, the Commission has no reason to doubt its accuracy.

In any event, there is ample evidence of non-lethal adverse effects associated with acetaminophen sufficient to warrant the special packaging requirement.

The commenter also indicated that the extrapolation of adult overdose data to children was inappropriate since the matabolism of acetaminophen differs in young children from that of adults.

As noted in the proposal, the Commission is well aware of possible differences in the metabolism of acetaminophen in children versus adults and that direct extrapolation from adult data may not provide an exact toxic dose for children. However, the exact nature of any difference in metabolism is not yet known, and no numerical value can be used to determine the difference in toxicity between adults and children. Although it is assumed that the toxic dose for children as derived from extrapolation from adult data may be somewhat smaller than that which might actually be toxic to children, the Commission feels that the calculation provides a margin of safety necessary to insure the safety of young children.

Finally, the commenter argues that the recitation in the proposal of symptoms other than liver damage that can occur as a result of acetaminophen overdose should have noted that these other symptoms may occur in other patients that have liver failure and are not in and of themselves specific toxic effects of acetaminophen overdose. The Commission notes that the proposal stated that these other symptoms were in *addition* to liver failure and considers whether the symptoms are directly or indirectly caused by acetaminophen ingestion to be immaterial to the determination of whether a special packaging requirement is needed.

Statutory Findings

1. Serious illness or serious injury.

Data obtained from the National Clearinghouse for Poison Control Centers (NCPCC) for the years 1969–76 reveal 6,523 reported ingestions of acetaminophen-containing products among children under five years of age. Four hundred sixty-two (462) of these cases exhibited symptoms, and 129 of these required hospitalization, which was usually of unspecified duration (some cases were 1–2 days). Two of the 6,523 cases resulted in death. It is significant to note that there has been an increase in ingestions reported from 1,425 for 1969–1972 to 1,704 in 1976 alone, which may reflect the increase in sales of acetaminophen containing products.

The Consumer Product Safety Commission's file of data from six Poison Control Centers on contract with the Commission shows that for 1976 and 1977, 901 of 18,668 reported ingestions involved acetaminophen-containing products. Seventeen of these 901 ingestions resulted in hospitalization.

During calendar year 1978 there were 20 ingestions reported to National Electronic Injury Surveillance System (NEISS) hospitals involving children under 5 and identifiable as associated with products containing acetaminophen; there were two hospitalizations. For the first six months of 1979, 63 ingestions were reported to NEISS hospitals, with 7 hospitalizations. The increase over 1978 may be attributed in part to increased sales of acetaminophen.

Data concerning death certificates on file with the Commission reveal one death to a three-year old child as a result of acetaminophen ingestion. However, it is not known if this death was also reported in the data from the National Clearinghouse for Poison Control Centers.

The medical literature indicates that acute acetaminophen ingestions are relatively more toxic in humans than in animals. Consequently, the results of toxicity studies involving animals are not an accurate reflection of the toxicity of acetaminophen in humans.

Extrapolation of the toxicity levels that have been reported for adults may provide an indication of the toxic and lethal values for acetaminophen in children under 5 years of age. It is recognized that such extrapolations may not always be a true reflection of the toxicity of a product in children, since children may not metabolize and/or eliminate the product in a manner similar to adults. Nevertheless, acetaminophen, while it may be metabolized differently in children than adults, is eliminated at a similar rate. To the extent that adults may be more sensitive to acetaminophen overdoses than children, the toxic doses for children obtained by extrapolating data for adults will provide a desirable margin of safety for young children.

Assuming a maximum weight of 16 kg for a two year old child, an ingestion of 2 grams would constitute a dose of at least 125 mg/kg of body weight. The medical literature, in general, reports that 10–15 grams of acetaminophen causes hepatotoxicity in adults and that 13–25 grams may result in death for an adult. Assuming an average adult weight of 70 kg, these values would indicate a minimum toxic dose of approximately 140 mg/kg of body weight and a minimum lethal level of approximately 190 mg/kg. A dose of 6 grams of acetaminophen has also been reported as producing hepatotoxicity in a 16-year old female. Assuming that this patient weighed 50 kg, extrapolation would yield a possible minimum toxic dose of 120 mg/kg for a 10 kg child. The death of an adult has been reported following an ingestion of 8.125 grams of acetaminophen. Assuming an average adult weight of 70 kg, an equivalent minimum lethal dose for a 10 kg child could be as low as 1.2 grams. Furthermore, the death of a child was reported after the ingestion of 1.08 grams of acetaminophen. (Although these figures are close to the exempted level, it must be emphasized that these are highly unusual cases compared to other reported fatalities. In the case of the 1.08 gram ingestion, other substances were also ingested that probably contributed to the fatal result.)

The literature also contains reports that there exists a likelihood of liver damage in a two year old child who has ingested more than 3 grams of acetaminophen and that an ingestion of 2 grams could produce hepatotoxicity in a two year old child.

Some of the cases mentioned above represent considerable deviations from the values generally recorded in the literature. However, these cases show that products containing levels of more than one gram of acetaminophen have the potential for producing serious injury or illness in children under five years of age. On the other hand, the available human experience data and the medical literature do not reveal any instance in which one gram or less of acetaminophen has caused serious injury or illness after an acute ingestion, nor do they indicate that such an amount has the potential to produce serious injury or illness.

In view of the reports in the medical literature, the data showing numerous ingestions by children, and the comments that have been received by the Commission, the Commission finds that preparations containing more than 1 gram of acetaminophen in a single package are available to young children in or about the household and that a regulation requiring special packaging of such preparations is required to protect children under 5 years of age.

2. Technical feasibility, practicability, and appropriateness.

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA to find that the special packaging is "technically feasible, practicable, and appropriate>* * *".

A. *Technical Feasibility.* Acetaminophen is marketed in tablets, powders, and capsules, and in various

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liquid formulations, and there are numerous package designs that meet the requirements of 16 CFR 1700.15(b) that are suitable for use with each form of this product. Therefore, the Commission finds that special packaging for acetaminophen is technically feasible.

B. *Practicability.* Because many existing designs suitable for use with the acetaminophen preparations that are the subject of the proposed regulation are currently being used in the special packaging of other drugs and dietary supplements, the Commission finds that special packaging for this product is practicable because it is adaptable to modern mass production and assembly line techniques. The Commission conducted a survey in May 1977 of the affected industries and packaging manufacturers. Based on the survey, a December 16, 1977, "Preliminary Study of Sales and Packaging of Acetaminophen" prepared by the staff, and its inquiries concerning blister packs for acetaminophen, the Commission concludes that there will be no major supply or procurement problems for the packagers of acetaminophen-containing products or the manufacturers of child-resistant closure and capping equipment. In addition, there should be no serious problems experienced by manufacturers of the products in incorporating the child-resistant packaging features into their existing packaging lines.

C. *Appropriateness.* There are existing special packaging designs for other drug products that use the same materials for the container, closure, and liner that are currently used for acetaminophen products. Therefore, the Commission finds that special packaging is appropriate for acetaminophen since the packaging is available in forms that are not detrimental to the integrity of the substance and that do not interfere with its storage or use.

Effective Date

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued. A Commission survey of the affected industry and packaging manufacturers, discussed above, indicates that a period of six months (180 days) from the issuance of the final regulation will be sufficient for the manufacturers of these preparations to obtain suitable child-resistant packaging and incorporate its use into their packaging lines. Accordingly, the effective date is February 27, 1980, for all acetaminophen preparations packaged after that date. The effective date is stayed as to the effervescent acetaminophen preparations and acetaminophen preparations in powder form for which the Commission has proposed exemptions elsewhere in this issue of the **Federal Register**, pending the Commission's consideration of these exemptions.

Conclusion

Therefore, for the reasons set forth above and in the proposal, and after considering (1) the reasonableness of the standard, (2) available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances, (3) the manufacturing practices of industries affected by the PPPA, and (4) the nature and use of acetaminophen, the Commission finds that the special packaging requirement set forth below as 16 CFR 1700.14(a)(16) is required to protect children from serious personal injury or serious illness from ingesting acetaminophen and that the special packaging required by such standard is technically feasible, practicable, and appropriate.

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consmer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(16), reading as follows (although unchanged, the introductory text of paragraph (a) is included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(16) *Acetaminophen.* Preparations for human use in a dosage form intended for oral administration and containing in a single package a total of more than one gram acetaminophen shall be packaged in accordance with the provisions of § 1700.15(a), (b) and(c).

(Secs. 2, 3, 5, Pub. L. 91–601, 84 Stat. 1670–1672 (15 U.S.C. 1471, 1472, 1472))

Effective date. This paragraph becomes effective on February 27, 1980, for all acetaminophen products packaged after that date. The effective date is stayed until further notice as to the effervescent acetaminophen preparations and acetaminophen preparations in powder form that have been proposed to be exempted from the regulation and published elsewhere in this issue of the **Federal Register.**

Dated: August 27, 1979.

Sadye E. Dunn,

Secretary Consumer Product Safety Commission.

[FR Doc. 79–27224 Filed 8–30–79; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 81

[Docket No. 79C–0053]

Color Additives Used in Foods, Drugs, and Cosmetics; Provisional Listing of Lead Acetate; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of lead acetate for use as a color additive in cosmetics that color the hair on the scalp. A new closing date is being established in response to a notice of proposed rulemaking that published in the **Federal Register.** The new closing date will be March 1, 1980.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: The current closing date of September 1, 1979 for the provisional listing of lead acetate was established by a regulation published in the **Federal Register** of March 6, 1979 (44 FR 12169). A notice of proposed rulemaking was published in the same issue of the **Federal Register** to extend the date further to March 1, 1980. All interested persons were invited to submit comments by May 7, 1979. FDA proposed to extend the closing date for lead acetate to provide time for the submission of information about the evaluation of studies showing lead salts to be animal carcinogens. The agency

expects to receive information that may be relevant to the use of lead acetate as a hair dye in response to a request for data concerning the presence of lead in food published elsewhere in this issue of the **Federal Register.**

No comments were received on the proposal, and the agency is issuing the regulation in the form in which it was proposed. Thus, the regulation set forth below will postpone the September 1, 1979 closing date for the provisional listing of lead acetate until March 1, 1980.

This regulation will permit the uninterrupted use of this color additive until March 1, 1980. To prevent any interruption in the provisional listing of lead acetate, and in accordance with 5 U.S.C. 553(d)(1) and (3), this regulation is being made effective on September 1, 1979.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "Lead acetate" in paragraph (g) to read "March 1, 1980."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing of additives,* by revising the closing date for "Lead acetate" in paragraph (b) to read "March 1, 1980."

Effective date. This regulation is effective September 1, 1979.

(Sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: August 28, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–27387 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 175

[Docket No. 79F–0114]

Safe Use of Dipentene-Styrene Resin as Component of Adhesives Intended for Use in Food Packaging Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of dipentene-styrene resin as a component of adhesives intended for use in food packaging materials. This action is based on a petition by American Cyanamid Co.

DATES: Effective August 31, 1979; objections by October 1, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 1979 (44 FR 26966), notice was given that a petition (FAP 8B3392) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for safe use of a dipentene-styrene resin as a component of adhesives intended for food-contact use.

The agency has evaluated data in the food additive petition and other relevant material and concludes that the regulation should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.105 by alphabetically inserting a new item in paragraph (c)(5), to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Dipentene-styrene resin (CAS Registry No. 64536–06–7)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 1, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 31, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27211 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 176

[Docket No. 78F–0014]

N-Methyldiallylamine Hydrochloride Polymer With Epichlorohydrin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of N-methyldiallylamine hydrochloride polymer with epichlorohydrin as a retention aid, flocculating agent, and to improve the wet strength of paper and paperboard intended for food contact use. Hercules Inc. filed a petition requesting such use.

DATES: Effective August 31, 1979; objections by October 1, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of February 28, 1978 (43 FR 8183) that a food additive petition (FAP 7B3303) had been filed by Hercules Inc., 910 Market St., Wilmington, DE 19899, proposing

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that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for safe use of poly(methyldiallylamine-epichlorohydrin)resin as a retention aid, flocculating agent, and to improve the wet strength of paper and paperboard in contact with aqueous and fatty foods.

The Food and Drug Administration, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below to provide for the use of the additive under the preferred name of N-methyldiallylamine hydrochloride polymer with epichlorohydrin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 176.170 is amended by alphabetically adding to the list of substances in paragraph (a)(5) a new item to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
. . . .	. . . .
N-methyldiallylamine hydrochloride polymer with epichlorohydrin having a nitrogen content of 4.8 to 5.9 percent (Kjeldahl dry basis) such that a 20 percent by weight aqueous solution has a minimum viscosity of 30 centipoises and maximum viscosity of 100 centipoises at 25° C, as determined by LVF Model Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or equivalent method).	For use only as a retention aid, flocculating agent, and wet-strength agent employed in the manufacture of paper and paperboard prior to the sheet-forming operation and limited to use at a level not to exceed 1.5 percent by weight of the dry paper and paperboard.
. . . .	. . . .

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 1, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 31, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27212 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 79F-0085]

Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of butyric acid, 3,3-bis(3-*tert*-butyl-4-hydroxyphenyl) ethylene ester as an antioxidant and/or stabilizer in olefin polymers. A petitioner requested the amendment.

DATES: Effective August 31, 1979; objections by October 1, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 24, 1979 (44 FR 24235), the Food and Drug Administration (FDA) announced that a food additive petition (FAP 8B3408) had been filed by the American Hoechst Corp., Route 202-206 N. Bridgewater, Somerville, NJ 08876, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the use of butyric acid, 3,3-bis(3-*tert*-butyl-4-hydroxyphenyl) ethylene ester as an antioxidant and/or stabilizer in olefin polymers.

FDA has evaluated data in the petition and other relevant material and concludes that § 178.2010 should be amended as set forth in this document.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010 by alphabetically inserting a new item in the list of substances in paragraph (b), to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b)* * *

Substances	Limitations
. . . .	. . . .
Butyric acid, 3,3-bis(3-*tert*-butyl-4-hydroxyphenyl) ethylene ester [Chemical Abstracts Service Registry No. 32509-66-3].	For use only: 1. At levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 3.1, and 3.2, except that when used in contact with foods described as types III, IV-A, V, VII-A, and IX in Table 1 of § 176.170(c) of this chapter, the polyolefins may only be used under conditions of use E, F, and G set forth in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.2 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1 and 2.2, except that when used in contact with foods described as types III, IV-A, V, VII-A, and IX in Table 1 of § 176.170(c) of this chapter, the polyolefins may only be used under conditions of use E, F, and G set forth in Table 2 of § 176.170(c) of this chapter.
. . . .	. . . .

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 1, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 31, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27217 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 6H5126/R45A; FRL 1303-3]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Glyphosate; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared on the pesticide glyphosate at page 17658 in the **Federal Register** of Friday, March 23, 1979, (FR Doc. 79-8977). This correction is made to rectify certain paragraph designations in 21 CFR 561.253.

EFFECTIVE DATE: Effective on August 31, 1979.

FOR FURTHER INFORMATION, CONTACT: Mr. Edward Gross, Federal Register Section, Office of Toxic Substances, Chemical Information Division (TS-793), EPA, 401 M Street, SW, Washington, DC 20460 (202/426-1800).

SUPPLEMENTARY INFORMATION:

In FR Doc. 79-8977 appearing at page 17658 in the issue of Friday, March 23, 1979, the following change should be made:

In the third column on page 17658 in § 561.253 *Glyphosate*, paragraph "(f)" should be redesignated paragraph "(d)", and the present paragraph "(d)" should be deleted.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348(c)(1)])

Dated: August 16, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-26236 Filed 8-30-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 542

[AR 145-2]

Schools and Colleges; ROTC—Junior Program and National Defense Cadet Corps Organization, Administration, Operation, and Support

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The regulation prescribing the policies for administering the Junior Reserve Officers' Training Corps (JROTC) and the National Defense Cadet Corps (NDCC) has been amended. These changes update and clarify policies for the organization and administration of the JROTC program in all secondary schools, including overseas dependents schools and permits the statutory enrollment of female students.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel James P. Hunt, US Army, Chief, Procurement and Accessions Branch, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332 (202-325-0596).

SUPPLEMENTARY INFORMATION: One comment on the December 18, 1978 proposed rulemaking was received from the National Archives and Records Service. Their suggestions have been incorporated into the final rule. The JROTC/NDCC programs are prescribed in Army Regulation 145-2. Copies of AR 145-2 may be purchased from the Army. Address your letter to the following address for the cost of the publication: Commander, US Army AG Publications Center, 2800 Eastern Boulevard, Baltimore, Maryland 21220.

Dated: August 20, 1979.

James P. Hunt,

LTC, US Army, Chief, Procurement and Accessions Branch, MILPERCEN.

In consideration of the above, 32 CFR Part 542 is revised as set forth below:

PART 542—SCHOOLS AND COLLEGES

Sec.

542.1 Purpose.
542.2 Applicability.
542.3 Definitions.
542.4 Objectives.
542.5 Policies.
542.6 Responsibilities.
542.7 Program Information.

Authority: 10 U.S.C. 2031 and 4651.

Source.—AR 145-2.

§ 542.1 Purpose.

This regulation prescribes policies for administering the Junior Reserve Officers' Training Corps (JROTC) and the National Defense Cadet Corps (NDCC).

§ 542.2 Applicability.

This regulation applies to the Department of the Army (including the corps and their units), schools, and personnel associated with applying for these programs.

§ 542.3 Definitions.

The following terms apply to the JROTC and NDCC programs:

(a) *Junior Reserve Officers' Training Corps (JROTC).* The organization of

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units established by the Department of the Army (under 10 U.S.C 2031) at public and private secondary schools to conduct student leadership training. Also, a general term used:

(1) To describe all JROTC training conducted at secondary schools.

(2) To denote the members, instruction, and other related matters.

(b) *National Defense Cadet Corps (NDCC).* Students taking part in leadership studies at any school under 10 U.S.C. 4651 and as prescribed by the Secretary of the Army. Used in a broad sense to refer to the program and related matters.

(c) *Leadership Development (LD) Program.* The JROTC curriculum which consists of a 4- or 3-year program of instuction (LD–1, –2, –3, and –4).

(d) *Military Science (MS).* The Senior ROTC curriculum which consists of two courses—the basic course (MS–I and MS–II) and the advanced course (MS–III and MS–IV).

(e) *Region commander.* The commanding general of a US Army ROTC Region who is responsible for the operation, training, and administration of the ROTC program within his/her geographical area. Region commanders are located at:

(1) US Army First ROTC Region, Fort Bragg, NC 28307.

(2) US Army Second ROTC Region, Fort Knox, KY 40121.

(3) US Army Third ROTC Region, Fort Riley, KS 66442.

(4) US Army Fourth ROTC Region, Fort Lewis, WA 98433.

(5) The Commander-in-Chief, US Army Europe and Seventh Army, APO New York 09102.

§ 542.4 Objectives.

The Army JROTC/NDCC objectives are to develop in each cadet—

(a) Good citizenship and partiotism.

(b) Self-reliance, leadership, and responsiveness to constituted authority.

(c) The ability to communicate well both orally and in writing.

(d) An appreciation of the importance of physical fitness.

(e) A respect for the role of the US Army in support of national objectives.

(f) A knowledge of basic military skills.

§ 542.5 Policies.

(a) The Junior Reserve Officers' Training Corps and the National Defense Cadet Corps programs are designed for physically fit citizens attending participating schools. They provide meaningful leadership instruction of benefit to the student and of value to the Armed Forces. The programs provide unique educational opportunities for young citizens through their participation in a Federally-sponsored course while pursuing a normal civilian education. Students will acquire:

(1) An understanding of the fundamental concept of leadership, military art and science,

(2) An introduction to related professional knowledge, and

(3) An appreciation of requirements for national security. The dual roles of citizen/soldier and soldier/citizen are studied.

(b) Participants in either of the programs will acquire relevant knowledge and develop personally. Schools conducting these programs will offer their students the challenge of intellectual inquiry under the direction of instructors who are experienced leaders. (JROTC instructors are active duty or retired members of the US Army. NDCC schools may employ retired or Reserve members.) These programs provide an atmosphere designed to develop the qualities of leadership. Through classroom and other activities, the students will acquire the knowledge, self-discipline, patriotism, sense of responsibility, and responsiveness to constituted authority which will better prepare them for the future. These programs will enable cadets to better serve their country as leaders, as citizens, and in military service should they enter it.

(c) The programs were set up as part of the National Defense Act of 1916. The principle of maintaining national programs of training for the young citizens attending school was validated during congressional hearings preceding passage of the ROTC Vitalization Act of 1964. The JROTC and NDCC are not, of themselves, officer-producing programs but should create favorable attitudes and impressions toward the Services and toward careers in the Armed Forces. JROTC/NDCC cadets may qualify for an advantageous position in the Senior ROTC and for a higher pay grade upon enlistment in a Regular or Reserve component of the Armed Forces.

(d) Participation in JROTC/NDCC does not obligate the student to perform military or any other Federal service. Although all qualified students of JROTC/NDCC host schools are encouraged to take part in these programs, they are not required by Federal law to do so. State, community, or school authorities decree whether students must be in the programs.

§ 542.6 Responsibilities.

(a) *The Commanding General, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332,* is responsible for administering the Army JROTC/NDCC programs and announcing policy changes.

(b) *The Commanding General, US Army Training and Doctrine Command, Ft. Monroe, VA 23651,* is responsible for managing the JROTC/NDCC except for those functions and responsibilities retained by Headquarters, Department of the Army.

(c) *Region commanders* are responsible for operating and administering the JROTC/NDCC training conducted within their areas.

§ 542.7 Program Information.

(a) The JROTC/NDCC is organized into units at public and private secondary schools. The NDCC differs from the JROTC in that NDCC instructors must be provided by the school. Although these instructors are subject to Army approval, there is no cost-sharing arrangement as exists for JROTC. Also schools or students must provide uniforms, if desired, in the NDCC program. Schools desiring to conduct either program must apply to the region commander of the area in which the school is located. To participate in the program a school must maintain an enrollment in the unit of at least one hundred physically fit students who are at least 14 years of age and meet one of the following accreditation standards:

(1) Be accredited by a nationally recognized accrediting agency.

(2) Be accredited by a State, State educational agency, or State university.

(3) Have attained a preaccreditable status of reasonable assurance subject to attainment and maintenance of a status listed above within 5 years of initial academic enrollment of students.

(b) Students who desire to enroll and continue as a member of the JROTC/NDCC program must:

(1) Be enrolled in and attending full-time a regular course of instruction at a JROTC/NDCC institution.

(2) Be a citizen of the United States.

(3) Be at least 14 years of age.

(4) Meet the physical fitness standards prescribed by the school.

[FR Doc. 79–27195 Filed 8–30–79; 8:45 am]

BILLING CODE 3710–08–M

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32 CFR Part 562

[AR 145–1]

Senior ROTC Program-Organization, Administration, and Training

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The regulation prescribing the policies for administering the Senior Reserve Officers' Training Corps (ROTC) Program has been amended These changes reflect establishment of a new chain of command for internal reorganization within the Department of Army, including transfer of some ROTC functions from The Adjutant General's Office to the U.S. Army Military Personnel Center and others to the U.S. Army Training and Doctrine Command and the ROTC regions, provides for enrollment of female cadets, and lowers the minimum age for enrollment without parental consent.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel James P. Hunt, U.S. Army, Chief, Procurement and Accessions Branch, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332 (202–325–0596).

SUPPLEMENTARY INFORMATION: One comment on the December 21, 1978 proposed rulemaking was received from the National Archives and Records Service. Their suggestions have been incorporated into the final rule. Copies of Army Regulation 145–1 on the Senior ROTC Program may be purchased from the Army. Address your letter with request of cost to: Commander, U.S. Army AG Publications Center, 2800 Eastern Boulevard, Baltimore, Maryland 21220.

Dated: August 20, 1979.

James P. Hunt,

LTC, U.S. Army, Chief, Procurement and Accessions Branch, MILPERCEN.

In consideration of the above, 32 CFR 562 is revised as set forth below:

PART 562—RESERVE OFFICERS' TRAINING CORPS

Sec.

562.1 Purpose.
562.2 Applicability.
562.3 Definitions.
562.4 Objectives.
562.5 Policies.
562.6 Responsibilities.
562.7 Program Information.

Authority: 10 U.S.C. 2101–2111.

§ 562.1 Purpose.

This regulation gives policies for conducting the Army's Senior Reserve Officers' Training Corps (ROTC) Program.

§ 562.2 Applicability.

This regulation applies to the program given at college level institutions and at the college level in military junior colleges.

§ 562.3 Definitions.

The following terms apply to the Army's Senior Reserve Officers' Training Corps Program:

(a) *Academic year.* A period covering two semesters, or the equivalent, in which a student should complete one-fourth of the baccalaureate degree requirements under a 4-year college curriculum, or one-fifth of the requirements under a 5-year curriculum. The vacation period or summer session which follows is not normally included.

(b) *Advanced camp.* The advanced camp training period held on a military installation. This is part of the advanced course and normally attended between Military Science (MS)–III and MS–IV. (The Ranger camp is an acceptable alternate).

(c) *Advanced course.* The Senior ROTC 2–year advanced course of study (MS–III and MS–IV), including advanced camp. This advanced study normally taken by the cadet during his/her junior and senior years in college (freshman and sophomore years in a military junior college (MJC)).

(d) *Basic camp.* The 6-week ROTC training course held at a military installation. This course is normally taken before the applicant's junior academic year. It is a prerequisite to enrollment in the 2-year ROTC program.

(e) *Basic course.* The 2-year senior ROTC basic course (MS–I and MS–II) normally pursued by the cadet during freshman and sophomore years in college.

(f) *Branch material.* Designation of a course of instruction designed to prepare the cadet for appointment as a commissioned officer in a specific branch of the Army. A branch material unit may offer training in one or more specific branches.

(g) *Cadet.* A term applied to each enrolled member of the ROTC program, including alien students in MS–I or MS–II. As a grade of rank, this term applies only to advanced course cadets.

(h) *Four-year Senior ROTC Program.* The 4-year Senior ROTC Program consisting of 4 years of military science (MS–I, –II, –III, and –IV), and ROTC advanced camp.

(i) *General military science (GMS).* A ROTC instruction program to prepare a cadet for appointment as a commissioned officer in any branch of the Army for which he/she is qualified.

(j) *Military science (MS).* The Senior ROTC curriculum which consists of two courses, the basic course (MS–I and MS–II) and the advanced course (MS–III and MS–IV).

(k) *Professor of Military Science (PMS).* The academic and military title of the senior commissioned Army officer assigned to a Senior ROTC unit.

(l) *Region commander.* The commanding general of a U.S. Army ROTC Region who is responsible for the operation, training, and administration of the ROTC program within his/her geographical area. Region commanders are located at:

(1) US Army First ROTC Region, Fort Bragg, NC 28307.

(2) US Army Second ROTC Region, Fort Knox, KY 40121.

(3) US Army Third ROTC Region, Fort Riley, KS 66442.

(4) US Army Fourth ROTC Region, Fort Lewis, WA 98433.

(m) *ROTC ranger camp.* The ranger course conducted by the US Army Infantry School for volunteer cadets. Those selected attend in lieu of advanced camp.

(n) *Two-year ROTC Program.* A Senior ROTC Program of the same status as the 4-year program. It consists of the advanced course, preceded by basic camp as a qualifying step (in lieu of MS–I and MS–II).

§ 562.4 Objectives.

The objectives of the ROTC program are to:

(a) Attract, motivate, and prepare students with potential to serve as commissioned officers in the Regular Army or the US Army Reserve.

(b) Understand the concepts and principles of military art and science.

(c) Develop potential to lead and manage.

(d) Understand other professions.

(e) Develop integrity, honor, and responsibility.

(f) Appreciate the need for national security. Attaining these objectives prepares students for commissions and establishes a basis for future professional development and performance in the Army.

§ 562.5 Policies.

(a) The ROTC draws young men and women from all geographic areas and all strata of our country. It uses the many educational disciplines required for the modern Army. The ROTC ensures that men and women educated in a variety of American schools of higher learning are commissioned annually in the Army officer corps. In the future, the ROTC will continue to be the major source of newly commissioned officers for the Active Army, both Regular Army and Reserve forces. In addition, ROTC provides an advantage both to the Army and institutions of higher learning by assisting in the education of future Army Officers and providing a communication

link between our military leaders and our developing students.

(b) The Army Senior ROTC program is a cooperative effort, contracted between the Army and host institution to provide junior officer leadership in the interest of national security. The Army maintains a cordial and cooperative relationship with host institutions. The Army's goal is to continue to develop well-educated young men and women with potential as leaders in both civilian enterprise and national defense. The Army is receptive to valid criticism, regardless of source, as a means of maintaining a workable program. The right of orderly campus dissent is recognized. However, anti-ROTC activities which degrade and distort the Army image cannot be ignored. Consequently, the Army must look to its institutional hosts to provide campus support for the ROTC program.

(c) The program meets changing educational philosophies and concepts. It gives a flexible course of study in the changing environment of the academic community. A curriculum in the ROTC program is not restricted to classroom teaching. Program objectives may be satisfied in a variety of ways. A program may include a curriculum of other than classroom instruction if: it provides stated learning results, it is adopted by the host institution as part of its curriculum, and it follows the program of instruction published by the US Army Training and Doctrine Command. The PMS has authority, subject to limits set by the region commander, to develop courses that accomplish program objectives of the host institution. Activities which are part of the host school's curriculum require the same degree of support as other elements of the curriculum. The goal of the ROTC program is to commission well-educated young men and women in the Army.

(d) The PMS is responsible to see that each cadet realizes the importance of choice of branch preferences and what is involved in making an intelligent selection. Each graduating cadet by Army policy is assigned to the branch indicated by personal preference, academic major, physical qualifications, ROTC training, and demonstrated abilities, whenever possible. However, the assignment must be made by the needs of the service and may prevent selection based on the other factors. In assigning branches consideration is given to the cadet's academic specialization.

§ 562.6 Responsibilities.

(a) *The Commanding General, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332,* is the adminstrator of the Department of the Army for ROTC.

(b) *The Commanding General, US Army Training and Doctrine Command, Ft. Monroe, VA 23651,* manages and operates the ROTC program, except for those functions and responsibilities retained by Headquarters, Department of the Army.

(c) *The Professor of Military Science (PMS)* is the key to the success of the ROTC program. He is responsible for setting up the Military Science Program to blend the philosophies of the institution with the needs of the Army.

§ 562.7 Program information.

(a) The Senior ROTC is conducted at military colleges, civilian colleges and universities and military junior colleges. School authorities may apply for a ROTC unit to the region commander of the area in which the school is located or to TRADOC. To be eligible for a unit, the institution must:

(1) Be a 4-year degree granting college or university.

(2) Be accredited by an appropriate regional accrediting association or accredited by a nationally recognized professional accrediting association.

(3) Have an enrollment large enough to ensure that officer production requirements will be met.

(4) Agree to—

(i) Establish a Department of Military Science as an integral academic and administrative department of the institution.

(ii) Adopt as part of the institution's curriculum either the 2- or 4-year program (or both) of the senior ROTC.

(iii) Require each cadet enrolled in any ROTC course to devote the number of hours to military instruction prescribed by the Secretary of the Army.

(iv) Make available for use by the Senior ROTC unit necessary and adequate classrooms, administrative offices, office equipment, storage space, drill field, and other required facilities in a fair and equitable manner in comparison with other departments of the institution (or other elements of the institution, if the institution does not have departments) and to pay the costs of utilities and maintenance thereof.

(v) Grant appropriate academic credit applicable toward graduation for successful completion of courses offered by the Department of Military Science.

(vi) Arrange for the scheduling of military classes to make it equally convenient for students to participate in ROTC as in other courses at the same educational level.

(vii) Include a representative of the Department of Military Science designated by the PMS on all faculty committees whose recommendations would directly affect the Department of Military Science.

(viii) Provide, without expense to the Army, adequate storage and issue facilities for all Government property provided for the ROTC program, when the Army assumes accountability and responsibility for Government property. Adequate facilities will consist of safe, well-lighted, dry, heated, ventilated areas, provided with office space, shelving, bins, clothing racks, and cabinets, as required, and suitable storage space for arms and ammunition. All windows will be securely barred or provided with heavy mesh screen, and doors will be reinforced and fitted with cylinder locks. Such facilities will be separate and apart from those occupied by any other department of the institution or other Government agency. Determination will be made by the region commander as to adequacy, safety, and satisfactory nature of storage and issue facilities.

(5) produce a minimum annual average of 15 qualified commissioned officers from each 4-year senior division unit or a combination of a 4- and 2-year senior division unit; or a minimum annual average of 10 qualified officers from each 2-year senior division unit.

(6) Comply with the following requirements:

(i) There will be no discrimination with respect to admission to the institution or subsequent treatment of students on the basis of race, color, or national origin.

(ii) The senior commissioned officer of the ROTC unit at the institution will be given the academic rank of Professor.

(b) Institutional authorities may, subject to approval of Department of the Army, elect to—

(1) Administer a GMS unit or a branch material unit. Their preference will be given consideration, but the type of unit approved for establishment will be determined on the basis of the needs of the Army.

(2) Administer the 4-year or the 2-year ROTC program, or both.

(3) Maintain accountability and responsibility for Government property issued for the ROTC program by complying with the following requirements or apply for relief therefrom.

(i) Appoint an officer of the institution as military property custodian who will be empowered to requisition, receive, stock, and account for Government property issued to the institution, and otherwise transact matter pertaining thereto for and in behalf of the institution.

(ii) Conform to the regulations of the Secretary of the Army relating to issue, care, use, safekeeping turn-in and accounting for such Government property as may be issued to the institution.

(iii) Comply with the provisions of law and regulations of the Secretary of the Army pertaining to the furnishing of a bond to cover the value of all Government property issued to the institutions, except uniforms, expendable articles, and supplies expendable in operation, maintenance, and instruction.

(c) Students desiring enrollment in a unit must:

(1) Be enrolled in and attending fulltime a regular course of instruction at a school participating in the program.

(2) Be a citizen of the United States.

(3) Be at least 17 years of age.

(4) Be physically capable of participating in the program.

[FR Doc. 79-27349 Filed 8-30-79; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Parts 261, 262, 264

Records and Information Management Program; Technical Modifications

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document describes a number of technical modifications to the regulations which define the Postal Service policy for its Records and Information Management Program. No change in policy is reflected by these modifications.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: Records Officer, U. S. Postal Service, Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: A. Scott Hamel, 202-245-4142.

SUPPLEMENTARY INFORMATION: With the increasing emphasis being placed by the Federal Government on the entire area of records and information management, and with the maturation of the Postal Service's Records Program, it has become necessary to make several minor technical modifications in its supporting regulations. These modifications do not reflect any changes in Postal Service policy regarding the subject.

The modifications to Part 261—Records and Information Management—reflect the new location of the Records Officer under the Senior Assistant Postmaster General, Finance Group, and more clearly define his authority and responsibility. Subsection 261.3(c) remains as USPS policy, however, since it is a specific policy rather than a broad policy as is defined in .3(a) and (b), it is being deleted for sake of consistency.

The technical modifications to Part 262—Records and Information Management Definitions and Part 264—Vital Records—are being made to more completely and accurately define the basic elements of and responsibilities for the Program. These changes reflect the manner in which the Program is being administered on a daily basis.

Accordingly, 39 CFR is amended as set forth below:

1. Strike out the heading immediately preceding Part 261, which reads "Release of Information" and insert in its place "Records and Information".

Records and Information

PART 261—RECORDS AND INFORMATION MANAGEMENT

2. Delete § 261.3(c) and revise § 261.2(b) and § 261.4(a) to read as follows:

§ 261.2 Authority.

* * * * *

(b) 39 CFR 224.3(b) assigns to the Postal Service Records Officer, located under the Senior Assistant Postmaster General, Finance Group, responsibility for the retention security and privacy of Postal Service records and the power to authorize the disclosure of such records and to order their disposal by destruction or transfer. Included is the authority to issue records management policy and to delegate or take appropriate action if that policy is not adhered to or if questions of interpretation of procedure arise.

§ 261.3 Policy.

* * * * *

(c) [Deleted]

§ 261.4 Responsibility.

(a) The Records Officer administers the Postal Service Records and Information Management Program through a Headquarters organizational component, Regional Records Control Officers, representatives assigned by each Headquarters department, and contacts in each district, data processing center and other major Postal Service installation.

* * * * *

PART 262—RECORDS AND INFORMATION MANAGEMENT DEFINITIONS

3. Revise § 262.1, § 262.2(a)(3), § 262.2(a)(4), § 262.4, § 262.6 and § 262.7 as follows:

§ 262.1 Custodian.

The postmaster or other head of a facility such as a postal data center, mailbag depository, management sectional center, district office or Regional Headquarters, or a group or department of Headquarters, who maintains USPS records. Senior medical personnel are the custodians of medical records maintained within medical facilities.

§ 262.2 Records.

* * * * *

(a) * * *

(3) *Permanent Records.* Those records determined by the USPS Records Officer or the National Archives and Records Service of the General Services Administration as having sufficient historical or other value to warrant continued preservation by the Government. (All other records are considered temporary and must be scheduled for disposal.)

(4) *Vital Records.* Records which must be available in order to ensure the continuity of Postal Service operations and the preservation of the rights and interests of the Postal Service, its employees, contractors and customers.

(i) *Emergency Operating Records.* Copies of records necessary to support the essential functions of the Postal Service during and immediately following a national emergency.

(ii) *Rights and Interests Records.* Records maintained to ensure the preservation of the rights and interests of the Postal Service, its employees, contractors and customers.

* * * * *

§ 262.4 Information.

A combination of data which has the potential to serve a useful purpose.

(a) Sensitive Information (does *not* include National Security Information)—

(1) *Critical Information.* That information which must be available in order that the Postal Service effectively perform its mission and meet legally assigned responsibilities; and, for which special precautions are taken to insure its accuracy, relevance, timeliness, and completeness. (This information, if lost, would cause significant financial loss, inconvenience, or delay in performance of the USPS mission.)

(2) *Restricted Information.* Any information which has limitations placed upon its internal or external disclosure: exists as one of two categories:

(i) *Restricted-Mandatory*—that information which can be disclosed only in accordance with an Executive Order, public law or other Federal statute and their supporting postal regulations.

(ii) *Restricted-Discretionary*—that information which may be withheld from disclosure solely in accordance with postal regulations, consistent with the Freedom of Information Act.

(b) *National Security Information.* Information on the national defense and foreign relations of the United States that has been determined under Executive Order 12065, National Security Information, or prior Orders, to require protection against unauthorized disclosure and has been so designated.

* * * * *

§ 262.6 Privacy Act System of Records.

A system which contains information about individuals, including mailing lists, from which information is retrieved by the name of an individual or by some identifying number or symbol assigned to the individual, such as a social security number. ("Individual" in this context does not include proprietorships, businesses, or corporations, which are not covered by the Privacy Act.)

§ 262.7 Information System Executive.

The Postal Service official who prescribes the existence of and the policies for an information system.

PART 264—VITAL RECORDS

4. Revise § 264.1, § 264.2, § 264.3 and § 264.4 as follows:

§ 264.1 Purpose and scope.

Certain records are critical to the continuity of Postal Service operations or to the preservation of the rights and interests of the Postal Service, its employees, contractors or customers. To ensure that these records are available when needed, specific controls are required which affect all organizational components having the custody of records defined as being "vital."

§ 264.2 Policy.

It is the policy of the United States Postal Service to ensure the availability of all records considered critical to the continuity of its operations and the preservation of the rights and interests of the Postal Service, its employees, contractors, and customers. Vital records shall be routinely maintained at predesignated off-site locations to ensure their availability when needed by management and operating personnel.

§ 264.3 Responsibility.

(a) *Records Officer.* The Records Officer is responsible for categorizing records as vital. The Records Officer shall establish and maintain the vital records program, insofar as rights and interests records are concerned, and shall ensure compliance with supportive procedures.

(b) *Chief Postal Inspector.* As the Postal Service's Emergency Coordinator, the Chief Postal Inspector (with the assistance of Headquarters and Regional Emergency Coordinating Committees and the advice of the USPS Records Officer) shall establish and maintain a program to ensure that emergency operating records are available at predesignated off-site locations for use during a national emergency.

(c) *Custodians.* Custodians are responsible for following vital records program procedures including the forwarding of vital records to predesignated off-site locations.

§ 264.4 Vital Records Program.

Complete procedures concerning the identification, categorization, processing, protection, and transfer of vital records are provided by the USPS Records Officer or the USPS Emergency Coordinator, as appropriate.

(39 U.S.C. 401)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-27253 Filed 8-30-79; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 267

National Security Information Policy and Guidelines; Implementing Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Executive Order 12065, 43 FR 28949, relating to national security information, requires that implementing regulations establishing agency national security information policy and guidelines be published in the **Federal Register**. Consequently, this notice adopts a new § 267.5 of 39 CFR and corresponding technical modifications to existing § 267.2 in compliance with the Order.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. A. Scott Hamel, (202) 245-4142.

Accordingly, 39 CFR is amended as follows:

In Part 267, revise § 267.2 and add new § 267.5 to read as follows:

PART 267—PROTECTION OF INFORMATION

§ 267.2 Policy.

Consistent with the responsibility of the Postal Service to make its official records available to the public to the maximum extent required by the public interest, and to ensure the security, confidentiality, and integrity of official records containing sensitive or national security information, it is the policy of the Postal Service to maintain definitive and uniform information security safeguards. These safeguards will have as their purpose: (a) Ensuring the effective operation of the Postal Service through appropriate controls over critical information, and (b) Protecting personal privacy, the public interest, and the national security by limiting unauthorized access to both restricted and national security information.

§ 267.5 National Security Information.

(a) *Purpose and Scope.* The purpose of this section is to provide regulations implementing the requirements in Executive Order 12065, National Security Information (hereinafter referred to as the Executive Order), which deals with the protection, handling and classification of national security information in the custody of the Postal Service.

(b) *Definitions.* (1) In this section, "National Security Information" means information on the national defense and foreign relations of the United States that has been determined under the Executive Order or prior Orders to require protection against unauthorized disclosure and has been so designated.

(2) "Derivative Classification" means the carrying forward of a classification from one document to a newly created document that contains national security information which is in substance the same as information that is currently classified.

(3) "In the Custody of the Postal Service" means any national security information transmitted to and held by the U.S. Postal Service for the information and use of postal officials. (This does not include any national security information being transmitted via the U.S. Mail to or from a non-postal organization.)

(c) *Responsibility and authority.* (1) The Postal Service Records Officer shall serve as the USPS National Security Information Oversight Officer. This officer shall:

(i) Conduct an active oversight program to ensure that the appropriate provisions of the Executive Order are complied with;

(ii) Chair a committee composed of the Records Officer, the Chief Postal Inspector (USPS Security Officer), the General Counsel, the Executive Assistant to the Postmaster General, and the Assistant Postmaster General, Mail Processing Department, or their designees, with authority to act on all suggestions and complaints concerning the Postal Service's compliance with the Executive Order;

(iii) Ensure that appropriate and prompt corrective action is taken whenever a postal employee knowingly, willfully and without authorization:

(A) Discloses national security information properly classified under the Executive Order, or prior Orders,

(B) Compromises properly classified information through negligence, or

(C) Violates any provisions of the Executive Order or its implementing regulations or procedures;

(iv) In conjunction with the USPS Security Officer, prepare and issue instructions for the control, protection, and derivative classification of national security information in the custody of, and use by, the Postal Service. These instructions shall include requirements that:

(A) A demonstrable need for access to national security information is established before requesting the initiation of administrative clearance procedures,

(B) Ensure that the number of people granted access to national security information is reduced to and maintained at the minimum number consistent with operational requirements and needs;

(v) Establish, staff and direct activities for controlling documents containing national security information at USPS Headquarters and provide functional direction to each Regional Records Control Officer;

(vi) As part of the overall program implementation, develop a training program to familiarize appropriate postal employees of the requirements for control, protection and classification; and

(vii) Report to the USPS Security Officer any incidents of possible loss or compromise of national security information.

(2) The USPS Security Officer (the Chief Postal Inspector) shall:

(i) Provide technical guidance to the USPS Records Officer in implementing the national security information program;

(ii) Conduct investigations into reported program violations or loss or possible compromise of national security information and report any actual loss or compromise to the originating agency;

(iii) Periodically conduct an audit of the USPS national security information program;

(iv) Process requests for sensitive clearances; conduct the appropriate investigations and grant or deny a sensitive clearance to postal employees having an official "need to know" national security information; and

(v) Report to the Attorney General any evidence involving national security information of possible violations of federal criminal law by a USPS employee and of possible violations by any other person of those federal criminal laws specified in guidelines adopted by the Attorney General.

(3) All postal employees who have access to national security information shall:

(i) Be familiar with and follow all Program regulations and instructions;

(ii) Actively protect and be accountable for all national security information entrusted to their care; and

(iii) Immediately report to the USPS Records Officer and the USPS Security Officer any suspected or actual loss or compromise of national security information.

(d) *Derivative classification.* When applying derivative classifications to documents created by the Postal Service, the Postal Service shall:

(1) Respect original classification decisions;

(2) Verify the information's current level of classification so far as practicable before applying the markings; and

(3) Carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings in accordance with section 2 of the Executive Order.

(e) *General provisions*—(1) *Dissemination.* Except to the extent consistent with Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 and Supp. V 1975), national security information received by the U.S. Postal Service shall not be further disseminated to any other agency without the consent of the originating agency.

(2) *Disposal.* Classified documents no longer needed by the Postal Service shall be either properly destroyed or returned to the originating agency.

(3) *Freedom of Information Act or Mandatory Review Requests.* (i) In response to a mandatory review request or a request for a document made under the Freedom of Information Act (FOIA), the Postal Service shall not refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable.

(ii) The Postal Service shall forward all FOIA and mandatory review requests for national security information in its custody (including that within records derivatively classified by the USPS) to the originating agency for review unless the agency objects on the grounds that its association with the information requires protection. The requester shall be notified that:

(A) The request was referred, and

(B) The originating agency will provide a direct response.

(4) *Research requests.* Requests from historical researchers for access to national security information shall be referred to the originating agency.

(39 U.S.C. 401)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-27252 Filed 8-30-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1231-3]

Standards of Performance for New Stationary Sources: Asphalt Concrete; Review of Standards

AGENCY: Environmental Protection Agency (EPA)

ACTION: Review of Standards.

SUMMARY: EPA has reviewed the standard of performance for asphalt concrete plants (40 CFR 60.9, Subpart I). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's intent not to undertake revision of the standards at this time.

DATES: Comments must be received by October 29, 1979.

ADDRESS: Comments should be submitted to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-04.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, telephone: (919) 541-5271. The document "A Review of Standards of Performance for New Stationary Sources—Asphalt Concrete" (EPA-450/3-79-014) is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

In June 1973, EPA proposed a standard under Section 111 of the Clean Air Act to control particulate matter emissions from asphalt concrete plants. The standard, promulgated on March 8, 1974, limits the discharge of particulate matter into the atmosphere to a maximum of 90 mg/dscm from any affected facility. The standard also limits the opacity of emissions to 20 percent. The standard is applicable to asphalt concrete plants which commenced construction or modification after June 11, 1973.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. Following adoption of the Amendments, EPA contracted with the MITRE Corporation to undertake a review of the asphalt concrete industry and the current standard. The MITRE review was completed in January 1979. Preliminary findings were presented to and reviewed by the National Air Pollution Control Techniques Advisory Committee at its meeting in Alexandria, Virginia, on January 10, 1979. This notice announces EPA's decision regarding the need for revision of the standard. Comments on the results of this review and on EPA's decision are invited.

Findings

Overview of the Asphalt Concrete Industry

The asphalt concrete industry consists of about 4,500 plants, widely dispersed throughout the Nation. Plants are stationary (60 percent), mobile (20 percent), or transportable (20 percent), i.e., easily taken down, moved and reassembled. Types of plants include batch-mix (91 percent), continuous mix (6.5 percent), or dryer-drum mix (2.5 percent). The dryer-drum plants, which are becoming increasingly popular, differ from the others in that drying of the aggregate and mixing with the liquid asphalt both take place in the same rotary dryer. It is estimated that within the next few years, dryer-drum plants will represent up to 85 percent of all plants under construction.

Current national production is about 263 to 272 million metric tons (MG)/year, with a continued rise expected in the future. It is estimated that approximately 100 new and 50 modified plants become subject to the standard each year. Operation is seasonal, with plants reportedly averaging 666 hours/year although many operate more extensively.

Particulate Matter Emissions and Control Technology

The largest source of particulate emissions is the rotary dryer. Both dry (fabric filters) and wet (scrubbers) collectors are used for control and are both capable of achieving compliance with the standard. However, all systems of these types have not automatically achieved control at or below the level of the standard.

Based on data from a total of 72 compliance tests, it was found that 53 or about three-fourths of the tests for particulate emissions showed compliance. Thirty-three of the 53 produced results between 45 and 90 Mg^3/dscm (.02 and .04 gr/dscf). Of the 47 tests of fabric filters or venturi scrubber controlled sources over 80 percent showed compliance. The available data do not provide details on equipment design and an analysis of the cause of failures has not been performed. However, EPA is not aware of any instances in which a properly designed and installed fabric filter system or high-efficiency scrubber has failed to achieve compliance with the standard. The fact that certian facilities controlled by fabric filters and high-efficiency scrubbers have failed to comply is attributed to faulty design, installation, and/or operation. This conclusion and these data are consistent with data and findings considered in the development of the present standard.

On the basis of these findings, EPA concludes that the present standard for particulate matter is appropriate and that no revision is needed.

Much less test data are available for opacity than for particulates. Of the 26 tests for which opacity levels are reported, only 5 failed to show compliance with the opacity standard. However, none of these 5 met the standard for particulate matter. Of the 21 plants reported as meeting the current standard for opacity, 19 met the particulate standard. On the basis of these data, EPA concludes that the opacity standard is appropriate and should not be revised. While the data do indicate that a tighter standard may be possible, the rationale and basis used to establish the present standard are considered to remain valid.

Enforcement of the Standard

Because the cost of performance tests which are required to demonstrate compliance with the standard are essentially fixed and are independent of plant size, this cost is disproportionately high for small plants. Due to this, the issue was raised as to whether formal testing could be waived and lower cost, alternative means be established for determining compliance at small plants. Support for such a waiver can be found in the fact that emission rates are generally lower at these plants and errors in compliance determinations would not be large in terms of absolute emissions. However, testing costs at all sizes of plants are small in relation to the cost of asphalt concrete production over an extended period and these costs can be viewed as a legitimate expense to be considered by an owner at the time a decision to construct is made. A number of State agencies presently require, under SIP regulations, initial and in some cases annual testing of asphalt concrete plants. Moreover, available compliance test data show that performance of control devices is variable and even with installation of accepted best available control technology the standard can be exceeded by a significant degree if the control system is not properly designed, operated, and maintained. Relaxing the requirement for formal testing thus could lead to a proliferation of low quality or marginal control equipment which would require costly repair or retrofit at a later time.

A further performance testing problem indentified in the review of the standard concerns operation at less than full production capacity during a compliance test. When this occurs, EPA normally accepts the test result as a demonstration of compliance at the tested production rate, plus 23 Mg (25 tons)/hr. To operate at a higher production rate, an owner or operator must demonstrate compliance by testing at that higher rate. Industry representatives view this limitation as an unfair production penalty. It is noted in particular that reduced production is sometimes an unavoidable consequence associated with use of high moisture content aggregate. Furthermore, it is argued that facilities which show compliance at the maximum production rate associated with a given moisture level can be assumed to comply at higher production rates when moisture is lower. However, this argument assumes that the uncontrolled emission rate from the facility does not increase as production rate increases and EPA is not aware of data to support this assumption.

As a general policy it is EPA's intent to minimize administrative costs imposed on owners and operators by a standard, to the maximum extent that this can be done without sacrificing the Agency's responsibility for assuring compliance. Specifically, in the cases cited above, EPA does not intend to impose costly testing requirements on small facilities or any facilities if compliance with the standard can be determined through less costly means. However, EPA at this time is not aware of a procedure which could be employed at a significantly lower cost to determine compliance with an acceptable degree of accuracy. Although opacity correlaters with grain loading and serves as a valid means for identifying excess emissions, due to dependence on stack diameter and other factors opacity alone is not adequate to accurately assess compliance with the mass rate standard. Similarly, the purchase and installation of a baghouse or venturi scrubber does not in itself necessarily imply compliance. EPA is concerned that approval of such equipment without compliance test data or a detailed assessment of design and operating factors would provide an incentive for installation of low cost, under-designed equipment. This would place vendors of more costly systems which are well designed and properly constructed and operated at a competitive disadvantage; in the long term this would not only increase emissions but would be to the detriment of the industry.

EPA has, however, concluded that a study program to investigate alternative compliance test and administrative approaches for asphalt plants is needed. An EPA contractor working for the Office of Enforcement has initiated a study designed to assess several administrative aspects of the standard, including possible low cost alternative test methods; administrative mechanisms to deal with the problem of process variability during testing; and physical constraints affecting the ability to perform tests. If the results of this program, which is scheduled to be completed later in 1979, show that the regulations or enforcement policies can be revised to lower costs, such revisions will be adopted.

Hydrocarbon Emissions

While the principal pollutant associated with asphalt concrete production is particulate matter, the trend noted previously toward dryer-drum mix plants has raised question as to the significance of hydrocarbon emissions from these facilities. In the dryer-drum mix plant, drying of the aggregate as well as mixing with asphalt and additional fines takes place within a rotary drum. Because the drying takes place within the same container as the mixing, emissions are partly screened by the curtain of asphalt added so that the uncontrolled particulate emissions from the dryer are lower than from conventional plants. In contrast, it has been reported that the rate of hydrocarbon emissions may be substantially higher than from conventional plants. However, data recently reported from one test in a plant equipped with fabric filters showed only traces of hydrocarbons in dust and condensate and did not support this suggestion. Thus, while these data do not indicate a need to revise the standard, more definitive data are needed on hydrocarbon emission rates and related process variables. This has been identified as an area for further research by EPA.

An additional source of hydrocarbon emissions in the asphalt industry is the use of cutback asphalts. Although not directly associated with asphalt concrete plants, this represents a significant source of hydrocarbon emissions. As such, the need for possible standards of performance pertaining to use of cutback asphalt was rasied in this review. The term cutback asphalt refers to liquified asphalt products which are diluted or cutback by kerosene or other petroleum distillates for use as a surfacing material. Cutback asphalt emits significant quantities of hydrocarbons—at a high rate immediately after application and continuing at a diminishing rate over a period of years. It is estimated that over 2 percent of national hydrocarbon emissions result from use of cutback asphalt.

The substitution of emulsified asphalts, which consist of asphalt suspended in water containing an emulsifying agent, for cutback asphalt nearly eliminates the release of volatile hydrocarbons from paving operations. This substitute for petroleum distillate is approximately 98 percent water and 2 percent emulsifiers. The water in emulsified asphalt evaporates during curing while the non-volatile emulsifier is retained in the asphalt.

Because cutback asphalt emissions result from the use of a product rather than from a conventional stationary source, the feasibility of a standard of performance is unclear and the Agency has no current plans to develop such a standard. However, EPA has issued a control techniques guideline document, *Control of Volatile Organic Compounds from Use of Cutback Asphalt* (EPA–450/2–77–037) and is actively pursuing control through the State Implementation Plan process in areas where control is needed to attain oxidant standards. Because of area-to-area differences in experience with emulsified asphalt, availability of suppliers, and ambient temperatures, the Agency believes that control can be implemented effectively by the States.

Asphalt Recycling Plants

A process for recycling asphalt paving by crushing up old road beds for reprocessing through direct-fired asphalt concrete plants has been recently implemented on an experimental basis. Plants using this process, which uses approximately 20 to 30 percent virgin material mixed with the recycled asphalt, are subject to the standard and at least two have demonstrated compliance. However, preliminary indications are that the process may have difficulty in routinely attaining the allowable level of particulate emissions and/or that the cost of control may be higher than a conventional process. The partial combustion of the recycled asphalt cement reportedly produces a blue smoke more difficult to control than the mineral dusts of plants using virgin material.

It is EPA's conclusion that there is no need at this time to revise the standard as it affects recycling, due to its limited practice and due to the data showing that compliance can be achieved at facilities which recycle asphalt. However, this matter is being studies further under the previously noted study by an EPA contractor.

Educational Program for Owners and Operators

The asphalt industry consists of a large number of facilities which in many cases are owned and operated by small businessmen who are not trained or experienced in the operation, design, or maintenance of air pollution control equipment. Because of this, the need to comply with emission regulations, and the changing technology in the industry (i.e., the introduction of dryer-drum plants, recycling, the possible move toward coal as a fuel, and the use of emulsions), the need for a training and educational program for owners and operators in the operation and maintenance of air pollution control equipment has been voiced by industry. This offers the potential for cost and energy savings along with reduced pollution.

To meet this need, EPA's Office of Enforcement, in cooperation with the National Asphalt Paving Association, conducted a series of workshops in 1978 for asphalt plant owners and operators. Only limited future workshops are currently planned. However, EPA will consider expansion of the programs if a continued need exists.

Dated: August 23, 1979.

Douglas Costle,

Administrator

[FR Doc. 79-27181 Filed 8-29-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5147]

Final Flood Elevation Determinations for the City of Martinsville, Va.; Cancellation

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Cancellation of final rule.

SUMMARY: The Federal Insurance Administration has erroneously published at 44 FR 41458 on July 17, 1979, the final flood elevation determination for the City of Martinsville, Virginia. This notice will serve as a cancellation of that publication. A new notice of flood elevation determination at a later date.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27077 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4955]

Final Flood Elevation Determination for the City of Sartell, Stearns County, Minn.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Sartell, Stearns County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Sartell, Stearns County, Minnesota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Sartell are available for review at the Sartell City Hall, 2nd Street South, Sartell, Minnesota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or toll free line (800) 424-8872, (In Alaska and Hawaii call toll free (800-424-9080), room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for the City of Sartell, Stearns County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87, Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream corporate limits	1000
	Just downstream of St. Regis Dam.	1004
	Just upstream of St. Regis Dam.	1019
	Upstream corporate limits	1020
Watab River	200 feet upstream Riverside Avenue.	1004
	900 feet upstream of Riverside Avenue.	1010
	2300 feet upstream of Riverside Avenue.	1018
	Upstream corporate limits	1022

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1978), as amended; (42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).)

Issued: August 13, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27076 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A: Mississippi

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Reorganization Plan No. 2 of 1978 and the Civil Service Reform Act of 1978 created the Office of Personnel Management, vesting in it most of the functions of the U.S. Civil Service Commission (44 FR 1501). These regulations redesignate Chapter VIII as "Office of Personnel Management".

The Attorney General has designated Covington and Greene Counties, Mississippi, as coming within the provisions of the Voting Rights Act of 1965, as amended. These regulations add these counties to Appendix A of this Part, under "Dates, Times and Places" for filing in Mississippi.

EFFECTIVE DATE: August 3, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Ritchey P. Williams, Jr., Acting Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-632-6140.

SUPPLEMENTARY INFORMATION: The Attorney General has designated additional counties as coming under the provisions of the Voting Rights Act of 1965, as amended, in the primary election on August 7, 1979. This designation requires Federal observers (under the administrative direction of the Office of Personnel Management) to be on site, in the specified county, to monitor the election. This designation also requires the Office of Personnel Management to identify the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

Accordingly, the Office of Personnel Management is revising 45 CFR, Chapter VIII as follows:

(1) Chapter VIII of title 45, Code of Federal Regulations, is redesignated to read as follows:

Chapter VIII—Office of Personnel Management

PART 801—VOTING RIGHTS PROGRAM

Appendix A [Amended]

(2) Appendix A to 45 CFR Part 801 is amended to show two additional places under the heading "Dates, Times and Places" for filing in Mississippi, as follows:

Mississippi

County; Place for filing; Beginning date

* * * * *

Covington; Collins—McLauren Building, FHA Conference Room; August 10, 1979.

Greene; Leakesville—FHA Conference Room, New Bank Annex, Main and Lafayette Street; August 10, 1979.

(5 U.S.C. 1103,; Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g).)

[FR Doc. 79-27233 Filed 8-30-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Browns Park National Wildlife Refuge, Colorado, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Cottontail rabbit season, September 8, 1979, through February 29, 1980, inclusive.

FOR FURTHER INFORMATION CONTACT:
Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colorado 81640, telephone: 303-365-3695.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of cottontail rabbits is permitted on the Browns Park National Wildlife Refuge, Colorado, except in those areas designated by signs as closed to hunting. These areas are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1311 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Upland game hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Browns Park National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

James A. Creasy,

Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colorado.

[FR Doc. 79-27255 Filed 8-30-79; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 44, No. 171
Friday, August 31, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 933]

[Docket No. AO-383]

Ruby Seedless Grapes Grown in California; Termination of Proceeding AO-383

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination.

SUMMARY: This document terminates proceedings with respect to a proposed marketing order program because it was not favored by the required two-thirds majority of growers voting in the referendum, either by number of producers or the volume of production they represented. The proposal had been requested by the "Proponents for Ruby Seedless Marketing Order" on behalf of producers and handlers of Ruby Seedless grapes grown in California. The proposed marketing order would have: Established a committee of growers for local administration, authorized grade, size, quality, maturity, pack, and container regulations; and allowed the committee to engage in production and marketing research and development projects financed by handler assessments.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued November 24, 1978; published November 30, 1978 (43 FR 56045); Notice of Recommended Decision—Issued June 11, 1979; published June 14, 1979 (44 FR 34135); and Final Decision—Issued July 30, 1979; published August 2, 1979 (44 FR 45400).

Preliminary Statement

A public hearing was held upon the proposed marketing agreement and order (hereinafter referred to collectively as the "order") regulating the handling of Ruby Seedless grapes grown in California. The hearing was held at Reedley, California, on February 1–2, 1979, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable procedure specified in 7 CFR Part 900.

The recommended decision of the Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, was published on June 14, 1979 (44 FR 34135). On August 2, 1979 (44 FR 45400) the final decision of the Assistant Secretary for Marketing and Transportation Services was published and directed that a referendum be conducted among producers of Ruby Seedless grapes in the production area to determine whether the required percentage of producers favored issuance of the proposed order.

It is hereby determined on the basis of the referendum, conducted August 14–15, 1979, that the proposed order failed to get the required two-thirds favorable producer vote and therefore the proposed order should not be made effective.

Accordingly, the proceeding with respect to the proposed order is hereby terminated.

Signed at Washington, D.C., on August 28, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-27338 Filed 8-30-79; 8:45 am]
BILLING CODE 3410-02-M

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1700]

Proposed Exemptions from Child-Resistant Packaging Requirements; Acetaminophen Preparations

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to exempt powdered and effervescent acetaminophen preparations from its regulation, under the Poison Prevention Packaging Act of 1970, that will require child-resistant packaging for any acetaminophen preparation in a dosage form intended for oral administration that contains a total amount of more than one gram of acetaminophen in a single package. The exemptions are proposed because special packaging may not be required to protect children under 5 years of age from serious personal injury and serious illness resulting from ingesting such substances.

DATES: Written comments should be submitted on or before October 30, 1979

The exemption is proposed to be effective upon publication of the final exemption in the **Federal Register.**

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, Third Floor 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Fred J. Marozzi, Ph.D., Division of Safety Packaging and Scientific Coordination, Directorate for Engineering and Sciences, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6477.

SUPPLEMENTARY INFORMATION:

Background

The Poison Prevention Packaging Act of 1970 (the "PPPA," 15 U.S.C. 1471–1476) authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging is often referred to as "child-resistant packaging" and is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use

properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14).

Elsewhere in this issue of the **Federal Register** the Commission has issued a requirement, under the Poison Prevention Packaging Act of 1970, that will require all preparations for human use in a dosage form intended for oral administration and containing in a single package a total of more than one gram of acetaminophen to be packaged in special packaging (§ 1700.14(a)(16) of Title 16 of the Code of Federal Regulations). This requirement will become effective February 27, 1980, for all acetaminophen products packaged after that date. Acetaminophen is an analgesic and antipyretic which is widely used as a substitute for aspirin. Although acetaminophen is safe and effective when taken in its proper dose, and is also valuable for those individuals who are sensitive or allergic to aspirin, ingestion of large amounts of acetaminophen can cause serious toxic effects.

Liver damage and deterioration of liver function are the major toxic effects of ingestion of large amounts of acetaminophen. A detailed discussion of the Commission's reasons for requiring acetaminophen preparations to be in special packaging is contained in the notice that issues the requirement.

Several of the comments that were received after the acetaminophen special packaging requirement was proposed suggested that certain products should be exempted from the requirement. Two of these exemption requests, for powdered and effervescent acetaminophen preparations, were deemed by the Commission to have sufficient merit to warrant proposal of the exemptions, and the Commission stayed the effective date of the requirement as to these products. These products are discussed separately below.

Requests for Exemptions

Exemption for effervescent formulations. Warner-Lambert Company requested that the regulation exempt effervescent formulations, which are those in which the presence of moisture causes the rapid liberation of carbon dioxide. The company contends that the exemption should be granted because:

1. In the granular form, such products are difficult for children to ingest or consume.
2. Effervescence while the product is on the tongue is markedly unpleasant.
3. The volume of foam and carbon dioxide that is producted when the product is ingested in undissolved form tends to produce gagging.
4. In undissolved form, the products have an objectionable salty taste.
5. It is possible for nausea and vomiting to be caused by the products' salinity.

Warner-Lambert notes that the Commission has previously exempted effervescent aspirin tablets from the regulation that requires child-resistant packaging for aspirin (16 CFR 1700.14(a)(1)(i)). This exemption for aspirin is limited to tablets with less than 10% of aspirin and an oral median lethal dose (LD–50) of greater than 5 grams per kilogram of body weight and contains a requirement that the tablet produce at least a specified amount of carbon dioxide when placed in water.

The limitation requiring the release of a minimum amount of carbon dioxide (85 ml of carbon dioxide when a single dosage of aspirin is placed in water at standard temperature and pressure) was established because tablets releasing this amount of carbon dioxide have been found to be repulsive to children because of their effervescent characteristic.

The aspirin exemption's limitations that the dosage contain not more than 10 percent of the regulated ingredient and have an LD–50 of greater than 5 grams per kilogram of body weight were designed to establish reasonable limits for the allowable concentration of the regulated ingredient and the toxicity of a single dosage unit.

These particular boundaries were also requested for the exemption for effervescent acetaminophen products, since the commenter asked for an exemption similar to that available for aspirin.

The Commission has determined that the considerations that apply to effervescent tablets also apply to effervescent products in granular form. Therefore, after considering this exemption request, the Commission concludes that the effervescent acetaminophen products for which the exemption is requested have similar physical characteristics to the aspirin products which have been previously exempted. In addition, a review of human experience data collected by the National Clearinghouse for Poison Control Centers (NCPCC) shows that there has not been a history of serious illness or serious injury associated with the effervescent acetaminophen product that is currently on the market in granular form. (The NCPCC data for the period from 1972 through 1976 revealed 12 ingestions of effervescent acetaminophen products, 2 of which resulted in symptoms. One case, in which the symptom was reported as lethargy, resulted in hospitalization.) For these reasons, it preliminary appears to the Commission that for effervescent acetaminophen products, the special packaging requirement is not necessary to protect children from serious personal injury or serious illness, subject to the conditions applicable to the exemption for effervescent aspirin products.

Exemption for acetaminophen products in powder form. Block Drug Company Inc. commented that it generally agrees with the proposed requirement, but requested that powdered acetaminophen preparations be exempt. Block stated that there should not be a problem with ingestion by children of this form of the product because of its unpleasant taste and because the child is likely to spill much of it before it can be ingested. The company contends that this product is analogous to the powdered aspirin products that have been previously exempted by the Commission from the special packaging requirement for aspirin. See 42 FR 20291, April 19, 1977, and 43 FR 17330, April 21, 1978 (16 CFR 1700.14(a)(1)(ii)).

The exemption for aspirin powders is restricted to unflavored powders other than those intended for pediatric use that are packaged in unit doses providing not more than 13 grains of aspirin per unit dose.

The specific level of 13 grains of acetaminophen per unit dose was requested by the commenter, and 13 grain powdered aspirin products have been previously exempted from the child-resistant packaging requirements for aspirin products. The 13 grain level is less than the 1 gram level that is regulated under the rule.

The Commission is not aware of any powdered acetaminophen preparation currently on the market. However, a review of NCPCC data for *aspirin* powders demonstrates a lack of child ingestion problems with this dosage form. The physical characteristics of the powdered acetaminophen preparations are similar to those of the aspirin products that have been previously exempted. Therefore, it preliminarily appears to the Commission that in the case of powdered acetaminophen products, the special packaging requirement is not necessary to protect

children from serious personal injury or serious illness caused by unflavored acetaminophen preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses containing not more than 13 grains of acetaminophen per dose.

Conclusion

After considering the requests that powdered and effervescent preparations be exempted from the requirement for special packaging of acetaminophen preparations and all the data available to it, the Commission has decided to propose the requested exemptions.

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under the authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to replace the period (".") at the end of 16 CFR 1700.14(a)(16) with a comma and to add the following to the end of paragraph (a)(16):

(a) * * *

(16) * * * except the following—

(i) effervescent tablets or granules containing acetaminophen, provided the dry tablet or granules contain less than 10 percent acetaminophen, the tablet or granules have an oral LD–50 of greater than 5 grams per kilogram of body weight, and the measured dosage of the product, when placed in water, releases at least 85 milliliters of carbon dioxide per grain of acetaminophen in the dry form when measured stoichiometrically at standard conditions (0°C, 760 mm mercury) and that contain no other substance subject to the provisions of this section.

(ii) Unflavored acetaminophen-containing preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses providing not more than 13 grains of acetaminophen per unit dose and that contain no other substance subject to the provisions of this section."

(Secs. 2, 3, 5, Pub. L. 91–601, 84 Stat. 1670–1672; (15 U.S.C. 1471, 1472, 1474)).

August 27, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-27225 Filed 8-30-79; 8:45 am]

BILLING CODE 6355-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 145]

Petitions for Confidential Treatment; Proposed Rule

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its rule regarding petitions for confidential treatment of sensitive information so that the rule will specify the offices of the Commission with which these petitions are to be filed. The Commission proposes to take this action to eliminate the delays that sometimes result from the failure to file these petitions with appropriate Commission offices.

DATES: Written comments on the proposal are to be received on or before October 1, 1979. Proposed effective date: not yet determined.

ADDRESS: Written comments on the proposal should be sent to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Mark N. Rae, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, telephone (202) 254–7285.

SUPPLEMENTARY INFORMATION: Commission rule 145.9, 17 CFR 145.9 (1978), permits persons who submit information to the Commission which they deem to be sensitive to petition the Commission for confidential treatment of that information. The rule also provides that when a request is made, pursuant to Commission rule 145.7, 17 CFR 145.7 (1978), for access under the Freedom of Information Act to information for which confidential treatment has been sought, the Director of the Commission's Office of Public Information is to determine within five business days whether confidential treatment will be accorded that information.

In the past, petitions for confidential treatment have not always been filed with the Office of Public Information. As a result, decisions on petitions for confidential treatment, and responses to public requests for information, have not been made as promptly as otherwise would have been the case. The Office of Public Information has had, at times, to request divisions and offices of the Commission to search their records in order to determine whether a petition for confidential treatment had in fact been filed with the Commission.

To correct this problem, the Commission proposes to amend paragraph (b)(1) of § 145.9 to specify that a petition for confidential treatment is to be filed with the Director of the Office of Public Information and that a copy of the petition is to be filed with the division or office of the Commission to which the information subject to the petition has been submitted. The copy is to accompany the information submitted.

In consideration of the foregoing, the Commission, pursuant to the authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), and 5 U.S.C. § 552 (1976), proposes to amend § 145.9(b)(1) of Part 145 of Chapter I of Title 17 of the Code of Federal Regulations by adding three new sentences at the end as follows:

§ 145.9 Petition for confidential treatment of certain information submitted to the Commission.

* * * * *

(b)(1) A petition for confidential treatment shall contain a concise statement of the reasons why the information should be accepted or retained in confidence, shall state the length of time for which confidential treatment is required, and may state on what basis, if any, the petition itself should be afforded confidential treatment. The petition shall also set forth an address at which the petitioner may promptly be reached by telegram and by mail, and it shall be the obligation of the petitioner to advise the Commission of any change in its address. The petition shall be filed with the Director of the Office of Public Information. A copy of the petition shall also be filed with the division or office of the Commission to which the information subject to the petition is submitted. The copy of the petition shall be attached to the information submitted.

* * * * *

Issued in Washington, D.C., on August 27, 1979, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-27219 Filed 8-30-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Chapter I, Subchapter B]

[Docket No. 79N–0200]

Lead in Food; Advance Notice of Proposed Rulemaking: Request for Data

AGENCY: Food and Drug Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This document describes the sources of lead in the food supply, the health concerns arising from the presence of lead in the food supply, and the plans of the Food and Drug Administration (FDA) to determine whether lead is prior sanctioned and to establish action levels to reduce the level of lead intake from lead-soldered food cans. The agency requests information and data on the prior sanction status of lead and the problem of lead in food.

DATE: Comments, information, and data by November 29, 1979.

ADDRESS: Written submissions to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857; submissions containing confidential or trade secret information may be sent to the Division of Food and Color Additives, Petitions Control Branch (HFF–334), 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Humans are exposed to lead from a variety of sources. Lead is found in the air we breathe, in the food we eat, and in the water we drink. Lead is widely recognized as a toxic substance, and has been a matter of concern to FDA and other public health regulatory agencies for some time.

The concern about lead is especially acute with respect to children. Although the margin of safety for adults from lead poisoning from dietary intake is adequate, the margin of safety for children is small. FDA intends to expand its current programs designed to monitor and reduce the lead levels in the food supply. The objective of this effort is to reduce consumers' lead exposure to the lowest level that can be practicably attained. FDA's program will encompass all lead in the food supply, although the initial focus will be on added (as opposed to background) lead, especially that migrating into food from lead-soldered cans, and on lead in foods consumed entirely or largely by infants and young children.

The initial goal of this effort will be to reduce by at least 50 percent within the next 5 years the contribution of lead intake from lead-soldered cans. The long-range goal of FDA in conjunction with other Federal regulatory agencies is to reduce lead intake from all sources—air, water, and food—to less than 100 micrograms per day (μg/day) for children 1 to 5 years old. Achievement of this goal will require continued cooperation among several regulatory agencies and between them and the affected industries. FDA's effort will be closely coordinated with the activities of the other interested agencies, especially the Environmental Protection Agency (EPA).

I. Sources of Lead in Food

There are essentially three sources of lead in food. First is the natural background level. This background is present because the ubiquitous distribution of lead in the environment (soil and water) results in its being incorporated into all living organisms, although it has not been established that lead is an essential nutrient for any organism. The remainder of the lead in food is present as a result of human activities, which can be subdivided into (a) pollution of the environment with lead and (b) food processing activities involving the use of lead.

In environmental pollution, lead dust fallout from automobile exhaust or lead smelting operations or lead in runoff water from mining operations may cause additional lead to enter food and feed crops in certain geographical areas. The use of pesticides that contain lead may also increase levels of lead in certain fruits and vegetables; and, in addition, where the use of such pesticides has been long established, increased levels of lead in the soil may cause further increases of lead in such crops.

The most important source of additional lead in the food supply from food processing is the method of packaging and holding food. Foremost among these sources of added lead is the popular "sanitary" or tin can, which is used to package 10 to 15 percent of all food in this country. Thirty-three billion tin cans are used each year to package food, and approximately 25 billion more are used annually to package carbonated beverages. The source of the added lead is not the can itself, but the lead solder used in can seams. It is estimated that about 20 percent of the lead in the average daily diet of persons more than 1 year old is from canned food, of which about two-thirds is from the solder, and the remainder from the food itself prior to canning. Thus, lead from the tin can solder contributes about 14 percent of the total lead ingested by humans and is an important, though not the predominant, source of ingested lead.

Other less significant sources of added lead in food include migration of lead under normal conditions of use from ceramic glazes, silver plated hollowware, porcelain pots and pans, pewter, and fine leaded crystal. Misuse of glazed ceramic ware by storage of acid foods or drinks for prolonged periods, however, can result in the leaching of relatively large amounts of lead into the food.

Drinking water, and hence water used to prepare foods, also contains very low levels of lead. Under § 141.11 of the EPA regulations (40 CFR 141.11), the maximum permissible level of lead in drinking water is 50 micrograms per liter (μg/L), although this level may be exceeded in certain localities. In some communities, the problem of elevated lead levels in water is associated with the use of lead plumbing. In soft water areas, this problem can be corrected by adjusting the pH of the water. Other areas appear to have naturally high background levels of lead in water.

Very small amounts of lead in food can be traced to food additives and color additives that contain low but generally unavoidable levels of lead. The levels of lead and other heavy metals in food additives and color additives are subject to specifications for acceptable food ingredients, such as those published in the "Food Chemicals Codex."

II. Health Aspects

A. Lead Toxicity

This section discusses the adverse health effects of lead. Although lead poisoning is known to affect a number of essential body functions, these effects have been best documented for the hematopoietic (blood producing), renal, and nervous systems. The severity of clinical manifestations of lead toxicity depends on both the duration and intensity of exposure.

One of the earliest signs of chronic lead poisoning is the occurrence, especially among children, of a microcytic, hypochromic, mildly hemolytic anemia, a type of anemia characterized by abnormally small red blood cells containing reduced hemoglobin content. This type of anemia

results from the interference of lead in specific enzyme systems involved in heme synthesis (production of the iron-containing component of hemoglobin). The development of acute anemia is preceded by increased blood concentrations and urinary excretion of the metabolic precursors of heme (i.e., protoporphyrins, δ-aminolevulinic acid). When the body burden of lead is increased, this increase is generally reflected by a concomitant rise in whole blood lead concentration.

Renal damage resulting from acute lead toxicity includes degeneration of the cell lining of the proximal tubules, varying degrees of cellular necrosis (cell death), and decreased reabsorption of amino acids, glucose, and phosphates. Long-term exposure of the renal system to lead produces a condition known as chronic lead nephropathy, which is characterized by a slow progressive degeneration of renal tissue with a concomitant decrease in renal function. Chronic nephropathy is occasionally fatal as a result of renal failure.

The most severe form of overt lead toxicity, acute encephalopathy, involves the central nervous system and is characterized by the sudden onset of massive cerebral edema (accumulation of intercellular fluid in the brain), convulsions, coma, and death as a result of cardiopulmonary arrest. Although the incidence of fatal encephalopathy has decreased markedly over the past 20 years, due to both earlier detection and chelation therapy, in nonfatal cases there are a number of long-lasting neurological effects. These include gross mental retardation, recurrent seizures, cerebral palsy, behavioral abnormalities such as increased irritability, impaired concept formation, and hyperactivity, and occasionally blindness, aphasia (a loss of power of expression and/or comprehension of language), and hemiparesis (muscular weakness usually affecting one side of the body). Reduced motor function is the primary effect of lead on the peripheral nervous system, but other symptoms, including loss of feeling in the extremities, have also been noted.

The clinical effects of lead poisoning in infants and children are well known. However, there is also considerable interest in the subclinical effects of exposure to lead in these groups. Needleman et al. (Ref. 1) have suggested that neurophysiological effects (behavioral and performance defects) may occur in children exposed to lead levels below those required to produce clinical effects. The level of exposure to lead that will produce neurophysiological effects is not yet clearly defined. In this case, Needleman et al. have suggested that dentine lead levels may be a more useful index of exposure to lead than blood levels because dentine lead levels will reflect long-term integrated lead exposure, whereas blood lead levels will reflect only recent exposure to lead.

It is now recognized that infants and young children are at substantially greater risk than adults to lead exposure for the following reasons: (1) dyscrasias (pathological conditions of the blood) and neurologic effects of lead occur at lower threshold levels in children; (2) due to a greater metabolic rate than adults, children eat and breathe in more lead per unit of body weight and hence are exposed to relatively more lead; (3) at comparable levels of lead intake, infants and young children absorb appreciably greater proportions of lead than do adults; (4) the acute toxic effects of lead in children affect the central nervous system, while in adults the effect is primarily on the peripheral nervous system; (5) on account of pica (compulsive ingestion of things other than normal food), infants and children frequently ingest high levels of lead from nonfood sources (i.e., soil, paint chips, plaster, newsprint, etc.); and (6) there is an increased probability that many children do not receive adequate amounts of dietary calcium and iron, and that this nutritional deficiency results in an increased absorption of lead.

FDA concurs with the Surgeon General that a blood lead level greater than 40 micrograms per deciliter (μg/dL) is evidence of undue lead exposure for adults or children (Ref. 2). In its proposed national ambient air standard for lead (Ref. 3), EPA regarded a mean blood lead value of 15 μg/dL as the target "no-effect" level for children aged 1 to 5 years. On a log-normal distribution, this value translates to an upper limit of 30 μg/dL. This latter value is consistent with the maximum acceptable blood lead level set by the Center for Disease Control (CDC) (Ref. 4) and with the FDA estimate of 40 μg/dL.

There is some, albeit limited, knowledge of the quantities of lead that will produce various physiologic effects in children. An ad hoc committee of experts in pediatric lead poisoning suggested in 1971 (Ref. 5) that 300 μg/day of lead be considered the maximum daily permissible intake from all sources for children between 1 and 3 years of age. More recently (Ref. 6) it has been recommended that, for infants under 6 months of age and for children aged 6 months to 2 years, total lead intake from all sources should not exceed 100 and 150 μg/day, respectively. At these levels of intake, alterations in heme synthesis, considered to be the most sensitive indicator of lead toxicity, are unlikely to occur in healthy, well-nourished children. However, such a tolerable intake represents a maximum continued level of exposure. To stay below this maximum, the mean daily intake of lead needs to be far lower (id.).

For more detailed discussion of the toxicological effects of lead in humans, interested parties are referred to three excellent reviews on the subject. These are the EPA Document, "National Ambient Air Quality Standard for Lead—Final Rules and Proposed Rulemaking" (Ref. 3), the 1977 report from the World Health Organization, "Environmental Health Criteria 3-Lead" (Ref. 7), and the Department of Labor Document, "Occupational Exposure to Lead—Final Standard" (Ref. 8).

B. Carcinogenicity

The carcinogenicity of lead is a perplexing issue. As the following discussion explains, there is a substantial body of literature, dating from the early 1960's, establishing that lead is an animal carcinogen. Ordinarily, such a finding would warrant an inference that lead poses a human cancer risk, yet neither a consensus of the scientific community nor the regulatory agencies that have acted with respect to lead appear to have drawn that inference.

Possible scientific reasons for declining to draw the inference that lead presents a human cancer risk are explored in the following discussion. It is one of the central purposes of this advance notice of proposed rulemaking to ask the scientific community and others interested in the problems resulting from human exposure to lead to focus on the issue of the human cancer risk from lead and to submit views on that issue. Among the questions the agency would like to answer are: (1) Does lead pose a human cancer risk? Can an inference of human cancer risk properly be drawn from the animal studies? (2) If not, what distinguishes these animal studies from studies of other substances that do warrant an inference of human cancer risk? (3) What type of further research, if any, is needed on the issue of human cancer risk from lead? The agency has also discussed its interest in these questions in the FDA proposal regarding the use of lead acetate in hair dyes, published in the **Federal Register** of March 6, 1979 (44 FR 12205). In that document, FDA stated that public comment would be solicited and

evaluated on whether the animal feeding studies showing that lead is an animal carcinogen are appropriate for evaluating the safety of lead to humans when lead is used as a component of hair dye and other products subject to regulation under the Federal Food, Drug, and Cosmetic Act.

1. *Experimental animal studies.* A number of studies have definitely shown that lead is an animal carcinogen. Zollinger (Ref. 9), as cited by Mao and Molnar (Ref. 10), was the first to report the induction of renal adenomas and carcinomas in the rat following a prolonged period (16 months) of injections with lead phosphate. Renal tumors were observed in 66 of the rats that survived for 10 months or more from the start of the study. Total doses of lead received by those rats that developed tumors varied from 120 to 680 milligrams (mg). Comparable results were observed by Roe et al. (Ref. 11).

Induction of renal neoplasms following oral administration of lead salts in the rat has been demonstrated frequently. In a study by Boyland et al. (Ref. 12) twenty 10-week-old Wistar rats were fed a semipurified diet containing 1.0 percent lead acetate for 1 year. Of the 16 surviving animals, 15 were found to have either renal adenomas or adenocarcinomas. Van Esch et al. (Ref. 13) subjected rats to diets containing 0.1 percent basic lead acetate during a 29-month period and observed renal neoplasms in 11 of 32 animals receiving the 0.1 percent diet and in 13 of 24 rats in the 1.0 percent treatment. Chronic 2-year studies with Swiss mice and golden hamsters given basic lead acetate were conducted by Van Esch and Kroes (Ref. 14). Renal tumors were found in 9 of 50 mice offered 0.1 percent lead acetate but in only 1 of 50 animals in the 1.0/0.5 percent diet group. No renal tumors or early stage tumorogenesis was observed in the hamsters. It should be noted that at the higher levels of dietary lead acetate (1.0/0.5 percent, mice; 0.5 percent, hamsters), considerable animal mortality occurred. The renal changes in these particuar treatment groups were typical of acute lead toxicity. In a 23-month feeding study in which rats received a diet containing 1.0 percent basic lead acetate, Mao and Molnar (Ref. 10) found renal epithelial tumors in 31 of 40 rats. The incidence of such tumors showed an excellent correlation with the duration of the lead feeding and, according to the investigators, most of the tumors showed "a striking similarity to human cortical adenomas forming papillary and acinar structures."

In addition to renal tumors, other neoplastic changes induced by a number of lead salts have been reported by several investigators. The reports are summarized in the following table.

Induced Neoplastic Changes in Kidneys and Other Tissues/Organs of Experimental Animals

Species and No.	Dosage and route of administration	Tumor sites and reference
Wistar rats: 94 male, 34 female	Lead acetate in diet, 3 mg/rat/day for 2 months followed by 4 mg/rat/day for next 16 months.	Benign and malignant in kidneys, testes, adrenals, thyroid, pituitary, and prostate (Ref. 16).
Wistar and Sprage-Dawley rats:		
17 male	Lead acetate (1%) in diet fed 12 to 17 months.	Tumors of renal cortex found in 13/17 rats, cerebral gliomas found in 2/17 rats (Ref. 17).
41 male	Lead acetate (1%) plus indol. (1.6%) in diet fed 12 to 17 months.	Tumors of renal cortex found in 25/41 rats; cerebral gliomas found in 3/41 rats (Ref. 17).
Sprague-Dawley rats > 1000	Lead subacetate (1%) in diet or via I.P or subcutaneous, injection (90-week study).	Renal cortical adenomas in > 60% of rats and renal cortical carcinomas in > 30% of rats after 90 weeks; Thyroid adenomas in 20% of animals between 60 to 90 weeks; Cerebral gliomas in 7% of rats between 60 to 90 weeks. Sarcomas in approximately 30% of rats at site of I.M subcutaneous, injections found within 10 to 40 weeks (Ref. 18).
Strain A/Strong mice (both male and female):	Lead subacetate given via 15 I.P. injections 3/week during 30 weeks:	
20	150 mg/kg	Pulmonary tumors found in—11 of 15, 5 of 12, and 6 of 17 surviving mice (Ref. 19).
20	75 mg/kg	
20	30 mg/kg	
Fischer 344 rats: 25 male, 25 female.	Lead chromate; 72 mg/rat given in 9 I.M. injections (8 mg/month for 9 months).	Malignant tumors at injection sites in 64% of all treated rats (40% in males; 88% in females); Renal tumors found in 3 of the female animals (Ref. 20).

If a food-related substance has been shown to produce positive results in a single adequately designed and conducted animal carcinogenicity test, and no other data are available, it must be assumed that the substance poses a risk of cancer to humans (see the March 6, 1979 proposal, 44 FR 12205).

Although the carcinogenic effect of lead compounds administered to test animals has been clearly established, the significance of these findings to the human situation has been questioned on the basis that the doses of lead given to test animals are well above those that would be acutely toxic to humans. The lowest level at which lead is known to induce animal cancers is 200 times the acutely toxic level in humans. Van Esch et al. (Ref. 13) determined that a human subject would have to consume, daily, 810 mg basic lead acetate (550 mg lead) to equal the dose level (0.1 percent in the diet) given to rats during chronic (1- to 2-year) feeding studies in which induction of renal tumors has been documented. Ingestion of such high levels of lead by humans would unquestionably result in the rapid and total onset of acute lead toxicity. This point is further exemplified in the study of Kehoe (Ref. 15), in which accidental ingestion of 5 to 10 mg lead per day for approximately 30 days resulted in the development of overt symptoms of lead intoxication in two male subjects.

The issue raised is not the general one about the validity of high dose animal studies. Such studies provide a scientifically valid basis for inferring human cancer risks, as FDA has explained in the March 6, 1979 proposal concerning lead acetate. Rather, the issue arises from the fact that scientific knowledge about how humans and rats metabolize lead suggests that the two species may metabolize lead very differently. Rats tolerate vastly greater quantities of lead without acute effects than humans do (Ref. 13). The implication may be that, just as humans are more vulnerable than rats to the acute effects of lead, humans may also be more vulnerable than rats to the chronic effects of lead. Alternatively, the implication may be that the extreme human sensitivity to the acute effects of lead somehow ensures that humans are not chronically exposed to quantities that pose any cancer risk, or perhaps that any actual cancer risk is so low as to be negligible. The agency seeks comment on this point.

2. *Epidemiological studies.* The principal epidemiological studies of lead exposure have focused on occupational exposure. In these studies, however, it has been very difficult to identify the effects of lead and distinguish them from the effects of other substances present in the working environment.

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Virtually all epidemiological studies of exposure to suspect carcinogens are subject to some inherent limitations and uncertainties (Ref. 24). These difficulties are reduced in the case of studies of occupational exposure, but even in that setting there are uncertainties concerning the prior exposure of the workers to the substance in question and possibly large variations in exposure among workers supposedly performing the same tasks under the same working conditions. Moreover, in studies that focused on the relation between occupational exposure to lead and lung cancer, it was not possible to correct for the effects of smoking in the study population.

In most of the studies of occupational exposure to lead in which an excess of deaths has been reported, the excess has been associated with respiratory cancer, although cancers at other sites have also been reported. For example, Rencher et al. (Ref. 21) noted an excess of deaths due to lung cancer in smelter workers. Blot and Fraumeni (Ref. 22) reported that average mortality rates from lung cancer increased in counties where smelters were located. Finklea (Ref. 23) reported an apparant but small excess of respiratory cancer in lead chromate workers. Berg and Burbank (Ref. 24) observed that the lead concentration in water basins correlated with kidney cancer mortality, death from lymphomas, and all forms of leukemia.

Other authors have reported negative results. In studies on smelter and battery plant workers, Cooper (Refs. 25, 26) reported a slight excess of lung cancer, which was not statistically significant. Dingwall-Fordyce and Lane (Ref. 27) concluded from a study of English workers occupationally exposed to lead that there was no evidence to suggest that malignant disease was associated with lead absorption. Elwood et al. (Ref. 28) found no evidence to support an association between lead in drinking water and mortality from cancer in deaths occurring in residents of homes in northwest Wales. Malcolm (Ref. 29) reported further observation of the same population studied by Dingwall-Fordyce and Lane. He stated that deaths of pensioners from cancer totalled 19 where 27 were expected, and that in employed workers there were 33 where 34 were expected. No mention was made of the types of tumor that were observed, and detailed data were not presented.

The contradictions among these studies require that there be some reservations about reliance upon them to demonstrate the risk or lack of a risk of cancer in humans. In most, if not all, of the studies described above, exposure to a variety of substances other than lead occurred in the working environment. Smelter workers may have been exposed to arsenic, sulfurdioxide, and cadmium. Battery plant workers may have been exposed to arsenic, antimony, and sulfuric acid. Consequently, it is not now possible to draw a firm conclusion, based on epidemiological data, about the possibility of increased risk of cancer associated with human exposure to lead.

3. *Views of other regulatory agencies.* No other Federal health protection agency has thus far taken regulatory action on the basis of a finding that lead presents a human cancer risk.

EPA issued its final national ambient air quality standard without mentioning cancer among the health risks presented by lead (see the **Federal Register** of October 5, 1978 (43 FR 46246)). In its water quality criteria document published in the **Federal Register** of March 15, 1979 (44 FR 15926), EPA referred inconclusively to the issue of the carcinogenic effects of lead (see 43 FR 15958).

The Occupational Safety and Health Administration (OSHA) has issued a final standard for occupational exposure to lead (43 FR 52952, November 14, 1978; 43 FR 54354, November 21, 1978). The preamble to the standard contains an extensive discussion of the adverse effects of lead on human health. The discussion covers many pages, but the only reference to a human cancer risk is one made in passing in a short paragraph at 43 FR 54399. OSHA has tentatively classified lead as a Category I Confirmed Carcinogen under its proposed cancer policy (42 FR 54148, November 21 1977), but that classification was based solely on the fact that two positive animal studies exist. The tentative classification was not based on any evaluation of the studies or any consideration of the issues raised in this document, and it has not been the basis for any regulatory action by OSHA.

III. Previous FDA Actions Concerning Lead

In the 1930's, before the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) (FFDC Act) was enacted, FDA (then the enforcement agency in the Department of Agriculture for the Food and Drugs Act of 1906) used much of its reserach and regulatory resources to control lead residues resulting from the spraying of lead-containing pesticides on fruits and vegetables. Some analytical research work was done in 1934, however, to investigate the "Effect of Storage on Lead Content of Evaporated Milk" (Food Control Statement No. 37, June-August 1934, p. 5). The analyst concluded that "there is little likelihood of an increase of lead during the prolonged storage of evaporated milk, even when there is a relatively large amount of solder exposed to attack." This work has been cited from time to time in official correspondence issued by FDA officials when asked to comment on the safety of food packed in tin cans (see, for example, the February 19, 1964 letter from George P. Larrick to National Sanitation Foundation (Ref. 30)).

Also during this period, FDA, although setting no formal tolerance for lead in food products, used administrative guidelines for pesticidal lead residues on fresh fruits. Walter G. Campbell, at the time Chief of the Food and Drug Administration, wrote on January 31, 1938: "In the case of food products in general we have consistently been guided by the figure of 0.014 grain of lead per pound of food, solid or liquid."

Methods for the determination of lead in foods were also developed in 1934 and 1935 (*Journal of the Association of Official Analytical Chemists*, 17.108, 1934, and 18.315, 1935). In the conclusion of the 1935 paper (p. 326), the authors state: "The quantities of lead added were equivalent to 1–10 ppm. Very few canned foods exceed the upper limit: most of them are at or below the lower figure, which from a regulatory standpoint is no longer of interest."

In 1940, the Public Health Service was directed by Congress to investigate the tolerances for arsenic and lead spray residues. On the recommendation of the Public Health Service, these tolerances were raised by FDA from 0.01 to 0.025 grain per pound for arsenic and from 0.025 to 0.05 grain per pound for lead (3.5 to 7 parts per million (ppm)). There are indications in the correspondence issued after 1940 that these tolerances became the FDA guidelines for the permissible lead content of canned foods.

Due to the shortage of tin during World War II, the War Production Board generated considerable research to develop a lead-tin solder than would be both functional and safe with the least amount of tin content. The formula for the lead-solder alloy changed from 63 percent lead/37 percent tin to 98 percent lead/2 percent tin. The National Academy of Sciences/National Research Council/War Metallurgy Committee played an important role in the studies done with respect to the functionality and safety of the lead solders. These studies showed that a solder consisting of 98 percent lead and 2 percent tin was safe for use in soldering tin-plated can for food packaging. These studies were cited in official correspondence of the FDA issued before and after the Food Additives Amendment of 1958 (Pub. L. 85–929; 72 Stat. 1784–1789) as a basis for concluding that the use of lead-tin solders was safe for use in tin cans for food and in food processing equipment if good manufacturing practices were observed.

Since approximately 1970, FDA has instituted a number of programs to monitor and reduce the amount of lead in the food supply. Owing to concern about the level of lead to which infants and young children may be exposed, these programs have had as their primary goal the reduction of the lead level in canned food produced for infants and young children, including some food intended primarily for adults but likely to be eaten in substantial amounts by children. Other identified sources of lead have been included in the programs.

The first of EDA's recent programs concerning lead contamination of food began after FDA became aware, in the late 1960's, of a potential problem involving lead migration into food from pottery glazes. In February 1970, FDA conducted a limited survey of imported pottery and found high levels of lead migration. On the basis of the results of this initial survey, the sampling program was expanded, and in calendar year 1970 FDA denied entry to over 400 lots of imported pottery that were shown to leach excessive amounts of lead from the glazes. In FDA's view, this excessive leaching could have been avoided by the proper "firing" of the glazes and by the use of proper glaze formulations.

In May 1971, FDA initiated a formal compliance program for foreign and domestic pottery. The program was designed to enforce a limit of 7 ppm on lead migration into a special leaching solution. Under this compliance program, which is still in effect, FDA has inspected factories and analyzed samples from every major domestic manufacturer of ceramic dinnerware. The rate of violation of the 7 ppm limit has been relatively low. The agency has also examined approximately 2,000 samples of ceramic ware imported each year; the violation rate has been somewhat higher than that for domestic items. All items exceeding the 7 ppm limit have been denied entry into the United States.

FDA later identified problems with enamelware and pewter, and the existing program was expanded to subject those items to the same 7 ppm migration limit. In the early 1970's, FDA also worked with the domestic and foreign ceramic industries to educate them about the lead problem and to assist them in initiating self-surveillance programs to limit lead migration.

Most recently, FDA has discovered a lead problem with silver-plated hollowware and has included it in the same compliance program. Also, FDA has a lower action level of 0.5 ppm leachable lead for silver-plated cups intended for use by infants, due to the special concern discussed above about high lead intake by infants.

The second major focus of recent FDA activities has been the tin can. There are essentially two varieties of tin can that concern FDA, the "vent hole" can and the ordinary "sanitary" can.

Domestic manufacturers of evaporated milk use the "vent hole" can exclusively. Prior to 1973, sampling of evaporated milk had frequently disclosed excessive lead levels. In 1973, FDA initiated a quality assurance program with the evaporated milk industry to ensure compliance with a 0.5 ppm limit on lead in the milk. Largely as a result of these efforts, the average lead level in evaporated milk declined from 0.52 ppm in 1972, to 0.10 ppm currently. In the **Federal Register** of December 6, 1974 (39 FR 42740), FDA proposed to establish a tolerance under section 406 of the FFDC Act (21 U.S.C. 346) of 0.3 ppm for lead in evaporated milk. For the reasons discussed below, FDA intends to withdraw the December 1974 proposal.

Most other canned foods used in this country are packed in the "sanitary" can, which is the type of can most people think of as a "tin can." Infant juices have been packed in such cans, and FDA has for some time been urging the manufacturers of infant juices to lower the lead levels in these juices. The lead levels in canned juices have been reduced from an average of 0.30 ppm in 1973 to about 0.05 ppm currently. Similarly, the average lead level in canned infant formula concentrate has been reduced from 0.10 ppm to about 0.06 ppm. Recently, all infant juice manufacturers have voluntarily switched form tin cans to glass jars. The average lead content in glass-packed infant food has been reduced; the reduction reflects the effects of stricter control over raw materials and improvements in food processing.

FDA has held discussions with representatives of the infant food industry to work toward a voluntary quality assurance program for canned infant food similar to the program in effect in the evaporated milk industry. The canning industry and the can manufacturers are also working, with FDA encouragement, to improve the quality control procedures used by the industry. If successful, these efforts will further reduce the lead levels in all canned food.

Finally, FDA has a program to monitor the lead levels in food generally. In its heavy metals survey, FDA obtains representative samples of a variety of foods and analyzes them for levels of heavy metals, including lead. The survey enables FDA to follow trends in the levels of lead in food and to assess the effect of control measures.

IV. Other Government Agency Regulations and Positions on Lead

As discussed above, no other Federal agency has taken regulatory action based on a finding that lead presents a human cancer risk. Several agencies have taken action with respect to lead to deal with other health problems it presents. These Federal actions are described below.

A. Environmental Protection Agency (EPA)

In the **Federal Register** of October 5, 1978 (43 FR 46246), EPA established a national ambient air quality standard for lead. The standard is 1.5 micrograms lead per cubic meter ($\mu g/m^3$) (monthly average). The EPA standard is noteworthy because it is based on a goal for total lead exposure that is compatible with targets previously advocated by other Federal agencies (see part II, A of this notice). The standard is based on EPA's judgments about the impact of lead exposure on young children, the lowest levels of lead associated with adverse effects on health, and the relative importance of airborne lead as a source of lead exposure. The standard is also based on EPA's conclusion that there is a positive relationship between air and blood lead levels. Considering the danger from all sources of lead exposure, EPA estimated the percentage of exposure from the air and used blood lead levels as an indicator of total exposure.

In 1975, EPA promulgated national interim primary drinking water regulations for lead (40 CFR 141.11). The standard was aimed at protecting children from undue lead exposure, and it limited lead content to 0.05mg/L (50 $\mu g/L$), considered to be the lowest practicable level. In 1977, the National Academy of Sciences (NAS) evaluated the interim drinking water standards and concluded that the level was too high. EPA is currently considering the need to revise the interim drinking water standard for lead.

EPA has also proposed water quality criteria for a number of pollutants,

including lead in the March 15, 1979 **Federal Register** (44 FR 15926, 15956).

EPA has issued regulations to reduce the hazard associated with lead arsenate pesticides (40 CFR 180.194). Recently, EPA also published a "Notice of Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing Inorganic Arsenic" (43 FR 48267, October 18, 1978). Lead arsenate is included in this group of inorganic arsenicals, and EPA states that it will conduct a separate evaluation of the possible adverse effects due to lead itself in the future.

Finally, EPA also is considering lead levels in gasoline (40 CFR 80.20).

B. Occupational Safety and Health Administration (OSHA)

In the **Federal Register** of November 14, 1978 (43 FR 52952, OSHA issued a final standard for occupational exposure to lead of 50 $\mu g/m^3$ of air per 8-hour period.

C. Department of Housing and Urban Development (HUD)

In the **Federal Register** of July 13, 1976 (41 FR 28876), HUD issued requirements for reducing human exposure to lead through the prevention of lead poisoning from the ingestion of paint from buildings, especially residential dwellings.

D. Consumer Product Safety Commission (CPSC)

In the **Federal Register** of September 1, 1977 (42 FR 44193), CPSC issued regulations that ban 1) paint and similar surface coating materials that contain more than 0.06 percent lead; (2) toys and other articles intended for use by children bearing paint or other similar surface-coating materials that contain more than 0.06 percent lead; and (3) furniture coated with materials that contain more than 0.06 percent lead.

E. Center for Disease Control (CDC)

CDC concluded in 1975 (Ref. 3) that undue or increased lead absorption exists when a child has confirmed blood lead levels of 30 to 70 $\mu g/dL$ or an elevation in erythrocyte protoporphyrin in the blood of 60 to 189 $\mu g/dL$, unless the increase is caused by iron deficiency. CDC's guideline is generally accepted in the scientific community, but is currently being reevaluated on the basis of recent data.

V. The Can Manufacturing Industry

Approximately 33 billion cans per year are used for foods in the United States. Their products have a market value of about $2 billion. About half the food cans are made by the food companies that use the cans. These food companies make all their own cans, and most sell some cans to others. Evaporated milk manufacturers commonly make all their own cans.

The principal manufacturing material for both sanitary and vent hole cans is tinplate. Tinplate today is at least 99 percent steel; often, steel is the only metal. Even in the days before World War II, when tinplate was made by dipping steel sheets in a bath of molten tin, the maximum amount of tin in tinplate was 2½ percent. In the early 1940's, electrolytic deposition of tin was developed commercially; the uniformity of distribution of tin on the steel sheet enabled the steel industry to use much less tin, a metal that was in critically short supply and that came largely from the Malay Peninsula. Today, as then, virtually all tin used in the United States is imported.

The metal can, as we know it, has been in continuous use since 1810, when King George III of England granted a patent to Peter Durand for the use of "vessels of glass, pottery, tin, or other metals of fit materials," originally called "cannisters," to preserve food. The earlier invention by Nicolas Appert of a system for preserving food in glass jars through the process that we now call canning laid the ground work for the patent.

The pioneer U.S. canner is believed to have been Mr. William Underwood. He established himself in the business of preserving foods in glass containers at Boston in 1819. He was closely followed by Thomas Kensett, who canned oysters, meats, fruits, and vegetables in a New York City waterfront plant in 1819, and who received a patent for the use of "vessels of tin" for that purpose from President James Monroe on January 19, 1825.

Before 1900, tin containers used commercially for foods were of either the hand-soldered open-top or the hole-and-cap style. The latter containers were supplied to the canner, together with the caps, in the center of which was a small hole or vent. Food was placed in the can and the cap sealed on by a special soldering iron. The vent hole was then closed or tipped with solder and the can processed and cooled.

A similar type of can is used exclusively for packaging evaporated milk and is referred to as a "vent-hole" can. This is a three-piece can with a soldered side seam and with ends that are affixed by a simple soldered overlap. The vent-hole can is assembled prior to filling, and the milk is injected through a small hole in the top of the can, which is then sealed with a lead solder plug. This type of can is currently used only by the evaporated milk industry.

Steady improvements took place over the years in methods of manufacturing and sealing metal cans. In 1904, almost 100 years after the original invention, a very notable advance occurred: the patenting, by the Sanitary Can Company, of a can sealed by crimping the lid on mechanically instead of soldering it on. This made possible rapid automatic closing operations. The side seam of the "sanitary" can is still sealed with solder.

Lead contamination of canned food results from this process primarily because of the use of solder to seal the side seam. The can body, with its side seam only crimped together mechanically, passes over a pot of molten solder, where a rotating roll transfers solder to the seam; the excess solder is wiped from the can, and the can is cooled to set the solder before further handling. Solder is not applied to the inside of the can, but some solder must be bled through the ends (laps) of the side seam to make a strong, leakproof can. The minute amount of solder that bleeds through the laps is one source of the lead that gets into the canned food. Another is the solder dust in the vicinity of the solder pot and wiping station. "Splashes" sometimes occur at the wiping station. These latter two sources can be minimized, but not eliminated, by good mechanical design of equipment and by good housekeeping. In recent years the industry has made considerable progress in this respect.

Until the early 1940's, the composition of the solder used in tin cans was 37 percent tin and 63 percent lead. During World War II, because of the shortage of tin, the War Production Board urged and then directed that solder composed of 2 percent tin and 98 percent lead be used. The industry has stayed with the 98 percent lead solder because (1) the side seam is much stronger than with 37/63 solder, and (2) production speeds are higher. The 98 percent lead solder is also cheaper, but the other two factors are overriding.

Aluminum is used for food cans only to a limited extent because it lacks the strength and the corrosion resistance required for most canned foods. A great deal of effort has been expended in recent years to overcome the corrosion deficiency, and it is believed by some that the problem may soon be resolved. However, the deficiency in strength would still limit the use of aluminum to small cans unless special closing techniques are developed. Aluminum is also very energy-intensive and relatively

expensive to produce. It therefore may not be a uniformly attractive substitute for the tin can.

A regulatory program resulting in severe restrictions on the tin can may induce some manufacturers to switch to alternative packaging materials, such as non-lead soldered metal cans, glass jars or the retortable pouch (a relatively new packaging device—a hermatically sealed, flexible, laminated pouch in which food may be thermally sealed and sterilized).

In making the decision to proceed with this Advance Notice of Proposed Rulemaking, the agency also prepared and considered an economic analysis of the actions being considered. A copy of this analysis is on public file with the Hearing Clerk (Ref. 31).

VI. Legal Issues

From its inception, FDA has considered lead in food to be a "poisonous or deleterious substance" as that term is used in section 402 of the FFDC Act (21 U.S.C. 342). Early on, FDA established tolerances for the lead in spray residues used on fresh fruits and vegetables. These tolerances were also used as guidelines to regulate the amount of lead permitted in food generally, including lead migrating to canned food from the can seam or the vent hole in an evaporated milk can. Under the law as it existed until 1958, regulation of lead as a poisonous or deleterious substance was the only practical approach available to FDA.

In 1958, Congress enacted the Food Additives Amendment to the FFDC Act. The amendment established a premarket review system for most food additives, including those that may reasonably be expected to become a component of food because of their use in food-contact articles, e.g., food packaging. Under the general definition of "food additive" in section 201(s) of the FFDC Act (21 U.S.C. 321(s)), the lead that gets into food because it migrates from the can seam would be a food additive if not exempted from the definition. Residues of lead that are in food in excess of established pesticide tolerances because of the improper use of lead-based pesticides or from environmental pollution (e.g., lead in the air from automobile exhaust) would not be considered a food additive and would continue to be regulated as a poisonous or deleterious substance.

Notwithstanding in the change in the law in 1958, FDA did not apply the food additive provisions to lead, but continued to regulate lead in food as a poisonous or deleterious substance. This approach is attributable to the fact that lead in food is from multiple sources, only one of which is possibly a "food additive" source. From an enforcement viewpoint, though lead can be detected in food, its source except in a few cases cannot be definitively determined. Furthermore, the focus of the agency's attention in the years after 1958 was implementing the new amendment with respect to substances that previously had not been subject to any regulation. Additionally, in the first 15 or so years after the amendment was enacted, there was no evidence that the levels of lead in the food supply presented any hazard to the health of the public. There was, therefore, no impetus to focus precisely on the legal basis on which lead was being regulated.

In the **Federal Register** of December 6, 1974 (39 FR 42742), FDA began a rulemaking proceeding to attempt to reconcile various provisions of the FFDC Act that apply to poisonous or deleterious substances, food additives, and other constitutents of food. In that same issue of the **Federal Register** (39 FR 42740), FDA proposed to establish a tolerance under section 406 of the FFDC Act for lead in evaporated milk and evaporated skim milk. In the latter document, the agency concluded that the lead in evaporated milk and skim milk was an added poisonous or deleterious substance. The 1974 proposal did not distinguish, for purposes of regulatory action, between the lead in evaporated milk that is due to migration from the can seams or vent hole in that which occurs from other sources. In the **Federal Resgister** of September 30, 1977 (42 FR 52814), a final rule was issued adopting procedural regulations for the treatment of poisonous or deleterious substances. The 1974 proposal to adopt a tolerance under section 406 for lead in evaporated milk and skim milk has not been made final.

The 1974 proposal to adopt procedural regulations for the treatment of poisonous or deleterious substances stated that "lead cannot be the subject of a food additive regulation under section 409 of the act even at trivial levels because if serves no functional purpose" (39 FR 42744). Since the 1974 proposal was issued, FDA has reconsidered this statement and is withdrawing it as incorrect. Lead from the solder seam that may migrate to food should be treated in the same way so other components of food packaging material that may migrate to food and that have been regulated as "indirect" food additives unless the lead from the solder seam is exempt from other reasons. The appropriate inquiry into the functionality of such substances is whether they have a purpose in the food-contact article (in the case of lead in tin cans, the purpose is to serve as a component of the solder), not whether they have a purpose or a function in the food. An indirect food additive is, by definition, not added to food directly. It therefore cannot be expected ordinarily to perform a technical function in the food, nor does the FFDC Act require that it do so in order for it to be considered a food additive.

When Congress enacted the Food Additives Amendment of 1958, it exempted from the definition of "food additive" in section 201(s) substances that have a prior sanction." A substance has a prior sanction for a particular use if it was approved by either FDA or the United States Department of Agriculture (USDA) for that us under the FFDC Act, the Federal Meat Inspection Act, or the Poultry Products Inspection Act before September 6, 1958. A use of a substance that is covered by a prior sanction is exempt from the definition of "food additive" and from the application of section 409 of the FFDC Act (21 U.S.C. 348). Under the FFDC Act and § 181.1 of the agency's regulations (21 CFR 181.1), however, the prior-sanctioned use is still subject to the provisions of the law that apply to added poisonous or deleterious substances. A substance may be regulated as both a food additive and a prior-sanctioned substance if, for example, it was approved for some uses or in some products before September 6, 1958, and for other uses in other products after September 6, 1958.

Prior sanctions were not ordinarily issued as regulations by FDA. Rather, less formal means of stating approval of particular substances were generally employed. Most often what are now considered prior sanctions were letters issued by responsible agency employees in response to inquiries from manufacturers. Detailed records of these informal approvals were not kept during the decades before 1958. Thus, when a question of the status of a substance that has a long history of use in a food product is raised, the answer can only be determined by searching through FDA records and those of affected food companies to decide whether a prior sanction exists.

The burden to establish that a prior sanction exists rests with the person who desires to rely on this exemption from the food additive definition. Under § 181.5(a) of the agency's regulations (21 CFR 181.5(a)), a prior sanction "shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval" by either

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FDA or USDA before September 6, 1958. This strict interpretation of the prior sanction exemption is consistent with the overall policy of the Food Additives Amendment of 1958, i.e., to subject food ingredients to premarket testing and to impose on the proponents of their use the burden of establishing their safety.

FDA has reviewed some of the old letters, literature, and other materials in its files bearing on the question of whether a prior sanction for any of the various uses of lead was ever issued. It is clear from the materials reviewed thus far that the safety of the use of lead solder in cans was among the earliest areas of interest to FDA and its predecessor agency, the Bureau of Chemistry of USDA. The materials indicate that virtually from the enactment of the Pure Food and Drug Act of 1906, FDA advised that it was acceptable to use lead in the solder in cans if good manufacturing practice was adhered to, and if the amount of lead exposed to the can's contents was minimal. These materials also indicate that FDA advised against the use of lead-containing materials as food-contact surfaces inside food-processing and storage tanks, and against the use of lead-bearing steels where the data showed a definite lead uptake from the steel when in contact with food-simulating solvents.

The agency intends to continue to review the records in its possession that bear on the prior sanction question. The records FDA has gathered thus far on this issue have been placed on file with the FDA Hearing Clerk (address below). This material consists of letters and other records for the period from 1934 to 1967 dealing with the use of lead solder in cans.

To resolve the prior sanction issue, the agency encourages persons who intend to assert that a prior sanction exists for certain uses of lead and who believe that they have evidence of such a sanction(s) to review the evidence on file with the Hearing Clerk and to submit for filing copies of any additional pertinent documents. The agency intends, as part of any proposal issued with respect to lead to address the prior sanction issue specifically and, if appropriate, to propose to recognize the existence of a sanction by proposing to adopt a regulation in Part 181 of its regulations (21 CFR Part 181). In addition, FDA may also establish limits on the prior-sanctioned uses of lead if current limits are not currently considered to be safe. Those limits might also be included in a regulation under Part 181 or an action level under Part 109 (21 CFR Part 109) and would be based on sections 402 and 406 of the FFDC Act.

FDA emphasizes that, if the agency believes it appropriate, it may establish action levels for bringing enforcement action directly in court with respect to levels of lead in various foods without issuing a proposed rule or awaiting a resolution of the issues addressed in this document. The procedures for issuing action levels are described in §§ 109.4 and 109.6 (21 CFR 109.4, 109.6). In any enforcement action, in the absence of a tolerance established by rule, the validity of the agency action will be established in the judicial proceeding, and no issues will be foreclosed by the existence of this rulemaking proceeding.

Any uses of lead that are "prior sanctioned" are subject to regulatory action by FDA under sections 402 and 406 of the FFDC Act to the extent the food contains an added poisonous or deleterious substance that may be injurious to health, or that is not in accord with a tolerance established under section 406. The presence of lead in food can be considered poisonous or deleterious on account of the risks discussed above. Tolerances can be established for added substances, which are not food additives, if the substance is required in production or cannot be avoided by good manufacturing processes. The use of lead is necessary as a solder in the production of the tin can, but the amount of lead used should not exceed what is required or what is unavoidable under good manufacturing practices. Action levels rather than tolerances may be established in accordance with the provisions of §§ 109.4, 109.6, and 181.1 when technological changes that might affect the tolerance are foreseeable in the near future. The action level specifies the level above which FDA will bring enforcement action directly in court under section 402 of the FFDC Act.

The agency believes that in establishing any action levels and tolerances for lead, it should consider various factors, including the extent to which the use of lead can be avoided and minimized in the manufacturing process, the potential for disruption of the food supply, the level of risk posed, and the ubiquitous distribution of the substance. Feasible alternatives for the current uses of the lead-soldered tin can are not generally available, and the distribution of the food supply would be disrupted if its use were precipitately curtailed. In view of the ubiquity of lead, food in other types of packaging may also contain some background lead and pose some degree of risk from this substance. Furthermore, in view of the seriousness of the risks to infants and children from lead, it is important that the resources and efforts of the agency and the food industry be directed initially at reducing the level of lead in food likely to be consumed by them.

Accordingly, FDA intends to treat the lead that may occur in food as a result of migration from the solder seam or vent hole of cans as a food additive unless covered by a prior sanction. The lead that is in food from other sources, including any prior-sanctioned use, will continue to be treated under the provisions of the FFDC Act that apply to added poisonous or deleterious substances.

As with all portions of this notice, FDA solicits comments on the rationale and legal basis for its regulatory approach to the lead problem, discussed above.

VII. Tentative Plan to Reduce Lead Levels in Food

As the next step toward further reducing the amount of lead in food as quickly and as reasonably as possible, FDA intends to publish in the near future notices of proposed rulemaking and/or announcements of action levels that will impose more stringent restrictions on the amount of lead that may be present in food, particularly in those foods produced for infants and young children, but also including those foods intended primarily for adults but likely to be eaten in substantial amounts by children. As part of this program, the agency intends to publish documents that will—

(a) Withdraw the December 6, 1974 notice of proposed rulemaking proposing to establish a tolerance for lead in evaporated milk and evaporated skim milk (39 FR 42740), and announce an appropriate action level for these products that takes into account improvements in the ability to reduce the amounts of lead in these foods.

(b) Announce action levels for lead in canned infant formulas, canned infant fruit and vegetable juices, and glass-packed infant foods.

(c) Request information and data from manufacturers of articles used in the household in connection with food. FDA will seek information on the lead content of such articles and will proceed with its review of the proposal to revoke the "housewares exemption," which was published in the **Federal Register** of April 12, 1974 (39 FR 13285).

(d) Announce action levels for lead in other food products not previously covered (i) when data become available on the degree to which lead is required or cannot be avoided in production without causing disruption of the distribution of the nation's food supply, and (ii) when consistent with giving priority to reducing lead levels in foods for infants and children, and in foods having the highest lead levels.

FDA will also consider whether the scheduling of public hearings would be an expeditious and useful way to accumulate information and views with respect to the problem of lead in food products.

VIII. Request for Information and Data

Although FDA has in its files extensive information concerning lead, additional and current information on the following matters will greatly assist development of a reasonable and effective regulatory program:

1. Copies of documents pertaining to the prior sanction question.
2. Description of good manufacturing practices in the application of solder to cans, and in minimizing addition of lead to canned food products.
3. Composition of solder and fluxes being used.
4. Composition of can bodies, including information on tin plating if used.
5. Chemical identity of the side seam stripe and can coatings, if used.
6. Identity of sealing compounds used in affixing ends to cans.
7. Validated analytical methods for lead in food commodities, including information on sample size and methods of sample preparation.
8. Lead levels in food commodities prior to canning.
9. Amount of lead present in canned foods, by commodities on a progressive basis per production run, i.e., 1 week after canning and each month thereafter for 6 months.
10. Extent to which lead migration from cans has been and can be reduced or eliminated.
11. Progress on developing alternatives to cans containing lead solder.
12. Data of the bioavailability of solder-derived lead.
13. Information on whether lead poses a human cancer risk, and whether any inference of a human cancer risk can be drawn from the animal studies, and data on any difference in metabolism between humans and test animals or other basis for believing that humans would respond differently than test animals to the carcinogenic effect of lead.
14. Any data documenting any other reasons for distinguishing the animal studies on lead from other animal studies that do warrant an inference of human cancer risk, and any data that explain the apparent absence of widespread concern in the scientific community that lead presents a human cancer risk.
15. Information on what type of further research, if any, is needed on the issue of human cancer risk from lead.
16. Progress toward developing additional toxicity data on lead, especially on its effects on infants and children.
17. Data on the degree of risk posed by lead in various food products similar to that used to assess the risk from aflatoxins in peanuts, published in the **Federal Register** of March 3, 1978 (43 FR 8808).
18. Numerical values for lowest achievable levels for lead in canned evaporated skim milk, canned infant formulas, canned infant formula concentrates, canned infant fruit and vegetable juices, and glass-packed infant foods, with data showing the resultant total dietary intake of lead.
19. Production figures for canned products, and consumption figures by age groups.
20. Potential health, economic, and environmental impacts associated with the manufacture and use of packaging systems that would replace lead soldered cans.
21. Energy requirements associated with replacement packaging systems, as compared to those associated with lead-soldered cans.

This information will be used to define the scope of the problem of lead in food better and to establish appropriate and reasonable regulatory control mechanisms for leachable lead in canned food products in an attempt to ensure that the public is not exposed to excessive levels of lead that may be ingested.

FDA will consider whether public hearings would be an expeditious and useful way, as a supplement to the receipt of written comments, to gather information and views regarding the problem of lead in food products.

IX. References

The following material is on public file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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22. Blot, W. S. and J. F. Fraumeni, Jr., "Arsenical Air Pollution and Lung Cancer," *Lancet*, 2:142–144, 1975.

23. Finklea, J. F., "Lead Chromate—An Update," Memo, October 8, 1976.

24. Berg, J. W. and F. Burbank, "Correlations Between Carcinogenic Trace Metals in Water Supplies and Cancer Mortality," *Annals of the New York Academy of Science*, 199, 249–264, 1971.

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26. Cooper, W. C. and W. R. Gaffey, "Mortality of Lead Workers," *Journal of Occupational Medicine*, 17(3): 100–107, 1975.

27. Dingwall-Fordyce, I. and R. Lane, "A Follow-up Study of Lead Workers," *British Journal of Industrial Medicine*, 20:313–315, 1963.

28. Elwood, P. C. et al., "Lead in Water and Mortality," *Lancet*, No. 7962, 748, 1976.

29. Malcolm, D., "Prevention of Long-term Sequalae Following the Absorbtion of Lead," *Archives of Environmental Health*, 23:292–298, 1971.

30. Letter to Larrick, George P., National Sanitation Foundation, February 19, 1964.

31. Food and Drug Administration, "Food in Lead-Soldered Can: An Economic Analysis," July 1979.

Interested persons may, on or before November 29, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments, information, and data regarding this advance notice of proposed rulemaking. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 28, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–27286 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 203]

[Docket No. 79N–0186]

Prescription Drug Products; Patient Labeling Requirements

Correction

In FR Doc. 79–20796 appearing on page 40016 in the issue of Friday, July 6, 1979, make the following corrections:

(1) In the center column of page 40022, third full paragraph, the 9th through the 13th lines should have read as follows: "* * * this issue. Long range effects of patient labeling will also be measured. The agency also invites other interested parties to fund and conduct * * *".

(2) In the third column of page 40022, third full paragraph, 12th line, "* * * to give products * * *" should have read "* * * to give drug products * * *".

(3) In the middle column of page 40023, 18th line from the top, "* * * they were not more likely * * *" should have read "* * * they were more likely * * *".

(4) In the third column of page 40027, second full paragraph, in the 6th line, "* * * only on drug product * * *" should have read "* * * only one drug product * * *".

BILLING CODE 1505–01–M

[21 CFR Part 433]

[Docket No. 79N–0149]

Antibiotics for Human Use; Exemption of Dermatologic and Vaginal Antibiotic Drug Products from Certification

Correction

In FR Doc. 79–20577 appearing on page 39469 in the issue of Friday, July 6, 1979, make the following corrections:

(1) In the third column of page 39471, in the 19th line of the first complete paragraph, "* * * antibiotic Form 5 of Form 6 * * *" should have read "* * * antibiotic Form 5 or Form 6 * * *".

(2) In the first column of page 39472, in the 15th line from the top of the page, "§ 444.5421 * * *" should have been "§ 444.5421 * * *" (letter "l" instead of figure one).

(3) In the middle column of page 39473, the 13th line from the top, "§ 449.505b * * *" should have read "§ 449.504b * * *".

BILLING CODE 1505–01–M

[21 CFR Part 514]

[Docket No. 79N–0019]

Safety and Effectiveness Data Supporting the Approval of Minor Use New Animal Drugs

Correction

In FR Doc. 79–22418 appearing on page 42714 in the issue of Friday, July 20, 1979, in the center column of page 42716, 5th line of paragraph "(6)" the word "market" should have read "marker".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 53]

[EE–163–78]

Transitional Rules for Acts of Self-Dealing Involving Private Foundations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to transitional rules for acts of self-dealing between private foundations and disqualified persons. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would affect all private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 30, 1979.

The amendments are proposed to be effective with respect to certain dispositions of property by private foundations after October 4, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention CC:LR:T (EE–163–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Margie Glass of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, (Attention: CC:LR:T) (202–566–3544, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507, 508 and 537 of the Internal Revenue Code of 1954, and to the Regulations on Foundation Excise Taxes (26 CFR Part 53) under section 4941 of the Code. These amendments are proposed to conform the regulations to sections 1301 and 1309 of the Tax Reform Act of 1976 (90 Stat. 1713, 1729) ("the Act") and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

Section 101(l)(2) of the Tax Reform Act of 1969 (83 Stat. 533) created special transitional rules that exempted certain transactions between private foundations and disqualified persons from the definition of self-dealing. These rules permitted private foundations to sell, exchange, or otherwise dispose of certain "nonexcess" business holdings to disqualified persons before January 1, 1975. There was no transitional rule that permitted the disposition of property leased by a private foundation to a disqualified person. Section 1309 of the Tax Reform Act of 1976 extended the rule permitting disposition of "nonexcess" business holdings to dispositions made after October 4, 1976, and before January 1, 1977. Section 1301 of the Act generally permitted a foundation to sell, exchange, or otherwise dispose of certain property to a disqualified person if the property is being leased to the disqualified person pursuant to a binding contract in effect on October 9, 1969, and if the foundation receives no less than fair market value for the property. This provision applies to dispositions made after October 4, 1976, and before January 1, 1978.

Comments and Requests For a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commisstoner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Margie G. Glass of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1 and 53 are as follows:

Income Tax Regulations (26 CFR Part 1)

Paragraph 1. The Income Tax Regulations, 26 CFR Part 1, are amended by revising paragraph (a)(8)(ii)(*c*) of § 1.507–3 to read as follows:

§ 1.507–3 Special rules; transferee foundations.

(a) *General rule.* * * *

(8) * * *

(ii) * * *

(*c*) Section 101 (l)(2) of the Tax Reform Act of 1969 (83 Stat. 533), as amended by sections 1301 and 1309 of the Tax Reform Act of 1976 (90 Stat. 1713, 1729), with respect to the provisions of section 4941.

* * * * *

Par. 2. The Income Tax Regulations are further amended by revising paragraph (b)(3) of § 1.508–3 to read as follows:

§ 1.508–3 Governing instruments.

* * * * *

(b) *Effect and nature of governing instrument.* * * *

(3) *Savings provisions.* For purposes of section 508(d)(2)(A) and (e), a governing instrument need not include any provision which is inconsistent with section 101(l)(2), (3), (4) or (5) of the Tax Reform Act of 1969 (83 Stat. 533), as amended by sections 1301 and 1309 of the Tax Reform Act of 1976 (90 Stat. 1713, 1729), with respect to the organization. Accordingly, a governing instrument complying with the requirements of subparagraph (1) of this paragraph may incorporate any savings provision contained in section 101(l)(2), (3), (4) or (5) of the Tax Reform Act of 1969, as amended by sections 1301 and 1309 of the Tax Reform Act of 1976, as a specific exception to the general provisions of paragraph (a) of this section. In addition, in the absence of any express provisions to the contrary, the exceptions contained in such savings provisions will generally be regarded as contained in a governing instrument meeting the requirements of subparagraph (1) of this paragraph.

* * * * *

Par. 3. The Income Tax Regulations are further amended by revising paragraph (d)(1)(iii) of § 1.537–1 to read as follows:

§ 1.537–1 Reasonable needs of the business.

* * * * *

(d) *Excess business holdings redemption needs.* (1) * * *

(iii) Constituted stock redemption of which before January 1, 1975, or after October 4, 1976, and before January 1, 1977, is, by reason of section 101 (l)(2)(B) of the Tax Reform Act of 1969, as amended by section 1309 of the Tax Reform Act of 1976, and § 53.4941 (d)–4 (b), permitted without imposition of tax under section 4941, but only to the extent such stock is to be redeemed before January 1, 1975 or after October 4, 1976, and before January 1, 1977, or is to be redeemed thereafter pursuant to the terms of a binding contract entered into on or before such date to redeem all of the stock of the corporation held by the private foundation on such date.

* * * * *

Foundation Excise Tax Regulations (26 CFR Part 53)

Par. 4. The Foundation Excise Tax Regulations, 26 CFR Part 53, are amended by revising the last sentence of paragraph (b)(1) of § 53.4941(d)–4 and by adding a new paragraph (f) to that section. These revised and added provisions read as follows:

§ 53.4941 (d)–4 Transitional rules.

* * * * *

(b) *Disposition of certain business holdings*—(1) *In general.* * * * For purposes of applying this paragraph in the case of a disposition completed before January 1, 1975, or after October 4, 1976, and before January 1, 1977, the amount of excess business holdings is determined under section 4943 (c) without taking subsection (c)(4) into account.

* * * * *

(f) *Disposition of leased property*—(1) *In general.* Under section 101(l)(2)(F) of the Tax Reform Act of 1969, as amended by the Tax Reform Act of 1976 (90 Stat. 1713), the sale, exchange or other disposition (other than by lease) to a disqualified person of property being leased to the disqualified person by a private foundation is not an act of self-dealing if—

(i) The private foundation is leasing substantially all of the property to the disqualified person under a lease to which paragraph (c) of this section applies;

(ii) The disposition occurs after October 4, 1976, and before January 1, 1978; and

(iii) The disposition satisfies the requirements of paragraph (f)(2) of this section.

(2) *Terms of disposition.* Paragraph (f)(1) of this section applies only if—

(i) The private foundation receives an amount that equals or exceeds the fair market value of the property either at the time of the disposition or at the time (after June 30, 1976) the contract for such disposition was executed;

(ii) In computing the fair market value of the property, no diminution of that value results from the fact that the property is subject to any lease to disqualified persons; and

(iii) At the time with respect to which paragraph (f)(2)(i) of this section is applied, the transaction would not have constituted a prohibited transaction within the meaning of section 503 (b) or the corresponding provisions of prior

law if those provisions had been applied at the time of the transaction.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-27285 Filed 8-30-79; 8:45 am]

BILLING CODE 4830-01

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No FI-5688]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4 (a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
California	Sebastopol (City), Sonoma County.	Laguna de Santa Rosa	Intersection of McKinley and Brown Streets	*76
	Maps available at City Hall, 7120 Bodega Avenue, Sebastopol, California.			
	Send comments to: Honorable Gwen Anderson, Mayor, City of Sebastopol, City Hall, 7120 Bodega Avenue, Sebastopol, California 95472.			
Colorado	Breckenridge (Town), Summit County.	Blue River	Watson Road—50 feet downstream from centerline	*9543
			Watson Road—50 feet upstream from centerline	*9551
			Village Road—50 feet downstream from centerline	*9597
			Village Road—30 feet upstream from centerline	*9606
			Upstream corporate limit	*9633
		Lehman Gulch	Confluence with Blue River—30 feet upstream from centerline	*9620
			Upstream corporate limit—10 feet upstream from crossing	*9690
		Lehman Gulch Ponding Area	150 feet west of the Blue River and 125 feet south of Lehman Gulch	*9632
		Illinois Gulch	Broken Lance Road—at centerline	*9646
			Upstream corporate limit	*9683
		Sawmill Gulch	Confluence with Blue River	*9583
			4 o'Clock Road—50 feet downstream from centerline	*9704
			4 o'Clock Road—at centerline	*9712
			Upstream corporate limit	*9787
		Blue River Sheet Flow	50 feet north of Watson Road and 200 feet west of Main Street	#2
		Illinois Gulch Sheet Flow	Intersection of Village Road and Columbine Road	#1
		Sawmill Gulch Sheet Flow	350 feet north of 4 o'Clock Road and 150 feet west of Park Street	#1
		Sawmill Gulch Sheet Flow	4 o'clock Road—300 feet west of intersection with Kings Crown Road	#2
		Lehman Gulch Sheet Flow	200 feet north of Lehman Gulch and 180 feet west of Blue River	#3
	Maps available at Town Hall, 150 Ski Hill Road Breckenridge, Colorado.			
	Send comments to: Honorable Charles Struve, Mayor, Town of Breckenridge, Town Hall, P.O. Box 168, Breckenridge, Colorado 80424.			
Connecticut	(T) of Coventry, Toland County	Willimantic River	Downstream corporate limits	*250
			Just upstream of Cider Mill Road	*251
			Approximately 500 feet upstream of Route 31	*255
			Just upstream of Central Vermont Railroad	*265
			Just upstream of Coventry Road	*268
			Just downstream of Eagleville Dam	*275
			Just upstream of Eagleville Dam	*284
			Just upstream of Plains Road	*291
			Just upstream of Route 44A	*296
			Just upstream of Merrow Road	*316
			Just upstream of Tolland Road	*325
			Upstream corporate limits	*330
		Skungamaug River	Downstream corporate limits	*343
			Just downstream of Dam	*345
			Approximately 100 feet upstream of Dam	*349
			Approximately 3,600 feet downstream Woodbridge Road	*380
			Approximately 200 feet downstream of Woodbridge Road	*394
			Approximately 200 feet upstream of Woodbridge Road	*398

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
			Approximately 100 feet downstream of Dam near Woodbridge Road	*407
			Just upstream of Dam near Woodbridge Road	*437
			Just upstream of Sagraves Road	*443
			Just upstream of Route 31	*456
			Just upstream of Route 44A	*474
			Just upstream of Broadway	*486
			Just downstream of Dam near Foley Brook Road	*497
			Just upstream of Foley Brook Road	*501
			Upstream corporate limits	*503
		Ash Brook	Confluence with Hop River	*342
			Approximately 1,500 feet upstream of confluence with Hop River	*377
			Approximately 3,000 feet upstream of confluence with Hop River	*437
			Just upstream of Brewster Street	*500
			Approximately 1,500 feet upstream of Brewster Street	*530
			Approximately 4,000 feet upstream of Brewster Street	*600
			State Route 44A	*650
		Hop River	Downstream County Boundary	*249
			Approximately 100 feet upstream of Flanders River Road	*249
			Just upstream of Conrail	*250
			Just upstream of Pucker Street	*261
			Just upstream of Hop River Road	*272
			Just upstream of Conrail	*278
			At upstream corporate limits	*293
	Maps available at Planning Office or Town Library, Town Hall, Coventry, Connecticut.			
	Send Comments to: Mr. Frank B. Connolly, Town Manager, Town of Coventry, Town Hall, Coventry, Connecticut 06238.			
Connecticut	Middletown (City) Middlesex County.	Connecticut River	Conrail—200 feet upstream from centerline	*23
		Mattabesset River	State Route 9—50 feet upstream from centerline	*23
			State Route 72—50 feet upstream from centerline	*24
			Interstate 91—200 feet upstream from centerline	*25
		Coginchaug River	Conrail (1st crossing)—50 feet upstream from centerline	*23
			Jackson Street—100 feet upstream from centerline	*24
			State Route 66—50 feet upstream from centerline	*26
			2nd Dam—50 feet downstream from centerline	*27
			2nd Dam—50 feet upstream from centerline	*33
			Beverly Heights Road—40 feet upstream from centerline	*36
			3rd Dam—50 feet upstream from centerline	*44
			Middlefield Street—200 feet upstream from centerline	*49
			Conrail (2nd crossing)—100 feet upstream from centerline	*58
		East Swamp Brook	State Route 72—50 feet upstream from centerline	*23
			Drive to school—50 feet upstream from centerline	*25
			Congdon Street—at centerline	*42
	Maps available at City Hall, Lobby and Planning Office, Middletown, Connecticut.			
	Send comments to: Honorable Anthony S. Marino, Mayor, City of Middletown, Municipal Building, Middletown, Connecticut 06457.			
Florida	Venice (City), Sarasota County	Gulf of Mexico	Shore line	*11
			Intersection of Riviera Street and Firenze Avenue	*11
			Intersection of Seaboard Avenue and Venice Avenue East	*11
			Capri Boulevard crossing over Curry Creek	*11
	Maps available at City Hall, 401 West Venice, Venice, Florida.			
	Send comments to: Honorable Harry Case, Mayor, City of Venice, City Hall, 401 West Venice, Venice, Florida 33595.			
Illinois	Sunnyside (V), McHenry County	Fox River	Approximately 0.3 mile upstream of Chapel Hill Road	*741
			Approximately 1.1 miles upstream of Chapel Hill Road	*741
	Maps available at Village Hall, 1405 West Bayview Lane, McHenry, Illinois 60050.			
	Send comments to: Mr. Ray Lolland, Village President, Village of Sunnyside, Village Hall, 1405 West Bayview Lane, McHenry, Illinois 60050.			
Illinois	Village of Westchester, Cook County.	Salt Creek	Southeast of Intersection of Preston Street and Hawthorne Avenue (entire reach within Village of Westchester).	*628
		Addison Creek	Upstream side of Gardner Road	*625
			Upstream side of Roosevelt Road	*627
			At upstream corporate limits	*627
		Salt Creek Tributary	Downstream of diversion orifice for Mayfair Reservoir	*637
			Upstream of diversion orifice for Mayfair Reserior	*640
			Area of shallow flooding downstream of culvert entrance above Mayfair Avenue.	#1
		South Fork	Downstream side of Wolf Road	*641
			Upstream of Wolf Road	*644
			Upstream corporate limits	*644
		Middle Fork	Upstream side of Wolf Road	*644
			Upstream corporate limits	*644
	Maps available at the Village Hall.			
	Send comments to: Mr. Frederick Wedinger, Village President of Westchester, 10240 Roosevelt Road, Westchester, Illinois 06153.			

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Illinois	(V) Western Springs, Cook County.	Flagg Creek	Downstream corporate limit	*640
			Upstream corporate limit	*643
	Maps available at Village Hall, 740 Hillgrove Avenue, Western Springs, Illinois 60558.			
	Send comments to Mr. Arthur H. Jens, Village President, Village of Western Springs, Village Hall, 740 Hillgrove Avenue, Western Springs, Illinois 60558.			
Kentucky	Bloomfield (City), Nelson County	East Fork Simpson Creek	Railroad Street—50 feet upstream from centerline	*636
			State Highway 48—50 feet upstream from centerline	*653
			Upstream Corporate Limits	*665
		Hinkle Creek	State Highway 55—50 feet upstream from centerline	*655
			State Highway 62—75 feet upstream from centerline	*672
	Maps available at City Hall, Main Street, Bloomfield, Kentucky.			
	Send comments to: Honorable Charleen Conley, Mayor, City of Bloomfield, City Hall, P.O. Box 206, Bloomfield, Kentucky 40008.			
Kentucky	Campbell County, Unincorporated Areas	Ohio River	At confluence with Woodlawn Creek	*499
			At confluence with Four Mile Creek	*502
			At confluence with Ten Mile Creek	*504
			Most upstream county Limits—at centerline	*506
		Licking River	At confluence with Pooles Creek	*505
			At confluence with Scaffold Creek	*514
			At confluence with Pond Creek	*517
			Most upstream county Limits—at centerline	*532
		Four Mile Creek	Lower Tug Fork Road—200 feet upstream from centerline	*505
			Kentucky Highway 547 (first crossing)—50 feet downstream from centerline.	*512
			Kentucky Highway 547 (second crossing)—50 feet downstream from centerline.	*525
			Upstream limit of Detailed Study—at centerline of road	*534
		Tug Creek	Hill Road—at centerline	*504
			Second Private Drive upstream of Hill Road—at centerline	*511
			Lower Tug Fork Road—50 feet upstream from centerline	*548
			Upstream limit of Detailed Study—at centerline	*598
		Pond Creek	Pond Creek Road—50 feet downstream from centerline	*518
			Miller Road—50 feet downstream from centerline	*644
			Larvin Road—at centerline	*666
			Upstream limit of Detailed Study—50 feet downstream from center line.	*682
		Woodleaf Creek	Kentucky Highway 8—in backwater area from Ohio River—at centerline.	*499
	Maps available at Campbell County Courthouse, 20 West 4th Street, Newport, Kentucky.			
	Send comments to: Honorable Lambert Hehl, County Judge, Campbell County, Campbell County Courthouse, 20 West 4th Street, Newport Kentucky 41071.			
Louisiana	City of Jackson, East Feliciana Parish.	Asylum Creek	250 feet downstream of LA Highway #10	*132
		Asylum Creek & Unnamed Tributary.	Confluence of Asylum Creek and Unnamed Tributary	*114
			125 feet upstream of southern corporate limits	*100
		Unnamed Tributary	250 feet upstream of LA Highway 951	*144
			100 feet upstream of Wooden Bridge Field Road	*121
	Maps available at: Jackson Town Hall, 1610 Charter Street, Jackson, Louisiana.			
	Send comments to: Mayor Alvin L. Dousay, Town Hall, P.O. Box 156, Jackson, Louisiana 70748.			
Maine	City of Auburn, Androscoggin County.	Androscoggin River	Downstream Corporate Limits	*127
			Maine Turnpike (Upstream)	*133
			North Bridge (Upstream)	*137
			Main Central Railroad Bridge (Upstream)	*176
			Vietnam Veterans' Memorial Bridge (Downstream)	*179
			Deer Rips Dam (Downstream)	*187
			Deer Rips Dam (Upstream)	*213
			Gulf Island Dam (Downstream)	*215
			Gulf Island Dam (Upstream)	*263
			Upstream Corporate Limits (approximately 7,000 feet above Gulf Island Dam).	*263
		Little Androscoggin River	Barker Mills Dam (Downstream)	*160
			Barker Mills Dam (Upstream)	*170
			Breached Dam (Downstream), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*190
			Breached Dam (Upstream), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*195
			Maine Central Railroad Bridge (Upstream)	*200
			U.S. Route 202 North Bound (Upstream)	*205
			Breached Dam (Downstream), located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*207
			Breached Dam (Upstream)	*211
			Old Trolley Bridge (Upstream)	*217
			Old Hotel Road (Upstream)	*222
			Upstream Corporate Limits	*231
		Taylor Brook	Dead End Road and Dam (Downstream)	*240
			Dead End Road and Dam (Upstream)	*242
			Limit of Detailed Study (located approximately 400 feet upstream of Old Hotel Road).	*247

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Lapham Brook	Beginning of Detailed Study (located approximately 2,850 feet downstream of Young's Corner Road).	*247
			Young's Corner road (Upstream)	*248
			Limit of Detailed Study approximately 3,150 feet upstream of Young's Corner Road.	*256
	Maps available at the Community Development Office.			
	Send comments to: Mr. Charles Morrison, City Manager of Auburn, City Hall, Auburn, Maine 07210.			
Maine	Town of Fort Kent, Aroostook County.	St. John River	Corporate Limits Downstream	*492
			Confluence of Diagle Brook	*496
			20,600' upstream of Corporate Limit	*500
			Confluence of Augibert Brook	*508
			Confluence of Fish River	*519
			Upstream side of International Bridge	*520
			Confluence of Camel Brook	*526
			Coporate Limits Upstream	*531
		Fish River	Confluence with St. John River	*519
			Main Street (U.S. Route 1)	*519
			Confluence of Perley Brook	*521
			200' Upstream of Bradbury's Bridge	*524
			Upstream crossing of Bangor and Aroostook Railroad (Downstream side).	*531
			5,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*541
			12,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*547
			15,700' Upstream of Upstream crossing of Bangor and Aroostook Railroad.	*559
			Upstream Corporate Limits	*563
		Perely Brook	Confluence with Fish River	*521
			Upstream side of Route 161	*523
			Bangor and Aroostook Railroad (Upstream)	*531
			2,300' Upstream of Bangor and Aroostock Railroad	*539
			4,300' Upstream of Bangor and Aroostock Railroad	*549
			5,800' Upstream of Bangor and Aroostock Railroad	*559
			7,300' Upstream of Bangor and Aroostock Railroad	*570
			8,600' Upstream of Bangor and Aroostock Railroad	*580
	Maps available at the Town Hall.			
	Send comments to: Mr. Claude Dumond, Town Manager of Fort Kent, Town Hall, Fort Kent, Maine 04743.			
Massachusetts	Town of Conway, Franklin County	Pumpkin Hollow Brook	Confluence with South River	*551
			About 50 feet upstream of Academy Road	*558
			Just downstream of Hill View Road	*579
			Just upstream of Hill View Road	*585
			About 100 feet downstream of Old Cricket Hill Road	*587
			Just upstream of Cricket Hill Road	*591
			Approximately 1,025 feet upstream of Cricket Hill Road	*602
	Maps available at Selectmen's Office, Town Office, Conway, Massachusetts.			
	Send comments to Mr. William E. Graves, Chairman, Board of Selectmen, Town of Conway, Town Office, Conway, Massachusetts 01340.			
Massachusetts	Town of Gosnold, Dukes County	Buzzards Bay	North Shoreline	*13
		Vineyard Sound	South Shoreline	*13
	Maps available at the office of the Town Clerk.			
	Send comments to: Mr. Alan Wilder, Chairman of the Board of Selectmen of Gosnold, Town Hall, Cuttyhunk, Massachusetts 02173.			
Massachusetts	Town of Middleton, Essex County	Ipswich River	Corporate Boundary (Downstream)	*41
			Upstream, Peabody Street	*44
			Upstream, Maple Street	*46
			Upstream, South Main Street	*49
			Downstream, Boston Blacking Company Dam	*53
			Upstream, Boston Blacking Company Dam	*60
			Corporate Boundary (Upstream)	*60
		Tributary A to Ispwich River	Mouth of Tributary	*46
			1,400 feet downstream, Mount Vernon Street	*56
			Downstream, Mount Vernon Street	*66
			Upstream, Mount Vernon Street	*69
			Downstream, South Main Culvert	*80
			Upstream, South Main Culvert	*85
			Upstream, Pleasant Street	*89
			Downstream, Middleton Pond Dam	*90
		Boston Brook	Mouth of Brook	*44
			Downstream, Dam (500 feet above Mill Street)	*45
			Upstream, Dam (500 above Mill Street)	*53
			Upstream, Dam (1,600 feet below Liberty Street)	*57
			100 feet upstream, Liberty Street	*59
			1,800 feet upstream, Liberty Street	*69
			5,150 feet upstream, Liberty Street (above railroad constriction)	*78
			2,600 feet downstream, Corporate Boundary (above railroad constriction).	*83
			1,900 feet downstream, Corporate Boundary (access at road)	*83

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Emerson Brook	Mouth of Brook	*44
			Downstream, Mill Street	*44
			Upstream, Dam	*54
			Upstream, Liberty Street	*59
Maps available at the office of the Building Inpector.				
Send comments to: Mr. Sidney Berlin, Chairman of the Board of Selectmen, Town of Middleton, Memorial Building, Middleton, Massachusetts 01949.				
Massachusetts	(C) Taunton, Bristol County	Taunton River Tidal Flooding	At confluence of Three Mile River	*14
		Taunton River	About 400 feet downstream of confluence of Dam Lot Brook	*13
			Just upstream of Old Colony Avenue	*15
			About 1,200 feet upstream of State Route 44	*19
		Three Mile River	Just upstream of West Channel Three Mile River	*14
			About 125 feet downstream of Spring Street	*15
			About 175 feet upstream of Spring Street	*16
			About 100 feet downstream of Dam Number 4	*29
			Just upstream of Dam Number 4	*27
			About 650 feet downstream of Cohannet Street	*29
			Just downstream of Cohannet Street	*37
			Just upstream of Cohannet Street	*39
			Just upstream of Winthrop Street	*41
			Just upstream of Fisher Street	*42
			Just downstream of Tremont Street	*43
			Just upstream of Tremont Street	*46
		West Channel Three Mile River	At confluence with Three Mile River	*14
			About 30 feet upstream of Spring Street	*16
			At divergence with Three Mile River	*20
		Mill River	Just downstream of Spring Street	*13
			Just downstream of Weir Street	*15
			About 450 feet upstream of Weir Street	*18
			Just upstream of Winthrop Street	*19
			Just downstream of Washington Street	*24
			Just upstream of Washington Street	*25
			About 1,800 feet upstream of Washington Street	*30
			About 250 feet downstream of Dam Number 1	*33
			About 100 feet upstream of Dam Number 1	*43
			Just downstream of West Britannia Street	*45
			Just upstream of West Britannia Street	*48
			Just downstream of second Conrail crossing	*51
			Just upstream of second Conrail crossing	*52
			About 250 feet upstream of Wittenton Street	*54
		Cobb Brook	Just upstream Somerset Street	*13
			About 400 feet downstream of Godfrey Street	*14
			Just upstream of Godfrey Street	*18
			Just downstream of Briggs Street	*19
			Just upstream of Briggs Street	*22
			Just upstream of Couch Street	*23
			Just downstream of General Cobb Street	*27
			Just upstream of General Cobb Street	*30
			About 150 feet downstream of Winthrop Street	*31
			Just upstream of Winthrop Street	*32
			Just downstream of Kilmer Avenue	*33
			Just upstream of Kilmer Avenue	*34
			Just upstream of Chase Street	*36
			About 200 feet upstream of Clifford Street	*36
			Just upstream of Shores Street	*40
			About 700 feet downstream of Tremont Street	*43
			Just downstream of Tremont Street	*47
			About 150 feet upstream of Tremont Street	*50
Maps available at Office of the City Engineer, City Hall, 15 Summer Street Taunton, Massachusetts, Attention: Russel Heap, Planning Director.				
Send comments to The Honorable Joseph Amaral, Mayor, City of Taunton, City Hall, 15 Summer Street, Taunton, Massachusetts 02780.				
Michigan	Casco (TWP), Allegan County	Middle Fork Black River	Just upstream confluence with North Branch Black River	*588
			Just downstream 70th Street	*589
		North Branch Black River	At downstream southern corporate limits	*585
			About 250 feet upstream of Baseline Road	*586
			400 feet upstream confluence of Middle Fork Black River	*588
Maps available at the Office of the Zoning Administrator, 6800 109th Avenue, South Haven, Michigan.				
Send comments to: Mr. Rankin Lyman, Township Supervisor, Township of Casco, Rt. 4, South Haven, Michigan 49090.				
Michigan	(TWP) DeWitt, Clinton County	Looking Glass River	About 1.25 miles downstream Shavey Road	*785
			Just downstream Shavey Road	*796
			About 0.42 mile upstream Shavey Road	*796
Maps available at Township Hall, 780 East Wieland Road, Lansing, Michigan 48906.				
Send comments to Mr. Raynold St. Pierre, Town Officer, Township of DeWitt, Township Hall, 780 East Wieland Road, Lansing, Michigan 48906.				
Minnesota	Rosemount (C), Dakota County	Mississippi River	Downstream corporate limit	*697
			Upstream corporate limit	*696
Maps available at the City Hall, P.O. Box 455, Rosemount, Minnesota, 55068.				
Send comments to The Honorable Leland S. Knutson, Mayor, City of Rosemount, City Hall, P.O. Box 455, Rosemount, Minnesota, 55068, Attention: Mr. Don F. Darling, City Clerk.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Minnesota	Savage (C) Scott County	Minnesota River	Downstream corporate limit	*719
			Upstream corporate limit	*721
		Credit River	Mouth at Minnesota River	*719
			Just downstream of State Highway 13	*720
			About 100 feet downstream of Quentin Avenue	*740
			About 150 feet downstream of County Highway 16	*751
			About 100 feet upstream of County Highway 16	*762
			About 1,800 feet upstream of County Highway 16	*764
Maps available at the City Hall, 12305 Quantia Avenue, South, Savage, Minnesota, 55378.				
Send comments to The Honorable Cleve Eno, Mayor, City of Savage, City Hall, 12305 Quentis Avenue, South, Savage, Minnesota, 55378.				
Minnesota	(C) South St. Paul, Dakota County.	Mississippi River	Southern corporate limits	*703
			Northern corporate limits	*706
Maps available at the South St. Paul Municipal Building, 125 3rd Avenue, North, South St. Paul, Minnesota, 55075.				
Send comments to: The Honorable Charles Michelson, Mayor, City of South St. Paul, South St. Paul Municipal Building, 125 3rd Avenue, North, South St. Paul, Minnesota, 55075, Attention: Mr. James P. Cosgrove, City Administrator.				
Mississippi	unincorporated areas of Panola County.	Little Tallahatchie River	Just downstream of Mississippi State Highway 6	*185
			Confluence of McIvor Drainage Canal	*186
			Confluence of Cole Creek	*190
			Just downstream of Panola Avenue	*193
			Confluence of Whitten Creek	*195
			Just downstream of U.S. Highway 51	*199
			Confluence of Stream D	*201
			Just downstream of I-55 Southbound Lane	*202
			Confluence of Hotophia Creek	*205
			Just downstream of Belmont Road	*207
			Confluence of Jones Creek	*208
		Running Slough Ditch	Confluence with Little Tallahatchie River	*186
			Confluence with Stream A	*186
			Confluence of Stream B	*187
			Confluence of Stream C	*187
		Stream A	Confluence with Running Slough Ditch	*186
			Just downstream of Unnamed Road No. 1	*192
			Just downstream of Mississippi State Highway 6	*199
		Stream B	Confluence with Running Slough Ditch	*187
			Just downstream of Mississippi State Highway 6	*206
		Stream C	Confluence with Running Slough Ditch	*187
			Just downstream of Mississippi State Highway 6	*207
		McIvor Canal	Confluence with Little Tallahatchie River	*186
			Just downstream of Unnamed Road Number 2	*196
			Just downstream of Unnamed Road Number 3	*214
			Confluence of Black's Creek	*215
			Just downstream of Unnamed Road Number 4	*228
			Just downstream of Unnamed Road Number 5	*248
			Just downstream of Unnamed Road Number 6	*254
			Just downstream of Unnamed Road Number 7	*267
		Black's Creek	Confluence with McIvor Canal	*215
			Just downstream of Unnamed Road Number 8	*219
			Just downstream of Unnamed Road Number 9	*244
		Cole Creek	Confluence with Little Tallahatchie River	*190
			Just downstream of Unnamed Road Number 10	*201
			Just downstream of Tubb Street	*210
			Just downstream of Mississippi State Highway 6	*217
		Whitten Creek	Confluence with Little Tallahatchie River	*195
			Just downstream of Field Road	*203
			Just downstream of Cooh Road	*232
		Stream D	Confluence with Little Tallahatchie River	*201
			Confluence of Stream E	*205
			Just downstream of Unnamed Road Number 12	*212
		Stream E	Confluence with Stream D	*205
			Just downstream of Unnamed Road Number 12	*212
		Hotophia Creek	Confluence with Little Tallahatchie River	*205
			Just downstream of Mississippi State Highway 35	*216
			Just downstream of Mississippi State Highway 6 Westbound Lane	*250
			Just downstream of Unnamed Road Number 13	*252
			Just downstream of Unnamed Road Number 14	*269
			Just downstream of Mississippi State Highway 315	*278
		Belmont Creek	Confluence with Little Tallahatchie River	*207
			Just downstream of Mississippi State Highway 35	*221
			Just downstream of Unnamed Road Number 15	*249
			Just downstream of Unnamed Road Number 16	*255
		Jones Creek	Confluence with Little Tallahatchie River	*209
			Just downstream of Mississippi State Highway 35	*218
			Just downstream of Unnamed Road Number 17	*226
			Just downstream of Unnamed Road Number 18	*234
			Just downstream of Unnamed Road Number 19	*240
			Just downstream of Unnamed Road Number 20	*248
			Just downstream of Unnamed Road Number 21	*260
		Peters Creek	Just downstream of Unnamed Road Number 22	*210
			Just downstream of of Illinois Central Gulf Railroad	*226
			Just downstream of U.S. Highway 51	*229
			Just downstream of I-55 Southbound Lane	*234

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Long Creek	Confluence with Peters Creek	*235
			Just downstream of Unnamed Road Number 23	*241
			Just downstream of Unnamed Road Number 24	*257
			Just downstream of Unnamed Road Number 25	*269
			Just downstream of Unnamed Road Number 26	*284
		Johnson Creek	Confluence with Peters Creek	*235
			Just downstream of Unnamed Road Number 27	*238
			Just downstream of Unnamed Road Number 28	*254
			Just downstream of Unnamed Road Number 29	*279
			Just downstream of Unnamed Road Number 30	*296
			Just downstream of Unnamed Road Number 31	*304
			Just downstream of Unnamed Road Number 32	*322
		Goodwin Creek	Confluence with Long Creek	*236
			Just downstream of Unnamed Road Number 23	*238
			Just downstream of Unnamed Road Number 28	*256
			Just downstream of Unnamed Road Number 33	*280

Maps available at: Panola County Courthouse, Sardis, Mississippi.

Send comments to: Mayor H.E. Bees and William E. Door, City Clerk, Panola County Courthouse, P.O. Box 306, Sardis, Mississippi 38666.

Missouri	Ash Grove (c), Greene County	Dry Branch	Downstream corporate limits	*989
			Just upstream of Brookside Street	*1,004
			Approximately 50 feet upstream of State Highway F	*1,020
			Just downstream of St. Louis-San Francisco Railway	*1,023
			Approximately 100 feet upstream of St. Louis-San Francisco Railway	*1,030
			Approximately 0.2 mile upstream of St. Louis-San Francisco Railway	*1,033
		Hamilton Creek	Downstream corporate limits	*1,009
			Upstream West Boone Street	*1,022
			Upstream Exchange Avenue	*1,026
			Upstream North Calhoun Avenue	*1,029
			Downstream North Webster Avenue	*1,031
			About 50 feet upstream North Maple Lane	*1,046

Maps available at City hall, P.O. Box 235, Ash Grove, Missouri.

Send comments to: Mr. Howard L. Thieman, Mayor, City of Ash Grove, City Hall, P.O. Box 235, Ash Grove, Missouri 65604.

Nebraska	(c) of Ralson, Douglas County	Ralston Creek	100 feet upstream of 72nd Street	*1,009
			100 feet downstream of Burlington Northern Railroad	*1,012
			Upstream side of Burlington Northern Railroad	*1,019
			Downstream side of 78th Street	*1,026
			Upstream side of 78th Street	*1,033
			Upstream of corporate limit 1,600 feet upstream of 78th Street	*1,044
			500 feet upstream of southwest corporate limit	*1,048
		Big Papillion Creek	Upstream side of 72nd Street	*1,011
			Downstream side of L Street	*1,012

Maps available at City Hall, 77th and State Streets, Ralston, Nebraska 68127.

Send Comments to: The Honorable Joseph Wager, Mayor City of Ralston, City Hall, 77th and State Streets, Ralston, Nebraska 68127.

New Hampshire	Lebanon (City), Grafton County	Connecticut River	Interstate Route 89—50 feet upstream from centerline	*351
			U.S. Route 4—10 feet upstream from centerline	*355
		Mascoma River	South Main Street—10 feet upstream from centerline	*351
			Seminary Hill Road—10 feet upstream from centerline	*450
			Mechanic Street—100 feet upstream from centerline	*470
			Hanover Street—10 feet upstream from centerline	*576
			Upstream crossing of Interstate Route 89—10 feet upstream from centerline.	*658
			Mascoma Lake Dam— 50 feet upstream from centerline	*755

Maps available at City Hall, 51 North Park Street, Lebanon, New Hampshire.

Send comments to: Honorable Karen Wardsworth, Mayor, City of Lebanon, City Hall, 51 North Park Street, Lebanon, New Hampshire 03766.

New York	Brighton (Town) Monroe County	Genesee River	At downstream corporate limits	*520
			Ballantyne Bridge—50 feet upstream from centerline	*523
		Red Creek	Crittenden Road—50 feet upstream from centerline	*521
			Town Line Road—50 feet downstream from centerline	*521
		West Branch Red Creek	Crittenden Road—50 feet upstream from centerline	*521
			Jefferson Road—50 feet downstream from centerline	*523
		buckland Creek	Elmwood Avenue—50 feet upstream from centerline	*446
			Chelmsford Road—50 feet upstream from centerline	*479
			Winton Road—50 feet upstream from centerline	*487
			Upstream crossing of Elmwood Avenue—50 feet upstream from centerline.	*508
		Irondequoit Creek	Browncroft Boulevard—100 feet upstream from centerline	*259
		Allen Creek	At downstream corporate limits	*324
			Interstate 490—150 feet downstream from centerline	*366
			Interstate 490—100 feet upstream from centerline	*373
			East Avenue—25 feet upstream from centerline	*387
			Clover Street—50 feet upstream from centerline	*451
			Edgewood Avenue—25 feet upstream from centerline	*466
			Evans Road—50 feet upstream from centerline	*479
			Rochester Outer Loop Highway 47—100 feet upstream from centerline.	*482
			Winton Road—125 feet upstream from centerline	*491
		Allen Creek Tributary	State Highway 47—25 feet upstream from centerline	*500

Maps available at Town Hall, 2300 Elmwood Avenue, Rochester, New York 14618.

Send comments to: Mr. Richard Wiles, Supervisor, Town of Brighton, Town Hall, 2300 Elmwood Avenue, Rochester, New York 14618.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
New York	Homellsville (Town) Steuben County.	Canisteo River	Magee Road—150 feet upstream from centerline	*1,132
			City Route 64—150 feet upstream from centerline	*1,139
			State Route 326 North—25 feet upstream from centerline	*1,156
			Farm Road—100 feet upstream from centerline	*1,166
			State Route 17 West—160 feet upstream from centerline	*1,172
			Arkport Dam—550 feet downstream from centerline	*1,211
			Arkport Dam—500 feet upstream from centerline	*1,294
			County Route 67 (2nd crossing)—50 feet downstream from centerline	*1,300
			County Route 67 (2nd crossing)—110 feet upstream from centerline	*1,309
		Crosby Creek	Corporate Limits	*1,205
			Confluence with Tributary No. 3—70 feet upstream from centerline	*1,219
			Honey Run Road—100 feet downstream from centerline	*1,256
			Honey Run Road—40 feet upstream from centerline	*1,265
		Chauncey Run, Canacadea Creek	Corporate Limits	*1,199
			First Dam—30 feet downstream from centerline	*1,171
			First Dam—55 feet upstream from centerline	*1,178
			Almond Road (State Route 21)—115 feet upstream from centerline	*1,195
			Almond Dam—375 feet downstream from centerline	*1,245
		Canacadea Creek	Almond Dam—280 feet upstream from centerline	*1,298
			Upstream Corporate Limits	*1,311
		Big Creek	State Route 326—225 feet upstream from centerline	*1,170
			Seneca Street (State Routes 21-36)—150 feet downstream from centerline.	*1,181
			Seneca Street (State Routes 21-36)—180 feet upstream from centerline.	*1,186
			County Route 70A (first crossing)—150 feet upstream from centerline.	*1,210
			County Route 70A (second crossing)—150 feet downstream from centerline.	*1,245
			County Route 70A (second crossing)—150 feet upstream from centerline.	*1,250
		Seeley Creek	State Route 326—80 feet upstream from centerline	*1,168
			State Route 36—40 feet upstream from centerline	*1,183
			State Route 21—40 feet upstream from centerline	*1,189
		Marsh Ditch	Sanitarium Road—120 feet upstream from centerline	*1,180
			Upstream Corporate Limits	*1,187
		Lime Kiln Creek	Downstream Corporate Limits	*1,259
			Dam—40 feet upstream	*1,327
		Tributary No. 2 to Lime Kiln Creek.	Confluence with Lime Kiln Creek	*1,301
			County Route 48—60 feet upstream from centerline	*1,312

Maps available at Town Hall, 4 Park Street, Arkport, New York.

Send comments to: Mr. Paul Toth, Supervisor, Town of Homellsville, Town Hall, 4 Park Street, Arkport, New York 14807.

New York	Town of Lewiston, Niagara County.	Fish Creek	120 feet upstream of Robert Moses Parkway	*562
			310 feet upstream of Robert Moses Parkway	*567
			530 feet upstream of Robert Moses Parkway	*571
			930 feet upstream of Robert Moses Parkway	*575
			85 feet upstream of U.S. Route 104	*580
			1,265 feet upstream of U.S. Route 104	*585
			60 feet upstream of State Route 265	*593
			720 feet upstream of State Route 265	*593
			3,850 feet upstream of State Route 265	*595
			Approximately 45 feet upstream of Bronson Drive	*599
		Gill Creek	Approximately 100 feet upstream of Hewitt Drive	*603
			Approximately 4,500 feet upstream of Hewitt Drive	*611
			Approximately 6,500 feet upstream of Hewitt Drive	*616
			Approximately 8,500 feet upstream of Hewitt Drive	*621

Maps available at the Town Hall, 1375 Ridge Road, Lewiston, New York.

Send comments to: Mr. James J. Lombardi, Town Supervisor of Lewiston, Town Hall, 1375 Ridge Road, Lewiston, New York, 14092.

New York	Sanford (Town), Broome County	West Branch Delaware River	Hales-Eddy Road—200 feet upstream from centerline	*960
		Oquaga Creek	State Highway 17—most downstream crossing—at centerline	*1,015
			Alternate State Highway 17—50 feet upstream from centerline	*1,081
			Old Plank Road—most downstream crossing at centerline	*1,114
			Loomis Hill Road—150 feet upstream from centerline	*1,166
			Clark Road—50 feet upstream	*1,262
		Marsh Creek	State Highway 41—20 feet upstream from centerline	*1,119
		Dry Brook	Clark Road—100 feet upstream from centerline	*1,306
		Sanford Tributary	At confluence with Oquaga Creek	*1,166
		Deer Lake	Western Corporate Limit	*1,522

Maps available at Town Hall, 146 Front Street, Deposit, New York.

Send comments to: Mr. Melbourne E. Niles, Town Supervisor, Town of Sanford, 5 Sheldon Street, Deposit, New York 13754.

New York	North Greenbush (Town), Rensselaer County.	Hudson River	Upstream Corporate Limits	*24
		Wynants Kill	Brookside Avenue—75 feet upstream from centerline	*337
			State Route 150—100 feet upstream from centerline	*355
			Pine Bowl Road—125 feet downstream from centerline	*419

Maps available at Town Hall, 1 Dodge Street, Wynantskill, New York.

Send comments to: Mr. William Dedrick, Town Supervisor, Town of North Greenbush, Box 36 Wynantskill, New York 12198.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
North Carolina	Unincorporated areas of Guilford County.	Haw River	Just downstream of State Highway 2712	*834
			Approximately 1,000 feet upstream of State HW 2711	*640
			Confluence of Mear's Fork Ck. (or just upstream of State HW 1001)	*707
			Just upstream of State Highway 2347	*746
			Just upstream of U.S. Highway 220	*762
			Approximately 400 feet upstream of State Highway 68	*792
			Just upstream of State Highway 2022	*825
		Big Alamance Creek	Just downstream of State Highway 61	*544
			Just upstream of State Highway 3056	*559
			Just downstream of State Road 3045	*583
			Approximately 200 feet upstream of State Highway 3092	*590
			Just upstream of State Highway 3088	*597
			Just downstream of State Highway 3388	*623
			Just upstream of State Highway 3549	*649
			Just upstream of Dam near State Highway 3396	*656
			Just upstream of Dam at State Highway 3412	*683
		Big Alamance Creek Tributary No. 1.	Confluence with Big Alamance Creek	*687
		Big Alamance Creek Tributary No. 2.	Just upstream of U.S. Highway 421	*668
		Back Creek Tributary	Just downstream of Sanitary Landfill Road	*624
		South Little Alamance Ck	Just upstream of State Highway 1005	*626
			Just upstream of State Highway 3370	*685
			Just upstream of U.S. Highway 421	*716
		North Little Alamance Ck	Just upstream of State Highway 61	*536
			Just upstream of State Highway 3056	*571
			Just downstream of State Highway 3045	*605
			Just upstream of Stewart Mill Dam	*519
			Just upstream of Dam at 600 ft. upstream of Highway 3029	*647
			Approximately 300 feet upstream of Highway 1005	*685
			Just upstream of U.S. Highway 421	*728
		Tributary 2 of North Little Alamance Creek.	Just upstream of State Highway 1005	*665
		Tributary 4 of North Little Alamance Creek.	Just upstream of State Highway 3048	*832
			Just upstream of Dam	*657
			Just upstream of U.S. I-85	*670
		Tributary 5 of North Little Alamance Creek.	Just upstream of State Highway 2826	*835
		Rock Creek	Just upstream of I-85	*563
			Just upstream of Southern Railroad	*633
		Rock Creek Tributary 1	Approximately 400 feet downstream of State Highway 2806	*636
		Tributary to Tributary 1	Just downstream of State Highway 2808	*633
		East Beaver Creek	Just upstream of State Highway 1005	*674
			Just upstream of Masonry Dam	*585
		Reedy Fork	Approximately 1,000 feet upstream of State Highway 2719 and just downstream of Masonry Dam.	*646
			Just downstream of U.S. Highway 29	*587
			Lake Townsend	*720
			Lake Brandt	*743
			Just upstream of State Highway 68	*803
			Just upstream of State Highway 1858	*842
			Just upstream of State Highway 2001	*866
		Buffalo Creek	Just downstream of State Highway 2719	*652
			Just downstream of State Highway 2795	*665
		North Buffalo Creek	Just downstream of State Highway 2784	*682
			Just upstream of State Highway 2832	*698
		South Buffalo Creek	Just upstream of U.S. Highway 70A	*699
			Just upstream of State Highway 3000 (McConnel Road)	*709
		Richland Creek (Tributary of Reedy Fork).	Just upstream of Dam of Lake Richland	*752
		Squirrel Creek	Just upstream of State Highway 2519	*723
			Just upstream of State Highway 1001	*750
		Long Branch (Tributary of Reedy Fork).	Just upstream of State Highway 2324	*723
		Horse Pen Creek	Just upstream of Southern Railroad	*744
			Just upstream of State Highway 2182	*772
			Just upstream of State Highway 2136	*777
			Just downstream of State Highway 2145	*811
		Brush Creek	Just upstream of State Highway 2138	*783
			Just downstream of State Highway 2137	*802
		Moore's Creek	Approximately 400 feet upstream of State Highway 2134	*779
		West Beaver Creek	Just upstream of Dam, approximately 200 feet upstream of Highway 68.	*828
			Just upstream of State Highway 2018	*847
		Benaja Creek	Just upstream of Southern Railroad	*700
		Mear's Fork	Just upstream of State Highway 2303	*762
			Just upstream of State Highway 2317	*783
		Troublesome Creek	Just upstream of State Highway 2103	*855
		Deep River	Approximately 200 feet downstream of State Highway 62	*675
			Just upstream of State Highway 1129	*684
			Approximately 600 feet upstream of U.S. Highways 29 and 70	*703
			Just upstream of State Highway 1355	*705
		Polecat Creek	Just upstream of State Highway 62	*713
			Just upstream of U.S. Highway 220	*748
		Polecat Creek Tributary	Just upstream of Dam at State Highway 3426	*770
		Hickory Creek	Just upstream of State Highway 1140	*690

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
			Just upstream of State Highway 1132	*689
			Just upstream of State Highway 1113	*712
		Hickory Creek Tributary No. 2	Just upstream of State Highway 1132	*740
		Register Creek	Just upstream of State Highway 1129	*714
			Just upstream of State Highway 1113	*726
			Just upstream of U.S. Highways 29 and 70	*747
			Just upstream of Cumberland Road (1372)	*775
		Richland Creek (Tributary of Deep River).	Approximately 300 feet upstream of a Private Road	*693
		Bull Run	Just upstream of U.S. Highway 29A and 70A	*744
			Just upstream of State Highway 1549	*770
			Just upstream of Concrete Dam	*789
		Bull Run Tributary	Just upstream of Horse Path	*778
		East Fork Deep River	Just upstream of State Highway 1541	*780
			Just upstream of State Highway 1556	*807
			Just upstream of Interstate Highway I-40	*829
		Long Branch (Tributary East Fork Deep River).	Just upstream of State Highway 1549	*789
		West Fork Deep River	Just upstream of State Highway 1818	*817
			Just upstream of State Highway 1850	*821
		Tributary No. 1 (West Fork Deep River).	Just upstream of State Highway 1859	*846
			Just upstream of State Highway 1858	*854
		Tributary to Tributary No. 1	Approximately 1200 feet downstream of Interstate Highway I-40	*865
		Tributary No. (West Fork Deep River).	Approximately 600 feet upstream of State Highway 1834	*808

Maps available at: County Manager's Office, Greensboro, North Carolina.

Send comments to: Mr. John Witherspoon, County Manager or Mr. George Seay, Assistant to the County Manager/Administrative Services, P.O. Box 3427, Greensboro, North Carolina 27402.

Ohio	Sheffield, Lorain County	Black River	About 6,400 feet downstream of confluence of French Creek	*581
			About 800 feet upstream of 31st Street	*592
		French Creek	About 200 feet downstream of Lorain and West Virginia Railway	*609
			Just upstream of Abbe Road	*618
			Upstream corporate limits	*623
		Jungbluth Ditch (shallow flooding from Rainfall).	Area between Lorain and West Virginia Railway and Abbe Road	*#1

Maps available at Village Hall, 4820 Detroit Road, Elyria, Ohio.

Send comments to The Honorable John Romoser, Mayor, Village of Sheffield, Village Hall, 4820 Detroit Road, Elyria, Ohio 44035.

Ohio	Waterville, Lucas County	Lake Tetonka	Shoreline	*1,005
		Lake Sakatah	Shoreline	*1,004
		White Water Creek	Just downstream of State Highway 13	*1,004
			About 300 feet upstream of State Highway 13	*1,006
			Just downstream of 3rd Street	*1,009
			Just upstream of Hoosac Street	*1,011
			Just downstream of Reed Street	*1,013
			Just upstream of Reed Street	*1,015
			About 2,400 feet upstream of Reed Street	*1,018

Maps available at the City Hall, Waterville, Ohio, 43566.

Send comments to Mr. Clayton Chandler, City Administrator, Village of Wateville, P.O. Box 250, Waterville, Ohio, 43566.

Oregon	Milwaukie (City) Clackamas and Multnomah Counties.	Willamette River	Downstream corporate limits	*32
			Upstream corporate limits	*33
		Johnson Creek	Southeast Milport Road—370 feet upstream from centerline	*36
			Portland Traction railroad Bridge—50 feet upstream from centerline	*44
			Upstream corporate limits	*122
		Kellogg Creek	Most upstream corporate limits	*46

Maps available at City Hall, 10722 South East Main, Milwaukie, Oregon.

Send comments to: Honorable Alan Manuel, Mayor, City of Milwaukie, City Hall, 10722 South East Main, Milwaukie, Oregon 97222, Attn: Harold Schilling, City Manager.

South Carolina	Abbeville (City), Abbeville County	Blue Hill Creek	South Main Street—at centerline	*469
			Brooks Street—50 feet downstream from centerline	*480
			Brooks Street—20 feet upstream from centerline	*486
			West Greenwood Road—70 feet upstream from centerline	*488
			Vienna Street—20 feet upstream from centerline	*492
		Blue Hill Creek Tributary	Filter Plant Drive—80 feet upstream from centerline	*495
			Ferry Street—50 feet upstream from centerline	*524
			Hagler Street—70 feet downstream from centerline	*548
			Hagler Street—20 feet upstream from centerline	*556
		Parker Creek	Washington Street—80 feet upstream from centerline	*494
			South Carolina Highway 20—30 feet upstream from centerline	*513
			Sunset Drive—80 feet downstream from centerline	*536
			Sunset Drive—40 feet upstream from centerline	*545

Maps available at City Hall, Court Square, Abbeville, South Carolina.

Send comments to: Honorable James W. Smith, Mayor, City of Abbeville, P.O. Box 456, Abbeville, South Carolina 29620, Attn: Jim Budds, City Manager.

South Carolina	Fort Mill (Town), York County	Mooneys Hill Branch	Link Street—120 feet upstream from centerline	*588
			Patterson Street—45 feet upstream from centerline	*589
		Dye Branch	Harris Street—45 feet upstream from centerline	*549
		Dye Branch Tributary 1	Harris Street—90 feet upstream from centerline	*552
		Leroy Branch	Hallett Street—50 feet downstream from centerline	*570
			Hallett Street—155 feet upstream from centerline	*576
			Summersby Street—100 feet downstream from centerline	*584
			Summersby Street—30 feet upstream from centerline	*592
			Lockman Street—40 feet upstream from centerline	*596

Maps available at Town Hall, 112 Confederate Street, Fort Mill, South Carolina.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to: Honorable Harry L. Hallman, Mayor, Town of Fort Mill, Town Hall, P.O. Box 159, Fort Mill, South Carolina 29715.				
Tennessee	Unincorporated areas of Marion County.	Tennessee River	Confluence of Battle Creek	*614
			Just downstream of Nickajack Dam	*616
			Just upstream of Nickajack Dam	*635
		Sequatchie River	Just upstream of US Highways 41, 64 and 72	*620
			Just upstream of Tennessee Highway 27	*648
		Little Sequatchie River	Just upstream of Nickeltown Road	*624
			Approximately 100 feet upstream of Tennessee Highway 27	*634
		Battle Creek	Confluence of Sweden Creek	*618
			Just upstream of US Highway 41 and 64 (Northwest of Battle Creek Institute).	*631
			Just upstream of US Highway 41 and 64 (North of Gaines Road)	*636
		Sweden Creek	Just upstream of Sweden Cove Road (North of Gilliams Cove Road)	*623
			Just downstream of Sweden Cove Road (South of Beese Cemetery)	*634
		Big Fiery Gizzard Creek	Just upstream of Fiery Gizzard Road (upstream crossing east of Anderson Cove).	*662
			Just downstream of Fiery Gizzard road (North of Pine Set School)	*798
Maps available at: Clerk Master's Office, Marion County Courthouse, Jasper, Tennessee.				
Send comments to: Honorable Eschol Hughes, County Judge or Mr. Frank Minter, County Clerk, Marion County Courthouse, Jasper, Tennessee 37347.				
Texas	City of Mesquite, Dallas County	Long Branch	Just upstream of Northwest Drive	*479
			Just downstream of Oates Drive	*484
			Just downstream of La Prada Drive	*505
		North Mesquite Creek	Just downstream of Lawson Road	*356
			Just downstream of Mesquite Valley Road	*420
			Just downstream of Scyene Road	*439
		Stream 2J2	Confluence with North Mosquite Creek	*489
		South Mesquite Creek	Just downstream of Military Parkway	*446
			Just downstream of Town East Boulevard	*490
		Bennett Branch	Just upstream of Belt Line Road	*442
			Just upstream of Agnew Street	*472
		Stream 2B2	Just downstream of Bruton Road	*431
		Stream 2B3	Confluence with Stream 2B2	*448
		Stream 2B4	Just downstream of Military Parkway	*460
			Just downstream of Carmack Street	*461
			Just downstream of Kearney Road	*475
		Stream 2B5	Just downstream of Unnamed Gravel Road	*451
			Just downstream of Town East Boulevard	*499
		West Fork of South Mesquite Creek.	Confluence with South Mesquite Creek	*458
		Stream 2B6	Just downstream of Antony Drive	*500
			Just downstream of Southbound Lane of I-20	*489
			Just upstream of Eastbrook Drive	*500
			Just downsteam of Baker Drive	*504
		Stream 2B7	Just upstream of Town East Boulvard	*500
			Just downstream of South Frontage Road	*516
		Stream 2B8	Just downsteam of I-635	*466
			Just downstream of North Frontage Road	*499
		Duck Creek	Just upstream of Belt Line Road	*455
			Confluence of Long Branch	*462
Maps available at: Engineering Division, City Hall, 711 North Galloway Avenue, Mesquite, Texas.				
Send comments to: Mayor B. J. Smith or Mr. C. K. Duggin, City Manager, City Hall, P.O. Box 137, Mesquite, Texas 73149.				
Texas	City of Rockwall, Rockwall County.	Camp Creek	Just upstream of State Highway 205	*445
			Just upstream of State Highway 552	*499
		Thompson Branch	Approximately 1000 feet South of the County Boundary of Collin and Rockwell County.	*445
		Brushy Creek	Just upstream of Highway 1143	*542
			Approximately 600 feet downstream of Interstate Highway 30 and 67	*568
		Long Branch	Just upstream of State Highway 205	*514
		Buffalo Creek	Just downsteam of State Highway 205	*521
			Just upstream of County Road	*536
		Sabine Creek	Just upstream of Crenshaw Road	*504
Maps available at: City Hall, Rockwall, Texas.				
Send comments to: Mayor Harry Myers or Jessie Gilbert, City Manager, 102 E. Washington Street, Rockwell, Texas 75087.				
Texas	City of Wylie, Collin County	Rush Creek	Approximately 70 feet downstream of New State Highway 78	*502
			Just downstream of East Stone Road	*473
		Rush Creek Tributary	Approximately 40 feet downstream of New State Highway 78	*511
		Muddy Creek Tributary	Approximately 140 feet downstream of Martinez Lane	*495
			Just upstream of Martinez Lane	*496
Maps available at: City Hall, Wylie Texas, 75098.				
Send comments to: Mayor John W. Akin or Denton Miller, City Manager, P.O. Box 428, Wylie, Texas 75098.				
Utah	Moab (City), Grand County	Mill Creek	Corporate Limits (first crossing)	*3,964
			500 West Street—30 feet upstream from centerline	*3,986
			Main Street—55 feet upstream from centerline	*4,030
			300 South Street—25 feet downstream from centerline	*4,050
			300 South Street—25 feet upstream from centerline	*4,056
			400 East Street—25 feet upstream from centerline	*4,082
			Mill Creek Drive—20 feet upstream from centerline	*4,128
			Intersection of Main Street and Center Street	#1
			300 feet south along 100 East Street from intersection of 300 South Street and 100 East Street.	#1

Proposed Base (100-Year) Flood Elevations—Continued

State	City/Town/County	Source of Flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Pack Creek	Confluence with Mill Creek	*3,995
			Main Street Bridge—25 feet upstream from centerline	*4,058
			Corporate Limits—(third crossing)	*4,165
Maps available at City Hall, 121 East Center, Moab, Utah.				
Send comments to: Honorable Harold Jacobs, Mayor, City of Moab, City Hall, 121 East Center, Moab, Utah 84532.				
Vermont	Town of Burke, Caledonia County	Calendar Brook	Downstream Corporate Limits	*737
			Sutton Road (Upstream)	*742
			Upstream Corporate Limits	*822
		Dish Mill Brook	Confluence with Branch Passumpsic River	*820
			State Route 114 (Upstream)	*827
			Town Highway 48 (Upstream)	*864
		East Branch Passumpsic River	Downstream Corporate Limits	*796
			Lunge Road (Upstream)	*872
			State Route 114 (Upstream)	*916
			Upstream Corporate Limits	*963
		Roundy Brook	1,230 feet downstream of Burke Hollow Road	*917
			Burke Hollow Road (Upstream)	*956
			2,300 feet upstream of Burke Hollow Road	*1,026
		West Branch Passumpsic River	Bugbee Road (Upstream)	*788
			Town Highway 31 (Upstream)	*850
			Town Highway 54 (Downstream)	*896
			Town Highway 54 (Upstream)	*904
			Upstream Corporate Limits	*955
		Sutton River	Confluence with West Branch Passumpsic River	*894
			U.S. Route 5 (Upstream)	*911
			Upstream Corporate Limits	*925
Maps available at the office of the Town Clerk.				
Send comments to: Mr. Jack Davis, Chairman of the Board of Selectment of Burke, Town Office, Burke, Vermont 05871				
Washington	Tenino (Town) Thurston County	Scatter Creek	McDuff Road—at centerline	*263
			Olympia-Tenino Highway—100 feet upstream of centerline	*269
		Scatter Creek Tributary	Confluence with Scatter Creek	*275
Maps available at City Hall, 308 Hodgen Street, Tenino, Washington.				
Send comments to: Honorable Robert J. Pettit, Mayor, Town of Tenino, Town Hall, P.O. Box T, Tenino, Washington 98589.				

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27069 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5568]

National Flood Insurance Progam; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction to proposed rule for the City of Tempe, Maricopa County, Arizona.

SUMMARY: Due to a recent engineering analysis, it has been determined that the correct elevation for the Upstream Corporate Limits should be 1,188 feet. This revision is in the area along the Salt River between mile stations 26.25 to 26.86 and is necessary to insure agreement with contigous studies.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority of Federal Insurance Administrator 44 FR 20963).

Issued: August 9, 1979.

Gloria, M. Jimenez,

Federal Insurance Administrator

[FR Doc. 79-27070 Filed 8-30-79; 8:49 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5689]

National Flood Insurance Program; Proposed Flood Elevation Determination

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction to proposed rule for the Town of Snow Hill, Worcester County, Maryland.

SUMMARY: Due to a typographical error, the State Route listed as a location under the Source of Flooding of Pocomoke River was misnumbered. The correct title is "State Route #12". The corresponding elevation was correct as published.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: August 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27073 Filed 8-30-79; 8:49 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction to proposed rule for the Borough of Meshoppen, Wyoming County, Pennsylvania.

SUMMARY: Due to a recent engineering review, the following elevations have been revised. They are correct as follows:

Source of flooding	Location	Elevation
Meshoppen Creek	Confluence with unnamed tributary	658
Little Meshoppen Creek.	Mowry Street	648
	Northern Corporate Limits	691

The other locations and elevations listed for the community are not in need of revision.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program (202) 755–5581 or Toll Free Line (800) 424–8872 (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Janaury 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: August 9, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-27074 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-4985]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Cancellation of proposed rule for the Township of Penn, Perry County, Pennsylvania.

SUMMARY: The Office of Flood Insurance and Hazard Mitigation has erroneously published at 44 FR 4729 on January 23, 1979, the proposed flood elevation determination for the Township of Penn, Perry County, Pennsylvania. Thie notice will serve as a cancellation of that publication. A new notice of proposed flood elevation determination will be published in the near future.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872 (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: August 13, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-27075 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5325]

Revision of Proposed Flood Elevation Determinations for the City of Morgan Hill, Santa Clara County, Calif., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Morgan Hill, Santa Clara County, California.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 20451 on April 5, 1979, and in the *San Jose Mercury*, published on or about April 5, 1979, and April 12, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 17555 Peak Avenue, Morgan Hill, California.

Send comments to: Honorable Wayne Wengert, Mayor, City of Morgan Hill, City Hall, 17555 Peak Avenue, Morgan Hill, California 95037.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Morgan Hill, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coyote Creek	Boys Ranch Private Drive—100 feet upstream from centerline.	*390
Llagas Creek	1st Corporate Limits—at centerline.	*315
	2nd Corporate Limits—at centerline.	*327
West Little Llagas Creek.	1st Corporate Limits—at centerline.	*310
	Monterey Highway—150 feet upstream from centerline.	*316
	Wastsonville Road—75 feet upstream from centerline.	*318
	Lacrosse Drive—100 feet downstream from centerline.	*321
	Edes Court—50 feet upstream from centerline.	*329
	Cosmo Avenue—50 feet upstream from centerline.	*331
	Fifth Street—at centerline	*341
	Second Street—50 feet upstream from centerline.	*344
	Wright and Hale Avenues—50 feet upstream from centerline.	*350
	Approximately 1,000 feet southeast of the intersection of Monterey Highway and Watsonville Road.	#1
	Intersection of Monterey Street and 4th Street.	#1
	Monterey Street between East Dunne Avenue and Bisceglia Avenue.	#1
	Approximately 900 feet southwest of intersection of Hale Avenue and Llagas Road.	#1
	Monterey Street between Bisceglia Avenue and San Pedro Avenue.	#2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 13, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-27071 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5038]

Revision of Proposed Flood Elevation Determinations for the Town of Rocky Hill, Hartford County, Connecticut Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Rocky Hill, Hartford County, Connecticut.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 6446 on February 1, 1979, and in the Hartford Courant, published on or about January 31, 1979, and February 7, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the proposed flood elevations are available for review at Town Hall, 699 Old Main Street, Rocky Hill, Connecticut.

Send comments to: Honorable Paul T. Daukas, Mayor, Town of Rocky Hill, Town Hall, 699 Old Main Street, Rocky Hill, Connecticut 06067.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll free line (800) 424–8872, room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Rocky Hill, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, (metropolitan distnct) datum
Connecticut River	Confluence with Dividend Brook.	29
	Upstream Corporate Limits	29
Dividend Brook	Confluence with Connecticut River.	29
	Conrail Culvert—50 feet downstream from centerline.	29
	Conrail Culvert—50 feet upstream from centerline.	38
	Dividend Pond Dam—120 feet downstream from centerline.	38
	Dividend Pond Dam—25 feet upstream from centerline.	50
	Swamp Dam—50 feet downstream from centerline.	72
	Swamp Dam—75 feet upstream from centerline.	81
	Main Street Culvert—25 feet downstream from outlet.	105
	Main Street Culvert—50 feet upstream from inlet.	114
	Brook Street—150 feet downstream of centerline.	116
	Brook Street—100 feet upstream from centerline.	122

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: August 13, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-27072 Filed 8-30-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 21, 87, and 90]

[Gen. Docket No. 79-188; RM-3247; FCC 79-464]

Allocating Spectrum for, and To Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: A Notice of Proposed Rule Making and Inquiry is adopted.

SUMMARY: In response to a petition filed by the Xerox Corporation, the Commission is proposing the re-allocation of frequencies in portions of the 10.55–10.68 GHz band for Digital Termination Systems. This Notice also proposes rules and policies, and makes an Inquiry as to the merits of these and other rules considered appropriate, for the establishment and operation of a new common carrier radio service utilizing such system.

DATES: Comments must be received on or before November 14, 1979, and reply comments must be received on or before December 14, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION, CONTACT:

J. Berton Withers, Jr., Spectrum Allocation Division, Office of Science and Technology, 2025 M Street, NW., Washington, D.C. 20554, (202) 632-6350—Room 7310.

James K. Smith, Esq., Common Carrier Bureau, 1919 M Street, NW., Washington, D.C. 20554, (202) 632-6910—Room 500.

In the matter of amendment of Parts 2, 21, 87 and 90 of the Commission's rules to allocate spectrum for, and to establish other rules and policies pertaining to, the use of radio in digital termination systems[1] for the provision of common carrier digital telecommunications services.

Adopted: August 1, 1979.

Released: August 29, 1979.

[1] In the remainder of this Notice, we will use the term Digital Termination Systems to refer to the two-way transmission links between the subscribers' premises and the local collection/distribution points in systems such as proposed by Xerox.

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By the Commission: Commissioner Lee absent; Commissioner Fogarty issuing a separate statement.

I. Introduction

1. On November 16, 1978, the above numbered petition was filed with the Commission by the Xerox Corporation (hereinafter "Xerox"), requesting the re-allocation of the 130 MHz of spectrum between 10.55 and 10.68 GHz and the adoption of other rules and policies as may be necessary to permit the establishment of common carrier nationwide telecommunications networks for the high-speed, end-to-end, two-way transmission of digitally encoded information for such purposes as document distribution, computer data transfer and teleconferencing. Xerox calls the service it would provide over such a network "Electronic Message Service". The principal subscribers to such service, according to Xerox, would be widely dispersed business and governmental organizations requiring intra-company communications between offices located in major U.S. cities.

2. For intercity transmission, the proposed network would utilize terrestrial microwave and satellite facilities presently provided for in the Commission's rules. The most innovative aspect of the network would be for the use of terrestrial microwave radio to provide the final transmission link directly to subscribers' premises. The Xerox Telecommunications Network (XTEN), Xerox's intended design, would employ a "cellular" configuration of omni-directional transmitting and receiving stations (called "local nodes" by the petitioner) located throughout a metropolitan area to provide direct two-way communication with transceivers located at subscribers' premises. The local node stations would be linked to a city-wide collection/distribution station called a "city node" using conventional narrow beam microwave radio circuits. A drawing by the petitioner depicting the proposed network is contained in Appendix A to this notice.

3. It is to provide for these two segments—the communication links between the subscribers and the local node, and those between the local node and city node—of its proposed nationwide transmission network that Xerox proposes the re-allocation of spectrum. Specifically, Xerox proposes that 100 MHz be allocated for what we are calling the Digital Termination System (i.e., the links between subscribers and local nodes), and 30 MHz for the internodal transmission links. Xerox proposes that the spectrum for these facilities be obtained by re-allocating the band 10.55–10.68 GHz, which is now allocated to the mobile service (see § 2.106 of the rules). Xerox also proposes specific technical and licensing regulations pertaining to the use of the proposed spectrum including a limitation on eligibility for frequency assignment which would accept only those applicants willing and able to construct networks serving the top 100 U.S. cities within 84 months after receipt of section 214 authorization, with substantial construction to be performed in the early years.

4. Comments on the petition were received from twelve parties, and three parties filed reply comments. Most comments supported the Xerox proposed service and radio system concepts, but several parties were opposed to specific proposals in the petition. These comments and replies are summarized in Appendix B and have been taken into account in developing this notice. Based upon information submitted in response to the Xerox petition and analysis done by our staff, we are proposing in this notice the re-allocation of a portion of the spectrum requested by Xerox, because it tentatively appears that such a re-allocation would be consistent with the public interest; we are proposing technical standards pertaining to channelization, modulation, interference, etc., and other aspects of spectrum utilization; and we are addressing policies pertaining to entry eligibility, interconnection and other regulatory matters.

II. Basis for Commission Action and Organization of this Notice

5. Under the provisions of the Communications Act of 1934, as amended, 47 U.S.C. 151 et seq., the Commission is given broad responsibility and authority for the management of the radio spectrum (Title III of the Act) and for the regulation of interstate common carrier communications by wire and radio (Title II). The touchstone of our decision-making in this proceeding is embodied in two particular sections of the Communications Act. First, in section 1 (in Title I) we are required to adopt regulatory policies

> so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication . . .

Second, in Title III, section 303(g) we are required to allocate spectrum in a manner which:

> . . . generally encourage[s] the larger and more effective use of radio in the public interest; . . .

The Xerox petition raises important issues regarding our discharge of these responsibilities, and it is the purpose of this proceeding to deal with those issues and to adopt rules and policies as may be appropriate to serve the public interest.

6. Our treatment of the issues in this Notice is organized into two major sections: the first dealing with spectrum management issues; the second with common carrier issues. Where we feel that our understanding of a particular issue is sufficient, and where appropriate, we will propose specific rules. Where a clear choice between alternative solutions is not apparent, we will discuss the alternatives and request comments. As the title states, this Notice is both a proposed rulemaking and an inquiry. However, we have attempted to identify and discuss all issues, and we intend, if justified by the record developed in response to this Notice, to resolve all issues and adopt appropriate rules and policies without requesting further public comment. For this reason, more time than usual is being provided for the preparation of comments and replies, and respondents are asked to address each issue of interest as factually and fully as possible.

III. Spectrum Management Issues

7. The Commission's responsibilities under Title III of the Communications Act of 1934, as amended, require it to allocate [2] the radio spectrum among the various non-Federal uses (radio services) and to adopt technical regulations to ensure efficient utilization of the spectrum and prevent interference between licensees. No non-Federal use of the spectrum is authorized in the United States (except by special rule waiver) unless specifically provided for in the Commission's Rules and Regulations, including in most cases an allocation of spectrum, as specified in § 2.106 of the rules. Thus, when a new use of radio is to be accommodated, the Commission must amend its rules to provide for that use in a manner consistent with proper management of the spectrum.

8. Because virtually the entire usable portion of the radio spectrum is, and has been for some time, allocated (planned) for presently defined radio services, any new use [3] which is to be accommodated requires that some portion of the spectrum be re-allocated. In other words, new services can be satisfied only by reducing [4] the amount of spectrum available to existing services. Thus public interest dictates that any such re-allocation be preceded by a finding that the new service is of higher potential benefit [5] to society than the service(s) it is displacing in the spectrum. Also, as there may be other potential new uses of a given band, each must be evaluated and weighed against each other and existing uses before decisions can be made concerning any re-allocation. Desirably, the final allocation decision adopted will represent the most valuable combination of all possible uses. We say "desirably" because the determination and comparison of potential value of radio services is, at best, an inexact process. This is especially true if projections far into the future are involved, and for this reason we normally attempt to plan domestic allocations based on requirements expected no more than about a decade in the future.

9. With the foregoing in mind, the logical first step in dealing with an allocation proposal such as that advanced by Xerox, is to evaluate the potential benefits of the proposed service to society and the dependency of those benefits on the use of radio. If it can thus be reasonably established that an allocation of spectrum is justified, we must then estimate the amount of spectrum needed for the proposed use over approximately the next decade, and select an appropriate band for reallocation. In evaluating candidate bands, the comparative benefits of other potential uses must, of course, be weighed (and it may be found that the new use cannot be fully satisfied). Finally, appropriate technical regulations must be developed which will insure efficient use of the new allocation. Before proceeding with the above analysis, however, it is well to consider whether an allocation is needed or whether the proposed service can be satisfied within existing allocations. This leads us to state the following issue:

Is a New Allocation Necessary for the Service Proposed by Xerox?

10. As mentioned above, the Xerox proposal actually involves two somewhat different uses of radio for which allocations are proposed in the petition: 100 MHz for a two-way termination system between subscribers and the so-called "local nodes"; and 30 MHz for two-way transmission between local nodes and city nodes. The latter function, although important to the system proposed by Xerox, does not appear to be a new use in terms of allocations, as it could presently be authorized in existing common carrier, terrestrial fixed point-to-point bands. Although Xerox requests 30 MHz of additional shared spectrum for this function, it does not show why presently allocated bands cannot be used. Most notable are the bands at 4, 6, 11 and 18 GHz. A check of the Commission's assignment records indicates relatively heavy use of the 4 and 6 GHz bands, but lighter use of 11 GHz and practically no use of 18 GHz. Although the lesser used bands are higher in the spectrum than that proposed by Xerox, there is no clear justification in the petition for a special allocation for this particular point-to-point function. However, we invite further comments from Xerox and others on this question.

11. We turn now to the two-way transmission links from local nodes to subscribers in the proposed Xerox network. The distinguishing aspect of this part of the network as exemplified by XTEN is the wide-angle (typically ≥ 90°) horizontal coverage of the local node transmitters. All of the existing common carrier bands mentioned above are set up for use in highly directional point-to-point systems. [6] The mixing of narrow and wide beam transmission systems in the same band is not considered desirable spectrum management practice and would lead to inefficiencies in the coordination and assignment of frequencies within a given area. Thus, it would appear that, if this portion of a network such as Xerox proposes is to be authorized, a new allocation would be required. Alternatively, a portion of one of the existing common carrier point-to-point bands could be redesignated for this point-to-multipoint use. Although this latter approach would not be a re-allocation, *per se*, (rather a re-structuring of an already-allocated common carrier band), it would have a similar effect, i.e., a reduction in the spectrum available for the presently planned use of the band, which in this case is point-to-point common carrier fixed service. Thus, before proceeding with either approach (and both will be considered in more detail below), the potential benefits in the use of radio as opposed to other transmission media for Digital Termination Systems for the service proposed by Xerox must be established.

Is the Use of Radio for Digital Termination Systems [7] Justified?

12. In its petition, Xerox claims the use of radio in lieu or wirelines for what we are calling Digital Termination Systems will result in communication services which are faster, less expensive, more reliable and of higher quality. This will be possible, according to Xerox, because radio provides wider available information bandwidth; can be optimized for digital transmission; and makes more efficient use of capital facilities.

13. Attempting at this stage to compare quantitatively the relative cost of various transmission media which are, or might be, used in Digital Termination Systems, including telephone lines, coaxial cable, optical fiber and satellites is difficult. Based on what information we have, however, it would seem that the capital costs of installing highspeed digital radio transmission links in urban areas would be substantially less than the capital costs of installing any new hard-conductor transmission system for the kind of area-wide coverage proposed by Xerox. At a minimum, Xerox's proposal offers the potential for faster, more reliable, and higher quality service. [8] Existing telephone lines are now being used for digital transmission to subscribers at apparently attractive costs, but are presently limited in available bandwidth. Even under the proposed ACS (Advanced Communications Service) offering by the Bell System, dial-up lines would be

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[2] While the procedure used herein for allocating the spectrum is based purely on administrative decision making, comments are also invited on Appendix C to this notice which contains a discussion of market alternatives which might be used in the future to improve this process. As we point out in paragraph 32, these market forces could also aid in promoting the use of spectrally efficient radio system designs and equipment. However, our decisions on the issues raised by the petition are in no way dependent on resolution of questions on the use of the market to aid our regulatory decision making.

[3] Except for low power (Rule Part 15) and experimental (Part 5) uses which do not normally involve allocations.

[4] Even band sharing, as opposed to outright re-allocation, involves a reduction in spectrum availability for existing services.

[5] Only those benefits attributable to use of the spectrum are relevant. Thus, alternative means of accomplishing all or part of the objectives of a proposed service, but not requiring use of the spectrum, must also be evaluated.

[6] The one exception is the band 2150–2162 MHz used for one-way, Multipoint Distribution Service which also employs wide-angle transmission paths to subscribers. However, for reasons discussed in footnote [18] below, this band is not considered suitable for the uses proposed by Xerox.

[7] See footnote 1, above, for the definition used herein.

[8] For a discussion of the relative capabilities of alternative systems for providing this kind of service, see official docket file for OST working paper, "An Analysis of Alternative Systems for Digital Electronic Message System", dated May 25, 1979.

limited to 4.8 kb/s (thousand bits per second) data rate, although dedicated high-speed lines with up to 56 kb/s would also be available. Data speeds comparable to that proposed by Xerox (256 kb/s) are not now proposed for wireline users, although we are aware of experimentation being done in wireline speeds as high as 200 kb/s.[9]

14. As an alternative to either wirelines or the terrestrial radio system proposed by Xerox, users requiring highspeed information transfer could be accommodated by installing a domestic satellite earth terminal directly on their premises. However, the high capital cost of earth stations would appear to make the approach uneconomic for small-volume users. On the other hand, a terrestrial radio Digital Termination System, such as Xerox proposes, would enable many small users throughout a city to time-share a single earth station without, at the same time, being restricted to the slower transmission speeds of wirelines. Since all of the terrestrial radio facilities except the relatively inexpensive subscriber stations would also be time-shared, this approach would seem particularly beneficial for low-volume users. It would appear, therefore, that the use of radio for Digital Termination Systems would serve the public interest. This leads to the next issue.

How Much Spectrum Should be Allocated for Digital Termination Systems?

15. Xerox's procedure for determining the amount of spectrum required for Digital Termination Systems involves the following steps: (1) estimate, through market analysis, the anticipated rate of information transfer to be transmitted by all such systems in the geographical area of highest demand during the peak hour of use in a typical day, in 1990 and (2) convert that projected peak information rate into a peak spectrum bandwidth requirement based on the spectral efficiency of the radio transmission system.

16. The foregoing procedure would appear to be a reasonable method of calculating peak spectrum need and is, in fact representative of the method we normally use. If the resultant amount of spectrum were to be allocated, and the market forecasts are correct, there should be no shortage of spectrum for the new systems over the ensuing decade. However, it is not always possible to allocate according to peak requirements because of other demands for spectrum. Also, any market forecasting is subject to large error leaving considerable room for judgment in deciding how much spectrum would be required. If the potential benefits of a new radio system appear great and unanticipated uses of the system appear probable, we may tend toward generosity in the allocation, particularly in a part of the spectrum where the overall demand is light. In more crowded bands, we may allocate less spectrum than indicated by such market forecasts. In all cases, we must recognize the uncertainties in the allocation process and, through prudent planning, retain as much flexibility as possible to allow for future needs as they evolve. With these caveats thus in mind, we can proceed with our analysis of this issue.

17. Because of the detail with which Xerox presents its market study, and its apparent reasonableness, we decided to base our estimates on an evaluation[10] of Xerox's market study rather than developing independent forecasts. Our conclusion is that, although the Xerox study leaves us with many questions and uncertainties it does appear to represent a reasonable, although rough, estimate of the potential demand for the proposed service. Also, several of the parties commenting on the petition indicated general agreement between their own market assessments and that of Xerox. We therefore are accepting the Xerox market forecast as a basis for calculating the required amount of spectrum for Digital Termination Systems.

18. The peak hour information rate derived in the Xerox market study for the New York SMSA (Standard Metropolitan Statistical Area) in the year 1990 is 104.6 Mb/s (million bits per second). Thus, applying a spectral efficiency standard of 1.0 bit per second per Hertz[11] this information rate would require 105 MHz of spectrum. However, this would assume no reuse of the spectrum within an area, whereas the Xerox proposal contemplates complete spectrum re-use many times within the same city. Thus, the actual amount of spectrum needed would correspond to the information transfer that would occur within the busiest cell rather than over the entire metropolitan area. Based on our own analysis of the geographical distribution of potential users within the New York SMSA,[12] we estimate that only approximately 60% of the total projected information rate for that city will exist within the busiest cell, even in the worst-case circumstance where no line-of-sight obstructions are assumed, where a cell 6 miles in radius is centered on Manhattan. Thus, it would appear that Xerox has overestimated the amount of spectrum needed, even assuming its market projections are valid.

19. Considering the above, we conclude that an allocation of 60 MHz for Digital Termination Systems will provide adequately for the services envisioned by Xerox. This is apparent even assuming no improvements in spectrum efficiency of these systems over the next 10 or so years. However, we note that a one-half reduction in cell size in the system proposed by Xerox would increase spectrum re-use by a factor of four.[13] Such techniques could be used, if necessary, to expand the capacity of the allocation, although the economics of such measures would have to be considered. On the other hand, if these systems experience dramatic growth far beyond today's expectations or become attractive for other uses, such as voice or video, a 60 MHz allocation may be inadequate even with more efficient use. For this reason, it would be desirable, if possible, to locate the proposed allocation in a region of the spectrum where additional spectrum could be temporarily reserved for possible future allocation if required. This brings us to the next issue.

Where Should the New Allocation Be Located in the Spectrum?

20. As discussed in the introduction to this section of the Notice, a new allocation almost inevitably means a reduction in spectrum for existing services. Also, any particular band which may be a candidate for re-allocation to a particular new service could also be re-allocated for other new uses. Moreover, in addition to considering existing and other possible uses (including those of the Federal Government) of candidate bands, we must take into account the technical suitability of different portions of the spectrum for the proposed use (namely propagation conditions and available bandwidth); technology (cost, performance, availability, etc.); and

[9] See "Digital Transmission Capability of the Loop Plant", Volume I, *ICC 1979 Conference Record.*

[10] See official docket file for OPP working paper, "An Assessment of the Market Potential for Xerox's XTEN Electronic Message Service", dated March 5, 1979.

[11] Xerox proposes 0.8 bit/sec/Hertz, but we feel the higher number is feasible and preferred, as discussed in paragraph 28, below. This analysis omits explicit consideration of "overhead".

[12] From data supplied by the U.S. Department of Commerce Bureau of Economic analysis. (See official docket file for OST working paper "Amount of Spectrum Needed for a Xerox-type System at 10.6 GHz", dated June 20, 1979.)

[13] This gain in spectrum efficiency in the termination system would be partially offset by the larger number of inter-nodal links required.

international allocation agreements (*e.g.*, the Radio Regulations of the International Telecommunications Union (ITU)).

21. The order in which we apply these band selection criteria in reducing options is also important as it affects the final choices that must be made. Because it would serve no purpose to allocate spectrum that was propagationally or otherwise unsuited to the application, we first define the absolute upper and lower spectrum limits beyond which the new use would not appear feasible. Second, because of the difficulty of using domestic allocations which are in derogation of the ITU allocation plan, we eliminate from consideration, at this stage, all bands which are not allocated in Region II [14] for Fixed Service. Third, because of the basic division of spectrum allocation authority between the FCC and the Executive Branch, we eliminate bands presently designated domestically for Federal uses. The candidate bands thus remaining are then ranked in order of preference according to existing occupancy, the lesser occupied bands being most preferred. The final band selection is made from the preferred bands on the basis of a combination of several factors, including available technology and the relative merit of other potential uses of candidate bands.

22. Applying these criteria in the present case [15] quickly narrowed the preferred choices to two bands: 10.55–10.68 GHz and 17.7–19.7 GHz. [16] A closer analysis of these two possibilities [17] leads to the following conclusions: either band could be used, with little cost or performance difference in areas of low rainfall rates, but 18 GHz systems could be more expensive in areas of high rainfall; present utilization of both bands is light and not a basis for preference; technology (equipment) appears more readily available and proven at 10 than at 18 GHz. Thus, it appears that 10.6 GHz would be the preferred band even considering that it is in a part of the spectrum which is now generally more in demand than 18 GHz. We are therefore proposing an allocation in the 10 GHz range. However, we are not ruling out the possibility of using 18 GHz, and comments on both alternatives are invited.

23. Looking more specifically at the 10.55–10.68 GHz band we find that several potential new uses, in addition to Xerox's proposal, were brought to the forefront during our preparation for the upcoming 1979 World Administrative Radio Conference (WARC). The final U.S. proposals [18] for this band, if adopted by the WARC, would provide additional domestic allocation choices for this band. Specifically, we are referring to maritime services in the 10.55–10.6 GHz band and passive space sensors in the 10.6–10.68 GHz band. To what extent these new services may be implemented domestically, if provided for by the WARC, will be decided through subsequent domestic allocation proceedings. However, the fact that these services were included in the U.S. proposals indicates at least a tentative judgment that some future domestic allocation provision is anticipated. We would not wish, therefore, to foreclose such future choices at this time unless clearly necessary to satisfy other higher priority domestic needs of an urgent nature. Such does not appear to be the case here. The available spectrum in this band, if properly planned and shared, should be adequate to meet all of the envisioned needs.[19]

24. Our proposed allocation plan for this band is set forth in Appendix D to this Notice. It should be noted that the plan provides an immediate allocation of 60 MHz for Digital Termination Systems of the kind proposed by Xerox. The plan is also arranged in such a way as to provide future flexibility if we decide at a later date to implement other services which the U.S. has proposed to WARC. For example, by placing the subscriber transmitters in the upper end of the band, we minimize potential interference to possible future passive sensor operations.[20] Also, by placing the proposed new allocation above 10.57 GHz, we retain the option of implementing maritime safety services between 10.55 and 10.57 GHz, for which services the U.S. proposes that priority be given in this band. Finally, two fixed service "reserve" bands are being proposed adjacent to the proposed new allocations to provide future allocation flexibility to meet what may be a more expansive growth in the use of Digital Termination Systems than now envisioned on the basis of present market forces (see paragraph 19 above). The remaining portions of the band will remain as presently allocated, at least until after the WARC results are known. As a final point, the two bands proposed to be allocated for Digital Termination Systems as well as the two reserve bands are arranged in the table so that a uniform separation of 65 MHz can be provided between the subscriber and local node frequencies. This spacing, proposed by Xerox, will facilitate duplex operation of the system and also allows for an efficient arrangement of the allocations within the band. To insure efficiency of use of the allocation, technical standards must then be adopted—which leads to the final allocation issue.

What Technical Standards Need to be Adopted to Insure Efficient Use of the Spectrum?

25. To respond fully to the petition Xerox has filed, the Commission must analyze the major technical proposals which Xerox recommends the Commission adopt. The following section discusses these major parameters and requests comments regarding the merits of adopting each standard. We strongly urge members of the public to address the technical parameters in detail in their comments so that the Commission will have the best information on which to make a final determination. The technical standards which will be addressed are: (1) the advisibility of adopting a standard which requires that licensees of Digital Termination Systems use a cellular design; (2) what an appropriate channel width might be for these systems; (3) what modulation spectral efficiency should be employed; (4) what power levels and antenna types and sizes are appropriate; and (5) what

[14] As defined in the ITU Regulations, geographical Region II includes all of the U.S. and the rest of North and South America.

[15] See official docket file OCE working papers "Spectrum Availability for EMS" dated December 22, 1978 and "Spectrum Availability for DEMS" January 9, 1979.

[16] The 2150–2162 MHz band presently allocated for multipoint distribution systems was eliminated due to its small bandwidth, its limitation to one-way transmission, and its present level of utilization. This band was mentioned in several of the comments to the petition.

[17] See official docket file for OST working paper "Analysis of the 10 and 18 GHz bands for Digital Electronic Message Service" dated July 12, 1979.

[18] Forwarded by the U.S. State Department to the ITU, and incorporated into ITU Document 45, "Proposal for Allocation Table in the Bands 1215 MHz–40 GHz," dated January 31, 1979.

[19] This would not be possible if, as proposed by Litton in its petition (RM–2788), and in its comment in Docket 20271 (Notice of Inquiry on preparations for WARC) and on the Xerox Petition, this band were allocated for microwave cooking. The basic electromagnetic incompatibility of such use with the other proposed services would preclude effective spectrum sharing and result in inefficient use of this band. (See official docket file for OCE working paper, "Electromagnetic Compatibility Analyses for Microwave Ovens, NASA Passive Sensors, Radio Astronomy, and Xerox—proposed Common Carrier Electronic Message service in the 10.55 to 10.68 GHz band" dated March 12, 1979.) For this reason, the U.S. did not include the Litton proposal for this band in its proposals to the WARC. Because a domestic provision for consumer devices such as microwave ovens in derogation of the ITU allocation table would not be feasible, we are not considering such devices as a potential domestic use of this band. However, we will not dispose of the Litton petition until the final results of the WARC are known.

[20] See OCE working paper referenced in footnote 19.

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frequency coordination procedures should be required.

26. Xerox has developed a system design (XTEN) [21] which uses the cellular concept of frequency reuse. This design uses vertical and horizontal polarization discrimination between the same frequencies in adjoining cells as well as sectorized radiating antennas at the nodal stations to provide for complete reuse of frequencies in each cell throughout the entire SMSA. Estimates for reuse efficiency of other cellular systems, such as in land mobile applications, appear to be less than the Xerox approach. We therefore seek comments on the technical feasibility of Xerox's design. Also, while we are proposing that Digital Termination Systems be required to employ the cellular reuse concept, if a more efficient systems concept exists or if this one could be improved, we would appreciate the presentation of that information in the comments.

27. In regard to assignment bandwidth, we are concerned that the proposed assignment of wideband channels—Xerox proposes 5 MHz—may initially result in a relatively inefficient use of the spectrum by Digital Termination System licensees. We therefore ask comments on the technical/economic feasibility of assigning smaller increments of bandwidth, say 2.5 or 1.0 MHz, which would tend to avoid the lengthy periods of time of non-use of portions of the wider assignments; would provide for more system operators; and would reduce the probability of comparative hearings. [22]

28. Our investigation of the modulation technique to be used by Xerox indicates to us that a basic 250 kHz channel, in lieu of 277 kHz as is contemplated for use by XTEN, could easily accommodate a 256 kb/s bit rate. From our investigation on what is sometimes called Fast Frequency Shift Keying (FFSK), deviation ratios as low as 0.5 seem feasible. Xerox proposes to use a deviation ratio of 1.0. However, the work of Pelchat, [23] indicates that a ratio of around 0.7 may be more efficient. If the pelchat figure were used, a channel width of less than 250 kHz could accommodate the 256 kb/s bit rate. Additionally, such a reduction of the deviation ratio would have the proposed systems conform to the 1.0 bit per second per Hertz efficiency standard presently in the Rules. [24] Therefore, we are proposing to adopt a standard channel width of 250 kHz. We recognize that some channel widths other than 250 kHz may be more appropriate if bit rates other than 265 kb/s are required. Therefore, we are specifically requesting comment on the optimum bit rate and channel width for the proposed systems. Alternatively, we ask for comment on the feasibility of a flexible policy which would allow system designers to choose the channel width that would be optimum for their particular designs as long as the 1.0 bit per second per Hertz efficiency standard is met.

29. We realize, of course, that while the number of bits per second per Hertz is a technical measure of spectral efficiency, it is not the sole determinant of the overall transmission efficiency of a communications system in using its assigned bandwidth. The amount of useful customer data transferred per unit of spectrum under actual operating conditions is perhaps a more meaningful measure of such efficiency. Hence, the percentage of potential channel capacity consumed by "overhead" functions such as addressing, error detection and correction, retransmission, reservation of channels, etc., is also important. We therefore desire comments on the entire range of issues affecting the overall efficiency of a system in using the spectrum. In particular we expect proponents of specific system designs to detail the expected information throughput of their systems per unit of spectrum over a given geographical area under actual operating conditions.

30. Xerox has also proposed certain standards for transmitter power and antenna size. Our analysis indicates that the power levels proposed by Xerox appear reasonable for cellular-type Digital Termination Systems. These levels are 0.5 watt for the local node stations and 0.04 watt for the subscriber stations. The proposed use of standard B antennas, instead of the standard A antennas presently required by the Rules, [25] likewise appears to be a reasonable trade-off between performance and cost. Additionally, most of the potential interference problems which might be related to either of these two parameters—power level or antenna size—would be principally intrasystem problems under the control of the system operator and may not be a major regulatory concern.

31. The proposal to amend the present coordination rules, however, could cause problems between systems. The present rules prohibit harmful interference being caused to an existing licensee. [26] Xerox has proposed that licensees make "exceptional efforts to avoid harmful interference". We do not believe that Xerox has presented sufficient information for the Commission to propose this change in the Rules. Digital Termination System operators will have a considerable investment of capital in their systems and could be significantly harmed if interference occurred. Therefore, the present requirement that harmful interference will not be caused, is to be maintained.

32. Many of these questions relating to system design might not arise if users were charged the fair-market value for spectrum use. Each user would be faced with making appropriate trade-offs between implementation of a radio service consuming costly spectrum and use of high-cost spectrally efficient equipment (achieving high data rates in narrower bandwidths, for example). Market prices for specrum use could lead to economically-efficient choices among alternative spectrum utilizations and system designs, and at the same time, save the administrative costs which are incurred in trying to approximate these efficient choices through rulemakings. As stated in footnote 2 above, however, none of our decisional responses on matters directly relevant to Xerox's petition for rulemaking are subject to resolution of questions on the use of market alternatives. Nevertheless, we invite comment on how the Commission might implement a system for charging for the use of spectrum assuming we had the legal authority to do so.

33. In summary, we believe that use of radio spectrum for systems to provide for and foster new and innovative services is consistent with the Act. In accord with our mandate in Section 1 (partially quoted in paragraph 5, above), to the extent that "rapid" and "efficient" digital communication services are not currently available to "all the people of the United States", spectrum to support systems providing such services would appear to be an "effective use of radio in the public interest". Therefore, we have proposed an allocation of 10.6 GHz of 60 MHz for Digital Termination Systems of the type proposed by Zerox plus an additional 30 MHz in reserve for possible allocation to such systems in the future. Additionally, we have

[21] Note that XTEN is Xerox's intended system implementation, and whether it would be authorized is a matter of a separate licensing procedure for the service Xerox proposes.

[22] See more on the comparative hearing issue at paragraph 40 C (4) below.

[23] Pelchat, M. G., *IEEE Transactions of Space Electronics and Telemetry*. Volume one, SET–10, March, 1964.

[24] Rule § 21.122(a)(1).

[25] Rule § 21.100(c) states that antennas meeting performance standard A small be employed, except in areas not subject to frequency congestion, where standard B antennas may be used.

[26] Rule § 21.100(d) states a licensee "will avoid harmful interference to other users."

concluded tentatively that the cellular design for Digital Termination Systems appears most spectrally efficient, and have discussed certain technical standards regarding channel assignment, modulation efficiency, power levels, antenna size and coordination procedures. The proposed allocation changes are contained in Appendix D, and the other proposals have been discussed in the text of this Notice. The public is invited to comment on each of these proposals.

IV. Common Carrier Regulatory Issues

34. The foregoing sections address the allocation of spectrum for Digital Termination Systems which would constitute essential links in a nationwide high-speed digital transmission system. In proposing that such spectrum and facilities be used to support a high speed interstate digital electronic message service, the Xerox proposal reflects current developments in electronics and market applications of computer processing technology. In this regard, computers and data processing have created demand for high speed communications channels, and these channels have increasingly been made available. The Commission has encouraged both of these interdependent activities by allowing for private development of microwave communications systems, [27] by encouraging new entry by competitive providers of common carrier microwave communications, [28] and by encouraging competitive entry in provision of satellite communications. [29] These decisions were in part intended to assure that adequate communications capability would be available to support integrated computer communications and data processing.

35. Xerox's proposal for establishment of a new type of service is consistent with this trend. Xerox is proposing that computer-driven technological developments be used to allow electronic means to aid in dissemination of documents which at present are largely distributed manually. The technology for this is presently available; however, communications channels of sufficient bandwidth are not. The existing limitation which has prevented such service offerings has been the bandwidth of channels which are available at customers' premises to connect terminal devices. Ordinary terrestrial wire channels are either of voice bandwidth or specialized private line channels with up to about 56 KB/s data transmission rates. [30] Domestic satellite channels have the capability of providing high bandwidth channels at customers' premises, if each customer is willing to sustain the expense of constructing an earth station at its premises—an economic constraint which has tended to limit use of such earth stations to only the largest of users. Moreover, such specialized and private line high bandwidth channels are currently not "public" networks in the sense that a given customer cannot generally use them to communicate with another customer of the offering carrier; they are "private" and used only for communications among the same customer's locations.

36. Xerox, and virtually all of the parties who have commented in this proceeding are urging that we allocate spectrum to support services which could be available to the public today, given the existing terminal technology, but for a lack of communications channels of sufficient bandwidth universally available at customers' premises. Through our regulatory authority over interstate and foreign communications channels, be they wire or radio, we largely control the availability of such a capability. For this reason, we regard our decisional responses to the issues of this proceeding as important, and as defining and shaping the future availability of digital transmission services to the public. Our decisions herein on spectrum allocation, licensing policies, and technical operation of these digital systems will have broad impact on growth of new services, and must, of necessity, weigh in broad public interest considerations.

37. The Commission has traditionally encouraged open entry in communications on the premise that such regulatory policies would redound to the benefit of the public. For example, in *Specialized Common Carriers*, we found that specialized markets were largely undeveloped, and that authorization of new entry would meet an increasing and widespread public demand for availability of diverse and flexible means for meeting specialized communications requirements. [31] Here, too, we believe there is a need to adopt regulatory policies allowing entry for various high-speed digital transmission services.

38. Also, it has been this Commission's consistent policy to adopt regulatory policies which encourage and promote availability of new and innovative communications offerings and services to the public, and we view our proposed allocation action as consistent with this history. However, Xerox has put forth a specific proposal which addresses various technical and regulatory parameters which go beyond the question of spectrum allocation. In this regard, we do not believe it appropriate at this time for us to define precisely the contours of the new services, nor to set forth specific regulatory policies affecting the market structure and potential entrants, nor to establish the nature and degree of regulation to be exercised in this area. Xerox's proposal raises substantial regulatory considerations in these areas. For example, concern is expressed that Xerox's proposed entry requirements and the uses to which such digital transmission systems may be put are too limiting. Moreover, various other regulatory concerns arise which need addressing before a comprehensive determination can be made with respect to procedural and operational rules governing use of such systems. We are, therefore, soliciting comments on these and related issues. It is our intent and desire to be in a position to formulate the necessary rules at the conclusion of the comment period such that those end-to-end digital services permitted over Digital Termination Systems could be provided on a nationwide basis without the need for futher proceedings. Accordingly, in addition to other matters raised in this proceeding, we specifically seek comment on the following issues relative to establishing appropriate Commission policies and rules governing the proposed spectrum allocation and the provision of common carrier services over such systems.

39. *Industry Structure Issues*

A. Xerox has proposed specific language to amend Part 2 of the FCC's Rules (frequency allocations), which would define the usage to which these systems may be placed. [32] Will this

[27] *Above 890 Mc.*, 27 F.C.C. 359 (1959), 29 F.C.C. 825 (1960).

[28] *Microwave Communications Inc.*, 18 F.C.C. 2d 953 (1969); *Specialized Common Carriers*, 29 F.C.C. 2d 870 (1971) aff'd sub. nom. *Wash Utilities & Transp. Com'n.* v. *F.C.C.*, 513 F. 2d 1142 (9th Cir., 1975) cert. denied 423 U.S. 836 (1975). See also, *Bell Tel. Co. of Penns.* v. *F.C.C.*, 503 F. 2d 1250 (3d Cir., 1974) cert. denied 422 U.S. 1026 (1975).

[29] *Domestic Satellites*, 22 F.C.C. 2d 86 (1970), 35 F.C.C. 2d 844 (1972) aff'd sub. nom. *Network Project* v. *F.C.C.*, 511 F. 2d 786 (D.C. Cir., 1975).

[30] AT&T offers a 1.5 Mb/s specialized digital private line DDS offering, but this is not generally available for public use. Indeed, the only present user of this service is government.

[31] *Specialized Common Carriers*, *supra*, at 905–10.

[32] Xerox has proposed Section 2.1 of the Commission's Rules be amended to add:

Electronic Message Service. A two-way domestic public radio service rendered on specifically allocated microwave frequencies between a fixed common carrier receiving and transmitting station (possibly transmitting in an omni-directional or sector pattern) and customer premises transceivers

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definition adequately define the systems' new uses in a manner which promotes the objectives of the Communications Act (*e.g.*, Sections 1, 214, 303, 309, 313, and 314 of the Act)? What alternative definition would better promote these objectives? What alternative definition would better serve the dual objectives of encouraging development of new and innovative common carrier service offerings and of assuring that spectrally inefficient uses do not proliferate over these systems?

B. In light of comments submitted in A, above, what is the appropriate market definition and what public interest factors should be considered in establishing the structure under which digital services would be provided over theses systems (*e.g.* entry barriers imposed through licensee qualification standards, limitations on relationships with non-carrier or affilitated entities, limitations on conduct, etc.)?

C. Xerox is proposing that entry be limited to entities which are willing and able to commit themselves to operating in the top 100 SMSAs within 84 months of receipt of Section 214 authorization, with substantial construction to be performed in the early years:

(1) Is there a reasonable economic justification for this requirement for entry?

(2) In light of your comments on the frequency assignment policies we should follow in licensing these systems, what would be the effect of such policies on the structure of the industry in both the short term and the long term?

(3) Xerox justifies its proposed entry barriers in part by claiming that the nature of the services which it proposes requires a single entity to assure compatibility of otherwise disparate portions of end-to-end communications paths. What is the validity of this argument for services provided over these systems? What should the FCC do to assure end-to-end service and development of a "Nationwide . . . communications service" (Section 1 of the Act)?

(4) Xerox also justifies its proposed entry qualifications by claiming that they will avoid a necessity for time-consuming mutually-exclusive licensing proceedings. Since available spectrum and nationwide licensing policies would only support a limited number of entrants, there are other measures short of an entry limitation that could be used to avoid a necessity for mutually-exclusive licensing proceedings:

a. Without addressing the question of our legal authority to adopt at this time such an approach,[33] would some form of auction of the spectrum available or the use of spectrum fees avoid a necessity for mutually-exclusive licensing proceedings? Please comment on the public benefits (and detriments) of a licensing-by-auction or fees policy for spectrum to support this service; any preliminary findings of legal, technical and financial qualifications which might be required; how either type of system might be implemented; and alternative licensing policies which might be adopted for some, but not all of the spectrum to promote other governmental objectives.

b. Alternately, we invite any specific proposals to simplify comparative consideration of mutually exclusive applications. For example, we request comment on whether the Commission could establish certain threshold qualifications for competing applicants such that it could then reasonably conclude further comparative evaluation would be unnecessary or unlikely to reveal significant differences among applicants. Could the Commission then rely on some form of random selection from a pool of qualified applicants? Please comment also on any proposals by which the Commission might rank applicants individually or by categories ranging from those most qualified to least qualified. In the event it is decided that a number of applicants fall within the most qualified category, could the final selection be made by random selection? Please comment on the public benefits (and detriments) of such an approach to assigning spectrum for this proposed service; any preliminary findings of legal, technical and financial qualifications which might be required; and whether such "pool" of applicants from which licensees are to be selected should be national, regional, or something less than regional.

c. Considering the reserve bands proposed in the preceding section, would there be merit in a policy which would allow for the assignment of channels in the reserve bands in areas where mutually-exclusive applications are filed?

d. The technical/economic feasibility of smaller bandwidth assignments (e.g., 5 MHz, 2 MHz, 1 MHz, etc.) is addressed in paragraph 27, above. Taking such feasibility into account, would there be merit in a flexible spectrum assignment policy which would, within certain maximum and minimum limits, divide the allocated spectrum into assigned bandwidths according to the initial number of applicants within a given city? For example, given a 60 MHz allocation, the assigned bandwidth per applicant in a city having 10 applicants would be 6 MHz; in a city with 20 applicants, the assigned bandwidth would be 3 MHz; etc. There would probably be a lower bandwidth limit, perhaps 1 MHz, below which a cellular type system such as XTEN would be uneconomic or inefficient due to interference between a large number of small adjacent systems. It may also be desirable to limit the maximum assigned bandwidth to any applicant for the reason mentioned in paragraph 27, above.

(5) Assuming we were to require applicants to offer nationwide service through our licensing policies, to what extent, if any, might smaller entities be permitted to engage in associative or joint ventures and be licensed this service?

(6) What would be the public benefits and detriments of licensing schemes based on (a) regional rather than nationwide licensing (as proposed by Xerox) or (b) less than a regional scheme based on mandatory interconnection and technical compatability? Does the experience of 1500 interconnected local telephone companies providing interconnected nationwide service suggest the viability of something less than a nationwide licensing policy?

D. To what extent, if any, and under what constraints or conditions, may existing communications common carriers be authorized to operate digital transmission systems? Are diffferent standards required for different classes of common carriers (*e.g.*, carriers with monopoly revenue bases, carriers engaged solely in competitive markets, etc.)?

E. What relationship is desirable between the licensees of satellite systems and the licensees of terrestrial microwave facilities or Digital Termination Systems?

(1) Is there any reason to bar these entities from being one and the same?

(2) If these entities are not identical, should they be required to order their relationship by tariff (as is currently required), or would efficiency be promoted by allowing such a relationship to be ordered by private contract?

F. What regulatory constraints or safeguards, if any, should we adopt to assure that carriers operating the proposed systems fully and vigorously compete with one another, and with other technologies and means of communications?

G. What resale, sharing, or interconnection obligations or restrictions, if any, should be imposed with respect to carriers providing services over these systems?

H. Are there, or should there be, any restrictions on interconnection by carriers or users of these systems with international communications channels provided by international communications common carriers?

40. *Jurisdiction*

A. Of what relevance, if any, are Sections 2(b) and 221(b) of the Communications Act to services provided over digital transmission systems?

(1) Will such systems be used for intrastate communication? Should they be? If so, do such systems introduce state regulation of aspects of the system or services provided over such systems?

(2) Is it likely that intrastate use of this service will be so *de minimis* as to justify preemption of state regulation on the ground that any intrastate communications will be only ancillary to an interstate communications service? (*See, e.g., TWX*, 38 F.C.C. 1127 (1965).)

(3) If we were to adopt comprehensive federal regulatory policies in favor of competition in providing these services over these systems, would such a policy serve to preempt inconsistent state regulation?

B. Since all communications in this service will be using radio, are such communications wholly interstate under Section 301 of the Communications Act?

C. Does the Congressional purpose of the Communications Act creating the FCC for the purpose of making available "so far as possible, to all the people of the United States, a rapid, efficient, Nationwide . . . communications service . . ." (Section 1) provide an independent basis for preemption of inconsistent state regulatory policies over this service? (*See also*, Sections 2(a) and 3(b).)

41. *Technical Limitations, Restrictions, or Requirements over Facilities Used for this Service*

A. To what extent, if any, should nationwide technical standards be adopted to promote the availability of nationwide service:

(1) Governing interconnection of authorized services among carriers who offer them?

(2) Governing interconnection of these services with communications offerings of other common carriers, or with other offerings of carriers who offer these services?

(3) Governing connection of these services with their users; terminal equipment?

B. Should licensees be required to make available to the public necessary interface information?

C. In view of the likelihood that these facilities will be used for communications which are private or sensitive:

(1) To what extent, if any, is Commission action required to assure secrecy of communications and to promote the objectives of Section 605 of the Communications Act?

(2) Will the marketplace adequately assure that required security measures are undertaken in the absence of regulatory constraints?

D. What other technical standards or requirements, if any, are needed to assure users' rights to make reasonable use of carrier-furnished services and facilities in ways which are privately beneficial without being publicly harmful?

E. Will the licensing actions emanating from this proceeding cause sufficient environmental impact to require the filing of environmental impact statements? [34]

42. *Voice Uses of this Spectrum*

A. The Commission has established a policy of allowing users of communications common carrier facilities to seek to optimize their uses of these facilities by removing unnecessary restrictions on their use. See, *Hush-a-Phone*, 22 F.C.C. 112 (1957); *Carterfone*, 13 F.C.C. 2d 423 (1968) and 14 F.C.C. 2d 571 (1968); *Interstate MTS and WATS*, 56 F.C.C. 2d 593 (1975); *Resale and Shared Use*, 60 F.C.C. 2d 261 (1976) and 62 F.C.C. 2d 588 (1977); *AT&T* ("Piece Out"), 60 F.C.C. 2d 939 (1976). In view of these established Commission policies, and in view of the spectrum which might be made available for common carrier communications as a result of this proceeding:

(1) Would use of the systems at issue herein for voice services promote, be of no effect on, or be inconsistent with the statutory requirement of Section 303(g) of the Act that we make regulations which generally encourage the larger and more effective use of radio?

(2) Would use of the systems at issue herein for voice communications by multiple vendors be consistent with or contrary to FCC policies on competition for intercity communications?

B. To what extent and under what conditions could voice communications over these systems provide an alternative to local distribution facilities now provided by (monopoly) local telephone companies to specialized common carriers and domestic satellite carriers? Should such uses be authorized in this proceeding?

C. What resale, sharing and interconnection obligations and restrictions, if any, should be imposed and authorized, respectively, for carriers offering voice communications over these systems?

D. What impact, if any, would use of these systems for voice communications have on competition and diversity of supply in the communications equipment market(s) for:

(1) Equipment used by service vendors?

(2) Equipment employed by users of the service?

43. *Common Carrier Requirements*

A. *Tariffs.* What degree of specificity in tariffs will be required to satisfy Section 203 of the Communications Act in view of the market structure which may develop in this service? Would the public interest be served by a partial or complete relaxation of the requirements of our rules implementing Section 203 of the Act?

B. *Facilities Certification.* In view of the extent of competition that may exist in this service, would the public interest be served by a modification or elimination of detailed Section 214 certification requirements?

C. *Accounting.* The present Uniform System of Accounts was constructed for telephone companies and telegraph companies, and may not be efficient for interstate common carriers using solely radio facilities.

(1) Does Section 220 of the Communications Act give the Commission discretion to waive accounting requirements for carriers providing service over the proposed systems (contrast Sections 220(a) with (b))? If so, should we so waive?

(2) Are the accounting systems within our rules (for telephone and telegraph carriers) in whole or in part applicable to carriers providing this service? Should they be?

(3) To what extent are accounting safeguards required for carriers providing this service, given your views of the degree of competition that could exist in this market?

(4) In view of your comments on the foregoing, what changes should be made to existing accounting rules, and what

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(transmitting in a point-to-point pattern) for the delivery or acceptance of communications to or from subscribers to intercity common carrier communications service.

The issues raised in this document are not limited to services covered by this definition, but apply to any service which may be authorized over the proposed digital transmission systems.

[33] We note that under pending legislation (S.611) the Commission would be permitted to use auctions, fees, and/or lotteries to assign licenses as a means of avoiding protracted mutually-exclusive licensing proceedings. In the event that such legislation is adopted, or that the existing statute is construed as authorizing such an approach to licensing, we wish to have compiled a record on such matters. A final decision is in no way dependent on authorization of such an approach to licensing.

[34] See 42 U.S.C. 4332.

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new accounting rules should be adopted, for carriers providing this service?

(5) Are different accounting requirements warranted for carriers:

a. with monopoly revenue bases;

b. engaged solely in competitive markets;

assuming that such existing communications carriers will be licensed to operate these systems?

44. In the foregoing paragraphs we have attempted to identify issues which may be relevant in adopting appropriate policies and rules for entities providing authorized services over the proposed digital transmission systems. We also seek comment on any other issues which have not been raised, but which may be relevant to such determinations. It is our hope that parties will give these issues serious consideration such that a thorough and complete record can be developed. Assuming a sufficient record to make the requisite public interest determinations, we may be in a position to adopt the underlying procedural and operational rules necessary to implement service over the proposed digital transmission systems.

45. For further information concerning procedures to follow with respect to this rulemaking proceeding, contact J. Bertron Withers, Jr. (202) 632-6350. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of the pending rulemaking made to a Commissioner, a Commissioner's assistant, or other FCC staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all parties present. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemaking [35] is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632-2700.

46. Authority for this proceeding is contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules and regulations, interested parties may file on or before November 14, 1979, and reply comments on or before December 14, 1979. All relevant and timely comments, reply comments, and any other relevant information in the record established in this docket will be taken into account prior to the Commission's taking any final action in this proceeding.

47. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all comments, replies, statements, briefs or other documents shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Public Reference Room at its Headquarters in Washington, D.C.

Federal Communications Commission.[36]

William J. Tricarico,

Secretary.

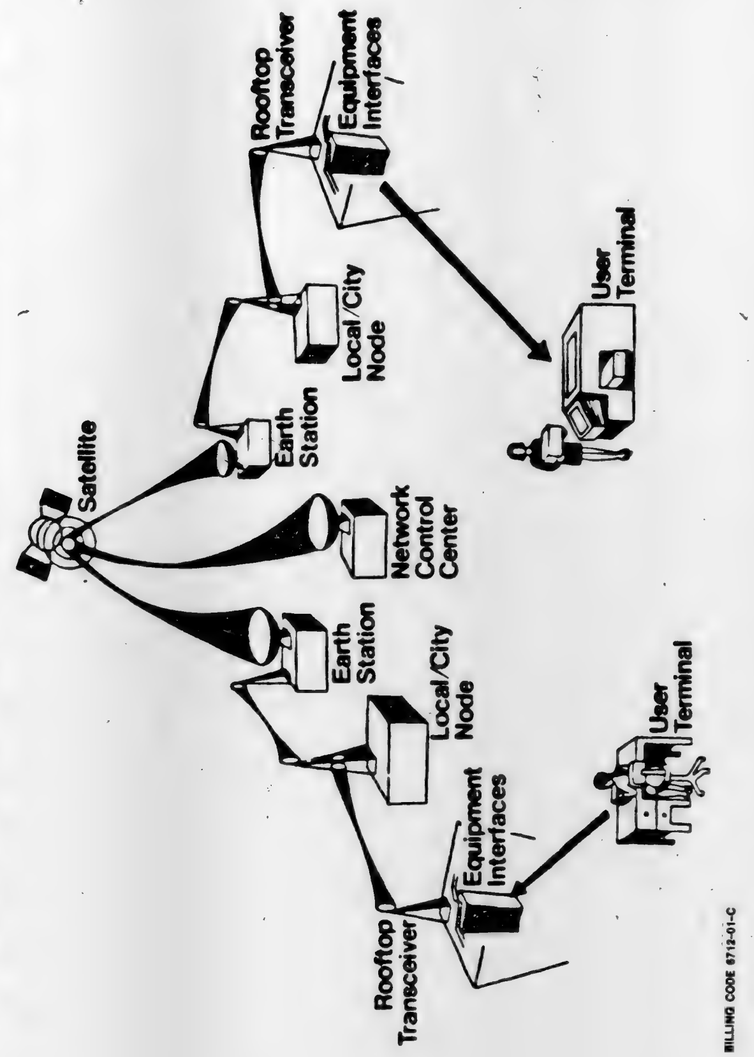
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[35] *See* 68 F.C.C. 2d 804 (1978) where the Commission set forth its interim policy. That policy will be applied to this entire Notice of Proposed Rulemaking and Inquiry, although the interim policy is not generally applicable to Notices of Inquiry.

[36] See attached Separate Statement of Commissioner Fogarty.

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Appendix A



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Appendix B

Comments

Twelve sets of comments were received, submitted by: Visions, Ltd. (Visions); the Southern Pacific Communications Company (SPCC); Satellite Business Systems (SBS); the Rochester Telephone Corporation (Rochester Telephone); Microband Corporation of America (Microband) [1]; Litton Microwave Cooking Products, Inc. (Litton); GTE Service Corporation (GTE); the Computer and Business Equipment Manufacturers Association (CBEMA); the Common Carrier Association for Telecommunications (CCAT); the American Telephone and Telegraph Company (AT&T); the American Satellite Corporation (ASC); and the Central Committee on Telecommunications of the American Petroleum Institute (API). Reply comments were received from Xerox, CCAT, and Visions.

Support

Generally, a re-allocation of spectrum for EMS [2] is supported by the commenters on the Xerox petition for rulemaking. While expressing clear opposition to the allocation, Litton has no objection in principle to the institution of an EMS. The Multipoint Distribution Service (MDS) interests, represented by CCAT, Microband, and Visions, while raising pointed areas of concern on the institution of EMS, do not directly oppose the reallocation of spectrum for the new service. However, in its reply comments, Visions calls for flexibility in the rules ultimately established, because it is contended that the future demand for such a service is not presently clear. AT&T, while questioning the need for the entire band to be exclusively allocated to the new service, supports Xerox's contention that a nationwide network to provide EMS-like services would serve the public interest.

The specialized carriers, ASC, SBS, and SPCC, all basically support the allocation for the newly proposed service. SPCC particularly points to a continuing need for new inter-city carriers to have alternate means of local distribution because the established carriers have used their "monopoly status" to act anti-competively toward new inter-city entrants.

Opposition

Litton and the MDS interests do oppose, or seriously question the re-allocation of the 10.6 GHz band to the new EMS service. Litton argues for Xerox to make a full engineering showing as to whether alternative frequency bands are available, and whether the full 100 MHz proposed is required to satisfy the public interest. CCAT agrees with Litton in that, as expressed in CCAT's reply comments, Xerox gives no detailed explanation of why 8–14 GHz is optimum for EMS. Also, Litton maintains that the Commission should concurrently consider its rulemaking petition RM–2788 for the operation of microwave ovens. Xerox questions in its reply comments whether additional frequencies for microwave ovens should be allowed to undermine the prospect for advancements in communications services like an EMS. Xerox recommends that the Litton petition be denied.

CCAT, an MDS industry association, contends that the proposed EMS is really MDS with return channels, and that such configuration utilizing a greater amount of spectrum would be anti-competitive. CCAT urges the Commission to allow for the concurrent use of 2150–2162 MHz for EMS. As an alternative, CCAT suggests that the 2 GHz frequencies could be used in conjunction with the 10 GHz frequencies as return channels—which Xerox, in its reply comments, asserts would not achieve any of the cited advantages, nor allow for frequency reuse. While the MDS interests attest to the existence of the nationwide market identified by Xerox, they contend that they should not be unfairly prevented from having the same opportunity to satisfy this market that EMS operators would have. The MDS industry points out that the Commission in authorizing MDS [3] expressly contemplated the carriage of the various forms of communications traffic that the proposed EMS would carry.

Barriers To Entry

Despite general support for the re-allocation of spectrum to the proposed EMS, many of the specifics of the Xerox proposal are vigorously challenged. Several of the parties contend that the proposed criteria for qualifying as an EMS carrier could serve as barriers to entry. The comments focus on the proposed requirements that an EMS carrier serve a minimum of 100 Standard Metropolitan Statistical Areas (SMSA), and that it have the financial muscle necessary to construct such a national system within 84 months. In this regard, several commenters contend that interconnection of smaller, local or regional carriers could provide the desired nationwide service. Representative of the tone of the comments on alleged barriers to entry is that of Rochester Telephone which characterizes "Xerox's proposal (as) replete with anti-competitive requirements. . .".

Choice of Band

Commenting parties other than Litton and the MDS interests also address various aspects of the appropriateness of the 10.6 GHz band for EMS, and whether Xerox's proposals could result in an efficient utilization of the band. API fears that because of the U.S. proposal to the WARC to have satellites share portions of the 12.2–12.7 GHz band with the currently allocated Operational Fixed stations, "a loss of utility of the 12 GHz band" could result. Should this occur, API contends that the 10.55–10.68 GHz band could serve as highly desirable relief spectrum for these private fixed stations. The Commission is requested by API to re-allocate only a minimal portion of the band, pending development of the EMS and the expected frequency congestion of the Operational Fixed stations. Only after examining these developments, API advises, should the Commission make an additional allocation to EMS. AT&T points to 38.6–40.0 GHz as a frequency band the Commission contemplated being used for local distribution. By implication, it challenges the Xerox assertion that frequencies above 14 GHz, like 39 GHz, are not optimal for EMS. AT&T also questions, along with SBS and Visions, whether an allocation for the entire 10.55–10.68 GHz band should not accommodate other common carrier services than that proposed by Xerox. These questions also relate to dissatisfaction expressed by SBS, AT&T and SPCC with the proposed definitions for DEMS and its constituent parts. Xerox's reply is that its definition of EMS is to preclude there not being sufficient spectrum to accommodate the new service along with services which are already provided for at other frequencies. More generally, Rochester Telephone reminds the Commission that it should consider alternatives uses of the band making a social cost-benefit analysis for all of the competing uses for the 10.55–10.68 GHz band.

Technical Standards

SPCC and SBS contend that Xerox's proposal to reduce the spectral efficiency to 0.8 bit per second per Hertz from that mandated by our Rules [4] raises the question of whether the proposal is consistent with the Commission's objective of mandating adequate spectral efficiency. Xerox argues in reply that the spectrum efficiency achieved in a metropolitan area, considering frequency reuse within different radio cells, would exceed the Rule requirement of 1.0 bit per second per Hertz. Xerox suggests that its proposed system should not be required to achieve spectral efficiency standards more appropriately applied to wide bandwidth channels. SBS also maintains that the Xerox-proposed 5 MHz channel width assigned to each carrier in a given market is inconsistent with the transmission rates of 1.544 Mb/s and 6.312 Mb/s, standard for wideband digital transmission in the U.S. Xerox minimizes this concern in its reply comments saying that it is not aware of a market requirement for end-use at these speeds. Xerox does recognize these transmission rates as being internal to the Bell System, and suggests that a given EMS carrier could obtain the 6.312 Mb/s rate in a 5 MHz channel by employing altered modulation parameters.

The petitioner responds to contention that its proposed frequency coordination requirements are inadequate by focusing on its proposed XTEN implementation, and asserting that any interference would be "unlikely" or "rare". Xerox also replies to comments that its proposal for Standard B subscriber antennas would increase the interference potential in a given service area. The petitioner emphasizes that the nature of its proposed system in which no channel (in a given service area) would be shared with another licensee would make higher-gain Standard A antennas with better discrimination "unnecessary".

Scope of Inquiry

GTE concludes in its comments that the Commission should approve a developmental phase for the EMS Xerox proposes, under Part 5 of the Rules. In the alternative, GTE proposes that a Notice of Inquiry be instituted to investigate the many issues attendant to the petition. Rochester Telephone, in pointing out the identity of issues which may be raised relating to the MTS/WATS Inquiry [5] and to the reopened Computer Inquiry [6] suggests that the Commission carefully consider these issues while not stepping outside of its legal jurisdictiion. In this connection, Rochester Telephone advises that the Commission should be mindful of the advantages to the consuming public of full competition. Xerox, in its reply comments, contends that since EMS traffic will be "primarily non-voice", and transmission will be digital rather than analog, the market for voice will be small in comparison to the MTS/WATS market. Therefore, Xerox opposes consideration of these questions as "issues of remote relevance" which could only "prolong and complicate" our consideration of the rulemaking petition.

Appendix C

Economic Alternatives for Spectrum Allocation and Management

The discussion in the text of this Notice indicates many of the factors involved in spectrum allocation under the present administrative process. That process is, in essence, a centralized pre-planning of the use of the electromagnetic spectrum at the national level. Such pre-planning is intended to accomplish certain objectives including properly rationing scarce spectrum among alternative radio services; minimizing harmful interference between radio services; promoting technically efficient use of the spectrum; and ensuring compliance with international treaties. Over the years, this centralized allocation process has resulted in an orderly development of the utilization of the spectrum, with direct administrative costs which have been quite small compared to the enormous value of radiocommunications to the nation.

Nevertheless, the administrative process has often been criticized as inflexible and inefficient. In the future as the spectrum becomes increasingly scarce, we can certainly expect this process to become more complex and expensive to administer. Also, large investments in equipment based upon existing allocations will make it more difficult to re-allocate spectrum to higher valued uses administratively. Not only will direct administrative costs increase, but the built-in inertia against change will create significant indirect costs in terms of lost opportunities for the development of new communications services.

As an alternative to a centralized administrative process, reliance on market forces to allocate spectrum would provide a more direct means of determining the highest economically valued uses for spectrum, a determination that, at best, we can only hope to approximate under our current allocation procedures. If users were charged the fair market value for the use of the spectrum, only those uses for which the value of using the spectrum exceeds the cost would be implemented. A system of rationing by price would ensure that spectrum is allocated to its most economically valuable uses. Users would have an incentive to seek substitutes for spectrum when it is less costly to do so; to use only as much spectrum as they are willing to pay for; to share spectrum, and to develop new spectrum-saving technologies.

Because no method has thus far been been developed to define freemarket property rights that can be transferred and enforced at reasonable cost, the Commission is still compelled to use the administrative process described. However, even within the administrative process, reliance on market forces to the maximum feasible extent would provide additional information on the value of the spectrum in alternative uses, which would greatly assist in deciding the best allocation of the spectrum among services.

We introduce this discussion here in the hope that it will enhance public understanding of the spectrum allocation process and how that process might be improved through greater reliance on the marketplace. We have noted elsewhere in the text of this Notice how the use of market mechanisms might reduce the need for administrative involvement in other aspects of spectrum management. We welcome comments on any of these general discussions, in addition to the specific policies and regulatory issues developed in this proceeding. However, we do not intend that our final decision on the specific allocation or other issues of immediate concern, discussed in the body of this Notice, would depend on a resolution of the merits of using economic alternatives or the question of our statutory authority to apply such alternatives.

Appendix D

It is proposed that Part 2 of Chapter I of Title 47 of the Code of Federal Regulations be amended as follows:

1. In § 2.1 a new definition be added in alphabetical order as follows:

[1] Additional informal comments were received from Microband on February 8, 1979, subsequent to the comment period deadlines (comments were due January 8, 1979; reply comments, January 30, 1979). These informal comments are not specifically addressed in this Notice, but because of the appropriateness of the issues raised therein, will be made a part of, and considered in further proceedings in this docket. Microband, of course, may submit, as it sees fit, formal comments in this proceeding.

[2] This term is used only as the petitioner proposes it, and as to which the commenters replied. We have chosen (in the body of this document) to focus our allocation discussion on the facilities (which we call Digital Termination Systems) which would be used to provide an EMS.

[3] Report and Order, *Multipoint Distribution Service*, 45 F.C.C. 2d 616 (1974).

[4] Rule Section 21.122(a)(1) requires that microwave digital modulation employed below 15 GHz be capable of a bit rate at least equal to the bandwidth in Hertz required to accommodate that bit rate, i.e. 1.0 bit per second per Hertz.

[5] 67 F.C.C. 2d 757 (1978).

[6] 64 F.C.C. 2d 771 (1977); 61 F.C.C. 2d 103 (1976).

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§ 2.1 Definitions.

* * * * *

Digital termination nodal station. A radio station providing two-way communications directly with subscriber stations in a digital termination system.

Digital termination subscriber station. Any one of the radio transceiving stations located at subscribers' premises lying within the coverage area of a nodal station in a digital termination system.

Digital termination systems. A fixed point-to-multipoint common carrier radio system providing two-way digital communications between subscriber stations and the local node stations arranged in a cellular pattern.

* * * * *

2. In § 2.106, the band 10.55–10.68 GHz in columns 7 through 11 be amended as follows:

§ 2.106 Table of frequency allocations.[1]

* * * * * * *

Band (GHz)	Service	Class of station	Frequency (GHz)	Nature of services of stations
7	8	9	10	11
* * * * * * *				
10.55–10.57	Mobile	Operational fixed		
		Operational mobile		
10.57–10.6	Fixed	Fixed		Digital termination nodal stations.
10.6–10.615	Fixed			Reserve.
10.615–10.635	Mobile	Operational fixed		
		Operational mobile		
10.635–10.665	Fixed	Fixed		Digital termination subscriber stations.
10.665–10.68	Fixed			Reserve.
* * * * * * *				

[1] As part of the U.S. proposals to the WARC, the 10.55–10.6 GHz band is to be shared on a primary basis between maritime and fixed services. Additionally, priority is proposed to be given maritime safety operations within 10.55–10.57 GHz. This priority is provided for by proposed Footnote 3782A to the international Table of Frequency Allocations. The U.S. also proposes that terrestrial fixed and mobile services operating within 10.6–10.7 GHz (and 18.6–18.8 GHz) shall be limited to a maximum equivalent radiated power of +35 dBW, with the power delivered to the antenna not to exceed −3 dBW. These limits are provided for by proposed Footnote 3783B to the Table.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

In Re: Amendment of Parts 2, 21, 87, and 90 of the Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services—Notice of Proposed Rule Making and Inquiry.

Xerox Corporation is to be commended for its proposed commitment to the establishment and operation of new common carrier nationwide digital communications service networks. We at the Commission are largely confined to talk about telecommunications competition and its benefits; it is up to the private sector and innovative entrepreneurs like Xerox to put their investment and technological talent where our theory and mouth are.

Because the proposed end-to-end, high-speed, digital information transfer system offers unique and substantial benefits to the telecommunications consumer, the Commission has wisely decided to issue a Notice of Proposed Rule Making covering all issues which must be determined before operational system applications may be accepted. While the technical and regulatory questions to be decided are neither simple nor easy, it is the Commission's stated intention to resolve all issues and adopt appropriate rules and policies without requesting further comment, if that course of action is supported by the record developed in response to this Notice. I trust that interested parties will take us at our word and submit full and complete comments in timely fashion.

[FR Doc. 79-27139 Filed 8-30-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 90]

[PR Docket No. 79-107]

Multiple Licensing of Land Mobile Radio Systems ("Community Repeaters") in the Bands 806–812 and 851–866 MHz

AGENCY: Federal Communications Commission.

ACTION: Order extending time for filing comments.

SUMMARY: The Chief, Private Radio Bureau, has extended the time for filing comments and replies in this rule making proceeding at the request of two parties who urged that additional time was warranted. The comment and reply dates have been extended by 60 days.

DATES: Comments must be received on or before October 23, 1979 and Reply Comments must be received on or before December 5, 1979.

ADDRESSES: Federal Communications Commission, 2025 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lewis H. Goldman, Private Radio Bureau Rules Division, Washington, D.C. 20554 (202) 632–6497.

In the matter of an inquiry concerning the multiple licensing of land mobile radio systems ("community repeaters") in the bands 806–812 and 851–866 MHz, PR Docket No. 79–107, 44 FR 30135, May 24, 1979.

Order

Adopted: August 17, 1979.

Released: August 21, 1979.

1. The Chief, Private Radio Bureau has before him for consideration an August 10, 1979, motion of Motorola, Inc. (Motorola) for a 60 day extension of time in which to file comments and replies in the above-captioned proceeding. Also before the Bureau are comments submitted by the General Electric Company (General Electric) in support of Motorola's motion and a partial opposition to the motion filed by California Mobile Radio Association (CMRA).

2. Motorola points to the scope and complexity of the issues raised in the Notice of Inquiry as the basis for the additional time it seeks in which to respond. General Electric urges that we grant an extension of not less than 30 days because key personnel of that compnay whose consultation is necessary to the preparation of General Electric comments are not available, largely due to a plant shutdown. CMRA, on the other hand, alleges that the requested extension of time is excessive and that any delay beyond the 15 day extension which it deems appropriate would prejudice its interests in a prompt resolution of certain abuses relating to multiple licensing of land mobile radio facilities.

3. We do not find merit in CMRA's objections. The instant proceeding was initiated by a Notice of Inquiry, and there are no specific rule making proposals before the public the adoption of which would be delayed by a grant of the requested extension. Moreover, the issues raised in the Notice are indeed broad and complex. We thus believe that the public interest will be best served by giving the parties the fullest opportunity to provide the Commission with the most comprehensive comments on the issues raised in the Notice.

4. Accordingly, Motorola's motion is granted. The filing dates for comments and replies in the above-captioned proceeding are hereby extended to October 23, and December 5, 1979, respectively.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-27226 Filed 8-30-79; 8:45 am]

BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 44, No. 171
Friday, August 31, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Chemical and Gas Storage Building, Ames, Iowa; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability of Environmental Analysis and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the construction of a chemical and gas storage building for the Pathology, Toxicology and Parasitology Laboratory, a division of the National Veterinary Services Laboratories, located in Ames, Iowa. The environmental assessment of this action indicates that the proposed structure of the subject facility will not cause significant adverse local, regional, or national impacts on the environment in the future. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

ADDRESSES: Request for copies of the environmental analysis should be directed to the Energy and Environmental Staff, Architectural Engineering, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Copies are available for public inspection during regular working hours at the following locations: The Office, Pathology, Toxicology and Parasitology Laboratory, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 711 East Lincoln Way, Ames, IA 50010 and the Director's Office, National Veterinary Services Laboratories, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 13th Street and Dayton Avenue, Ames, IA 50010.

FOR FURTHER INFORMATION: Contact John H. Green, Energy and Environmental Staff, Area Code (301) 436–8237.

SUPPLEMENTAL INFORMATION: The proposed storage facility would be erected to the rear of the laboratory facility now occupying 711 East Lincoln Way. Chemicals and gas cylinders are presently stored throughout the laboratory under recommended storage conditions; however, the laboratory building is not fire resistant and a potential accident could cause serious injury and/or death and property damage. The purpose of this proposed fire resistant facility is to add an additional margin of safety for the protection of laboratory personnel and property.

Various safety features are designed into this proposed storage facility to achieve this purpose. This negative declaration has been filed with the U.S. Environmental Protection Agency and with various Federal, State and local agencies.

No administrative action will be taken until 15 days after the date of this publication.

This notice has been reviewed under the U.S. Department of Agriculture criteria established to implement EO 12044, "Improving Government Regulations." A determination has been made that this notice should not be classified significant under those criteria. The environmental assesment referred to in the notice meets the requirements of EO 12044 and Secretary's Memorandum 1955 for an impact analysis statement. The environmental analysis is available from the Energy Environmental Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Done at Washington, D.C., this 24th day of August 1979.

M. T. Goff,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-27030 Filed 8-30-79; 8:45 am]
BILLING CODE 3410-34-M

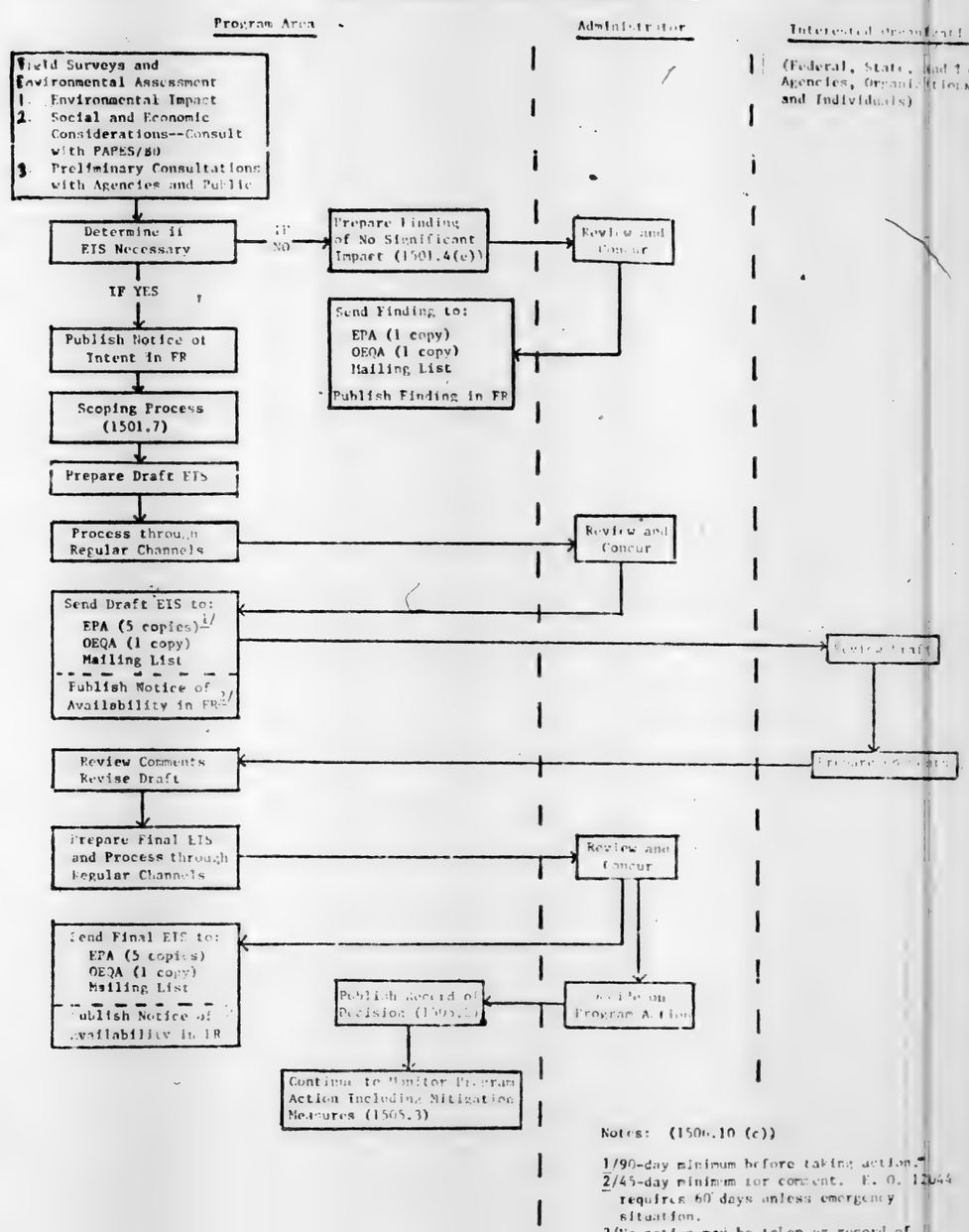
Implementation of NEPA Procedures

Correction

In FR Doc. 79–26668 appearing at page 50381 in the issue for Tuesday, August 28, 1979; on page 50383, third column, the following Appendices were omitted and should be inserted before the very last paragraph:

BILLING CODE 1505-01-M

APPENDIX I



Notes: (1506.10 (c))

1/90-day minimum before taking action.
2/45-day minimum for comment. E. O. 12044 requires 60 days unless emergency situation.
3/No action may be taken or record of decision published for 30 days after EIS is listed in Federal Register by EPA as having been filed with them.

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APPENDIX II

Cover Sheet for Environmental Impact Statement Prepared by APHIS

(Final) (Draft) (Final or Draft Supplement)
Environmental Impact Statement

TITLE

Prepared By
Animal and Plant Health Inspection Service

Cooperating Agencies

Agency Contact:
Name:
Address:

Telephone:

Geographic Areas Affected:

ABSTRACT
(One Paragraph)

Comments on this Draft must be received by _____

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Food Safety and Quality Service

Solicitation of Information; Net Weight Labeling

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice and solicitation of information.

SUMMARY: This notice announces the completion and availability of a staff report entitled "Assessment of Proposed Net Weight Labeling Regulations," prepared by USDA's Economics, Statistics, and Cooperatives Service (ESCS) for the Food Safety and Quality Service. As a result of the report, the Department is soliciting the views of consumers, industry, State and local weights and measures officials, and other interested parties on the need for and the nature of any modifications to an earlier proposal on this subject.

DATE: All comments must be received on or before October 30, 1979. Any comments received after that date will not be considered.

ADDRESS: Written comments to Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agrilcuture, Washington, D.C. 20250. Oral comments to Dr. William Dubbert (202/447-7470).

FOR FURTHER INFORMATION CONTACT: Dr. William Dubbert, Acting Director of Staffs, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202/447-7470).

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this notice. Written comments must be sent in duplicate to the office of the Executive Secretariat. Comments should bear reference to the date and page number of this issue of the **Federal Register.** Any person desiring opportunity for oral presentation of views concerning this notice must make such request to Dr. Dubbert so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

Under the authority of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) the Food Safety and Quality Service (FSQS), United States Department of Agriculture proposed new net weight regulations for meat and poultry products on December 2, 1977 (42 FR 61279-84). The Economics, Statistics, and Cooperatives Service (ESCS) of USDA was later asked to independently review the proposal and its impact in light of all available evidence. The ESCS report has now been received by FSQS. The following is the Executive Summary of the ESCS report:

Executive Summary

"The regulations proposed in response to the petition have two objectives: (1) to insure that the weight of usable meat and poultry purchased by consumers is at least equal to the weight stated on the package, and (2) to enable States to enforce strict net weight standards at retail.

The principal features of the proposal are:

1. Free liquids as well as juices, fats, and solids absorbed by the packaging material would be excluded from a product's net weight. Net weight would, therefore, equal drained weight.
2. The allowance for moisture loss due to evaporation would be eliminated. The average weight for products from the same lot would be required to equal or exceed the labeled net weight. Single packages, however, would be permitted actual weights below the labeled weight by a specified amount.
3. Federal net weight standards would be established for bulk shipments or wholesale sized packages.
4. An FSQS approved net weight quality control program would be required at most Federally-inspected meat and poultry plants.

After the proposal appeared in the Federal Register, public comments were received. There was widespread disagreement concerning both the need for the proposal and its economic impact.

FSQS awarded a contract to the Consumer Federation of America to provide an analysis of the proposal. Following submission of that study report, USDA's Economics, Statistics, and Cooperatives Service was asked to review the available evidence and provide its own assessment of the need for the proposal and the potential economic impact.

The [ESCS] study concludes that the proposal would succeed in achieving the two objectives defined by FSQS—consumers could be assured that the weight of usable meat and poultry purchased is equal to the labeled weight and States would be able to enforce a more strict net weight standard at retail. However, the study also concludes that the second objective (enforceable regulations for the States) could probably be accomplished as effectively under a system that allows free liquid as part of the product's net weight.

With respect to the definition of tare and current industry practices, the study concludes:

1. There is a high degree of compliance with the present net weight regulations and survey results indicate no evidence of consistent economic adulteration by any firm.
2. Local rules and enforcement procedures *do* influence the amount of drained weight now in product packages. Products tested in those localities using dry tare consistently have a lower average tare as a percent of gross weight.
3. The type and time of packaging does influence the amount of drained weight in product packages. Air-chilled pre-pack chicken and in-store packages have significantly less average drain as a percent of labeled net weight.

The study also concludes that the effects of the proposed rule change have been grossly misunderstood by both consumers and producers. Consumers have argued that, without a drained weight rule, they must pay "chicken prices for water". Producers, on the other hand, have argued that the proposal will add to their costs because more product will have to be packed in each consumer package. Neither assessment is accurate since the amount of drained weight meat available for sale is constant regardless of the net weight rule in effect.

Consumers cannot expect the reported price per pound of product to remain unchanged if free liquids are excluded from labeled product weights as a result of a drained weight rule. The price per pound on the label can be expected to increase and increase most for those products with relatively more free liquid. However, the cost to consumers for *usable* product would remain unchanged. In the case of random weight products (such as whole chickens), the labeled price per pound would increase, but the labeled weight would decrease by an offsetting amount. However, what consumers pay for usable product would remain unchanged. In the case of fixed weight products (such as bacon), some packers may have to add product to make certain the weight, at time of purchase, equals the fixed weight (1 lb., 2 lbs., etc.) on the label. The per package costs to consumers would be higher. However, because consumers would be receiving more usable product, the real price per pound would remain unchanged.

Contrary to contentions of many producers, actual producer costs are not increased because of the change in tare.

For random weight packages, the weight and price per pound will simply be adjusted to remove the weight of the free liquid; there is no "overfill" and processing costs per drained weight pound are unaffected. In the case of fixed weight packages some processors will admittedly need to add more product to each package. But, because the amount of drained weight meat is not affected by a labeling rule, there will be fewer fixed weight packages processed. Again, processing costs per drained weight pound are unaffected.

The main benefit of a drained weight system would be to increase the accuracy of the information available in the marketplace for *all* meat and poultry products. Consumers would be better able to make per pound price comparisons. And producers would not be competitively disadvantaged by those who use techniques that result in a higher proportion of free liquid to usable product (immersion chilled vs. air chilled). Producers of products having relatively less free liquid would no longer be placed at a competitive disadvantage by net weight rules which allow counting drained liquids as part of the product weight. Finally, the buyers of bulk packed products will have a clearer standard for checking weights of the shipments they receive. Such a standard will be helpful mainly to small buyers who may now be reluctant to adjust invoices to correct for short-weight shipments (a common practice among large volume buyers).

Predicting the *net effect* of the proposed changes on total consumer expenditures for meat and poultry products is complicated since consumer responses to the change in product information being provided are uncertain. If consumers have been appropriately discounting the free liquid, there should be no net effect. However, if the reported price per pound under current net weight rules has been accepted as an accurate reflection of relative product value, some consumers may shift to products that appear to become relatively less expensive as a result of the proposed change. If this second result is argued as the "most likely" the argument for a rule change becomes more compelling.

The quality control requirements of the proposed rule would increase industry costs $59 million to $116 million, mostly because additional personnel would be hired. The upper end of the estimate is based on the assumption that each of the 5,680 plants affected by the proposal would hire one additional full-time employee at $20,000 per year. The low end also assumes that many smaller plants would do some new hiring but also would be able to utilize existing personnel. It also assumes a less frequent rate of sampling at all plants. Assuming all the quality-control costs (potentially $116 million) are passed on to consumers, the increase in price per pound would be less than one-half of one cent ($116 million divided by 34 billion pounds equals 0.3 cents).

The major additional cost to State and local governments would be about $421,000 in new equipment to enforce the drained weight inspection procedure. There also may be some additional costs resulting for the need to purchase more pre-packed packages for weighing (under the drained weight system, packages are opened and the product drained before weighing). In addition, State and local governments might need to increase the number of inspectors in order to obtain the same coverage. The proposed net weight checking procedures are considerably more time consuming than under a dry tare standard. Most State and local officials surveyed said they believed that these additional costs would have to be absorbed by current budgets. About 10% felt their States might appropriate new funds for net weight inspection.

There may also be additional costs to some retailers resulting from the drained weight sampling procedures. Retailers may, in some areas, incur the expense of rewrapping products that have been opened and weighed, or they may have to absorb the cost of products that cannot be repackaged and are not purchased by the government inspectors."

Availability

Copies of the full report are available without charge from the Office of Information, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 and from the following regional information offices:

Connie Crunkleton, Regional Director, Information Division, USDA, Room 206, 1718 Peachtree Street, NW., Atlanta, GA 30309, (404) 257–4154.

Herb C. Jackson, Regional Director, Information Division, USDA, Room 936, 536 South Clark Street, Chicago, IL 60605, (312) 353–3631.

Harold C. Bryson, Regional Director, Information Division, USDA, Room 5040, 1100 Commerce Street, Dallas, TX 75242, (214) 749–3331.

Brian Killikelly, Regional Director, Information Division, USDA, Room 1653, 26 Federal Plaza, New York, NY 10007, (212) 264–1145.

Comments

The Department encourages consumers, industry, State and local agencies and other interested groups to review the report and submit comments within 60 days regarding its overall content, thoroughness and quality, as well as comments regarding the specific recommendations contained therein. More specifically, the Department is interested in obtaining views on the following questions as an aid in determining the proper course of action by the Department.

State and Local Enforcement

1. Given the evidence in the ESCS study of the rate of compliance with State and local net weight standards at retail, why should FSQS establish a new regulation? Or why should it not establish a new regulation?

2. What is the evidence that contradicts or modifies the ESCS findings on compliance?

3. If the ESCS findings are accurate, what would account for an apparently high rate of compliance with State and local standards?

Type of Tare

4. In light of the ESCS findings, if a new Federal net weight standard is established, should it be based on dry tare, wet tare, or drained weight?

5. How valuable to consumers is the additional information provided by a drained weight method?

6. To what extent do consumers now take into account that the weight of products includes free liquid, and that some products contain more free liquid than others?

7. How much significance should FSQS give to the ESCS finding that a drained weight system would result in a "perceived" price per lb. increase for meat and poultry products, and would have an upward effect on the Consumer Price Index? (A drained weight system is one in which free liquid would not be counted as part of a product's labeled net weight.)

Moisture Loss Due to Evaporation

8. What evidence runs counter to the ESCS conclusion that most meat and poultry products, as presently package, lose only a negligible amount of moisture due to evaporation (shrinkage)? If the ESCS conclusion is correct, why do we need allowances for moisture loss?

Quality Control

9. Are the mandatory quality control provisions of the proposed regulation necessary in order to achieve accurate net weights at retail (under a dry tare system, a wet tare system, or a drained weight system)?

10. Do the ESCS estimates of the costs to industry of quality control represent reasonable projections? If not, what additional information should be taken into account?

The Department will carefully consider comments to these and all other issues raised in the report in considering the alternatives for further regulatory action in this area.

Done in Washington, D.C., on August 27, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-27236 Filed 8-30-79; 8:45 am]

BILLING CODE 3410-37-M

Rural Electrification Administration

KAMO Electric Cooperative, Vinita, Okla.; Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $6,111,000 to KAMO Electric Cooperative of Vinita, Oklahoma, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $9,166,000 to this cooperative. These loan funds will be used to finance approximately 111 miles of 69 kV transmission line and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. B. Dean Sanger, Manager, KAMO Electric Cooperative, P.O. Box 577, Vinita, Oklahoma 74301.

In order to be considered, proposals must be submitted on or before October 1, 1979, to Mr. Sanger. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as KAMO Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 23rd day of August 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-27031 Filed 8-30-79; 8:45 am]

BILLING CODE 3410-15-M

Environmental Impact Statement; Availability of Final Statement Colstrip Project

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and Section 69–6504 R.C.M. 1947 of the Montana Environmental Policy Act of 1971, the Department of the Interior, in cooperation with the Bonneville Power Administration, has completed the final environmental impact statement (EIS) on the proposed construction and operation of the Colstrip generating units 3 and 4 in Rosebud County, Montana, and the associated coal mine and electric power transmission system (proposed Colstrip Project). The Rural Electrification Administration (REA) has participated in the preparation of this EIS as Cooperating Agency No. USDA–REA–EIS (ADM 79–8–F), pursuant to § 1501.6 of the Council on Environmental Quality (CEQ) Regulations, and intends to use it to fulfill its requirements under the National Environmental Policy Act. In this case, REA's anticipated potential actions are those of guaranteeing loans for two power generation and transmission (G&T) cooperatives, Central Montana Electric G&T Cooperative, Inc., and Upper Missouri G&T Electric Cooperative, Inc.; the first proposes to own 7 percent of the Colstrip Project, and the latter proposes to own 3 percent.

The final EIS consists of three volumes (Volumes 1, 2 and 3). Volume 1 and 2 were originally distributed in January 1979, as the draft EIS. Volume 3 is a supplement to Volumes 1 and 2. It contains changes to Volumes 1 and 2 in the form of revisions, additions, deletions or corrections. It also responds to the public and agency comments received during the public review period. The draft EIS was issued on January 5, 1979, and the public comment period ended on March 17, 1979.

During the review time, letters commenting on the draft EIS were received at the Colstrip EIS Manager's Office, P.O. Box 758, Kalispell, Montana 59901. Also, public meetings were held on February 26, 1979, in Butte, Montana; February 27, 1979, in Helena, Montana; February 28, 1979, in Missoula, Montana; March 1, 1979, in Billings, Montana; and March 3, 1979, in Forsyth, Montana. The transcripts from these public meetings are available for review at the Colstrip EIS Manager's Office at the above address, and the Public Information Office, Bonneville Power Administration, 1002 North East Holladay Street, Portland, Oregon 97208.

In addition to the designated federal offices and public libraries listed in the Geological Survey's **Federal Register** Notice of August 3, 1979, at which copies of the Colstrip Project Final EIS are available, additional copies will be available for public inspection at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, SW., Washington, D.C., Room 1268, at the offices of Central Montana Electric G&T Cooperative, Inc., 928 Broadwater Street, Billings, Montana 59102, and at the offices of Upper Missouri G&T Electric Cooperative, Inc., Sidney, Montana 59270.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Steve A. Onisko, Colstrip EIS Team Leader, Route SH, P.O. Box 3621, Portland, Oregon 97208. Comments must be received within 30 days of this Notice to be considered in connection with the proposed action.

Final REA action, with respect to this matter (including any release of funds), may be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of August, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-27237 Filed 8-30-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 79–8–133; Docket 36447]

Northwest Alaska Bush Route Proceeding; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of August, 1979.

We decided, in the Northwest Alaska Service Investigation, Order 79–8–132, to

lift the suspension of Alaska Airlines (ASA) authority and to certify Great Northern Airlines' (GNA) over the mainline routes in Northwest Alaska.

In that proceeding, the United States Postal Service expressed a concern that additional costs would be required to perform the mail service to certain Alaska bush points currently handled by Wien Air Alaska (Wien), the incumbent air carrier, through subcontracting arrangements with air taxis.[1]

In order to promote the efficient administration of the mail carriage system in Northwest Alaska, this show cause proceeding is being instituted to propose authority to those certificated carriers to carry mail to those bush points.

We tentatively find that this grant of authority to the bush points to GNA and ASA will give them and the Postal Service maximum flexibility to restructure, as needed, the existing system of mail service to Northwest Alaska, and to respond quickly and adequately to changing conditions in the future. This additional grant of authority is not predicated on any present intention of the two airlines to commence service to these bush points nor do we find that these isolated communities can support competitive services at this time.

Rather, competitive awards in the northwest Alaska mainline markets coupled with a grant of additional authority to carry mail to the bush points is an approach that best promotes a sound and stable air transportation system in the area. Competition on the mailine routes will improve existing services and provide other benefits to Alaskan passengers. Vital mail service to the bush points [2] will be advanced by giving USPS additional options for developing a more efficient mail carriage system.

To insure that the public convenience and necessity is best served, we intend to defer the effectiveness of this new authority, assuming that we make final our tentative conclusions, until December 1, 1979. This temporary delay will allow the Postal Service and the incumbent air carrier sufficient time to make internal adjustments, as necessary. The impact on the incumbent and the Postal Service will be lessened and the two competitors will be able to establish new services as warranted.

In brief, this proposed grant of authority has the potential for some significant public service contribution by expanding the options for service in the Northwest Alaskan market.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above, amending the certificate of public convenience and necessity of Great Northern Airlines for Route #208 and Alaska Airlines for Route #124, so as to authorize them to engage in the air transportation of mail after December 1, 1979, to the bush points served between Nome and Kotzebue, on the one hand, and Shismaref, Wales, Tin City, Brevig, Teller, Gambell, Savoonga, Solomon, Galovin, Council, White Mountain, Elm, Koyuk, Shaktoulik, Cape Lisburne, Point Hope, Kivaline, Noatak, Ambler, Kabuk, Shungnak, Noorvid, Selawik, Buckland, Candle, Kiana, and Deering, on the other;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 5, no later than 30 days from the service date of this order, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than 10 days thereafter;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here; and

5. This order shall be served upon all persons named in the service list of Docket 31571.

We will publish this order in the Federal Register.

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27245 Filed 8-30-79; 8:45 am]
BILLING CODE 6320-01-M

[1] Wien serves the mainline region as well as the bush points served out of Nome and Kotzebue, i.e., Shishmaref, Wales, Tin City, Brevig, Teller, Gambell, Savoonga, Solomon, Galovin, Council, White Mountain, Elm, Koyuk, Shaktoulik, Cape Lisburne, Point Hope, Kivaline, Noatak, Ambler, Kabuk, Shungnak, Noorvid, Selawik, Buckland, Candle, Kiana, and Deering.

[2] *Northwest Alaska Service Investigation*, Order 79-8-132, p. 8.

USAir, et al.; Nonstop Authority Between Denver and Minneapolis

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-8-123)

SUMMARY: The Board is proposing to award nonstop authority between Denver and Minneapolis to USAir (Allegheny Airlines), Hughes Airwest, Northwest Airlines, Ozark Air Lines, Trans World Airlines, and United Air Lines, and to any other fit, willing, and able carrier the fitness of which can be established by officially noticeable material.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by October 1, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year no later than September 14, 1979.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 36440, which we have entitled the *Denver-Minneapolis Show-Cause Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on USAir (Allegheny Airlines); Hughes Airwest; Northwest Airlines; Ozark Air Lines; Trans World Airlines; United Air Lines; Western Air Lines; Minneapolis-Saint Paul Metropolitan Airports Commission; and the City of Denver.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428, (202) 673-5354.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-8-123 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-8-123 to that address.

By the Civil Aeronautics Board: August 23, 1979.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27246 Filed 8-30-79; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended August 24, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Aug. 22, 1979	36436	Alia—The Royal Jordanian Airlines Corporation, c/o Robert N. Meiser, P.C., 1300 Connecticut Avenue, N.W., Suite 307, Washington, D.C. 20036. Application of Alia—The Royal Jordanian Airlines Corporation for an amended foreign air carrier permit pursuant to Section 402 of the Act seeking removal of the closed door restrictions to the West, proposing the addition of Amsterdam and Vienna as intermediates on its joint service route. Answers due September 19, 1979.
Aug. 23, 1979	36442	Ozark Air Lines, Inc., Lambert-St. Louis International Airport, St. Louis, Missouri 63145. Application of Ozark Air Lines, Inc. pursuant to section 401 of the Act requesting the Board to amend its certificate of public convenience and necessity for Route 107 so as to eliminate the requirement that Ozark serve at least one intermediate point on flights operating between Chicago, Illinois, and Madison, Wisconsin. Conforming applications and answers are due September 6, 1979.
Aug. 24, 1979	36453	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10016. Application of Trans World Airlines, Inc. pursuant to Section 401(e)(7)(B) of the Act requesting that its certificate of public convenience and necessity for Route No. 2 be amended by removing the one-stop restriction imposed by Order 79-8-81, August 15, 1979, between Kansas City, Missouri and Tulsa, Oklahoma. Conforming applications and answers are due September 7, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27247 Filed 8-30-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Executive Orders 11988 "Floodplain Management" and 11990 "Protection of Wetlands"; Agency Implementation program

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice of publication in final form of EDA procedures implement Executive Orders 11988 "Floodplain Management" and 11990 "Protection of Wetlands".

SUMMARY: These final procedures, EDA Directive 17.04, implement the subject executive orders in EDA projects and activities. Directive 17.04 fulfills agency responsibilities under the executive orders and Department of Commerce Administrative Order 216-11 to develop specific procedures to ensure proper consideration of impacts on wetlands and floodplains in Agency actions. This final publication of the Directive reflects changes made as a result of the public comment and review process.

SUPPLEMENTARY INFORMATION:

Background

In the April 5, 1979 **Federal Register** (44 FR 20471), EDA made available for public comment its procedures, in addition to Department of Commerce Administrative Order 216-11 (43 FR 45284, September 29, 1978), for compliance with the subject executive orders in EDA program and activities. At that time, EDA announced a thirty day public comment period on these procedures. In response to requests, EDA extended the comment period until June 7, 1979 (44 FR 29134; May 18, 1979).

Summary of Major Comments Received and EDA Responses

Comments were received from four parties and dealt with the following topics.

1. There were some concern as to why EDA was promulgating another set of federal regulations. As explained in Section I, "Introduction", this Directive has been promulgated in order to comply with the instructions contained in the executive orders and the department administrative order.

2. One commentor questioned the need to create another layer of bureaucracy within EDA by establishing the positions of Regional Environmentalist and Special Assistant for the Environment. Although those positions are provided important responsibilities by the Directive, they are not new positions. They have existed since the early 1970's and were created to implement the various environmental laws and regulations which apply to the actions of federal agencies.

3. One commentor believed that the Directive placed too much emphasis on non-structural flood protection methods almost to the point that structural flood protection methods seemed unacceptable. The Directive does place a priority on non-structural methods because of their ability to meet the twin goals of the executive orders, protection of human health and safety and preservation of the natural values and functions of floodplains and wetlands. However, structural methods are not unacceptable or ineligible for funding. Structural methods will be considered when no practicable non-structural mitigation methods exist. Section III, "Policy", has been revised to state this position more clearly.

4. Two commentors felt that the Directive went too far and can be interpreted to mean that EDA will fund no development in floodplains. This is not correct. Clearly, the purpose of the executive orders is to prevent and restrict unnecessary development in floodplains and wetlands. To do this, a search for practicable alternatives to such development must be accomplished as part of the federal review process. Applicants for federal funds must in turn consider early in their project planning processes alternatives

for avoiding or mitigating impacts to floodplains/wetlands. The content, detail and exhaustiveness of this alternative planning and federal review process will certainly vary with the type of project under consideration. For example, the location of a housing development in the floodplain would raise a much more different set of issues than the proposed location of a project which is functionally dependent upon a water location, such as port improvements.

5. One commentor believed that the Directive's definition of a wetland was more stringent than the executive orders because EDA included areas separated from their natural supply of water as a result of activities such as the construction of structural flood protection measures or solid-fill road beds, mineral extraction and navigation improvements. This language is included in order to provide an example of what Executive Order 11990 refers to in its definition as those areas which "under normal circumstances does or *would* support a prevalence of vegetative or aquatic life that requries saturated or seasonally saturated soil conditions for growth and reproduction" (emphasis added). The Directive's definition of wetland (section II) has been revised to repeat the language of the executive order with respect to the examples which were of concern to the commentor. These areas, then, are only considered to be wetlands when the test or criteria of the executive order language is met.

6. One commentor provided suggestions with respect to further guidance on assessing wetland/floodplain impacts. This guidance will be provided to our Regional Environmentalists in future guidance memoranda.

FOR FURTHER INFORMATION CONTACT:
Special Assistant for the Environment, Economic Development Administration, Room 7217, Washington, D.C. 20230, Telephone: (202)377–4208.

EDA Program to Implement Executive Orders 11988, "Floodplain Management", and 11990, "Protection of Wetlands"

Sections

I. Introduction.
II. Definitions.
III. Policy.
IV. Role of the Special Assistant for the Environment.
V. Role of the Regional Environmentalist.
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IX. Planning Related Programs.
X. Applicability to Projects.
XI. Effect on Other Directives.
APPENDIX A—Executive Orders 11988 and 11990.
APPENDIX B—Procedures for Determining Floodplain Location.
APPENDIX C—Procedures for Determining Wetland Location.
APPENDIX D—Selected References, by Topic
EXHIBIT A—Form Letter.

I. Introduction

A. Purpose

This Directive establishes the Economic Development Administration policy and procedures for implementing Executive Orders 11988 and 11990.

B. Scope

On May 24, 1977, the President issued Executive Orders 11988 "Floodplain Management" and 11990, "Protection of Wetlands," (attached as Appendix A). These Orders direct Federal Agencies to avoid, to the extent possible, all actions associated with the modification or destruction of floodplains and wetlands or actions that may increase the risk of loss of life or property resulting from flood or storm damage.

C. Natural Values and Functions of Floodplains and Wetlands

EDA recognizes floodplains and wetlands as unique and vital natural resources. Both ecological systems, or ecosystems, possess many natural values and carry on numerous functions that are of great benefit to man. Because wetlands frequently lie within the margins of the floodplain, the two ecosystems share many of these natural values and functions.

Floodplains and wetlands provide valuable protective barriers against flooding and storm damage by acting as buffers which dissipate the energy of flood waters, wave attack and storm surge and lessen the effects of storm-related erosion along streambanks and shorelines. Both areas possess natural capabilities to temporarily store and hold flood and storm waters and serve to lessen the magnitude and intensity of flood and storm events. Wetlands, and to a somewhat lesser degree, floodplains contribute to improve water quality by virtue of their abilities to remove and trap suspended solids and absorb organic and mineral pollutants from the water column. Both areas can constitute important aquifer recharge areas and as such may be substantial contributors to the replenishment of ground water supplies.

Floodplains and wetlands furnish a significant portion of the habitat requirements for such diverse species of wildlife as reptiles, amphibians and mammals, including many game species (e.g., deer, moose and bear). Additionally, many threatened and endangered species depend upon these areas for habitat and/or cover. Both areas provide open space and constitute valuable recreational and aesthetic resources. Frequently, these areas are of archeologic, historic and cultural significance as a result of their early and continued habitation and utilization by man. In addition to the natural values and functions shared by both ecosystems there are several that are unique to wetlands.

Wetlands occupy the transition zone between open water or aquatic ecosystems and upland or terrestrial ecosystems. This unique position provides a continuum of environments which furnish essential food supplies and provide crucial habitats for numerous, diverse organisms. As a result, wetlands rank among the most productive of ecosystems. Intertidal wetlands, for example, can be up to seven times more productive than the best prime agricultural lands. These wetlands are vital spawning, nursery and feeding areas for many of the economically important species of coastal and marine fin and shell fishes. Freshwater wetlands provide spawning areas and habitat for large numbers of non-marine fish, many of which are important commercial or game species. In addition to fish and shellfish, wetlands produce a wide variety of cash crops, some of which are important to local and regional economies. Products such as timber, cranberries, fur and wild rice are examples. Additionally, wetlands are the major providers of nesting, migrating and winter habitat for most species of waterfowl. A variety of birds other than water fowl are also closely dependent upon wetlands for nesting and breeding sites and cover.

D. Degradation of Natural Values and Functions

The degradation of floodplain and wetland natural values and functions contributes greatly to the pollution of the Nation's rivers, lakes, bays and coasts; diminishes the abundance and diversity of wildlife and vegetation; increases the costs and hazards associated with flooding and coastal storms; accelerates erosion along stream banks and shorelines and increases the loss of lands productive to the economy and important to the well-being of the people. Man's continued alteration of the presence within the floodplain result in property damages in excess of three billion dollars annually. The accompanying costs of disaster relief and rehabilitation often exceed one billion dollars annually. These damages continue to occur despite substantial expenditures on structural flood control methods. Activities which debase floodplain and wetland values and functions result in increased costs to consumers, increased tax burdens on the public and a generally lowered quality of life for the American people. Wetlands, in addition to being highly productive and efficient ecosystems, are extremely fragile and easily perturbed. The critical balance maintained in nature between the water and the land and the import and export of materials is far too often upset or destroyed by the activities of man. Usually, those activities which (1) alter the water budgets of wetlands, (2) cause quantities of sediment or other pollutants to be discharged into wetlands in sufficient quantities to choke or kill the filtering mechanisms, (3) remove materials by dredging or (4) add materials by filling result in the destruction of many of the important wetland values and functions. Estimates indicate that over 40 percent of the wetland ecosystems originally present within the contiguous 48 States have been destroyed as a result of man's past activities. Today, only about 3½ percent of the total land area of the continental United States remains as wetlands.

II. Definitions

Flood or flooding. A general and temporary condition of partial or complete inundation of land areas from the overflow of inland and/or tidal waters, and/or the rapid accumulation or runoff of surface waters from any source.

• *1 percent chance flood or base flood.* A flood of a magnitude that occurs once every one hundred years on the average. Within any one year period there is one chance in one hundred of the occurrence of such a flood. Most importantly, however, the cumulative risk of flooding increases with time. Statistically, there is about one chance in five that a flood of this magnitude will occur within a 20 year period, the length of time commonly defined as the useful life of a facility. Over a 30 year period, the life of a typical mortgage, the probability of such a flood occurring increases to greater than one chance in four.

• *0.2 percent chance flood.* A flood of a magnitude that occurs once every five hundred years on the average. (Within any one year period there is one chance in 500 of the occurrence of such a flood.) As with the one percent chance flood, the cumulative risk of this flood occurring also increases with time.

Floodway. The channel of a river or other watercourse and adjacent land areas that must be reserved in an open manner, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood.

Flood fringe. That portion of the floodplain outside the floodway (often referred to as "floodway fringe").

Floodplains. Floodplains are lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands. At a minimum, floodplains consist of those areas subject to a one percent or greater chance of flooding in any given year. The term floodplain shall be taken to mean the *base floodplain* unless the action involves a critical action in which case the *critical action floodplain* is the minimum floodplain of concern.

1. *Base Floodplain (or 100-year Floodplain)* The area subject ot inundation from a flood of a magnitude that occurs once every one hundred years on the average (the flood having a 1 percent chance of being equalled or exceeded in any given year).

2. *Critical Action Floodplain (or 500 year Floodplain)* The area subject to inundation from a flood of a magnitude that occurs once every five hundred years on the average (the flood having a 0.2 percent chance of being equalled or exceeded in any given year).

Wetlands. Wetlands are those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to: swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mud flats, river overflows, and other similar areas. This definition includes those wetland areas which are separated from their natural supply of water as a result of activities such as the construction of structural flood protection methods or solid-fill road beds, mineral extraction and navigation improvements and which would under normal hydrologic conditions support a prevalance of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. This definition is intended to be consistent with that of the U.S. Fish and Wildlife Service in the publication entitled *Classification of Wetlands and Deep Water Habitats of the United States* (Cowardin, et. al., 1977).

Coastal high hazard area. A coastal high hazard area is any low-lying, relatively unprotected coastal area subject to flooding by wind-driven tides, coastal storms, or tsunamis. Examples of such areas include, but are not limited to, barrier islands, beaches, beach dunes, overwash areas and tidal wetlands.

Action. An action is any form of EDA financial assistance including, but not limited to, grants, loans, contracts and guarantees and all amendments to such forms of financial assistance that involve a change in project design, scope or location or a change in participating private parties.

Critical action. A critical action is an action which, if located or carried out within a floodplain, poses a greater than normal risk for flood-caused loss of life or property. The minimum floodplain of concern for critical actions is the 500-year floodplain, i.e., critical action floodplain. Critical actions include, but are not limited to, actions which create or extend the useful life of facilities:

a. Which produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;

b. Such as schools, hospitals and nursing homes, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events; and

c. Such as emergency operation centers, or data storage centers, which contain records or services that may become lost or inoperative during flood and storm events.

Related activities. Related activities are those undertakings that are interdependent parts of a Federal action. Such undertakings are considered interdependent parts whenever they either make possible or support an action, or are themselves induced or supported by an action or related activities. Related activities may or may not be Federally permitted or assisted.

Impacts. Impacts are changes in floodplain or wetland values and functions caused or induced by an action or related activity. Impacts are *caused* whenever these natural values and functions are affected as a direct result of an action. An action which would result in the discharge of polluted storm waters into a floodplain or a wetland, for example, would directly affect their natural values and functions. Construction-related activities, such as dredging and filling operations within the floodplain or a wetland, would be another example of impacts caused by an action.

Impacts may also occur as an indirect result of an action whenever the action *induces* or makes possible related activities which affect the natural values and functions of floodplains or wetlands. Such impacts, frequently referred to as indirect or secondary effects, occur whenever these values and functions are potentially affected, either in the short or long term, as a result of undertaking an action.

The following example illustrates this concept. The EDA-assisted construction of water or sewer line (the "action") *not* located within the floodplain or a wetland would impact a nearby floodplain or wetland in several ways. First, as a result of ground disturbing activities, the action could directly affect natural values and functions through siltation from soil erosion at the construction site. Second, the action could induce or support development within the floodplain or wetland. Third, the action could induce or make possible related activities located outside the floodplain or wetland that would impact these areas. In either of the latter two cases, the indirect result of the EDA action is to produce an effect on the natural values and functions of a floodplain or a wetland.

Alternatives. Alternatives are all substitutes to the proposed action. Alternatives consist of:

a. Locating the action at a site that either eliminates or minimizes the impact on floodplain and wetland values and functions (alternative sites);

b. Utilizing other actions, plans, designs or concepts with similar economic development objectives that either eliminate or minimize the impact on floodplain and wetland values and functions (alternative actions);

c. Taking no action (no action alternative).

The following example illustrates these concepts. Alternatives to the expansion of a port facility into a wetland area could be (1) relocation of the proposed expansion outside the wetland, (2) redesign of or scaling down the proposed expansion to eliminate that portion or portions which impact the wetlands, (3) redesign or reorientation of the exising facility to accommodate more berthing space without requiring any expansion, or (4) rehabilitation or modernization of the new equipment to handle containerized cargo and eliminate the need for expansion. Additionally, dissimilar actions with similar economic development objectives such as the construction of an industrial park or a downtown convention center are alternatives. Finally, the possibility of taking no action is also an alternative.

Minimize. Minimize means to reduce to the smallest amount or degree practicable.

Mitigation measures. Mitigation measures are all steps necessary to minimize the impacts of the proposed action on a floodplain or wetland, including those steps necessary to preserve and, wherever practicable, restore natural values and functions. Examples of mitigation measures include, but are not limited to, (a) requiring an adequate soil erosion/sedimentation plan to control runoff during land disturbing activities associated with an action, (b) the collection and treatment of runoff resulting from an action prior to its discharge into the

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floodplain or a wetland, (c) the establishment of vegetative buffer zones between the site of a proposed action and adjacent floodplains or wetlands, (d) the dedication of sites as permanent natural areas, or (e) floodplain or wetland habitat restoration.

Practicable. Practicable means capable of attainment within the confines of relevant constraints. The test of practicability, therefore, depends upon the particulars of the situation under consideration and those constraints imposed by environmental, economic, legal and technological parameters. This test, however, is *not* limited by the temporary unavailability of sufficient financial resources to implement either alternatives to a proposed action or those mitigation measures necessary to minimize its impacts. That is, alternatives or mitigation measures shall not be rejected as "impracticable" solely on the basis of increased costs associated with an undertaking. Rather, the Agency recognizes that the preservation and protection of floodplains and wetlands will make some actions more expensive. EDA shall make every effort to assist potential applicants in their search for the additional resources necessary to eliminate or minimize impacts on floodplains and wetlands.

The following example illustrates the concept embodied in the term "practicable." The proposed action in its example is the construction of a combination port facility and industrial park located in a coastal community which would, if constructed as proposed, impact both floodplain and wetland values and functions. Some possible alternatives to this proposal are: (1) renovate and modernize an existing nearby port facility; (2) locate the docking and cargo handling facility in the floodplain but position the warehousing and industrial park facilities on an upland site. The facilities would be linked together by a transportation corridor elevated on stilts across the floodplain; (3) construct the facility within the floodplain but elevate it on stilts above the level of the base of critical action floodplain, as appropriate, and protect the wetland areas by establishing wide buffer areas adjacent to the facility and placing the wetlands in public ownership as a nature preserve; (4) locate the entire facility offshore as a "floating" industrial park linked to a terminal facility on an upland site by a transportation corridor elevated on stilts across the floodplain; (5) build a different type of economic development project that will not impact floodplain or wetland values and functions; and (6) take no action.

In all cases, the alternatives listed above are technologically feasible. For the sake of this example, let us establish that title to the lands required to establish suitable buffer areas and the nature preserve necessary to carry out alternative 3 have been in litigation for several years and that no resolution of the issues is expected in the foreseeable future. Also, let us assume the cost of constructing alternative 4 is on the order of 10 times that of the next most expensive alternative and the economic analysis indicates that such a facility could not operate profitably at rates competitive with other similar facilities in that area. Further, let us suppose that there is a great deal of public opposition to the proposed action on environmental grounds, and EDA's initial assessment indicates that serious environmental problems exist with respect to the proposal. We shall also assume that alternative 1 is more costly to implement than alternative 2 but that both alternatives could be constructed and operated profitably at rates competitive with other similar facilities. Finally, assume that it has been established that there is no clear overriding economic benefit of this proposal relative to other dissimilar proposals which do not impact floodplain or wetland values and functions.

In this example, then, we can choose the practicable alternatives based on the assumed constraints given above. Alternative 4 can clearly be rejected on economic grounds since it is both very expensive to construct and would not generate sufficient revenue to be profitable. Similarly, alternative 3 can be rejected due to legal constraints that render it unattainable within any reasonable time frame. Since there are no constraints imposed by environmental, economic, legal or technological factors on alternatives 1, 2, 5, or 6, these are the practicable alternatives to the proposed action. The proposed action in this example would be rejected from consideration since environmental constraints render it undesirable and practicable alternatives to the proposal exist.

It is important to note that neither alternative 1 nor 2 can be rejected as a practicable alternative on the basis that the initial cost exceeds that of the proposed action. Since either facility could operate profitably, the increased cost is not a relevant consideration and is insufficient grounds for the rejection of either from consideration. Similarly, the fact that the costs associated with alternative 1 exceed that of alternative 2 is irrelevant to its consideration as a practicable alternative.

Structural flood protection methods. Structural flood protection methods are those physical measures utilized to modify the natural hydrologic response of a waterbody to flood and storm events. Such measures are employed to protect human life and property and to enhance the value of the floodplain for human use and habitation. Structural methods are intended to: (a) confine flood waters to the waterbody and to inhibit their entry into adjacent low-lying areas; (b) speed up or redirect the discharge of flood and storm waters; or (c) drain and fill in low-lying areas. Examples of structural flood protection methods include, but are not limited to, damming, diking, leveeing, dredging, channelizing, constructing sea walls, draining and/or filling low-lying areas, elevating structures in flood prone areas on fill, and constructing conduits to rapidly remove storm waters.

Nonstructural flood protection methods. Nonstructural flood protection methods are those measures that either eliminate or reduce the need for structural alteration of waterbodies or their associated floodplains and wetlands. Nonstructural methods are intended to preserve, restore or imitate natural hydrologic conditions. Such methods may be either physical or managerial in character. Nonstructural flood protection methods are measures which:

a. Control the uses and occupancy of floodplains and wetlands, e.g., floodplain zoning, subdivision regulation;

b. Preserve floodplain and wetland values and functions through public ownership, e.g., fee title, easements, development rights;

c. Restore the natural values and functions of floodplains and wetlands, e.g., move existing structures out of the floodplains;

d. Delay or reduce the amount of runoff from paved surfaces and roofed structures discharged into a floodway, e.g., construction of detention basins, use of flow restricting barriers on roofs;

e. Maintain natural rates of infiltration in developed or developing areas, e.g., construction of seepage or recharge basins, minimization of paved areas;

f. Protect streambanks and shorelines with vegetative and other natural cover, e.g., use of aquatic and water loving woody plants;

g. Restore and preserve floodplain and wetland values and functions and protect life and property through regulation, e.g., flood-proofing building codes which require all structures and installations to be elevated on stilts above the level of the base flood.

h. Control soil erosion and sedimentation, e.g., construction of sediment basins, stabilization of exposed soils with sod, minimization of exposed soil.

Emergency flood protection methods. Emergency flood protection methods are those measures employed to protect human life and, to a limited extent, portable property during flood and storm events. Such measures are normally applied to existing facilities located in flood prone areas as a means of protection for the occupants. Flood forecasting, flood warning systems, temporary flood evacuation and other emergency planning activities are examples.

Preserve. Preserve means to prevent alterations to natural conditions and to maintain the values and functions which operate on floodplains or wetlands in their natural states.

Restore. Restore means to re-establish a setting or environment in which the natural values and functions of the floodplain or wetland can operate.

III. Policy

Effective immediately, it shall be the policy of EDA to:

- Avoid, to the extent practicable, the long and short term impacts associated with the modification and occupancy of floodplains and wetlands;
- Avoid, to the extent practicable, direct and indirect impacts on floodplain and wetland values and functions;
- Promote the use of non-structural flood protection methods to reduce the risk of flood loss;
- Minimize the impact of floods on human health, safety and welfare;
- Restore and preserve the natural and beneficial values and functions of floodplains and wetlands;
- Provide the public with early and continued opportunity for involvement in the decision making process concerning flood plains and wetlands; and

- Incorporate the Unified National Program for Floodplain Management into its decision-making process.

In carrying out this policy, EDA shall not participate, either partially or wholly, in any action that would impact a floodplain or wetland unless the Agency determines that no practicable alternative exists to the action. In its search for practicable alternatives, the Agency shall give primary emphasis to locating actions outside the floodplain or a wetland. The Agency shall explicitly consider the no action alternative before arriving at a decision that no practicable alternative exists to impacting a floodplain or a wetland. Where the no action alternative is rejected and no practicable alternative exists, EDA shall require the formulation and consideration of non-structural flood protection methods as mitigation measures. Priority is given to non-structural methods because of their ability to meet the twin goals of the Executive Orders, protection of human health and safety and preservation of the natural values and functions of floodplains and wetlands. However, structural solutions will be considered when no practicable, non-structural mitigation methods exist.

Prior to authorizing any application for assistance, EDA shall insure that the proposed action is the practicable alternative which minimizes impacts on the natural values and functions of floodplains and wetlands *and* that all practicable mitigation measures are incorporated into the action which (a) minimize the risk of loss of life and property due to flood and storm damage and (b) minimize the impacts on floodplain and wetland values and functions.

Whenever EDA participates in an action that impacts floodplain or wetland values and functions, it shall continuously monitor the action to ensure that the action and its mitigation measures are carried out in accordance with the Agency's findings and recommendations. Any action which fails to adhere to the design, scope, location and purpose of the action and to the requirements of the mitigation measures shall be subject to termination for cause.

Whenever an action cannot be practically located except in proximity to a water body, EDA shall require the potential applicant to locate the proposed action within the floodplain in such a manner so as to not impact a wetland. That is, it shall be EDA's policy to remove such proposed actions from within wetland areas, whenever practicable, and place them within the floodplain.

Prior to the authorization of any application for assistance to which the procedures contained herein apply, EDA shall make a separate set of findings for both floodplains and wetlands as contained in Section VII of these procedures. The Regional Director shall ensure that no application for assistance is authorized until these procedures have been fully carried out and he or she has made the required formal findings.

The selection of practicable alternatives by EDA shall take into account environmental, technical, economic and legal considerations and shall be a continuous process. That is, as alternatives are identified in carrying out the procedures contained herein, EDA shall identify each as practicable or impracticable. In conducting its analysis of the economic considerations related to the various alternatives that may be proposed, EDA shall follow the guidance provided by the Water Resources Council's Principles and Standards. The lack of sufficient financial resources shall not preclude the identification of alternatives or mitigation measures. Further, the temporary unavailability of sufficient financial resources shall not limit the consideration or implementation of either practicable alternatives to a proposed action or those practicable mitigation measures necessary to minimize impacts of the proposed action. Rather, in such instances, the Agency shall make every effort to assist potential applicants in their search for the required financial resources. If the necessary resources are unavailable, the proposed action shall be restructed to fit the existing resources and to avoid, to the extent practicable, impacts on wetland and floodplain values and functions. If such a restructuring is not possible, EDA shall consider the proposal not "ripe" for assistance and return the proposal to the prospective applicant.

Since many actions affecting either floodplains or wetlands have demonstrated significant effects on the quality of the human environment, consideration of such proposed actions will often necessitate the preparation of an Environmental Impact Statement under Section 102(2)(C) of NEPA.

IV. Role of the Special Assistant for the Environment

The general responsibilities of the Special Assistant for the Environment, hereafter called the Special Assistant shall be to:

A. Serve as the principal advisor to the Assistant Secretary in implementing the duties and responsibilities required by Executive Orders 11988 and 11990.

B. Develop Agency procedures for compliance with Executive Orders 11988 and 11990.

C. Review, as necessary, the Agency's activities and program involvements with respect to Executive Orders 11988 and 11990.

D. Mediate all disputes, those within the Agency as well as those arising from outside sources, concerning findings made under Executive Orders 11988 and 11990.

E. Provide policy guidance and training for the Regional Office staff in carrying out its responsibilities under the procedures contained herein.

F. Provide, whenever requested, technical assistance on a project by project basis to the Regional Environmentalist in order to adequately implement these procedures.

G. Monitor and audit the Agency's actions to ensure that the requirements of the Executive Orders are met.

H. Coordinate the Agency's implementation of this Directive with other Federal agencies having jurisdiction over or expertise in this area, as well as with the environmental programs of local, State and Federal agencies which become involved with EDA projects.

I. Recommend approval, disapproval, or modification by the Assistant Secretary for centralized projects.

V. Role of the Regional Environmentalist

The general responsibilities of the Regional Environmentalist shall be to:

A. Implement and carry out the duties and procedures required under the Authority of Executive Orders 11988 and 11990.

B. Solicit, whenever necessary, the expert advice and assistance of other professional staff members within the Regional Office in order to adequately implement these procedures.

C. Provide training to Regional Office staff, including EDRs on the requirements imposed by these procedures.

D. Monitor those actions approved by the Regional Office for compliance with this Directive and the Executive Orders 11988 and 11990.

VI. Processing Procedures

The processing procedures contained in subsections A throught D shall apply to all Public Works grants and loans and Title IX Implementation grants. Additionally, these procedures shall apply to all Title IX Development grants, Technical Assistance and Research grants and contracts that have the potential to produce physical effects and to all Business Development actions except financial assistance provided solely for the purpose of (a) working capital or (b) purchasing machinery, equipment, furniture or fixtures that will be utilized totally within the confines of existing structures and that does not, or will not, create a change in either the types or amounts of waste produced by the facility (e.g., changing the nature of the product produced or the production process often creates a corresponding change in waste production). This exception does not apply to those proposed actions that involve improvements which exceed 50 percent of the pre-improvement market value of the structure or facility.

The processing procedures contained in subsections A through C and subsection E shall apply to those excepted Business Development actions. Procedures pertaining to all other forms of EDA assistance, such as Planning grants, are contained in Section IX of this Directive.

A. *General Applicability to EDA Actions*

The following procedures shall be effective immediately and apply to all proposed actions as specified in Section X. There is, however, one exemption provided for by Executive Order 11990, "Protection of Wetlands." This exemption is not provided for in Executive Order 11988, "Floodplain Management" and, consequently, the exemption applies only to actions affecting wetlands not located with floodplains. Since there are few wetlands in this category, this exemption is extremely limited.

The following proposed actions that impact wetlands not located within the floodplain are exempt from these procedures: (a) Federally assisted or permitted projects under construction prior to the effective date of this policy, or (b) projects for which a Federal draft or final Environmental Impact Statement (EIS) which adequately analyzes the EDA action has been filed prior to October 1, 1977. Those actions impacting a wetland where the EIS only generally covers

the proposed action, is devoted largely to related activities, or that treat the project area or program without specific analysis of the proposed action are not exempt from this policy. Adequate documentation (e.g., a copy of the EIS) shall be included in the official project file and as part of the Environmental File for every action declared exempt from this policy under these criteria.

B. *Responsibilities of Economic Development Representatives (EDRs)*

The EDR shall be responsible for informing all prospective applicants of EDA's policy with respect to actions affecting floodplain and wetland values and functions. EDRs shall encourage prospective applicants to avoid all actions which could potentially affect these natural values and functions. The EDR shall direct all prospective applicants to determine the location of the floodplain in relation to the proposed action and its area of impact using the Water Resources Council "Guidance for Determining a Floodplain Location" (see 42 FR 190, pp. 52590–52598, Sept. 30, 1977 and Appendix B). Whenever a prospective applicant is unsure of the potential of the proposed action to impact a wetland, the EDR shall additionally direct the prospective applicant to contact the Regional Environmentalist for assistance.

If this information indicates that the prospective applicant has under consideration an action which has the potential to impact either a floodplain or a wetland area, or if the prospective applicant or EDR is unsure as to whether either of these areas could be impacted by the proposed action, the EDR shall inform the Regional Environmentalist of the proposal as soon as possible. The EDR shall also direct the prospective applicant to submit the materials listed in the first paragraph of subsection C (below) as early in the planning process as possible, but in any case no later than the submission of the Early Information Systems Profile, Form 1100T, or any other pre-application materials submitted for Agency consideration. It shall be the responsibility of the EDR to inform all prospective applicants that the procedures contained therein must be completed prior to the authorization of their application for EDA assistance.

The EDR shall note, also, the effect of the proposed action on floodplains and wetlands in the EDR Assessment and relay this Assessment to the Regional Environmentalist as early as possible but in no case later than the submission of the EDA Profile or other pre-application materials.

C. *Responsibilities of the Prospective Applicant*

EDA expects each prospective applicant to avoid, whenever practicable, all actions that have the potential to impact floodplain or wetland values and functions. For every proposed action submitted, the prospective applicant will be required to provide the following information directly to EDA: (1) all appropriate floodplain maps and related data in accordance with the Water Resources Council's "Guidance for Floodplain Management" (42 FR 190, p. 52590—52598); (2) a 15 minute series (7½ minute series if available) USGS topographic map with the project area clearly delineated; (3) site photographs; and (4) whenever possible, aerial photographs of the site and surrounding areas.

In addition, for all proposed actions that could impact a floodplain or wetland, upon request by the Regional Office, the prospective applicant shall provide the following information directly to the Agency's Regional Environmentalist.

1. Identification of the economic development objectives to be derived from the proposed action.

2. Identification of the alternative actions, plans, concepts, designs and locations to the proposed action which have been considered in meeting the objective in (1) above and the reasons for rejecting each alternative.

3. Complete information on the proposed action and surrounding area. This shall include, at a minimum, any previous environmental analysis done for the proposed site of the proposed action, a copy of the land use documents (zoning maps, master plans, etc.) which relate to the area, the engineering plans for the proposed action and a specific, detailed project description.

Prospective applicants shall ensure that all required materials are adequate and complete and are submitted directly to the Regional Environmentalist as soon as possible. Incomplete materials or delayed submittals may seriously jeopardize consideration of a proposed action by EDA.

Projects which would impact floodplain or wetland values and functions shall require completion of the environmental analysis of the proposal and its alternatives prior to the authorization of the application for EDA assistance. To ensure that this process is completed quickly and efficiently, the applicant shall be required to cooperate fully in the submission of the material noted above and other related information as required by the Agency in carrying out these procedures. Applicants shall be required to also provide public notification and fully cooperate in holding public information meetings as described herein.

D. *Responsibilities of the Regional Office*

As part of the Agency's initial review of all proposed actions to which the procedures contained herein apply, the Regional Environmentalist shall be provided a copy of all related pre-application materials. It shall be the responsibility of the program office to ensure that the Regional Environmentalist receives a copy of these materials along with the appropriate floodplain maps and associated data, topographic maps and photographs as specified in the first paragraph of subsection C (above).

1. *Examination of Pre-application Materials.* The Regional Environmentalist shall examine every proposed action to determine whether the appropriate floodplain maps and associated data, topographic maps and photographs as specified previously have been included in pre-application materials and are sufficient for making a determination of the potential to impact floodplain and wetland values and functions. If the Regional Environmentalist determines that the information presented by the prospective applicant is insufficient for a preliminary review of the proposed action, he shall note the deficiencies and return the pre-application materials to the program office. In addition, for all proposed actions that have the potential to impact a floodplain or wetland or where the impact on such areas is uncertain and the proposed action appears to have sufficient economic development benefits to warrant further Agency consideration, the program office shall notify the prospective applicant to submit the information specified in the second paragraph of subsection C above. It shall be the responsibility of the program office to ensure that the necessary materials are obtained. Only when the Regional Environmentalist determines that the materials supplied by the prospective applicant are sufficient and complete shall he/she undertake a review of the proposed action in order to assess its potential to impact floodplain or wetland natural values and functions.

2. *Assessment of Floodplain Impact.* a. *Determine if it is a critical action.*—If the proposed action is a critical action, the minimum area of concern becomes the critical floodplain; if not, the base floodplain is the minimum area of concern.

b. *Determine if any portion of the proposed action or related activities lies within the floodplain.* In making this determination, the Regional Environmentalist shall consult with the EDA Engineering staff and the following two pamphlets: HUD–FIA–149, "How to Read Flood Hazard Boundary Maps" and HUD–FIA–252, "How to Read a Flood Insurance Rate Map". In those instances where HUD maps have not been published, the Regional Environmentalist shall follow the procedures established by the WRC (see also Appendix A).

c. *Determine the potential to impact floodplain values and functions. If, on the basis of the HUD maps or the information gathered by following the procedures established by the WRC, any portion of the proposed action or related activities lies within the floodplain, the proposal will impact a floodplain and the procedures established by this Directive shall apply. The only exception to this statement is when the Regional Environmentalist determines that the locational impact is minor to the extent that floodplain values and functions, as further discussed below, are not affected.*

If no portion of the proposed action or related activities lies within the floodplain, the proposal and any related activities shall be examined for the potential to impact floodplain values and functions. Some key quetions in making this determination are:

(i) Will the proposed action or related activities discharge, or cause to be discharged, any substances or materials into the floodplain?

(ii) Will hydrologic flow rates within the floodplain be affected? That is, will there be increases or decreases in flow velocities; elimination of peak hydrologic flows; or alterations in the normal seasonal patterns of flow resulting from the proposed action or related actiyity?

(iii) Will the water level within the floodplain be affected? That is, will the water level increase or decrease; or will the normal seasonal pattern of water level functions be altered as a result of the action or related activities?

(iv) Does the proposed action or related activity have the potential to make possible future developments which could impact floodplain values and functions?

(v) Will the proposed action affect an aquifer recharge area? That is, will the proposed action reduce the rate of infiltration (e.g., by covering the area with impervious surfaces) or create the potential for contamination of the aquifer (e.g., discharge of polluted runoff from parking lots into an aquifer recharge area).

(vi) Will potentially hazardous materials or substances be stored in or near the floodplain that could effect the natural values and functions should an accidental release occur?

3. *Assessment of Wetland Impact.* In order to adequately determine the potential to impact the natural values and functions of a wetland, the Regional Environmentalist shall review the data, maps and photographs submitted by the prospective applicant in order to determine the proposed action's potential to impact wetlands. Where this information is insufficient for this review, the Regional Environmentalist shall return these materials to the program office and stop his review until this information has been submitted directly to him by the prospective applicant.

Additionally, the Regional Environmentalist shall consult the publication *Existing State and Local Wetlands Surveys 1965–1975* and the appropriate Regional Coordinator, National Wetlands Inventory, U.S. Fish and Wildlife Service (USFWS) to determine if a wetlands survey for the project area has been conducted (see Appendix C for further guidance). If a survey has been conducted for the project area, the Regional Environmentalist shall obtain a copy of the survey for use in determining the impact of the proposed action on wetland values and functions.

As the National Wetlands Inventory is completed by the USFWS, the Special Assistant shall obtain and make available copies of the Inventory for the Regional Environmentalist's use.

a. *No potential exists of impacting floodplain values and functions.* Where the preceding review indicates that there is no potential to impact floodplains this will, in many cases, indicate that there will be no potential to impact wetlands, since most wetlands are located within the floodplain. The Regional Environmentalist is cautioned, however, that instances may arise where a floodplain will not be impacted but a proposed action or related activity could impact a wetland. For those cases where a wetland is likely to be impacted despite the fact that no floodplain is involved (e.g., mountain meadows, potholes, etc.), the Regional Environmentalist shall follow the steps outlined in (c) below.

b. *Potential of impacts to floodplain values and functions.* Where the previous review indicates that there is a potential to impact floodplains, the Regional Environmentalist shall review the materials cited in subsection D.3. above in order to determine the potential to impact wetlands.

c. *Determine the potential to impact wetland values and functions.* If on the basis of the Regional Environmentalist's examination of materials supplied by the prospective applicant or as a result of information contained in a National, State or local wetlands survey or inventory, any portion of the proposed activity or related activities lies within a wetland, the proposal will impact a wetland and the procedures established by this Directive shall apply.

If no portion of the proposed action or related activities lies within a wetland, the proposal and all related activities shall be examined for their potential to impact a wetland. The same key questions indicated in D2c, i–vi of this Directive shall be examined in making this determination.

4. *Potential to Impact Natural Values and Functions Determination.* a. *No potential to impact either floodplain or wetland values and functions.*—Whenever a proposed action is judged by the Regional Environmentalist to have no potential to impact either a floodplain or a wetland, he shall inform the Regional Director that his review under these procedures is complete and recommend that the appropriate findings contained in Section VII be made. Once these findings have been made by the Regional Director and documented for the Environmental file, the requirements imposed by this Directive are complete.

b. *Potential to impact floodplains (or wetlands) values and functions.* In those cases where a determination has been made that there is a potential to impact either floodplain or wetland values and functions, the Regional Environmentalist shall:

(i) Inform the Regional Director of this determination and the necessity to comply with the directives established by Executive Orders 11988 and 11990 and this Directive.

(ii) Reemphasize to the potential applicant EDA's policy and procedures regarding projects which impact floodplains and/or wetlands and the prospective applicant's responsibilities thereunder.

(iii) Consult with all Federal, State and local Agencies with environmental expertise in or jurisdiction over the proposed action or its impacts. In order to fully accomplish this consultation process, insure that the prospective applicant has provided copies of all pre-application materials to the State and Areawide Clearinghouses for their review.

(iv) Consult with all public and private parties with an environmental interest in the proposed action or its effects on floodplains or wetlands.

The purpose of the consultation specified in (iii) and (iv) are to assist the Regional Environmentalist in learning more about the magnitude of the potential impacts to floodplain and wetland values and functions and the nature of the resource involved, as well as possible alternatives to the proposed action. Such consultations shall be documented and become part of the Environmental File.

c. *Regional Director Does Not Concur With Determination Made Under This Section.* The Regional Director shall be responsible for making the final decision on whether or not a project has the potential to impact a floodplain or wetland. It is expected that where there is substantial controversy, the Regional Director will consult with the Deputy Assistant Secretary for Economic Development.

5. *Floodplain and/or Wetland Impact: Initial Review.* a. *Pre-application conference.*—For every proposed action that the Regional Environmentalist determines has the potential to impact either floodplain or wetland values and functions and that the Agency wishes to consider further, the Regional Office shall hold a pre-application conference, but only after the Regional Environmentalist has completed the preceding procedures.

One major purpose of the pre-application conference is to initiate the Agency's process of identifying and evaluating practicable alternatives to impacting a floodplain or wetland (or both). Alternatives to be considered include, but are not limited to: carrying out the proposed action at a location that would not impact a floodplain or wetland (alternative sites); other means or methods which accomplish a similar economic development objective (alternative actions); and not undertaking an action (no action alternative).

For *all* proposed actions that will be physically located within a floodplain or a wetland, special emphasis will be given to the search for alternative sites that would remove the proposal from the areas.

b. *Review and materials.* If, as a result of the pre-application conference, one or more practicable alternatives to the proposed action with lesser impacts are identified, the pre-application materials shall be returned to the prospective applicant for restructuring. However, if the proposal's objectives the prospective applicant's examination of alternatives appear reasonable; the prospective applicant demonstrates adequate consideration of EDA's policy as established by this Directive; *and* the Regional Environmentalist has identified no other, practicable alternatives to the proposal, the Regional Office may continue its review in accordance with this Directive. If the proposal fails any of these tests, the pre-application materials shall be returned to the prospective applicant.

c. *Finding of no impacts on wetlands or floodplains values and functions.* Where, either as a result of the pre-application conference or as a result of the restructuring of the proposed action and the receipt of pre-application materials modified accordingly, the Regional Environmentalist determines that the proposed action has no potential to impact either floodplains or wetlands, he shall inform the Regional Director that his review under these procedures is complete. He shall also recommend to the Regional Director that the appropriate findings as specified in Section VIII should be made. Once these findings have been made and documented for the Environmental file, the requirements imposed by this Directive and Executive Orders 11988 and 11990 are complete.

d. *Finding of impacts on either floodplains or wetlands.* Where, as a result of the pre-application conference, the Agency believes that the proposed action may be the practical alternative which minimizes impacts to

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floodplains and wetlands, the Regional Office shall:

(i) Inform the prospective applicant that until the procedures contained herein are complete and the findings required by the Executive Orders are made, the Agency cannot authorize an application.

(ii) Notify the Special Assistant, in writing, of the intent of the Regional Office to continue its review of the proposed action.

(iii) Carry out the remaining procedures contained in this Directive.

6. *Floodplain and/or Wetland Impact: Analysis of Impacts.* a. *Public Notification Requirement.*—The Regional Environmentalist shall require the prospective applicant to publish a notice to the effect that EDA is considering assistance for the proposed action. This notice shall be published in the newspaper of greatest circulation in the vicinity of the proposed action and in any local or community-oriented newspapers within the proposed action's area of impact. This notice shall appear for at least three consecutive days and shall include a physical description of the location of the proposed action and the surrounding area (to include a map when necessary for clarification), the nature and extent of proposed action and the name, address, and phone number of the Regional Environmentalist. The prospective applicant shall send a copy of this notice to the appropriate State and Areawide Clearinghouses and to all parties expressing an interest in the proposed action or those parties that the Regional Environmentalist has indentified to be so notified. The prospective applicant shall provide EDA with a copy of this notice, the dates the notice was published and a list of all parties receiving an individual notice. EDA shall allow at least 30 days from the last date of publication for receipt of comments.

b. *Private Party Notification Requirements.* For all Business Development actions or amendments to such actions in which a change in the participating private party or parties is involved, it shall be the responsibility of the Regional Director or, in the case of centralized projects, the Director of Business Development in coordination with the Special Assistant, to inform all private parties participating in the transaction (e.g., financial institutions) of the hazards of conducting activities within the floodplain (see Exhibit A for example letter).

c. *Assessment of Impacts.* The Regional Environmentalist shall analyze the probable impacts of the proposed action and its alternatives on the natural values and functions of floodplains and/or wetlands. This analysis shall include an examination of impacts on the:

(i) Public health and safety: including the effects of the proposed action on: water supplies, both the quantitative and qualitative aspects; ground water recharge capability, water pollution, including siltation and sedimentation effects; and flooding and storm hazards. In evaluating the effects of the proposal on flooding and storm hazards the following factors shall be considered:

Is the proposed action located in the floodway portion of a riverine floodplain, or a coastal high hazard area?

Is the proposed action in a flood-fringe area such as the backwater areas of a coastal floodplain?

Is the flood hazard aggravated by the presence of, or potential for, destructive velocity flows, flood-related erosion, subsidence or sinkholes, or other special problems?

Is there a combination of flood sources present which may flood simultaneously in the area (e.g., river and ocean, or shallow overland runoff and river, etc.)?

(ii) Preservation of natural systems; including the effect of the proposed action on: maintenance of species and habitat diversity and stability; maintenance of long term ecosystem productivity; and protection of flora and fauna indigenous to floodplains and wetlands. In conducting this assessment, the Regional Environmentalist shall, at a minimum, consider whether the proposed action or related activities could result in:

Direct removal of vegetation;

Direct removal of topsoil;

Habitat destruction by dumping or filling, i.e., landfill from construction activities, dumping of dredge spoil, leveeing, etc.;

Habitat destruction by digging; i.e., ditching, mining, etc.;

Habitat modification through alternation of water levels; i.e., modification of the water edge habitat by raising or lowering water levels or alteration of normal seasonal patterns of water level fluctuation; modification of flow rates either by increasing or decreasing velocity of flow or by alteration of normal seasonal pattern of flow, or modification of the soil water table;

Habitat modification resulting from: erosion and loss of nutrients; chemical modification through leaching, spillage, motor vehicle or industrial sources; or introduction of exotic vegetation;

Limitation on species mobility, i.e., inhibiting upstream migration or downstream drift;

(iii) Public welfare: including the effects on historic and cultural resources; land use patterns; aesthetics; and existing or future uses in the public interest such as recreation, education and scientific uses and the extent that the proposed action interferes with such uses or potential uses;

(iv) Cultivated resource values; the effects on agriculture, aquaculture and forestry; and

(v) Cumulative impacts resulting from other actions or related activities under consideration, planned or underway.

In conducting this assessment, the Regional Environmentalist should consult the reference works cited in Appendix D.

7. *Floodplain or Wetland Impact: EIS Requirement.* a. *Determination of Significant Actions.*— One purpose of the analysis undertaken in the preceding subsection is to determine the significance of the proposed action and any identified practicable alternatives relative to Section 102(2)(C) of the National Environmental Policy Act (NEPA). Because several floodplain and wetland values and functions are of critical importance to man and since these areas are often extremely sensitive to man-induced disturbances, an Environmental Impact Statement (EIS) shall be prepared for a proposed action whenever:

(i) The public health and safety are identifiably affected. That is, whenever the proposed action may potentially result in a change in stream classification or affect any standards promulgated under the Safe Drinking Water Act (42 USC 300 f–j–9), the proposed action shall be considered significant and an EIS prepared. Additionally, should the proposed action or related activity present flood and storm hazards that could endanger life or property, an EIS shall be prepared for the proposal.

(ii) the preservation of natural systems are identifiably affected. Any proposed action or related activities that have the potential to create or induce changes in the exisitng habitat that may affect species diversity and stability (both for flora and fauna and over the short and long term) or affect ecosystem productivity over the long term, are signification actions.

(iii) The proposed action involves any construction within a wetland.

(iv) The proposed action involves the construction of a critical action within the boundaries of the critical action floodplain.

(v) The cumulative effects on floodplain or wetland values and functions of the proposed action and related activities are of sufficient intensity to be declared a significant action under NEPA (see EDA Directive 17.02–2, Appendix B).

(vi) The proposed action is controversial for environmental reasons.

b. *Proposed Action Not Significant.* Regional Environmentalist shall, in addition to the requirements of this Directive, complete the normal environmental review process as specified in Appendix D of EDA Directive 17.02–2, *Regional Office Assessment.*

c. *Proposed Action Significant*—(i) Where an EIS is necessary, the remainder of these procedures shall be carried out in conjunction with the EIS process as outlined in Appendix E of EDA Directive 17.02–2, *Guidelines for Preparation of Environmental Impact Statements.*

(ii) Where the proposed action falls into one of the categories of significant actions listed under subsection 7a and the Regional Environmentalist believes that, despite the nature of the proposed action, it is not a significant action affecting the quality of the human environment, he/she shall demonstrate this fact to the satisfaction of the Special Assistant. The Special Assistant shall be provided with a copy of the Regional Office file (including the Environmental File and copies of correspondence), the pre-application materials submitted for the proposed action, and a copy of the Regional Environmentalist's justification for not conducting an EIS. The Special Assistant shall review these materials and determine the significance of the action.

8. *Floodplain or Wetland Impact: Solicitation and Review of Comments.* a. *Comments From Other Governmental Agencies.*—The Regional Environmentalist shall request, in writing, the comments of other Federal, State or local agencies having jurisdiction over or expertise in actions involving floodplains and/or wetlands concerning the proposed action and alternatives. This shall include, but not be limited to, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Environmental Protection Agency, U.S. Soil Conservation Service, National Oceanic and Atmospheric Administration's Office of Coastal Zone Management, and State and local agencies with jurisdiction over wetland areas or activities affecting wetlands. (such as State fish and game bureaus, environmental protection divisions). If the Regional Environmentalist considers the potential impact to be very minimal, comments from the above agencies may be obtained verbally and documented for the Environmental file. If these verbal consultations indicate the environmental potential for more than minimal impact, the requirement for written comments shall apply.

b. *Public Information Meeting Requirement.* Upon receipt of a written request, or where EDA independently makes such a determination, the Regional Environmentalist shall require the prospective applicant to arrange a public information meeting to be chaired by the EDA Regional Environmentalist. The applicant shall precede such meetings with at least two notices published in the newspaper having the greatest circulation in the vicinity of the proposed action *and* in any local or community oriented newspapers within the proposed action's area of impact. The first of the required notices shall be from 15 to 20 days prior to the meeting date, and the second notice 2 to 4 days before the meeting. Such notice shall include the location, date and time of the meeting, a map depicting the location of the proposed action, physical description of the proposal's location and the surrounding area, a brief description of the proposed action under consideration, the EDA Regional Environmentalist's name, address and phone number and whether an EIS will be prepared. In addition, the potential applicant shall mail copies of the notices to appropriate local, State and Federal Agencies, including the State and Area-wide Clearinghouses, public interest groups or individuals which have expressed an interest in the matter or who may be specified by EDA. If such a meeting is held concerning a proposal for which an EIS will be prepared, it shall not be held until at least 30 days have elapsed since the publication of the draft EIS. The potential applicant shall record the meeting, prepared a complete written transcript and supply a copy of these materials to EDA as soon as possible.

c. *Review Comments Received.* The Regional Environmentalist shall review any comments from the public concerning the proposed action and its alternatives, as well as responses to those comments solicited under (a) above. One purpose of this review is to determine the degree of controversy surrounding the proposed action.

The degree of controversy will be an important consideration in determining the need for an EIS. Comments shall also be reviewed for their substantive content and will be considered in the evaluation process where appropriate. Copies of all comments received shall be attached to the Environmental File or EIS prepared for the proposed action.

9. *Floodplain or Wetland Impact: Examination of Alternatives.* a. *Review of all Materials.*—(i) The Regional Environmentalist shall review all pre-application materials submitted by the prospective applicant, the comments received by other Federal, State and local agencies and those of concerned citizens and the Environmental File in light of the requirements imposed by this Directive and the requirements of Executive Orders 11988 and 11990 in order the determine if the proposed action is the practicable alternative which minimizes the impact on floodplains or wetlands. If, based on this evaluation, the Regional Environmentalist determines that the proposed action is not the practicable alternative which minimizes the impacts on floodplains or wetlands, he/she shall inform the Regional Director. The Regional Director shall return the pre-application materials to the propective applicant for restructing before considering the propsed action further. Should the Regional Director disagree with the need for restructing, he/she may exercise the responsibilities contained in item 11.d below.

(ii) Upon receipt of a restructured proposal, the Regional Envoronmentalist shall review the pre-application material to ensure that it contains the identified practicable alternative with the lesser impact on the floodplains or wetlands. Should the prospective applicant have improperly restructured the proposal, it shall be returned with the deficiencies noted. Before the proposal may be again considered by EDA these deficiencies must be corrected.

b. *Site Changes.* If the practicable alternative with lesser impacts involves a site change, i.e., a site removed from the previous site and the new site still impacts floodplains and wetlands, then these procedures starting with subsection 6 shall be repeated, unless the new site has been fully considered in the EIS and publicly presented for review and comment.

10. *Floodplain or Wetland Impact: Mitigation Measures.* Where the Regional Environmentalist determines that the proposed action is the practicable alternative which minimizes impacts on floodplain and wetland values and functions, he/she shall:

Formalize practicable mitigation measures to the proposed action through consultation with the prospective applicant and those parties that have expressed an interest in the proposed action. Practicable mitigation measures shall include measures to restore and preserve natural values and functions. A listing of some possible measures is contained in Appendix E and further guidance are provided in the references section (Appendix D).

Whenever a meeting is held as part of this process, all concerned parties shall be invited to attend. Such a meeting will be chaired by the Regional Environmentalist and a record shall be kept to all mitigation measures proposed. This record shall become part of the Environmental File.

11. *Final Review.* a. *Reevaluate Practicable Alternative.*—The Regional Environmentalist shall, upon formulation of mitigation measures, reevaluate the alternative under consideration to ensure that it is still the practicable alternative that minimizes the impacts on floodplain and wetlands values and functions. If this revaluation indicates that another practicable alternative exists to the proposed action with a smaller degree of impact than the preferred alternative, the appropriate procedures contained in this Directive shall be reinstituted and the new alternative(s) examined.

b. *Examination for Significant Action.* Throughout the review process of a proposed action for which an EIS has not been prepared, the Regional Environmentalist shall periodically examine the proposed action in order to determine whether, in light of additional information or as the result of modifications to the proposed action, the action is significant. This examination is especially important at this stage since the practical alternative has been selected and mitigation measures formulated. Should a proposed action be determined significant, all further processing shall stop and a decision made as to the need to prepare an EIS in accordance with DAO 216–6.

c. *Publish Final Notice.* Where all practicable mitigation measures have been identified and agreed to by the prospective applicant and, if applicable, the EIS process completed, the prospective applicant shall be required to publish final notice of the proposed action. This notice shall be published in the newspaper of greatest circulation in the vicinity of the proposed action and in any local or community-oriented newspaper within the proposed action's area of impact for at least three consecutive days and shall include a physical description of the location of the proposed action and the surrounding area (to include a map when necessary for clarification), a detailed description of the proposal including the nature and extent of the proposed action, the mechanisms utilized to mitigate the impacts of the proposal, projected date of project start and completion and the EDA Regional Environmentalist's name, address and phone number.

This notice shall additionally contain the following information:

- A statement of why the proposed action must be located in a floodplain or a wetland;
- A description of all significant facts considered in making this determination;
- A statement indicating whether the actions conform to applicable state or local floodplain protection standards;
- A statement indicating how the action affects the natural values of floodplains and/or wetlands;
- A statement listing other involved agencies and individuals.

The propsective applicant shall send a copy of this notice to the appropriate State and Areawide Clearinghouses and to all parties expressing an interest in the proposed action or those parties that the Regional Environmentalist has identified to be so notified. The prospective applicant shall provide EDA with a copy of this notice, the dates the notice was published and a list of all parties receiving an individual notice.

Subsequent to the final notice, EDA shall wait at least 15 days for comments before accepting an application. Where the response to the notification raises environmental concerns not previously considered, EDA shall reinstate the appropriate portions of this Directive. For example, the applicant may be

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required to organize a public information meeting where one was not held during the previous review of the proposed action.

d. *Regional Environmentalist's Findings.* Upon completion of the environmental review process and the requirements of this Directive, the Regional Environmentalist shall make a determination as to whether or not the proposal is both the practicable alternative with the least impact on floodplains or wetlands, and whether the proposal incorporates all practicable mitigation measures necessary to (a) minimize the risk of loss of life and property due to flood and storm damage and (b) minimize the impact on floodplain and wetland values and functions. If the Regional Environmentalist finds that these criteria have been met, he/she shall inform the Regional Director that the application may be authorized should the Agency concur in his/her finding with respect to the project's impact on floodplains or wetlands. Should the Regional Environmentalist find that the proposal fails any of the above tests, he/she shall inform the Regional Director of these findings. The Regional Director shall be responsible for making the final decision on the findings required by Executive Orders 11988 and 11990, and the application shall not be authorized until he/she makes such findings. It is expected that where there is substantial controversy, the Regional Director will consult with the Deputy Assistant Secretary for Economic Development.

e. *Responsibilities of the Regional Office; Special Classes of Business Development Actions.* Because of the special nature of certain Business Development actions which provide financial assistance solely for the purpose of working capital or to purchase machinery, equipment, furniture or fixtures for utilization totally within the confines of existing structures and which do not involve construction or demolition of any portion of these structures nor any change in the types or quantities of waste produced by the facility, EDA has devised a more streamlined approach to their review under the directives imposed by Executive Orders 11988 and 11990. The Agency believes that both the purpose and intent of these Executive Orders can be better served by the substitution of the following procedure for those contained in subsection D of this section.

Working capital loans and guarantees are provided to businesses in need of cash to meet their day-to-day operational needs. Typically, this form of assistance is provided to meet a business' current obligations; wages and salaries, rents, taxes, utility charges, interest on debts, short-term debt principal, and the purchase of raw materials. The alternatives to providing a working capital loan or guarantee will almost always be limited to the no action alternative. Further, the analysis of mitigation measures for such actions is not a relevant consideration unless the action includes the purchase of raw material inventories. The case of raw material inventories is discussed below.

Similarly, alternatives to actions involving the purchase of equipment or machinery that involve no construction or demolition of structures or no change in the waste produced by a facility will generally be limited to the no action alternative. Only in those instances where the value of the improvements to a structure or facility exceeds 50 percent of the pre-improvement market value of the structure or facility will other alternatives come into play. Consequently, the abbreviated review process does not apply where this is true. Unlike most actions involving working capital loans or guarantees, however, mitigation will often be a relevant consideration in the review process of a fixed asset loan or guarantee for the purposes cited above.

1. *Examination of the Proposed Action.* The Regional Environmentalist shall carry out the procedures contained in subsection D. 1 and 2 in conducting his/her review of the proposal. In addition, the Regional Environmentalist shall ensure that a listing of the types and amounts of raw material and the location of their storage is included in the pre-approval documents for all working capital loans and guarantees. Further, for those actions involving the purchase of equipment, machinery, furniture or fixtures, the Regional Environmentalist shall ensure that the pre-improvement market value of the structure or facility and the total cost of the improvements are included in the pre-approval documents. Where such information is absent or insufficient, the Regional Environmentalist shall note the deficiencies and return the documents to the Office of Business Development for correction.

2. *Determine the Location of the Proposed Action Relative to Floodplains and Wetlands.* If, on the basis of the HUD floodplain maps or information gathered following the guidance provided by the WRC; the materials submitted by the prospective applicant as required in subsection C; or any National, State or local wetland survey that may have been prepared, any portion of the business activity lies within a floodplain or a wetland (including the storage of inventories of raw materials), the proposal will impact a floodplain or a wetland and the procedures contained in this subsection shall apply.

If the examination of the aforementioned materials do not indicate that any portion of the business activity lies within a floodplain or a wetland, the Regional Environmentalist shall inform the Regional Director that the proposed action will not impact floodplain or wetland values and functions and recommend that the appropriate findings as specified in Section VII of this Directive should be made. Once the Regional Director has made these findings, the requirements imposed by this Directive and the requirements of Executive Orders 11988 and 11990 are complete.

3. *Floodplain and/or Wetland Impact.* a. *Working Capital Loans and Guarantees.*— For all such proposed actions located within a floodplain or a wetland, the Agency shall examine the no action alternative. If the no action alternative is not practicable and the proposal involves the purchase of raw material inventories, the Regional Environmentalist shall examine the nature and proposed method of storage of these materials. Generally, mitigation will be necessary if the proposal involves the storage of raw material inventories within the boundaries of a floodplain or a wetland.

Materials that are subject to damage should they become wet must be stored above the level of the base flood, if practicable. Materials, such as water reactive substances, that fall within the definition of critical actions must, if practicable, be stored above the level of the 500 year flood. In all such cases, the Agency shall give special emphasis to the storage of such raw material inventories outside of wetlands and outside the appropriate floodplain of concern. Additionally, where this cannot be practicably accomplished for critical actions located within the critical action floodplain, the Regional Environmentalist shall examine the proposal under the guidance provided in subsection D.7. the purpose of the examination is to determine whether the proposed action has significant environmental impacts within the meaning of Section 102(2)(C) of NEPA.

Upon the establishment of the practicable mitigation measure(s) that minimizes the impact on floodplain and wetland values and functions, or in those cases where the proposed action does not involve the purchase of raw materials, the Regional Environmentalist shall inform the Regional Director of the results of this review and recommend that the appropriate findings as specified in Section VII should be made. The Regional Director or, in the case of centralized proposals, the Director of OBD in consultation with the Special Assistant shall inform all private parties participating in the transaction (e.g., a bank) of the hazards associated with the location of facilities in floodplains or wetland areas. The form letter contained in Exhibit A shall be used for this purpose.

Additionally, for all amendments to such forms of assistance that involve a change in the private party participation in the action, the Regional Director or Director of OBD shall notify all such private parties via the form letter contained in Exhibit A.

b. *Purchase of Equipment, Machinery, Furniture or Fixtures.* For all proposed actions located in a floodplain or wetland, the Regional Environmentalist shall examine the pre-application materials to ascertain the ratio of the costs associated with the improvements to the structure or facility and its pre-market value. If this ratio exceeds 50 percent, the proposed action is subject to the full review procedures contained in subsection D of this Section and shall not be reviewed under this subsection.

The review of proposals having a ratio below the 50 percent level, including mitigation measures, generally follows those steps outlined in 3(a) above. Amendments to such actions that involve a change in participating private parties also shall be subject to the notification requirements outlined in 3(a) above.

VII. Findings

As part of the Regional Office Environmental File, the Regional Director shall make a finding for both floodplains and wetlands prior to authorization of any application:

The Agency's policy with respect to Executive Order 11990 (Protection of Wetlands) has been met since:

- The proposed action will not impact wetland values and functions.
- There is no practicable alternative to the proposed action which avoids impacting a wetlands; however, (a) the proposed action is the practicable alternative which minimizes the impact on wetlands *and* (b) all practicable mitigation measures which minimize the impact on wetland natural values and functions and minimize the risk of loss of life and property due to flood and storm damage have been incorporated in the proposed action.

The Agency's policy with respect to Executive Order 11988 (Floodplain Management) has been met since:

- The proposed action will not impact floodplain values and functions.
- There is no practicable alternative to the proposed action which avoids impacting a floodplain; however, (a) the proposed action is the practicable alternative which minimizes the impact on floodplains *and* (b) all practicable mitigation measures which minimize the impacts on floodplain natural values and functions and minimize the risk of loss of life and property due to flood and storm damage have been incorporated in the proposed action.

VIII. Reporting Requirements

1. It shall be the responsibility of the Regional Office to keep complete and accurate records on all proposed actions to which the procedures contained herein apply. These records shall be kept current and record the following information.

a. For every action or related activity that was determined to have the potential to impact either floodplain or wetland values and functions:

(i) The location and nature of the action;

(ii) The number of acres of floodplains and/or wetlands impacted by the proposed action;

(iii) The number of acres of floodplains and/or wetlands impacted by related activities; and

(iv) A general description of impacts.

b. A listing of those actions, where as a result of these procedures the impacts were successfully eliminated and a description of how these impacts were eliminated.

c. A list of actions, where as a result of these procedures practicable alternatives which minimized the impact on floodplains and/or wetlands were substituted for the original proposal.

d. A listing of those actions, where as a result of these procedures, no practicable alternative to impacting a floodplain and/or a wetland could be found and the Agency chose the no action alternative.

2. A copy of these reports shall be supplied to the Special Assistant for the preparation of EDA's annual report to the Council on Environmental Quality. The date of the required submission of these reports shall be specified by the Special Assistant.

IX. Planning Related Programs

The following procedures shall apply to all Planning, Technical Assistance and Title IX adjustment strategy programs.

A. *Planning.* It shall be the responsibility of the appropriate planning division to inform its grantees of the intent of Executive Orders 11988 and 11990 and EDA's policy as stated within this Directive.

B. *Technical Assistance and Title IX adjustment strategy.* It shall be the responsibility of the appropriate program office to inform its grantees of EDA's policy with respect to Executive Orders 11988 and 11990.

C. *All programs.* EDA shall encourage each Grantee receiving assistance under these programs to initiate a process to identify floodplains and wetlands within its planning jurisdiction or study area. For all new assistance granted subsequent to the effective date of the Directive, the program office shall condition the grant to require all grantees to identify the location and extent of floodplains and wetlands within the planning area based on published data in order to initiate a data base and to consider the impacts of the plan on floodplain and wetland values and functions. For any study undertaken which indicates that a floodplain or a wetland could be impacted, a thorough examination of alternatives shall be incorporated in the study and justification given for rejecting those alternatives not selected.

Planning appraisals shall address the grantee's ability to incorporate the considerations addressed in this Directive into local plans. These reviews shall also consider the impact of the economic goals and activities espoused by the grantee on the natural values and functions of floodplains and wetlands. Should potential impacts to floodplain or wetland values and functions be identified during the appraisal, the Regional Environmentalist shall be notified.

X. Applicability to Projects

This Directive is effective upon signing for all Title I projects for which a profile (ED–101P or Early Information System Profile 1100T) has not been filed. It is effective upon signing for all other covered actions for which an application has not been authorized.

All Title I actions which have progressed beyond the filing of a profile and all other covered actions which have progressed beyond the authorization of an application must meet the requirements of the Executive Orders through implementation, by the Regional Offices, of the provisions of Department Administrative Order 216–11, "Floodplain Management and Protection of Wetlands."

XI. Effect on Other Directives

This Directive supersedes those portions of EDA Directive 10.03–5, "Requirements for Projects Involving Flood Hazards," applicable to Executive Order 11296.

Robert Hall,

Assistant Secretary for Economic Development.

Appendix A—Executive Orders 11988 and 11990

Appendix B—Procedures for Determining Floodplain Location

This Appendix summarizes information contained in the Water Resources Council's "Guidance for Floodplain Management" as published on Friday, September 30, 1977, in the **Federal Register** (42 FR 190, p. 52591–52598). This information is presented to aid persons familiar with the published "Guidance" in making determinations of floodplain location. This Appendix is not intended to substitute for the materials contained in the "Guidance for Floodplain Management."

Guidance for Determining Whether a Proposed Action is Located in a Floodplain

Summary of Search Procedure for Obtaining Necessary Information (Proceed through steps only as far as needed)

Given the location of a proposed action—

In areas of predominantly Federal land ownership or in areas of predominantly private land ownership:

Step 1. Seek flood insurance rate map and/or flood insurance study report (Provides detailed information adequate for making determination).

Step 2. Seek flood hazard boundary map (Provides approximate information and may require technical assistance for making determination).

Step 3. Seek technical assistance from a Federal or State agency (May provide detailed information and interpretation or develop new information as needed to make determination).

Step 4. Seek technical assistance from an experienced consulting engineer (Data should be of comparable quality to that required for Flood Insurance Study Report).

Areas of Predominantly Private Land Ownership. If a decision involves a publicly or privately-owned site within an area of predominantly private ownership, a map showing the flood hazard areas will usually be available from the National Flood Insurance Program administered by the Federal Insurance Administration (FIA), HUD. Detailed maps showing the elevations and boundaries of the "100-Year" (Zones A and V) and "500-year (Zone B) floodplains are known as "Flood Insurance Rate Maps" (FIRM).

Many of the communities which have a FIRM also have a Flood Insurance Study (FIS) Report containing detailed flood information. Some 13,000 less detailed maps showing the approximate area of the 100-year (Zone A) floodplain are available for most of the communities for which FIRMs have not been completed. These are called "Flood Hazard Boundary Maps" (FHBM).

The search for information shall follow the sequence outlined below (Refer to the preceding summary program). The detailed map (FIRM) of the Flood Insurance Study (FIS) should be consulted first.

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If a detailed map (FIRM) is not available—obtain an approximate boundary map (FHBM). If the proposed site is at or near the 100-year flood boundary, or if data on flood elevations are needed, or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site—seek detailed information and assistance from the agencies listed. (There are additional agencies with professional competence not listed which can perform their own floodplain studies when needed.)

If an approximate boundary map (FHBM) is not available or if the map does not delineate the flood hazard boundaries in the vicinity of the proposed site—seek detailed information and assistance from the agencies listed below.

If the agencies do not have or know of detailed information and are unable to assist in determining the location of the floodplain—seek the services of a licensed consulting engineer experienced in this type of work. The quality of information obtained from the consulting engineer must be comparable to that required of flood insurance study contractors for the FIA.

Two cautions must be recognized in utilizing flood insurance maps: (1) Flood insurance maps generally do not delineate portions of the floodplain less than 200 feet wide and (2) possible adverse consequences from future development are difficult to infer from the maps. Thus, technical assistance may be desirable for interpreting flood insurance maps.

Specific and detailed information concerning FIRMs is contained in the FIA publication, "How to Read a Flood Insurance Rate Map." Similarly, the publication, "How to Read a Flood Hazard Boundary Map" contains information concerning FHBMs.

Areas of Predominantly Federal and State Land Holdings

If a decision involves an area or location within extensive Federal or State holdings, it is unlikely that FIS reports and FIRM or FHBM maps would be available. In this event, information should be sought from the land administering agency before information and/or assistance is sought from the agencies listed below. If none of these agencies have information or can provide assistance, the services of an experienced consulting engineer shall be sought as described above.

Agencies Offering Floodplain Services

Information and service (agency)	Floodplain (maps and profiles)		Technical assistance services
	Riverine	Coastal	
Dept. of Agriculture: Soil Conservation Service	x	x	x
Dept. of the Army: Corps of Engineers	x	x	x
Dept. of Commerce: National Oceanic and Atmospheric Administration			x
Dept. of Housing and Urban Development:			
Federal Housing Administration			x
Federal Insurance Administration	x	x	x
Dept. of Interior			
Geological Survey	x	x	x
Bureau of Land Mgmt	x	x	x
Bureau of Reclamation	x		x
Tennessee Valley Authority	x		x
Delaware River Basin Commission	x		x
Susquehanna River Basin Commission	x		x
States and Regional agencies		Varies from State to State.	

Appendix C—Procedures for Determining a Wetland Location

The procedures contained herein shall be used in determining the location of a wetland.

Guidance for Determining Whether a Proposed Action Is Located in a Wetland

Summary of Search Procedure for Obtaining the Necessary Information

Given the location of a proposed action—

Step 1. Examine applicant supplied materials (Topographic Map, Site and Aerial Photographs) for Evidence of Wetland Areas.

Step 2. Consult local, State or Federal Wetland survey or inventory.

Step 3. Seek technical assistance from Federal or State Agencies.

Review of Topographic Maps, Site and Aerial Photographs. These materials shall be examined for evidence of wetland areas. Topographic maps prepared by the USGS often depict the general existence of wetlands within a given area. Photographic documentation must be examined for evidence of vegetation typically associated with wetland areas within the proposal's area of potential impact.

Consult Local, State or Federal Wetland Surveys or Inventories. The Publication, *Existing State and Local Wetland Surveys* (USFWS, 1976) shall be used to identify the existence of surveys in the area of the proposed action. If a survey has been conducted for the area, the Regional Environmentalist shall obtain a copy for use in making this determination. As the National Wetlands Inventory is completed, copies will be supplied for the use of the Regional Environmentalist. In areas where the Inventory is complete, the Agency may use this information instead of the *Existing State and Local Wetlands Surveys* publication in making the determination of whether a wetland exists within the proposed action's area of impact.

Assistance from State and Federal Agencies. Many State agencies can provide information concerning the existence of wetlands within a project area. Most agencies involved in such activities can be identified by consulting the aforementioned publication, *Existing State and Local Wetlands Surveys.*

Several Federal agencies can also provide information concerning the existence of wetlands surveys or the location of wetland areas within a given area. These are listed below.

Department of Interior, Fish and Wildlife Service

The U.S. Fish and Wildlife Service is presently preparing the National Wetlands Inventory. Each Regional Office of the USFWS has, as a member of the staff, a Wetland Coordinator. These individuals can provide updated information concerning existing State and local wetland surveys and Federal inventories. These individuals are listed below by USFWS Regional Office and area of responsibility.

USFWS Region I

Regional Director (ARDE), Region I, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Mautnomah Street, Portland, OR 97232, FTS 429–6154, Telecopier 429–6116, Commercial 503–231–6116, Attn: *Dennis Peters,* Regional Wetland Coordinator.

Areas covered: California, Hawaii, Idaho, Nevada, Oregon, Washington, U.S. Pacific Trust, Territories and Possessions.

USFWS Region II

Regional Director (ARDE), Region II, U.S. Fish & Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103, FTS 474–2914, Telecopier 474–2289, Commercial (505) 766–2914, attn: *Warren Hagenbuck,* Regional Wetland Coordinator.

Areas covered: Arizona, Oklahoma, New Mexico, Texas.

USFWS Region III

Regional Director (ARDE), Region III, U.S. Fish & Wildlife Service, Fed. Bldg., Ft. Snelling (AS/BSP), Twin Cities, MN 55111, FTS 725–3593, Telecopier 725–3508, Commercial (612) 725–3510, attn: *Ron Erickson,* Regional Wetland Coordinator.

Areas covered: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

USFWS Region IV

Regional Director (ARDE), Region IV, U.S. Fish & Wildlife Service, P.O. Box 95067, Atlanta, GA 30347, FTS 257–4781, Telecopier 257–4249, Commercial (404) 881–4781, attn: *John Hefner,* Regional Wetland Coordinator.

Areas covered: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Panama Canal Zone, Puerto Rico, South Carolina, Tennessee, Virgin Islands.

USFWS Region V

Regional Director (ARDE), Region V, U.S. Fish & Wildlife Service, 1 Gateway Center, Suite 700, Newton Corner, MA 02158, FTS 829–9217, Commercial (617) 965–5100, ext. 217, attn: *Ralph Tiner,* Regional Wetland Coordinator.

Areas covered: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

USFWS Region VI

Regional Director (ARDE), Region VI, U.S. Fish and Wildlife Service, P.O. 2548 Denver Federal Center, Denver, CO 80225, FTS 234–5586, Telecopier 234–4607, Commercial (303) 234–5586, attn: *Eugene Hansmann,* Regional Wetlands Coordinator.

Areas covered: Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming.

Alaska Area Office

Regional Director (ARDE), Alaska Area Office of U.S. Fish & Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503, FTS 8–300–0150 and ask for 907–276–3800, ext. 412, attn: *Art Laperriere,* Regional Wetlands Coordinator.

National Wetlands Inventory

Project Leader, National Wetland Inventory Project, U.S. Fish and Wildlife Service, Suite 217, Dade Building, 9620 Executive Center Drive, St. Petersburg, FL 33702, FTS 8–826–3624, Commercial (813) 893–3624.

Department of Agriculture, Soil Conservation Service (SCS)

If the State or field office address is not known, contact:

Chief, Floodplain Management and Special Projects Branch, River Basins Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, telephone: 202/447–7697.

Department of the Army, Corps of Engineers (COE)

If field office address is not known contact:

Chief, Floodplain Management Services, U.S. Army and Independence Avenue, SW, Washington, DC 20314, telephone 202–693–1691.

Department of Commerce, Office of Coastal Zone Management (OCZM)

Assistance may be obtained regarding individual State Coastal Zone Management Plans by contacting:

Chief, Environmental Assessment and Sanctuaries Staff, OCZM, 3300 Whitehaven Street, NW, Washington, DC 20235, telephone 202–632–5231.

Appendix D

I. Materials Which Aid in Identifying Floodplains and Wetlands

The following listed materials should be consulted throughout the required "Determination of Floodplain or Wetland Impact" sections of this Directive. These sources generally expand on the guidance provided in the Directive. These materials will be most helpful in those situations where the potential to impact floodplains or wetlands is uncertain or unknown.

Cowardin, L. M., et. al. 1977. *Classification of Wetlands and Deepwater Habitats of the United States.* Washington, DC: U.S. Department of Interior, Fish and Wildlife Service.

Federal Insurance Administration. 1977. "How to Read Flood Hazard Boundary Maps." Washington, DC: U.S. Department of Housing and Urban Development. Publication Number: HUD–FIA–149.

Federal Insurance Administration. 1977. How to Read a Flood Insurance Rate Map," Washington, DC: U.S. Department of Housing and Urban Development. Publication Number HUD–FIA–252.

Office of Biological Services. 1976. *Existing State and Local Wetland Surveys 1965–1975.* St. Petersburg, FL: U.S. Department of Interior, Fish and Wildlife Service. NTIS Code: PB–278427.

II. Materials Describing Natural Values and Functions

Clark, John. 1977. *Coastal Ecosystems,* Washington DC. The Conservation Foundation.

Jaworski, E. and Raphael, C. N. 1978. *Fish, Wildlife and Recreational Values of Michigan's Coastal Wetlands.* Ypsilanti, Michigan: Eastern Michigan University, Department of Geography-Geology.

Jaworski, E., et. al. 1977. *General Functions and Values of Freshwater Wetlands in the Glaciated Midwest.* Ypsilanti, Michigan: Eastern Michigan University, Department of Geography-Geology.

Larson, J. S. 1973. *Guide to Important Characteristics and Values of Freshwater Wetlands in the Northeast.* Water Resources Research Publication No. 31. Amherst, MA: University of Massachusetts.

Odum, H. T., et. al. eds. 1974. *Coastal Ecological Systems of the U.S.* Washington, DC: The Conservation Foundation Soil Conservation Service. *Gulf Coast Wetlands Handbook.* Alexandria, LA: U.S. Department of Agriculture.

III. Assessment of Impact, Development of Mitigation Measures and Non-Structural Flood Protection Methods

The following list of references provide an excellent source of general information concerning floodplains and wetlands and the impacts that can be expected from undertaking various activities. These works should be consulted frequently in carrying out any analysis called for in this Directive.

Darnell, Rezneat M., et. al. 1976. *Impacts of construction Activities in Wetlands of the United States.* Corvallis, WA: U.S. EPA, Office of Research and Development. Publication Number: EPA–600/3/76–045

This work deals not only with wetland impacts but also with floodplain and water bottom impacts of construction activities. It is an excellent document and should always be consulted in carrying out reviews and assessments under this Directive.

Engineering Division, Soil Conservation Service, 1975. *Urban Hydrology for Small Watersheds.* Washington, DC: U.S. Department of Agriculture Technical Release No. 55.

Tourbier, Joachim and Richard Westmacott. 1974. *Water Resources Protection Measures in Land Development—A Handbook,* Final Report Prepared for U.S. DOI, Office of Water Resources Research. Newark, DE: Water Resources Center, University of Delaware.

This work is especially useful as a guide for the development of mitigation measures and non-structural flood protection methods.

Office of Biological Services. 1977. *Habitat and Population Improvement Measures Accompanying Water Resource Development Projects.* Washington, DC: U.S. Department of Interior, Fish and Wildlife Service. Publication Number FWS/OBS–77/30.

IV. Miscellaneous

The following list of references provide more detailed information on specific impacts or generalized information that supplement the information contained in the works cited in III above.

Amy, Gary, et. al. 1974. *Water Quality Management Planning for Urban Runoff.* Washington, DC. U.S. EPA, EPA Publication No. EPA 440/9–75–004.

Bhutani, J., et. al. 1975. *Impact of Hydrologic Modifications on Water Quality.* McLean, VA: Mitre Corporation, Mitre Tech. Report NTR–6887.

Carstea, D., et. al., 1975. *Guidelines for the Analysis of Cumulative Environmental Effects of Small Projects in Navigable Waters.* McLean, VA: Mitre Corporation, Mitre Technical Report MTR–6939.

Good, R. E., et. al., eds. 1978. *Freshwater Wetlands.* New York: Academic Press.

Office of Air and Water Programs, 1973. *Methods for Identifying and Evaluating the Nature and Extent of Nonpoint Sources of Pollutants.* Washington, DC: U.S. EPA, Publication No. EPA–430/9–73–014.

Office of Water and Hazardous Materials, 1976. *A manual of Laws, Regulations and Institutions for Control of Ground Water Pollution.* Washington, DC: U.S. EPA.

Office of Water Planning and Standards, 1976. *Methods to Control Fine-Grained Sediments Resulting from Construction Activity.* Washington, DC: U.S. EPA.

Ortolano, Leonard, ed. 1973. *Analyzing the Environmental Impacts of Water Projects,* A report submitted to the U.S. Army Engineer Institute for Water Resources, Stanford, CA: Stanford University, Department of Civil Engineering, AD–766 286.

U.S. EPA, 1973. *The Control of Pollution from Hydrographic Modifications.* Washington, DC.

U.S. EPA. *Inter-relations of Land Use Planning and Control to Water Quality Management Planning.* Washington, D.C. Environments for Tomorrow, Contract No. 68–01–0750.

Appendix E—Methods To Minimize, Restore and Preserve

Methods To Minimize, Restore and Preserve

A wide range of methods have been developed over time to minimize harm to lives and property from flood hazards. In the recent past, other methods directed toward minimizing harm to natural and beneficial environmental values, including those associated with the floodplain, have also been developed. The technology and

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methodologies for achieving restoration and preservation are not well documented nor understood, but currently are receiving increased attention. The tools and approaches, which are directed toward attaining these three goals of the Order, shall be considered and applied at all stages of a proposed action, as appropriate, e.g., during the planning, design, construction, operation and maintenance of a proposed project. References concerning specific implementation of these measures are contained in Appendix D.

Natural Moderation of Floods

- Minimize floodplain fills and actions that require fills such as construction of dwellings, factories, highways, etc.
- Require that structures and facilities constructed in floodplains and wetlands provide for adequate hydrologic flow and circulation.
- Use minimum grading requirements and avoid compaction of soils on the site to the extent possible.
- Relocate nonconforming structures and facilities out of floodplains or wetlands.
- Return site to natural contours.
- Preserve free and natural drainage when designing and constructing bridges, roads, and pipeline crossings.
- Prevent intrusion on and destruction of beach and estaurine ecosystems and restore damaged dunes and vegetation.
- Revegetate the site with native floodplain or wetland plant species.

Water Quality

- Maintain wetland and floodplain vegetation buffers to reduce sedimentation and pollution of the water body.
- Control agricultural activities to minimize nutrient inflow into water bodies.
- Control urban runoff, other storm water, and point and nonpoint discharges.
- Control methods used for grading, filling, soil removal and replacement, etc., to minimize erosion and sedimentation during construction.
- Prohibit the location of potential pathogenic and toxic sources on the floodplain, such as sanitary land fills and septic tank, etc.

Groundwater Recharge

- Require the use of pervious surfaces wherever practicable.
- Design construction projects for runoff detention, both during the construction and operational phase.
- Dispose of spoils and waste materials so as not to contaminate ground or surface water or change land contours.

Living Resources

- Identify and protect wildlife habitat and other vital ecologically sensitive areas from disruption.
- Require topsoil protection programs during construction.
- Avoid wetland drainage, channelization, and water withdrawal.
- Reestablish damaged floodplain ecosystems.
- Minimize tree cutting and other vegetation removal.
- Design floodgates and seawalls to allow natural tidal activity and estuarine flow.

Cultural Resources

- Provide public access to and along the waterfront for recreation, scientific study, educational instruction, etc.
- Locate and preserve from harm historical cultural resources; consult with appropriate government agency or private group.

Agricultural Resources

- Minimize soil erosion on cropped areas within floodplains.
- Control use of pesticides, herbicides, and fertilizer.
- Limit the size of fields, promote fence rows, shelter belts and strip-cropping.
- Strengthen water bank and soil bank type programs to be consistent with alternate demands for the use of agricultural land.
- Minimize irrigation return flows and excessive applications of water.

Aquacultural Resources

- Construct impoundments to minimize any alteration in natural drainage and flood flow. Existing natural impoundments such as oxbow lakes and sloughs could be utilized under proper management.
- Limit the use of exotic species, both plant and animal, to those organisms already common to the area or those known not to compete unfavorably with existing natural populations.
- Discourage mechanized operations. Machinery such as dredges, weeders, and large-scale harvesting equipment may lead to environmental problems such as sediment loading in adjacent watercourses.

Forestry Resources

- Control the practice of clear-cutting, depending upon the species harvested, topography, and location.
- Complement State law governing other aspects of harvest operations; proximity to watercourses, limits on roadbuilding, equipment intrusions, etc.
- Require erosion control plans on all, roads and skidways.

Appendix D—Selected References, by Topic

Exhibit A—Form Letter for Notifying Private Parties Participating in an EDA Action

Private parties which participate in EDA Business Development actions impacting either floodplain or wetland values and functions shall be notified in writing of the hazards associated with activities so located. The form letter provided below should be used for this purpose.

(Date)
(Name and Address)
(of Private Party)

Dear (Name of Responsible Official):

As a party involved in providing financial assistance to (Name of Applicant), it is our responsibility under Executive Orders 11988, "Floodplain Management" and 11990, "Protection of Wetlands," to inform the (Name of Private Party) that (Name of Applicant) located at (Location or Locations of Facilities or Structures Involved) are located within a floodplain and/or a wetland.

Also, it is our responsibility to inform you of the hazards associated with conducting activities within a floodplain and/or a wetland. These include:

a. Increased occurrence of flooding;
b. Increased severity of flooding;
c. Increased risk to public health and safety; and
d. Increased risk of property losses.

If you have any questions or desire further information on this matter, please do not hesitate to contact us.

Sincerely,
(Name)
Regional Director
(or OBD Director if a Headquarters Project)

Dated: August 24, 1979.

Robert Hall,

Assistant Secretary for Economic Development.

[FR Doc. 79-27214 Filed 8-30-79; 8:45 am]

BILLING CODE 3510-24-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from eighteen firms: (1) Bonders, Inc., 200 Bonders Drive, Dunn, North Carolina 28334, a producer of women's coats (accepted August 15, 1979); (2) United States Stove Company, P.O. Box 151, South Pittsburg, Tennessee 37380, a producer of heaters and stoves (accepted August 15, 1979); (3) Marshall Ray Corporation, 701 Rover Street, Troy, New York 12180, a producer of men's sportcoats (accepted August 15, 1979); (4) Hahn, Inc., 1625 N. Garvin, Evansville, Indiana 47711, a producer of lawn mowers, garden tillers and other equipment (accepted August 16, 1979); (5) Inland Shoe Manufacturing Company, 1020 Anglum Drive, Hazelwood, Missouri 63042, a producer of men's, women's and children's shoes (accepted August 16, 1979); (6) Pearse Leather Products, Inc., 7 Kershaw Avenue, Hampton, New Hampshire 03842, a producer of leather belts, billfolds and cases (accepted August 16, 1979); (7) National Coated Fabrics, 7575 Northwest 74th Street, Miami, Florida 33166, a producer of coated fabrics (accepted August 17, 1979); (8) Cohoes Fabrics Printers, Inc., 1 Ontario Street, Cohoes, New York 12047, a producer of printed fabric (accepted August 17, 1979); (9) Sapolin Paints, Inc., 100 Saw Mill Road, Danbury, Connecticut 06810, a producer of paints and coatings (accepted August 17, 1979); (10) Brady Cline Coal Company, P.O. Box 208, Summersville, West Virginia 26651, a producer of coal (accepted August 17, 1979); (11) Claremont Beef Company, Inc., P.O. Box 532, Airport Road, Claremont, New Hampshire 03743, a processor of meat (accepted August 17, 1979); (12) Bel-Mor Knitwear, Inc., 1885 New Highway, Farmingdale, New York 11735, a producer of women's sweaters and tops (accepted August 20, 1979); (13) Penn Garment Company, Inc., 2000 Mill Lane, Williamsport, Pennsylvania 17701, a producer of apparel braid and trim; and uniforms (accepted August 20, 1979); (14) Town Talk Coat Company, Inc., 512 7th Avenue, New York, New York 10018, a producer of women's coats (accepted August 20, 1979); (15) Recreational Electronics, Inc., 4111 West 47th Street, Chicago, Illinois 60632, a producer of electronic resistors, rheostats, potentiometers, switches, and circuit boards (accepted August 20, 1979); (16) West Coast Knitting Mills, Inc., 420 West Avenue 33, Los Angeles, California 90031, a producer of men's and women's sweaters and shirts (accepted August 21, 1979); (17) Ralph Edwards Sportswear, Inc., 334 N. Broadview Street, Cape Girardeau, Missouri 63701, a producer of men's leather jackets (accepted August 21, 1979); and (18) Leather Classics, Inc., 125 First Street, La Follette, Tennessee 37766, a producer of men's and women's jackets and coats (accepted August 22, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States or articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business September 10, 1979.

Jack W. Osburn Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-27243 Filed 8-30-79; 8:45 am]

BILLING CODE 3510-24-M

Industry and Trade Administration

Export Promotion Working Group of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Export Promotion Working Group of the President's Export Council will be held on Wednesday, September 19, at 10:00 a.m. in the Department of Commerce, Room 4830, 14th and Constitution Avenue, NW., Washington, D.C. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Working Group has been formed to make recommendations to the Council regarding programs to promote U.S. exports and to create greater export awareness in the U.S. The Working Group is composed solely of members of the Council.

The agenda for the meeting will be as follows:

Introductory remarks by the Working Group Chairman
Report on progress of the public relations campaign
Report on progress of the multiplier program
Report on progress on the trade intermediary project
Discussion
Other organizational business, announcements, and plans for next meeting.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

Dated: August 27, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-27190 Filed 8-29-79; 8:45 am]

BILLING CODE 3510-25-M

President's Export Council; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the President's Export Council will be held on Thursday, September 20, at 8:15 a.m. in Room 2200 of the Rayburn House Office Building, Washington, D.C. The President's Export Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12110 of December 28, 1978. The President's Export Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including advice on the implementation of the President's National Export Policy.

The agenda for the meeting will be as follows:

Welcoming remarks and brief introduction
Remarks by Cabinet level attendees, Senators and Congressmen
Reports from the Chairmen of the Subcommittees on:
GATT and the MTN
East-West Trade
Export Promotion
Export Expansion
Export Administration
Agriculture
Discussion
Other organizational business, announcements and plans for next meeting.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

A G 3 1 7 9 UMI

Dated: August 27, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-27191 Filed 8-29-79; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Agriculture of the President's Export Council; Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Subcommittee on Agriculture of the President's Export Council will be held on Tuesday, September 18 at 10:00 a.m. in Room 218-A of the U.S. Department of Agriculture's Administration Building, Fourteenth and Independence Avenue, SW., Washington, D.C. 20250. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Subcommittee on Agricultural has been formed to deal with all aspects of U.S. governmental policies, GATT rules, the Tokyo Round trade agreements, or other domestic or foreign developments that affect U.S. agricultural exports. The Subcommittee on Agriculture is composed solely of members of the Council.

The purpose of the meeting is to allow the Department of Agriculture to brief the Subcommittee on the agricultural export situation and for the Subcommittee to decide on its plan of work. The agenda is as follows:

Welcome by Secretary Bergland
Opening remarks by the Chairman and introduction of the Subcommittee members
USDA's role in international affairs
Panel on the involvement of USDA agencies (other than FAS/OGSM) in programs concerned with agricultural exports and problems encountered
FAS/OGSM organization and market development program
Subcommittee discussion on plan of work
Other business.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting well be made available on written request addressed to the Freedom of International Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Subcommittee on Agriculture may be obtained from Ms. Wendy Haimes, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

Dated: August 27, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-27192 Filed 8-29-79; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

I/O Channel Level Interface Standard; Revision of Federal Information Processing Standard

Correction

In FR Doc. 79-26518, published at page 50079, on Monday, August 27, 1979, the following corrections should be made:

1. On page 50079, in the third column, in the second paragraph of the document, in the sixth line, "effective date of June 23, 1979" should be corrected to read "effective date of June 23, 1980";

2. On page 50080, in the first column, in the eighteenth and nineteenth lines, "effective on June 23, 1979" should be corrected to read "effective on June 23, 1980".

BILLING CODE 1505-01-M

Operational Specifications for Rotating Mass Storage Subsystems; Issuance of Federal Information Processing Standard

Correction

In FR Doc. 79-26517, published at page 50078, on Monday, August 27, 1979, on page 50079, in the second column, in the second paragraph, in the second line "effective June 23, 1979" should be corrected to read "effective June 23, 1980".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council and its Scientific and Statistical Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee will conduct a series of meetings.

DATES: October 10-12, 1979.

ADDRESS: The meetings will take place at the North Shore Motor Hotel and Convention Center, North Shore Plaza, Couer d'Alene, Idaho.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S. W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Council has established a Scientific and Statistical Committee to assist in carrying out its responsibilities. Meeting Agendas follow:

Scientific and Statistical Committee (SSC) (open meeting) (October 10-11, 1979) (1 p.m. to 5 p.m. on Wednesday, October 10; 10 a.m. to 5 p.m. on Thursday, October 11).

Agenda: Discuss fishery management plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m. on October 10, and conduct other Committee business.

Council (open meeting) (October 11-12, 1979), (10 a.m. to 5 p.m. on October 11; 8 a.m. to 5 p.m. on October 12).

Agenda: Open Session—Review of FMP's; conduct other fishery management business, and conduct a public comment period beginning at 4 p.m. on October 11.

Council (closed meeting) (October 11, 1979) (8 a.m. to 10 a.m.).

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, Scientific and Statistical Committee members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined

on June 20, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552(c) (1) and (6), as information which is properly classified pursuant to Executive Order. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: August 27, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-27347 Filed 8-30-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Anchovy/Jack Mackerel Advisory Subpanel; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council's Anchovy/Jack Mackerel Advisory Subpanel has changed its meeting date from Tuesday, September 28, 1979 (**Federal Register**, Volume 44, No. 151, dated August 3, 1979, page 45658) to Tuesday, September 11, 1979, from 10 a.m., to approximately 5 p.m.

ADDRESS: The meeting will take place at the California Fish and Game Office, 350 South Golden Shores, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: August 28, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-27348 Filed 8-30-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 31, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 6, 1979 and May 18, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 FR 20737 and 44 FR 29136) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 8415

Hood, Spray Painter's Protective 8415-00-NSH-0001
Requirements for Pearl Harbor Naval Shipyard, Hawaii only.

Class 7530

Folder, File (Pressboard) 7530-00-286-6924 (For GSA Regions 3, 9, 10)
Folder Set, File (Pressboard) 7530-00-286-6923 (For GSA Regions 4, 5, 6, 7 8, 9, 10)

C. W. Fletcher,

Executive Director.

[FR Doc. 79-27235 Filed 8-30-79; 8:45 am]

BILLING CODE 5820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Sterned Knitting Mills, Inc. and Alfred Stern; Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of Consent Agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order jointly offered by the Commission Staff and Sterned Knitting Mills, Inc., a New York corporation, and Alfred Stern, individually and as an officer of that corporation, both of New York, New York 10001, in which they agree to manufacture and sell fabrics that conform to the Flammable Fabrics Act, all applicable regulations issued thereunder, and the Standard for the Flammability of Clothing Textiles (CS 191-53); to issue guaranties based on reasonable and representative testing; to process into conformance or destroy certain sweat shirt fabric of style #3810-18; and to maintain certain records and to file requested reports. If finally accepted, this consent agreement will settle allegations of the Commission staff that Sterned Knitting Mills and Alfred Stern have violated provisions of the Flammable Fabrics Act.

DATE: Written comments on the provisionally accepted consent agreement must be received by the Commission by September 17, 1979.

ADDRESS: Written coments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be seen in, or obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd Floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Gwendolyn B. Crockett, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. (Phone 301-492-6632).

Dated: August 27, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-27231 Filed 8-30-79; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Update of Second Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Update on Second Progress Report or Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA") (43 FR 55978-56007; 40 CFR 1500-08). Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedures to supplement the regulations. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations.

The following list is a partial update of the Council's second progress report, published July 23, 1979 (44 FR 43037–43038). It includes those agencies whose final or proposed procedures have appeared in the **Federal Register** from July 23, 1979 through August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; Phone (202) 395–5750.

Update of Second Progress Report on Agency Implementing Procedures under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the **Federal Register**, pages 55978–48007 and Volume 40 of the Code of Federal Regulations, Sections 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Counsel's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the **Federal Register** for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies were required to promulgate their final procedures by July 30.

The Council published its first progress report on agency implementing procedures on May 7, 1979, 44 FR 26781–82, and its second progress report on July 23, 1979, 44 FR 43037–38. The list that appears below supplements the second progress report by identifying those agencies that have published their final or proposed implementing procedures from July 23, 1979 through August 23, 1979. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented.

Agencies That Have Published Final Implementation Procedures

Central Intelligence Agency, 44 FR 45431 (August 2).

Department of Agriculture, 44 FR 44802 (July 30).

Forest Service, 44 FR 44718 (July 30);

Department of Defense, 44 FR 46841 (August 9);

Department of Energy, 44 FR 45918 (August 6);

International Communication Agency, 44 FR 45489 (August 2);

National Aeronautics & Space Administration, 44 FR 44485 (July 30).

Agencies That Have Published Proposed Implementation Procedures

Civil Aeronautics Board, 44 FR 45637 (August 3).

Department of Agriculture: Agricultural Stabilization & Conservation Service, 44 FR 44167 (July 27).

Department of Defense: Department of the Air force, 44 FR 44118 (July 26).

Department of the Interior:

Bureau of Land Management, 44 FR 47627 (August 14);

Heritage Conservation & Recreation Service, 44 FR 49553 (August 23).

Department of Justice, 44 FR 43751 (July 26);

Marine Mammal Commission, 44 FR 44916 (July 31), 44 FR 45654 (August 3);

National Science Foundation, 44 FR 46901 (August 9);

Pennsylvania Avenue Development Corporation, 44 FR 45925 (August 6);

Small Business Administration, 44 FR 45002 (July 31);

Veterans' Administration, 44 FR 48261 (August 17);

Water Resources Council, 44 FR 43749 (July 26).

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process.

These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
General Counsel.

[FR Doc. 79-27257 Filed 8-30-79; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of committee: Armed Forces Epidemiological Board.
Date of meeting: 27–28 September 1979.
Time: 0900–1700 27 September; 0830–1500 28 September.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Proposed agenda: Agenda items for the meeting include Reports on the preventive medicine activities of the Army, Navy and Air Force, Ad hoc Subcommittee Reports and a Report on the OUSDRE Topical Review on Malaria.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should contact the Executive Secretary, DASG–AFEB, Room 1B472 Pentagon, Washington, D.C. 20310 (Telephone 695–9115).

Dated: August 27, 1979.

Charles W. Halverson,
CDR, MSC, USN, Executive Secretary.

[FR Doc. 79-27194 Filed 8-30-79; 8:45 am]
BILLING CODE 3710-06-M

Department of the Air Force

Coal-Fired Heating Plant: Intent To Prepare an Environmental Impact Statement and Scoping Meeting; Environmental Impact Analysis Process

The U.S. Air Force will be preparing an environmental impact statement on the modification of an existing steam heating plant at Fairchild Air Force Base near Spokane, Washington. This modification will convert fuel combustion for three (3) boilers presently burning natural gas/oil to coal as the primary fuel source. The statement will consider other fuel alternatives and no action alternative.

One public scoping meeting will be held to identify what are and what are not significant issues. Additionally an overview of preliminary findings of an air quality study will be presented. The meeting will be at 7:00 pm on 18 September 1979 at Spokane County Health Department Center, Room 140, West 11101 College, Spokane, Washington.

Interested parties that cannot attend the meeting are encouraged to submit comments and recommendations in writing.

For information concerning the proposed action and the environmental impact statement, contact Mr. Phillip E. Lammi, U.S. Air Force Regional Civil Engineer/Western Region, Chief Environmental Planning Division, 630 Sansome Street, Rm 1316, San Francisco, California 94111, (Telephone 415–556–6439).

[FR Doc. 79-27358 Filed 8-30-79; 8:45 am]
BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Microbiological Conference

Notice is hereby given that a conference to discuss the current state-of-the-art and technology and to delineate logical steps in the construction of a program of microbiological research in Enhanced Oil Recovery useful in fulfilling the mission of Fossil Fuel Extraction Division will be held August 30–31, 1979, at the Halfmoon Inn, San Diego, California. The conference will be open to the public and begin at 8:00 a.m.

The Chairman is Dr. Herman L. Finke, Department of Energy, Fossil Energy, Fossil Fuel Extraction Division, Washington, DC. The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business. For further information, you may contact Dr. Finke on (301) 353–2716.

Seating will be made available on a first-come, first-served basis.

Copies of the proceedings of the conference will be made available following their certification by the Chairman and Program Director/Fossil Energy at the Department of Energy's Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, upon payment of appropriate charges.

Issued in Washington, DC on August 23, 1979.

Charles E. Williams,
Acting Assistant Secretary for Energy Technology.

[FR Doc. 79-27219 Filed 8-30-79; 8:45 am]
BILLING CODE 6450-01-M

Uranium Hexafluoride; Separative Work Charges and Base Charges for Natural Uranium

The Department of Energy (DOE) hereby announces revisions to the Notice entitled "Uranium Hexafluoride: Separative Work Charges, and Base Charges for Natural Uranium" published in the **Federal Register** on September 29, 1977 (42 FR 51636), as amended by 43 FR 49831 on October 25, 1978, hereinafter referred to as the Notice.

Paragraph 1 of the Notice is deleted and the following paragraph 1 is inserted in lieu thereof:

1. *Separative Work Charges.* (a) The charge per separative work unit furnished pursuant to Requirements-type contracts is $98.30 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge. Effective February 29, 1980 the charge per separative work unit furnished pursuant to Requirements-type contracts will be $110.75 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge.

(b) The charge per separative work unit furnished pursuant to Adjustable Fixed-Commitment contracts is $88.65. Effective December 31, 1979 the charge per separative work unit furnished pursuant to Adjustable Fixed-Commitment contracts will be $98.95.

(c) The charge per separative work unit furnished pursuant to other than Requirements-type and Adjustable Fixed-Commitment contracts is $88.65. Effective October 31, 1979 the charge per separative work unit furnished pursuant to other than Requirements type and Adjustable Fixed-Commitment contracts will be $98.95.

Effective date: This notice is effective August 31, 1979.

Dated at Washington, D.C., this 28th day of August.

George S. McIsaac,
Assistant Secretary for Resource Applications.

[FR Doc. 79-27344 Filed 8-30-79; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed Week of June 25 through June 29, 1979

Notice is hereby given that during the week of June 25 through June 29, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before September 20, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 [44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed request to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

August 27, 1979.

Hughes & Hughes Oil & Gas, Beeville, Texas, DRO–0243, crude oil

On June 27, 1979, Oasis Oil, Inc., c/o Canty, Hanger, Gooch, Munn, Collins, 1800 First National Bank Building, Fort Worth, Texas 76102, filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to Hughes & Hughes Oil and Gas on June 5, 1979. In the Proposed Remedial Order, the ERA found that Hughes & Hughes improperly terminated its supplier/purchaser relationship with Sun Petroleum Products Company on April 1, 1979 in violation of CFR 211.63 (b). The Proposed Remedial Order orders Hughes & Hughes to reinstate the supplier/purchaser relationship with Sun, and to begin immediately the delivery of gas condensate.

The Maurice L. Brown Oil Co., Kansas City Mo. DRO–0240, crude oil

On June 26, 1979, the Maurice L. Brown Oil Company, Kansas City, Missouri, filed a Notice of Objections to a Proposed Remedial Order which the DOE Central Enforcement District issued to the firm on May 31, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from September 1973 through December 1975, Brown committed pricing violations in the States of Kansas, Oklahoma, Louisiana, and Texas in connection with the sales of crude oil. According to the Proposed Remedial Order, Brown's violations resulted in overcharges of $968,043.38.

Clark Oil & Refining Corp., Milwaukee, Wis., DRO–0235, crude oil

On June 25, 1979, Clark Oil & Refining Corporation, 8530 West National Avenue, P.O. Box 1994, Milwaukee, Wisconsin 53201, filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on April 30, 1979. In the Proposed Remedial Order, the Office of Special Counsel found that during the period October 23, 1973 through December 31, 1973, Clark committed pricing violations by failing to reduce its costs of crude oil by the amounts of cash differentials received from certain foreign-domestic crude oil sale and exchange transactions with Texaco, Inc. The Proposed Remedial Order directs Clark to treat these cash differentials as a reduction in its costs of crude oil and to submit revised Forms FEO–96 and FEA P–110–M–1 reflecting the recalculation of crude oil costs and indicating any excess revenue realized by Clark in its crude oil transactions.

Cone, J. R., Lubbock, Tx., DRO–0247, crude oil.

On June 28, 1979, J. R. Cone, P.O. Box 871, Lubbock, Texas 79408, filed a Notice of Objection to a Proposed Remedial Order that the DOE Southwest District Office of Enforcement issued to him on May 31, 1979. The Proposed Remedial Order found that during calendar years 1973 through 1977, Cone committed pricing violations of $1,670,403.11 in connection with the production and sale of crude oil in Lea County, New Mexico, and directed Cone to refund that amount, plus interest, to the purchaser of the crude oil.

United Oil Co., Hillside, N.J., DRO–0241, fuel oil

On June 22, 1979, United Oil Company, 100 Central Avenue, Hillside, New Jersey 07250, filed a Notice of Objection in which its states that it will contest a Proposed Remedial Order that the Northeast District Office of Enforcement of the Department of Energy issued to the firm on May 17, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from November 1, 1973 through March 31, 1974, United committed pricing violations in connection with the sale of No. 4 fuel oil in the State of New Jersey. According to the Proposed Remedial Order, United's violations resulted in overcharges to its customers totaling $87,881.

[FR Doc. 79–27340 Filed 8–30–79; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed Week of June 29 through July 6, 1979

Notice is hereby given that during the week of June 29, through July 6, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before September 20, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

Proposed Remedial Orders

Dean Miller Sunoco, Craftan, Penn., DRO–0256, motor gasoline

On July 15, 1979, Dean Miller Sunoco, 48 Crennett Avenue, Craftan, Pennsylvania 15205, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) that the DOE Northeat Enforcement District issued to it on June 26, 1979. In the IROIC, the Envorcement District found that Dean Miller was violating the DOE Price Regulations in connection with its sales of motor gasoline. In the Interim Remedial Order, Dean Miller was directed to reduce its prices to lawful levels.

Citadel Corp., Washingon, D.C., DRO–0258, DRO–0259, DRO–0260, motor gasoline

On July 6, 1979, Citadel Corporation (Citadel), 1631 Kalorama Road, N.W., Washington, D.C. filed a Notice of Objection to three Interim Remedial Orders for Immediate Compliance (IROIC) that the Office of Enforcement of the Department of Energy issued to the firm on June 29, 1979. In the IROIC's, the Office of Enforcement directed Citadel to reduce the selling price of motor gasoline at eleven retail service stations that Citadel owns and operates in the Washington, D.C. metropolitan area. The IROIC's were based upon a finding that the service stations were charging more than the maximum lawful price for the gasoline that they were selling.

Russell G. Estes, Midland, Tex., DRO–0251, crude oil

On June 29, 1979, Russell G. Estes, 306 Petroleum Building, Midland, Texas 79701, filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Enforcement Office of the Department of Energy issued to him on May 31, 1979. In the Proposed Remedial Order, the Enforcement Office found that during the time period from January 1973 through June 1977, Russell G. Estes sold crude oil in the State of Texas at prices in excess of those allowed by 10 CFR, Part 212, Subpart D. According to the Proposed Remedial Order, Russell G. Estes pricing violations resulted in overcharges to his customers of $342,737.26.

Golden Gate Petroleum Co., San Francisco, Calif., DRO–0253, fuel oil

On July 3, 1979, Golden Gate Petroleum Company, 465 California Street, San Francisco, California 98104, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western Enforcement District issued to it on June 8, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period November 1, 1973 through August 31, 1975, Golden Gate committed pricing violations in connection with its sales of residual fuel oil. According to the Proposed Remedial Order, Golden Gate's violations resulted in overcharges to its customers of $965,727.

Henry Petroleum Corp., Midland, Tex., DRO–0250, crude oil

On June 29, 1979, Henry Petroleum Corporation, 801 Petroleum Building, Midland, Texas 79701, filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Enforcement Office of the Department of Energy issued to the firm on May 29, 1979. In the Proposed Remedial Order, the Enforcement Office found that during the time period from December 1, 1973 through March 31, 1977, Henry Petroleum Corporation sold crude oil in the States of Texas and New Mexico at prices in excess of those permitted to 10 CFR, Part 212, Subpart D. According to the Proposed Remedial Order, Henry Petroleum Corporation's pricing violations resulted in overcharges to its customers of $138,056.41.

Polaris Production Corp., Midland, Tex., DRO–0252, crude oil

On July 2, 1979, Polaris Production Corporation, P.O. Box 1749, Midland, Texas 79702, filed a Notice of Objection to a Proposed Remedial Order that was issued to it on May 30, 1979, by the Southwest District Office of Enforcement of the Department of Energy. In the Proposed Remedial Order, the Office of Enforcement found that during the period from September 1, 1973 through April 30, 1977 Polaris committed pricing violations in connection with its first sale of domestic crude oil in the State of New Mexico. According to the Proposed Remedial Order, these pricing violations resulted in overcharges to its customers of $297,902.55.

Tipperary Oil & Gas Corp., Midland, Tex., DRO–0257, crude oil

On July 6, 1979, Tipperary Oil and Gas Corporation, 500 West Illinois, Midland, Texas 79701, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on May 31, 1979. In the Proposed Remedial Order, the Enforcement District found that from September 1, 1973 through September 30, 1976, Tipperary committed pricing violations in the State of New Mexico in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Tipperary's violations resulted in overcharges of $427,575.11 to Western Crude Oil Inc. A July 5, 1979 Federal Register Notice erroneously stated that the Proposed Remedial Order was issued to Tipperary on June 5, 1979, and that the overcharges amounted to $436,039.30. *See* 44 FR 39244 (July 5, 1979).

[FR Doc. 79–27341 Filed 8–30–79; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed Week of July 6, 1979 through July 13, 1979

Notice is hereby given that during the week of July 6 through July 13, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

August 27, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 6, 1979 through July 13, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 6, 1979	Koch Industries, Inc., Dallas, Tex	DRT–0060	Request for temporary stay. If granted: Koch Industries, Incorporated would receive a Temporary Stay of the Interim Remedial Order for Immediate Compliance issued by the DOE Office of Special Counsel on July 3, 1979 regarding Koch Industries, Incorporated's supply obligations to Saturn Petroleum Co., Inc.
Do	Marathon Oil Co., Findlay, Ohio	DEA–0495, DEA–0496, DES–0495, DES–0496	Appeals of assignment orders; Request for stay. If granted: The June 21, 1979 Assignment Orders issued by the Economic Regulatory Administration Region V to Marathon Oil Co. regarding Marathon's supply obligations to Farmland Industries and Landmark, Inc. would be modified.
Do	Sun Oil Co. of Pennsylvania, Philadelphia, Pa	DES–0226, DST–0226	Request for stay and request for temporary stay. If granted: The Sun Oil Co. of Pennsylvania would receive a Stay and Temporary Stay of the Temporary Assignment Order issued by ERA regarding Sun Oil Co. of Pennsylvania's supply obligations to Landmark, Inc., pending final determination on an Appeal which the firm intends to file.
Do	Wilmer, Cutler & Pickering, Washington, D.C.	DEX–0189	Supplemental order. If granted: A Protective Order would be issued releasing Colonial Oil Co.'s confidential data to American Petrofina for limited use in conjunction with American Petrofina's comments opposing relief to Colonial Oil Co. (Case Nos. DEE–1461, DEN–1461, DEE–6865, DES–5733).
July 9, 1979	Acomi Corp., Marblehead, Mass.	DEX–0188	Supplemental order. If granted: A hearing would be convened to consider whether the relief previously granted to Acomi Corp. in Decision and Orders issued on March 7, 1979 (Case No. DST–0014) and on April 4, 1979 (Case No. DES–3465) directing the DOE Region I to assign a supply of gasoline to the firm should be revoked.
Do	Amoco Oil Co., Chicago, Ill	DEA–0499, DEA–0500	Appeal of assignment orders. If granted: The October 13, 1978 Assignment Orders (Mutual Termination Orders) regarding the assignment of Menut and Parks, Inc., an Amoco branded jobber, as supplier to Mr. Ned Dunbar would be rescinded.
Do	Cities Service Co., Tulsa, Okla	DEA–0501, DES–0501, DST–0501	Appeal of mutual termination order; request for stay; request for temporary stay. If granted: The Mutual Termination Order issued by the Economic Regulatory Administration Region I on May 18, 1979, regarding Cities Service Co.'s supply obligations to Champlin Oil Co. and Champlin Oil Co.'s supply obligations to Bruce Right would be modified. The Order would be stayed pending a final determination on the Appeal.
Do	Cliff Adams, Washington, Pa.	DRW–0021	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to Cliff Adams as a Remedial Order by the Department of Energy.
Do	Cubbon Lumber Co., Oil City, Pa.	DRW–0029	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued June 1, 1979 by ERA Region III would be issued to Cubbon Lumber Co. as a Remedial Order by the Department of Energy.
Do	David Clark, Gibsonia, Pa.	DRW–0025	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to David Clark as a Remedial Order by the Department of Energy.
Do	Donald Brown d/b/a Valley Drive Exxon, Sprague, W Va.	DRW–0020	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to Donald Brown as a Remedial Order by the Department of Energy.
Do	Don Newman, New Martinsville, W. Va.	DRW–0024	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to Don Newman as a Remedial Order by the Department of Energy.
Do	Donald P. Mullen, Las Vegas, Nev	DRA–0494	Appeal of information request denial. If granted: The June 7, 1979 Information Request Denial issued by the DOE Idaho Operations Office would be rescinded and Donald P. Mullen would receive access to certain documents regarding Reynolds Electrical and Engineering Co.
Do	Harry Martin, Meadville, Pa.	DRW–0028	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued June 1, 1979 by ERA Region III would be issued to Harry Martin as a Remedial Order by the Department of Energy.
Do	J. W. Miller and Associates, West Charleston, W Va.	DRW–0026	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to J. W. Miller & Associates as a Remedial Order by the Department of Energy.
Do	J. R. Souza & Sons, Inc., Danvers, Mass.	DRW–0502	Appeal of mutual termination order. If granted: The May 2, 1979, Mutual Termination Order issued by Economic Regulatory Administration Region I to Advanced Petroleum Co., regarding the supply obligations of J. R. Souza & Sons, Inc. to Advanced Petroleum Co. would be rescinded.

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 6, 1979 through July 13, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	John E. Burchard, Petersburg, W. Va.	DRW-0022	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to John E. Burchard as a Remedial Order by the Department of Energy.
Do	John Kline, Paden City, W. Va.	DRW-0023	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979 by ERA Region III would be issued to John Kline as a Remedial Order by the Department of Energy.
Do	James V. Fulmer, Mechanicsburg, Pa.	DRW-0027	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued June 1, 1979 by ERA Region III would be issued to James V. Fulmer as a Remedial Order by the Department of Energy.
Do	Koch Industries, Inc., Dallas, Tex	DRS-0261	Request for stay. If granted: Koch Industries, Inc. would receive a Stay of the Interim Remedial Order for Immediate Compliance, issued to it on July 3,1979 by the DOE Office of Special Counsel.
Do	Mobil Oil Corp., New York, N.Y.	DES-0227, DST-0027	Request for stay; request for temporary stay. If granted: The June 14, 1979 Interim Decision and Order regarding Mobil Oil Corp.'s supply obligations to Publix Oil Co., Inc. would be stayed.
Do	Pauline Johnson, Nitro, W.V.	DRW-0030	Proposed remedial order for which no objections have been filed. If granted: The Proposed Remedial Order issued May 31, 1979, by ERA, Region III would be issued to Pauline Johnson as a Remedial Order by the Department of Energy.
Do	Texaco, Inc., White Plains, N.Y.	DXE-7166	Price exception (section 212.73) If granted: Texaco, Inc. would be permitted to continue to sell a portion of the crude oil from the A.S. Wisness Lease located in McKenzie County, N. Dak. at upper tier ceiling prices.
Do	Young Refining Corp., Washington, D.C.	DEX-0190	Supplemental order. If granted: The DOE would review the level of exception relief granted in a Proposed Decision and Order issued to Young Refining Corp. (Case No. DXE-1978) on December 6, 1978, to determine whether the relief accorded the firm during its 1979 fiscal year was appropriate.
July 10, 1979	Amoco Oil Co., Chicago, Ill.	DEE-7193	Price exception (section 212.83) If granted: Amoco Oil Co. would receive an exception to the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
Do	Finch Oil Co., Fayetteville, N.C.	DEE-7195	Allocation exception. If granted: Finch Oil Co., would receive an exception to the provisions of 10 CFR 211, permitting the firm to receive increased allocations of unleaded gasoline to be used in the blending of motohol (gasohol).
Do	National Helium Corp., Washington, D.C.	DFA-0503	Appeal of information request denial. If granted: The June 7, 1979 Information Request Denial issued by the DOE Office of FOI and Privacy Acts Activities would be rescinded and National Helium Corp. would receive access to certain DOE documents.
July 11, 1979	Belcher of New England, Inc., Revere, Mass	DRT-0061	Request for temporary stay. If granted: The July 6, 1979 Interim Remedial Order issued by the Economic Regulatory Administration Region I, regarding Belcher of New England, Inc.'s supply obligations to Acomi, Inc. would be stayed.
Do	Bob Mueller, Overland Park, Kans	DRS-0304	Request for stay. If granted: The June 29, 1979 Interim Remedial Order for Immediate Compliance issued by Economic Regulatory Administration Region VII, requiring Bob Mueller to reduce its retail selling prices of gasoline would be stayed.
Do	Logue & Patterson, Dallas, Tex	DEE-7371	Price exception (section 212.72) If granted: Logue & Patterson would be permitted to sell the crude oil produced from the T. T. Dalney lease located in Polk County, Tex. at upper tier ceiling prices.
July 12, 1979	American Motohol Supply Corp., Washington, D.C.	DEE-7203	Allocation exception. If granted: American Motohol Supply Corp. would receive an exception to the provision of 10 CFR 211, permitting the firm to receive increased allocations of unleaded gasoline to be used in the blending of motohol (gasohol).
Do	Amoco Oil Co., Chicago, Ill.	DEH-2179	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to Amoco Oil Co.'s Statement of Objections submitted in response to the Proposed Decision and Order issued to American Agrifuels Corp. on May 9, 1979.
Do	Vincent J. Fuller, Washington, D.C.	DFA-0504	Appeal of information request denial. If granted: The DOE's June 25, 1979 Information Request Denial issued by the Office of Regulation and Emergency Planning of the Economic Regulatory Administration would be rescinded and Vincent J. Fuller would receive access to records regarding multi-tiered pricing and entitlements programs.
Do	Standard Oil Co. of Indiana, Chicago, Ill.	DRO-0198	Motion for discovery. If granted: Discovery would be granted to Standard Oil Co. of Indiana with respect to the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. DRO-0198) issued to the firm by the DOE Office of Special Counsel on May 1, 1979.
July 13, 1979	Dobrovir, Oakes & Gebhardt, Washington, D.C.	DFA-0505	Appeal of information request denial. If granted: The June 11, 1979 Information Request Denail issued by the DOE Office of Inspector General would be rescinded, and Dobrovir, Oakes & Gebhardt would be granted access to certain DOE documents.
Do	J. C. Brown Oil Co., Inc., Schley, Va.	DEE-7392	Price exception. If granted: J. C. Brown Oil Co., Inc. would be permitted to increase its gross margin on sales of gasoline.
Do	Kern County Refinery, Inc., Bakersfield, Calif.	DEX-0195	Supplemental order. If granted: The DOE would review the level of exception relief granted in the June 7, 1979 Decision and Order (Case Number DXE-1904) issued to Kern County Refinery, Inc. to determine whether the relief accorded the firm was appropriate.

Notices of Objection Received

Date	Name of location of applicant	Case no.
July 9, 1979	M.R.S. Service Center, Inc., Mineola, N.Y.	DBO-0262
Do	Palm Oil Co., Burbank, Calif.	DEE-2497
July 10, 1979	C & C Garage & Towing, Slatersville, R.I.	DEE-3362
July 13, 1979	Texaco, Inc., White Plains, N.Y.	DEE-2168

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 6 Through July 13, 1979

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

July 6, 1979

American Packaging Corporation	DEE-7279	07/06/79	New Jersey
Archer Oil Company	DEE-7386	07/06/79	Texas
B & B Gasland	DEE-7115	07/06/79	Rhode Island
Barnacle II	DEE-7112	07/06/79	Maine
Branford Repair & Service	DEE-7097	07/06/79	Connecticut
Buddy's Mascot	DEE-7129	07/06/79	West Virginia
Clarksburg Grocery	DEE-7119	07/06/79	Maryland
Coleman Oil Co., Inc.	DEE-7089	07/06/79	New Hampshire
D J Trucking Co., Inc.	DEE-7123	07/06/79	Texas
Ernie's Texaco/E. Booth	DEE-7090	07/06/79	Massachusetts
Floor Corporation	DEE-7117	07/06/79	California
Frank Decarlo Auto Service	DEE-7096	07/06/79	Massachusetts
Frank's Auto Service	DEE-7093	07/06/79	Massachusetts
Garrett Freight Lines, Inc.	DEE-7387	07/06/79	Idaho
Gary's Auto Service	DEE-7087	07/06/79	Massachusetts
Goodhall's West	DEE-7121	07/06/79	Massachusetts
Henry's Citgo	DEE-7099	07/06/79	Massachusetts
Hull Grocery, Inc.	DEE-7127	07/06/79	Georgia
In and Out Car Wash	DEE-7126	07/06/79	South Carolina
Johnston's Gulf Service, Inc.	DEE-7125	07/06/79	Michigan
Jones Oil Co., Inc.	DEE-7133	07/06/79	Nebraska
Kay's Korner	DEE-7134	07/06/79	Kansas
Macek—Silvia	DEE-7091	07/06/79	Massachusetts
Nargiso, Lou	DEE-7095	07/06/79	Connecticut
Northtown Skelly	DEE-7388	07/06/79	Missouri
O. O. Corsaut, Inc.	DEE-7128	07/06/79	Michigan
Paul's Quik Pik #2	DEE-7110	07/06/79	Maine
Pete & Frank's 66 Service, Inc.	DEE-7124	07/06/79	Florida
Pete's Sunoco	DEE-7094	07/06/79	New Hampshire
Quintana, Nick	DEE-7122	07/06/79	Florida
Regan's Service, Inc.	DEE-7111	07/06/79	Massachusetts
Round's Service Station	DEE-7096	07/06/79	Rhode Island
Shahbazin, Elias	DEE-7092	07/06/79	Massachusetts
Smitty's Amoco	DEE-7109	07/06/79	Connecticut
Standard Tractor Sales Co.	DEE-7108	07/06/79	California
Stinson Tire Co.	DEE-7138	07/06/79	Virginia
Texaco, Inc.	DEE-7113	07/06/79	Massachusetts
Town Line Service	DEE-7116	07/06/79	Massachusetts
Ventura, Thomas F.	DEE-7088	07/06/79	Massachusetts
Whelchel, Robert L.	DEE-7106	07/06/79	Louisiana
Wickford Auto Station, Inc.	DEE-7114	07/06/79	Rhode Island

July 9, 1979

Airport Limousine Service	DEE-7163	07/09/79	Missouri
Antler Resort & Marina	DEE-7148	07/09/79	California
Callan & Company	DEE-7157	07/09/79	California
Cantrell, Howard	DEE-7162	07/09/79	Tennessee
Duncan Oil Co.	DEE-7072	07/09/79	Ohio
Fairland Kerr McGee	DEE-7144	07/09/79	Oklahoma
General Dynamics Corp.	DEE-7152	07/09/79	Connecticut
Graybill & Weigold	DEE-7159	07/09/79	Connecticut
H. Gruskin Enterprises, Inc.	DEE-7142	07/09/79	California
J. & R. Texaco	DEE-7146	07/09/79	Colorado
Ken's Service	DEE-7140	07/09/79	Kansas
Laconia Car Wash Corp.	DEE-7156	07/09/79	New Hampshire
Lipham Oil Co.	DEE-7155	07/09/79	Texas
Park Mart Sunoco	DEE-7149	07/09/79	West Virginia
Phil's Kerr McGee	DEE-7145	07/09/79	Oklahoma
Randy's Exxon	DEE-7143	07/09/79	Virginia
Severna Park Amoco	DEE-7139	07/09/79	Maryland
Sione, Mitchell	DEE-7150	07/09/79	Kentucky
Starefire Service	DEE-7147	07/09/79	Ohio
Tammer, Leroy	DEE-7153	07/09/79	Texas
Tiny's Freeway Station	DEE-7161	07/09/79	Oklahoma
Unimed Management Corp.	DEE-7141	07/09/79	New York
Valley Exxon	DEE-7158	07/09/79	California
Wood Oil Co.	DEE-7168	07/09/79	Arkansas

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A & R Enterprises, Inc.	DEE-7180	07/10/79	Maryland
Biviano's Arco	DEE-7178	07/10/79	Pennsylvania
Blackmon's Exxon	DEE-7170	07/10/79	South Carolina
Brown's Service Station	DEE-7172	07/10/79	California
Charter Way Arco Mini Mart	DEE-7171	07/10/79	California
Cooper's Hess	DEE-7188	07/10/79	Virginia
D & D Gulf Service	DEE-7179	07/10/79	Massachusetts
Digg's Service	DEE-7186	07/10/79	California
Fred's Exxon	DEE-7181	07/10/79	California
Grotticelli, Marie	DEE-7185	07/10/79	California

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Hough's American Service	DEE-7177	07/10/79	District of Columbia
Kelley Oil Co.	DEE-7184	07/10/79	Oklahoma
Latern Lane Shell	DEE-7192	07/10/79	Texas
Long Creek Exxon	DEE-7182	07/10/79	North Carolina
Medford Tire & Service Clinic	DEE-7176	07/10/79	Oklahoma
Naegele Outdoor Advertising Co.	DEE-7174	07/10/79	Louisiana
New Jersey Highway Authority	DEE-7169	07/10/79	New Jersey
New Stanton W. Auto/Truck Plaza	DEE-7154	07/10/79	Pennsylvania
Pete's Gulf	DEE-7187	07/10/79	Ohio
Pittmen Oil Distributors	DEE-7183	07/10/79	Indiana
Richard Cox Arco	DEE-7173	07/10/79	California
San Anselmo Beacon	DEE-7175	07/10/79	California

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Center Market, Inc.	DEE-7202	07/11/79	Massachusetts
Circle R Convenience Stores, Inc.	DEE-7254	07/11/79	Louisiana
Delk, Donald	DEE-7165	07/11/79	Arkansas
H.B. "Buster" Hughes, Inc.	DEE-7201	07/11/79	Louisiana
Hikes Point Gulf Service	DEE-7190	07/11/79	Kentucky
Lambrecht Petroleum, Inc.	DEE-7197	07/11/79	Nebraska
Pyramid Oil Co.	DEE-7198	07/11/79	Pennsylvania
Thurman's Auto Parts, Inc.	DEE-7200	07/11/79	Washington
Tripp Street Chevron	DEE-7199	07/11/79	Georgia

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Bedles Gulf Service	DEE-7204	07/12/79	New Jersey
Bordelon's Tree Surgery, Inc.	DEE-7214	07/12/79	Louisiana
Caesar's Union 76	DEE-7217	07/12/79	Indiana
Esalen Institute	DEE-7218	07/12/79	California
Estatoe Co. Store, Inc.	DEE-7205	07/12/79	North Carolina
Frawley Oil Company	DEE-7239	07/12/79	Oklahoma
Glaser's Amoco Services	DEE-7468	07/12/79	Louisiana
Grazzolo Drug & Chemical Co.	DEE-7311	07/12/79	Illinois
P & L Shell Service Station	DEE-7207	07/12/79	West Virginia
Route 13 Amoco	DEE-7151	07/12/79	Delaware
Sawyer's General Store	DEE-7206	07/12/79	California
Western Montana Cooperative	DEE-7003	07/12/79	Montana
Wixon, Boby L.	DEE-6395	07/12/79	Louisiana

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Breton Shell	DEE-7210	07/13/79	Michigan
Brighton Auto Body & Repair Inc.	DEE-7235	07/13/79	Massachusetts
Bubber's Exxon	DEE-7241	07/13/79	Tennessee
Burton Gulf	DEE-7212	07/13/79	New Jersey
Catheys Valley Co.	DEE-7216	07/13/79	California
City or Port Clinton	DEE-7234	07/13/79	Ohio
Colburn's Shell Service	DEE-6137	07/13/79	Michigan
Cove Exxon	DEE-7229	07/13/79	Oregon
Dollar Rent-A-Car	DEE-7215	07/13/79	Colorado
Dunston Enterprises, Inc.	DEE-7236	07/13/79	Virginia
Eagle's Chevron Service	DEE-7233	07/13/79	Montana
Grasso, Albert A.	DEE-7221	07/13/79	California
Jo Mao Car Wash	DEE-7230	07/13/79	California
McBrayer, D.L.	DEE-7240	07/13/79	California
Mr. Clean Car Wash, Inc.	DEE-7224	07/13/79	Louisiana
Nome Quick Stop	DEE-7232	07/13/79	Texas
Perry Alexander Construction	DEE-7225	07/13/79	North Carolina
Polanco Service Station, Inc.	DEE-7226	07/13/79	New York
Quincy Oil, Inc.	DEE-7213	07/13/79	Massachusetts
Refiner's Oil Company	DEE-7238	07/13/79	North Dakota
Santa Cruz Fina Station #25	DEE-7242	07/13/79	Florida
Spandau Certified Auto Repairs	DEE-7222	07/13/79	New York
Spangler Oil Co.	DEE-7223	07/13/79	Pennsylvania
Steve Lane Sunoco	DEE-7243	07/13/79	Ohio
Wayne Tipton Grocery	DEE-7231	07/13/79	North Carolina
Winther Chevron	DEE-7211	07/13/79	California
Wolfe's Arco	DEE-7226	07/13/79	Pennsylvania

Items Retrieved—136.

[FR Doc. 79-27342 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01

Objection To Proposed Remedial Orders Filed Week of July 9 through July 13, 1979

Notice is hereby given that during the week of July 9, through July 13, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before September 20, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

Proposed Remedial Orders

Donald J. Bania d.b.a. Fisher Shell Station, Minneapolis, Minn., DRO–0263, motor gasoline

On July 9, 1979, Donald J. Bania d.b.a. Fisher Shell Station, 1022 Hennepin Avenue, Minneapolis, Minnesota 55403, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Central Enforcement District of the Economic Regulatory Administration of the Department of Energy issued to the firm on June 27, 1979. In the IROIC, the Enforcement District found that Donald Bania was violating the DOE Price Regulations in connection with its sales of motor gasoline. The IROIC accordingly ordered Bania to lower his prices to levels established by a June 26, 1979 ERA audit, to post maximum lawful selling prices, and to keep records in accordance with 10 CFR, Part 212.

Ferguson Oil Co., Oklahoma City, Okla., DRO–0270, crude oil

On July 12, 1979, Ferguson Oil Company, 2700 Liberty Tower, Oklahoma City, Oklahoma, 73102, filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Enforcement Office of the Department of Energy issued to the firm on June 20, 1979. In that Proposed Remedial Order, the Enforcement Office found that Ferguson had committed pricing violations in connection with its sales of crude oil from properties located in Hughes County, Osage County, Coal County and McClain County, Oklahoma. According to the Proposed Remedial Order, Ferguson's violations resulted in overcharges of $98,322.

George R. Brown, Houston, Tex., DRO–0266, crude oil

On July 9, 1979, George R. Brown, 800 San Jacinto Building, Houston, Texas 77002, filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Enforcement Office of the Department of Energy issued to the firm on June 25, 1979. In the Proposed Remedial Order, the District Enforcement Office found that during the time period from September 1973 to November 1976 George R. Brown sold crude oil in the State of Louisiana, Oklahoma and Texas at prices in excess of those permitted by 10 CFR, Part 212, Subpart D. According to the Proposed Remedial Order, George R. Brown's pricing violations resulted in overcharges to its customers of $303,531.77.

In-N-Out Car Wash, New Orleans, La., DRO–0269, motor gasoline

On July 12, 1979, In-N-Out Car Wash, 1627 St. Mary Street, New Orleans, Louisiana, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Southwest Enforcement District issued to In-N-Out Car Wash on June 29, 1979. In the IROIC the Southwest Enforcement District found that In-N-Out Car Wash was requiring the purchase of a car wash in order to be permitted to purchase motor gasoline and that this was a change in business practices in violation of DOE regulations. The IROIC therefore ordered In-N-Out Car Wash to discontinue these "tie-in" sales immediately.

Inexco Oil Co., Houston, Tex., DRO–0264, crude oil

On July 9, 1979, True Oil Purchasing Company (True), P.O. Drawer 2360, Casper, Wyoming, 82602, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to Inexco Oil Company on June 13, 1979. In the Proposed Remedial Order, the Enforcement District found that during the time period September 1, 1973 through December 31, 1975, Inexco had committed pricing violations in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Inexco's violations resulted in overcharges to its customers of $98,576.14.

Inexco Oil Co., Houston, Tex., DRO–0264, crude oil

On July 9, 1979, Inexco Oil Company (Inexco), c/o Richard E. Powers, Jr., Esq., Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue, N.W., Washington, D.C. 20006, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on June 13, 1979. In the Proposed Remedial Order, the Office of Enforcement found that during the time period September 1, 1979 through December 31, 1975 Inexco had committed pricing violations in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Inexco's violations resulted in overcharges to its customers of $98,576.14.

Koch Industries, Inc., Wichita, Kans., DRO–0261, motor gasoline

On July 9, 1979, Koch Industries, Inc., P.O. Box 2256, Wichita, Kansas 67201, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) that was issued to the firm on July 5, 1979, by the Office of Special Counsel, Southwest Refiner District. Under the terms of the IROIC, Koch is required to make available to Saturn Petroleum Company, 30400 Telegraph Road, Birmingham, Michigan 48010, its motor gasoline allocation for May and June 1979, subject to payment terms of "net 10" and a credit line of $150,000, and to make available to Saturn its motor gasoline allocations for future months with full compliance with Parts 210, 211, and 212 of the DOE regulations.

Bob Mueller, Overland Park, Kans., DRO–0304, motor gasoline

On July 11, 1979, Bob Mueller (Mueller), d/b/a United Company, 9405 West 106th Street, Overland Park, Kansas 66212 filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Enforcement, Central District, issued to him on June 29, 1979. In the IROIC, the Office of Enforcement found that Mueller had charged prices in excess of his maximum allowable selling prices for motor gasoline at his retail outlet in Platte Woods, Missouri. The IROIC directs Mueller to lower his prices immediately to the maximum allowable price levels.

Texas Recovery Co., Palestine, Tex., DRO–0267, crude oil

On July 10, 1979, Texas Recovery Company (TRC), P.O. Box 424, Palestine, Texas, 75801, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on June 18, 1979. In the Proposed Remedial Order, the Enforcement District found that during the time period November 27, 1973 through December 31, 1974, TRC committed pricing violations in the State of Texas in connection with the production and sale of crude oil. According to the Proposed Remedial Order, TRC's violations resulted in overcharges to its customers, J and W Refining Company, of $669,512.43.

True Oil Co., Casper, Wyo., DRO–0268, crude oil

On July 12, 1979, True Oil Company, P.O. Drawer 2360, Casper, Wyoming 82602, filed a Notice of Objection to a Proposed Remedial Order which the DOE Rocky Mountain Enforcement District issued to the firm on June 8, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from September 1, 1973 through December 31, 1974, True committed pricing violations in connection with the production and sale of crude oil. According to the Proposed Remedial Order, True's violations resulted in overcharges to its customers of $379,662.86.

[FR Doc. 79-27343 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case No. 52371-1571-04-77]

Potomac Electric Power Co. Chalk Point Unit No. 4

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Potomac Electric Power Company Chalk Point Unit No. 4 as an Existing Facility.

SUMMARY: On June 5, 1979, Potomac Electric Power Company (PEPCO) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Chalk Point Unit No. 4 as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620 (FUA).

ERA has completed its analysis of PEPCO's request and has determined

that PEPCO has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25 percent of the total projected project cost as of November 9, 1978, within the meaning of § 515.6 of the Revised Interim Rule.

ERA has determined that PEPCO's Chalk Point Unit No. 4 is an "existing" facility and is now subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone: (202) 634–2170.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, Phone: (202) 633–8814.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 254–7442.

SUPPLEMENTARY INFORMATION: (1) On June 5, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, PEPCO requested that ERA classify PEPCO's Chalk Point Unit No. 4 as an "existing" facility. On July 19, 1979, ERA published a summary of PEPCO's request for classification in the **Federal Register** and requested comments by interested persons on or before August 9, 1979.

(2) A copy of ERA's Summary of Analysis dated August 8, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., August 23, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-27220 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52053-2594-06-77]

Niagara Mohawk Power Corp. Oswego Unit No. 6

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Niagara Mohawk Power Corporation Oswego Unit No. 6 as an Existing Facility.

SUMMARY: On June 4, 1979, Niagara Mohawk Power Corporation (Niagara Mohawk) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Oswego Unit No. 6 as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, P.L. 95–620 (FUA).

ERA has completed its analysis of Niagara Mohawk's request and has determined that Niagara Mohawk has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25 percent of the total projected cost as of November 9, 1978, within the meaning of Section 515.6 of the Revised Interim Rule.

ERA has determined that Niagara Mohawk's Oswego Unit No. 6 is an "existing" facility and is now subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone: (202) 634–2170.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, Phone: (202) 633–8814.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 254–7442.

SUPPLEMENTARY INFORMATION:

(1) On June 4, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Niagara Mohawk requested that ERA classify Niagara Mohawk's Oswego Unit No. 6 as an "existing" facility. On July 6, 1979, ERA published a summary of Niagara Mohawk's request for classification in the **Federal Register** and requested comments by interested persons on or before July 30, 1979.

(2) A copy of ERA's Summary of Analysis dated August 6, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., August 23, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-27221 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–APS–78–2]

Application of Archer Daniels Midland Co. for Designation as a Producer of Petroleum Substitute in the Domestic Crude Oil Allocation Program for Alcohol; Decision and Order

I. Introduction

On February 6, 1979, Archer Daniels Midland Company (ADM), Box 1470, Decatur, Illinois 62525, submitted to the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) an application for designation as a producer of a petroleum substitute pursuant to 10 CFR 211.67(a)(5). The application was received by the ERA on February 9, 1979, and supplemental information was submitted by ADM on March 27, 1979 which ERA received on March 29, 1979 and on May 11, 1979 which ERA received on May 17, 1979.

ERA is issuing this Decision and Order pursuant to 10 CFR Part 205, Subpart G of DOE's Administrative Procedures and Sanctions, and Section 211.67(a)(5) to Subpart C of 10 CFR Part 211, the Mandatory Petroleum Allocation Regulations.

II. Regulatory Authorities

Section 211.62 of the Mandatory Petroleum Allocation Regulations provides that upon application, the ERA may designate liquid synthetic fuels as petroleum substitutes if it is found that the liquid synthetic fuels are derived from domestic sources of biomass, coal, oil shale, solid waste or tar sands, and used as a feedstock to a refinery, a blending feedstock or as a boiler fuel in a refinery or elsewhere. The ERA may deny the petroleum substitute designation if it finds that process by which the liquid synthetic fuel is produced does not result in a new energy gain and does not result in a higher-valued fuel when the quantity and type of fuels consumed in the process are considered, especially if a substantial amount of a relatively scarce fuel is consumed.

The ERA may designate the producer, marketer, or consumer as the party to receive the benefitrs of the Entitlements Program. The producer will in many cases be the designated recipient although not in all cases.

III. Analysis of ADM's Petroleum Substitute Application

The Archer Daniels Midland Company (ADM) submitted their initial application on February 6, 1979, and submitted additional data to the application on March 27, 1979 and May 11, 1979. ADM is producing approximately 60,000 gallons per day of ethanol for use in blending with gasoline to produce a 10% ethyl alcohol (ethanol) and 90% gasoline blend commonly known as gasohol.

The ethanol for gasohol is produced by ADM by the wet corn milling process. This process includes:

(1) Steeping to loosen various parts of the corn kernel;

(2) Grinding to break the corn kernel apart;

(3) Germ separation to recover the corn oil and corn germ meal;

(4) Fine grinding to separate the starch and gluten fractions;

(5) Removal of fiber for corn gluten feed which is 21% protein;

(6) Removal of protein for corn gluten meal which is 60% protein;

(7) Concentrating the starch by removing the excess water;

(8) Cooking the starch in the presence of the liquifying enzymes which convert the starch chains to dextrins;

(9) Cooling and adding saccharifying enzymes to convert dextrins to glucose;

(10) Yeast is then added to convert the glucose to ethyl alcohol and carbon dioxide;

(11) The alcohol (10% in the fermenter) is distilled to a concentration of 96.0% to 96.5% pure;

(12) The purified alcohol is then re-distilled to 99.75% to 100% pure (i.e., anhydrous alcohol), and

(13) The anhydrous alcohol is denatured according to government specifications for industrial alcohol for blending into gasohol.

The anhydrous alcohol that the wet corn milling process yields will be used to replace gasoline (a petroleum product). The petroleum substitute is the anhydrous alcohol and not the gasohol, thus any entitlements benefit would be for the anhydrous alcohol, not the gasohol.

The wet corn milling process used by ADM, produces anhydrous alcohol (ethanol) which is a liquid. The source of the corn used for extraction of starch to produce the ethanol is from the elevators and farms around Decatur, Illinois. The only use for which ADM is currently producing ethanol, is for the blending with unleaded gasoline to make gasohol.

The process by which ADM produces ethanol is fueled by natural gas and coal (electricity). According to the addendum to their application dated March 27, 1979, the BTUs, percentage and volume breakouts for ADM's 24,000 bushel/62,400 gallon anhydrous alcohol production facility are as follows:

	BTU	Percentage	Volume
Natural Gas	4,496,037,710.4	96.54	4,496,038 cu. ft.
Coal (Electricity)	161,138,389.6	3.46	14,649 lb.
Total	4,657,176,000.0	100.00	

The following computations based on the above figures demonstrate the net energy gain determination of the facility to be of a positive nature. The facility consumes 4,657,176,000 BTUs per day in producing 62,400 gallons per day of ethanol from an input of 24,000 bushels of corn per day (2.6 gallons per bushel). The following summarizes the computations.

(1) Total BTUs input per day = 4,657,176,000 BTUs.

(2) Total BTUs output (ethanol) per day:

= 62,400 gallons/day at 84,000 BTU/gal.
= 5,241,600,000 BTUs/day.

(3) Net energy gain:

= (2) − (1).
= 584,424,000 BTUs/day.

Therefore, the ADM facility is determined to meet the criteria that the facility and process be a net energy gain and/or a higher-valued fuel.

The environmental impact of this Decision and Order for ADM to make ethanol for gasohol has been reviewed by the Assistant Secretary for the Environment (EV) of the DOE. The determination made by EV is that this Decision and Order does not constitute a major federal action and that this Decision and Order will not cause any action by ADM which will affect the quality of the environment.

ADM has applied for the benefits of the entitlements program as the producer of the ethanol for gasohol. It is the ERA's determination that due to the nature of the distribution system, of the marketing, and blending operations; it is in the best interest of all parties both producer, marketers, and consumers that in this instance the producer (ADM) receive the entitlement benefits.

The level of benefits to be received by ADM is based upon an 84,000 BTU gallon of alcohol, as compared to a 42 gallon, 5.7 million BTU barrel of crude. The result is as follows:

(4) 84,000 BTU/gal * 42 gal/bbl. = 3,528,000 BTU/bbl.

(5) Fractional benefit (FB)

$$FB = \frac{3{,}528{,}000\ \text{BTU/bbl.}}{5{,}700{,}000\ \text{BTU/bbl.}} = .6189$$

In summary, ADM is operating an ethanol for gasohol plant which:

(a) Produces a liquid petroleum substitute (ethanol for gasoline);

(b) Produces it from domestic sources of biomass (Illinois corn);

(c) Markets a fuel blendstock (ethanol for gasohol);

(d) Is a net energy gain process and results in a higher-valued fuel (ethanol), and

(e) Will be the recipient of entitlement benefits.

IV. Decision

In consideration of the foregoing, the ERA hereby approves the application of Archer Daniels Midland Company for designation as a producer of a petroleum substitute, under 10 CFR 211.67(a)(5). ADM is designated to receive .6189 of an entitlement benefit for each 42 gallon barrel of alcohol containing 84,000 BTUs per gallon which it produces and sells such that it is blended into gasohol and replaces gasoline.

The effective date of this decision is March 1, 1979, and all volumes of ethanol produced since that date will be granted entitlement benefits through the standards entitlement correction process. The March 1, 1979 effective date is to provide ADM with any entitlement benefits due them beginning with the first full month after their application was filed.

In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this Decision and Order with the Office of Hearings and Appeals of the Department of Energy. The provisions of 10 CFR Part 205, Subpart H, set forth procedures and criteria which govern the filing and determination of any such appeal.

This decision is based upon the presumed validity of statements, allegations, and documentary material submitted by the applicant. It may be revoked or modified at any time upon a

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determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., on August 23, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-27222 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51209-3459-05-77]

Gulf States Utilities Co. Sabine Station Unit No. 5

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Gulf States Utilities Company Sabine Station Unit No. 5 as an Existing Facility.

SUMMARY: On June 1, 1979, Gulf States Utilities Company (Gulf States) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Sabine Station Unit No. 5 (Sabine 5) as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA). ERA has completed its analysis of Gulf States' request and has determined that Gulf States has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25 percent of the total projected project cost as of November 9, 1978, within the meaning of § 515.6 of the Revised Interim Rule. ERA has determined that Gulf States' Sabine 5 is an "existing" facility and is now subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone: (202) 634-2170.

James H. Heffernan (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, Phone: (202) 633-8814.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, Phone: (202) 254-7442.

SUPPLEMENTARY INFORMATION: (1) On June 1, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Gulf States requested that ERA classify Gulf States' Sabine Station Unit No. 5 as an "existing" facility. On July 17, 1979, ERA published a summary of Gulf States' request for classification in the **Federal Register** and requested comments by interested persons on or before August 7, 1979. (2) A copy of ERA's Summary of Analysis dated August 6, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., August 23, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-27223 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of July 1979. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than $500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of $500,000 or more, Notice will be separately published in the **Federal Register.** These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Mr. Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215) 597-3870.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Robert B. Sahagen & Co., 760 Piedmont Street, Rochdale, Mass. 01542.	$150,000	Propane	5/1/74 to 4/30/76	Jeffrey Fuel Co., Arrow Gas Service: General rollback to all retail customers

Issued in Philadelphia on the 15th day of August 1979.

Herbert M. Heitzer,

District Manager of Enforcement.

[FR Doc. 79-27260 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of July 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; and

3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact Mr. Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215) 597-3870.

Firm name	Address	Audit date
Egbert Square Service Center.	1650 Forest Avenue, Staten Island, N.Y. 10302.	7/23/79
Battery Service Center.	218 Hamilton Avenue, Brooklyn, N.Y. 11231.	7/30/79
Robert Korman	1536 North Atherton St., State College, Pa.	7/3/79
A & M Mobil Service	24 Summer St., Hingham, Mass	7/3/79
Gas Country	100 Derby St., Hingham, Mass	7/5/79
Chuck's Sunoco	511 Main St., Weymouth, Mass.	7/6/79
South Weymouth Mobil.	512 Main St., Weymouth, Mass.	7/6/79

Issued in Philadelphia on the 15th day of August 1979.

Herbert M. Heitzer,

District Manager of Enforcement.

[FR Doc. 79-27261 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Aminoil USA, Inc.; Issuance of Final Decision and Order

On May 17, 1979, we issued a Proposed Decision and Order to Aminoil USA, Inc., that would permit, pursuant to the provisions of 10 CFR 212.78, market prices for the incremental crude oil produced from Aminoil's 392 Lower Main Zone Project in the Huntington Beach Field of Orange County, California, (44 FR 30406, May 25, 1979). One comment was received with respect to that Proposed Decision and Order. Aminoil requested that the Order be written so that it would not be foreclosed from adopting, for the unaffected portion of the property on which the 392 Lower Main Zone Project is located, the changed definition of the base production control level which became effective June 1, 1979, as defined in 10 CFR 212.72. We have adopted the technical change requested and have, accordingly, issued a Decision and Order that permits market prices for incremental crude oil from the 392 Lower Main Zone Alkaline Flood Project in the PRC 392.1 Lease of the Huntington Beach Oil Field.

A copy of the Decision and Order is available in the Public Docket Room, Room B-120, 2000 M Street, NW., Washington, D.C., between 1:00 p.m. and 5:00 p.m., Monday through Friday and in the Department of Energy Reading Room, Room, GA-152, James Forrestal Building, 1000 Independence Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., August 17, 1979.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-27258 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Interim Remedial Orders for Immediate Compliance

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Interim Remedial Orders for Immediate Compliance (IROICs) were issued by the Office of Enforcement, ERA, to the firms listed below during the month of July 1979. These IROICs concern prices charged by retail motor gasoline dealers in excess of the maximum lawful selling prices for motor gasoline. To prevent further irreparable harm to the public interest which might result if these firms continued to charge prices the lawfulness of which could not be justified, these IROICs were issued in accordance with 10 CFR 205.199D and ordered the firms to come into compliance with legal requirements by taking the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; and

3. Properly maintain records required under the Mandatory Petroleum Allocation and Price Regulations, Title 10, Code of Federal Regulations.

In the alternative, these firms were ordered to come forth within five days with support for the lawfulness of the maximum selling prices they otherwide contend are appropriate.

For further information regarding these IROICs, please contact Mr. Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215)597-3870.

Firm name	Address	Audit date
Astoria 44 Service Station.	44-02 Astoria Boulevard, Astoria, N.Y. 11105.	7/16/79
Euclid Service Station.	784 Jamaica Avenue, Brooklyn, N.Y. 11208.	7/2/79
Mabuhay Service	824 Allerton Avenue, Bronx, N.Y. 10467	7/13/79
J & S Hylan Service Corp.	1581 Hylan Boulevard, Staten Island, N.Y. 10305.	7/11/79
Z & M Service Station	1401 Central Avenue, Far Rockaway, N.Y.	7/13/79
Fresh Meadows Gas, Inc.	173-12 Horace Harding Expressway, Flushing, N.Y. 11365.	7/10/79
Merry Trio, Inc.	173-12 Horace Harding Expressway, Flushing, N.Y. 11365.	7/10/79
T & L Shell	801 Soundview Avenue, Bronx, N.Y	7/13/79
J & S Service Center	60-45 Eliot Avenue, Maspeth, N.Y 11378.	7/13/79
Colony Exxon	1454 Bruckner Boulevard, Bronx, N.Y	7/13/79
Wilson Service Station	1260 Allerton Avenue, Bronx, N.Y. 10469.	7/13/79
National Service Center.	122-21 Rockaway Boulevard, So. Ozone Park, N.Y. 11420	7/13/79
Jerry's Chevron	115-20 Beach Channel Drive, Queens, N.Y	7/13/79
Crown Service Station	619 Coney Island Avenue, Brooklyn, N.Y	7/13/79
Fidel's Service	902 Westchester Avenue, Bronx, N.Y	7/13/79
Mobil-Bronx Service Station.	119 Bruckner Boulevard, Bronx, N.Y	7/13/79
Karl Klein Service Station.	836 East 233 Street, Bronx, N.Y.	7/13/79
Leon's Diagnostic Center.	162-02 Cross Bay Blvd., Queens, N.Y.	7/13/79
Ronnie's Auto Service	264-12 Hillside Avenue, Glen Oaks, N.Y	7/13/79
Maloney Shell	114 Bruckner Boulevard, Bronx, N.Y	7/13/79
Harry's 1000 Baychester Avenue Service Center	1000 Baychester Avenue, Bronx, N.Y. 10469	7/13/79
Paul's Service Station	3203 Pearlstree Avenue, Bronx, N.Y	7/13/79
Wally's Service Station.	3189 Atlantic Avenue, Brooklyn, N.Y. 11208.	7/13/79
T & V Auto Service Center	36-37 21st Street, Long Island City, N.Y.	7/13/79
LMT Service Station	985 Hunts Point Avenue, Bronx, N.Y. 10451	7/13/79
Kingsley Fray & Berna Shirley.	3550 Boston Post Road, Bronx, N.Y 10469	7/13/79
AT&B Automotive	1700 Webster Avenue, Bronx, N.Y 10459	7/13/79
Silvio Service Station	4115 Third Avenue, Bronx, N.Y. 10450	7/13/79
FASGO, Inc.	Routes 1 & 322, Concordville, Pa.	7/2/79
Garcia Service Station	871 Melrose Avenue, Bronx, N.Y. 10451	7/13/79
Penrod's Exxon	338 Walnut Street, Johnstown, Pa.	7/1/79
Angelichio Guld	East Pittsburgh Street, Greensburg, Pa.	7/5/79
Sunoco Station	4917 Peach Street, Erie, Pa.	7/1/79
Magic Market	Central Avenue, Ave, Pa.	7/1/79
Young's Auto Service	R.D. #2, Sun Flowers Corners, New Brighton, Pa.	7/2/79
Sleep Wing-Chuch Grabowski.	3715 West Lake Road, Erie, Pa.	7/2/79

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Firm name	Address	Audit date
Cinilo Gulf	Cunningham & Jefferson, Butler, Pa	7/3/79
Harpuster	1602 North Atherton Street, State College, Pa	7/5/79
Mausl Exxon	Courtland Boulevard, Scottdale, Pa.	7/5/79
David White	887 East Main Street, Ephrata, Pa.	7/5/79
Zeckler's Mobil	721 Island Avenue, McKeesrocks, Pa	7/6/79
Handy Mart, Inc	9335 Babcock Boulevard, Pittsburgh, Pa.	7/6/79
Bruce Kanoza	3739 Liberty Road, Pittsburgh, Pa.	7/6/79

Issued in Philadelphia on the 15th day of August 1979.

Herbert M. Heitzer,

District Manager of Enforcement.

[FR Doc. 79-27262 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

E. Dunlap, Jr.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to E. Dunlap, Jr. This Proposed Remedial Order charges Dunlap with pricing violations in the amount of $57,017.36, connected with the sale of crude oil and condensate at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through December 31, 1976, in the Sate of Oklahoma.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P. O. Box 35228, Dallas, Texas 75235, or by calling (214) 749-7626. On or before September 17, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 21st day of August 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-27259 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Interim Remedial Orders for Immediate Compliance

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Interim Remedial Orders for Immediate Compliance (IROICs) were issued by the Office of Enforcement, ERA, to the firms listed below during the month of July 1979.

These IROICs concern the modifying of the normal business practices so as to result in the violation of the provisions of the Mandatory Petroleum Allocation and Price Regulations, Title 10, Code of Federal Regulations. To prevent further irreparable harm to the public interest which might result if these firms continued their course of conduct, these IRONIC's were issued in accordance with 10 CFR 205.199D and ordered the firms to come into compliance with legal requirements by taking the following actions:

1. Cease and desist from employing any form of discriminatory practices as set forth in 10 CFR 210.62(b); and

2. Conform its business practices to those practices followed by the firm during its base period.

In the alternative, these firms were ordered to come forth within five days with support for the lawfulness of the practices they otherwise contend are appropriate.

For further information regarding these IRONICs, please contact Mr. Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215)597-3870.

Firm name	Address	Audit date
Super Value Service Station.	New York State Highway No. 59, West Nyack, N.Y.	7/12/79
Joe's Texaco	769 Pittsburgh Road, Butler, Pennsylvania.	7/2/79
Milton Blank Car Wash.	5940 Penn Circle South, Pittsburgh, Pennsylvania.	7/2/79

Issued in Philadelphia on the 15th day of August 1979.

Herbert M. Heitzer,

District Manager of Enforcement.

[FR Doc. 79-27263 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Thomas J. DeLany; Proposed Remedial Order

Pursuant to 10 CFR 205.192(e), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Thomas J. DeLany, Post Office Box 43, Blue Bell, Pennsylvania 19422. This Proposed Remedial Order charges DeLany with pricing violations in the amount of $943,197.00, connected with the sale of fuel oil during the period from October 1, 1973 through June 30, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Herbert M. Heitzer, District Manager of Enforcement, (215) 597-3870. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 15th of August, 1979.

Herbert M. Heitzer,

District Manager of Enforcement.

[FR Doc. 79-27264 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-077]

Harbison-Walker Refractories; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on August 2, 1979, Harbison-Walker Refractories (Harbison-Walker), Division of Dresser Industries, Inc., 2 Gateway Center, Pittsburgh, Pennsylvania, 15222, filed an application for certification of an eligible use of natural gas to displace fuel oil at its plants in Fulton and Vandalia, Missouri, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Harbison-Walker states that the volume of natural gas for which it requests certification is approximately 621,000 Mcf for the period from September 1, 1979, to June 1, 1980, and the eligible seller is Michigan Consolidated Gas Company, One Woodward Avenue, Detroit, Michigan, 48226. This natural gas will displace the combined use of approximately 4,433,940 gallons of No. 2 fuel oil (.3% sulfur) for the period from September 1, 1979, to June 1, 1980, at the Fulton and Vandalia plants. The gas will be transported by Panhandle Eastern Pipeline Company, 3000 Bissonet Avenue, Houston, Texas, 77005.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461,

Attention: Mr. Finn K. Neilsen, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Harbison-Walker and any persons filing comments, and published in the **Federal Register.**

Issued in Washington, D.C., on August 27, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-27430 Filed 8-30-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-2602, et al.]

Marathon Oil Co., et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

August 23, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 31, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-2602, D, 7/24/79	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.	Natural Gas Pipeline Company of America, North Pasture Field, San Patricio County, Texas	(1)	
G-5716, D, 7/11/79	Northern Natural Gas Producing Company, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Grant, *et al.*, Counties, Kansas.	To release gas for irrigation fuel.	
G-7004, D, 7/27/79	Pennzoil Company, P.O. Box 2967, Houston, Texas 77001	Consolidated Gas Supply Corporation, Central District, Doddridge County, West Virginia.	Seller sold to Vinson Oil and Gas Drilling Company certain leases as more fully set out in the agreement dated 6-11-79.	
G-11373, D, 8/9/79	Mobil Oil Corporation, Nine Greenway Plaza—Suite 2700, Houston, Texas 77045.	Texas Eastern Transmission Corporation, Greenwood-Waskom Field, Caddo Parish, Louisiana.	Last well on the C. F. Cooke, Jr. Unit No. 1 lease was plugged and abandoned 5-26-68 and said lease was cancelled and surrendered in 10/68.	
G-14396, E, 8/7/79	Southland Royalty Company (Succ. in Interest to Continental Oil Company), 1000 Fort Worth Club Tower, Fort Worth, Texas 76102.	El Paso Natural Gas Company, San Juan County, Utah.	(2)	15.025
CI67-66, C, 7/30/79	Amerada Hess Corporation, 1200 Milam, 8th Floor, Houston, Texas 77002.	Panhandle Eastern Pipeline Company, Certain acreage in Ellis County, Oklahoma.	(3)	14.65
CI75-738, C, 2/16/79	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	El Paso Natural Gas Company, State 18 Com. Well No. 1, Strawn Formation, S/2 Sec. 18-T19S-R28E, Carlsbad South Field, Eddy County, New Mexico.	(4)	14.73
CI76-215, E, 8/8/79	Gulf Oil Corporation (Succ. in Interest to Kewanee Oil Company).	Northern Natural Gas Company, Mocane Field, Sec. 4-T5N-R-24-ECM, Beaver County, Oklahoma	(5)	14.65
CI77-483, F, 7/19/79	CIG Exploration, Inc. (Partial Succ. in Interest to Gas Producing Enterprises, Inc.), Nine Greenway Plaza, Houston, Texas 77046	Colorado Interstate Gas Company, Natural Buttes Unit, Uintah County, Utah	(6)	14.65
CI78-48, C, 7/23/79	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Natural Gas Pipeline Company of America, East Cameron Area, Block 34, Offshore Louisiana	(7)	15.025
CI78-679, C, 5/21/79	Felmont Oil Corporation, P.O. Box 2266, Midland, Texas 79701.	Columbia Gas Transmission Corporation, Block 34, East Cameron Area, Offshore Louisiana	(8)	15.025
CI78-816, C, 7/25/79	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Eugene Island Block 251, Offshore Louisiana.	(9)	15.025
CI79-287, C, 8/15/79	Mobil Oil Corporation, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Transcontinental Gas Pipe Line Corporation, Blocks A-531, A-536 and A-537, Offshore Texas.	(10)	14.65

Docket No and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI79-523, A, 6/29/79	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 770801.	Tennessee Gas Pipeline Company, High Island Block A-281, East Addition, South Extension Area, High Island Block A-281 Field, Offshore Texas.	[10]	14.65

[1] By release dated 4-12-79, Marathon released to the Lessors all rights, title and interest in certain non-productive acreage as described therein on which all wells have been plugged and abandoned.
[2] Effective 10-1-78, Applicant acquired an undivided 100% interest in a portion of the leases certified to Continental Oil Company under Docket No. G-14396 and seeks authority, as successor in interest, only to render service previously authorized by the Commission in said docket number to be effective 10-1-78.
[3] Applicant is filing under Gas Purchase and Sales Agreement dated 6-16-66, amended by Amendatory Agreement dated 5-31-79.
[4] Applicant is willing to accept a permanent certificate at the maximum lawful rate applicable, in conformance with the Commission's Regulations under the Natural Gas Act and the Natural Gas Policy Act of 1978.
[5] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in acreage which is now covered by an Amendatory Agreement between Gulf and Northern dated 3-7-79.
[6] Applicant is filing under Gas Sales Contract dated 6-20-74, as amended on 3-16-77, 3-16-78, 5-25-78, 11-8-78 and 4-30-79.
[7] Applicant is filing under Section 102 of the Natural Gas Policy Act of 1978.
[8] Applicant is filing under Gas Purchase Contract dated 4-12-78, amended by amendment dated 4-30-79.
[9] Applicant is willing to accept a permanent certificate conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.
[10] Applicant is filing under Gas Sales Contract dated 1-5-79, amended by amendment dated 5-24-79.
[11] Applicant is filing under Gas Purchase and Sales Agreement dated 6-27-79.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Sucession. F—Partial Succession.

[FR Doc. 79-27017 Filed 8-30-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CS79-476, et al.]

Page Petroleum Inc., et al.; Notice of Applications for "Small Producer" Certificates[1]

August 23, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before August 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date Filed	Applicant
CS79-476	6/28/79	Page Petroleum Inc., 901 Bank of the Southwest Bldg., Amarillo, Tex. 79109.
CS79-477	7/1/79	Northeast Resources, Inc., P.O. Box 159, Worcester, Mass. 01613.
CS79-478	7/2/79	C. J. Wofford, 9039 Katy Fwy, Suite 431, Houston, Tex. 77024.
CS79-479	7/5/79	A & M Investments, 1122 Capital Towers, Jackson, Miss. 39201.
CS79-480	7/5/79	Ergon Energy Corp., P.O. Box 12094, Amarillo, Tex. 79101.
CS79-481	7/5/79	Derrick Exploration, Inc., Box 2931, Amarillo, Tex. 79105.
CS79-482	7/5/79	Bruce Scisco, P.O. Box 867, Shreveport, La. 71163.
CS79-483	7/9/79	Jay Simmons Trust No. I (Betty) 2620 Republic Natl. Bank Bldg., Dallas, Tex. 75201.
CS79-484	7/9/79	Jay Simmons Trust No. II (Margaret) 2620 Republic Natl. Bank Bldg., Dallas, Tex. 75201.
CS79-485	7/9/79	Jay Simmons Trust No. II (Suzanne) 2620 Republic Natl. Bank Bldg., Dallas, Tex. 75201.
CS79-486	7/11/79	Pamela D. Hartman, P.O. Box 1452, Midland, Tex. 79701.
CS79-487	7/13/79	James J. Bellamy, P.O. Box 53929, Lafayette, La. 70505.
CS79-488	7/13/79	Huntingfield Corp., c/o Huntingfield Farms, Rock Hall, Md. 21661.
CS79-489	7/13/79	Weyman H. Oden, Jr., P.O. Box 1587, Shreveport, La. 71165.
CS79-490	7/13/79	Claude J. Bonnecarrere, Jr., P.O. Box 53929, Lafayette, La. 70505.
CS79-491	7/13/79	Willis L. Meadows, 1405 Mid-South Tower, Shreveport, La. 71101.
CS79-492	7/13/79	James G. Marston, III, 2003 Beck Building, Shreveport, La. 71101.
CS79-493	7/13/79	Robert L. Williamson, 2003 Beck Building, Shreveport, La. 71101.
CS79-494	7/13/79	Mosswood Oil & Gas Co., 4544 Post Oak Place Dr., Suite 308, Houston, Tex. 77027.
CS79-495	7/16/79	National Union Energy, Inc., et al., 360 Sooner Federal Building, Norman, Okla. 73069.
CS79-496	7/16/79	Wanda B. Bellamy, P.O. Box 53929, Lafayette, La. 70505.
CS79-497	7/17/79	J. J. Uri 438-10-1536, 1008 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.
CS79-498	7/17/79	J. J. Uri Trust I.D. No. 74-6223855, 1008 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.
CS79-499	7/17/79	Joseph J. Uri Trustee I.D. No. 74-1699739, 1008 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.
CS79-500	7/17/79	Reliable Production Service, Inc., P.O. Box 176, Livonia, La. 70755.
CS79-501	7/17/79	OMNI Drilling Partnership No. 1978-2, 100 Matsonford Road, Radnor, Pa. 19087.
CS79-502	7/23/79	R. Harvey Wier, 412 East 84th Street, New York, N.Y. 10028.
CS79-503	7/26/79	Ajax Oil and Gas Corp., Inc., P.O. Box 347, Independence, Kans. 67301.
CS79-504	7/27/79	G. C. Herrmann Co., 321 West Seventh Avenue, Amarillo, Tex. 79101.
CS79-505	7/27/79	Hanson Oil Co., Suite 205 May-EX Bldg., 3022 N.W. Expressway, Oklahoma City, Okla.
CS79-506	7/26/79	John Scott Allen, 3024 Raintree Dr., Oklahoma City, Okla. 73120.

Docket No.	Date Filed	Applicant
CS79-507	7/26/79	Lobo Exploration Co., 1160 Liberty Tower, Oklahoma City, Okla. 73102.
CS79-508	7/26/79	Robert L. Ham, 1160 Liberty Tower, Oklahoma City, Okla. 73102.
CS79-509	7/30/79	Honcho International Corp., Suite 519—9039 Katy Freeway, Houston, Tex. 77024.
CS79-510	7/30/79	Mildred Babcock, Star Route, Freedom, Okla. 73842.
CS79-511	7/30/79	Veldo H. Brewer Co., a limited partnership, Box 308, Holdenville, Okla. 74848.
CS79-512	7/30/79	Ronnie Lawson, P.O. Box 130, Beaver, Okla. 73932.
CS79-513	8/2/79	W. T. Fail, Inc., P.O. Box 1394, Shawnee, Okla. 74801.
CS79-514	8/3/79	Jaxcene L. Heinze, 808 Lincoln Tower Bldg., Denver, Colo. 80295.
CS79-515	8/3/79	Ferguson Oil & Gas Co., Inc., 2700 Liberty Tower, Oklahoma City, Okla. 73102.
CS79-516	8/13/79	Herman H. Fellhoelter, Jr., 808 Lincoln Tower Bldg., Denver, Colo. 80295.
CS79-517	8/13/79	W. E. Ware, Inc., P.O. Box 1749, Ardmore, Okla. 73401.
CS79-518	8/13/79	W. O. Heinze, 2200 South Post Oak Road, Suite, 700, Houston, Tex. 77056.
CS79-519	8/13/79	OMNI Drilling Partnership No. 1979-1, 100 Matsonford Road, Radnor, Pa. 19087.
CS79-520	8/6/79	Francis Davis, 808 Lincoln Tower Bldg., Denver, Colo. 80295.
CS79-521	8/9/79	Burco, Inc., 1100 N.W. 27th Street, Oklahoma City, Okla. 73106.
CS79-522	8/8/79	Gas Development Corp., 16633 Ventura Blvd., Suite 700, Encino, Calif. 91436.
CS79-523	8/10/79	Shikan Oil Co., P.O. Box 3287, Irving, Tex. 75061.
CS79-526	8/20/79	Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.
CS79-527	8/20/79	Joe's Lil Girl, Inc., P.O. Box 663, Oklahoma City, Okla. 73101.
CS79-528	8/20/79	Estate of Philip Davidson & Davidson Pipe Supply Co., Inc., P.O. Box 663, Oklahoma City, Okla. 73101.

[FR Doc. 79-27018 Filed 8-30-79; 8:45 am]
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Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of February 26 through March 2, 1979

Notice is hereby given that during the week of February 26 through March 2, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Energy Cooperative, Inc., East Chicago, Ind., DEA-0252, crude oil

Energy Cooperative, Inc. (ECI) filed an Appeal from the Entitlement Notice for August 1978. In its Appeal, ECI claimed that the August Notice was invalid to the extent that it incorporated a 21 cent entitlement cost advantage for domestic crude oil, as required by the provisions of Section 211.67(i)(4). ECI maintained that Section 211.67(i)(4) was procedurally invalid because it was promulgated in violation of the rulemaking requirements set forth in the Administrative Procedure Act, the Federal Energy Administration Act, and the Energy Policy and Conservation Act. ECI also maintained that the 21 cent cost advantage was arbitrary and capricious. In considering the ECI Appeal, the DOE first noted that if ECI's position were sustained, the current provisions of Section 211.67(i)(4) would be rescinded and an earlier version of that section would be reinstated. Since the prior regulation gave the Agency the discretion to determine the price of an entitlement, the DOE concluded that a grant of ECI's Appeal might not affect the current price of an entitlement. In addition, the DOE rejected ECI's challenge to the procedural validity of Section 211.67(i)(4), finding that the FEA had complied with the requirements of the APA, the FEAA, and the EPCA. Moreover, the DOE found that the record contained substantial evidence that the establishment of the 21 cent cost advantage for domestic oil was a valid exercise of agency discretion. Accordingly, the ECI Appeal was denied.

Petroleum Management, Inc., Laurel, Miss., DRA-0080, crude oil

Petroleum Management, Inc. (PMI) filed an Appeal from a Remedial Order which was issued to the firm by DOE Region IV on December 2, 1977. The Remedial Order found that PMI had sold crude oil at prices exceeding the ceiling prices set forth in 6 CFR 150.353 and 10 CFR 212.73. According to the Remedial Order, these overcharges resulted from PMI's erroneous determination that the base production control level for the property was zero. In considering the PMI Appeal, the DOE affirmed the Remedial Order's conclusion that a new property was not created when PMI extended an existing well in order to reach a new reservoir. The DOE also rejected PMI's contention that undercharges associated with an adjoining property should be offset against the overcharges relating to the property subject to the Remedial Order. The PMI Appeal was therefore denied. However, the DOE modified the method for calculating price rollbacks on the basis that PMI was already required under DOE regulations to sell the crude oil at the price specified in the Remedial Order.

Standard Systems, Inc., Grand River, Ohio, DRA-0041, No. 1 fuel oil

Standard Systems, Inc. filed an Appeal from a Remedial Order which ERA Region V issued to the firm on November 7, 1977. In the Remedial Order, the ERA found that during the period November 1, 1973 through April 30, 1975 Standard had sold No. 1 fuel oil at prices which exceeded the maximum permissible levels set forth in 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order therefore directed Standard to refund $28,080.79, plus interest, to the customers who had been overcharged. In its Appeal, Standard did not contest the validity of the factual findings or legal conclusions contained in the Remedial Order. Instead, Standard claimed that it was not financially able to comply with the refund provisions of the Remedial Order. In considering this contention, the DOE concluded that the circumstances warranted consideration of an exception request in the context of an Appeal proceeding. The DOE further concluded that Standard would incur a severe and irreparable injury unless it were relieved of the obligation to refund the overcharges specified in the Remedial Order. On the basis of these considerations, the DOE denied the Standard Appeal but granted the firm retroactive exception relief for the period covered by the Remedial Order. Accordingly, the Remedial Order was rescinded.

Texaco, Inc., White Plains, N.Y., DFA-0302, freedom of information

Texaco, Inc. appealed from a denial of a Request for Information which the firm filed under the Freedom of Information Act (FOI Act). In its request, Texaco sought documents containing the criteria used by the DOE Office of Special Counsel in determining whether to compromise civil penalties. The Director of Freedom of Information and Privacy Acts Activities (the Director) identified two documents as responsive to Texaco's request, but determined that the documents should not be released because they fell within the scope of Exemption 5 of the FOI Act. In considering the Texaco Appeal, the DOE concluded that the Director had properly found that the two documents were predecisional and deliberative in nature and therefore within the scope of Exemption 5. However, the DOE further determined that the two documents identified by the Director did not sufficiently respond to Texaco's request since Texaco had sought the final criteria which were being used by the Office of Special Counsel, not deliberative discussions regarding those criteria. The DOE therefore ordered the Director to determine whether documents of the type requested by Texaco exist.

Virginia Electric & Power Co., Richmond, Va., DFA-0290, freedom of information

The Virginia Electric and Power Company (Vepco) appealed from a determinaiton which the DOE Director of Freedom of Information and Privacy Acts Activities (the Director) issued to the firm on December 12, 1978. Vepco had submitted a Request for Information in which it sought access to seven categories of documents regarding the DOE's evaluation of the environmental impact of coal conversion at the firm's Portsmouth Power Station. The Director identified four documents as responsive to Vepco's request but refused to disclose their contents on the grounds that they were exempt from mandatory disclosure under Exemption 5 of the Freedom of Information Act. In considering the Vepco Appeal, the DOE determined that one of the documents constituted the effective law or policy of the agency and therefore was not properly

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withheld under Exemption 5. That document was therefore released to Vepco. The DOE upheld the Director's determination with respect to the remaining three documents.

Requests for Exception

Burdett Oxygen Co., Norristown, Pa., DEE–1023, propane

The Burdett Oxygen Company filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the termination of Burdett's base period supplier/purchaser relationship with Amerigas-Ugite Division (Ugite) and the assignment of a new base period supplier of propane to Burdett. In considering the exception request, the DOE determined that Burdett had failed to meet the standards for reassignment of a base period supplier. Specifically, the DOE found that (i) no judicial determination had been made that Burdett had been defrauded by Ugite and (ii) no court had entered a judgment which would lead the DOE to conclude that the relationship between Burdett and Ugite had deteriorated to the point where Burdett's business operations would be significantly disrupted if the supplier/purchaser relationship were maintained. The DOE also determined that Burdett failed to submit uncontradicted evidence of fraud on the part of Ugite or to demonstrate that there had been any adverse financial impact upon Burdett's marketing activities as a consequence of its supplier/purchaser relationship with Ugite. Finally, the DOE determined that Burdett had not indicated that it was currently experiencing any inordinate difficulty in obtaining surplus propane or that any difficulties which it might experience in the future could not be solved through alternative remedies. The Burdett Application for Exception was therefore denied.

Burk Royalty Co., Washington, D.C., DEE–1010, crude oil

Burk Royalty Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to charge upper tier ceiling prices for the crude oil to be produced from the Garden Island properties, located in Placquemines Parish, Louisiana. In considering the exception request, the DOE determined that in the absence of exception relief the firm would have no economic incentive to perform a proposed well workover and to invest in new equipment necessary to resume extraction operations. In accordance with precedents established in previous Decisions, the DOE determined that exception relief should be approved which would enable Burk to attain a 15 percent rate of return on the capital investments at the properties and thus provide the firm with an economic incentive to undertake the project. Accordingly, the DOE granted Burk exception relief which permits it to sell 15,315 barrels of crude oil produced from the Garden Island properties for the benefit of the working interest owners at upper tier ceiling prices

Chevron U.S.A., Inc., San Francisco, Calif., DEE–1289, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which it requested that it be permitted to sell the crude oil produced from the N–I–C Ranger Fault Block VI at upper tier ceiling prices. In considering the Chevron request, the DOE found that operating costs at Fault Block VI had increased to the point that Chevron no longer had an economic incentive the continue production of crude oil. On the basis of the criteria applied in previous Decisions, the DOE determined that Chevron should be permitted to sell at upper tier ceiling prices 42.88 percent of the crude oil produced from Fault Block VI during the period August 1, 1978 through March 31, 1979. This determination was set forth in a Proposed Decision and Order issued to Chevron on January 30, 1979, Edgington Oil Co., Inc. subsequently filed a Statement of Objections to that determination in which it argued that relief should not be granted on a retroactive basis to August 1, 1978, the date on which Chevron completed its submission of additional information. Edgington, the purchaser of the crude oil produced from Fault Block VI, maintained that the determination reached in the Proposed Decision would alter its position under the Entitlements Program on a retroactive basis and would require the DOE to revise the Entitlements Lists issued during the months of October 1978 through January 1979. In rejecting this contention, the DOE observed that the Entitlements Program is specifically structured so that retroactive recertifications of crude oil do not require the revision of earlier Entitlements Lists. Instead, a refiner is permitted to reflect such recertifications in its adjusted crude oil receipts which it reports in later months. Accordingly, the Proposed Decision and Order was issued in final form.

Florida Liquid Gas Co., Winter Park, Fla., DEO–0006, propane

Florida Liquid Gas Company (FLGC) filed an Application for Exception from the provisions of 10 CFR 212.93, which, if granted, would permit the firm to increase the prices which it may charge for propane. In its Application, FLGC contended that the requirement that May 15, 1973 be used as a base date for calculating maximum selling prices resulted in a gross inequity and a serious hardship to the firm. Specifically, FLGC contended that on the base date it was charging significantly lower prices than its competitors due to a promotional pricing program. In considering FLGC's request, the DOE found that the factors existing on May 15, 1973 were not anomalous but in fact were the result of a pricing policy that the firm had used since its incorporation. In addition, the DOE found that the firm's decline in profits and rate of return on invested capital were attributable to a decline in sales volume rather than to the DOE price regulations. Accordingly, the DOE denied the exception request.

Glenrock Refinery, Inc., Glenrock, Wyo., FEE–4853, crude oil

Glenrock Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67(e)(2), which if granted, would result in the issuance of additional entitlements to the firm for crude oil which it intends to have processed for its account by other refiners. Glenrock claimed that such relief was necessary to enable it to proceed with a planned refinery expansion. On June 28, 1978, the DOE issued a Proposed Decision and Order denying the Glenrock exception request. In considering the Glenrock request and Statement of Objections to the Proposed Decision and Order, the DOE rejected the firm's contention that its economic viability had been jeopardized by a delay in the determination on the request. In this regard, the DOE noted that Glenrock did not even submit its Application for Exception until more than five months after it became aware that it would no longer qualify for bias entitlements under Section 211.67(e)(2). The DOE also determined that denial of the firm's exception request would not be contrary to Section 123 of the Energy Conservation and Production Act, which requires the DOE to foster refinery construction and expansion by small refiners and independent refiners. In this regard, the DOE noted that Congress did not intend the DOE to promote refinery expansion in an indiscriminate manner. The DOE also noted that the profitable operation of the proposed Glenrock refinery was apparently contingent upon the receipt of small refiner bias benefits. The DOE concluded that the public interest would generally not be served by proposed refinery expansion programs that are not economically viable in the absence of continued benefits under the Entitlements Program. Accordingly, the Glenrock Application for Exception was denied.

Gulf Oil Corp., Tulsa, Okla., DXE–2087, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would extend the exception relief granted to the previous operator of the South Stanley Lease and thereby permit Gulf to continue to sell a portion of the crude oil produced from the property at upper tier ceiling prices. *Kewanee Oil Co.*, 2 DOE Par. 81,110 (1978). In considering the exception request, the DOE found that Gulf was incurring a high level of operating expenses and that in the absence of exception relief the firm would lack an economic incentive to continue its crude oil production activities. Accordingly, on the basis of recent operating data submitted by the firm, the DOE determined that Gulf should be permitted to sell at upper tier ceiling prices 55.50 percent of the crude oil produced from the property for the benefit of the working interests during the period February 1, 1979 through July 31, 1979.

Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment and Supply Co., San Antonio, Tex., FEE–4122, crude oil

Melvin Klotzman and Jess Pendleton, d.b.a. Victoria Equipment and Supply Company (Victoria) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Victoria to retain the revenues which the firm obtained in sales of crude oil produced from the Keeran Ranch "D" Lease located in Victoria County, Texas, despite the FEA's prior determination in a Remedial Order that these sales were made at unlawful prices. In a Proposed Decision and Order concerning Victoria's request for retroactive relief, the DOE concluded that the firm was unlikely to experience a severe and irreparable injury if required to refund the specified overcharges. In considering the Statement of Objections which Victoria subsequently filed, the DOE held that Victoria should not be granted retroactive exception relief merely because it could have received prospective relief at an earlier date. The DOE found no basis in the record to support Victoria's claim that Congress had required that the same standards be applied to requests for retroactive exception relief as to prospective relief. Finally, the DOE rejected Victoria's contention that the fact that it would have incurred a loss at the Keeran Lease during the audit period if it had not violated the price regulations should warrant the approval of retroactive exception relief. Accordingly, the Application for Exception was denied.

Damson Oil Corp., Houston, Tex., DEE–0362, crude oil

Damson Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit Damson to sell at upper tier ceiling prices a portion of the crude oil which it intends to produce from the L. A. 135 No. 2 well (the No. 2 well) located in Los Angeles County, California. In considering the exception request, the DOE found that Damson would be able to recover a substantial quantity of additional crude oil if it were to undertake a proposed capital investment project at the No. 2 well. The DOE further determined that the investment would be uneconomic if the additional crude oil produced were sold at the applicable ceiling prices. On the basis of these findings, the DOE issued a Proposed Decision and Order on November 2, 1978, in which it determined that Damson should be permitted to sell at upper tier ceiling prices a portion of the crude oil which it would produce from the No. 2 well, in order to provide the firm with a 15 percent internal rate of return on its investment. Damson subsequently filed a Statement of Objections, in which it contended that a 15 percent rate of return was inadequate. In considering the Damson objection, the DOE observed that subsequent to the issuance of the Proposed Decision and Order, the DOE issued an Interlocutory Order to the Phillips Petroleum Company, 2 DOE Par. 82,583 (1978), in which it concluded that an internal rate of return of 23 percent was generally warranted to encourage investments which would increase domestic crude oil production. The DOE concluded that the 23 percent rate of return generally should apply to all investments made after the *Phillips* Decision. Accordingly, the DOE approved exception relief which permitted Damson to sell at upper tier prices an amount of crude oil sufficient to realize a 23 percent rate of return on the investment.

Lago Petroleum Co., Houston, Tex., DEE–2008, crude oil

Lago Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Lago to sell a portion of the crude oil to be produced from the T. J. Felder No. 4 well, located in the South Wharton Field, Wharton County, Texas, at upper tier ceiling prices. According to Lago, exception relief was necessary to enable the firm to realize a sufficient rate of return on an investment to repair one of the wells on the tract. In considering the request, the DOE found that if Lago were required to sell the crude oil at the applicable ceiling prices, the working interest owners would lack an economic incentive to undertake the repairs. In view of this determination and on the basis of projected expenses and production data which Lago submitted, the DOE concluded that Lago should be permitted to sell at upper tier ceiling prices 187 barrels of crude oil produced from the lease for the benefit of the working interest owners.

The Maurice L. Brown Co., Kansas City, Mo., DEE–1448, crude oil

The Maurice L. Brown Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil which it expects to produce from the State 19–1 Lease located in Lea County, New Mexico, at prices which exceed the applicable ceiling prices. In considering the Brown request, the DOE determined that a substantial quantity of additional crude oil may be recovered from the State 19–1 Lease if the investments necessary to repair the property's production equipment are made. The DOE also determined that if the firm were to sell the crude oil involved at lower tier ceiling price levels, it would not realize a positive return on its investment. In accordance with precedents involving similar factual circumstances, the DOE approved exception relief which will permit the firm to realize a 23 percent rate of return on its projected investment over a 10-year period.

Montara Petroleum Co., Palo Alto, Calif., DEE–0114, crude oil

Montara Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the DT–32X well, located in the Cat Canyon Field in Santa Barbara County, California, at prices which exceed the lower tier ceiling prices. In considering the Montara request, the DOE determined that a substantial quantity of additional crude oil may be recovered from the DT–32X well if the investments required to repair the well's production equipment are made. The DOE also determined that if the firm were to sell the crude oil involved at lower tier ceiling price levels it would not realize a positive return on its investment. In accordance with precedents involving similar factual circumstances, the DOE granted exception relief which will permit Montara to sell at market prices 100 percent of the crude oil produced from the DT–32X well for the benefit of the working interest owners over its remaining productive life.

Moran Pipe and Supply Co., Seminole, Okla., DXE–1992, crude oil

Moran Pipe and Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to continue selling a portion of the crude oil produced from the Cozar Lease, located in Seminole County, Oklahoma, at upper tier ceiling prices. In considering the Moran request, the DOE found that Moran was incurring increased operating expenses at the Lease and that in the absence of exception relief the working interest owners would lack an economic incentive to continue production of crude oil from the property. In view of this determination and on the basis of the operating data which Moran submitted for the most recently completed fiscal period, the DOE concluded that further exception relief should be granted to permit Moran to sell 65.08 percent of the crude oil produced from the Cozar Lease for the benefit of the working interest owners at upper tier ceiling prices.

Mull Drilling Co., Inc., Wichita, Kans., DXE–1674, crude oil

Mull Drilling Company, Inc. filed an Application for Exception form the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the working interest owners to continue to sell certain quantities of crude oil produced from the Roth Lease located in Cheyenne County, Colorado, at upper tier ceiling prices. On September 5, 1978, the DOE issued a Proposed Decision and Order to Mull in which it determined that Mull had failed to demonstrate that exception relief was necessary to provide the working interest owners with an economic incentive to continue production. The DOE's conclusion was based on the finding that in the most recent six month period for which data was available, the firm would have earned a profit even if all the crude oil produced for the working interests were sold at the applicable lower tier ceiling price. In its Statement of Objections, Mull contended that the DOE had failed to consider the effect of depreciation and *ad valorem* taxes in its analysis. In addition, Mull claimed that in the absence of exception relief the firm would have no economic incentive to undertake necessary pump repairs when such repairs become necessary. In considering these objections, the DOE found that although *ad valorem* taxes are usually considered as an expense in this type of proceeding, Mull had not reported these expenses in its Application for Exception. The DOE also noted that since depreciation is a non-cash item which does not directly affect a producer's economic incentive, it is generally excluded as an expense. Finally, the DOE concluded that there was no basis to grant exception relief for anticipated repair costs. Accordingly, the Application for Exception was denied.

San Joaquin Refining Co., Newport Beach, Calif., DEE–1828;

Basin Petroleum, Inc., Long Beach, Calif., DEE–1948;

Coastal States Gas Corp., Houston, Tex., DEE–2045, fuel oil

The three firms named above requested exception relief through the Entitlements Program to facilitate the transportation of residual fuel oil from California to the East Coast market. In considering these requests, the DOE observed that it recently denied a request by the Charter Oil Company for similar relief. *Charter Oil Co.*, 3 DOE Par. — (February 16, 1979). Since all of the issues raised by these three firms were considered in the context of the *Charter* Decision, the

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DOE concluded that no purpose would be served by further consideration of those issues. However, the DOE also concluded that the three applicants should have an opportunity to review the *Charter* Decision and determine whether any additional factors exist which would support their requests. Accordingly, the three exception requests were dismissed without prejudice to a refiling at a later date.

Tesoro Petroleum Corp., San Antonio, Tex., DEE–0444, crude oil

Tesoro Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements for its 1978 fiscal year. In considering the request, the DOE found that Tesoro was a net seller of entitlements during its 1978 fiscal year. Since Tesoro obtained significant benefits under the Entitlements Program, the DOE determined that the firm failed to substantiate its contention that the Program resulted in a serious hardship or a gross inequity. Accordingly, the Application for Exception was denied.

Texas Oil and Gas Corp., Corpus Christi, Tex., DEE–1830, crude oil

Texas Oil and Gas Corporation (TXO) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Pete Rydolph "A" Lease in Victoria County, Texas, at market prices. In considerating the exception request, the DOE found that the cost of producing crude oil from the property exceeded the revenues which the firm would realize from the sale of crude oil at lower tier ceiling prices. The DOE concluded that under these circumstances TXO does not have an economic incentive to continue producing crude oil from the Lease. On the basis of precedents involving similar factual situations, the DOE concluded that the exception request should be granted.

Remdial Orders

Ford Oil Co., Santa Rosa, Tex., DRO–0078, propane

Ford Oil Company filed a Statement of Objections to a Proposed Remedial Order (PRO) that DOE Region VI issued to the firm on June 27, 1978. In the PRO, Region VI found that during the period November 1, 1973 through January 31, 1975, Ford sold propane at prices that exceeded those permitted under the price regulations. In its Statement of Objections, Ford contended that six of the purchasers involved were new customers who represented a new market pursuant to 10 CFR 212.111(a)(2). According to Ford, these new customers were resellers, while the firm's customers on May 15, 1973 consisted of either retailers or end-users. Ford maintained that Region VI's calculations of the firm's maximum lawful selling prices were erroneous because the Region improperly determined that these customers were members of the firm's retail classes of purchaser. In considering Ford's Statement of Objections, the DOE determined that the primary operating level of new customers is a very important factor in determining a customer's level of distribution. The DOE found that the factual record was insufficient to establish that Ford's six new customers operated primarily at the retail level of distribution. However, the DOE also found that Ford had not provided evidence that its new customers operated at a new level of distribution. The DOE therefore remanded the matter to Region VI for further investigation and analysis. With respect to the portion of the overcharges that was not in dispute, the DOE issued the Proposed Remedial Order in final form after determining that Ford had not made a *prima facie* showing that the amount of the refund obligation resulting from those overcharges constituted a financial hardship to the firm.

Marine Fuel Supply and Towing, Inc., Tampa, Fla., DRO–0022, No. 2 diesel fuel

Marine Fuel Supply and Towing, Inc. filed a Statement of Objections to a Proposed Remedial Order issued to the firm by DOE Region IV. In the PRO, Region IV found that during the period November 1, 1973 through December 31, 1975, Marine sold No. 2 diesel fuel to its customers without computing its May 15, 1973 weighted average selling price in accordance with the Mandatory Petroleum Price Regulations. As a result of this omission, it alleged that Marine sold No. 2 diesel fuel at prices in excess of those permitted by 6 CFR 150.359 and 10 CFR 212.93. In its Statement of Objections, Marine contended that the DOE recordkeeping and allocation regulations were invalid as a matter of law. In considering Marine's Statement of Objections, the DOE found that the firm was charged with a violation of the DOE price regulations, not the DOE recordkeeping or allocation regulations, and that Marine's contentions concerning the validity of the recordkeeping and allocation regulations were therefor irrelevant to the present proceeding. In addition, the DOE found that the Marine had failed to satisfy the criteria for a stay of the Remedial Order pending resolution of a related judicial proceeding, especially in view of the strong public interest in securing timely compliance with the price regulations. Finally, the DOE found that Marine had not submitted any evidence to warrant consideration of its claim of gross inequity and serious hardship in the context of an Objection to the Proposed Remedial Order. Accordingly, the DOE issued the Proposed Remedial Order as a final order.

Request for Stay

Cities Service Co., Tulsa, Okla., DES–0154, crude oil

Cities Service Company filed an Application for Stay of an Order that was issued to it by the Acting Assistant Administrator for Fuels Regulation of the Economic Regulatory Administration (ERA). In that Order, the ERA directed Cities Service to sell a specified volume of suitable crude oil to the Sigmor Refining Company on an emergency basis under the Buy-Sell Program, 10 CFR 211.65. The Application for Stay, if granted, would temporarily relieve Cities Service of that obligation pending a determination on an Appeal of the Order. In support of its request for stay, Cities Service set forth a number of arguments which it maintained demonstrated that it was likely to succeed on the merits of its Appeal. Cities Service also alleged that the Order would result in irreparable injury to the firm. In considering the stay request, the DOE found that the issues which Cities Service had raised were significant and warranted serious consideration in the context of its Appeal. However, on the basis of the existing record, the DOE concluded that Cities Service had not shown that it was likely to succeed on the merits of its Appeal. As for Cities Service's allegation of irreparable injury in the absence of a stay, the DOE noted that Section 212.94 was recently amended to mitigate the effects which might occur as a result of increased world market prices for crude oil. Furthermore, the DOE concluded that the adverse impact on Sigmor if a stay were granted would greatly exceed the burdens that compliance with the ERA's Order would impose upon Cities Service. Based on these considerations, the Application for Stay was denied.

Motion for Evidentiary Hearing

Big Bend Truck Plaza, Tallahassee, Fla., DRH–0032, diesel fuel

Big Ben Truck Plaza filed a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order issued to it by DOE Region IV. According to the PRO, Big Bend violated the resellers and retailers price rule, 10 CFR 212.93, and thereby overcharged its customers by a total of $37,554.21 during the period November 1, 1973 through April 30, 1976. The Motion for Evidentiary Hearing, if granted, would permit Big Bend to present testimony with respect to disputed issues of fact. In considering the motion, the DOE determined that the issues raised by Big Bend relate to the firm's accounting practices and that these practices are relevant to the dispute between Big Bend and the Office of Enforcement. The DOE also observed that the testimony of the firm's officers with respect to alleged undercharges would be relevant and material to a determination as to whether a portion of the alleged overcharges should be offset. Finally, the DOE concluded that Big Bend should be permitted to present specific evidence concerning advice that was allegedly given to the firm by federal agents. Accordingly, the Motion for Evidentiary Hearing was granted.

Motion for Discovery

Lunday-Thagard Oil Co., Washington, D.C., DED–1936, crude oil

The Lunday-Thagard Oil Company filed a Motion for Discovery in which it requested the DOE to produce for inspection and copying four memoranda written by officials of the DOE and the FEA. Lunday-Thagard contended that the documents were necessary to enable it to effectively pursue a Statement of Objections which it filed to a Proposed Decision and Order issued to the firm on December 6, 1978. In considering the Motion, the DOE noted that in a recent case, *Quincy Oil, Inc.*, 2 DOE Par. 82,577 (1978), it determined that in the absence of extraordinary circumstances discovery of documents held by the DOE would not be granted in proceedings in which the DOE is not a party. The DOE found that the documents sought by the firm were not directly relevant to the present exception proceeding and that disclosure would not materially advance the proceeding. On the basis of these considerations, the DOE denied the Lunday-Thagard Motion for Discovery.

Supplemental Orders

Commonwealth Oil Refining Co., Inc., San Antonio, Tex., DEX–0143, crude oil

The present proceeding relates to a Supplemental Order which the DOE issued on January 16, 1979 to the Commonwealth Oil Refining Company, Inc. (Corco). That Order permitted the firm to sell an amount of crude oil entitlements if it certified that the bankruptcy court having jurisdiction over the Corco reorganization approved an order establishing certain procedures for the use of the funds realized from the sale of the entitlements. In the present proceeding, Corco submitted an order that the bankruptcy court had issued pursuant to the January 16 determination. After reviewing that bankruptcy order, the DOE concluded that Corco should be permitted to sell the entitlements involved, subject to the safeguards contained in the order of the bankruptcy court.

Navajo Refining Co., Washington, D.C., DEX–0006, crude oil

On various dates, the FEA issued Decisions and Orders to Navajo Refining Company granting the firm exceptions from the provisions of 10 CFR 211.67 (the Entitlements Program). These Decisions had the effect of relieving Navajo of a portion of its entitlement purchase obligations during the period June 1976 through November 1977. That exception relief was granted in accordance with the standards established in *Beacon Oil Co.*, 3 FEA Par. 83,209 (1976), and *Delta Refining Co.*, 2 FEA Par. 83,275 (1975), and applied primarily to the firm's fiscal year ended July 31, 1977. In those Orders, the FEA indicated that it would conduct a review of the exception relief which had been granted to Navajo at the completion of the firm's fiscal year to determine whether it had received either excessive or insufficient entitlements relief. On the basis of the actual data which the firm provided for its 1977 fiscal year, the DOE determined that Navajo had received an excessive amount of entitlements relief. Navajo was therefore required to purchase additional entitlements having a total value of $126,804 during the period March through May 1979.

Marine Fuel Supply & Towing, Inc., Tampa, Fla., DRO–0022, No. 2 diesel fuel

Marine Fuel Supply and Towing, Inc. filed a Statement of Objections to a Proposed Remedial Order issued to the firm by DOE Region IV. In the PRO, Region IV found that during the period November 1, 1973 through December 31, 1975, Marine sold No. 2 diesel fuel to its customers without computing its May 15, 1973 weighted average selling prices in accordance with the Mandatory Petroleum Price Regulations. As a result of this omission, it alleged that Marine sold No. 2 diesel fuel at prices in excess of those permitted by 6 CFR 150.359 and 10 CFR 212.93. In its Statement of Objections, Marine contended that the DOE recordkeeping and allocation regulations were invalid as a matter of law. Marine also contended that since a challenge to the validity of those regulations has been raised in a class action pending in Northern California, the DOE should not issue the Proposed Remedial Order as a final order. In considering Marine's Statement of Objections, the DOE found that the firm was charged with a violation of the DOE price regulations, not the DOE recordkeeping or allocation regulations, and that Marine's contentions concerning the validity of the recordkeeping and allocation regulations were therefore irrelevant to the present proceeding. In addition, the DOE found that Marine had failed to satisfy the criteria for a stay of the Remedial Order pending resolution of the California judiciary proceeding especially in view of the strong public interest in securing a timely compliance with the price regulations. Finally, the DOE found that Marine had not submitted any evidence to warrant consideration of its claim of gross inequity and serious hardship in the context of an Objection to a Proposed Remedial Order. Accordingly, the DOE issued the Proposed Remedial Order as a final order.

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Atlantic Richfield Company, Los Angeles, California, DEE–2164.
Basic Petroleum, Inc., Los Angeles, California, DEE–0933.
Continental Oil Company, Houston, Texas, DEE–1947.
Curtiss Wright Corporation, Woodridge, New Jersey, DEE–2150.
Demenno Resources, Los Angeles, California, DEE–0965.
Farmland Industries, Inc., Kansas City, Missouri, DES–2166; DEE–2166.
Shell Oil Company, Houston, Texas, DEE–2192; DES–2192; DST–2192.
Texaco, Inc., White Plains, New York, DEE–2193; DES–2193; DST–2193.
W. F. Snakard, Inc., Wellston, Oklahoma, DEE–0480.

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Zenith Oil Company, Inc., Minneapolis, Minnesota, DEE–1994.

The following submission was dismissed on the grounds that the request is now moot:

Research Enterprises, Inc., New Orleans, Louisiana, DRO–0122; DRH–0122.

The following submissions were dismissed on the grounds that recent regulatory changes have eliminated the need for the exception relief requested:

Amoco Oil Company, Chicago, Illinois, DEE–2152; DES–2152; DST–2152.
Mobil Oil Company, New York, New York, DES–2163; DEE–2163.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

[FR Doc. 79–27339 Filed 8–30–79; 8:45 am]

BILLING CODE 6450–01–M

Office of Resource Applications

Davis Storage Project in West Virginia; Study of Alternatives

Correction

In FR Doc. 79–25076 appearing on page 47401 in the issue of Monday, August 13, 1979 make the following corrections:

On page 47402 in the first column, the third line should have read: "*Capacity:* 1,000 megawatts (MW) for". In the third column, the eighth line, the word "contract" should have read "contact".

On page 47403, in the first column, the second line from the bottom should have read "• Conservation and load management." In the second column, the seventh line should have read "• Gas turbines;".

BILLING CODE 1505–01–M

Office of Special Counsel for Compliance; Proposed Remedial Order to Getty Oil Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Getty Oil Company and of Opportunity for Objection.

Pursuant to 10 CFR § 205.192(c), the Special Counsel for Compliance, Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Getty Oil Company ("Getty"), 3810 Wilshire Blvd., Los Angeles, California 90010.

This Proposed Remedial Order sets forth findings of fact and conclusions of law concerning termination by Getty of a crude oil supplier/purchaser relationship between Getty and Phillips Petroleum Company ("Phillips") in violation of 10 CFR 211.63(b) of the Mandatory Petroleum Allocation Regulations. The crude oil involved was produced by Getty from the Alaskan Cook Inlet and sold to Phillips during the period April 1, 1976 through March 31, 1979. The unlawful termination of the

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supplier/purchaser relationship by Getty, according to the Proposed Remedial Order, occurred on April 1, 1979. As a result of such termination, Phillips was unable to supply the crude oil to Tosco Corporation (Tosco), which Phillips had contracted to supply for use at Tosco's Avon Refinery in California.

In accordance with 10 CFR § 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted, from the ERA.

On or before September 17, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR § 205.193. Such Notice should be filed with: Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, N.W., Washington, D.C. 20461.

Copies of the Proposed Remedial Order may be obtained by written request addressed to: Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB–145, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from: Office of Freedom of Information, Reading Room, Forrestal Building, Room GA–152, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C., August 24, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79–27218 Filed 8–30–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1274–5]

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1979 Model Year

Correction

In FR Doc. 79–22058, appearing at page 42444 in the issue of Thursday, July 19, 1979, the following changes should be made:

1. On page 42493, a note should appear below the entries for "Volvo-Evap-Emission Families," reading, "Note: This VEH generated evap emis as well as EXH test results; a complete listing of all test vehicles belonging to each evap emis family is provided in the evap emis family section below."

2. On page 42493, immediately following the above note, a heading should appear, reading, "1979 Model Year Light-Duty Trucks".

3. On page 42505, immediately following the entries for "Volkswagen—Evap-Emission Families," a heading should appear, reading "1979 Model Year Light-Duty Diesel Trucks".

BILLING CODE 1505–01–M

[FRL 1309–5]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of August 20 to August 24, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from August 31, and will end on October 15, 1979. The 30-day wait period for final EIS's as calculated from August 31, 1979 will end on October 1, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30 day wait period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 20 through August 24, 1979, the 30 day wait period will be calculated from August 31, 1979. The wait period will end on October 1, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 20 to August 24, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 28, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I. EIS's Filed With EPA During the Week of August 20 to 24, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Draft

Crooked River National Grassland, Ochoco National Forest, Jefferson County, Oreg., August 21: Proposed is a land management plan for the Crooked River National Grassland located in Ochoco National Forest, Jefferson County, Oreg. The preferred alternative includes: (1) Primary recreation for the areas around Haystack Reservoir, Lake Billy Chinook, and portions of the Squaw Creek and Deschutes River Canyons; (2) Primary riparian wildlife management; (3) primary wildlife/secondary range management of most of the Deschutes Canyon roadless area as well as the remainder of the west side of the grassland; (4) support of wildlife management through range management activities; and (5) management of canyon areas for dispersed recreation. (EIS Order No. 90902.)

Soil Conservation Service

Draft

Pepper Creek Flood Prevention and Drainage, Sussex County, Del., August 21: Proposed is the modification of about 30 miles of channel in the 43 mile Pepper Creek tax drainage measure for the purposes of reducing flooding and providing drainage for a total of 4,340 acres located in Sussex County, Delaware. The plan will include seeding for vegetation growth along the channel bank after construction. Under certain conditions, one side of the channel bank would be left undisturbed (USDA–SCS–EIS–RC&D–(ADM)–79–1–D–DE). (EIS Order No. 90895.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

Trinity River, Water Resource Improvement, Several Counties, Tex., August 20: Proposed are water resource improvements for the Trinity River Basin which encompasses at least portions of 38 counties in Texas. The improvement plan consists of a multiple-purpose project including three physical features: a multiple-purpose channel from the Houston ship channel to the Port of Liberty, with extension for flood control to river mile 45: Tennessee Colony Lake for mid and lower basin flood damage reduction, water supply, hydropower, and recreation-fish and wildlife; and the Dallas floodway extension for flood damage reduction in the city of Dallas (Fort Worth district). (EIS Order No. 90894.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Final

Alabama Coastal Area Management Program (CZM), Alabama, August 23: Proposed is the Alabama State coastal area management program. The program includes general rules and regulations; resource use rules and regulations concerning siting/construction/operation of energy facilities, dredge and filling, shoreline erosion, public access, natural hazards, and solid waste disposal. Natural resources rules and regulations address water quality, wetlands and submerged grassbeds, air quality, beachs and dunes, water resources, protection of cultural resources, fisheries management, and wildlife habitat. Comments made by: USDA, DOC, COE, USN, DOE, HEW, HUD, DOI, EPA, GSA, DOT, State, and local agencies, groups, individuals and businesses. (EIS Order No. 90906.)

DEPARTMENT OF DEFENSE

Contact: Lt. Col. Stanley Domal, U.S. Air Force, USREDCOM/RCJ4, MacDill Air Force Base, Florida 33608, (813) 830–3831.

Joint Chiefs of Staff

Final

Bold Eagle 80, Joint Readiness Exercise, Santa Rosa, Okaloosa, and Walton counties, Fla., August 24: Proposed is the fifth annual large scale JCS coordinated joint readiness exercise, Bold Eagle 80, at Eglin AFB, located in Santa Rosa, Okaloosa, and Walton counties, Florida. Exercise elements will include approximately 20,000 troops, 390 aircraft (and helicopter), 3600 self-propelled wheeled vehicles and 195 tracked vehicles. The action is designed to exercise selected organizations in large unit deployment and in the procedures and tactics to be used as part of a joint force. A portion of the Blackwater River State Forest is also proposed for unconventional warfare activities. Comments made by: EPA, DOI, USDA, State and local agencies, groups. (EIS Order No. 90907.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30308, (404) 881–7458.

Final

Horsepen Creek Interceptor, Greensboro, Guilford county, N.C., August 21: Proposed is the awarding of grant funds to Guilford county, North Carolina for the purpose of developing a wastewater treatment system to service the Greensboro-Guilford county area of which the Horsepen Creek Interceptor is a part. The project consists of the necessary facilities to transport wastewater from the Horsepen Creek Basin to the city of Greensboro wastewater collection system for treatment. Six alternatives are considered (EPA–904/79–0042). Comments made by: COE, DOI, HEW, FERC, USDA, State, and local agencies, groups and individuals. (EIS Order No. 90901.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566–1416.

Draft

IRS Midwest Service Center, Kansas City, Jackson county, Mo., Wyandotte county, Kans., August 22: Proposed is the construction of a replacement facility for the Internal Revenue Service-Midwest Service Center at one of four proposed sites in urban Kansas City, Jackson county, Missouri and Kansas City, Wyandotte county, Kansas. The facility will consist of a four-building complex with two sub-levels for parking and have an occupiable area of about 1,366,700 square feet. Of this space 770,000 square feet will be used for parking and the remainder to house an estimated 6,200 employees. Seven alternatives are considered (EMO/KS–790002). (EIS Order No. 90903.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6306.

Draft

Waverly Plantation Planned Community, Shelby County, Tenn., August 20: Proposed is the issuance of HUD home mortgage insurance for the Waverly Plantation Planned Community located in Shelby county, Tennessee. The community will encompass a 689.9 acre tract of land and include 2,962 dwelling units consisting of single family houses, apartments and townhouses. Also included are plans for elementary school/park sites, church sites, public and private recreational facilities, and supporting shopping centers (HUD–RO4–EIS–78–18). (EIS Order No. 90893.)

Final

Blair Village Apartment Complex, proposed sale, Fulton county, Ga., August 21: The proposed action is the sale of the Blair Village Apartment Complex which was acquired by the Department of Housing and Urban Development on December 2, 1975 through foreclosure on a FHA insured mortgage. Blair Village is a 1,062 unit apartment development located in southeastern Atlanta, Fulton county, Georgia. (HUD–RO4–EIS–78–02–F). Comments made by: AHP, EPA, HEW, USDA, DOI, DOE, COE, State and local agencies. (EIS Order No. 90899.)

Draft supplement

Shenandoah New Community, Grant, Coweta county, Ga., August 23: This statement supplements a final EIS, No. 25718, filed 12–6–72 concerning the awarding of a discretionary fund grant for the construction of a water treatment system for the Shenandoah New Community, Coweta county, Georgia. This supplement discusses a different system then that examined in the final EIS. Proposed is the construction of a 2.5 million gallon per day water treatment system. The construction will involve additions and improvements to existing facilities including upgrading of supply, treatment and distribution facilities. (EIS Order No. 90904.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Final

Crude Oil Transport Systems, Several Counties, Canada, August 24: Proposed for consideration are four applications for

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construction and operation of portions of a crude oil transportation system for the transport of Alaskan North Slope and foreign crude oil from the west coast to inland States under title V of Purpa. The locations of the proposals are as follows: (1) Port Angeles, Washington to Clearbrook, Minnesota, (2) Skagway, Alaska to Keg River, Alberta, Canada, (3) Kitimat, British Columbia, Canada to Edmonton, Alberta, Canada, and (4) Low Point, Washington to Edmonton, Alberta, Canada (FES–79–36). Comments made by: HEW, DOT, HUD, DOI, EPA, USDA, DOE, DOC, State and local agencies, groups, individuals and businesses. (EIS Order No. 90909.)

Bureau of Reclamation

Final

Bumping Lake Enlargement, Yakima Project, Yakima County, Wash., August 23: Proposed is the replacement of the existing Bumping Lake Dam, a feature of the Yakima project on the Bumping River in Yakima County, Washington, with a larger structure. The new dam would be 223 feet high, or five times higher than the existing structure, and would create an enlarged Bumping Lake with an active capacity of 458,000 acre-feet. The existing dam would be inundated. The alternatives considered range from alternate storage sites on the Bumping River to reallocation of irrigation water rights. Comments made by: DOI, FPC, AHP, COE, DOC, HEW, HUD, EPA, USDA, State and local agencies, groups, individuals and businesses. (EIS Order No. 90905.)

Geological Survey

Final

Caballo Mine, Mining and Reclamation Plan, Campbell County, Wyo., August 20: Proposed is approval of the surface mining and reclamation plan for the Caballo Mine, Carter Mining Company, Campbell County, Wyoming. The plan describes mining operations for 40 years on a total of about 6,700 acres (about 4,300 acres will actually be mined) of Federal, State, and privately owned mining leases. All of the land surface, except for 640 acres of State land, is privately owned. The coal will be used for electric power generation. Ten alternatives are considered (FES–79–34). Comments made by: AHP, USDA, HEW, DLAB, DOI, EPA, State and local agencies, businesses. (EIS Order No. 90892.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

U.S. 12, Michigan Avenue Reconstruction, Wayne County, Mich., August 21: Proposed is the reconstruction of U.S. 12, also known as Michigan Avenue, from Nowlin Street in the city of Dearborn, Wayne County, Michigan. The length of the project is 1.3 miles. The existing two-way facility would be converted to a one-way pair of streets for which five alternative alignments are considered. In addition five other alternatives are discussed (FHWA–MICH–EIS–79–02–D). (EIS Order No. 90897.)

Final

N.J.–23 Widening, I–80 to New Street, Wayne, Passaic County, N.J., August 24: Proposed is the improvement of 1.65 miles of NJ–23 in Wayne township, Passaic County, New Jersey. The project would begin at I–80 and terminated near New Street. Improvement of the facility involves widening the existing 4-lane road-way to six lanes. Other improvements will include: The construction of an interchange with the proposed West Belt Highway and two-lane service roads on both sides of NJ–23, (2) realignment of NJ–23 from Lewis Street to the viaduct over the Conrail line and U.S. 202, and (3) the construction of an interchange immediately north of the viaduct at Alps Road (FHWA–NJ–EIS–77–01–F). Comments made by: DOT, NRC, USDA, FPC, EPA, DOI, HEW, COE, State agencies. (EIS Order No. 90908.)

Final

U.S. 221, Marion Bypass, McDowell County, N.C., August 21: The proposed action is the construction of a highway facility that will provide a bypass for U.S. 221 traffic presently routed through the town of Marion, McDowell County, North Carolina. Approximately half of the 11.8 mile project length will be a five-lane roadway along the existing alignment with the center lane for left turns only. The remainder of the project will be a four lane highway on new location with a 16-foot wide median and control of access to abutting properties (FHWA–NC–EIS–78–01–F). Comments made by: DOT, COE, HEW, FERC, DOI, USDA, EPA, AHP, State and local agencies. (EIS Order No. 90900.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–2526.

Draft

Pacific National VA Memorial Cemetery, Honolulu; Honolulu City and County, Hawaii, August 21: Proposed is a master plan for the National VA Memorial Cemetery of the Pacific located in the Punchbowl Crater, Honolulu City and County, Hawaii. Major development elements of the plan include a Visitor Center/Administration Building and parking facility, an addition to the maintenance facility, Columbaria facilities, and major improvement of the overlook. The plan would expand burial capacity of the cemetery and improve its overall operations and appearance. (EIS Order No. 90896.)

EIS's Filed During the Week of August 20 to August 24, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Alabama		Final	Alabama Coastal Area Management Program (CZM).	90906	08–23–79	DOC
Delaware	Sussex	Draft	Pepper Creek Flood Prevention and Drainage	90835	08–21–79	USDA
Florida	Okaloosa	Final	Bold Eagle 80, Joint Readiness Exercise	90907	08–24–79	DOD
	Santa Rosa	Final	Bold Eagle 80, Joint Readiness Exercise	90907	08–24–79	DOD
	Walton	Final	Bold Eagle 80, Joint Readiness Exercise	90907	08–24–79	DOD
Georgia	Coweta	Supple	Shenandoah New Community, Grant	90904	08–23–79	HUD
	Fulton	Final	Blair Village Apartment Complex, Proposed Sale	90899	08–21–79	HUD
Hawaii	Honolulu	Draft	Pacific National VA Memorial Cemetery, Honolulu	90896	08–21–79	VA
Kansas	Wyandotte	Draft	IRS Midwest Service Center, Kansas City	90903	08–22–79	GSA
Michigan	Wayne	Draft	US 12, Michigan Avenue Reconstruction	90897	08–21–79	DOT
Missouri	Jackson	Draft	IRS Midwest Service Center, Kansas City	90903	08–22–79	GSA
New Jersey	Passaic	Final	NJ–23 Widening, I–80 to New Street, Wayne	90908	08–24–79	DOT
North Carolina	Guilford	Final	Horsepen Creek Interceptor, Greensboro	90901	08–21–79	EPA
	McDowell	Final	US 221, Marion Bypass	90900	08–21–79	DOT
Oregon	Jefferson	Draft	Crooked River National Grassland, Ochoco NF	90902	08–21–79	USDA
Policy		Single	Family Construction Application Procedures	90910	08–22–79	HUD
Several	Several	Final	Crude Oil Transport Systems	90909	08–24–79	DOI
Tennessee	Shelby	Draft	Waverly Plantation Planned Community	90893	08–20–79	HUD
Texas	Several	Draft	Trinity River, Water Resource Improvement	90894	08–20–79	COE
Washington	Yakima	Final	Bumping Lake Enlargement, Yakima Project	90905	08–23–79	DOI
Wyoming	Campbell	Final	Caballo Mine, Mining and Reclamation Plan	90892	08–20–79	DOI

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Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 377–4335.	Alabama Coastal Area Management Program (CZM).	Final 90906	August 31, 1979 (See Appendix I).	Waiver	Sept. 23, 1979.

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–8306.	Laurel West Planned Unit Development, Monterey County, Calif.	Draft 81350	Dec. 29, 1978	May 24, 1979

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of Report	Date made available to EPA	Accession No.
CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272–0121.	Two Harbors Harbor O&M Activities, Lake Superior, Lake County, Minnesota.	Aug. 21, 1979	90898

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 79–27267 Filed 8–30–79; 8:45 am]

BILLING CODE 6560–01–M

Science Advisory Board

Environmental Pollutant Movement and Transformation Committee; Open Meeting

[FRL 1309–7]

Under Pub. L. 92–463, notice is hereby given of a meeting of the Task Group on Microcosms of the Environmental Pollutant Movement and Transformation Committee of the Science Advisory Board. The meeting will be held at the EPA Laboratory at Athens, Georgia on September 17, 1979. The address is the Environmental Research Laboratory, College Station Road, Athens, Georgia 30601. The room number will be posted at the building's main entrance.

The meeting is open to the public. The agenda is to review experimental data from a microcosm system known as the Exposure Analysis Modeling System.

Because seating capacity is limited, persons desiring to attend must pre-register and be given a confirmed reservation by the Executive Secretary of the Task Group, Dr. Joel L. Fisher. He may be reached at (202) 472–9444. Deadline for preregistration is close of business on September 14, 1979.

Dated: August 28, 1979.

Ernst Linde,

Acting Staff Director, Science Advisory Board.

[FR Doc. 79-27351 Filed 8-30-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP- ; FRL 1309-6]

Statement of Policy on the Recertification by Training of Commercial Applicators in Colorado and Nebraska under the Federal Insecticide, Fungicide, and Rodenticide Act, as Amended

SUMMARY: This notice explains EPA's policy on approving or disapproving training courses designed for recertifying commercial applicators who are certified under the Federal pesticide applicator certification program in Colorado and Nebraska.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Andy Caraker, Senior Regional Coordinator, (TS-770-M), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 472-9403.

John Wicklund, Chief, Toxic Substances and Pesticides Branch, Region VII, U.S. Environmental Protection Agency, 324 East 11th Street, Room 1500, Kansas City, Missouri 64106, telephone (816) 374-3036.

Lou Johnson, Chief, Toxic Substances Branch, Region VIII, U.S. Environmental Protection Agency, 1860 Lincoln Street, Suite 103, Denver, Colorado 80295, telephone (303) 837-3926.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (5 U.S.C. 553(b)) provides that the solicitation of comments is not required of federal agencies for "interpretative rules, general statements of policy, or rules of agency organization, procedure or practice." EPA has determined that this notice falls within this exemption. Nevertheless, interested parties in states in which EPA is conducting a federal pesticide applicator certification program were given an opportunity to comment on the criteria. Written comments were received from 15 organizations. Copies of these comments are available for public inspection during normal business hours at the above locations.

The following is EPA's (Regions VII and VIII) policy on approving or disapproving training courses for the recertification (by training) of commercial pesticide applicators. This policy is only applicable in Colorado and Nebraska where EPA is conducting a federal pesticide applicator certification program. However, this does not preclude individual states from adopting these criteria or variations of these criteria.

Criteria for Recertification of Commercial Applicators Certified under the Federal Certification Program in Colorado and Nebraska

Introduction: In October 1972, Congress amended the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). One of the major provisions of the amended FIFRA is to certify applicators of restricted use pesticides. The certification program is an attempt to ensure that applicators have sufficient knowledge to prevent acute adverse human health and environmental effects in or near areas they treat with pesticides.

During the fall of 1977, the Environmental Protection Agency (EPA) began implementing federal pesticide applicator certification programs in states and on Indian reservations where there was no approved certification plan in effect. On June 8, 1978, EPA published in the **Federal Register** final regulations (40 CFR Part 171.11) governing federal applicator certification programs. Under these regulations commercial applicators who use or supervise the use of restricted use pesticides are required to be certified. In order to be certified, a commercial applicator must take and pass written examinations. An applicator's certification is valid for two years from the date of issuance and only in the state it is issued.

Recertification Criteria: Final regulations (40 CFR 171.11) provide that a certified commercial applicator may qualify for recertification by taking and passing written examinations administered by EPA, or by successfully completing an EPA approved training course. Recertification procedures must be completed during the twelve month period preceding the expiration date of his certificate.

Recertification serves two purposes: (1) It helps ensure that commercial applicators continue to meet the requirements of changing technology; and (2) It helps ensure that applicators maintain a continuing ability to use pesticides safely and properly. In states in which the Agency is administering certification programs, EPA is responsible for ensuring that commercial applicators either pass the required examinations or successfully complete an approved training course prior to being recertified.

EPA will provide certified commercial applicators ample opportunity to take the required written examinations for recertification. However, EPA is not in the position to provide the training required for recertification. The Agency does not have the personnel and funding needed to provide training. The availability of training will be dependent upon the willingness and capability of public or private organizations to develop recertification training programs which can be approved by EPA.

Information set forth herein describes the minimum criteria for training courses to recertify commercial applicators and the procedures for obtaining EPA approval.

Curriculum: On October 9, 1974, EPA published in the **Federal Register** "Standards for Certification of Pesticide Applicators", 40 CFR Part 171.1-6. The minimum standards an applicator must meet in order to be certified as a commercial applicator are listed in 40 CFR 171.4, "Standards for Certification of Commercial Applicators".

EPA acknowledges that commercial applicators who are certified have demonstrated their competence with respect to the commercial applicator standards. The Agency also recognizes that the purpose of recertification is not to redetermine an applicator's competency, but to ensure that he maintains the ability to apply pesticides properly and stays abreast of changing technology. To meet these goals, it is necessary to provide applicators with newly developed information as well as to review areas which directly affect the safe and proper use of pesticides. These areas are described below.

In order for an organization's training course, meeting, or workshop to qualify for EPA approval, it should include the following subject matter:

A. General

1. *Applicable State and Federal Pesticide Laws and Regulations.* This presentation should include a general review of the FIFRA requirements and its regulations and any state laws which pertain to pesticide application, storage, transportation and disposal. Special attention must be given to changes and additions that have taken place during the two-year period preceding the training course (including amendments to FIFRA, new or revised regulations, and Pesticide Enforcement Policy Statements (PEPS)).

2. *Environmental Precautions.* One of EPA's major responsibilities, in addition to individual applicator safety, is the protection of our environment from pollutants, including pesticides. A review of precautions applicators should take to prevent contamination of the environment should be included in the presentation. This review may be directly related to the major restricted use pesticides used in the category for which training is being provided.

3. *Calibration.* One of the problems associated with pesticide use is poor calibration of pesticide application equipment. Each training course should include a presentation on pesticide application equipment calibration, including sample problems.

B. Specific Category Material

1. *Pest Identification.* Before choosing and applying a specific pesticide, the applicator must first identify the target pest(s) to be treated and any non-target species (insects, weeds, etc.) that may be present. Pests or groups of pests are generally located in a specific environment. Each type of environment (including agricultural land, forests, aquatic areas, rights-of-way, and man-made structures) is covered by one of EPA's commercial applicator categories (40 CFR 171.3). Each presentation should include a section on the recognition of pests and beneficial organisms (i.e., insects, plants, etc.) directly related to the specific category that training is being provided for and the damage caused by the pest(s). Applicators should be provided with information on sources for identifying problem pests. Each presentation does not have to include identification of *all* pests for a particular category. For example, the course may provide training on identification of all major pests (insects, weeds, plant disease, etc.) for a particular crop, commodity or location, or training on identification of an individual group of pests (insects, weeds, etc.) for all the crops, commodities or locations covered by the particular category.

2. *Restricted Use Pesticides.* One of the main provisions of the amended FIFRA is that applicators of pesticides classified for restricted use be competent with respect to the use and handling of the pesticides. A part of being competent is being aware of specific pesticides' characteristics, hazards and safety factors. Each presentation should include a discussion of specific pesticides that are related to the commercial applicator category for which training is being provided. This discussion should include:

a. the family to which the particular pesticide(s) belong and the relative hazards, including special environmental precautions as related to the specific pesticide category (for example, organophosphates—high toxicity; chlorinated hydrocarbons—persistence);

b. persistence, volatility, potential phytotoxicity, drift potential, human hazards, special formulation hazards and precautions;

c. information on special calibration and application techniques (for example, Ultra Low Volume (ULV) application, or use of adjuvants);

d. safety factors which are necessary to prevent applicator poisoning; and

e. proper remedial procedures in case of accidents.

Not all pesticides that may be used in a particular category need to be discussed. However, emphasis should be given to the major restricted use pesticides for the particular category for which training is being offered. A review of the label and labeling for these pesticides should be included in the presentation.

3. *New Developments.* In order to provide applicators with the latest information available, the presentation should include up-to-date information dealing with pesticides products, application equipment and techniques, and hazards or precautions to be taken.

4. *Integrated Pest Management (IPM).* EPA's responsibilities include not only regulating the use of pesticides, but also encouraging the most officient use of available pesticides and only using them when needed. Integrated Pest Management (IPM) directly relates to this responsibility. Although EPA cannot require IPM training, individual organizations are encouraged to provide applicators with information on the concepts of IPM and any specific information related to the particular commercial applicator category for which training is being provided.

C. Demonstration and Research Category

Applicators who are certified under the Demonstration and Research category may be recertified by written examination or by successfully completing an approved training course for the category (example, Agricultural Plant, Forest, etc.) in which they were originally certified. In the event an applicator is certified for Demonstration and Research in more than one category, it would be necessary for the applicator to complete a training course approved for each category in which he wishes to be recertified.

Applicator Participation: When developing applicator training programs, a major consideration must be the amount of knowledge retained by the applicator. Trainees learn best when they are actively involved in the training course. One method of increasing the learning potential of the individaul is to incorporate procedures which require applicators to actually participate in the training course.

Each course to be approved by EPA for recertification must include a procedure requiring each indivudual to participate in a learning exercise. Attachment 1 outlines some examples of individual applicator participation procedures. Training methods not included in Attachment 1 may be submitted to EPA for consideration. Each method submitted to EPA will be considered on its own merit as it relates to its ability to increase an applicator's information retention.

In addition to participating in an approved training course, each applicator must complete EPA's "Pesticide Applicator Certification Form". EPA will only recertify applicators who have completed EPA's certification form and for whom the Agency has adequate assurances that the individual applicator successfully completed an approved training course. Mere passive attendance at a training course will not be considered as successful completion. Attendees should be made aware that failure to fully participate in the training course and to complete all course requirements will result in denial of recertification.

EPA will monitor all commercial applicator recertification courses. EPA retains the authority to withdraw approval of a training course not conducted in accordance with EPA's approval conditions. In the event a training course did not appear to satisfy the approval conditions, individual course sponsors will be given an opportunity to confer with EPA prior to any action to withdraw course approval.

EPA Approval: Each training course to recertify commercial applicators should be approved in advance by the appropriate EPA Regional Office. Only under special conditions (such as completion of a University level course) will a course be given approval after it is held.

Courses will be approved separately for each specific commercial applicator category. Before a course is approved for a particular category, it must meet the general criteria listed above and contain specific information on the individual category. A course may be approved for more than one category if specific information for each individual category is included in the program.

In order for an organization to have a course approved, the following procedures should be completed:

A. A final agenda for the course should be developed and submitted to the appropriate EPA Regional Office. It is the responsibility of the sponsoring organization to submit a final agenda to

EPA far enough in advance of the proposed course so that the Agency may review and approve or disapprove the course. EPA will approve or disapprove the proposed training course within 20 working days of official receipt. This agenda should include the curriculum; time allotted for each section; proposed training aids; instructional methodology; proposed instructors (if available); time, date and location of the proposed course; proposed applicator participation method; and number of anticipated attendees. The number of attendees requesting recertification will be considered as a factor when reviewing the proposed method of ensuring individual applicator participation. Organizations should encourage pre-registration in order to maintain an audience of reasonable size. EPA retains the discretion to withdraw approval in the event the number of attendees exceeds the anticipated attendance in large enough numbers so as to make individual applicator participation meaningless.

B. The appropriate EPA Regional Office will review all submitted material and approve or disapprove any proposed training course. Each course will be considered on its own merit.

The Agency will work with any organization which has had a proposed course disapproved to improve the program so it may be approved.

Applicator Participation Options

I. *Incomplete Outline:* The instructors or sponsors of the training session would develop an outline for each section of the course. Only the main headings and subheadings would be on the sheet distributed to the participants. It would be the responsibility of each individual participant to complete the remaining portions of the outline. Attachment 1(a) is an example of how an outline of this type might be prepared and completed by the applicator. (This is only a partial outline designed to provide interested groups with ideas.) The presentation should contain more information than just completing the outline and should also be designed to require the individual applicator to use experience and logic before completing the outline.

A EPA official would be responsible for reviewing each participant's outline and for determining whether or not he successfully completed the course.

II. *Written Examination:* Although EPA will not require organizations sponsoring training courses for recertification to use written examinations as a method of ensuring individual applicator participation, organizations may adopt this procedure. Written examinations have several advantages over other participation mechanisms: (1) they provide the instructor with a good method of evaluating both the individual participants and the course, and (2) they can be used when dealing with larger audiences.

Two types of testing conditions can be anticipated; testing at the end of a training session; and testing some time (several hours to days) after the training session. Test questions can be expected to produce different results in the two types of testing conditions and need to be developed accordingly. Each test should be designed so that statistical reliability can be determined; that is, it should reliably test the attendee's information retention.

The validity of any test should be assured by developing test questions in concert with the topic or lecture outline. The pass/fail point should be consistent with the judgment of the program faculty and EPA. An EPA official will be responsible for grading the exams and certifying the individual applicator(s) successfully completed the training session, including passing the exam if this option is used.

III. *Worksheets:* Worksheets are prepared for *each* area of discussion (see General and Specific Category curriculum material). Problems and questions should be suitable for the experience of the applicators attending the course. For labeling, have labels present so each attendee can analyze and answer questions relating to the label. Problems dealing with calibration should be developed so the answer can be worked out by the individual applicant. Calibration problems must require some thought, but should not be excessively difficult to answer. Worksheets should be completed on an individual basis. This is very important as it requires the individual applicator to think for himself and not to rely on others near him to supply the correct answers. The worksheet exercise must be followed up with an instructor-led group discussion of each problem and question and correct answer—WHY is an answer "right"; WHY is it "wrong". This may appear to be time-consuming, but it will be worth the extra effort if questions are valid and are kept to a reasonable number. This method also has the advantage being used in large audiences.

An EPA official will be responsible for reviewing each participant's worksheet to ensure that the individual fully participates in the course and completes all course requirements.

IV. *Group Problem-Solving:* Depending on the number of attendees, the main conference can be divided into smaller discussion groups after formal training is completed. Each discussion group is given a pesticide application problem, including all of the particulars relating to this problem. (For example, for a weed problem: the weed(s) of concern, weather conditions, soil conditions, human and environmental factors, land area of concern, choice of pesticide(s)/integrated pest management methods to use, potential legal problems, equipment available, and miscellaneous factors.) Members of the small groups then would discuss the problem among themselves and come up with a solution. Each group's solution to the problem would then be discussed and reviewed before the entire conference. This method of applicator participation provides some assurance that each applicator will participate in the smaller groups. It also allows for the applicator's individual experience and gives him the opportunity to learn from his peers.

It is the responsibility of an EPA official to ensure that each individual applicator fully participated in the course and completed all course requirements.

Attachment 1a

Incomplete Outline

(Italicized portions to be completed by applicator)

I. Applicable State and Federal Pesticide Laws and Regulations
A. State Laws
1. Types of State Laws
a. *Registration (State and Special Local Needs)*
b. *Commercial Applicator "For Hire" Licensing*
2. Types of Registration
a. *State (more restrictive than EPA)*
b. *Special Local Needs*
3. Commercial Applicator Licensing Requirements
a. *"For Hire" applicators require licensing*
b. *Must pass written exam*
c. *Renewal every other year by completion of training*
4. Prohibited Acts
a. *Sell or distribute unregistered pesticide products*
b. *Apply pesticides "for hire" without a license*
c. *Misuse a pesticide*
B. Federal Laws
1. Types or Names and Administering Agency(ies)
a. *FIFRA—EPA*
b. *Food, Drug & Cosmetic—FDA*
2. FIFRA Major Provisions
a. *Certification of applicators*
b. *Registration*
c. *Enforcement*
d. *Emergency exemptions*
3. Prohibited Acts (FIFRA)
a. *Misuse*
b. *Sale of unregistered pesticide*
c. *Applying restricted use pesticide without being certified or under the direct supervision of a certified applicator*
C. Recent Amendments and Regulations
1. 1978 amendments to FIFRA (major ones)
a. *Dealer record-keeping (Federal Programs)*
b. *Revision of misuse provisions*
i. *less than dosage*
ii. *non-target pests on registered crop or site*
c. *Etc.*
2. New Regulations
a. *Sale of restricted use pesticides to non-certified applicator*
b. *Etc.*
3. Pesticide Enforcement Policy Statements (PEPS)
a. *Numbers 1, 2, etc. revoked by 1978 FIFRA amendments*
b. *List new PEPS & purpose.*

Dated: August 13, 1979.

Alan Merson,

Regional Administrator, Region VIII.

Dated: August 8, 1979.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 79-27352 Filed 8-30-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Cancelled Meeting

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Notice of Meeting Cancellation

A schedule of September meetings of the Radio Technical Commission for Marine Services was published recently. Since that time, the scheduled September 13 meeting of Special Committee No. 71, "VHF Automated Radiotelephone Systems" has been cancelled. Details on the rescheduled meeting will be published in a future **Federal Register** Notice.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-27248 Filed 8-30-79; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 79-174, File No. BPH-8897; BC Docket No. 79-195, File BPH-9242; FCC 79-498]

E. H. "Pepper" Schultz and Beck Enterprises Inc.; Construction Permit for New FM Stations

In re applications of E. H. "Pepper" Schultz, Sparks, Nevada, Req: 98.3 MHz, #252, 0.5 kW (H&V), —490 feet (BC Docket No. 79-194, File No. BPH-8897); and Beck Enterprises Inc., Sparks, Nevada, Req: 98.3 MHz, #252, 3 kW (H&V), —385 feet (BC Docket No. 79-195, File BPH-9242), for construction permit for new FM broadcast stations: Memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: August 1, 1979.

Released: August 23, 1979.

By the Commission: Commissioner Lee absent.

1. The Commission has before it for consideration the above-captioned applications of E. H. "Pepper" Schultz [Schultz] and Beck Enterprises, Inc. [Beck] for construction permits for new FM broadcast stations at Sparks, Nevada which are mutually exclusive with each other since they specify operation on the same channel. Also before us are petitions to deny Beck's application filed by Schultz and Pendor Communications and responsive pleadings thereto.[1]

2. At the time it filed its petition, Pendor was a competing applicant for channel 252 at Sparks. However, on January 23, 1976 its application was dismissed. Pendor's petition raises only one issue, a matter raised also by Schultz in a pleading entitled "Petition to Deny (full disclosure)." Both allege that Don S. Beck, Beck's majority stockholder, has been attempting to sell a broadcast station that he does not own. Schultz also accuses Beck of "trafficking" in broadcast stations. Attached to both petitions is a copy of a classified advertisement appearing in the San Francisco Chronicle dated September 17, 1975, stating as follows:

AM radio station & FM Reno. Money-maker. Only 50M down. 702-322-7653 Aft 7 p.m. P.O. Box 2807, Reno, Nev. 89505.

According to the 1975-1976 edition of Nevada Bell Telephone Company Directory for Carson City-Dayton-Reno-Sparks-Virginia City, Nevada, the telephone number appearing in the advertisement belongs to Don S. Beck.[2] Hence, it appears that Beck placed the advertisement. Although Beck could not sell a broadcast station that he does not own, placement of the above advertisement indicates that Beck may be planning to sell the FM station if his application is granted. This would be violative of Section 1.597 of our Rules (the so-called "three year rule") which prohibits sale of a broadcast station if the owner has operated the station for less than three years. Since we are unable to conclude that an applicant who advertises to sell a station for which he has not yet been granted a construction permit possesses the necessary character qualifications to be a licensee, an issue with respect thereto will be specified.

3. In its petition, Schultz also states that Beck filed its application approximately eight months after Schultz's and that this would have been too late for consideration by the Commission if Schultz's application had been timely considered by us. Of course, this argument reflects a total misunderstanding of our rules and procedures governing the processing of broadcast applications. Beck's application was tendered for filing long before Schultz's application's cutoff date, October 1, 1975. Accordingly, it is timely filed and entitled to comparative consideration with Schultz's.

4. Further Schultz alleges that Beck approached him prior to filing his own application to attempt to persuade Schultz to sell his interest in his application or merge his interest with Beck. Beck does not deny discussing these possibilities with Schultz. There is no prohibition against applicants or potential applicants merging their interests or dismissing their applications, provided that they comply with Section 311 of the Communications Act of 1934, as amended, and Section 1.525 of our Rules. Hence, no issue will be included against Beck based upon his

[1] Additional pleadings include an opposition to Schultz's petition, filed by Beck, two other pleadings styled petitions to deny filed by Schultz, a motion to dismiss Beck's application and a supplement to motion to dismiss, filed by Schultz, and a motion to strike Schultz's motion to dismiss, filed by Beck. Only Schultz's original petition to deny, Pendor's petition and Beck's opposition were timely filed and contemplated by our Rules. None of the other pleadings are entitled to consideration. However, as a matter of administrative discretion, we will treat the additional pleadings as informal objections pursuant to Section 1.587 of our Rules and we will consider those matters raised which have bearing upon the qualifications of the applicants.

[2] Don S. Beck is 51 percent stockholder of Beck Enterprises, Inc. At the time of the application's original filing, he was 92.5 percent stockholder.

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meetings with Schultz prior to filing his application.

5. Also, Schultz accuses Beck of proposing to operate with more power than necessary to cover its proposed service area in contravention of Section 324 of the Act.[3] However, review of Beck's engineering exhibits by the Commission's staff indicates that Beck's proposal is reasonable and violates no section of the Act or any rule or policy of the Commission.

6. In his petition, as amended on October 2, 1978, Schultz appears to allege that Beck obtained control of AM Station KWRL, Sparks, Nevada, without Commission approval, in violation of Section 310 of the Act.[4] Schultz's pleadings, which were prepared *pro se*, consist of numerous copies of contractual documents involving Station KWRL and court papers from Nevada state court proceedings involving various licensees of Station KWRL. Most of the Nevada court papers are isolated pleadings by various parties which are difficult to decipher without reference to the entire set. Since Schultz has failed to explain the significance of these papers or discuss their relevance to this proceeding, it is difficult for us to ascertain the basis for his allegations of Beck's involvement with KWRL or why that involvement affects his qualifications to be a licensee. However, our review of the aforementioned documentation together with Beck's response thereto suggest that control of Station KWRL may have passed to Beck without Commission approval.

7. The following scenario emerges from the pleadings before us: In October, 1974, Las Vegas Outdoor Advertising, Inc., (an entity controlled by Beck) contracted with Transierra Media, Inc. (then-licensee of Station KWRL) to purchase the station subject to Commission approval. Part of the consideration for that sale was assignment of a promissory note held by Las Vegas Outdoor Advertising, Inc. to Transierra Media. The sale was never completed because Las Vegas Outdoor Advertising was unable to secure the necessary financing. However, as a result of the assignment to Transierra Media, Inc. of the promissory note held by Las Vegas Outdoor Advertising, the latter became a creditor of Transierra Media. It was also agreed that Beck would help find a qualified purchaser of Station KWRL and that he would be repaid from the proceeds of the sale of the station. In November, 1976 Beck became General Manager of Station KWRL. In December, 1976 the Commission approved transfer of station to KWRL, Inc. KWRL, Inc.'s efforts to operate the station were not financially successful and several months after taking over the station, foreclosure proceedings were commenced by Transierra Media, now a creditor of the licensee. In December, 1977, Las Vegas Outdoor Advertising and Elmo Legg purchased from Transierra Media's principals, Cy Newman and Irving S. May, all assets of Transierra Media used in operation of the station. Since the station license was then held by a receiver, the sale from Newman and May to Beck and Legg was for assets only. However, in May, 1978 a Judicial District Court Judge in Nevada ordered that all assets of KWRL, Inc. be distributed to Transierra Media (now owned by Beck and Legg) and that the station license be assigned to Transierra Media subject to Commission approval. There is no record of any assignment of the license (or of an application therefor) back to Transierra Media. Nonetheless, an assignment of license to Jonsson Communications Corporation, the present licensee, was approved by the Commission on March 9, 1979. Although Peter Forsythe, Receiver, was the licensee when that assignment application was filed, the sales contract was executed between Transierra Media, Seller and Johsson, Buyer. According to that sales contract, the stock of the seller was held by Elmo Legg (50 percent) and Las Vegas Outdoor Advertising (50 percent). The contract was signed on behalf of the seller both by Donald S. Beck, President, and Peter Forsythe, Receiver. Hence, from the foregoing, it can reasonably be inferred that Beck, as 50 percent stockholder of Las Vegas Outdoor Advertising, may have assumed control of Station KWRL without Commission approval. Accordingly, an issue will be specified to determine whether Beck unlawfully controlled the licensee of Station KWRL, and the effect of any unauthorized control by Beck upon his qualifications to be a licensee.

8. Schultz' financial information is so outdated that we are unable to determine his proposed costs and funding sources. Since we cannot determine whether he is financially qualified to be a licensee, a financial issue will be specified against him.

9. By amendment dated March 23, 1979, Beck has revised its financial proposal. According to its application, as amended, Beck will required $67,039 to construct and operate for three months, itemized as follows:

Construction (1st 4 month payments)	$6,714
Miscellaneous items	23,000
Operating Costs (3 months)	37,325
Total	67,039

However, Beck has not shown availability of sufficient funds to construct and operate as proposed. Beck relies upon a commitment from Elmo T. Legg, 49 percent stockholder of the applicant, to lend $100,000. Further, pursuant to agreement between Don S. Beck and Legg, they are to supply 51 percent and 49 percent respectively of the funds needed to construct and operate the proposed station. However, review of the balance sheets submitted for Beck and Legg indicate that neither has current and liquid assets in excess of current liabilities by amounts sufficient to support their contributions (or, for Legg, to support his loan commitment). Legg's balance sheet lists $52,000 cash plus "listed stocks" of $264,000 and real estate of $248,000. Since the listed stocks are not identified by the name of issuer, market on which traded, and current market value, as required by Section III, page 3 paragraph 4(b) of the application (FCC Form 301), we are unable to determine whether they qualify as current assets. Also, we have no indication that Legg intends to sell any of his real estate to provide the necessary funds or whether said real estate is marketable. Furthermore, since his balance sheet fails to segregate current from long-term liabilities, all liabilities are presumed to be current, and are in excess of current assets. Beck's balance sheet also indicates liabilities in excess of current assets. In an April 1, 1979 amendment, Beck has submitted a letter from Leasing Limited of San Francisco, California in which it proposed to lease to Beck "some radio equipment with an approximate cost of $50,000." However, no listing of equipment to be leased is attached and we are unable to determine whether all necessary equipment will be covered by this lease. Hence, a general financial issue will be specified against Beck.

10. Schultz has failed to comply with the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1501 (1971), in several significant respects. It does not appear that Schultz has consulted with leaders of all significant groups that reflect the composition of Sparks, as required by Question and Answer 13(a) of the *Primer*. Demographic information submitted with Schultz's application indicates that the major local industries include tourism, conventions, manufacturing, warehousing and transportation. However, no representatives of any of these industrial groups have been consulted. Also, Schultz has consulted with no leaders of minority or ethnic groups. Examples of other significant groups not consulted include students, environmental and professional associations. Further, Schultz's proposal for the presentation of programming responsive to ascertained problems and needs does not comply with the *Primer's* requirements. Question and Answer 29 requires that applicants provide the description of their proposed programs and the anticipated time segment, frequency and duration of broadcast. Schultz's application does not contain this information. For the foregoing reasons, we are unable to conclude that Schultz's ascertainment efforts substantially comply with the *Primer*. See *Public Notice*—Commission Orders Return to Substantial Compliance Standard in Evaluating Ascertainment Showings, FCC 79–332, released June 8, 1979. Accordingly, an ascertainment issue will be specified against Schultz.

11. According to Beck's Articles of Incorporation submitted with its March 23, 1979 amendment, it is authorized to engage in "any lawful activity," however, it is not expressly authorized to operate a broadcast station. The instructions to the construction permit application forms (FCC Forms 301 and 340) and the Assignment of License and Transfer of Control forms (FCC Forms 314 and 315) require that a corporate applicant's charter specifically authorize broadcasting or that the applicant submit a letter from an appropriate state official stating that pursuant to the corporation law of the state wherein the proposed station is to be licensed the corporate purposes are sufficiently broad to authorize broadcasting. Also, we have accepted letters from attorneys admitted to the bar of the state indicating that under the applicable state law the corporate purposes are sufficiently broad. See *Saegertown Broadcasting Corporation*, 45 RR 2d 75 (1979). On reflection, we are convinced that such documentation is no longer necessary and is inconsistent with current notions of corporate law. The corporation law of most jurisdictions now permits corporations to engage in any lawful activity and general statements of corporate purpose are usually sufficient. Accordingly, no legal qualifications issue will be specified against Beck. In the future, general statements of corporate purpose will constitute an adequate showing that a corporate applicant is authorized to engage in broadcasting. Parties wishing to challenge a corporate applicant's authority to engage in broadcating must submit a showing that under its state law the applicant is not so authorized. Furthermore, FCC Forms 301, 314, 315 and 340 will be modified accordingly.

12. Beck also has failed to substantially comply with the requirements of the *Primer, supra*. In a January 18, 1978 amendment to its application, Beck has submitted a list of additional community leaders consulted. The amendment also contains the names of three employees or prospective employees who conducted these consultations. None of these employees are identified as management-level employees or propsective management-level employees, as required by Question and Answer 11(a). Further, Beck's general public survey contains no explanation of what methods, if any, were utilized to assure contact with a random sample of the population of Sparks. Therefore, it cannot be determined whether its consulations with members of the general public complied with Questin and Asnwer 13(b). Beck's general public consultations are further deficient because of its failure to indicate the dates during which the consultations were conducted. Accordingly, an ascertainment issue will also be included against Beck.

13. Schultz, in his supplement to his motion to dismiss (filed April 4, 1979) alleges that Beck's application contains certain misrepresentations with respect to its ascertainment of community problems and needs. Appended to Schultz's motion are affidavits of two persons listed in Beck's application as having been surveyed by Don S. Beck. Both deny ever being contacted by Beck in connection with its ascertainment efforts. These affidavits, in our judgment, raise serious questions about the truthfulness of Beck's statements regarding its community ascertainment efforts. Accordingly, a misrepresentation issue will be specified against Beck. *California Stereo, Inc.* 39 FCC 2d 401, 26 RR 2d 887 (Rev. Bd., 1973); *Belo Broadcasting Corporation*, 42 FCC 2d 1011, 28 RR 2d 732 (Rev. Bd. 1973).[5]

14. Beck's April 1, 1979 amendment (received by the Commission April 6, 1979) modified its transmitter location from 910 Glendale Road, Sparks, Nevada to 732 Glendale Road, Sparks, Nevada, a distance (according to Beck) of approximately one hundred yards. However, Beck has failed to amend Sections V–B and V–G of its application to reflect the new site's latitudinal and longitudinal coordinates. Further, it has failed to notify the Federal Aviation Administration of the proposed site, as required by Section 17.7 of the Commission's Rules. Hence, an issue will be included to determine whether or not Beck's proposed antenna tower constitutes a hazard to air navigation.

15. Data submitted by the applicants indicates that there would be significant difference in the size of the areas and population which would receive service from their proposals. Consequently, for purposes of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of primary aural services in such area will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

16. Our consideration of the allegations raised in several late-filed pleadings (see footnote 1 *supra*) should not be construed as condonation of applicants badgering the Commission with a plethora of petitions, motions, requests and other pleadings not contemplated by our Rules and filed long after cutoff. This practice delays designation for hearing (and accordingly delays institution of broadcast service) and frustrates the efforts of the Commission's staff to expeditiously process the large number of pending applications. Hence, we are in agreement with Beck which, in its motion to strike, states that review of these pleadings is contrary to our effort to speed and simplify the processing of contested broadcast applications. Nonetheless, Schultz's second motion to dismiss, as indicated at paragraph 12 *supra*, does contain one allegation which raises a matter so critical to Beck's qualifications that a hearing issue is mandated. Therefore, Beck's motion to strike will be denied with respect to that issue and granted in all other respects. However, all present and future applicants are advised that henceforth late-filed pleadings not

[3] Section 324 of the Act states, in part, that ". . . all radio stations . . . shall use the minimum amount of power necessary to carry out the communication desired."

[4] Section 310(b) of the Act states, in part, as follows: "No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby."

[5] Even if the misrepresentation issue is resolved in favor of Beck, deficiencies in its ascertainment remain (see paragraph 11 *supra*.) Hence, we are specifying the misrepresentation issue in addition to the ascertainment issue.

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contemplated by our Rules may be summarily dismissed.[6]

17. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for a hearing in a consolidated proceeding on the issues specified below.

18. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether E. H. "Pepper" Schultz is financially qualified to construct and operate as proposed.

2. To determine with respect to the ascertainment efforts of E. H. "Pepper" Schultz:

(a) Whether he consulted with leaders of the tourism and convention, manufacturing, warehousing, and transportation industries, minority and ethnic, student, environmental and professional groups;

(b) Whether he proposes programming responsive to the ascertained problems and needs of his proposed community of license.

3. To determine with respect to the application of Beck Enterprises, Inc.:

(a) The facts and circumstances surrounding the placement of the newspaper advertisement set out at paragraph 2, *supra*; and

(b) The effect of those facts and circumstances upon the basic and/or comparative qualifications of Beck Enterprises, Inc.

4. To determine with respect to Beck Enterprises, Inc.:

(a) Whether Donald S. Beck and/or Elmo T. Legg acquired control of Station KWRL, Sparks, Nevada, in contravention of Section 310(b) of the Communications Act of 1934, as amended, and the Commission's Rules.

(b) The effect of the facts and circumstances adduced pursuant to (a) above, upon Beck Enterprises, Inc.'s basic and/or comparative qualifications to be a licensee.

5. To determine with respect to Beck Enterprises, Inc.:

(a) Whether it made misrepresentations to the Commission with respect to its ascertainment of community problems and needs;

(b) The effect of the facts adduced pursuant to (a) above, upon Beck Enterprises, Inc.'s basic and/or comparative qualifications to be a licensee.

6. To determine whether Beck Enterprises, Inc. is financially qualified to construct and operate as proposed.

7. To determine with respect to the ascertainment efforts of Beck Enterprises, Inc.:

(a) Whether community leaders have been interviewed by principals, management-level, or prospective management-level employees of the applicant;

(b) What methods, if any, were utilized by the applicant to assure contact with a random selection of the general public; and

(c) The dates when the applicant's consultations with members of the general public were conducted.

8. To determine with respect to Beck Enterprises, Inc.:

(a) The exact location of its transmitter-antenna site; and

(b) Whether the antenna tower constitutes a hazard to air navigation.

9. To determine which of the proposals would, on a comparative basis, better serve the public interest.

10. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

19. It is further ordered, That the petitions to deny filed by Pendor Communications and by E. H. "Pepper" Schultz, are granted, to the extent indicated above, and, are denied, in all other respects.

20. It is further ordered, That the motions to dismiss, filed by E. H. "Pepper" Schultz, are dismissed, as procedurally defective, but when treated as informal objections, are granted, to the extent indicated above and, are denied, in all other respects.

21. It is further ordered, That the motion to strike, filed by Beck Enterprises, Inc., is granted, to the extent indicated above, and, is denied, in all other respects.

22. It is further ordered, That Pendor Communications, is made a party to this proceeding.

23. It is further ordered, That the Federal Aviation Administration, is made a party to this proceeding.

24. It is further ordered, That to avail themselves of the opportunity to be heard, the parties herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issue specified in this Order.

25. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules give notice of the hearing either individually or, if feasible and consistent with the Rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-27250 Filed 8-30-79; 8:45 am]

BILLING CODE 6712-01-M

[6] Section 1.584(c) of our Rules, as amended effective June 18, 1979, states as follows: "Untimely petitions to deny as well as other pleadings in the nature of a petition to deny, and any other pleadings or supplements which do not lie as a matter of law or are otherwise procedurally defective, are subject to return by the FCC's staff without consideration."

[BC Docket No. 79-209, File No. BPH-10775; BC Docket No. 79-210, File No. BPH-11004]

Bermey E. Stevens and Cashie Valley Broadcasters, Inc.; Construction Permit; Applications

In re applications of Bermey E. Stevens, Windsor, North Carolina. Req: 97.7 MHz, Channel No. 249 3 kW (H & V), 300 feet (BC Docket No. 79-209 File No. BPH-10775), and Cashie Valley Broadcasters, Inc., Windsor, North Carolina. Req: 97.7 MHz, Channel No. 249 3 kW (H & V), 300 feet (BC Docket No. 79-210 File No. BPH-11004) for construction permit; memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: August 9, 1979.

Released: August 24, 1979.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the mutually exclusive applications of Bermey E. Stevens and Cashie Valley Broadcasters, Inc., for a new FM broadcast station at Windsor, North Carolina. In addition, we have before us a petition to dismiss or reject the Cashie Valley application filed by Stevens and related pleadings, petitions to specify issues filed by each applicant and related pleadings, and petitions for leave to amend. While seeking rejection for filing, the Stevens petition to dismiss does not challenge Cashie Valley's compliance with our acceptance criteria. Rather, the questions raised concern the applicant's legal qualifications, a subject appropriately addressed at this post-acceptance stage of the proceeding. Stevens has, in fact, incorporated his petition to dismiss into his petition to specify issues and we will consider the pleadings as one accordingly.[1]

2. *Character Issues: Both Applicants.* Both Stevens and Cashie Valley seek character qualification issues premised on Cashie Valley's survey of community leaders and Stevens' investigation thereof. Their requests, and the events underlying them, are as follows. In support of an argument that the Cashie Valley survey of community leaders was conducted under false pretenses, Stevens submitted fifteen affidavits, all stating (i) that Joseph Ray Phelps (Cashie Valley's president and 40% stockholder) had discussed community needs and problems with the affiant, (ii) that Mr. Phelps had asked for support for a new FM station, (iii) that the affiant had believed Mr. Phelps to be working for Bermey Stevens and (iv) that the affiant had signed a paper which he thought to be on Mr. Stevens' behalf.[2] Cashie Valley in opposition filed affidavits from five of the fifteen leaders and from the man who accompanied Mr. Phelps (see note 2, *supra*).[3] In these statements, all six persons report that their initial affidavits were made at the request of a representative from Stevens who first inquired as to whether they (the affiants) realized that they were supporting the Cashie Valley application. Furthermore, all six acknowledge that Mr. Phelps claimed no relationship with Mr. Stevens. Rather, the affiants themselves assumed that such a relationship existed.[4]

3. To begin with the Cashie Valley survey, Stevens' affidavits all refer to the collection of statements of support, a process which is not contemplated by our Rules and which plays no part in our evaluation process. Insofar as the requirements of our *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971), are concerned, nothing in the information before us suggests that Cashie Valley has not fulfilled them. Thus, each of the fifteen affiants specifically recalls discussing community needs with Mr. Phelps and none contends that he participated in this discussion solely because of Mr. Phelps' presumed connection with Mr. Stevens. Furthermore, there is no evidence of misrepresentations on Phelps' part and no apparent motive for him to have concealed or confused his identity. In this latter regard, there is inherent in Stevens' argument the proposition that community leaders will grant interviews only to applicants whose positions they support. We do not believe this to be the case and our entire ascertainment process would be undermined if it were. If the community leaders contacted by Cashie Valley were confused as to whom Mr. Phelps represented, we cannot conclude that their participation was affected to any significant degree.

4. Stevens' conduct raises problems of a different nature. As a licensee of the Commission, Stevens should know that statements of support are not properly a part of the ascertainment process. Yet, as Cashie Valley's affidavits make clear, Stevens deliberately introduced the concept of support into the proceeding, soliciting affidavits against his opponent on this basis. The possibility of an improper motivation for this conduct—be it the undermining of Cashie Valley's survey or the raising of frivolous issues as a delaying or discouraging technique—is so strong here that a further inquiry is called for. Hence, an appropriate issue will be specified.[5] [6]

5. *Duopoly Issue: Cashie Valley.* Stevens contends that a grant of Cashie Valley's application will result in common ownership of two FM stations with overlapping 1 mV/m contours, in violation of Section 73.240(a)(1) of our Rules. We do not agree. The interests which Stevens cites as common ones are the 60% interest of Charles Franklin Barry, III, in the Cashie Valley application and the 60% interest of his sister, Carmen S. Barry, in the licensee of Station WBXB, Edenton, North Carolina. Conceding that family relationship alone is insufficient to create a presumption of common control, see e.g. *KTRB Broadcasting Co., Inc.*, 46 FCC 2d 605, 29 RR 2d 1578 (1974), Stevens argues that brother and sister here are both under the influence of their father, Lynn Barry, making each one's interest attributable to the other. However, even though Charles and Carmen Barry are both relatively young in age, there is no basis for concluding that they have relied on their father's rather than their own resources. Thus, the balance sheet which Carmen Barry submitted with her application form showed sufficient net liquid assets to meet her $15,000 commitment and this sum is not so large as to be presumptively unavailable to a person of her age. And, insofar as the Cashie Valley proposal is concerned, the applicant's bank loan commitment specifies Charles Barry, and not his father, as the guarantor. The evidence before us then does not warrant departure from our usual observation that family relationships are typified by an independence of one member from another.

6. *Financial Issue: Cashie Valley.* We cannot from the information before us determine whether Cashie Valley is financially qualified to construct and operate as proposed. Turning first to the applicant's estimated expenses, the construction costs reflected in its most recent amendment (May 15, 1979) are so low as to be questionable on their face. Hence, further inquiry is necessary to establish their reasonableness. As for Cashie Valley's sources of funding, its bank commitment letter specifies as collateral "the personal endorsement of Charles Franklin Barry III, consisting of Savings Passbook with sufficient balance to secure loan." Though somewhat ambiguous, this language suggests that a deposit of a specific sum of money and not a personal guarantee is to secure the loan. Cashie Valley has not established Mr. Barry's ability to provide these funds [7] or the funds for a proposed personal loan to the applicant. A financial issue is therefore warranted.

7. *Section 73.3514/1.65 Issue: Cashie Valley.*[8] Joseph Ray Phelps' temporary part-time employment at Stations WBTE and WBXB could not assume decisional significance in this proceeding. Hence, Cashie Valley's failure to report the positions does not warrant an issue. *Rose Broadcasting Company*, 68 FCC 2d 1242, 43 RR 2d 1317 (1978).

8. *Duplicate Programming: Stevens.* Cashie Valley proposes independent programming while Stevens proposes to duplicate some of the programming of Station WBTE, Windsor, North Carolina. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is

[1] Stevens' petition for reconsideration of our acceptance for filing of the Cashie Valley application will be dismissed as moot.

[2] In addition, Stevens submitted the affidavit of a person who accompanied Mr. Phelps on some of his interviews.

[3] We have not considered the hearsay affidavit of Joseph J. Flythe, a local attorney.

[4] Mr. Phelps was at one time employed by Windsor's only existing radio station, a facility which is 50% owned by Bermey Stevens. Windsor is a very small town (population approximately 2,200) and this relationship was apparently widely known.

[5] Should the evidence at hearing cast a new light on Cashie Valley's role in these events, the presiding Administrative Law Judge may wish to expand the inquiry to include both applicants' conduct.

[6] We have no basis for attributing Stevens' actions here to his ownership of other broadcast interests. Hence, we will deny Cashie Valley's request for a concentration of control issue.

[7] Were Mr. Barry's personal guarantee sufficient collateral, we would require only that the bank indicate its satisfaction. *Sinton Broadcasting Co., Inc.*, FCC 76-761, 38 RR 2d 341 (1976).

[8] Section 73.3514 of our Rules requires applicants to include all information required by the application form. Section 1.65 makes applicants responsible for the accuracy and completeness of information furnished in a pending application.

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proposed, the showing permitted is limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).

9. *Main Studio Location: Stevens.* As required by Section 73.210 of our Rules, Stevens has shown good cause for locating his main studio outside of Windsor. Thus, the proposed location, the studio of Station WBTE, is only one mile from Windsor and is easily accessible from the city.

10. *Amendment.* Good cause has been shown for the filing of Cashie Valley's amendments of March 26, 1979, and May 15, 1979, and both will be accepted.

11. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the facts and circumstances surrounding Bermey E. Stevens' investigation of the community leader survey conducted by Cashie Valley Broadcasters, Inc., and the effect thereof on Stevens' basic and/or comparative qualifications to be a Commission licensee.

2. To determine with respect to the application of Cashie Valley broadcasters, Inc., (i) the reasonableness of the applicant's proposed construction costs, (ii) the ability of Charles F. Barry, III, to guarantee a proposed bank loan and/or personally lend funds to the applicant and (iii) in light thereof, whether the applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

13. IT IS FURTHER ORDERED, That the petitions to specify issues filed in this proceeding ARE GRANTED to the extent indicated herein and ARE DENIED in all other respects.

14. IT IS FURTHER ORDERED, That the petition to dismiss or reject application filed by Bermey E. Stevens, IS DISMISSED as moot.

15. IT IS FURTHER ORDERED, That the petitions for leave to amend filed by Cashie Valley Broadcasters, Inc., ARE GRANTED and the related amendments ARE ACCEPTED.

16. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-27249 Filed 8-30-79; 8:45 am]

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[CC Docket No. 79-184; FCC 79-457]

Authorization of Common Carrier Facilities To Meet North Atlantic Telecommunications Needs During the 1985-1995 Period; Policy Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission initiates an inquiry into the policies to be followed in authorizing Common Carrier facilities to meet North Atlantic telecommunications needs during the 1985–1995 period. This proceeding seeks information and views to aid the Commission in formulating policies and guidelines for construction and use of both submarine cable and satellite transmission facilities in the North Atlantic Region between 1985 and 1995. The notice indicates that specific information will be requested by a second notice of inquiry to be issued in the near future.

DATES: Dates for the filing of information and comments will be specified in a second notice of inquiry.

ADDRESSES: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James Warwick, International Programs Staff (202) 632-3214.

In the matter of inquiry into the policies to be followed in the authorization of Common Carrier Facilities to meet North Atlantic telecommunications needs during the 1985–1995 period.

Adopted: July 20, 1979.

Released: August 1, 1979.

By the Commission:

1. This notice of inquiry begins our process for developing policies and guidelines for the construction and use of cable and satellite transmission facilities to meet demands for common carrier services on the North Atlantic route during the 1985–1995 period. This planning period is the third consecutive period for which we will use a comprehensive proceeding to develop policies and guidelines for the construction and use of facilities.

2. Until 1970, international transmission facilities were authorized on an application-by-application basis. In June of that year, we initiated Docket No. 18875 [1] with the release of a Notice of Inquiry.[2] We there noted that the existing *ad hoc* review of applications for specific international transmission systems was no longer adequate to discharge effectively our statutory responsibilities under the Communications Act of 1934 and the Communications Satellite Act of 1962. *Ad hoc* review procedures had been rendered inadequate by the rapid pace of technological progress and the increase in demand for, and the complexity of, international telecommunications services.[3] We indicated our belief that the inquiry being instituted could provide a perspective for the planning of new facilities through the decade of the 1970's and stated our intent to employ our licensing procedures in a manner conducive to efficient planning by the carriers, Comsat and their correspondents. We requested the carriers and Comsat to provide detailed information pertaining to: the use of present facilities; demand for services; the transmission facilities (including technologies for expanding the capacity of existing facilities) that would be available during the 1970's; the cost of using such facilities; the effect on the objectives of the Communications Satellite Act of licensing facilities other than satellite; the demand for services; the desirability of competition between Comsat and the carriers; the effect of decisions on research and development of facilities; and other policy recommendations.

3. On June 25, 1971, we released a Statement of Policy and Guidelines in Docket No. 18875,[4] in which we set forth the policies[5] we would follow in our licensing of facilities in the North Atlantic region during the remainder of the 1970's. We found that the 845-circuit TAT-6 cable of AT&T's SF design which the US carriers had proposed was not consistent with our guidelines; but that a 3500-circuit cable of the SG design, available as soon as possible, would serve the public interest.[6] An SG TAT-6 cable was subsequently authorized [7] and became operational in the third quarter of 1976.

4. In February 1975, we reactivated Docket No. 18875 to address further North Atlantic Region facilities needs.[8] We noted the continuing increases in the pace of technology, in the complexity of communications systems and in demand for services required us continually to review the relevant information in order to establish or refine principles and guidelines to permit timely facilities planning and implementation. We further noted that facilities planning is inherently an ongoing process which requires that changing circumstances be anticipated and accommodated. This goal could only be accomplished by adopting a fluid, evolutionary planning process which included continuing consultation among all US and foreign entities having responsibilities for North Atlantic telecommunications.

5. In September 1974, at a meeting in Munich, Germany, representatives of the Commission, the Department of State, the Office of Telecommunications Policy[9] and the CEPT[10] and Canadian telecommunications entities determined that an ongoing process of exchange of information and views among all the entities concerned with the provision of telecommunications services in the North Atlantic Region could improve the planning of jointly-owned facilities in that region.[11] It was hoped that the exchange of information and discussion of principles would lead to the formulation of common CEPT-Canadian-US traffic forecasts, data bases and analytical methodologies for assessing the service reliability and economic aspects of facilities alternatives. This, in turn, could avoid divergent facilities preferences among CEPT, Canada and the US. Consequently, we structured Docket No. 18875 to accommodate this Consultative Process within the limitations placed on us by US procedural law.

6. Our first act in the reactivated Docket was to form three US working groups to address questions pertaining to traffic forecasting, service reliability and economics. This was followed in June 1975 by the first of a series of international working group meetings in the Consultative Process. In October of that year we released a Further Notice of Inquiry in Docket No. 18875 requesting detailed planning information from US parties.[12] Additional international working group meetings were held in March and October of 1976.

7. On November 29, 1976, we released our Further Statement of Policy and Guidelines in Docket No. 18875.[13] We therein reaffirmed the guidelines set forth in 1971 and amplified and clarified them by adopting additional policies.[14]

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[1] Inquiry into Policy to be Followed in Future Licensing of Facilities for Overseas Services.

[2] Overseas Communications, FCC 70-620, 35 Fed. Reg. 10166, released June 18, 1970.

[3] We noted that the capacity of submarine cables had increased from 36 voice circuits in the mid-1950's to more than 800 voice circuits. Similarly, satellite capacity had increased from the 240 voice circuits provided by the INTELSAT-I in 1965 to the more than 1000 circuits provided by the INTELSAT-III's then in service, with the INTELSAT-IV's planned for use in 1971 expected to provide in excess of 5000 circuits. We also noted that demand for international telecommunications services was rapidly increasing, as demonstrated by the increase in the use of Atlantic Ocean region cable circuits from 30 in 1956 to more than 700 in 1970. Satellite circuit use in that region had increased from less than 100 in 1965 to more than 800 in 1970.

[4] Overseas Communications, 30 F.C.C. 2d 571 (1971).

[5] Those policies are:

(a) The public interest requires that we promote the continued development of both cable and satellite technologies and their most effective and timely applications to meet future requirements for international communications services;

(b) the public interest also requires that we authorize the most modern and effective facilities available via both cable and satellite technology with due regard for efficiency, economy, diversity and redundancy;

(c) the public interest and due regard for the concerns of the Administrations which operate the foreign end of cables require that care should be taken to minimize the need for imposing artificial formulae to govern the distribution of traffic among available media;

(d) the public interest requires that the economies available from each advance in technology be reflected in charges for service.

See 30 F.C.C. 2d at 572.

[6] The SG design was later modified to provide 4000 voice circuits. The recently-filed TAT-7 application indicates that this design has now been found capable of providing 4200 voice circuits.

[7] AT&T *et al.*, 35 F.C.C. 2d 801 (1972). *See also* 39 F.C.C. 2d 865 (1973), 40 F.C.C. 2d 385 (1973) and 40 F.C.C. 2d 913 (1973).

[8] Overseas Communications, 53 F.C.C. 2d 121 (1975).

[9] On March 26, 1978, the responsibilities of the Office of Telecommunications Policy were transferred to the National Telecommunications and Information Administration (NTIA) in The Department of Commerce.

[10] *Conference Europeene des Administrations des Postes et des Telecommunications*, an association of the postal and telecommunications entities of 26 European nations.

[11] Two meetings of representatives of the CEPT, Canadian and US telecommunications entities took place in 1971. However, these were *ad hoc* gatherings convened to address specific issues. No process was then established for ongoing consultation.

[12] Overseas Communications, FCC 75-161, 40 Fed. Reg. 50129, released October 21, 1975 (Third Notice of Inquiry).

[13] Overseas Communications, 62 F.C.C. 2d 451 (1976).

[14] These guidelines are:

(a) The continuing availability of adequate, reliable, low cost communications facilities and services between Europe and North America is a matter of common interest and concern to communications users, operating entities, and governments in Europe and North America;

(b) This commission does not, as a matter of policy, favor the use of one technology over another nor any predetermined distribution of traffic or transmission capacity among alternative technologies or suppliers. Pursuant to our statutory mandate, our primary policy objective has been and remains the achievement and efficient utilization of the lowest cost combination of facilities which can satisfy valid traffic needs and service objectives, irrespective of technology or supplier. Within this basic policy framework, both cable and satellite technologies—as well as any other—can and should be afforded the opportunity to evolve.

(c) The existing operational structure and attendant economic and other incentives of the international communications industry are not such as to lead automatically to the realization of the basic public interest policy objective enunciated above. Accordingly, this Commission must and will continue to scrutinize thoroughly both facility installation and utilization proposals of U.S. carriers prior to authorizing these carriers' participation in such facility programs, in order to ensure that U.S. communications users are not unnecessarily burdened with excessive facility investments or inefficient utilization of authorized facilities.

(d) The need to consider such interrelated factors as diversity, redundancy, restoration and other means to provide continuity of service within the context of the operational structure and varying economic and other incentives and preferences previously cited severely limits our ability to make the necessary public interest evaluations in the context of isolated applications for individual facility authorization. Accordingly, we will not in the future consider the authorization of major facility investments and utilization proposals as isolated instances, but will instead evaluate them in the context of a comprehensive long-range plan for the establishment and use of facilities to serve a particular geographic area during a specified future planning period. To ensure that all interested and affected parties have a full opportunity to participate in the evolution of a mutually acceptable long-range plan for future facility establishment and use, we shall approach the adoption of such a plan through an iterative process as set forth in the Annex to this decision.

(e) In our public interest evaluation of both long-range plans and specific facility applications, the primary criteria shall be those set forth in (b) above. For the purpose of cost analyses and comparisons, we shall consider as relevant only historical and/or projected investment and operating expenses-as opposed to lease charges or tariff rates. Moreover, before we can adopt any such long-range plan as a basis for specific facility planning and authorization, we would necessarily require comparable commitments regarding the use of cable and satellite facilities.

(f) The evolution of mutually acceptable long-range facility plans and the subsequent authorization of specific facilities will necessarily be a difficult and time-consuming process, given the

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We also indicated that we would develop a comprehensive plan for the construction and use of facilities in the North Atlantic region which we would use as guidelines in acting upon applications proposing specific facilities through 1985. Our goal was to arrive at a comprehensive plan agreeable to all concerned entities which would result in the lowest-cost combination of facilities, consistent with meeting specified traffic requirements and maintaining acceptable service standards. We requested the US carriers and Comsat to submit proposed alternative plans and specific supporting information.

8. It was agreed at a December 1976 policy-level meeting of the Consultative Process in Reston, Virginia, that CEPT would also generate a master plan. The CEPT and U.S. plans would be discussed at a further policy-level meeting. After reviewing the plans and information submitted by the U.S. carriers and Comsat in late April 1977, we found it necessary to develop five alternative plans. These plans and the CEPT master plan were discussed at a policy-level consultative meeting in Rome, Italy, in mid-June 1977. On August 1, we released our Memorandum Opinion, Order and Notice of Proposed Rulemeking,[15] requesting comments on the U.S. plans discussed at Rome and on two additional plans generated in light of the Rome discussions. To facilitate further discussion with the CEPT and Canadian telecommunications entities and to better focus the comments to be filed, we designated one of the plans as the one we tentatively preferred. A meeting of the Commission and representatives of the CEPT and Canadian telecommunications entities was held on September 19, 1977, in Washington, D.C. On December 23, we released our Report, Order and Third Statement of Policy and Guidelines,[16] adopting our tentatively-preferred plan as the comprehensive facilities construction and use plan which would serve as our guideline in acting on applications for North Atlantic facilities through year-end 1985.

9. The plan adopted did not contemplate construction of a TAT–7 cable during the planning period, a course which the U.S. carriers had advocated and which was preferred by the CEPT and Canadian telecommunications entities. Petitions for reconsideration were filed by the U.S. carriers and other U.S. parties. We agreed to reconsider our decision [17]and participated in another meeting with representatives of the CEPT and Canadian telecommunications entities in Reston, Virginia, in July 1978, held oral argument for U.S. parties in August and attended a TOP SECRET briefing by the Department of Defense in October. On October 25, 1978, we concluded that no informtion had been presented to us which showed that the plan we had previously adopted was not the lowest-cost plan for U.S. ratepayers, or that it would not provide sufficient capacity to accommodate North Atlantic circuit needs throughout the planning period.[18] However, we noted that one of the major objectives of our proceeding had been to develop a comprehensive facilities construction and use plan for both cables and satellites which was acceptable to all entities. In view of the differences between the plan we had adopted and that preferred by the CEPT and Canadian telecommunications entities, it was obvious that this goal had not been attained. We found that the public interest would be served by a compromise which would permit implementation of a TAT–7 cable no earlier than July 1, 1983, if a mutually-agreeable comprehensive facilities construction and use plan for both cable and satellites for the entire planning period could be reached. We also set forth procedures for achieving this end.

10. Pursuant to those procedures, using the guidelines set by our staff, the U.S. carriers met with the CEPT and Canadian entities to negotiate a facilities plan and submitted it to us for review. In February of this year,[19] we found the majority of the negotiated plan acceptable. However, we required AT&T to conduct further negotiations with two counties and requested the carriers and Comsat to submit proposal's for handling the distribution of circuits within the plan should actual traffic vary from that now forecast. These proposals, the results of the further negotiations and an applicaton for the TAT–7 cable have now been filed. We shall act on these matters in the near future.

11. As we near the end of the current phase of Docket No. 18875, we conclude that the process we set forth in February 1975, and the procedures developed during the pendency of that docket, have proved to be useful and effective. We continue to believe, however, that it is essential to review existing policies and, in consultation with the telecommunications entities of the other countries involved, to develop such new principles, policies and guidelines as charging circumstances require. These activities must encompass all available transmission media and be based on examination of all relevant information available. However, the full benefit of this process can only be achieved if it is conducted on a sufficiently timely basis to prevent the time required to reach decision from precluding the exercise of any useful facilities option. This will not be easily achieved.

12. We again note that the pace of technological progress continues to accelerate. Preliminary indications are that the decade of the 1980's will see the availability of fiber-optic submarine cables, continued improvements in satellite technology, such as satellite switched time division multiple access, intersatellite links and multiple-beam spacecraft antennas, as well as increased use of digital technologies. Demand for service also continues to increase. The US carriers at present use approximately 6,786 voice circuits for the provision of their services to Europe.[20] They project that by the end of the 1985 current planning period, 19,717 voice circuits will be required for service to the CEPT nations alone. It is likely that demand for service will not be limited simply to an increase in existing service, but that it also will include a number of new services as well.

13. As the capacity and flexibility of facilities increase, and the demand for service grows, the number of interacting options also increases, and the task of facilities planning becomes proportionately more complex. This increased complexity could lengthen the time required to reach decision. However, it now appears that for the next planning period there may be less, rather than more, time available to reach decision if all viable facilities options are to be considered.[21] Thus, it is essential to begin consideration of North Atlantic facilities construction and use for the period beyond 1985 as soon as possible. Indeed, this process has already begun.

14. As we noted in our February 1975 Further Notice of Inquiry, facilities planning is a continuing activity which requires the use of an evolutionary process for reaching decision. Thus, when the CEPT, Canadian and US telecommunications entities met in Reston in July 1978 to discuss the divergent US and CEPT facilities plans, we also discussed possible improvements to the Consultative Process which might help avoid or narrow such divergences in the future. That meeting resulted in an agreement to form an informal international working group which would explore in more detail means of improving the Process.[22] The activities of this working group led to the convening of a policy-level meeting of the Consultative Process in Montreal in March of this year to further discuss improvements to the Process.

15. A consensus was reached at that meeting that it was essential immediately to begin developing and discussing the technological, traffic-forecasting and economic information central to facilities planning, and to develop a timetable for reaching decision for the 1985–1995 period. An international working group was formed to begin this task and terms of reference were generated to guide that groups efforts.[23] It was agreed that this working group should initially address only the first four terms of reference at a meeting in Montreal now scheduled for July 24–27, 1979. It was further agreed that the informal international working group formed at Reston should continue its efforts. A further policy-level Consultative Process meeting was tentatively scheduled for early October of this year to consider reports from these two working groups and to define further the structure of the Consultative Process.

16. Since the March Montreal meeting, our staff has established and participated in an informal process to coordinate the submission of the views of the various US parties to the July international working group meeting. Three *ad hoc* working groups have been formed to address the four terms of reference to be discussed in Montreal in July. These groups are chaired by representatives of the carriers and Comsat. The efforts of the *ad hoc* working groups are coordinated by a general coordinating committee chaired by our staff. All meetings of these groups have been public and membership in the groups is open to anyone who wishes to participate. The efforts of these groups will produce the US submission to the July 24–27 international working group meeting in Montreal. This submission will consist of a compilation of the views of the participants in the US process.

17. In this docket, we will again use an evolutionary process to formulate our policy and guidelines for the 1985–1995 period. After the July international working group meeting in Montreal, we shall issue a second notice of inquiry requesting the detailed information required to permit us to generate those guidelines. Much of the information will be the same as that already being prepared for the Montreal meeting. Additional notices of inquiry will be issued as needed or found useful.

18. At present, we contemplate that we will begin a rulemaking immediately upon conclusion of the inquiry phase of this docket. We expect that this will coincide with the conclusion of the efforts of the international working group. That rulemaking will result in the adoption of the US policies and guidelines for the 1985–1995 planning period. However, it is now too early to specify the procedural steps this process will require as it evolves. To do so now would unduly inhibit our flexibility to meet circumstances which are not yet defined.

19. While we believe that the scope and procedures of Docket No. 18875 have yielded useful results, we think improvements can be made. We believe that both this docket and the improved Consultative Process must consider satellite options in the same manner and at the same time it considers cable options. If at all possible, this must be done in sufficient time so that the results are available before INTELSAT must make its decisions. This was not accomplished in Docket No. 18875. We also believe that questions pertaining to the provision of services (particularly new services), and to the number of US carriers to provide those services, should be addressed—at least to the extent that they affect facilities construction and use. Finally, we think that the procedures employed in Docket No. 18875 should be reexamined to determine whether changes can be made which will allow us more rapidly to reach our decisions, within the limitations of US procedural law. We shall request the US parties to address these issues in the second notice of inquiry. In order to facilitate discussion at the October Consultative Process meeting, we shall also request the parties to suggest any further improvements in the Consultative Process which they believe would be helpful.

20. Authority for this Inquiry is found in Sections 4(i), 214 and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214 and 413 (1970) and in Section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. § 801(c) (1970).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79–27251 Filed 8–30–79; 8:45 am]

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necessity of accommodating this process to the differing legal requirements and operating arrangements of the sovereign nations involved. We shall make every effort to ensure the success of this effort, within our basic statutory mandate, public interest obligations, and legal system. As a part of our effort to achieve an acceptable plan, we also desire to explore, where beneficial, changes in the present ownership arrangements and provision of circuits within future transatlantic facilities. Specifically, we propose to explore the feasibility and desirability of substituting end-to-end provision of whole circuits within facilities, for the present arrangement whereby each terminal country provides fifty percent of each transatlantic circuit.

[14] *See* 62 F.C.C. 2d at 458–9.

[15] Overseas Communications, FCC 77–536, released August 1, 1977.

[16] Overseas Communications, 67 F.C.C. 2d 358 (1977).

[17] Overseas Communications, 70 F.C.C. 2d 358 (1978).

[18] Public Notice released October 25, 1978, FCC 78–758, Memorandum Opinion and Order, Overseas Communications, 71 F.C.C. 2d 1090 (1979).

[19] Public Notice released Febuary 26, 1979, Overseas Communications, 71 F.C.C. 2d 64, Memorandum Opinion and Order released March 16, 1979, Overseas Communications, 71 F.C.C. 2d 71.

[20] This number does not include either transatlantic cable circuits used to provide services between the US and countries in the Middle East, Africa and in the Indian Ocean basin or Atlantic Ocean region satellites used to serve those areas and South America.

[21] In particular, we note that it now appears that beginning in 1980 it will be necessary to replace the INTELSAT-V satellites then serving the Atlantic Ocean Region. The choice of replacements for these satellite will obviously have a major bearing on North Atlantic facilities planning for the period after 1985.

[22] This working group consists of one representative from each of the CEPT, Canada and the Commission.

[23] These terms of reference are:

(1) Development of an overall facility-decision timetable governing the requirement for new telecommunications facilities for the North Atlantic for the period post-1985.

(2) Development of a common data-base of traffic forecasts for the 10-year period commencing 1985 and extending to 1995.

(3) Development of common quality of service criteria.

(4) Development of a projection of technological facility alternatives likely to be available at various junctures within the 10-year period in question.

(5) Development of list of facility alternatives available to accommodate traffic demand taking into account 1, 2, 3 and 4.

(6) Exchange of views on methodology that could be employed by the various Administrations in evaluation of alternatives.

(7) Preparation of a report to senior level CEPT/USA/Teleglobe Canada meeting outlining results of (1) to (6) above.

FEDERAL RESERVE SYSTEM

BankAmerica Corporation; Public Hearing on Application

Application Regarding Proposed Geographic Expansion of Data Processing Activities of BankAmerica's Subsidiary, Decimus Corporation, Within the Northwestern, Middle Atlantic, and Certain Southern States, Docket No. 79–1.

On September 28, 1976, BankAmerica Corporation, San Francisco, California, a registered bank holding company, applied under section 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. section 1843(c)(8)), and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for

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permission to expand the geographic market for the data processing activities of its subsidiary, Decimus Corporation, San Francisco, California ("Decimus"), throughout the area encompassed by Federal Reserve Districts I through V, except for the State of Ohio. In accordance with the Board's Regulation Y, 12 CFR 225.4(b)(1), and by reason of an unchallenged published notice, Decimus is authorized to operate, and does operate, from its Piscataway, New Jersey office, in that part of the State of New Jersey in which the *Newark Star Ledger* is a newspaper of general circulation.

The expanded market to be serviced by Decimus' Piscataway, New Jersey office includes the District of Columbia and the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, Delaware, West Virginia, Virginia, North Carolina, South Carolina, the eastern half of Kentucky, and areas in the northern and southern parts of the State of New Jersey that lie outside the *Newark Star Ledger's* sphere of circulation.

BankAmerica proposes that Decimus engage in this expanded geographic market in Decimus' current activities of storing and processing banking, financial and related economic data, including deposit accounting, general ledger accounting, account reconciliation, loan accounting, credit union accounting and providing payroll, accounts receivable and payable, billing and similar data processing services. BankAmerica proposes to offer these services to banks, savings and loan associations, credit unions, savings banks, other financial institutions such as mortgage banking companies, and certain non-financial customers such as automobile dealers and real estate developers.

Several data processing firms located in the area under consideration protested the application and requested a formal hearing. On May 20, 1977, the Board ordered that a formal hearing, in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR 263), be held on the application at the Federal Reserve Bank of Philadelphia, Philadelphia, Pennsylvania. On July 6, 1977, the Board stayed the administrative hearing on the application, at BankAmerica's request, pending judicial resolution of BankAmerica's claim that its application had been approved under the 91-day rule in section 4(c) of the Act. On May 14, 1979, the United States Court of Appeals for the Ninth Circuit rejected BankAmerica's 91-day contention. On May 24, 1979, BankAmerica petitioned the Court of Appeals for rehearing and, on June 2, 1979, the Court denied BankAmerica's petition. BankAmerica did not petition the U.S. Supreme Court for *certiorari*. Accordingly, the Board's hearing Order of May 20, 1977, has been reactivated.

Following the designation by the U.S. Office of Personnel Management of Administrative Law Judge Paul N. Pfeiffer, of the U.S. Consumer Product Safety Commission, to hear, and issue a recommended decision on, the application, a prehearing conference was held on August 2, 1979, at the Federal Reserve Bank Philadelphia, in Philadelphia, Pennsylvania. At the conference, the Administrative Law Judge directed that the hearing on the application commence at 10:00 A.M. (EDST) on October 10, 1979, in the Public Servie Meeting Room, Third Floor, of the Federal Reserve Bank of Philadelphia, 100 N. 6th St., Philadelphia, Pennsylvania.

The basic issue in the hearing is whether, pursuant to the requirements of section 4(c)(8) of the Bank Holding Company Act of 1956, as amended, (12 U.S.C. section 1843(c)(8)), the proposed activity of Decimus "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition. . . . "

In light of the lapse in time since the Board's May 20, 1977, hearing Order, it is deemed appropriate to provide additional public notice of the application and the administrative hearing thereon. Accordingly, any person (apart from those who appeared at the prehearing conference) desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, no later than September 26, 1979, a written request containing a statement of the nature of the requesting person's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the requesting person desires to give testimony or submit evidence, and the names and identity of proposed witnesses. A copy of the request should be served upon counsel for the applicant, Bank American Corporation, addressed to John S. Martel, Esq., 31st floor, Russ Building, 235 Montgomery St., San Francisco, California 94104.

By order of the Board of Governors of the Federal Reserve System, August 27, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-27275 Filed 8-30-79; 8:45 am]

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Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 24, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

UST CORP., Boston, Massachusetts (investment advisory activities; Florida): to engage, through its subsidiary, UST Financial Planning Corp., in investment advisory activities by providing its clients with portfolio investment advice including analysis and recommendation of appropriate investments; furnishing general economic information and advice, statistical forecasting services and industry studies; and making general financial planning recommendations. These activities will be conducted from an office in Palm Beach, Florida, serving southern Florida.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

1. UNITED BANKS OF COLORADO, INC., Denver, Colorado (mortgage banking activities; Colorado): to engage, through its subsidiary, United Mortgage Company, in making, acquiring, and arranging real estate mortgage loans, and in serving such loans. These activities would be conducted from an office in Fort Collins, Colorado, serving Larimer, Boulder, and Weld Counties, Colorado.

2. AFFILIATED BANKSHARES OF COLORADO, INC., Boulder, Colorado (mortgage banking activities; Colorado): to engage, through its subsidiary Piedmont Mortgage and Investment Co., Inc., in making, acquiring and servicing residential and commercial real estate loans. These activities will be conducted from an office located in Colorado Springs, Colorado, serving El Paso and Teller Counties, Colorado.

3. MIDLAND CAPITAL CO., Oklahoma City, Oklahoma (mortgage banking activities; California) to engage, through its subsidiary, Midland Mortgage Co. in the origination and servicing of all types of residential and commercial mortgage loans, including VA, FHA and conventional financing. These activities would be conducted from an office in Upland, California serving Ontonio, West Covina, Covina, Diamond Bar and Pomona.

C. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

MARYLAND NATIONAL CORPORATION, Baltimore, Maryland (mortgage and insurance activities; Maryland): to engage, through its subsidiary, Maryland National Mortgage Corporation in originating, buying, selling and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans; acting as an adviser in mortgage loan transactions; and engaging in the sale as agent of credit life, credit disability and credit accident and health insurance in connection with extensions of credit by bank and nonbank subsidiaries of the holding company.

D. *Other Federal Reserve Banks;* None.

Board of Governors of the Federal Reserve System, August 24, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27270 Filed 8-30-79; 8:45 am]

BILLING CODE 6210-01-M

First Bancorporation of Cleveland, Inc.; Formation of Bank Holding Company

First Bancorporation of Cleveland, Inc., Cleveland, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less director's qualifying shares) of First Bank and Trust, Cleveland, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27273 Filed 8-30-79; 8:45 am]

BILLING CODE 6210-01-M

First Forest Park Corp.; Formation of Bank Holding Company

First Forest Park Corporation, Forest Park, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Forest Park National Bank, Forest Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 24, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27272 Filed 8-30-79; 8:45 am]

BILLING CODE 6210-01-M

Jefferson County Bancorp., Inc.; Formation of Bank Holding Company

Jefferson County Bancorp., Inc., Hillsboro, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90.5 percent of the voting shares of Jefferson County Bank and Trust Company, Hillsboro, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 23, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27271 Filed 8-30-79; 8:45 am]

BILLING CODE 6210-01-M

Mid-Continent Bancshares, Inc.; Formation of Bank Holding Company

Mid-Continent Bancshares, Inc., Belleville, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Belleville National Bank, Belleville, Illinois. The factors that are considered in acting on the application

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are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 23, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27274 Filed 8-30-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Office

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Norsk Hydro A.S. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain voting securities of Transnitro, Inc. indirectly held by Montedison S.p.A. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination from both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27288 Filed 8-30-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Device Good Manufacturing Practice Advisory Committee; Request for Nominations for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for membership on the Device Good Manufacturing Practice Advisory Committee.

DATE: Nominations must be received by October 1, 1979, at the address shown below.

FOR FURTHER INFORMATION CONTACT: Lincoln I. Gluscevich, Bureau of Medical Devices (HFK-132), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8115.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for membership on the Device Good Manufacturing Practice Advisory Committee. A vacancy will occur on May 31, 1980, in each of the following interest groups: Industry; general public; and Federal, State, or local government.

The Commissioner of Food and Drugs will appoint as members those nominees who are most representative of an interest group to serve on the advisory committee.

FDA also requests nominations for consultants to the Device GMP Advisory Committee. Persons applying should have quality assurance expertise in one or more of the following areas: manufacture of medical devices or in vitro diagnostic products, or sterile medical device manufacturing.

On May 28, 1976, the Medical Device Amendments of 1976 (Pub. L. 94-295) were enacted into law amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.). Section 520(f) of the act (21 U.S.C. 360j(f)) provides the agency with authority to develop and promulgate regulations requiring that methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of a medical device conform to current good manufacturing practice. These regulations are designed to ensure that devices will be safe and effective and otherwise in compliance with the act.

Under section 520(f)(3) of the act, the Commissioner has established an advisory committee for advising and making recommendations on these regulations. Additionally, under this provision, the Commissioner is authorized to request recommendations from the advisory committee on any petitions submitted requesting exemption or variance from good manufacturing practice requirements.

As required by section 520(f) of the act, the advisory committee is composed of nine members selected from different interest groups as follows:

1. Three members who are officers or employees of any State or local government or of the Federal Government;
2. Two members who are representative of interests of the device manufacturing industry;
3. Two members who are representative of the interests of physicians and other health professionals; and
4. Two members who are representative of the interests of the general public.

The term of office is 3 years.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified females and minority candidates.

Any interested person may nominate one or more qualified persons for membership, or a person may nominate him or herself. A complete curriculum vitae of the nominee shall be included, along with a description of the nominee's current employment background, if any, regarding medical devices. Nominations shall state that the nominee is aware of the nomination, is willing to serve on the committee, and appears to have no conflict of interest. The agency will ask potential candidates to provide detailed information concerning financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26763 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

Immunoglobulin Workshop; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a public meeting to discuss the clinical characteristics and current and potential uses of immunoglobulin preparations for intramuscular (i.m.) and intravenous (i.v.) administration. The causes and prevention of clinical reactions to these products will be presented.

DATE: The meeting will be held from 8:30 a.m. to 3 p.m., October 30 and 31, 1979.

ADDRESS: The meeting will be held in the Wilson Hall (Bldg. 1) auditorium, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Barbara Alving, Bureau of Biologics (HFB-250), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-4833.

SUPPLEMENTARY INFORMATION: Immunoglobulins are plasma derivatives used for the prophylaxis or modification of various infectious diseases and as replacement therapy for patients with an immune deficiency. Both public and private organizations are engaged in efforts to develop immunoglobulin preparations that are safe and effective for i.v. administration. Currently, only preparations for i.m. administration are generally available.

The Bureau of Biologics, Food and Drug Administration, in conjunction with the Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, will hold a public meeting to discuss the clinical characteristics and current and potential uses of i.m. and i.v. preparations. The causes and prevention of clinical reactions to these products will also be presented.

The workshop will be held from 8:30 a.m. to 3 p.m., October 30 and 31, 1979, in the Wilson Hall (Bldg. 1) auditorium, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Persons planning to attend are requested to contact Barbara Alving, Bureau of Biologics (address above), by October 17, 1979.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26762 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George Gerstenberg, District Director, New York District, New York, NY.

DATE: The meeting will be held 10 a.m. to 12 m., Wednesday, September 26, 1979.

ADDRESS: The meeting will be held at the Syosset Public Library, the meeting rm., 225 S. Oyster Bay Rd., Syosset, NY 11791.

FUR FURTHER INFORMATION CONTACT: Alicia Martinez, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 850 Third Ave., Brooklyn, NY 11232, 212-965-5754.

SUPPLEMENATRY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decision on vital issues.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27009 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0400]

Good Laboratory Practice for Nonclinical Laboratory Studies; Availability of the Post Conference Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of the post conference report prepared from the recently conducted management briefing sessions on the final regulations regarding good laboratory practice in the conduct of nonclinical laboratory studies. The sessions were held on May 1, 2, and 3, 1979 in Washington, Chicago, and San Francisco. The purpose of the conferences was to provide the regulated industry with information required to understand and comply with the regulations.

ADDRESSES: The report is available for public examination in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; single copies are available from Linda Grassie, Consumer Communications Management Staff (HFJ-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Bioresearch Monitoring Staff (HFC-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-[illegible]9.

SUPPLEMENTARY INFORMATION: The final order on the good laboratory practice regulations was published in the **Federal Register** of December 22, 1978 (43 FR 59986) with an effective date of June 20, 1979. Because the regulations constitute the first of a series of regulations concerning investigational requirements which are being developed as a result of the FDA Bioresearch Monitoring Program, and the concepts are complex, the agency elected to conduct briefing sessions for interested persons. The sessions were attended by some 800 persons representing product sponsors, study contractors, universities, and government. Approximately 300 questions were posed at the sessions and these questions and their answers were composited and serve as the basis for the post conference report.

The report described in this notice is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Requests in writing for a single copy of the report titled "Good Laboratory Practice Regulations Management Briefings," Post Conference Report, August, 1979, may be made to Linda Grassie, Consumer Communications Management Staff (HFJ-10), address above. Conference attendees will receive a copy of the post conference report. Thus, the agency asks that only interested persons who did not register at any of the conferences request a copy of the report.

A G 3 1 7 9 UMI

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27098 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79F-0247]

Farbenfabriken Bayer AG; Withdrawal of Petition for Food Additives

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (FAP 2R0864) proposing the safe use of certain optical brighteners in food-contact paper and paperboard. This action is taken because the petitioner has failed to submit additional requested information.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 384(b))), the following notice is issued:

A petition (FAP 2R0864) was filed by Farbenfabriken Bayer Aktiengesellschaft, Leverkusen, Germany, notice of which was published in the **Federal Register** of May 13, 1967 (32 FR 7224), proposing the issuance of a regulation to provide for the safe use of any of the following substances as optical brighteners in food-contact paper and paperboard:

4,4'-Bis(2''-[3'''-sulfophenylamino]-4''-[*N,N*-di(2'''-hydroxyethyl)-amino]-1'',3'',5''-triazinyl-6''-amino)-stilbene-2,2'-disulfonic acid, tetrasodium salt.

4,4'-Bis(2''-[*N,N*-di(2'''-hydroxyethyl)amino]-4''-amino-1'',3'',5''-triazinyl-6''-amino)-stilbene-2,2'-disulfonic acid, disodium salt.

4,4'-Bis[2''-(4'''-sulfophenylamino)-4''-(*N,N*-di[2'''-hydroxyethyl]-amino)-1'',3'',5''-triazinyl-6''-amino]-stilbene-2,2'-disulfonic acid, tetrasodium salt.

4,4'-Bis[2''-(*N,N*-di(2'''-hydroxyethyl)-amino)-4''-phenylamino-1'',3'',5''-triazinyl-6''-amino]-stilbene-2,2'-disulfonic acid, tetrasodium salt.

Subsequently, the Food and Drug Administration requested the petitioner to submit additional information as provided for in § 171.1(j) (21 CFR 171.1(j)) of the procedural food additive regulations. The requested information has not been received; therefore, this petition in regarded as having been withdrawn without prejudice to a future filing.

Dated: August 21, 1979

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-27198 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79M-0203]

Paris Contact Lens Laboratory; Premarket Approval of Softsite ™ (Hefilcon A) Hydrophilic Contact Lens PHP

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Softsite ™ (hefilcon A) Hydrophilic Contact Lens PHP sponsored by Paris Contact Lens Laboratory, Coral Gables, FL. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 1, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Paris Contact Lens Laboratory, Coral Gables, FL 33146, submitted a new drug application for the Softsite ™ (hefilcon A) Hydrophilic Contact Lens to FDA on October 17, 1975. The application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On April 23, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) (the amendments), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) (the act), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of 21 CFR Part 310, Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the information upon which the agency's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

The labeling of the Softsite ™ (hefilcon A) lens, like that of other approved soft contact lenses, states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling helps to inform new lens users that they must avoid purchasing inappropriate products, e.g., solutions for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new solutions that FDA approved for use with an approved lens. A sponsor who does not update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)), authorizes any interested

person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and the FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time, on or before October 1, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27197 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0329]

Recommended Grade A Pasteurized Milk Ordinance and Related Documents; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces availability of the Grade A Pasteurized Milk Ordinance—1978 Recommendations of the United States Public Health Service/Food and Drug Administration—and its four related documents.

ADDRESS: Copies of these documents are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402:

FOR FURTHER INFORMATION: Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 1, 1977 (42 FR 6001), FDA announced the availability of the proposed revision of the recommended Grade A Pasteurized Milk Ordinance and related documents. Copies of the proposed revisions were placed on display in the office of the FDA Hearing Clerk and sent to Federal, State, and industrial officials to provide opportunity for comments.

All comments submitted were considered before finalizing the following recommended Grade A Pasteurized Milk Ordinance and related documents:

1. Grade A Pasteurized Milk Ordinance—1978 Recommendations of the U.S. Department of Health, Education, and Welfare, Public Health Service/Food and Drug Administration, Price $5.50; order by Stock No. 017-001-00419-7. Cover and index tabs, Price $2.75; order by stock No. 017-001-00422-7.

2. Grade A Condensed and Dry Milk Products and Condensed and Dry Whey—1978 Recommended Sanitation Ordinance for Condensed and Dry Milk Products and Condensed and Dry Whey Used in Grade A Pasteurized Milk Products—Supplement I to the Grade A Pasteurized Milk Ordinance, Price $3.75; order by stock No. 017-001-00420-1. Cover and index tabs, Price $3.00; order by stock No. 017-001-00423-5.

3. Fabrication of Single-Service Containers and Closures for Milk and Milk Products—Sanitation Standards—1978 Edition, Price $1.25; order by stock No. 017-001-00413-8.

4. Evaluation of Milk Laboratories—1978 Edition, Price $1.50; order by stock No. 017-001-00412-0.

5. Methods of Making Sanitation Ratings of Milk Supplies—1978 Edition, Price $1.75; order by Stock No. 017-001-00421-9.

Printed copies of the documents are now available to interested parties from the Government Printing Office, at the price indicated above, and a copy of each document has been placed on display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Dated: August 27, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27199 Filed 8-30-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0195]

Rynco Scientific Corp.; Premarket Approval of RX-56 (Porofocon A) Contact Lens

Correction

In FR Doc. 79-20571 appearing on page 39617 in the issue of Friday, July 6, 1979, in the first column of page 39618, in the 12th line of the first paragraph under "Opportunity for Administrative Review", ". . . committee to experts" should have read ". . . committee of experts".

BILLING CODE 1505-01-M

Special Assistance to Small Businesses; Establishment of Service Desks

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the establishment of service desks to help small businesses understand and comply with the agency's regulatory requirements. The agency also announces the appointment of an official to assure a consistent agency-wide small business policy.

FOR FURTHER INFORMATION CONTACT: Brian Rafferty, EDRO Small Business Coordinator (HFO-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4166.

SUPPLEMENTARY INFORMATION: On June 19, 1979, the Food and Drug Administration (FDA) announced the expansion of its program to help small businesses understand and comply with the agency's regulatory requirements. The effort, which responds to a directive issued by President Carter on June 14, 1978, calling for regulatory agencies to give special assistance to small businesses, involves two major initiatives: (1) A pilot program of "service desks" to be operational by September 4, 1979 and (2) the appointment of an official on the FDA Commissioner's staff to help assure a consistent agency-wide policy for small businesses.

The service desks will be an accessible, efficient channel through which small businesses can acquire information from the agency. They will provide technical assistance and

interpretation of agency rules and regulations. They will answer small manufacturers' questions such as how to fill out FDA forms and what regulations govern the marketing of a new product. When invited, they will also visit a small firm's plant to discuss the firm's concerns.

The small business service desks have been established in the following four regional areas:

(1) Food and Drug Administration, 20 Evergreen Pl., East Orange, NJ 07018, 201–645–6365. Small Business Representative: George Ray Walden.
(2) Food and Drug Administration, 880 W. Peachtree, St. NW., Atlanta, GA 30309, 404–881–3576. Small Business Representative: Bradley, D. Eichorst.
(3) Food and Drug Administration, 175 W. Jackson Blvd., Rm. A–1945, Chicago, IL 60604, 312–353–9406. Small Business Representative: Danny Horner.
(4) Food and Drug Administration, 1600 N. Broadway, Suite 200, Santa Ana, CA 92706, 714–836–2377. Small Business Representative: J. Lawrence Stevens.

The service desks in East Orange and Santa Ana will be devoted exclusively to working with small medical device firms. The desks in Atlanta and Chicago will be serving all small businesses under FDA's jurisdiction. Each desk will service an FDA regional area, not just a single city or state.

After the pilot program has operated for 1 year, the agency will evaluate it to determine whether it should be continued, expanded, or discontinued. In addition to the two major initiatives, FDA will actively seek comments from small businesses on proposed policies and will require, for all appropriate regulations, an analysis of their economic impact on small businesses.

These initiatives expand FDA's current small business assistance program for medical devices. The Medical Device Amendments of 1976 mandated that nonfinancial, technical assistance be provided to small device manufacturers, and an Office of Small Manufacturers Assistance in FDA's Bureau of Medical Devices helps small businesses comply with new regulations.

Small businesses wanting further information should contact the following persons: Brian Rafferty, EDRO Small Business Coordinator (HFO–22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or H. Neal Dunning, Director, Office of Small Manufacturers Assistance, Bureau of Medical Devices, Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

Small businesses who wish to provide feedback to the agency regarding their use of the agency's present program to assist small businesses or who have additional ideas for the agency to consider should contact the following person: Minna Golden, Small Business Coordinator (HF)–20), Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Dated: August 27, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc 79–27198 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79N–0029; DESI 5887]

Streptomycin Sulfate for Parenteral Use: Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

Correction

In FR Doc. 79–22601, appearing on 44 FR 43349 in the issue for Tuesday, July 24, 1979, the "Date" paragraph in column one should read, "DATE: petitions due on or before August 23, 1979."

BILLING CODE 1505–01

Office of the Assistant Secretary for Health

National Council on Health Care Technology; Announcement Soliciting Comments on Health Care Technology and Technology Assessment

Note: This document originally appeared in the **Federal Register** of Wednesday, August 29, 1979.

Announcement is made that the National Council on Health Care Technology is soliciting the views and comments of professional health societies and organizations regarding the Department's focus in the field of health care technology and technology assessment. Organizations wishing to make formal presentations to the Council may do so at the October 10 afternoon meeting to be held in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Participants should plan to limit their presentations to ten minutes. However, written statements may be filed with the staff before or after the meeting.

Interested parties should contact Mr. Dwight Blankenbaker, Acting Executive Secretary, Office of Health Research, Statistics, and Technology, National Center for Health Care Technology, 5600 Fishers Lane, Rockville, Maryland 20857, (202) 472–4248.

August 23, 1979.

Marilyn McCarroll,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79–26875 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–85–M

Institute of Museum Services

National Museum Services Board; Meeting

The National Museum Services Board (NMSB) will hold an open meeting September 7–8 in St. Louis to discuss future policy directions of the Institute of Museum Services (IMS), including the Institute's museum grants program, reauthorization, budget request, and regulations pertaining to the FY 1980 grants program.

The Board will meet from 8:30 a.m. to 3:30 p.m. September 7 in the Lehmann Building of the Missouri Botanical Gardens, 2345 Tower Grove Avenue; and from 9:00 a.m. to 3:30 p.m. September 8 in the Explorer Room of the Arch Museum, 11 N. 4th Street.

For further information, contact Sam Eskenazi or Loretta Ingraham, 202–472–3325.

Dated: August 28, 1979.

Lee Kimche,

Director.

[FR Doc. 79–27427 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–24–M

Office of the Secretary

White House Conference on Families; Briefing for National Organizations

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee that has adopted an innovative conference process to take the White House Conference on Families to the people. The Committee at its first meeting on July 19 and 20 adopted a plan for Conference activities which includes hearings, state activities, national organization efforts and several White House Conferences across the country to be held in June and July of 1980.

The Committee strongly affirmed the importance of involving national organizations in the White House Conference on Families and discussed specific ways in which national organizations and their members can participate in Conference activities, including:

- Sponsoring activities in conjunction with the White House Conference on Families.
- Testifying at national hearings to be held across the country this fall.
- Encouraging members and local affiliates to participate in state and local activities, and state conferences.
- Submitting recommendations on issues which will be compiled and distributed to delegates to the White House Conferences.
- Attending the White House Conferences on Families as state or at-large delegates. (The vast majority of delegates will be selected at the state level.)

On Tuesday, September 11, 1979, from 9:30 a.m. until noon, a briefing on the White House Conference on Families will be held for national organizations in Room 450 of the Old Executive Office Building.

At this briefing, Jim Guy Tucker, the Chairperson, and the Conference staff will answer questions about Conference goals, activities, and issues.

Clearance procedures require registration prior to the meeting, as well as the use of the entrance on 17th Street near Pennsylvania Avenue. Those wishing to attend should supply their names, organizations and position titles, addresses and telephone numbers on a request addressed to the White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201. Further information can be obtained from the Conference staff at (202)245–6073.

Dated: August 28, 1979.

John L. Carr,

Executive Director.

[FR Doc. 79–27278 Filed 8–30–79; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

Utah; Announcement of Wilderness Inventory Decision on Utah Portion of Paria Canyon Instant Study Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the wilderness characteristics decision on the Utah portion of the Paria Canyon Primitive Area and the roadless public lands in Utah contiguous to the Primitive Area. The area possessing wilderness characteristics contains 21,470 acres of public land. This area is depicted on the review area map published in the **Federal Register** of June 21, 1979. Areas not possessing wilderness characteristics contain 23,468 acres of public land, which are released from the constraints of interim protection as set forth in 603(c) of the Federal Land Policy and Management Act of 1976.

A report on the preliminary findings of wilderness characteristics was made available to the public on June 20, 1979. A 30-day public comment period was announced in the **Federal Register** of June 21, 1979. Four comments were submitted. One comment agreed in general with the finding but disagreed with the naturalness characteristic finding in one portion of the review area. Three comments confirmed the entire preliminary finding. The limited comments therefore support this decision.

The portion of the Utah review area possessing wilderness characteristics will be included in the ongoing suitability study of the entire Paria Canyon Instant Study Area conducted by the Arizona Strip District. This decision will become final on October 1, 1979, unless the Utah State Director publishes an amended decision because of new information received as a result of this publication.

FOR FURTHER INFORMATION CONTACT: Lawrence Royer, Cedar City BLM District Office, 801–586–2401.

Dated: August 23, 1979.

William G. Leavell,

Acting State Director.

[FR Doc. 79–27091 Filed 8–30–79; 8:45 am]

BILLING CODE 4310–84–M

Colorado Initial Wilderness Inventory Decision

Decision on lands which will no longer be subject to the BLM Wilderness inventory and lands to be intensively inventoried for wilderness characteristics.

This Notice announces the final decisions of the Colorado State Director of the Bureau of Land Management on public lands which will receive no further consideration in the BLM wilderness review process and public lands which will receive intensive wilderness inventory to determine the actual presence or absence of wilderness characteristics. The final initial inventory decision is contained in the detailed document titled "BLM Initial Wilderness Inventory-Final" which, with statewide maps and appropriate unit maps, is available upon request from the Colorado State Office of the Bureau of Land Management.

These decisions were reached after a systematic initial wilderness inventory, which included extensive pubic involvement and review of all public lands administered by the Bureau of Land Management in Colorado. This inventory is mandated by Section 603 of the Federal Land Policy and Management Act of 1976 and is being conducted using procedures identified in the Bureau of Land Management's Wilderness Inventory Handbook published September 27, 1978. In Colorado, initial wilderness inventory decisions are based on the wilderness criteria of size, roadlessness and imprints of man under the process detailed in the handbook. Copies of the handbook are available from any office of the Bureau of Land Management.

The final decisions are based upon the proposed Initial Wilderness Inventory Decision presented for public review and comment and published in the **Federal Register**, Vol. 44, No. 57, Thursday, March 22, 1979 (44 FR 17592). Public information packets and maps were prepared and mailed out at that time, and news releases were issued presenting the recommendations to the public. A 130-day public comment period followed. During this public comment period, a series of 34 open houses and workshops attended by 323 people were held throughout the State to explain the State Director's recommendations and accept public comment. All public inputs, written and oral, were accepted until July 31, 1979. During the comment period, the BLM received 480 public comments of which 307 were specific to the initial wilderness inventory. Comments included letters, maps, video tapes, photos, oral testimony, reports, and phone calls. The specific comments represented 1,936 inputs pertaining directly to the initial wilderness inventory recommendations, most of which focused on the absence or presence of roads and imprints of man in specific inventory units. These inputs were field checked for validity by BLM personnel.

Many of the public comments asked BLM to place several units in intensive inventory that had not been recommended as such, explaining that their lack of wilderness characteristics was not obvious. Many other comments objected to intensive wilderness inventory for units which the BLM had recommended for intensive inventory, citing conflicts with minerals production or grazing activities and indicating an obvious lack of wilderness characteristics in these areas. Resource conflicts are not considered in the inventory phase of the BLM wilderness review. Comments relating to possible resource conflicts were processed and will be retrieved and utilized in the "study" phase of the BLM wilderness review, at which time all resource uses

of the land are considered in making a wilderness recommendation.

All public comments have been read, analyzed, and where appropriate, field checked. Each comment is on file in both the State and District offices. Results of this analysis are summarized for specific units in the final "BLM Initial Wilderness Inventory-Final" report and are displayed in detail in the State Director's Initial Inventory Public Analysis Report. The final initial inventory report, including maps, is available upon request from the Bureau of Land Management's Colorado State Office. The State Director's Initial Inventory Public Analysis Report is available for inspection at the BLM Colorado State Office.

Initial Inventory Decisions

Decision No. 1—Approximately 7,022,305 acres of the public land in Colorado will be released from further wilderness consideration and from the management restrictions imposed by Section 603(c) of the Federal Land Policy and Management Act of 1976. These lands may be grouped in the following categories:

A. *Inventory units released from further wilderness consideration with substantive public agreement.* This group includes dispersed and small tracts of public lands and those which are roaded or otherwise intensively developed, comprising approximately 6,650,000 acres. In the March 22, 1979 announcement, the BLM recommended these lands be dropped from further wilderness consideration. Upon completion of the public comment period, it was the consensus that these lands be released from further wilderness consideration. This portion of the State Director's decision will become effective on or before October 1, 1979.

B. *Inventory units previously recommended for intensive inventory which are now released from further wilderness consideration.* This group includes seven units and totals approximately 50,160 acres. In the March 22, 1979 announcement, the BLM recommended these lands for intensive inventory, but information obtained during the public comment period showed these lands to be obviously lacking in wilderness characteristics. Field check confirmed this new information and they are now released from further wilderness consideration. This portion of the State Director's decision will become effective on or before October 15, 1979.

Inventory units in this group include:

Inventory unit No.	Approximate acreage	General location
		CRAIG DISTRICT
CO-010-211	6,520	Extreme Northwest Colorado (Moffat County).
CO-010-213	9,540	Extreme Northwest Colorado (Moffat County).
CO-010-272	9,800	Along Yampa River West of Maybell, Colorado (Moffat County).
		MONTROSE DISTRICT
CO-030-364	7,000	West of Delta (Delta County).
		GRAND JUNCTION DISTRICT
CO-070-013	5,400	East of Douglas Pass (Garfield County).
CO-070-320	7,100	North of Rifle (Garfield County).
CO-070-439	4,800	Northwest of Dotsero (Garfield County).

C. *Inventory units which received some support for intensive inventory but which are now released from further wilderness consideration.* This group includes 40 units and approximately 322,145 acres. In the March 22, 1979, announcement, the BLM recommended that these units be released from further wilderness consideration because they obviously lacked wilderness characteristics. Some public objection was received to this recommendation.

A field check did not validate these comments, consequently, these units are now released from further wilderness consideration. This portion of the State Director's decision will become effective on or before October 15, 1979.

Inventory units in this group include:

Inventory unit No.	Approximate acreage	General location
		CRAIG DISTRICT
CO-010-012	10,370	West of Meeker (Rio Blanco County).
CO-010-017	10,635	Southeast of Dinosaur (Rio Blanco County).
CO-010-024A	15,000	Southeast of Dinosaur (Rio Blanco County).
CO-010-050	17,800	West of Douglas Pass (Rio Blanco-Garfield Counties)
CO-010-055A	19,430	Northwest of Meeker (Moffat County).
CO-010-101	3,200	North of Walden (Jackson County).
CO-010-102	2,560	North of Walden (Jackson County).
CO-010-106	4,480	North of Walden (Jackson County).
CO-010-111	2,560	North of Walden (Jackson County).
CO-010-113	3,200	North of Walden (Jackson County).
CO-010-243A	3,520	Extreme Northwest Colorado (Moffat County).
CO-010-254	10,600	Extreme Northwest Colorado (Moffat County).
CO-010-283	7,800	South of Maybell (Moffat County).
CO-010-290	15,220	Southwest of Craig (Moffat County).
		MONTROSE DISTRICT
CO-030-080	2,880	Southeast of Montrose (Gunnison County).
CO-030-084	1,600	Southeast of Montrose (Gunnison County).
CO-030-253	720	Adjacent to Mesa Verde National Park (Montezuma County).
CO-030-255	2,080	Adjacent to Mesa Verde National Park (Montezuma County).
CO-030-255A	2,520	Adjacent to Mesa Verde National Park (Montezuma County).
CO-030-327	8,470	Southwest of Ridgeway (San Miquel County).
		CANON CITY DISTRICT
CO-050-003	16,700	East of Salida (Freemont County—Chaffee County).
CO-050-120	27,500	West of Saguache (Saguache County).
		GRAND JUNCTION DISTRICT
CO-070-009A	47,300	North of Fruita (Garfield County).
CO-070-010	25,300	North of Fruita (Garfield County).
CO-070-011	25,600	North of Fruita (Garfield County).
CO-070-123	11,400	Southwest of Fruita (Mesa County).
CO-070-323	700	North of Rifle (Garfield County).
CO-070-324	5,100	North of Rifle (Garfield County).
CO-070-325	700	North of Rifle (Garfield County).
CO-070-330	300	North of Rifle (Garfield County).
CO-070-331	4,500	North of Rifle (Garfield County).
CO-070-332	2,400	North of Rifle (Garfield County).
CO-070-333	1,300	North of Rifle (Garfield County).
CO-070-334	5,400	North of Rifle (Garfield County).
CO-070-335	3,600	North of Rifle (Garfield County).
CO-070-336	3,000	North of Rifle (Garfield County).
CO-070-337	100	North of Rifle (Garfield County).
CO-070-341	3,800	North of Rifle (Garfield County).
CO-070-342	800	North of Rifle (Garfield County).
CO-070-343	200	North of Rifle (Garfield County).

Decision No. 2—Approximately 1,310,922 acres and 118 inventory units of the public lands in Colorado will be intensively inventoried for wilderness characteristics. Inventory of these lands is in progress and the public is encouraged to participate. Management limitations imposed by Section 603(c) of the Federal Land Policy and Management Act of 1976 will continue to apply to these lands until they are officially released from further wilderness consideration or until they are designated as Wilderness by Congress. These lands may be grouped in the following categories:

A. *Inventory units or portions of inventory units previously recommended for intensive wilderness inventory and which will not be intensively inventoried.* This group includes 110 units and approximately 1,180,722 acres. In the March 22, 1979 announcement, the BLM recommended that these units be intensively inventoried because it was not clear and obvious that they lacked wilderness characteristics. These units received considerable public comment which was field checked by BLM for validity.

As a result, the State Director judged that these areas may have potential for containing wilderness characteristics and should therefore be intensively inventoried. This portion of the State Director's decision will become effective on or before October 15, 1979.

Inventory units in this group include:

Inventory unit No.	Approximate acreage	General location
		CRAIG DISTRICT
CO-010-208	40,290	Extreme Northwest Colorado (Moffat County).
CO-010-208E	8,740	Extreme Northwest Colorado (Moffat County).
CO-010-210	6,080	Extreme Northwest Colorado (Moffat County).
CO-010-210D	16,960	Extreme Northwest Colorado (Moffat County).
CO-010-214	24,470	Extreme Northwest Colorado (Moffat County).
CO-010-230	17,060	West of Maybell, Colorado (Moffat County).
CO-010-218, 218A-224, 224A, 226-227, 228, 229D-271/N6b.	39,680	Adjacent to Northern boundary of Dinosaur National Monument (Moffat County).
UT-080-104	4,420	Adjacent to the Western boundary of Dinosaur National Monument—in Colorado but inventoried by Utah BLM under Cooperative Agreement (Moffat County).
UT-080-110	4,900	West of Dinosaur National Monument—in Colorado but inventoried by Utah BLM under Cooperative Agreement. Unit extends in Utah. (Moffat County).
UT-080-114	2,071	Adjacent to the western boundary of Dinosaur National Monument—in Colorado but inventoried by Utah BLM under Cooperative Agreement. (Moffat County).
CO-010-001A	9,270	North of Dinosaur, Colorado (Moffat County).
CO-010-001B	7,510	North of Dinosaur, Colorado (Moffat County).
CO-010-002	16,080	East of Dinosaur, Colorado (Moffat County).
CO-010-003	13,000	East of Dinosaur, Colorado (Moffat County).
CO-010-00N1, 00N2, 00N3, 00N4A, 00N4B, 00N4C, 00N4D, 00N4E, 00N5, 00N6A.	16,410	Adjacent to southern boundary of Dinosaur National Monument—ten small units, each less than 5000 acres (Moffat County).
CO-010-006B	8,776	Southwest of Maybell, Colorado. (Moffat County-Rio Blanco County)
CO-010-007A	7,455	West of Meeker (Rio Blanco County).
CO-010-007B	9,250	West of Meeker (Rio Blanco County).
CO-010-007C	12,565	Northwest of Meeker (Rio Blanco County).
CO-010-155	11,915	North of Kremmling (Grand County).
CO-010-168	9,870	Northwest of Granby, Colorado (Grand County).
CO-010-178	9,590	North of State Bridge, Colorado (Grand County-Eagle County)
		MONTROSE DISTRICT
CO-080-053A	2,440	Adjacent to Gunnison National Forest—Northeast Blue Mesa Reservoir Near Gunnison, Colorado (Gunnison County).
CO-080-057	6,070	Adjacent to Gunnison National Forest—North of Blue Mesa Reservoir Near Gunnison, Colorado (Gunnison County).
CO-080-063	2,520	Adjacent to Gunnison National Forest, North of Blue Mesa Reservoir (Gunnison County).
CO-030-085	400	Adjacent to Uncompahgre National Forest—North of Lake City (Hinsdale County).
CO-030-086	880	Adjacent to Uncompahgre National Forest—North of Lake City (Hinsdale County).
CO-030-088	1,120	Adjacent to Gunnison National Forest—North of Lake City (Hinsdale County).
CO-030-089	50,060	Northeast of Lake City—Powderhorn Instant Wilderness Study Area and Contiguous Lands (Hinsdale County).
CO-030-208	38,100	Southwest of Lake City (Hinsdale County).
CO-030-210	5,980	Southeast of Lake City (Hinsdale County).
CO-030-211	1,960	Adjacent to Gunnison National Forest—Southeast of Lake City (Hinsdale County).
CO-030-212	80	Adjacent to Gunnison National Forest—East of Lake City (Hinsdale County).
CO-030-213	2,040	Adjacent to Gunnison National Forest—East of Lake City (Hinsdale County).
CO-030-217	7,900	East of Ouray (Ouray County-San Juan County-Hinsdale County).
CO-030-229A	5,920	Adjacent to San Juan National Forest—South of Silverton (San Juan County).
CO-030-229B	4,200	Adjacent to San Juan National Forest—South of Silverton (San Juan County-La Plata County).
CO-030-230	4,560	Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).
CO-030-230A	3,400	Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).
CO-030-238	1,420	Adjacent to Rio Grande National Forest—East of Silverton (San Juan County).
CO-030-238A	600	Adjacent to San Juan National Forest—Southeast of Silverton (San Juan County).
CO-030-241	19,560	Northeast of Silverton (San Juan County-Hinsdale County)
CO-030-251	7,360	South of Mancos (Montezuma County).
CO-030-252	8,560	South of Mancos (Montezuma County).
CO-030-262	6,460	West of Cortez (Montezuma County).
CO-030-263	12,440	West of Cortez—Rare Lizard and Snake Instant Wilderness Study Area and Contiguous Lands (Montezuma County).
CO-030-265	9,160	West of Cortez (Dolores County-Montezuma County).
CO-030-265A	5,320	West of Cortez (Dolores County).
CO-030-265D	8,550	West of Cortez (Dolores County).
CO-030-286	44,060	South of Naturita (San Miguel County-Dolores County).
CO-030-290	31,585	South of Bedrock (Montrose County).

Inventory unit No.	Approximate acreage	General location
		MONTROSE DISTRICT—Continued
CO-030-300	8,814	Adjacent to Uncompahgre National Forest—North of Naturita (Montrose County).
CO-030-310A	1,840	Adjacent to BLM Inventory Unit No. CO-070-176—North of Paradox (Montrose County).
CO-030-332	400	Adjacent to Uncompahgre National Forest—Southeast of Ridgway (Ouray County).
CO-030-353	13,743	Adjacent to Uncompahgre National Forest—Southwest of Delta Montrose County).
CO-030-363	47,487	West of Delta (Montrose County-Delta County-Mesa County).
CO-030-370A	22,041	North of Delta (Delta County).
CO-030-388	22,280	North of Montrose (Montrose County-Delta County).
		CANON CITY DISTRICT
CO-050-002	6,468	South of Buena Vista (Chaffee County).
CO-050-009	880	Northwest of Canon City—High Mesa Grassland Instant Wilderness Study Area (Fremont County)
CO-050-010	12,950	North of Cotopaxi (Fremont County).
CO-050-013	20,100	Southwest of Canon City (Fremont County).
CO-050-014	13,000	West of Canon City (Fremont County).
CO-050-016	26,210	Northeast of Canon City (Teller County-Fremont County-El Paso County).
CO-050-017	11,080	Southwest of Canon City (Fremont County-Custer County).
CO-050-033	180	South of Westcliff (Custer County).
CO-050-131	2,737	Adjacent to Rio Grande National Forest, Northeastern Edge of San Luis Valley (Saguache County).
CO-050-132B	1,587	Adjacent to Rio Grande National Forest—Northeastern Edge of San Luis Valley (Saguache County).
CO-050-135	1,644	Adjacent to Great Sand Dunes National Monument—3 Small Tracts (Alamosa County).
CO-050-137	1,020	Adjacent to Rio Grande National Forest (Alamosa County).
CO-050-139B	614	Adjacent to Rio Grande National Forest—2 Small Tracts (Alamosa County)
CO-050-140	9,114	Northeast of Antonito (Conejos County).
CO-050-141	12,514	Northeast of Antonito (Conejos County).
		GRAND JUNCTION DISTRICT
CO-070-001	10,200	Northwest of Grand Junction (Garfield County).
CO-070-015	17,500	Northwest of DeBeque (Garfield County).
CO-070-066	43,600	Northeast of Grand Junction (Mesa County).
CO-070-103	5,500	Southeast of Grand Junction (Mesa County).
CO-070-113	20,400	West of Grand Junction (Mesa County)
CO-070-113A	49,200	West of Grand Junction (Mesa County).
CO-070-132	27,700	North of Gateway (Mesa County).
CO-070-132A	19,000	Northwest of Gateway (Mesa County).
CO-070-138	8,900	Northeast of Gateway (Mesa County).
CO-070-150	33,600	South of Grand Junction (Mesa County).
CO-070-150A	11,600	South of Grand Junction (Mesa County).
CO-070-176	17,900	Northwest of Uraven (Mesa County—Montrose County).
CO-070-316	11,700	North of Rifle (Garfield County).
CO-070-338	7,000	Northwest of Glenwood Springs (Garfield County).
CO-070-372	8,800	South of Carbondale (Pitkin County-Garfield County).
CO-070-392	270	West of Aspen (Pitkin County).
CO-070-421	15,500	Southwest of Bond (Eagle County).
CO-070-425	5,300	North of Dotsero (Eagle County-Garfield County).
CO-070-430	21,000	South of Burns (Eagle County)
CO-070-433	17,500	North of Eagle (Eagle County).

B. *Inventory units or portions of inventory units previously not recommended to be intensively inventoried but which will now be intensively inventoried.* This group includes eight units and approximately 130,200 acres. The BLM, in the March 22, 1979 announcement, recommended that these units not be intensively inventoried as in-house data indicated that it was clear and obvious that they lacked wilderness characteristics. As a result of information obtained during the public review period and subsequent field checking by BLM, the State Director has judged that there is reason to conclude that it is not clear and obvious that they lack wilderness characteristics. As a result, these areas will now be intensively inventoried to determine if they do or do not contain wilderness characteristics. This portion of the State Director's decision will become effective on or before October 15, 1979.

Inventory units in this group include:

Inventory unit No.	Approximate acreage	General location
		CRAIG DISTRICT
CO-010-046	18,600	South of Rangely (Rio Blanco County).
		CANON CITY DISTRICT
CO-050-142	3,300	Southeast of Antonito (Conejos County).
		GRAND JUNCTION DISTRICT
CO-070-00	29,300	North of Fruita (Garfield County).
CO-070-015A	13,000	North of Grand Junction (Garfield County-Mesa County).
CO-070-015B	12,800	North of Grand Junction (Garfield County-Mesa County).
CO-070-031	23,700	North of Grand Junction (Garfield County-Mesa County).
CO-070-130	21,500	South of Grand Junction (Mesa County).
CO-070-130A	8,000	South of Grand Junction (Mesa County).

For the purposes of the Final Initial Wilderness Inventory Decision, each inventory unit is considered individually and separateiy from every other inventory unit. Should any amendment to these determinations be made by the BLM State Director of Colorado as a result of new information received following this publication, that amendment will be formally published in the **Federal Register** and will become effective on or before October 1, 1979.

Address: Requests for the decision document and maps should be sent to: State Director, c/o WILDERNESS, Colorado State Office, Bureau of Land Management, Main Post Office Building, P.O. Box 2266, Denver, Colorado 80201.

Dale R. Andrus,

State Director, Colorado.

August 31, 1979.

[FR Doc 79-27215 Filed 8-30-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Proposed Oil and Gas Lease Sale No. 55; Availability of Draft Environmental Statement and of Public Hearings Regarding Proposed Oil and Gas Lease Sale

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf oil and gas lease sale of 350 tracts of submerged lands on the Outer Continental Shelf in the eastern Gulf of Alaska.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs (130), Bureau of Land Management, Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following libraries: Alaska Federation of Natives, 670 W. Fireweed Lane, Anchorage, Alaska 99501; Department of Interior, Alaska Resources Library, 733 W. 4th Avenue, Anchorage, Alaska 99501; Kenai Community Library, Box 157, Kenai, Alaska 99611; North Star Borough Library, Fairbanks, Alaska 99701; University of Alaska, Institute of Economics and Government Research Library, Fairbanks, Alaska 99801; Z. J. Loussac Public Library, 427 F Street, Anchorage, Alaska 99801; Alaska State Library, Juneau, Alaska 99811; Bureau of Indian Affairs School Library, Elim, Alaska 99739; Department of Defense, Army Corps of Engineers Library, Anchorage, Alaska 99510; Department of Interior—Bureau of Mines Library, AF—

F.O. Center, P.O. Box 550, Juneau, Alaska 99802; Ketchikan Community College, 7th & Madison, Ketchikan, Alaska 99901; Seldovia Public Library, Seldovia, Alaska 99663; University of Alaska—Juneau Library, P.O. Box 1447, Juneau, Alaska 99802; Anchor Point Public Library, Anchor Point, Alaska 99556; Cordova Public Library, Cordova, Alaska 99574; Elim Learning Center, Elim, Alaska 99739; Haines Public Library, Haines, Alaska 99827; Homer Public Library, Homer, Alaska 99603; Juneau Memorial Library, Douglas Public Library, 114 W. 4th Street, Juneau, Alaska 99824; Ketchikan Public Library, 629 Dock Street, Ketchikan, Alaska 99901; Kodiak Public Library Association, Inc., Kodiak, Alaska 99615; Metlakatla Extension Center, Metlakatla, Alaska 99926; Petersburg Extension Center, Petersburg, Alaska 99833; Seward Community Library, Seward, Alaska 99664; Sitka Community Library, Sitka, Alaska 99835; University of Alaska—Anchorage Library, 3211 Providence Drive, Anchorage, Alaska 99504; University of Alaska, Elmer E. Rasmusson Library, Fairbanks, Alaska 99701; Wrangell Extension Center, Wrangell, Alaska 99929.

In accordance with 43 CFR 3314.1, public hearings will be held for the purpose of receiving comments and suggestions relating to the draft EIS. The exact locations and dates for these hearings will be announced at a later date. Comments on the draft environmental statement will be accepted until October 22, 1979.

After a public hearing is held and comments have been received and analyzed, a final environmental statement will be prepared.

Ed Hastey,

Associate Director, Bureau of Land Management

[FR Doc. 79-27355 Filed 8-30-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6747-A thru AA-6747-K]

Alaska Native Claims Selections

On December 24, 1968, the State filed general purposes grant selection applications pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)) for certain lands in the South Naknek area. Applications AA-5159, AA-5160, AA-5161 and AA-5163 selected lands in T. 18 S., R. 47 W., Ts. 17 and 18 S., R. 48 W. and T. 18 S., R. 49 W., Seward Meridian. On January 12 and June 16, 1972 and January 2, 1979 each application was amended to include all lands in the townships, excluding patented lands.

The Bureau of Indian Affairs filed an application on December 12, 1968, to withdraw all unreserved public lands in Alaska for the determination and protection of the rights of the Alaska Natives. Subsequently, on January 17, 1969, Public Land Order 4582 was issued to affirm the withdrawal of all unreserved lands in Alaska from all forms of appropriation and disposition under the public land laws except locations for metalliferous minerals. Public Land Order 4582 further provided tha applications filed by the State of Alaska after December 12, 1968, and prior to January 4, 1969, must be embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Coal Leasing Act of 1914 in order to be a valid selection application.

Since the lands selected in State selection applications AA-5159, AA-5160, AA-5161 and AA-5163 filed on filed on December 24, 1968 were not entirely within lands embraced in leases, etc., these applications must be and are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-5159

T. 18 S., R. 49 W.
Secs. 24, 25 and 36 (fractional), all.
Containing approximately 850 acres.

State Selection AA-5160

T. 18 S., R. 48 W.
Sec. 2, all;
Secs. 3, 4, 8 and 9 (fractional), all;
Secs. 10 and 16, all;
Secs. 17, 18 and 19 (fractional), all;
Secs. 20 and 21, all;
Secs. 29, 30 and 31, all.
Containing approximately 7, 881 acres.

State Selection AA-5161

T. 18 S., R. 47 W.
Secs. 1 and 12, all.
Containing approximately 1,280 acres.

State Selection AA-5163

T. 17 S., R. 48 W.
Sec. 24 (fractional), excluding Native allotment AA-6285;
Secs. 25, 26, 34 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 2, 335 acres.
Aggregating approximately 12,346 acres.

Furthermore, on November 14, 1978, the State filed general purposes grant selections AA-21811, AA-21812, AA-21816, AA-21817, AA-21818 and AA-21820, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)) for certain lands in the South Naknek area. Since these lands were withdrawn and properly selected by the village corporation, the aforementioned State selections are hereby rejected as the following described lands:

Seward Meridian, Alaska

State Selection AA-21811

T. 17 S., R. 44 W. (Surveyed)
All.

State Selection AA-21812

T. 17 S., R. 45 W. (Partially Surveyed)
All.

State Selection AA-21816

T. 18 S., R. 44 W. (Unsurveyed)
All.

State Selection AA-21817

T. 18 S., R. 45 W. (Unsurveyed)
Secs. 1 to 12, inclusive, all.

State Selection AA-21818

T. 18 S., R. 46 W. (Unsurveyed)
Secs. 1 to 12, inclusive, all.

State Selection AA-21820

T. 19 S., R. 44 W. (Unsurveyed)
All.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

On September 22, 1960, November 4, 1963 and March 24, 1965, the State filed a community grant selection application pursuant to Sec. 6(a) and general purposes grant selection applications pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Secs. 6(a) and (b) (1976)), for certain lands in the Bristol Bay area. Applications A-053268, A-060425 and A-062282 (as amended) selected lands in Ts. 17 and 18 S., Rs. 45 and 46 W. and T. 17 S., R. 47 W., Seward Meridian. A decision granting tentative approval was issued on May 18, 1965 for certain lands in T. 17 S., R. 46 W., Seward Meridian, selected by the State under application A-060425.

Section 11(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610(a) (1976)) (ANCSA), withdrew the lands surrounding the Native village of South Naknek, including lands in the subject State selection applications for Native selection. Qinuyang Limited filed selection applications AA-6747-A on January 15, 1974, AA-6747-B through AA-6747-H on November 12, 1974 and AA-6747-I through AA-6747-K on December 13, 1974, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976)) (ANCSA), for the surface estate of lands located near the village of South Naknek, including lands within the subject State selections.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that

village selections shall be made from lands withdrawn by Sec. 11(a).

Section 11(a)(2) further withdrew for possible selection by the Native corporation those lands within the townships described in Sec. 11(a)(1) that have been selected by, or tentatively approved to, but not yet patented to the State under the Alaska Statehood Act.

Section 12(a) further provided, however, that no village corporation may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described State selected and tentatively approved lands have been properly selected under village selection applications AA–6747–A, AA–6747–B, AA–6747–C, AA–6747–G and AA–6747–I. Accordingly, the following State selection applications are rejected and the tentative approval given is rescinded as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA–5160 (General Purposes Grant)

T. 16 S., R. 48 W.
Secs. 28 and 32, all.
Containing approximately 1,280 acres.

State Selection A–053268 (General Purposes Grant)

T. 17 S., R. 45 W.
Sec. 17, that portion south of the left bank of the Naknek River;
Sec. 18, that portion south of the left bank of the Naknek River excluding Native allotments AA–6609 and AA–6719 Parcel A;
Sec. 19, excluding Native allotment AA–6609;
Secs. 20 and 21, those portions south and west of the left bank of the Naknek River;
Sec. 26, that portion west of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–6157 Parcel A and AA–7863;
Sec. 27, that portion south of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–7862 and AA–7863;
Secs. 28 and 29, excluding the Naknek River;
Secs. 30, 31 and 32, all;
Sec. 33, excluding Native allotment A–067640;
Sec. 34, excluding Native allotments AA–7862 and AA–7863;
Sec. 35, that portion south and west of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–7862 and AA–7863;
Sec. 36, that portion south of the left bank of the Naknek River.
Containing approximately 6,420 acres.

T. 18 S., R. 45 W.
Secs. 1, 2 and 3, all;
Sec. 4, excluding Native allotment A–067640;
Secs. 5 to 12, inclusive, all.
Containing approximately 7,546 acres.

T. 18 S., R. 46 W.
Secs. 1 to 12, inclusive, all.
Containing approximately 7,626 acres.

State Selections A–053268 and A–060425 (General Purposes Grants)

T. 17 S., R. 46 W.
Sec. 5, that portion south of the left bank of the Naknek River excluding U.S. Survey 543 and Native allotment AA–6234;
Sec. 6, that portion south of the left bank of the Naknek River excluding U.S. Survey 527, U.S. Survey 528, U.S. Survey 1572, U.S. Survey 1573 and Native allotment AA–7251 Parcels A and B;
Sec. 7, excluding Native allotments AA–6732 and AA–7251 Parcels A and B;
Sec. 8, excluding Native allotments AA–6234 and AA–7584 Parcel B;
Sec. 9, excluding Native allotment AA–6284 and the Naknek River;
Secs. 10, 13 and 14, those portions south of the left bank of the Naknek River;
Secs. 15, 16 and 17, all;
Sec. 18, excluding Native allotment AA–6732;
Secs. 19 to 36, inclusive, all.
Containing approximately 16,786 acres.

State Selection A–062282 (Community Grant)

T. 17 S., R. 47 W.
Sec. 11, S½, excluding U.S. Survey 69, U.S. Survey 1424, U.S. Survey 1425, U.S. Survey 1581, U.S. Survey 2875, U.S. Survey 2957, U.S. Survey 3008, U.S. Survey 4879, Native allotments AA–6237, AA–6729 and the Naknek River;
Sec. 14, excluding U.S. Survey 4879, Native allotments AA–2524, AA–6729 and A–058897;
Sec. 15, SW¼, excluding Native allotments AA–7583 and AA–7585.
Containing approximately 684 acres.
Aggregating approximately 40,342 acres.

The total amount of State selected lands rejected to permit the conveyance hereafter given totals approximately 40,342 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of the Alaska Native Claims Settlement Act. Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications submitted by Qinuyang Limited, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 88,333 acres, is considered proper for acquisition by Qinuyang Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Surveyed)

T. 17 S., R. 44 W.
Sec. 31, Lots 5 to 12, inclusive, E½SW¼, SW¼SE¼;
Sec. 32, lot 5.
Containing 341.27 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 18 S., R. 44 W.
Sec. 5, that portion west of the left bank of the Naknek River;
Secs. 6 and 7, all;
Sec. 8, that portion west of the left bank of the Naknek River;
Sec. 9, that portion south and east of the left bank of the Naknek River;
Sec. 10, that portion south of the left bank of the Naknek River excluding ANCSA Sec. 3(e) application AA–25572 Site 2;
Sec. 12, that portion south of the left bank of the Naknek River;
Sec. 13, all;
Sec. 14, that portion south of the left bank of the Naknek River;
Sec. 15, that portion south and west of the left bank of the Naknek River;
Sec. 16, that portion south and east of the left bank of the Naknek River;
Sec. 17, that portion south and west of the left bank of the Naknek River;
Sec. 18, all;
Sec. 19, excluding Native allotment AA–6229 Parcel B;
Secs. 20 to 29, inclusive, all;
Sec. 30, excluding Native allotment AA–7906 Parcel A;
Secs. 31 to 36, inclusive, all.
Containing approximately 16,923 acres.

T. 19 S., R. 44 W.
Secs. 1 to 9, inclusive, all.
Containing approximately 5,725 acres.

T. 17 S., R. 45 W.
Sec. 17, that portion south of the left bank of the Naknek River;
Sec. 18, that portion south of the left bank of the Naknek River excluding Native allotments AA–6609 and AA–6719 Parcel A;
Sec. 19, excluding Native allotment AA–6609;
Secs. 20 and 21, those portions south and west of the left bank of the Naknek River;
Sec. 26, that portion west of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–6157 Parcel A and AA–7863;
Sec. 27, that portion south of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–7862 and AA–7863;
Secs. 28 and 29, excluding the Naknek River;
Secs. 30, 31 and 32, all;
Sec. 33, excluding Native allotment A–067640;
Sec. 34, excluding Native allotments AA–7862 and AA–7863;
Sec. 35, that portion south and west of the left bank of the Naknek River excluding U.S. Survey 5502, Native allotments AA–7862 and AA–7863;
Sec. 36, that portion south of the left bank of the Naknek River.
Containing approximately 6,420 acres.

T. 18 S., R. 45 W.
Secs. 1, 2 and 3, all;
Sec. 4, excluding Native allotment A–067640;
Secs. 5 to 12, inclusive, all.
Containing approximately 7,546 acres.

T. 17 S., R. 46 W.
Sec. 5, that portion south of the left bank of the Naknek River excluding U.S. Survey 543 and Native allotment AA–6234;
Sec. 6, that portion south of the left bank of the Naknek River excluding U.S. Survey 527, U.S. Survey 528, U.S. Survey 1572, U.S. Survey 1573 and Native allotment AA–7251 Parcels A and B;
Sec. 7, excluding Native allotments AA–6732 and AA–7251 Parcels A and B;
Sec. 8, excluding Native allotments AA–6234 and AA–7584 Parcel B;
Sec. 9, excluding Native allotment AA–6284 and the Naknek River;
Secs. 10, 13 and 14, those portions south of the left bank of the Naknek River;
Secs. 15, 16 and 17, all;
Sec. 18, excluding Native allotment AA–6732;
Secs. 19 to 36, inclusive, all.
Containing approximately 16,786 acres.

T. 18. S., R. 46 W.
Secs. 1 to 12, inclusive, all.
Containing approximately 7,626 acres.

T. 17 S., R. 47 W.
Sec. 1, that portion south and east of the left bank of the Naknek River excluding U.S. Survey 527 and Native allotment AA–7251 Parcel A;
Sec. 9, that portion south of the left bank of the Naknek River excluding U.S. Survey 127, U.S. Survey 2332 and U.S. Survey 4686;
Sec. 10, that portion south of the left bank of the Naknek River excluding U.S. Survey 1105, U.S. Survey 1576, U.S. Survey 2330, U.S. Survey 2332, U.S. Survey 3007, U.S. Survey 4879 and U.S. Survey 5041;
Sec. 11, excluding U.S. Survey 69, U.S. Survey 1424, U.S. Survey 1425, U.S. Survey 1581, U.S. Survey 2875, U.S. Survey 2957, U.S. Survey 3008, U.S. Survey 4879, Native allotments AA–6237, AA–6729 and the Naknek River;
Sec. 12, excluding U.S. Survey 1028, U.S. Survey 1425, Native allotments AA–6113 Parcel A, AA–6233, AA–6729, AA–6730, AA–6731, AA–6732, AA–7251 Parcel A, AA–7584 Parcel A and the Naknek River;
Sec. 13, excluding Native allotments AA–6729, AA–6730 and AA–6732;
Sec. 14, excluding U.S. Survey 4879, Native allotments AA–2524, AA–6729 and A–058897;
Sec. 15, excluding U.S. Survey 2331, U.S. Survey 4879, U.S. Survey 4971, Native allotments AA–2524, AA–7583, AA–7585 and A–058897;
Sec. 16, excluding U.S. Survey 127, U.S. Survey 4686, U.S. Survey 4971, Native allotment AA–7585 and the Naknek River;
Sec. 17 (fractional), excluding U.S. Survey 487, ANCSA Sec. 3(e) application AA–12834 and Native allotment AA–6133;
Sec. 18 (fractional), all;
Sec. 19 (fractional), excluding Native allotments AA–6285 and AA–6733;
Sec. 20, all;
Secs. 21 and 22, excluding Native allotment AA–7585;
Sec. 23, excluding Native allotment AA–6236 Tract 1;
Secs. 24 to 33, inclusive, all;
Sec. 34, excuding Native allotment AA–6236 Tract 2;
Secs. 35 and 36, all.
Containing approximately 13,340 acres.

T. 18 S., R. 47 W.
Secs. 1 and 12, all.
Containing approximately 1,280 acres.

T. 17 S., R. 48 W.
Sec. 24 (fractional), excluding Native allotment AA–6285;
Secs. 25, 26, 34 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 2,335 acres.

T. 18 S., R. 48 W.
Sec. 2, all;
Secs. 3, 4, 8 and 9 (fractional), all;
Secs. 10 and 16, all;
Secs. 17, 18 and 19 (fractional), all;
Secs. 20 and 21, all;
Secs. 28 to 32, inclusive, all.
Containing approximately 9,161 acres.

T. 18 S., R. 49 W.
Secs. 24, 25 and 36 (fractional), all.
Containing approximately 850 acres.
Aggregating approximately 67,992 acres.
Total aggregated acreage approximately 88,333 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6747–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 2d D9, L) A one (1) acre site easement upland of the ordinary high water mark in Sec. 21, T. 17 S., R. 45 W., Seward Meridian, on the right bank of Smelt Creek. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 6a D9, L) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 2d D9, L in Sec. 21, T. 17 S., R. 45 W., Seward Meridian, to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 8 D1, D9, L) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 8a D1, D9, L in Sec. 19, T. 18 S., R. 44 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 8a D1, D9, L) A site easement upland of the ordinary high water mark in Sec. 19, T. 18 S., R. 44 W., Seward Meridian, on the left bank of Big Creek. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the creek along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 14 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Sec. 18, T. 17 S., R. 47 W., Seward Meridian, southwesterly paralleling Kvichak Bay throughout the selection and tying into the trail from Egegik (EIN 14 C3). The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 20 C3, C5, D1) An easement sixty (60) feet in width for an existing road from a cannery in Sec. 6, T. 17 S., R. 46 W., Seward Meridian, westerly to Sec. 18, T. 17 S., R. 47 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

g. (EIN 20b C3, C5, D1) An easement for an existing access trail fifty (50) feet in width from the cannery in Sec. 6, T. 17 S., R. 46 W., Seward Meridian, southeasterly to Savonoski. The uses allowed are those listed above for a fifty

(50) foot wide trail easement. The season of use will be limited to winter use.

h. (EIN 29a C5) An easement for an existing access trail twenty-five (25) feet in width from South Naknek southerly to an unnamed lake in Secs. 25 and 26, T. 17 S., R. 47 W., Seward Meridian, and continuing southerly with a proposed trail to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Those rights for water pipeline purposes as have been granted to the Alaska Packers Association, its successors or assigns, by right-of-way, A–011532, located in Secs. 11, 14, 23, 24 and 25, T. 17 S., R. 47 W., Seward Meridian, under the Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959);

4. A right-of-way, A–051081, located in Secs. 5 and 6, T. 17 S., R. 46 W., Seward Meridian, and Secs. 10, 11, 12 and 15, T. 17 S., R. 47 W., Seward Meridian, twenty (20) feet each side of the centerline, for an electrical distribution line for the Naknek Electric Association, Inc., under the provisions of the act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

5. Airport lease, AA–9583, containing approximately 165 acres, located in Sec. 14, T. 17 S., R. 47 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728–729; 49 U.S.C. 211–214 (1976)); and

6. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Qinuyang Limited is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 88,333 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 3,827 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Qinuyang Limited for the surface estate, and shall be subject to the same condition as the surface conveyance.

Only the following inland water body, within the described lands, is considered to be navigable: Naknek River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file and appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 1, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

Qinuyang Limited, South Naknek, Alaska 99670.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79–27256 Filed 8–30–79; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species: Applicant: Woodland Park Zoological Garden, 5500 Phinney Ave. North, Seattle, Wash. 98103: PRT 2–4558.

The applicant requests a permit to purchase in interstate commerce one male white-eared pheasant *(Crossoptilon crossoptilon)* from Charles Sivelle, Dix Hills, New York for enhancement of propagation. Applicant: Oklahoma City Zoo, 2101 N.E. 50th, Oklahoma City, Okla.; PRT 2–4572.

The applicant requests a permit to import one male from and export one male snow leopard *(Panthera uncia)* to the Beksbourne Zoo, England in an even exchange of animals for enhancement of propagation. Applicant: Buffalo Zoological Gardens, Delaware Park, Buffalo, New York 14214; PRT 2–4591.

The applicant request a permit to purchase in interstate commerce two clouded leopards *(Neofelis nebulosa)* from Robert Baudy, Rare Reline Breeding Compound, Center Hill, Florida for enhancement of propagation. Applicant: Dr. Rollin G. Bauer, Jr., Section of Ecology and Systematics, Division of Biological Sciences, Cornell University, Ithaca, New York 14853; PRT 2–4547.

The applicant requests a permit to export and re-import museum specimens of endangered and threatened species of wildlife already accessioned into the university's vertebrate museum for scientific research.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications by October 1, 1979 by submitting written data, views, or arguments to the Director at the above address.

Dated: August 27, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office U.S. Fish and Wildlife Service.

[FR Doc. 79–27278 Filed 8–30–79; 8:45 am]

BILLING CODE 4310–55–M

Threatened Species Permit; Receipt of Permit Renewal Requests

The permittees listed below wish to renew their Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those indicated species listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

These permit files and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Directors, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these requests on or before October 1, 1979, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Mrs. Elmer Muchow, R.R. 1, Gaylord, Minn. 55334; PRT 2–609, Species: all T(C/P) pheasants.

Applicant: Henry Vilas Park Zoo, 702 S. Randall Ave., Duluth, Minn. 55803; PRT 2–1064, Species: all T(C/P) wildlife.

Please refer to the individual applicant and the appropriately assigned PRT 2– number when submitting comments.

Dated: August 27, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79–27277 Filed 8–30–79; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–71]

Certain Anaerobic Impregnating Compositions and Components Therefor; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 19, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Loctite Corporation, 705 North Mountain Road, Newington, Connecticut 06111, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain components for anaerobic impregnating compositions, or in their sale, because (1) such impregnating compositions are allegedly covered by claims 1, 4, and 12 of U.S. Letters Patent 4,069,378, and (2) such components allegedly contribute to and induce infringement of claims 1, 4, and 12 of U.S. Letters Patent 4,069,378.

The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests permanent exclusion from entry into the United States of the imports in question after a full investigation.

Having considered the complaint, the Commission, on August 16, 1979, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section in the unlawful importation of certain anaerobic impregnating compositions, or of the monomer component thereof singly or in combination with either the surfactant or the initiator components, into the United States, or in their sale, because (1) such impregnating compositions are allegedly covered by claims 1, 4 and 12 of U.S. Letters Patent 4,069,378, and (2) such mononer component allegedly contributes to and induces infringement of claims 1, 4 and 12 of U.S. Letters Patent 4,069,378, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Loctite Corporation, 705 North Mountain Road, Newington, Connecticut 06111.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such anaerobic impregnating compositions and components therefor into the United States, or in their sale, and are parties upon which the complaint shall be served;

Ultraseal, Ltd., 768 Buckingham Avenue, Slough, Berks, S.L. 1–4–N–L. England.

Imprex, Inc., 3260 South 108th Street, Milwaukee, Wisconsin 53227.

Ultraseal America, Inc., 2401 South Lenox Street, Milwaukee, Wisconsin 53207.

NL Permanent Mold Castings Division, NL Industries, Inc., 1230 Avenue of the Americas, New York, New York 10020.

Aluminum Casting & Engineering Co., 2039 South Lenox Street, Milwaukee, Wisconsin 53207.

Sundstrand Corporation, 4751 Harrison Avenue, Rockford, Illinois 61101.

Southfield Machine Products Co. Division, Cast Metal Industries, Inc., 19400 West 8 Mile Road, Southfield, Michigan 48075.

(c) Wilhelm A. Zeitler, U.S. International Trade Commisison, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless and sufficient cause is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: August 27, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79–27326 Filed 8–30–79; 8:45 am]

BILLING CODE 7020–02–M

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[Investigation No. 337-TA-52]

Certain Apparatus for Continuous Production of Copper Rod; Extension of Deadline for Filing Reply Briefs

On August 21, 1979, the Bell and Krupp respondents jointly moved to extend the deadline for filing reply briefs to briefs concerning exceptions to the presiding officer's recommended determination (Motion Docket No. 52-270). Motion Docket No. 52-270 is hereby granted. Accordingly, the schedule for filing written submissions in connection with Commission consideration of this investigation, issued August 17, 1979, is hereby amended as follows: the deadline date for filing reply briefs to briefs concerning exceptions to the presiding officer's recommended determination is extended from September 7, 1979 to September 14, 1979.

By order of the Commission.

Issued: August 24, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-27324 Filed 8-30-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-210]

Certain Marine Radar Systems From United Kingdom; Investigation and Hearing

Having received advice from the Department of the Treasury on August 17, 1979, that certain marine radar systems (provided for in item 685.60 of the Tariff Schedules of the United States (TSUS)) from the United Kingdom are being, or are likely to be, sold at less than fair value, the United States International Trade Commission, on August 27, 1979, instituted investigation No. AA1921-210 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

For purposes of the Treasury Department's determination "certain marine radar systems" means X-band radar systems provided for in item 685.60, Tariff Schedules of the United States, designed principally for boat or ship installation with direct current power supply from 6 to 60 volts, having a maximum viewable display dimension of less than 11 inches, and having an antenna assembly with transmitter-receiver permanently affixed, and parts thereof; all the foregoing, whether such radar system components are imported together as units or separately.

Public hearing. A public hearing in connection with this investigation will be held on Wednesday, October 10, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. All interested persons will be afforded an opportunity to be present, to appear by counsel or in person, to provide information, and to be heard at such hearing. Requests to appear at the hearing should be received in writing in the office of the Secretary to the Commission, United States International Trade Commission, 701 E Street, NW., Washington, D.C., not later than noon, Friday, October 5, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. Requests for confidential treatment should be directed to the attention of the Secretary. Any business information which a submitter wishes the Commission to treat as confidential should be clearly marked "Confidential Business Data." Submitters seeking confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Should a request for confidential treatment be denied, the submission will be returned to the submitting party.

All written submissions, except for confidential business data, will be made available for inspection by interested persons. To assure that such statements are given due consideration by the Commission, such statements should be received not later than the close of business, Friday, October 19, 1979.

By order of the Commission.

Issued: August 28, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-27323 Filed 8-30-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-66]

Certain Plastic-Molding Apparatus and Components Thereof

Pursuant to my authority as Chief Administrative Law Judge, and for reasons consistent with proper judicial administration, I hereby reassign the Matter of Certain Plastic Molding Apparatus and Components Thereof, No. 337-TA-66, to Judge Janet D. Saxon, who is designated the Presiding Officer in this matter.

Issued: August 28, 1979.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 79-27325 Filed 8-30-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determined that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation is the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plant or facilities, the potential effect of such new facilites on other existing plant or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 24th day of August 1979.

Earl T. Klein,

Director, Office of Program Services.

Applications received during the week ending August 25, 1979.

Name of Applicant, and Location of Enterprise, Principal Product or Activity

Maxon Marine Industries, Inc., Tell City, Indiana, construction and repairs of steel barges.
Quality Mills, Inc., Mount Airy, North Carolina, manufacturing of knit apparel.
Frederic A. Potts & Co., Inc., Pottsville, Pennsylvania, deep and strip mining, processing of anthracite coal.
Colony Fair Development Co., Palmer, Alaska, shopping center.
Farmore, Inc., Levelland, Texas, shopping center.

[FR Doc. 79-27179 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-30-M

Intent to Reallocate Nonutilized Funds Under Comprehensive Employment and Training Act (CETA) Annual Plan Subgrants Carried Forward From Fiscal Year 1979 Into Fiscal Year 1980

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces its intent to reallocate nonutilized funds under CETA prime sponsor annual plan subparts carried forward from Fiscal Year 1979 into Fiscal Year 1980, as indicated below. The purpose of this notice is to provide 30 days notice to all interested parties of the Department's intent to reallocate these funds.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5010, Washington, D.C. 20213. Telephone: 202-376-6254.

SUPPLEMENTAL INFORMATION: This action is being taken by the Department to assure the effective utilization of all funds made available under CETA and, to the maximum extent possible, to assure that these funds are made available to those areas which are most in need of such funds.

Section 676.47 provides that the Department shall not consider as nonutilization carryover funds of up to 10 percent of the annual allocation for each subpart of a CETA prime sponsor's annual plan. Accordingly, the Department is advising all prime sponsors that carryover funds in excess of 10 percent of the annual allocation for programs funded under Titles II-D and VI of CETA shall be reallocated. It is also our intent to review all carryover funds in excess of 40 percent for programs funded under Title II-A, B and C, including Special Grants to Governors, to determine whether it is appropriate and necessary to reallocate nonutilized funds in excess of 40 percent of the annual allocation for these activities.

With respect to Youth Community Conservation Improvement Programs and youth Employment and Training Programs, it is the intent of the Department to reallocate all nonutilized funds in excess of 20 percent of the annual allocation for these programs. In accordance with the law, all Summer Youth Employment Program funds carried over from one fiscal year to the next will be combined with new obligational authority for the next year's program.

Since funds for the Private Sector Initiative Program were not made available until late in the fiscal year, no limitation is being established on the amount of carry forward into Fiscal Year 1979. Likewise, funds carried forward for programs such as the Skill Training Improvement Program (STIP) and the Help through Industry Retraining and Employment (HIRE) program shall not be subject to any reallocation action.

Robert Anderson,

Administrator, Office of Comprehensive Employment Development.

[FR Doc. 79-27327 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-109-C]

Ligon Preparation Co.; Petition for Modification of Application of Mandatory Safety Standard

Ligon Preparation Company, Post Office Box 47, Drift, Kentucky 41619 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its I-201 Mine located in Floyd County, Kentucky. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Due to hazardous roof conditions in the area of 11 seals in the petitioner's mine, it is virtually impossible to travel to the seals to inspect them as required.

2. As an alternative to weekly inspections of the seals, the petitioner proposes to establish an air monitoring checkpoint where the affected split of air enters the main return airway.

3. The petitioner will conduct tests for methane content, oxygen deficiency, and air quality at the checkpoint and record the results of the tests.

4. The petitioner believes that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 1, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 21, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-27331 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-M]

Rio Algom Corp.; Petition for Modification of Application of Mandatory Safety Standard; Correction

In 44 FR 44980 (July 31, 1979), the Mine Safety and Health Administration published notice that the Rio Algom Corporation had submitted a petition for modification of the application of 30 CFR 57.21-78. The following changes are made to correct typographical errors in that notice:

1. On page 44980, paragraph 5(d), "25 percent" is corrected to read "0.25 percent."

2. On page 44980, paragraph 5(f), "25 percent" is corrected to read "0.25 percent."

Dated: August 23, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-27332 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-129-C]

United States Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its Maple Creek No. 1 Mine located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. Progressive roof deterioration in specified return air entries of the petitioner's mine has resulted in numerous, massive roof falls in the entries.

2. Due to these adverse conditions, it is extremely hazardous and virtually impossible to travel and examine the entries.

3. The return airways ventilate only abandoned areas of the petitioner's mine.

4. Restoration of the return air entries is not feasible.

5. As an alternative to weekly examinations of the entries, the petitioner proposes to establish air monitoring stations designated on a map supplied with the petition where air measurements for the entries will be made according to procedures outlined in the petition.

6. The petitioner believes that this alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 1, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 17, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-27333 Filed 8-30-79; 8:45 am]

BILLING Code 4510-43-M

Occupational Safety and Health Administration

[V-79-3]

Airtek-Karrena Chimney Corp.

AGENCY: Occupational Safety and Health Administration Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of Airtek-Karrena Chimney Corporation for a variance and interim order pending a decision on the application for a variance from the standards prescribed in certain sections of 29 CFR 1926.552(c) concerning personnel hoists, and 1926.451(1)(5) concerning boatswain's chairs.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is August 31, 1 979. The last date for interested persons to submit comments is October 1, 1979. The last date for affected employers and employees to request a hearing on the application is October 1, 1979.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, telephone (202) 523-7193.

or the following Regional Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, JFK Federal Building, Room 1894, Government Center, Boston, Massachusetts 02203.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3663, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational, Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, 1961 Stout Street, Denver, Colorado 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, Califonria 94102.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 6048, 909 First Avenue, Seattle, Washington 98174.

I. Notice of Application

Notice is hereby given that Airtek-Karrena Chimney Corporation, 1776 Heritage Drive, Quincy, Massachusetts 02171 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.552(c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii), and (16) Personnel Hoist and 29 CFR 1926.451(1)(5) Boatswain's chairs.

The places of employment that will be affected by the application are all the applicant's chimney construction sites in States under Federal jurisdiction, and all future stack erection sites in States under Federal jurisdiction.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

The applicant requested a variance from Section 1926.451(1)(4) to permit the use of wire rope in lieu of manila rope. Section 1926.451(1)(4) requires an employee using a boatswain's chair to be protected by a safety belt and lifeline in accordance with Section 1910.104. Under § 1926.104(c) manila or equivalent rope is permitted. Since wire rope is equivalent to manila rope, a variance from § 1926.451(1)(4) is unnecessary.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by §§ 1926.451(1)(5) and 1926.552(c).

The applicant is engaged in the construction of chimneys and/or chimney liners. In erecting or repairing the chimney and/or chimney liner, work must be performed at elevations at which access ladders are impractical.

The applicant contends that it is not feasible to use personnel hoists meeting the requirements of certain sections of 1926.552(c) inside a chimney. In a small chimney there would be insufficient room to construct a hoist tower and the hoist tower would interfere with the design and construction of the chimney and and/or chimney liner.

Instead, the applicant states that it would use a system incorporating Special Workmen's Hoist and Safety Cages, boatswains chairs, and a material hoist. Specifically, the applicant proposes to transport personnel to and from the elevated platform, during maintenance (repair) or construction work on chimneys, utilizing a Special Workmen's Hoist, including the hoist machine, safety cage with safety cables on opposite sides, safety devices that will grip the safety cables in the event of any failure of the hositing cable and limit switches to prevent overrun of the cage at both top and bottom of the chimney; to transport personnel one at a time to and from the elevated scaffold during the maintenance or construction work on chimneys or chimney liners of a small diameter or from a bracket scaffold on the outside of a chimney utilizing a boatswain's chair attached to the hoisting cable of a material hoist from which the material bucket shall be temporarily disconnected; to attach the safety belt of the personnel being transported one at a time to or from the elevated scaffold in the boatswain's chair to a clamp riding a separate lifeline of ⅝-inch diameter wire rope securely attached to the rigging at the top and to a weight at the bottom; and to substitute the material hoist for the "block and falls" when transporting personnel one at a time in a boatswain's chair. The applicant has submitted detailed procedures which it will follow in transporting personnel by these means in lieu of the requirements of 29 CFR 1926.451(1)(5) and 29 CFR 1926.552(c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii) and (16).

A copy of the application will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than October 1, 1979. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than October 1, 1979, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. Interim Order

It appears from the application for a variance and interim order that, as required by section 6(d) of the Act, the use of a Special Workmen's Hoist to transport employees and the substitution of a materials hoist for block and falls on a boatswain's chair will provide to the affected employees a place of employment as safe as that which be provided if the applicant complied with 29 CFR 1926.451(1)(5) and 29 CFR 1926.552(c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii) and (16). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 19 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that Airtek-Karrena Chimney Corporation be, and it is hereby, authorized to utilize a Special Workmen's Hoist consisting of hoist machine and a special two-man safety cage to transport employees to and from the work platform, and to use a boatswain's chair to transport employees one at a time while substituting a materials hoist for the block and falls, provided that the following conditions are complied with.

I. Hoist Machine

a. *Requirements.* (1) The hoist machine shall be designated as a portable man hoist.

(2) The hoist machine shall be powered both in the up and down direction.

(3) The hoist machine shall be located far enough from the footblock to obtain correct fleet angle or proper spooling on the hoist drum.

(4) The hoisting machine shall be a type of which the car hoisting drum is driven in both directions of rotation and is automatically stopped and held rotationless upon loss of applied power so that the drum cannot be in a freewheeling condition. A drive system of which the hoisting drum can be placed into a freewheeling position for the purpose of lowering the car by use of the braking system or a system of which the velocity of the car being lowered is reduced by increasing the engine or motor speed shall not be allowed.

(5) The hoist machine shall be equipped with a hand or foot-operated constant pressure control switch (dead-man control) which shall stop the hoist immediately if released. The switch shall be provided with appropriate protection to prevent it from activating in the event it is struck by falling or moving objects.

(6) The hoist machine shall be equipped with a winding drum of not less than 30 times the diameter of rope used, with rope not to be spooled closer than two inches to edge of flange.

(7) The hoist machine shall be equipped with a line speed indicator maintained in good working condition.

(8) The hoist machine shall be equipped with *EITHER* two independently operated brakes each capable of holding the load as follows:

(i) An externally contracting band type brake mounted directly on the hoist drum. A foot pedal shall be located near the operator's seat for sit down control.

(ii) An electromagnetic braking device, capable of holding 150 percent of the rated load, which shall be automatically applied upon cessation of power. The electromagnetic brake shall be properly located in the drive between the power source and the drum.

Or, two independent band type brakes in conjunction with hydraulic braking, each capable of holding the load as follows:

(i) Two independent band type brakes, one mounted directly on the hoist drum the second mounted directly on the hydraulic motor which is spring engaged and hydraulically disengaged and will automaticaly engage upon cessation of power and capable of

withstanding 150 percent of the rated load.

(ii) Hydraulic braking system which is concurrent with hand control lever.

(9)(i) The hoist machine frame shall be self-supporting rigid, welded steel frame with skid base and holding brackets for anchor lines located at corners, as well as legs for anchor bolts.

(ii) The hoisting machine shall be securely anchored to prevent machine displacement, movement or dislodgment.

(10) Hoist machine wiring shall be equipped with terminal blocks for connections with limit switches that are placed at upper and lower end of travel to prevent the bottom of the cage from being taken above the platform level of the top scaffold or below the bottom loading platform. The hoist shall stop automatically if limit switch contact is opened.

(11) All electrical equipment shall be waterproof.

(12) The hoisting machine shall be electrically grounded.

(13) Single lever control for both speed and direction shall be used.

b. *Operating control.* (1) The operator of the hoist shall be an experienced operator.

(2) The hoist shall not be operated in excess of 250 ft/min. when carrying personnel.

(3) Signals shall consist of two-way radio or wired intercom between hoist operator, the lower landing and the upper landing.

c. *Hoist Rope.* (1) The hoisting rope shall be improved plow steel or equivalent quality of nonrotating type or regular lay rope with proper swivel and shall not be less than one-half inch diameter. It shall be attached to the cage by a closed hook or hook with locking swivel safety latch.

(2) Where clip fastener is used, the clips shall be installed in accordance with Table H–20, 29 CFR 1926.251(a)(2) and they shall be installed with "U" of clip on dead end rope. Spacing clip-to-clip shall be six times the diameter of the rope.

(3) The load end of the hoist rope shall be weighted to prevent line run

d. *Footblock.* (1) The fooblock shall be of construction type of solid single piece ball, which will prevent rope escapement due to sheave failure, and provide for rope return.

(2) The line diameter of the footblock shall be not less than 25 times the rope diameter.

(3) The change in direction of hoist rope at the footblock shall be approximately 90°.

e. *Cathead.* (1) The overhead sheave supports shall be securely fastened together by bolts or welds to prevent spreading. The sheaves shall be installed between the supporting members and shall rotate on a fixed shaft or the shaft shall revolve in pillow block bearing.

(2) The sheaves used on cathead shall have a minimum diameter equal to 24 times diameter of rope when travel of rope on the sheaves is approximately 90°. When using ½ inch diameter rope, the corresponding minimum sheave diameter shall be 12 inches.

II. Safety Cage

a. *Cage.* (1) The cage shall be of welded construction of two-man capacity.

(2) The framework of the cage shall be converted with aluminum expanded-Xor equivalent.

(3) The floor shall be of ¾ inch thick plywood securely fastened in place, or equivalent.

(4) The roof shall be slanted and of ⅛ inch thick aluminum or equivalent.

(5) The entrance to the cage shall have positive mechanical locking.

(6) Safety clamps shall be of a type that are portable and can be attached or detached from the safety cable. The clamps shall be fabricated 100 percent of stainless steel, having instant holding action, and a solid self-locking pin, spring loaded, for locking the two parts together.

(7) The safety clamps attached on opposite side of the cage shall grip the safety cables in case of emergency.

(8) The safety clamps shall operate on the broken rope principle.

b. *Safety cables.* (1) There shall be two steel safety cables suitable for use with safety clamps, as described in paragraph (g) (6), (7) and (8), or equivalent.

(2) One end shall be fastened to an overhead support which is supported independently of the overhead support for the hoist rope and the bottom end securely attached with approximately 100 pound tension on the ropes. Safety cables shall be ⅜ inch diameter when used with two-man cage.

c. *Capacity.* The maximum for the two-man cage shall be 2 men or 400 pounds. A sign stating capacity shall be posted in the cage.

d. *Emergency escape.* An emergency escape device with accommodations for each man in the cage with a minimum 9/16 inch braided nylon rope or better, long enough to reach the bottom landing from the highest escape point below the upper landing shall be securely attached to the inside of the cage. This means of escape is good only for one person at a time.

III. Welding and Electrical

All welding and electrical work shall be done in accordance with the appropriate standards.

IV. Inspection

(1) An inspection and test of all functions and safety devices of the Safety Cage shall be made under the supervision of a competent person prior to initial use on each job.

(2) Visual inspection shall be performed daily on the manlift system.

(3) A drop test shall be performed before initial use at each job and monthly thereafter for the duration of the job.

(4) A periodic inspection of the workplace shall be made to assure that employee exposure to carbon monoxide is below the threshold limit value.

Airtek Karrena Chimney Corporation shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for variance.

Effective date. This interim order shall be effective as of August 31, 1979, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C. this 24th day of August 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79–27328 Filed 8–30–79; 8:46 am]

BILLING CODE 4510–26–M

[V–77–12; V–77–6]

Francis Hankin & Co., Inc., and Pittsburgh-Des Moines Steel Co.; Grants of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grants of Variances.

SUMMARY: This notice announces the grants of variance to Francis Hankin & Co. Inc., and Pittsburgh-Des Moines Steel Company, from the standards prescribed in 29 CFR 1926.451(1) (4) and (5) concerning boatswain's chairs and in 29 CFR 1926.552 (c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii), and (16) concerning personnel hoists.

DATES: The effective date of the variances is August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N–3658, Washington, D.C. 20210, telephone (202)

523–7193, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, JFK Federal Building, Room 1804, Government Center, Boston, Massachusetts 02203.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 Dearborn Street, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 210 Walnut Street, Room 638, Des Moines, Iowa 50309.

U.S. Department of Labor, Occupational Safety and Health Administration, 228 N.E. Jefferson, 3rd Floor, Peoria, Illinois 61603.

U.S. Department of Labor, Occupational Safety and Health Administration, 55 Griffin Square Building, Room 602, Dallas, Texas 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, 1961 Stout Street, Denver, Colorado 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, California 94102.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 6048, 909 First Avenue, Seattle, Washington 98174.

I. Background

Francis Hankin & Co., Inc., 117 Crockford Blvd., Scarborough, Ontario, Canada MIR 3B9 and Pittsburgh-Des Moines Steel Co., 1015 Tuttle Street, Des Moines, Iowa 50308 have made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; U.S.C. 655) and 29 CFR 1905.11 for variances, and for interim orders pending a decision on the applications for variances, from the safety standards prescribed in 29 CFR 1926.451(1) (4) and (5) and 1926.552 (c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii), and (16). The standards set requirements governing the use of boatswain's chairs and personnel hoists. The facilities affected by the applications are all the applicants' present and future construction sites in States under Federal jurisdiction where chimney stack erection and chimney maintenance occur.

Notices of the applications, and grants of interim order were published in the Federal Register on October 4, 1977 (42 FR 54029) and April 1, 1977 (42 FR 17539) respectively. The notices invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variances requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for variances. One comment letter was received from the State of Michigan in response to the Federal Register Notice of Francis Hankin and Company, Inc. The issues raised by this comment letter are discussed below.

II. Facts

The applicants are engaged in chimney construction and maintenace work and state that all construction projects are under the direct spervision of its prinicpal offices even though the projects themselves are spread throughout the country.

In constructing a chimney, the elevated working platform or scaffolding is moved upward with the construction. In order for employees to reach such a platform, an access ladder or equivalent safe means of access must be provided as required by 29 CFR 1926.451(a)(13). The applicants state that as the height of the construction increases it becomes impractical to use an access ladder and another safe means of access must be provided.

There is insufficient room to construct a hoist tower as required by certain Sections of 29 CFR 1926.552(c) in small chimneys. The hoist would interfere with the design and construction of proper scaffolding. Since the hoist tower must be kept higher than the chimney construction, the frequent extension of the hoist tower involves many difficulties in erection, bracing, and guying. In order for a hoisting tower to operate properly, it must be maintained in a plumb position. Thus, it is difficult to provide safe access from an outside tower to the chimney over the increasing distances because of the tapering of the chimney toward the top. In addition, a hositing tower may be inoperable unless rigidity is maintained, which would be difficult with wind conditions at heights of several hundred feet.

Accordingly, in lieu of constructing a hoist tower as specified in 29 CFR 1926.552(c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii), and (16), the applicants use a special workmen's hoist with a hoist machine, safety cage, and safety cables, to transport employees to and from the elevated work platform. Some of the safety features of the special workmen's hoist include safety devices that will grip the safety cables in the event of any failure of the hositing cable and limit switches that will prevent overrun of the cage at both the top and bottom of the chimney. The applicants use the safety cage only for hoisting and lowering workmen. The safety cage and safety cables are pulled aside on the foundation when not in use and the hoisting rope-connection is transferred to the bucket for hoisting materials.

The applicants also state that becuase the safety cage operates on the inside of the chimney, it is not practical to use it to transport employees to and from the elevated scaffold when constructing a chimney or chimney lining of small diameter, or to transport employees to the bracket scaffold on the outside of a chimney. When it is not feasible to use the safety cage, the applicants raise and lower employees, one at a time, on a boatswain's chair. Because the height of the chimneys makes a block and falls difficult to manage, the applicants purpose to substitute a hoist for the block and falls required by § 1926.451(1)(5) when transporting employees in the boatswain's chair.

The material bucket would be temporarily disconnected from the hoisting cable and the boatswain's chair would be attached to the cable. To further insure the safety of the employee in the boatswain's chair, the employee's safety belt is attached to a suitable safety clamp riding a separate lifeline securely attached to the rigging at the top and to a weight at the bottom.

The applicants base their variance applications on many years of past experience in using safe practices in chimney construction. The applicants have also submitted detailed safety specifications for the use of a special workmen's hoist and safety cage which insure the protection of the safety of employees being transported in the safety cage.

III. Decision

29 CFR 1926.552(c) sets forth the requirements for the construction of hoist towers when used as personnel hoist both inside and outside of a structure. The primary purpose of the standard is to protect the safety of employees being mechanically transported from one elevation to another.

It appears from the applications and supporting data that there are special

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circumstances involved in transporting employees to and from the elevated work platforms and scaffolds in the chimney construction industry. It is found that there are may difficulties and hazards involved in the construction of hoist tower and in providing a safe means of access from the hoist tower to the elevated work platforms and scaffolds. The construction of hoist tower as required by 29 CFR 1926.552(c), (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14) (i) and (iii), and (16) is not a feasible method for transporting employees engaged in chimney construction work because of the tapering chimney and the difficulty in maintaining the required rigidity in wind conditions present at elevations of several hundred feet.

For these reasons, the applicants use a special workmen's hoist and safety cage to transport employees to and from the elevated work platform and scafford. The applicants have submitted safety specifications for a special workmen's hoist and safety cage which insure the protection and safety of employees. The safety specifications for the use of the hoist and safety cage have been incorporated in the final order granted below. The specifications include safety features which require limit switches to prevent overrun of the cage at the top and bottom of the chimney, and safety devices which will grip the safety cables in the event of failure of the basic hoisting facility.

29 CFR 1926.451(1)(4) requires an employee using a boatswain's chair to be protected by a safety belt and lifeline in accordance with § 1926.104. This is intended to protect the employee in the event of a fall.

During certain stages in the construction of chimneys, it is not always technically feasible for the applicants to use the safety cage to raise and lower employees. At times employees perform work from a bracket scaffold on the outside of a chimney. Since the safety cage operates on the inside of the chimney, this cannot be used to transport employees to and from the bracket scaffold. In other situations, the chimney or chimney liner are too narrow to permit the operation of the safety cage inside the chimney. In these instances, the applicants use a hoist to raise and lower employees, one at a time, in a boatswain's chair. During this procedure, the employee's safety belt is attached to a safety clamp riding a separate lifeline as an additional safety measure. The boatswain's chair is used only for transporting employees. The material bucket, which is used for transporting materials, is removed from the hoist cable when the boatswain's chair is used to transport an employee. This procedure is reversed when the transporting of materials is again required.

29 CFR 1926.451(1)(5) requires the use of a block and falls with a boatswain's chair. The primary purpose of the standard is to provide employees with a method of controlling their ascent while being transported in the boatswain's chair.

The block and falls required by 29 CFR 1926.451(1)(5) when using the boatswain's chair, is normally used to ascend heights of up to about 200 feet. Since the employees have to be elevated to heights of several hundred feet, the applicants substitute a hoist rope for the block and falls required by the standard.

It appears from the applications and supporting data that the procedures used by the applicants for transporting employees are more suited and adapted to the chimney construction industry than are the procedures required by the standards. The applicants have furnished information which show that the special workmen's hoist and safety cage and the boatswain's chair provide employees with a safe means of access to and from the elevated work platforms and scaffolds.

Therefore, it is determined that the transportation of employees through the methods described will provide employment and places of employment which are as safe and healthful as those which would prevail if the applicants were to comply with the requirements of 29 CFR 1926.552(c) and 29 CFR 1926.451(1) (4) and (5).

As stated in the Background section, one comment letter was received from the State of Michigan as a result of the **Federal Register** Notice of Francis Hankin and Company, Inc. The State made recommendations and expressed objections to the conditions of the interim order. The issues raised by the State are as follows:

(1) A recommendation was made to include, in the Order, the requirements of overhead protection for the operator and an enclosure to protect the operator against the elements. These requirements are mandatory and are addressed in other standards—§ 1926.552(b) (4) and (8) and ANSI A10.5–1969—applicable to the employer.

(2) There was a suggestion made that the operator be required to remain at the hoist machine at all times when the cage is aloft. OSHA agrees that total attendance by the operator is mandatory if employees are in the cage. When the cage is in an unoccupied elevated position, no hazard exists as the requirements of § 1926.552(b)(8) provides adequate coverage.

(3) There was disagreement with the idea of using safety hooks to attach the hoist rope to the cage. OSHA believes that a positive swivel type connection and other fully closed hooks, which develops the rated capacity of the hook bowl for the full circumference of the closed hook bowl is acceptable. However, States with State plans have the option of imposing additional requirements.

(4) The opinion was expressed that except for the cage design, the hoisting rope and the remainder of the system should be designed with a safety factor of 10. The applicant has exceeded this requirement by providing a safety factor of 13 to 1.

(5) The commentor recommended that the following safeguards be added to the Order: (1) limiting the dimensions of the cage to prevent more than two persons, plus equipment, to be contained in the cage; and (2) affixing a sign to the cage to indicate the capacity in weight and number of passengers. The two-man capacity requirements are referenced in the Order and the manufacturing posting requirements are referenced in the applicable provisions of § 1926.552(a)(2).

(6) There was objection to using a two-way radio as a means for signaling the operator. The commentor feels that only a wired intercom should be used. Since the two-way radio may be more effective than a wired intercom at a particular location, or vice versa, we have included both communicating systems in the *Order*. However, States operating under State plans have the option of requiring a wired intercom exclusively.

(7) A recommendation was made that a body harness be available for each passenger in the cage for emergency escape. An emergency escape device that may be reused will provide equivalent protection for each man in the cage.

(8) The statement was made that the requirements for inspection and replacement of hoist ropes should be included in the Order. Hoist rope inspection and replacement requirements are covered by the applicable provisions of § 1926.552 (a) and (b), and must be met by the applicant.

(9) There was a suggestion made to include in the inspection requirements that the drop test be witnessed by State enforcement personnel. States with State plans may require that the test be witnessed by State enforcement personnel.

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, section 107 of the Contract Work Hours and Safety Standards Act, as amended (83 Stat. 96 (40 U.S.C. 333)), 29 CFR Part 1905, 29 CFR 1926.2 and in Secretary of Labor's Order No. 8–76 (41 FR 25059), it is ordered that Francis Hankin & Co., Inc. and Pittsburgh-Des Moines Steel Company be, and they are hereby authorized to:

(1) Transport personnel to and from the elevated platform during construction work on chimneys, utilizing a special workmen's hoist, including the hoist machine, safety cage with safety cables on opposite sides, safety devices that will grip the safety cables in the event of any failure of the hoisting cable, and limit switches to prevent overrun of the cage at both top and bottom of the chimney in lieu of complying with 29 CFR 1926.552(c) (1), (2), (3), (4), (5), (6), (7), (8), (9), (12), (13), (14)(i) and (iii), and (16); and

(2) Transport personnel one at a time to and from the elevated scaffold during construction work on chimneys or chimney linings of a small diameter, or to and from a bracket scaffold on the outside of a chimney by utilizing a boatswain's chair attached to the hoisting cable of a hoist from which the material bucket shall be temporarily disconnected, with the safety belt of the personnel being transported in the boatswain's chair attached to a safety clamp riding a separate lifeline of ⅜ inch-diameter wire rope securely attached to the rigging at the top and to a weight at the bottom, and to substitute a hoist for the block and falls when transporting personnel in a boatswain's chair, in lieu of complying with 29 CFR 1926.451(1)(4) and (5); in accordance with the following additional conditions:

I. Hoist Machine

a. *Requirements.* (1) The hoist machine shall be of a type designated as a portable man hoist.

(2) The hoist machine shall be powered both in the up and down direction.

(3) The hoist machine shall be located far enough from the footblock to obtain correct fleet angle or proper spooling on the hoist drum.

(4) The hoist machine shall be a type by which the car hoisting drum is driven in both directions of rotation and is automatically stopped and held rotationless upon loss of applied power so that the drum cannot be in a freewheeling condition. A drive system by which the hoisting drum can be placed into a freewheeling position for the purpose of lowering the car by use of the braking system, or a system by which the velocity of the car being lowered is reduced by increasing the engine or motor speed shall be used.

(5) The hoist machine shall be equipped with a hand or foot-operated constant pressure control switch (deadman control) which shall stop the hoist immediately upon release. The switch shall be provided with appropriate protection to prevent it from activating in the event it is struck by falling or moving objects.

(6) The hoist machine shall be equipped with a winding drum of not less than 30 times the diameter of rope used, with rope not to be spooled closer than two inches to edge of flange.

(7) The hoist machine shall be equipped with a line speed indicator maintained in good working condition.

(8) The hoist machine shall be equipped with *EITHER*

(a) two independently operated brakes each capable of holding the load as follows:

(i) An externally contracting band type brake mounted directly on the hoist drum. A foot pedal shall be located near the operator's seat for sit-down control.

(ii) An electromagnetic brake device, capable of holding 150 percent of the rated load, which shall be automatically applied upon cessation of power. The electromagnetic brake shall be properly located in the drive between the power source and the drum.

OR (b) two independent band type brakes in conjunction with hydraulic braking, each capable of holding the load as follows:

(i) Two independent band type brakes, one mounted directly on the hoist drum, the second mounted directly on the hydraulic motor which are spring engaged and hydraulically disengaged, and will automatically engage upon cessation of power, and are capable of withstanding 150 percent of the rated load.

(ii) Hydraulic braking system which is concurrent with hand control lever.

(9)(i) The hoist machine frame shall be self-supporting, rigid, welded steel frame with skid base and holding brackets for anchor lines located at corners, as well as legs for anchor bolts.

(ii) the hoist machine shall be securely anchored to prevent machine displacement, movement or dislodgment.

(10) Hoist machine wiring shall be equipped with terminal blocks for connections with limit switches that are placed at upper and lower end of travel to prevent the bottom of the cage from being taken above the platform level of the top scaffold or below the bottom loading platform. The hoist shall stop automatically if limit switch contact is opened.

(11) All electrical equipment shall be waterproof.

(12) The hoisting machine shall be electrically grounded.

(13) Single lever control for both speed and direction shall be used.

b. *Operating control.* (1) The operator of the hoist shall be an experienced operator.

(2) The hoist shall not be operated in excess of 250 ft/min. when carrying personnel.

(3) Signals shall consist of two-way radio or wired intercom between hoist operator, the lower landing and the upper landing. The communication system shall be so designated to eliminate outside interference.

c. *Hoist rope.* (1) The hoisting rope shall be improved plow steel or equivalent quality of nonrotating type or regular lay rope with proper swivel and shall be not less than one-half inch diameter. It shall be attached to the cage by a closed hook or hook with locking swivel safety latch.

(2) Where clip fastener is used, the clips shall be installed in accordance with Table H–20, 29 CFR 1926.251(a)(2) and they shall be installed with "U" of clip on dead end of rope. Spacing clip-to-clip shall be six times the diameter of the rope.

(3) The load end of the hoist rope shall be weighted to prevent line run.

d. *Footblock.* (1) The footblock shall be of construction type of solid single piece bail, which will prevent rope escapement due to sheave failure, and provide for rope return.

(2) The line diameter of the footblock shall be not less than 24 times the rope diameter.

(3) The change in directions of hoist rope at the footblock shall be approximately 90°.

3. *Cathead.* (1) The overhead sheave supports shall be securely fastened together by bolts or weld to prevent spreading. The sheaves shall be installed between the supporting members and shall rotate on a fixed shaft or the shaft shall resolve in pillow block bearings.

(2) The sheaves used on cathead shall have a minimum diameter equal to 24 times diameter of rope when travel of rope on the sheaves is approximately 90°. When using ½ inch diameter rope, the corresponding minimum sheave diameter shall be 12 inches.

II. Safety Cage

a. *Cage.* (1) The cage shall be of welded construction of two-man capacity.

(2) The framework of the cage shall be covered with aluminum expand-X or equivalent.

(3) The floor shall be ¾ inch thick plywood or equivalent securely fastened in place.

(4) The roof shall be slanted and 2 thicknesses of ¼ inch plywood, or ⅛ inch thick aluminum, or equivalent.

(5) The entrance to the cage shall have positive mechanical locking.

(6) Safety clamps shall be of a type that are portable and can be attached or detached from the safety cable. The clamps shall be fabricated 100 percent of stainless steel, have instant holding action, and a solid self-locking pin, spring loaded, for locking the two parts together.

(7) The safety clamps attached on opposite sides of the cage shall grip the safety cables in case of emergency.

(8) The safety clamps shall operate on the broken rope principle.

b. *Safety cables.* (1) There shall be two steel safety cables suitable for use with safety clamps, as described in paragraph II, (a) (6), (7) and (8), or equivalent.

(2) One end shall be fastened to an overhead support which is supported independently of the overhead support for the hoist rope and the bottom end securely attached with approximately 100 pound tension on the ropes. Safety cables shall be ½ inch diameter.

c. *Capacity.* The maximum for the two-man cage shall be 2 men or 400 pounds. A sign stating capacity shall be posted in the cage.

d. *Emergency escape.* An emergency escape device, with accommodations for each man in the cage, with a minimum ⅝ inch braided nylon rope or better, which will enable each man in the cage to reach the bottom landing from the highest escape point below the upper landing shall be securely attached to the inside of the cage. This means of escape is good only for one person at a time.

III. Welding and Electrical

All welding and electrical work shall be done in accordance with the appropriate standards.

IV. Inspection

(1) An inspection and test of all functions and safety devices of the Safety Cage shall be made under the supervision of a competent person prior to initial use on each job.

(2) Visual inspection shall be performed daily on the manlift system.

(3) A drop test shall be performed before initial use at each job and monthly thereafter for the duration of the job.

(4) A periodic inspection of the workplace shall be made to assure that employee exposure exposure to carbon monoxide is below the threshold limit value.

As soon as possible Francis Hankin & Company Inc. and Pittsburgh-Des Moines Steel Company, shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of their applications for a variance.

Effective date. This order shall become effective on August 31, 1979, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 24th day of August, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-27329 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-26-M

[V-77-10]

Inmont Corp.; Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of Variance.

SUMMARY: This notice announces the grant of variance to Inmont Corporation from the standard prescribed in 29 CFR 1910.106(h)(4)(i)(*c*) which requires that storage tanks inside of buildings shall be located above grade with adequate drainage and separated from the processing area by construction having a fire resistence rating of at least two hours.

DATE: The effective date of the variance is August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N-3656, Washington, D.C. 20210, Telephone: (202) 523-7193, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 1400 Torrence Avenue, 2nd Floor, Calumet City, Illinois 60409.

I. Background

Inmont Corporation, 3030 West 51st Street, Chicago, Illinois 60632, made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance and for an interim order pending a decision on the application for a variance from the safety and health standards prescribed in 29 CFR 1910.106(h)(4)(i)(*c*). The standard sets the condition for storage of flammable and combustible liquids inside buildings. The address of the place of employment affected by the application is as follows:

Inmont Corporation, 3030 West 51st Street, Chicago, Illinois 60632.

Notice of the application and of the granting of the interim order were published in the **Federal Register** on August 9, 1977 (42 FR 40270-71). The notice invited interested persons, including affected employers and employees to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. Facts

The applicant is a manufacturer of flammable solvent base printing inks. The solvents include barium lithol pigment, exempt lactol spirits, toluene, metal resinate of wood rosin, ethyl cellulose, and wax compound. The ink is transferred from the main processing building to the South Finishing Ink Tank Storage Building by an overhead enclosed pipe bridge. Here it is stored in tanks until transferred by pump and pipe line to tank wagons located at the exterior of the building.

The South Finishing Ink Tank Storage Building is constructed of a single exterior wall consisting of an inside 3¾" concrete block brick (with no voids) and then a 3½", thick face brick exterior. All concrete bricks and blocks are joined together with mortar while the two wall members are joined with morter and tie strips. Two double wooden doors are located at each end of the 95' long building. The roof of the building is of a pre-stressed concrete design. The concrete floor on which 26 storage tanks are mounted is approximately 6' 8" below grade level.

Storage tanks are equipped with gauges, self closing valves, automatic lubricators, side entering agitators, and an overflow protection system. The applicant contends that each tank normally holds 2,000 to 4,000 gallons of ink. It further states that the building is only occupied for 5 to 10 minutes at any one time by employees reading gauges during the ink transfer operation and while oiling automatic lubricators (approximately 3 hours weekly).

The applicant states that is is unable to comply with the standard because sufficient space is not available to relocate the storage tanks. Instead, it has installed a mechanical exhaust ventilation system (equipped with two fans) which exceed one cubic foot of air movement per minute per square foot of building area. This system is specifically designed to remove floor level vapors from below grade spaces (exhaust ducts approximately 18" from the floor). In addition, a vapor detection system, with 10 monitoring units, assures that flammable vapor concentration is kept below 25 percent of the lower flammable limits (LFL), and there are two additional automatically activated exhaust fans to double the air evacuation in case of LFL increase. Also, a constantly supervised fan monitoring panel verifies that all exhaust and make-up air ventilation operates properly.

In the event the flammable vapor concentration approaches 25 percent of the LFL, the vapor detection system activates and sounds an audible alarm in both the South Finishing Ink Tank Storage Building and the plant's production office. An alarm also activates in the event of power failure. Once an alarm sounds, a flashing red light (located above the front door of the storage building) is put into operation to alert employees not to enter the building and to evacuate the area. An additional light and buzzer activates in the plant supervisor's office.

In the event of a fire and/or explosion, an additional alarm sounds when the heat sprinkler system is activated. This alarm is audible throughout the storage building and the entire plant. When the alarm sounds, all employees, except trained fire brigade members, are evacuated. The local Fire Department is summoned by the American District Telegraph Company (ADT) which monitors the plant's main fire pump controls 24 hours daily.

Other safeguards in the South Finishing Ink Tank Storage Building include: explosion-proof electrical equipment and wiring; extensive bonding and grounding; emergency lighting; smoke, heat, and explosion relief; catwalk; pumping system to handle ground water seepage; No Smoking and Exit signs; excellent housekeeping; and, two portable fire extinguishers. There are three large wheeled dry chemical fire extinguishers next to the storage building to protect the adjacent yards.

III. Decision

Section 1910.106(h)(4)(i)(*c*) requires that storage tanks inside of buildings shall be located at or above grade with adequate drainage and separated from the processing area by construction having a fire resistance rating of at least two hours. The purpose of the standard is to prevent fire and/or explosion by eliminating vapors which are heavier than air from accumulating in spaces below grade level or pits.

In this situation, 28 storage tanks containing flammable solvent base printing inks are mounted inside of the applicant's South Finishing Ink Tank Storage Building 6'8" below grade level. These tanks cannot be relocated due to insufficient space. However, the possibility of a fire and/or an explosion is unlikely because of the following reasons:

The low level mechanical exhaust ventilation system is capable of removing flammable vapors in spaces below grade.

If the mechanical exhaust ventilation system fails to provide the required ventilation, two exhaust fans automatically activate to maintain flammable vapor concentrations below 25 percent of the LFL.

A constantly supervised fan monitoring panel assures that all exhaust and make-up air ventilation is sufficient enough to dilute the flammable vapors below 25 percent of the LFL.

In the event flammable vapor concentration approaches 25 percent of the LFL, a vapor detection system activates and sounds an audible alarm that notifies employees to evacuate the storage building until adequate ventilation has been established.

Since the storage tanks are equipped with agitators that eliminate tank cleaning, the ink transfer operation is done in an enclosed system, and the tank overflow devices prevent spillage of flammable inks, all ignition sources are adequately secured.

Thus, by installing the above safeguards, adequate ventilation is maintained, flammable vapors are removed from the areas below grade, and the fire/explosion hazard is either eliminated or controlled.

Moveover, if a fire/explosion occurs inside of the storage building, the sprinkler system activates automatically and sounds an audible alarm throughout the entire facility. This alarm is also transmitted to a central control station to assure that the local Fire Department is immediately summoned. An employee can evacuate the storage building in less than two minutes since the travel distance to the nearest means of egress from any point in the building is less than 50 feet (the building is 95' long).

The fact that the employees only occupy the building 5 to 10 minutes at a time to perform non-hazardous duties—reading guages and oiling lubricators—reduces their exposure to hazardous flammable vapor concentrations and also fire/explosions.

The Emergency Evacuation Plan is representative of OSHA's intent to permit fire brigades where there is adequate training, organization, and planning to assure that the safety and health of employees are not jeopardized.

A variance investigation was conducted by OSHA representatives of the storage building. As a result, they support the granting of the variance.

Therefore, for the above reasons it has been determined that the applicant is providing a place of employment as safe as that which would be obtained by complying with § 1910.106(h)(4)(i)(*c*).

IV. Order

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Inmont Corporation be, and is hereby authorized to store its flammable inks in storage tanks located inside of its South Finishing Ink Tank Storage Building provided that the following conditions are followed:

(1) Exhaust ventilation across the storage area, in those places where flammable vapors may collect, shall maintain a level of vapor concentration below 25 percent of the LFL.

(2) Constant monitoring of the storage room atmosphere shall be conducted to assure that the level of flammable vapor concentrations is below 25 percent of the LFL.

(3) If the specified levels are exceeded, a distinctive alarm perceivable above ambient noise or light levels shall alert the employees when there is an emergency situation. Employees shall immediately evacuate the storage building and its surrounding area.

(4) Employees shall be trained to recognize the emergency evacuation alarm.

(5) The Emergency Evacuation Plan shall be enforced and include the following procedures:

(a) Only employees trained and educated to handle flammable liquid vapor leaks shall be allowed to reenter the storage area to reestablish safe vapor concentrations. These employees shall be provided with proper personal protective clothing and equipment. They shall be required to wear (as appropriate) foot, leg, body, hand, head, eye, face, and respiratory protection.

(b) All untrained employees shall remain out of the area until vapor concentrations are below 25 percent of the LFL.

(c) Only upon reestablishment of the safe limit shall normal work operations resume.

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(d) All employees shall be instructed in the Emergency Evacuation Plan procedures.

(6) Storage tanks shall not be more than 6'8" below the earth's grade level.

(7) "No Smoking" signs shall be conspicuously displayed near the storage tanks.

(8) All exits shall be properly marked by a readily visible sign.

(9) Fire doors shall be installed at each end of the storage building.

(10) All pipes shall be disconnected on the storage tank without an agitator.

(11) The catwalk shall only be used for reading top tank controls and evacuation purposes.

As soon as possible, Inmont Corporation shall give notice of the terms of the order to affected employees by the same means required to be used to inform them of the application for variance.

This order shall become effective on August 31, 1979, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 24th day of August, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-27330 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-5588]

Adriana Coat Co., Jersey City, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In ordr to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at the Adriana Coat Company, Jersey City, New Jersey. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey of manufacturers for whom Adriana Coat performed contract work indicated that those manufacturers which accounted for the decline in Adriana Coat's business increased the amount of contract work they let to other domestic coat contractors and purchased only insignificant quantities of imported ladies' coats. None of these manufacturers reduced orders with domestic sources as a result of declining coat sales. Adriana Coat's contract business increased in the first six months of 1979 compared to the first six months of 1978.

Conclusion

After careful review, I determine that all workers of the Adriana Coat Company, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27286 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of August 1979

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ala Knitwear, Ltd (workers)	Richmond Hill, N.Y.	Aug. 16, 1979	July 23, 1979	TA-W-5,916	Ladies' sweaters.
Douglas & Lomason Company (UAW)	Manaana, Ark.	Aug. 16, 1979	Aug. 8, 1979	TA-W-5,917	Metal frames.
Linden Products Company (workers)	Linden, Tenn.	Aug. 23, 1979	Aug. 20, 1979	TA-W-5,918	Auto parts.
P.L.P. Sportswear, Inc. (ILGWU)	New York, N.Y.	Aug. 21, 1979	Aug. 13, 1979	TA-W-5,919	Ladies' coats.
Plymouth Rubber Company, Inc. (URW)	Canton, Mass.	Aug. 22, 1979	Aug. 15, 1979	TA-W-5,920	Rubber bands, rubber and vinyl soles, rubber and plastic tapes, furniture coverings (vinyl).
Rochelle Modes (ILGWU)	Bronx, N.Y.	Aug. 22, 1979	Aug. 15, 1979	TA-W-5,921	Ladies' robes.
Uniroyal, Inc., Opelika Tire Plant (URW)	Opelika, Ala.	Aug. 22, 1979	Aug. 10, 1979	TA-W-5,922	Tires.

[FR Doc. 79-27287 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 23rd day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Bazaar, Inc. (ILGWU)	New Britain, Conn.	Aug. 21, 1979	Aug. 14, 1979	TA-W-5,884	Ladies' outerwear.
Auto Terminals, Inc. (workers)	Fenton, Mo.	Aug. 21, 1979	Aug. 7, 1979	TA-W-5,885	Release to carriers (truck-rail) autos then taken to showrooms.
Bradley Coats, Inc. (ILGWU)	New Haven, Conn.	Aug. 21, 1979	Aug. 14, 1979	TA-W-5,886	Ladies' coats.
Carousel Slacks (ACTWU)	Hammonton, N.J.	Aug. 21, 1979	Aug. 8, 1979	TA-W-5,887	Men's and ladies' slacks.
Clearwater Finishing Plant (Machine Printers & Engravers Assn.).	Clearwater, S.C.	Aug. 21, 1979	Aug. 15, 1979	TA-W-5,888	Printing of textile cloth.
Goodyear Tire & Rubber Co., Inc. (URW)	Los Angeles, Calif.	Aug. 21, 1979	Aug. 7, 1979	TA-W-5,889	Small truck tires, truck tires, mobile home tires, recreational and off road tires, and vehicle tires.
Morgy Morganstern Corp. (workers)	New York, N.Y.	Aug. 20, 1979	July 25, 1979	TA-W-5,890	Brought and sold vinyl plastics.
Parisian Garment Co. (ILGWU)	Bridgeport, Conn.	Aug. 21, 1979	Aug. 14, 1979	TA-W-5,891	Contractor of ladies' coats.
Penn State Clothing Corp. (workers)	Philadelphia, Pa.	Aug. 21, 1979	Aug. 10, 1979	TA-W-5,892	Men's tailored suits and sportcoats.
Rennie Mfg. Co. DBA Jaral (workers)	Boston, Mass.	Aug. 21, 1979	Aug. 13, 1979	TA-W-5,893	Curtains and drapenes.
Serval Slide Fasteners, Inc. (ILGWU)	Flushing, N.Y.	Aug. 21, 1979	Aug. 8, 1979	TA-W-5,894	Zippers.
Stride Rite Corp. (United Food & Commercial Workers International Union).	Auburn, Maine.	Aug. 20, 1979	Aug. 8, 1979	TA-W-5,895	Footwear.
Will Knit Fabrics, Ltd. (workers)	New Hyde Park, N.Y.	Aug. 20, 1979	Aug. 12, 1979	TA-W-5,896	Double knit fabrics.
Wilton Tanning Co. (company)	East Wilton, Maine.	Aug. 20, 1979	Aug. 14, 1979	TA-W-5,897	Lambskin suede and grain.

[FR Doc. 79-27288 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition	Articles produced
Aris Electric (I.U.M.S.W.A.)	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,898	Conversion, repair, overhaul and maintenance of marine vessels.
Brady Marine Repair Co. (I.U.M.S.W.A.)	Elizabeth, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,899	Conversion, repair, overhaul and maintenance of marine vessels.
Brewer Dry Dock Company (I.U.M.S.W.A.)	Staten Island, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,900	Conversion, repair, overhaul and maintenance of marine vessels.
Ira S. Bushey & Sons (I.U.M.S.W.A.)	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,901	Conversion, repair, overhaul and maintenance of marine vessels.
Coastal Dry Dock & Repair Corp. (I.U.M.S.W.A.).	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,902	Conversion, repair, overhaul and maintenance of marine vessels.
G & M Metal Fabricating Corp. (I.U.M.S.W.A.).	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,903	Ventilation sheet metal work.
General Dynamics Corp., Quincy Shipbuilding Div. (I.U.M.S.W.A.).	Quincy, Mass	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,904	Ocean-going ships, tankers, bulk cargo vessels, passenger ships, Texas Towers, chemical tankers, large trawlers, jumbolizing tankers, roll on/roll off ships, L.N.G.'s, etc.
Kearney Marine & Industrial Service (I.U.M.S.W.A.).	Linden, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,905	Conversion, repair, overhaul and maintenance of marine vessels.
Madison Contractors, Inc. (I.U.M.S.W.A.)	Weehawken, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,906	Electrical repair work on marine vessels.
H. W. Ramberg (I.U.M.S.W.A.)	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,907	Machine work.
Reynolds Shipyard Corp. (I.U.M.S.W.A.)	Staten Island, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,908	Conversion, repair, overhaul and maintenance of marine vessels.
Rodermond Industries (I.U.M.S.W.A.)	Jersey City, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,909	Conversion, repair, overhaul and maintenance of marine vessels.
Scandanavian Marine Products (I.U.M.S.W.A.)	Port Newark, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,911	Conversion, repair, overhaul and maintenance of marine vessels.
Seaare Marine, Inc. (I.U.M.S W.A.)	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,910	Fabricate parts for repairing vessels, conversion, repair, overhaul and maintenance of marine vessels.
Todd Shipyard Corp., Brooklyn Division (I.U.M.S.W.A.).	Brooklyn, N.Y	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,912	Conversion, repair, overhaul and maintenance of marine vessels.
Turbine Enterprises, Inc. (I.U.M.S.W.A.)	Elizabeth, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,913	Conversion, repair, overhaul and maintenance of marine vessels.
Union Dry Dock & Repair Co., Inc. (I.U.M.S.W.A.).	Weehawken, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,914	Conversion, repair, overhaul and maintenance of marine vessels.
Union Maintenance Corporation (I.U.M.S.W.A.).	Hoboken, N.J	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,916	Sand blasting and painting ships.

[FR Doc. 79-27289 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5661]

Armco Steel Corp., Metal Products Division, Davis, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on June 21, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing corrugated steel pipe for Armco Steel Corporation, Davis, California. The investigation revealed that the petition was filed by the United Steelworkers of America on behalf of the workers and former workers producing corrugated steel pipe and multi-plate for Armco Steel Corporation, Metal Products Division, Davis, California. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of corrugated steel pipe and multi-plate are negligible. A survey of principal importers of pipe and similar articles failed to reveal any importers of corrugated drainage pipe. The importer cited the bulkiness of this item and the resulting high freight costs as reasons for not importing drainage pipe. The multi-plate produced at the plant is corrugated steel pipe at a later stage of processing.

The Department conducted a survey of customers purchasing corrugated steel pipe and multi-plate from the Davis plant. None of the surveyed customers purchased imported corrugated steel pipe or multi-plate.

Conclusion

After careful review, I determine that all workers of Armco Steel Corporation, Metal Products Division, Davis, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc 79-27290 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5589]

Avante Fashions, Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Avante, Hoboken, New Jersey. The investigation revealed that the correct name of the company is Avante Fashions. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The value of Avante Fashion's sales increased in 1978 compared to 1977. A survey of the manufacturers for whom Avante performed a majority of its contract work in 1977, 1978 and the first half of 1979 was conducted. Manufacturers that decreased purchases from Avante reported increasing sales of ladies' coats and increasing reliance on other domestic contracts for ladies' coats in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Avante Fashions, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27291 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5742]

Beacon Tex Print, Ltd., Beacon, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 16, 1979 in response to a worker petition received on July 10, 1979 which was filed by the United Textile Workers of America on behalf of workers and former workers printing textiles at Beacon Tex Print, Limited, Beacon, New York. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric (bleached, dyed, and printed) decreased during the first quarter of 1979 compared with the first quarter of 1978. The ratios of imports to domestic production and consumption have been less than 2 percent in each year since 1974.

The Department conducted a survey of Beacon Tex Print's customers for their purchases of imported finished fabric. Survey respondents reported they did not purchase imported fabric.

Conclusion

After careful review, I determine that all workers of Beacon Tex Print, Limited, Beacon, New York are denied eligibility to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27292 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5757]

Beattie Manufacturing Co., Little Falls, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 17, 1979 in response to a worker petition received on July 12, 1979 which was filed on behalf of workers and former workers producing rugs and carpets at Beattie Manufacturing Company, Little Falls, New Jersey. The investigation revealed that the plant produces tufted carpets and does not produce rugs. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of tufted carpets and rugs were negligible relative to U.S. production in each year from 1974 through the first quarter of 1979. Over the past five years, U.S. imports have been less than one-half of one percent of

the U.S. production of tufted carpets and rugs.

Conclusion

After careful review, I determine that all workers of Beattie Manufacturing Company, Little Falls, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27293 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[Ta-W-5662]

Cerro Coat, Inc., Hoboken, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Cerro Coat, Inc., Hoboken, New Jersey. The investigation revealed that the plant primarily produces ladies' coats and ladies' raincoats. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets and U.S. imports of women's, girls' and infant's raincoats increased absolutely in 1978 compared to 1977.

The Department conducted a survey of the manufacturers for which Cerro Coat, Inc. produces ladies' coats and raincoats. The survey indicated that one manufacturer, which represented the majority of contract work performed by Cerro Coat, Inc. in 1977, decreased contracts for ladies' coats with Cerro Coat, Inc. in 1978 compared to 1977 and increased purchases of imported ladies' coats.

This manufacturer also decreased contract work with other domestic sources in 1978. The same manufacturer decreased contracts for ladies' coats for Cerro Coat, Inc. and increased purchases of imported coats in the first six months of 1979 compared to the first six months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats and raincoats produced at Cerro Coat, Inc., Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cerro Coat, Inc., Hoboken, New Jersey engaged in employment related to the production of ladies' coats and raincoats who became totally or partially separated from employment on or after June 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th Day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27294 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5663]

Chrysler Corp., Lyons Trim Plant, Lyons, Mich.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, on August 3, 1979, the Department of Labor issued a certification of eligibility to apply for adjustment assistance to workers engaged in employment related to the production of seat cushion and back covers, and door and quarter trim panels at Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan.

Subsequent to the certification, the Office of Trade Adjustment Assistance received an inquiry requesting coverage of all workers at Chrysler Corporation's Lyons Trim Plant. As a result of investigation TA-W-5663, workers engaged in employment related to the production of vinyl roofs were denied eligibility to apply for adjustment assistance benefits. Vinyl roof production had been shifted to another domestic Chrysler plant and was not affected by imports. Further investigation revealed that workers at the Lyons Trim Plant are not separately identifiable by product line, as originally believed. All workers at the plant were used interchangeably on all three product lines. Any worker who performed work related to the production of vinyl roofs also spent a substantial amount of time in work related to the production of seat cushion and back covers, and door and quarter trim panels. Therefore, the certification is revised to cover all workers at Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan.

Conclusion

The revised certification applicable to TA-W-5663 is hereby issued as follows:

All workers of Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan who became totally or partially separated from employment on or after February 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27295 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5703]

Collateral Control Corp., DeQueen, Ark.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers of Collateral Control Corporation, St. Paul, Minnesota, performing bonded warehousing operations at Rubber Corporation of Arkansas, DeQueen, Arkansas.

It is concluded that all of the requirements have been met.

Workers of Rubber Corporation of Arkansas, DeQueen, Arkansas were certified eligible to apply for adjustment assistance on March 25, 1977 TA-W-1520; (42 FR 18162, April 5, 1977). That determination resulted from a finding that increased imports of articles like or directly competitive with the canvas and rubber footwear produced by Rubber Corporation of Arkansas contributed importantly to the decline in sales and production and separation of workers of that firm.

Investigation revealed that several employees of Rubber Corporation of Arkansas engaged in warehousing operations were actually on the payroll of Collateral Control Corporation (headquarters-Minneapolis, Minnesota) in order to satisfy requirements for third party control of inventory used as collateral to secure bank financing. Workers on the Collateral Control payroll performed warehousing operations identical to those performed by warehouse workers on the payroll of Rubber Corporation of Arkansas. The reduced operations and ultimate closure of Rubber Corporation of Arkansas resulted in the layoff of warehouse employees on the payroll of Collateral Control Corporation as well as those on the payroll of Rubber Corporation of Arkansas. Thus, the conditions surrounding the layoff of workers on the payroll of Collateral Control Corporation at the DeQueen plant were identical to those surrounding the layoff of workers of Rubber Corporation of Arkansas at that facility.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the canvas and rubber footwear produced at Rubber Corporation of Arkansas, DeQueen, Arkansas contributed importantly to the decline in sales or production and to the total or partial separation of workers of Collateral Control Corporation, DeQueen, Arkansas. In accordance with the provisions of the Act, I make the following certification:

All workers of Collateral Control Corporation, DeQueen, Arkansas who became totally or partially separated from employment on or after June 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27296 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5436]

Cooper-Wiss, Newark, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 21, 1979 in response to a worker petition received on May 18, 1979 which was filed by the AFL-CIO, Local 262, New Jersey on behalf of workers and former workers producing scissors and shears at Cooper-Wiss, Newark, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of scissors and shears have increased absolutely in 1978 compared to 1977, and in the first quarter of 1979 compared to the like quarter of 1978.

The Department conducted a survey of customers purchasing scissors and shears from Cooper-Wiss, Newark, New Jersey. Some of the customers responding to the survey indicated decreased purchases of scissors and shears from Cooper-Wiss and simultaneous increases in the purchases of products from foreign sources in 1978 compared to 1977, and in the first quarter of 1979 compared to the like quarter of 1978.

Cooper-Wiss began shut down procedures of the Newark, New Jersey plant on August 6, 1979. Workers at the Newark plant are scheduled for lay off by December 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with scissors and shears produced at Cooper-Wiss, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Cooper-Wiss, Newark, New Jersey, engaged in employment related to the production of scissors and shears at the Newark, New Jersey facility who became totally or partially separated from employment on or after July 27, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 22nd day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27297 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5593]

Cousins, West New York, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies coats at Cousins, West New York, New Jersey. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A department survey of manufacturers for whom Cousins performed contract work revealed that those manufacturers which decreased their business with Cousins during the period of investigation increased their business with other domestic sources and experienced increasing sales of ladies' coats. The manufacturer which accounted for the bulk of Cousins' business declines in the first five months of 1979 compared to the first five months of 1978 did not purchase imported ladies' coats, did not utilize foreign contractors.

Conclusion

After careful review, I determine that all workers of Cousins, West New York, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27298 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5594]

Cowan, Frank Manufacturing Co., Inc., San Francisco, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 7, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing juniors' dresses at Cowan, Frank Manufacturing Company, Incorporated, San Francisco, California. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with the customers of Cowan, Frank Manufacturing Company, Incorporated. The survey revealed that the majority of customers did not purchase imported juniors' dresses in 1977, 1978 or in the first four months of 1979. The major customer who purchased imported juniors' dresses made its first purchase from Cowan, Frank Manufacturing Company in the January through April period of 1979.

Conclusion

After careful review, I determine that all workers of Cowan, Frank Manufacturing Company, Incorporated, San Francisco, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27299 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5595]

Dante Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Dante, Hoboken, New Jersey. The investigation revealed that the correct corporate title is Dante Fashions, Incorporated. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Manufacturers for whom Dante did contract work who decreased contract work with Dante in 1978 compared with 1977 reported that their total sales of ladies' coats had remained substantially unchanged from 1977 to 1978 and that their imports of ladies' coats had decreased in 1978 compared with 1977. Those manufacturers that decreased contract work with Dante in the first half of 1979 compared to the same period in 1978 have also reported increased sales of ladies' coats and increased contracts with other domestic contractors during this period.

Conclusion

After careful review, I determine that all workers of Dante Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27300 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5597]

Delcor Fashions Co., Inc., Jersey City, N.J.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Delcor, Jersey City, New Jersey. The investigation revealed that the correct name of the company is Delcor Fashions Company, Incorporated. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers Delcor Fashions worked for in 1977, 1978 and 1979 was conducted. Manufacturers that decreased purchases from the subject firm either decreased imports of ladies' coats or increased their contracts with other domestic sources during the period under investigation.

Conclusion

After careful review, I determine that all workers of Delcor Fashions Company, Incorporated, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27301 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5617]

Donna Coal Corp., Ethel, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on June 12, 1979 which was filed on behalf of workers and former workers producing coal at Donna Coal Corporation, Ethel, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Employment at Donna Coal Company remained unchanged in 1978 compared to 1977. The major customer of Donna Coal Company increased purchases of domestically produced coke in the first five months of 1979 compared to the first five months of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude all workers of Donna Coal Corporation, Ethel, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27302 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5634]

E. I. du Pont de Nemours & Co., Inc., Chambers Works Deepwater, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed by the Chemical Workers Association, Incorporated on behalf of workers and former workers producing dyes, tetra ethyl lead, Freon, various chemical intermediates and Hylene at the Chambers Works, Deepwater, New Jersey of E. I. Dupont de Nemours and Company, Incorporated. The investigation revealed that the plant produces primarily dyes, cyclic intermediate chemicals, gasoline anti-knock compounds containing tetra ethyl lead, Freon and several elastomers including Hylene. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Dyes and Cyclic Intermediate Chemicals

The Office of Trade Adjustment Assistance conducted a survey of customers which purchase dyes and cyclic intermediate chemicals from Dupont. None of the customers of cyclic intermediates who responded reduced purchases of cyclic intermediates from Dupont and increased purchases of imported cyclic intermediate chemicals in 1978 compared to 1977 and in the first half of 1979 compared to the first half of 1978. None of the customers of dyes reduced purchases of dyes from Dupont and increased purchases of imports in 1978 compared to 1977. Those customers who reduced purchases of dyes from Dupont and increased purchases of imported dyes in the first half of 1979 compared to the first half of 1978 did not represent a significant proportion of dyes sales from the Chambers Works in 1978. Sales and production of dyes and cyclic intermediates at the Chambers Works increased in the third and fourth quarters of 1978 and in the first and second quarters of 1979 compared to the same quarters one year earlier.

United States exports of cyclic intermediates and dyes have exceeded imports in every year from 1973 through 1978.

Elastomers

The Office of Trade Adjustment Assistance conducted a survey of customers which purchase the elastomers made at the Chambers Works. The customers were asked about their purchases of the specific elastomers made at the Chambers Works and any other products that they could use for the same purpose. None of the customers responding purchased any imported products in this category in 1977, 1978 or in the first half of 1979.

Gasoline Anti-Knock Compounds

The Office of Trade Adjustment Assistance conducted a survey of Dupont's customers of gasoline anti-knock compounds. None of the customers responding purchased any imported gasoline anti-knock compounds in 1977, 1978 or in the first half of 1979. Customers indicated that a switch to unleaded gasoline in response to U.S. Government environmental regulations is reducing the demand for anti-knock compounds. The U.S. ratio of imports to domestic production for gasoline anti-knock compounds was less than one percent in every year from 1973 through 1978 and in the first half of 1979. More than 10 percent of U.S. production of gasoline anti-knock compounds was exported in each of those same time periods.

Freon

The Office of Trade Adjustment Assistance conducted a survey of customers who purchased Freon products from Dupont. Customers were asked about their purchases of Freons made at the Chambers Works and their generic equivalents. None of the customers responding purchased any imports in these categories in 1977, 1978 or the first half of 1979. Customers indicated that U.S. government regulations restricting the use of

fluorocarbons as aerosol propellents have greatly reduced the demand for Freon.

Conclusion

After careful review, I determine that all workers of the Chambers Works, Deepwater, New Jersey of E. I. Dupont de Nemours and Company, Incorporated, Wilmington, Delaware are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27303 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5598]

Ella Coat Co., Jersey City, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Ella, Jersey City, New Jersey. The investigation revealed that the company's name is the Ella Coat Company. It is concluded that all of the requirements have been met.

Imports of women's, misses' and children's coats and jackets increased from 1977 to 1978.

A Department survey of the manufacturers for whom Ella performed contract work indicated that they manufacturers decreased their business with Ella from 1977 to 1978 and that the experienced decreasing sales over that same period of time. A subsequent survey of the manufacturers' customers indicated that those customers had decreased their business with domestic manufacturers and increased their purchases of ladies' coats from foreign sources during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at the Ella Coat Company, Jersey City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Ella Coat Company, Jersey City, New Jersey who became totally or partially separated from employment on or after August 1, 1978 and before March 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who were separated on or after March 15, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27304 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5563, 5564, and 5565]

Fortex Manufacturing Co., Inc., Fort Deposit, Ala., Commerce Street, Greenville, Ala., Thamen Street, Greenville, Ala.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979, in response to a worker petition received on June 7, 1979, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing boxer shorts, jogging shorts, ladies' blouses, pajamas and men's shirts at Fortex Manufacturing Company, Incorporated facilities in Ft. Deposit, Alabama; Commerce Street, Greenville, Alabama; and Thamen Street, Greenville, Alabama. The investigation revealed that the plants produced primarily men's pajamas, men's robes, ladies' robes, ladies' blouses, and men's athletic shorts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of Fortex Manufacturing Company, Incorporated customers indicated that respondents that purchased imported men's pajamas and robes, athletic shorts, women's robes and blouses and decreased purchases from the subject firm represented an insignificant proportion of Fortex's decline in total sales.

Conclusion

After careful review, I determine that all workers of Fortex Manufacturing Company, Incorporated facilities in Ft. Deposit, Alabama; Commerce Street, Greenville, Alabama; and Thamen Street, Greenville, Alabama, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27305 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5691-5695]

Greif & Co., Baltimore, Md., Everett, Pa., Hanover, Pa., Fredricksburg, Va., Verona, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at the Baltimore, Maryland, Everett, Pennsylvania, Hanover, Pennsylvania, Fredricksburg, Virginia and Verona, Virginia plants of Greif and Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed during the course of the investigation indicted the petitioning facilities operate as integrated manufacturing operation. Total company sales and production increased significantly in 1977 compared to 1976 and then remained at the same level in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Baltimore, Maryland, Everett, Pennsylvania, Hanover, Pennsylvania, Fredricksburg, Virginia and Verona, Virginia plants of Greif and Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27306 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5636]

Highlander, Ltd., Morganton, N.C.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers producing ladies' knit tops at the Morganton, North Carolina plant of Highlander, Limited. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1974 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1974 through 1976.

A survey was conducted by the U.S. Department of Commerce of customers of Highlander, Limited. The survey revealed that major customers increased their purchases of imported ladies' tops and sweaters and decreased their purchases from Highlander, Limited in 1977 as compared to 1976 and in 1976 as compared to 1975.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' knit tops produced at the, Morganton, North Carolina plant of Highlander, Limited contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Morganton, North Carolina plant of Highlander, Limited who became totally or partially separated from employment on or after June 14, 1978 and before January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers of the Morganton, North Carolina plant of Highlander, Limited who became totally or partially separated from employment on or after January 1, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 21st day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27307 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5651]

Italcraft, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on June 11, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Italcraft, Hoboken, New Jersey. The investigation revealed that the correct name of the company is Italcraft, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The value of Italcraft's sales increased in 1978 compared to 1977. A survey of all of the manufacturers Italcraft performed contract work for in 1977, 1978 and the first half of 1979 was conducted. None of these manufacturers imported ladies' coats and only one experienced a decline in the value of their sales in the first half of 1979 compared to the same period in 1978. This manufacturer reported that its sales decline was due to their inability to purchase a suede-like synthetic material which was withdrawn from the market late in 1978.

Conclusion

After careful review, I determine that all workers of Italcraft, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-27308 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports

of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 10, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of August 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
J & J Coal Co., Inc., No. 12-A Sunnyside Mine (workers).	Cyclone, W. Va	Aug. 17, 1979	Aug. 14, 1979	TA-W-5, 877	Contract mining of coal.
J & J Coal Co., Inc., No. 62 Bans Branch Mine (workers).	Oceana, W. Va.	Aug. 17, 1979	Aug. 14, 1979	TA-W-5, 878	Contract mining of coal.
J & J Coal Co., Inc., No. 12-B Mine (workers)	Pineville, W. Va	Aug. 17, 1979	Aug. 14, 1979	TA-W-5, 879	Contract mining of coal.
Perkins Diesel Corp., North American Headquarters (workers).	Canton, Ohio	Aug. 17, 1979	Aug. 10, 1979	TA-W-5, 880	4 and 6 cylider diesel engines.
Perry Knit, Inc. (company)	Union City, N.J	Aug. 20, 1979	Aug. 9, 1979	TA-W-5, 881	Knitted outerwear for men, women and children.
Shortway Products (workers)	Clearfield, Pa	Aug. 20, 1979	Aug. 2, 1979	TA-W-5, 882	Assemble electronic receiving tube mounts.
West Virginia Auger Corp. (workers)	Charleston, W. Va	Aug. 16, 1979	Aug. 9, 1979	TA-W-5, 883	Mining of coal.

[FR Doc. 79-27309 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28

[TA-W-5739]

Jafree Shirt Co., Inc., Wytheville, Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 11, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing men's dress and sport shirts at the Jafree Shirt Company, Incorporated, Wytheville, Virginia. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress and business shirts increased from 64,446 thousand units in 1977 to 73,460 thousand units in 1978. Imports continued to increase to 21,087 thousand units in the first quarter of 1979 compared to 17,168 thousand units in the first quarter of 1978. The ratio of imports to domestic production increased from 68.8 percent in 1977 to 79.1 percent in 1978.

U.S. imports of men's and boys' woven sport shirts increased from 75,274 thousand units in 1977 to 95,974 thousand units in 1978. Imports continued to increase to 20,880 thousand units in the first quarter of 1979 compared to 17,415 thousand units in the same 1978 period. The ratio of imports to domestic production increased from 47.1 percent in 1977 to 65.8 percent in 1978.

Jafree Shirt Company produces men's shirts on contract for several shirt manufacturers. Results of Department surveys indicate that customers of these manufacturers increased purchases of imported men's shirts while reducing purchases from the manufacturers in 1978 and the first half of 1979. This resulted in decreasing contract work for Jafree.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and sport shirts produced by the Jafree Shirt Company, Incorporated, Wytheville, Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Jafree Shirt Company, Incorporated, Wytheville, Virginia who became totally or partially separated from employment on or after November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Mitchael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-27310 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5685]

Kingston Knitting Mills, Inc., Kingston, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 2, 1979 in response to a worker petition received on June 26, 1979 which was filed on behalf of workers and former workers producing knitted sweaters at Kingston Knitting Mills, Incorporated, Kingston, New York. The investigation revealed that the plant produces men's knitted shirts and sweaters. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers and U.S. imports of men's and boys' knit sport and dress shirts both increased absolutely and relatively in 1978 compared with 1977.

The Department surveyed major customers who decreased purchases from Kingston Knitting. The respondents reported increased total imports of men's knitted shirts and sweaters in 1978 compared with 1977. Customers who accounted for most of Kingston's decline in sales in the first half of 1979 compared with the first half of 1978 indicated increased imports of either men's knitted shirts or sweaters, or both, during this period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's knitted shirts and sweaters produced at Kingston Knitting Mills, Incorporated, Kingston, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kingston Knitting Mills, Incorporated, Kingston, New York who became totally or partially separated from employment on or after June 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-27311 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5609]

Modern Coat Co., Annex, Union City, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at the Modern Coat Company, Annex, Union City, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of the manufacturer for whom Modern Annex performs contract work indicated that the manufacturer decreased its business with Modern Annex from 1977 to 1978 but did not purchase imported ladies' coats and that the manufacturer's sales decreased from 1977 to 1978. A Department survey of the manufacturer's customers indicated that those customers decreased their purchases from the manufacturer and substantially increased their purchases from other domestic sources. Imported coats represented a declining portion of these customers' total purchases of ladies' coats in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of the Modern Coat Company Annex, Union City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of August 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-27312 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4957]

New-Tronics Corp., Brook Park, Ohio; Negative Determination Regarding Application for Reconsideration

By application dated July 30, 1979, on which the Department granted a filing time extension, the petitioning union requested adminstrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing communication antennas at the New-Tronics Corporation, Brook Park, Ohio. The determination was published in the **Federal Register** on May 22, 1979, (44 FR 29756).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims in its application for reconsideration that company officials stated verbally and through news articles that foreign imports were having a serious effect on their industry.

The Department's review of the investigative file revealed that workers at New-Tronics were denied eligibility because they did not meet the Trade Act of 1974's test that increased imports "contributed importantly" to worker separations. Evidence developed in the course of the investigation indicated that most customers of the subject firm did not purchase foreign antennas and the few who increased their foreign purchases also increased their purchases of anntennas from New-Tronics.

The Department does not see any validity in the petitioning union's claim that imports of CB antennas had a serious impact on New-Tronics' production of antennas in 1978 and 1979. Given the coverage limitation of the Act, whereby a certification may not cover layoffs which occurred more than one year prior to the date of the petition, possible import impact in an earlier time period would not be relevant to the subject petition. Worker separations at New-Tronics resulted from the overall decline in the CB antenna market.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27313 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5698]

Penn State Coat & Apron, Clifton Heights, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing washable service apparel at Penn State Coat and Apron, Clifton Heights, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that imports of washable service apparel are negligible.

Conclusion

After careful review, I determine that all workers of Penn State Coat and Apron, Clifton Heights, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27314 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5509]

Poole Silver Co., Fall River, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers producing silver-plated holloware at Poole Silver Company, Fall River, Massachusetts. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Most of the surveyed customers of Poole Silver Company did not decrease purchases from Poole Silver and increase purchases of imports.

Conclusion

After careful review, I determine that all workers of Poole Silver Company, Fall River, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27315 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5613]

Princeton Textile Printing Corp., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed on behalf of workers and former workers engaged in employment related to the textile printing of men's shirts and women's dresses at Princeton Textile Printing Corporation, New York, New York. The investigation revealed that the plant prints and finishes cotton and blended woven fabrics. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the converters for which Princeton Textile Printing Corporation printed fabric. None of the converters responding to the survey utilized any foreign printers or purchased imported printed fabric in 1977, 1978 or in the first half of 1979. Customers of Princeton reported an increased reliance on domestic sources for printed fabric during this time period.

Conclusion

After careful review, I determine that all workers of Princeton Textile Printing Corporation, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27316 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5672]

Robaix Fabrics, Inc., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 25, 1979 which was filed on behalf of workers and former workers producing printed fabrics: polyester, nylon, actate/nylon, at Robaix Fabrics, Incorporated, New York, New York. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric (bleached, dyed, and printed) decreased absolutely in terms of quantity in the first quarter of 1979 compared with the first quarter of 1978. The ratio of imports to domestic production has been less than two percent in each year from 1974 through 1977. (Data for 1978 was not available.)

The Department conducted a survey of Robaix Fabrics' customers. Survey respondents reported they did not increase purchases of imported finished fabric and decrease purchases of fabric from Robaix during comparable time periods in 1977 through June 1979.

Conclusion

After careful review, I determine that all workers of Robaix Fabrics, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27317 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5716]

United States Steel Corp., United States Steel Products Division, Camden (Delair), N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel drums and pails at the Camden (Delair), New Jersey plant of U.S. Steel Products, a division of the U.S. Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some of the customers of the Camden plant. Only one of the respondents reported purchases of imported pails and drums and that customer reduced purchases of imports both in 1978 compared to 1977 and in the first half of 1979 compared to the like 1978 period.

The ratio of imports to the domestic shipments of pails and drums was less than one percent in 1978 and in the first half of 1979.

Conclusion

After careful review, I determine that all workers of the Camden (Delair), New Jersey plant of U.S. Steel Products, a division of the U.S. Steel Corporation, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27318 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5646]

United States Steel Corp., Eastern Limestone Operations, Buffalo, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed by the AFL–CIO, Grain Millers, Local 110 on behalf of workers and former workers producing pulverized limestone at United States Steel Corporation, Eastern Limestone Operations, Buffalo, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The department conducted a survey of customers representing a substantial percentage of purchases of crushed limestone from U.S. Steel, Eastern Limestone Operations, Buffalo, New York. None of these customers did any importing at all in 1977, 1978 or 1979 thru June. Customer responses indicated no evidence of competition between the crushed limestone produced at the Buffalo, New York facility of U.S. Steel and imported lime or limestone products.

The Import/Production ratio for crushed limestone was .3 percent in 1977 and 1978. Industry sources indicate that imports of crushed (pulverized) limestone are negligible due to the low value of limestone relative to its weight and for this reason it is not feasible to transport limestone over substantial distances.

Conclusion

After careful review, I determine that all workers of the United States Steel Corporation, Eastern Limestone Operations, Buffalo, New York are denied eligibility to apply for adjustment under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27319 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5615]

Verdi Fashions Co., Inc., Hoboken, N.J., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Verdi, Hoboken, New Jersey. The investigation revealed that the correct name of the company is Verdi Fashions Company, Incorporated. It is concluded that all of the requirements have been met.

Imports of ladies' coats increased both absolutely and relative to domestic production in 1978 compared to 1977.

Imports of ladies' suits increased absolutely in 1978 compared to 1977.

A survey of the major manufacturers Verdi Fashions worked for in 1978 and the first half of 1979 was conducted. A manufacturer that accounted for a significant portion of Verdi's sales decreased purchases from the subject firm and other domestic contractors and increased purchases of imported ladies' coats and suits in 1977 compared to 1979 in the first half of 1979 compared to the same period in 1978. This manufacturer expects to continue to increase its reliance on imported coats in the future.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats and suits produced at Verdi Fashions Company, Incorporated, Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Verdi Fashions Company, Incorporated, Hoboken, New Jersey who became totally or partially separated from employment on or after November 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27320 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5647]

Vinco Fashions Co., Inc., Jersey City, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Vinco Fashions Company, Inc., Jersey City, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that contracting manufacturers of Vinco Fashions Company, Inc. did not increase reliance upon imported ladies' coats during the period under investigation.

The Department conducted surveys of the major manufacturers for which Vinco Fashions Company, Inc. provides contract work. The surveys revealed that the manufacturers either did not increase purchases of imported ladies' coats or the manufacturers increased contracts with other domestic sources.

Conclusion

After careful review, I determine that all workers of Vinco Fashions Company, Inc., Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27321 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-28-M

Privacy Act of 1974; System of Records

Pursuant to 5 U.S.C. 552(a)(e)(4), Section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes notice of a new system of records. The Department of Labor systems were previously published at 42 FR 49654 (September 27, 1977) and in Volume 2 of the 1977 Privacy Act Issuances Compilation. Notice is given of the addition of DOL/LMSA-19, Private Pension Plan Benefits Payments.

The system of records will become effective October 1, 1979, unless otherwise indicated through notice in the **Federal Register**.

Signed at Washington, D.C., this 28th day of August, 1979.

Ray Marshall,

Secretary of Labor.

AGENCY: Labor-Management Services Administration

ACTION: Issuance of new system of records entitled Private Pension Plan Benefits Payments.

SUMMARY: The purpose of this document is the issuance of a new system of records under the Privacy Act of records compiled by the contractor, Arthur Young & Company, for the creation of a data base for the Pension and Welfare Benefits Program of the Department of Labor in conjunction with the Social Security Administration. The records contain names, social security numbers, and certain other personal data related to the level of private pension plan benefit amounts being collected by beneficiaries as of December 1978.

DATES: Effective date of the system: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: John P. Mondejar, (202) 523-9751 or Walter W. Kolodrubetz, (202) 523-9421.

SUPPLEMENTAL INFORMATION: The new system of records is being compiled in order to set up a data base with the benefits received by private pension plan beneficiaries, to be linked later on with the social security benefits they receive using social security numbers as the matching method. The data will be analyzed by the staff of the President's Commission on Pension Policy, the Social Security Administration and the U.S. Department of Labor in order to address certain crucial policy issues regarding the role of private pensions in meeting the economic security needs of the aged. For a complete list of all the information to be collected through the survey instrument in question, see attachment. The information collected will be coded and maintained on a magnetic tape under lock and key.

DOL/LMSA-19

SYSTEM NAME:

Private Pension Plan Benefit Payments.

SYSTEM LOCATION:

Arthur Young & Company, 1025 Connecticut Ave., N.W., Washington, D.C. 20036, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, Social Security Administration, Baltimore, Md.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retirees, Terminated Employees and Beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data collected in field survey and transferred into magnetic tape.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 43 of Title 38, United States Code and predecessor statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Arthur Young & Company to create data base. The Social Security Administration to link up with social security records and creates final data base. The Department may hire other contractors for further tape manipulation or to rearrange the contents of the tape.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Indexed by social security number.

SAFEGUARDS:

Tapes and other documents containing the personal information being collected and processed by Arthur Young & Company under this contract are to be accessible only to personnel working on the contract to create the data base. Materials are not to be used for any other purpose. The same safeguards hold for the U.S. Department of Labor and the Social Security Administration.

RETENTION AND DISPOSAL:

Has not yet been decided.

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Office of Policy Planning and Research, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

NOTIFICATION PROCEDURE:

As above.

RECORD ACCESS PROCEDURES:

As above.

CONTESTING RECORD PROCEDURES:

As above.

RECORD SOURCE CATEGORIES:

Pension plan records of private pension plan administrators.

[FR Doc. 79-27350 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-23-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-44; Exemption Application No. D-1229]

Exemption From the Prohibitions for Certain Transactions Involving the Construction Fasteners, Inc. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would permit the sale of fifteen Investment Certificates of John Wesley College, a Michigan non-profit corporation, by the Genasee Merchants Bank & Trust, Co. (the Trustee), as trustee for the Construction Fasteners, Inc. Profit Sharing Plan (the Plan), to the Construction Fasteners, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 29, 1979 notice was published in the **Federal Register** (44 FR 38008) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale of fifteen, $1,000 face value each, Investment Certificates of John Wesley College, a Michigan corporation, by the Trustee, for the Plan, to the Employer for not less consideration than $15,000, or the current fair market value thereof, whichever is higher. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties

respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interet of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restriction of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of fifteen John Wesley College Investment Certificates by the Trustee of the Plan to the Employer for not less than $15,000, or the current fair market value thereof, whichever is higher.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27207 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-43; Application No. D-1216]

Exemption From the Prohibitions for Certain Transactions Involving the Sheboygan Memorial Hospital Retirement Plan and Trust

AGENCY: Pension and Welfare Benefit Programs Office, Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a mortgage and certain securities by the Sheboygan Memorial Hospital Retirement Plan and Trust (the Plan) to Sheboygan Memorial Hospital (the Employer).

FOR FURTHER INFORMATION CONTACT: Frederic Burke of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8515. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 22, 1979 notice was published in the **Federal Register** (44 FR 29761) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for sale by the Plan to the Employer for cash of certain securities and a mortgage for a price not less than the greater of either the fair market value at the time of sale, or face value. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the

entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan to the Employer for cash of the Prange securities and the mortgage at a price not less than the greater of either the fair market value at the time of sale, or face value.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 27th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27208 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-45; Exemption Application No. D-207]

Exemption From the Prohibitions for a Certain Transaction Involving the Profit Sharing Plan of Allied Investment Credit Corp.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the loan of $24,852.21 by the Allied Investment Credit Corporation Profit Sharing Plan (the Plan) to the Allied Investment Credit Corporation (the Employer). The loan was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 357-0040. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 15, 1979 notice was published in the **Federal Register** (44 FR 34657) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) and (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

Since the publication of the proposed exemption, the applicant has represented that on June 27, 1979, the Employer paid to the Plan $26,683.78, which repaid in full the principal and interest outstanding on the subject loan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective January 1, 1975, to the loan agreement entered into on December 3, 1974, in which the Plan loaned $24,852.21 to the Employer.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-27206 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-46; Exemption Application No. D-031]

Exemption from the Prohibitions for Certain Transactions Involving Weir's Early American Shop, Inc. Profit Sharing and Retirement Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the leasing of real property by the Weir's Early American Shop, Inc. Profit Sharing and Retirement Plan (the Plan) to Weir's Early American Shop, Inc. (the Employer), and the subsequent sale of the property by the Plan to Mr. Dan Weir. The lease was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 357-0040. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 13, 1979 notice was published in the Federal Register (44 FR 40956) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reasons of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested persons might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The applicaton was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted soley by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsbility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemption and transitional rules. Furthermore, the fact that a transaction is subject to an administraive or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply effective January 1, 1975, to the leasing of certain property described in the application from the Plan to the Employer for the rental amount stated in the lease, and the sale of the property by the Plan to Dan Weir on June 25, 1976, for the sum of $101,481.92, provided that such amount was not less than the fair market value of the property on that date.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27209 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-47; Exemption Application No. D-842]

Exemption from the Prohibitions for Certain Transactions Involving John Ostrander Co., Inc. Employees' Profit Sharing Trust and John Ostrander Co., Inc. Employees' Pension Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will allow John Ostrander Co., Inc. Employees' Profit Sharing Trust and John Ostrander Co., Inc. Employees' Pension Trust (the Plans) to sell their partnership interests in the Adams Court Holding Company to John N. Ostrander, a party in interest.

Since Mr. Ostrander is the sole stockholder and employee of the John Ostrander Co., Inc. and the only participant in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 26, 1979 notice was published in the Federal Register (44 FR 37340) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the trustees of the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under secion 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plans of their partnership interests in the Adams Court Holding Company to John N. Ostrander for fair market value, which will consist of the capital accounts of the Plans in the partnership, adjusted upward to reflect the current fair market value of the Adams Court Apartments.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27210 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

Employee Benefit Plans; Notice to the Public Pursuant to Section 106 of the President's Reorganization Plan No. 4 of 1978

Pursuant to section 106 of the President's Reorganization Plan No. 4 of 1978, the Department of the Treasury is required to notify the Department of Labor of certain actions which it proposes to take under certain provisions of the Employee Retirement Income Security Act of 1974 (the Act).

On August 17, 1979, the Department of the Treasury notified the Department of Labor that the Department of the Treasury intends to publish a revenue procedure and a revenue ruling relating to the determination that a plan amendment is reasonable and provides only for de minimis increases in plan liabilities within the meaning of section 412(f)(2)(A) of the Internal Revenue Code. Both the revenue procedure and the revenue ruling would apply to, among other plans, collectively bargained plans.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs.

[FR Doc. 79-27155 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

Employee Benefit Plans; Notice to the Public Pursuant to Section 106 of the President's Reorganization Plan No. 4 of 1978

Pursuant to section 106 of the President's Reorganization Plan No. 4 of 1978, the Department of the Treasury is required to notify the Department of Labor of certain actions which it proposes to take under certain provisions of the Employee Retirement Income Security Act of 1974 (the Act).

On August 17, 1979, the Department of the Treasury notified the Department of Labor that the Department of the Treasury intends to publish a revenue procedure and a revenue ruling relating to the extension of the amortization period required to amortize any unfunded liabilities described in section 412(b)(2)(B) of the Internal Revenue Code (the Code) in accordance with section 412(e) of the Code. Both the revenue procedure and the revenue ruling would apply to, among other plans, collectively bargained plans.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs.

[FR Doc. 79-27156 Filed 8-30-79; 8:45 am]

BILLING CODE 4510-29-M

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[Application No. D-700]

Proposed Exemption for Certain Transactions Involving Charity Hospital Association, Inc. Deferred Compensation Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt loans of money by Charity Hospital Association, Inc. (CHA) to Charity Hospital Association, Inc. Deferred Compensation Plan (the Plan) and a guarantee which constitutes an extension of credit to the Plan by Rush-Presbyterian-St. Luke's Medical Center (Rush), with which CHA has merged. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Rush, the Trustees of the Plan, CHA and other persons who have participated in the completed transactions and who would participate in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 1, 1979. The effective date of the exemption will be January 1, 1975.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-700. The application for exemption and the comments received will be available for public comment in the Public documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Robert N. Sandler of the Department of Labor, (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and from the taxes imposed by sections 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Trustees of the Plan, CHA and the Board of Trustees of CHA, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. On November 27, 1975, CHA merged with Rush, as a result of which all CHA employees who were not terminated, became employees of Rush in January, 1976. The Plan was terminated as of January 31, 1976, and there have been no contributions for years ending after June 30, 1975. The Plan Trustees, who as of March 2, 1976, were all officers of both Rush and CHA, are in the process of liquidating the assets of the Plan. They have adopted a program to make immediate lump sum distributions of the benefits due under the Plan to all Plan participants over 60 years of age who had retired prior to November 25, 1975, which was the date that the present Trustees took over the administration of the Plan. These Plan participants are retirees who, under the terms of the Plan, are due payment of their benefits either in a lump sum or in annual installments.

2. In order to make the benefits payments, it was projected that the Plan would need $110,000.00 in cash. Also, until all Plan assets were liquidated, mortgage payments of $261.47 were due monthly on real property owned by the Plan in North Carolina (North Carolina Property) and payments of $25,000 plus interest were due quarterly on real property owned by the Plan in Florida (Florida Property).

3. In order to pay out Plan benefits and continue making mortgage payments on the two properities until they were sold, the Plan has, from time to time borrowed money from CHA. These loans totalled $398,514.51 as of May 31, 1979. The loans are interest free and payable at the time that Plan assets are totally liquidated and final payment of benefits is made to the participants under the terms of the Plan.

4. On January 12, 1979, the Florida Property was sold for $690,000 to Flamingo Developments of Stuart, Inc. (Flamingo), an independent third party, with the Plan taking back a purchase money mortgage of $490,000. The terms of the mortgage call for principal payments of $70,000 for seven years with annual interest at one percent above the prime rate at the Northern Trust Company (Northern Trust), with a maximum interest rate of 14 percent per annum and a minimum interest rate of 8 percent per annum. The Trustees of the Plan propose to sell the mortgage note at face value to Northern Trust, which is an independent third party. Northern Trust will purchase the note only if payment of the note is unconditionally guaranteed by Rush. As of June 30, 1978, Rush had a net worth of approximately $79 million.

5. The North Carolina Property has not yet been sold and since mortgage payments are due each month on this property, the Trustees intend to borrow each month the amount needed to pay the mortgage until the Flamingo mortgage note is sold by the Plan to Northern Trust. The remaining balance of the mortgage on the North Carolina Property as of May 30, 1979 was approximately $4,600.

6. In summary, the applicant represents that the loans satisfy the statutory criteria of section 408(a) of the Act because:

a. There would have been substantial adverse consequences to Plan assets if the loans had not been secured from CHA;

b. The loans are interest free and are not payable until Plan assets are totally liquidated and final payment of benefits is made to Plan participants.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested parties including all persons who have served as Plan Trustees since January 1, 1975, Rush and active and inactive Plan participants on or before September 10, 1979. The notice will contain a copy of this notice of pendency of exemption, will inform each recipient of his right to comment on or request a hearing with regard to the proposed exemption, and will be sent to all interested parties by registered mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(1) and (b)(3) of the Act, and section 4975(c)(1)(E) and (c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the representations in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act, and the taxes imposed by sections 4975(c)(1)(A) through (D) of the Code shall not apply, effective January 1, 1975, to the past loans of cash by CHA to the Plan totaling $398,514.51, to the loan of cash by CHA to the Plan for the payment of the mortgage on the North Carolina Property, and to the proposed guarantee by Rush of the mortgage note executed by Flamingo. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27202 Filed 8-28-79; 3:28 pm]

BILLING CODE 4510-29-M

[Application No. D-1354]

Proposed Exemption for a Certain Transaction Involving Petroleum Marketers Equipment Co., Inc. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a parcel of real property by the Petroleum Marketers Equipment Company, Inc. Profit Sharing Plan (the Plan) to Mr. C. W. Boatwright, an employee of Petroleum Marketers Equipment Company, Inc. (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the Plan Trustees, the participants and beneficiaries of the Plan and Mr. Boatwright.

DATES: Written comments must be received by the Department of Labor on or before October 1, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1354.

The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler, of the Department of Labor, telephone (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Plan has leased a parcel of real property known as 2010 Exchange Avenue, Oklahoma City, Oklahoma to the Employer since February 3, 1975. The Plan proposed to sell this parcel of real property to C. W. Boatwright, who was an officer, director and more than 10 percent shareholder of the Employer until October 1, 1976. Since that time, his only relationship to the Employer has

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been an employee under a management/consultant contract. The proposed cash purchase price for the property is $80,000.

(2) The Plan Trustees and their relationships to the Employer are as follows: B. Gerald Newcomb, President, Director and major shareholder; Gerald E. Schmitz, Secretary, Director and major shareholder; and Curtis Scarberry, an employee of the Employer.

(3) When the Trustees were made aware of the fact, in 1978, that the lease constituted a prohibited transaction under section 406 of the Act, they decided to correct the prohibited transaction by applying for an exemption in order to sell the property to Mr. Boatwright, who will, in turn, lease it to the Employer.

(4) The Plan originally purchased the property on February 3, 1975 from an independent third party for $48,316.56. K. B. Garrett & Associates, an independent appraiser, appraised the property and determined its fair market value to be $75,000 as of February 27, 1979, or $5,000 less than the amount offered by Mr. Boatwright. While the property has substantially increased in value since its purchase in 1975, the applicant states that the appreciation occurred almost entirely within the two years immediately subsequent to the purchase. This is evidenced by the fact that on or about December 15, 1976, the fair market value of the property was appraised at $77,600 by William C. McConnell, an independent appraiser.

(5) The net rate of return to the Plan, after servicing the debt on the property, has been negligible.

(6) While the property has not been publicly advertised for sale, there have been private inquiries, one of which resulted in an offer below the February 27, 1979 appraised value.

(7) In summary, it is represented that the proposed sale of real property satisfies the statutory criteria of section 408(a) because:

(a) The transaction is a one-time occurrence for cash;

(b) The purchase price is $5,000 above the independently appraised value of the property; and

(c) The property has not appreciated in value since 1976 and the net return to the Plan from the property has been negligible.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons, including participants and beneficiaries of the Plan, the Plan Trustees and Mr. Boatwright, within 10 days of the publication of the pending exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment on the pending exemption. The notice will be provided to all interested persons by posting it at the location or locations customarily used for Employer communications to employees.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and sections 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the sale by the Plan to C. W. Boatwright of a parcel of real property known as 2010 Exchange Avenue, Oklahoma City, Oklahoma, and legally described as Lots 3, 4, 5, 6, 7 and 8 in Block 14 in Stockyards Addition to Oklahoma City, Oklahoma, for the higher of $80,000 or the fair market value of the property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of August, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc 79–27203 Filed 8–28–79; 3:28 pm]

BILLING CODE 4510–29–M

[Application No. D–1380]

Proposed Exemption for Certain Transactions Involving the Oregon Builders, Inc. Pension and Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of five parcels of real property by the Oregon Builders, Inc. Pension and Profit Sharing Trust (the Plan) to the Oregon Builders, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 1, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office Of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–1380. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Norman Bergstrom, a trustee of the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Plan is a money purchase plan. As of March 29, 1979 the Plan had three participants: Norman Bergstrom, Barbara Bergstrom, and Howard Bergstrom. The trustees of the Plan are the three participants. As of February 27, 1979 the Plan had total assets of $142,979.

(2) The Employer is in the real estate development business. The Employer purchases, subdivides, improves and sells real estate. The Employer is owned by Barbara Bergstrom and Norman Bergstrom.

(3) On March 7, 1977, the Plan purchased a parcel of real property in Bliss Park in Lane County, Oregon (Bliss lot) for $5,000 from parties unrelated to the Plan. On March 24, 1978, the Plan purchased 10 parcels of real property in the Brentwood Homes section of Lane County, Oregon (Brentwood lots) for an unallocated price of $36,000 or an allocated price of $3,600 per parcel from a party unrelated to the Plan. The 10 Brentwood lots include 6 improved and 4 unimproved lots.

(4) The trustees are requesting an exemption to allow the Employer to purchase for cash from the Plan the four unimproved Brentwood lots for $34,000 and the Bliss lot for $15,300. The unimproved Brentwood lots and the Bliss lot represent approximately 35% of the assets of the Plan and have at no time produced any income. The prices for the proposed sales were determined by an independent appraisal and will involve no real estate sales commission.

(5) The applicant represents that the criteria of section 408(a) of the Act will be satisfied by the proposed sales because: (1) they will be one time transactions for cash; (2) they will allow the Plan to sell the properties at a substantial profit at a price determined by an independent appraisal; (3) they will not require the Plan to pay any real estate sales commissions; and (4) they will allow the Plan to eliminate a large percentage of Plan assets which produce no income.

Notice to Interested Persons

Notice of the proposed exemption will be given to all employees of the Employer and to all participants in the Plan by posting the Notice of Pendency in a prominent location within the place of business of the Employer. The notice will be posted within ten days of the publication of the Notices of Pendency in the **Federal Register** and shall remain posted until the end of the comment period.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not inderogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reasons of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of one parcel of real property in Bliss Park in Lane County, Oregon for $15,300 and to the cash sale of four parcels of real property in the Brentwood Homes section of Lane County, Oregon for $34,000 to the Employer by the Plan provided that these amounts are not less than the fair market value of the parcels of real property at the time of the sales.

The proposed exemption, if granted, will be subject to the express conditions the the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of August 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27204 Filed 8-28-79; 3:28 pm]

BILLING CODE 4510-29-M

[Application No. 1-1048]

Proposed Exemption for Certain Transactions Involving the New Mexico Electricians Retirement Benefit Fund

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt, retroactively and prospectively, the continuing acts of the common fiduciary under the terms of the 20 year construction and mortgage loan agreement made on March 1, 1978, by the New Mexico Electricians Retirement Benefit Fund (the Plan) to the Joint Apprenticeship and Training Committee for the Electrical Industry, Building Corporation (the Building Corporation); and would exempt, retroactively and prospectively, the continuing acts of the common fiduciaries under the terms of a 20 year lease of real property made on March 1, 1978, by the Building Corporation with the New Mexico Electrical Industry Joint Apprenticeship and Training Fund (the Welfare Plan). The proposed exemptions, if granted, would affect participants and beneficiaries of the Plan and the Welfare Plan, respectively, the Plan and the Welfare Plan, one fiduciary of the Plan and two fiduciaries of the Welfare Plan, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 14, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. L–1048. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department, telephone (202) 523–8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) Effective March 1, 1978, a 20 year construction and mortgage loan, in the amount of $150,000 with a 9¼ percent interest charge, was made by the Plan to the Building Corporation. The purpose of the loan was to enable the Building Corporation to pay for the construction of a building on land it owned free and clear of encumbrances. At the same time, effective March 1, 1978, a 20 year lease, with rental income of $1,373.80 per month, intended to be sufficient to amortize the aforesaid loan, was executed by the Building Corporation with the Welfare Plan, which was to use the land and building as a training facility for its participants.

(2) The Plan is a Taft-Hartley multiemployer employee pension benefit plan with an estimated 967 participants. The Welfare Plan is a Taft-Hartley multiemployer employee welfare benefit plan established and maintained for the purpose of providing an apprenticeship program and other training programs for its participants. Some of the participants of the Welfare Plan are participants of the Plan, and the participants of both the Plan and the Welfare Plan and are members of the International Brotherhood of Electrical Workers Local Union No. 611, AFL–CIO (the Union). The Building Corporation, a non-profit New Mexico corporation, was formed for the general purposes of enhancing the electrical industry trades by encouraging the apprenticeship system, and, specifically, to acquire legal title to real and personal property necessary to carry out the general purposes of the Welfare Plan.

(3) The trustees for the Plan consist of seven individuals of whom three are selected by the Central New Mexico Chapter, National Electrical Contractors Association, Inc. (the Employer), an additional three are selected by the Union, and the seventh, the public representative, is selected by the first six trustees. In addition, the Plan has a bank co-trustee, and an independent professional fund manager, actuary, and auditor. The Welfare Plan has six individuals as trustees who are selected in the same manner as the first six trustees of the Plan; however, none of the trustees of the Welfare Plan serve as trustees of the Plan. The Building Corporation has six individuals who serve as its board of directors and are elected one-half by the Union and one-half by the Employer. This board of directors owns the Building Corporation.

(4) One of the seven trustees of the Plan, Michael J. Ervin, is one of the six individuals who serves on the board of directors of the Building Corporation. Mr. Ervin is a common fiduciary to both the creditor and the debtor of the 20 year construction and mortgage loan from the Plan to the Building Corporation. He serves in this dual capacity without compensation and is fully employed and compensated by the Union which employs him as its Business Manager. Two of the six trustees of the Welfare Plan, Nelson Craig and Bobby Beall, are two of the six individuals who serve on the board of directors of the Building Corporation. Messrs. Craig and Beall are common fiduciaries to both the lessor and lessee of the 20 year lease from the Building Corporation to the Welfare Plan. They both serve in this dual capacity without compensation and are fully employed and compensated by their respective employers, who are members of the Employer.

(5) The real property and its proposed improvements, Parcel 22 of Tract "C" of Cole's Industrial Subdivision No. 1 to the City of Albuquerque, New Mexico, was appraised on November 21, 1977, and determined to have a current fair market value of $225,000 by a qualified, independent appraiser. The contractors who constructed the building for the Building Corporation, which is to be used as a training facility for the Welfare Plan, were not contributing employers of the Welfare Plan or of the Plan.

(6) The loan of $150,000 by the Plan to the Building Corporation represented 4.413 percent of the total assets of the Plan as of December 31, 1977. As of December 31, 1977, the Plan had assets of $3,399,055 and a gross annual income of $1,323,679, less expenses of $69,469, leaving a net income of $1,254,210 for the year 1977.

(7) The subject lease is for a term of 20 years with consideration to be paid in monthly installments of $1,373.80 by the Welfare Plan to the Building Corporation in the total sum of $150,000 plus an interest charge of 9¼ percent, all utility charges, all insurance premiums and the property taxes thereon.

(8) The trustees of the Plan and the Welfare Plan are all associated with the electrical trades and electrical industry. The trustees, including the independent bank co-trustee, believed the loan would have an advantageous return to the Plan, would be adequately secured with no speculation involved, and would provide the sought after diversification of investments. The mortgage and note have been recorded in the County of Bernalillo, State of New Mexico and the note is serviced by Albuquerque National Bank, Albuquerque, New Mexico. A determination was made by an independent bank, Rio Grande Valley Bank of Albuquerque, New Mexico, that the terms of the loan with respect to the interest charged were as fair as an arm's-length transaction would be.

(9) If the exemptions from section 406(b)(2) are granted, (1) the common fiduciary for the Plan and the Building Corporation will be permitted to act on behalf of the Plan and Building Corporation, retroactively and prospectively, under the terms of the 20 year construction and mortgage loan agreement which gives an advantageous return on a secured and diversified investment; and (2) the common fiduciaries for the Building Corporation and the Welfare Plan will be permitted to act on behalf of the Building Corporation and the Welfare Plan, retroactively and prospectively, under the terms of the 20 year lease of real property which allows the lease to accomplish its purpose of providing the Building Corporation with sufficient income to amortize the loan from the Plan while the Building Corporation holds title to real property which is used for training purposes by the Welfare Plan.

Notice to Interested Persons

Notice to interested persons of the pendency of the exemptions will be provided by mail to all participants and beneficiaries of the Plan and the Welfare Plan, the Union, the Employer, and other interested persons within fifteen days after notice is published in the **Federal Register**. The notice to the interested parties will contain a copy of the notice of pendency of such exemption as published in the **Federal Register** and will inform interested persons of their right to comment and request a hearing within the period set forth in this notice of pendency of the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a), 406(b)(1) and (b)(3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemptions. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Base on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply, retroactively or prospectively, to the continuing acts of the common fiduciary under the terms of the 20 year construction and mortgage loan in the amount of $150,000, with a 9¼ percent interest charge, made on March 1, 1978, by the Plan to the Building Corporation and to the continuing acts of the common fiduciaries under the terms of the 20 year lease of real property made on March 1, 1978, by the Building Corporation with the Welfare Plan for the consideration of $150,000 plus 9¼ percent interest charge and the payment of all utilities, insurance premiums on insurance for protection of the property and all property taxes.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and

that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of August, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27205 Filed 8-28-79; 3:28 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Ocean Sciences; Subcommittee for Oversight and Evaluation; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Oversight and Evaluation of the Advisory Committee for Ocean Sciences.

Date and time: September 19-21, 1979, 9:00 a.m. to 5:00 p.m. each day.

Place: Rooms 510 and 643, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5913.

Purpose of Subcommittee: To provide expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and acitivities, priorities, program balance, and selection of awards.

Agenda: Biological Oceanography Review—Room 510 Marine Chemistry Review—Room 643.

Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

Authority to close meeting: This detemrination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: August 28, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

[FR Doc. 79-27337 Filed 8-30-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management; Meeting

The ACRS Subcommittee on Waste Management will hold an open meeting on September 18-19, 1979 (rescheduled from August 28-29, 1979) in Room 1046, 1717 H St., NW., Washington, DC 20555. Notice of this meeting was published August 23, 1979.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday and Wednesday, September 18 and 19, 1979.

8:30 a.m. until the conclusion of business each day.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Department of Energy (DOE), and their consultants pertinent to the following:

(1) Goals of the NRC Waste Management Program.

(2) Priorities set to meet these goals.

(3) Description, budget, and time schedule for each project.

(4) Coordination of NRC and DOE Waste Management Programs.

In addition, the Subcommittee will hear presentations by the NRC Staff on its Fuel Cycle Program.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 27, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-27164 Filed 8-30-79; 8:45 am]

BILLING CODE 7590-01-M

Study of Nuclear Power Plant Construction During Adjudication; Meetings

As previously announced (44 FR 48831), the next meeting of the Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication will be held at 9:30 a.m. Friday, August 31, 1979, in Room 415, East West Towers, 4350 East West Highway, Bethesda, Maryland. After that meeting, the advisory committee's next meeting will be on Friday, September 7, 1979 at the same time and place.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, 202/634-3224.

Dated at Washington, DC, this 27th day of August 1979.

Gary Milhollin,

Chairman.

[FR Doc. 79-27240 Filed 8-30-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-568, STN 50-569]

New England Power Co. (NEP-1 and NEP-2); Issuance of Director's Decision Under 10 CFR 2.206

On July 13, 1979, Concerned Citizens of Rhode Island, the Point Judith Fishermen's Cooperative, and the Thomas L. Arnold Trust (CCRI) requested the Director of Nuclear Reactor Regulation issue an order to show cause to dismiss the application for NEP Units 1 and 2 construction permits. The Director has treated the request as a petition for action under 10 CFR 2.206. Upon a review of the information provided by CCRI, the Director has determined that CCRI's request does not provide an adequate basis to issue the order to show cause. Accordingly, CCRI's request has been *denied.*

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and in the Local Public Document Rooms at the Cross Mill Public Library, Old Post Road, Charlestown, Rhode Island 02813, and at the University Library, University of Rhode Island, Government Publications Office, Kingston, Rhode Island 02881. A copy of this decision will also be filed with the Secretary of the Commission for review by the Commission in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's regulations, this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes a review of this decision within that time.

Dated at Bethesda, Maryland, this 24th day of August 1979.

For The Nuclear Regulatory Commission.

Harold R. Denton, Director,

Office of Nuclear Reactor Regulation.

[FR Doc. 79-27241 Filed 8-30-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co.; Issuance of Amendment To Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (SONGS, Unit 1) (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment allows temporary, simultaneous chlorination of both condenser halves and an increase of the chlorination time during the approximately three-day special fish impingement studies required under Section 316(b) of the Federal Water Pollution Control Act.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission;s rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 31, 1979, and (2) Amendment No. 45 to License No. DPR-13, including the Commission's related transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of August 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch #2, Division of Operating Reactors.

[FR Doc. 79-27242 Filed 8-30-79; 8:45 am]

BILLING CODE 7590-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Adoption of Environmental Assessment Procedures Required by Executive Order 12114

On January 4, 1979, the President issued Executive Order 12114 (44 FR 1957) entitled "Environmental Effects Abroad of Major Federal Actions." The Executive Order requires federal agencies taking actions encompassed by the Order, and not exempted from it, to effectuate procedures to implement the Order. The Overseas Private Investment Corporation (OPIC) is implementing the Executive Order by the adoption of the following procedures to take effect on September 4, 1979. Persons interested in commenting on these procedures or in requesting further information should contact: Gordon Hunt, Office of Development, Overseas Private Investment Corporation, 1129—20th Street, NW., Washington, D.C. 20527.

Section 1. Purpose

As required by Executive Order 12114, issued January 4, 1979, which is incorporated herein by reference, the following procedures shall be used by OPIC to ensure that all significant environmental effects of its actions outside the United States are considered by OPIC in its review of proposed insurance and finance projects. These procedures shall supplement OPIC's existing environmental procedures and guidelines required by Section 239(h) of the Foreign Assistance Act, as amended (the "Act"), as set forth in OPIC Board of Directors resolution (74)16, the memorandum to the OPIC Board of Directors dated January 31, 1978, and the "OPIC Environmental Handbook."

Section 2. Definitions

A. *Application.* The term "application" means a formal request to OPIC in the manner specified by OPIC for assistance under an OPIC program from an eligible private party interested in investing in a project in a foreign nation.

B. *Environment.* The term "environment" means the natural and phsical environment and excludes social, economic and other environments.

C. *Global Commons.* The term "global commons" means areas outside the exercise of any national jurisdiction.

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D. *Host County.* The term "host country" means the foreign country in which a project for which OPIC assistance is sought is or will be located.

E. *Major Action.* The term "major action" means a contractual commitment by OPIC to provide assistance under an OPIC program involving at least $1 million of insured investment, loan guaranties or direct loans, if the applicant therefor has or will have sufficient control over the design and/or operation of the project to mitigate environmental concerns raised by OPIC.

F. *OPIC Programs.* The term "OPIC program" includes OPIC's insurance, direct loan and loan guaranty programs as authorized by the Act.

G. *Significant Effect.* With respect to effects on the environment outside the United States, a proposed action has a significant effect on the environment if it does significant harm to the environment even though on balance the action is believed to result in beneficial effects on the environment.

Section 3. Applicability of Procedures

A. *Scope.* Except as provided in Subsections B, C, and D below, these procedures shall apply with respect to OPIC's review of each new application for assistance under an OPIC program, whether for new projects or expansions of existing projects, if a favorable decision on such application will result in a major action by OPIC.

B. *Exemptions.* If upon the initial review of an application the OPIC insurance or finance officer making such review determines that the project for which OPIC assistance is sought has no significant effect on the environment outside the United States, these procedures shall not apply. If upon further review of the application, and prior to taking action, it is determined that the project may have a significant effect upon the environment, this exemption shall no longer apply. Also exempt from these procedures are actions falling within the categories listed in Sections 2–5(ii) through (vii) of the Executive Order, as limited by Section 2–5(d). A concise administrative record will be prepared to document these determinations.

C. *Categorical Exclusions.* These procedures shall not apply to the review of an application for any project falling within the scope of any category of projects which are determined to involve no significant effects on the environment. OPIC's Investment Committee shall have the authority to establish such categorical exclusions.

D. *Special Exemptions.* These procedures shall not apply to the review of any application for which the General Counsel determines that an exemption is necessary as a result of emergency circumstances, situations involving exceptional foreign policy or national security sensitivities or other special circumstances (except as limited by Section 2–5(d) of the Executive Order). In utilizing any such special exemption, OPIC, through its designated Environmental Officer, shall consult as soon as feasible with the Department of State and the Council of Environmental Quality.

Section 4. Initial Determinations

A. With respect to any application for OPIC assistance falling within the scope of Section 3(A) above, the OPIC officer reviewing such application shall make the following determinations which shall be documented by a concise administrative record:

1. Whether the proposed project is likely to have a significant effect on the environment of the global commons;

2. Whether the proposed project is likely to have a significant effect on the environment of a foreign country other than the host country; and

3. Whether the proposed project is likely to have a significant effect on the environment of a foreign country because it would provide to that country:

(a) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk, such as asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, mercury, beryllium, arsenic, cadmium, and benzene; or

(b) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

4. Whether the proposed project is likely to have a significant effect on natural or ecological resources of global importance hereafter designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

B. The determinations required in Subsection A above shall be based upon the information contained in the application, information reasonably available to OPIC and such additional information from the applicant as deemed necessary by the reviewing officer.

C. In the event that the reviewing officer makes a positive determination with respect to any of the categories specified in Subsection A above (i.e., that a significant effect is likely to result), and such determination is not reversed upon review by a supervisory officer or by the Investment Committee, the finance or insurance department, as the case may be, in consultation with OPIC's Environmental Officer, shall take the following actions, as appropriate, prior to acting on the application:

1. If the harmful effect is of the type described in Subsection A(1) above, an environmental impact statement shall be obtained in the manner specified in Section 5 below. Such an environmental impact statement shall consider only the effects described in Subsection A(1), regardless of whether the project would result in other kinds of environmental effects.

2. If the harmful effect is of the type described in Subsection A(2), A(3) or A(4) above, an environmental study or an environmental review shall be prepared in the manner specified in Section 6 below.

Section 5. Environmental Impact Statements

A. If a department within OPIC is required by Section 4(C)(1) to cause the preparation of an environmental impact statement for a particular project, it shall do so in accordance with Subsection B below. If an environmental impact statement for the proposed project or a project involving similar environmental issues or a generic statement covering a class of similar projects already exists, no new environmental impact statement shall be required. When one or more other agencies are also involved in a particular project requiring an environmental impact statement, OPIC may rely upon an environmental impact statement obtained by one or more of the other agencies.

B. Environmental impact statements shall be concise and no longer than necessary to permit an informed consideration of the environmental effects of the proposed project and the reasonable alternatives. The statement shall include a section on consideration of the purpose of and need for the proposed project; a section that provides a succinct description of the environment of the global commons affected by the proposed action; and a section that analyzes, in comparative form, the environmental consequences on the global commons of the proposed action and of reasonable alternatives means of structuring the project.

Section 6. Environmental Studies and Reviews

A. If a department is required under Section 4(C)(2) to produce an environmental study or review, it shall, in consultation with the Environmental Officer, determine whether an environmental study as described in Subsection B below which deals with the environmental aspects of the proposed project is available or will be undertaken elsewhere. If no relevant environmental study is or will be available, the OPIC department, in consultation with the Environmental Officer, shall undertake the preparation of an environmental review as described in Subsection C below with, as appropriate, the assistance of the applicant and of other federal agencies having jurisdiction by law or special expertise. If an environmental review for the proposed project or a project involving similar environmental issues or a generic review covering a class of similar projects already exists, no new environmental review shall be required hereunder. When one or more agencies are involved with OPIC on a particular project, a lead agency may be designated to prepare the environmental review.

B. An environmental study shall consist of a bilateral or multilateral study by the United States and one or more foreign nations or by an international body or organization in which the United States is a member or participant.

C. An environmental review shall consist of a concise analysis of important environmental issues relating to a proposed project, including identification of such issues and of the significant effects to the environment. The department involved in the preparation of an environmental review shall consider the following factors in deciding the scope, substance and timing of the review and the availability of the review to other agencies:

1. The need to avoid infringement or the appearance of infringement on the sovereign responsibilities and internal affairs of another government;

2. The availability of meaningful information on the environment of a foreign nation;

3. The need to protect confidential business information and trade secrets of the applicant;

4. The desirability of acting promptly upon applications under OPIC programs;

5. The desirability of the project in terms of its export promotion and developmental effects;

6. OPIC's ability to influence the design and/or implementation of the proposed project; and

7. The need to protect sensitive foreign affairs information and information received from another government with the understanding that it will be protected from disclosure.

Section 7. Decision

The required environmental documents developed in accordance with these Procedures shall accompany the application through the review process to enable officers responsible for approving an application and, if necessary, the Board of Directors, to be informed and to take account of the environmental considerations covered by such documents.

Section 8. Availability

Subject to the considerations of Section 6(C), environmental documents developed under these procedures shall be available to the Department of State, Council on Environmental Quality and other federal agencies and shall be included in the public information files for the pertinent applications. Foreign governments affected thereby may also be informed of such documents after coordinating with the Department of State regarding such communication with the foreign government.

Effective date. These procedures become effective on September 4, 1979.

Dated: August 27, 1979.

J. Bruce Llewellyn,

President.

[FR Doc. 79–27239 Filed 8–30–79; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10839; 8–12–4337]

Hartford Variable Annuity Life Insurance Co. et al.; Application for Order of Exemption

August 24, 1979.

In the matter of: Hartford Variable Annuity Life Insurance Company, Hartford Variable Annuity Life Insurance Company Separate Account, Hartford Variable Annuity Life Insurance Company QP Variable Account, Hartford Variable Annuity Life Insurance Company DC Variable Account-I and Hartford Variable Annuity Life Insurance Company DC Variable Account-II. Hartford Plaza, Hartford, Connecticut 06115. (812–4337)

Notice is hereby given that Hartford Variable Annuity Life Insurance Company, ("HVA"), a stock life insurance company organized under the laws of the State of Connecticut; Hartford Variable Annuity Life Insurance Company Separate Account ("HVA Separate Account"), an open-end management investment company registered under the Investment Company Act of 1940 ("Act"); Hartford Variable Annuity Life Insurance Company QP Variable Account ("HVA–QP–VA"), a unit investment trust registered under the Act; Hartford Variable Annuity Life Insurance Company DC Variable Account-I ("DC–I"), a unit investment trust registered under the Act; and Hartford Variable Annuity Life Insurance Company DC Variable Account-II ("DC–II"), a unit investment trust registered under the Act, all of Hartford Plaza, Hartford, Connecticut 06115 (herinafter collectively referred to as "Applicants"), filed and application on July 20, 1978 and amendments thereto on November 27, 1978 and June 11, 1979, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 26(a)(2), 27(a)(3) and 27(c)(2) of the Act and pursuant to Section 11(a) of the Act for an order approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

HVA Separate Acount was registered with the Commission under the Act as an open-end, diversified management investment company on December 12, 1967. DC–I was created and organized as a unit investment trust and was registered under the Act on March 12, 1976. HVA–QP–VA was created and organized as a unit investment trust and was registered under the Act on November 26, 1976. DC–II was created and organized as a unit investment trust and was registered under the Act on May 13, 1977.

Section 27(a)(3)

Applicants propose to permit owners of policies of life insurance and annuity contracts issued by (1) HVA-excepting those Annuity contracts not subject to sales charged deductions) (2) Hartford Life Insurance Company, Hartford Life and Accident Insurance Company, ITT Life Insurance Corporation or by any other member Company of the Hartford Insurance Group which issues such policies and/or contracts, and by (3) any other ITT affiliated company that issues policies of life insurance and/or annuity contracts as well as any beneficiary, annuity contract participant or annuitant under any such policy or contract to invest any part or all of any such policy or contract proceeds (payable upon the full or partial surrender or maturity of such policy or contract) in a Group or Individual Variable Annuity Contract (or in a new Group Variable Only Accumulation Contract issued by HVA) with respect to HVA–QP–VA, DC–I or DC–II with no deductions being made for sales expenses.

However, in order not to discriminate unfairly against other purchasers of New Group Variable Only Accumulation Contracts or of Group and Individual Variable Annuity Contracts issued with respect to HVA–QP–VA, DC–I and DC–II, any monies applied without any deductions being made therefrom for sales expenses toward the purchase of these contracts issued with respect to HVA–QP–VA, DC–I and DC–II by any member of a class described in the preceding paragraph will not be counted in determining the particular sales charge to be applied in the case of subsequent payments.

Section 27(a)(3) provides as follows:

It shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of sales load deducted from any one of such first payments exceeds proportionately the amount deducted from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment;

Rule 27a–2 provides as exemption from the provisions of Section 27(a)(3) as follows:

A registered separate account and any depositor of or underwriter for such account, shall be exempt from paragraph (3) of Section 27(a) * * *, provided that with respect to any variable annuity contract participating in such account the proportionate amount of sales load deducted from any payment during the contract period shall not exceed the proportionate amount deducted from any prior payment during the contract period.

Because no deduction for sales charges is made upon the acquisition of these contracts issued with respect to HVA–QP–VA, DC–I, or DC–II, with the proceeds of an insurance or annuity contract, whereas subsequent payments under any such acquired contract are

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subject to sales charge deductions, the exemptive Rule is not applicable.

Applicants allege that the insurance and annuity contracts have been subject to deduction for sales or other charges and to again subject the policy and contract proceeds to a second set of charges would be unfairly discriminatory.

Applicants allege that the dangers that Section 27(a)(3) was designed to protect against, i.e., disproportionate and unfair sales charges, will not be present in the case of the acquisition of Contracts issued with respect to HVA–QP–VA, DC–I or DC–II.

Applicants HVA, HVA–QP–VA, DC–I, and DC–II have requested the Commission to issue an Order exempting them from the provisions of Section 27(a)(3) in order that they might offer and sell Group and Individual Variable Annuity Contracts and Group Variable Only Accumulation Contracts issued by HVA with respect to HVA–QP–VA, DC–I and DC–II under the circumstances described above.

Section 11(c)

Applicants HVA, HVA Separate Account, HVA–QP–VA, DC–I, and DC–II request an Order, pursuant to Section 11(a), of the Act, (1) to permit offers of exchange to be made to owners of tax-qualified Group and Individual Contracts issued with respect to HVA Separate Account and HVA–QP–VA to exchange their Contracts for new Group Variable Only Accumulation Contracts or New "John Doe" Contracts and (2) to permit offers of exchange to be made to owners of tax-qualified Group and Individual Contracts issued with respect to HVA Separate Account and HVA–QP–VA and non-tax qualified Group Contracts issued with respect to DC–I and DC–II to exchange their Contracts for new Group Variable Only Accumulation Contracts.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or a principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have been first submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants state that the requested Order permitting an offer of exchange to be made will make available to such HVA Separate Account Group and Individual Contract owners certain advantages (greater choice of investment and lower sales charges) which will accrue to them through owning Group Variable Only Accumulation Contracts issued by HVA with respect to HVA–QP–VA or DC–I and DC–II or John Doe Contracts issued with respect to HVA–QP–VA. Those persons presently owning Contracts issued with respect to HVA–QP–VA or DC–I and DC–II may wish to exchange their existing Contract for a Group Variable Only Accumulation Contract or a John Doe Contract because such Contracts may be more appropriate or better suited to their needs. Further, such persons will not be disadvantaged in any way since the scale of deductions under the existing HVA–QP–VA Group Contracts and the DC–I/DC–II Group Contracts are exactly the same as the scale of deductions under the new contracts.

Applicants state that no charges will be assessed in connection with the exchange, and the principal abuse at which Section 11(a) is directed—the imposition of additional sales charges—will not be present. Applicants represent that compensation will be paid to salesmen in connection with subsequent payments made under the terms of an HVA–QP–VA John Doe or Group Variable Only Accumulation Contract or a DC–I/DC–II Group Variable Only Accumulation Contract (as appropriate) issued in exchange for an HVA Separate Account Contract, an HVA–QP–VA Contract or a DC–I/DC–II Contract. Applicants represent, however, that they will seek to assist Contract owners in determining whether to make an exchange by pointing out the applicable factors and, where appropriate, will encourage exchanges. The choice of whether or not to make an exchange shall be the Contract owner's alone after full disclosure.

Applicants have requested that the Commission issue an Order pursuant to Section 11(c) of the Act approving the offers of exchange, as hereinabove described.

Section 11(c) and Section 27(a)(3)

Applicants further represent that, in connection with an exchange of an HVA Separate Account Contract for an HVA–QP–VA John Doe Contract or an HVA–QP–VA or DC–I/DC–II Group Variable Only Accumulation Contract the Contract Value(s) exchanged will be recognized for purposes of determining the appropriate sales charge level if the Contract exchanged provides for a graded sales charge deduction but not if the contract exchanged provides for a level sales charge deduction. There are at present four forms of Group and Individual Contracts which have been issued with respect to HVA Separate Account in connection with tax-qualified programs. In the case of one of the Group Contracts, sales and administrative expense charges are deducted upon a level-load basis of 5.25%, and, in the case of the remaining Group Contract, sales and administrative expense charges are deducted upon a sliding scale with the maximum charge being at 6.25%. In the case of one of the Individual Contracts, sales and administrative expense charges are deducted on a level-load basis of 7.75% and in the case of the remaining Individual Contract, such charges are deducted on a sliding scale with the maximum charge being at 8.25%.

The Commission has previously issued Orders respecting offers of exchange made to Contract Owners of Contracts issued with respect to HVA Separate Account to exchange their level-load contracts for graded-load contracts issued by HVA with respect to HVA–QP–VA and DC–I and DC–II under circumstances where no credit was given to the amounts accumulated under the exchanged contracts in determining the applicable level of sales deductions. See Investment Company Act Release Nos. 9907 and 9908.

Applicants have stated that they intend to continue to follow the same procedure with respect to the exchange of a level-load contract issued by HVA with respect to HVA Separate Account for (1) a graded load John Doe Contract issued with respect to HVA–QP–VA or (2) a graded load Group Variable Only Accumulation Contract issued with respect to HVA–QP–VA or DC–I and DC–II. Section 27(a)(3) of the Act is applicable to the exchange, and the exemption provided by Rule 27a–2 under Section 27(a)(3) of the Act is not available for similar reasons to those set forth above. Applicants request the Commission to issue an Order exempting the exchange, under the circumstances, from the provisions of Section 27(a)(3).

Section 26(a)(2) and Section 27(c)(2)

The proposed John Doe Contract to be issued by HVA with respect to HVA–QP–VA and the proposed Group Variable Only Accumulation Contract to be issued by HVA with respect to HVA–QP–VA, and DC–I and DC–II (when issued on an unallocated basis) each provide for an annual policy fee charge of $100. When the later Contract is issued on an allocated basis, the annual policy fee is $10 per Participant.

Section 26(a)(2) provides that:

> No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer * * * unless the * * *, agreement of custodianship * * * pursuant to which such security is issued—
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> * * * (a) provides, in substance, * * * (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the * * * custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by * * * the custodian, itself); * * *

Section 27(c) of the Act provides that it shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate, unless:

> (2) the proceeds of all payments on such certificate (except such amounts as are deducted for sales load) are deposited with * * * custodian * * * and are held by such * * * custodian under an indenture or agreement containing, in substance, the provisions required by paragraphs (2) * * * of Section 26(a) for the trust indentures of unit investment trusts.

On August 24, 1977 the Securities and Exchange Commission entered Orders of exemption (Investment Company Act Release Nos. 9907 and 9908) from the provisions of Section 26(a)(2) and 27(c)(2) of the Act pursuant to Applications filed on behalf of, *inter alia*, HVA–QP–VA and on behalf of, *inter alia*, DC–I which permitted an annual policy fee of $10.00 to be deducted by Hartford Bank (as Custodian of HVA–QP–VA and DC–I respectively) from the value of each Contract Owner's or Contract Participant's account, as appropriate, and to pay such fees to HVA.

Applicants HVA, HVA–QP–VA, and DC–I have requested that the Commission enter an Order exempting them and each of them from the provisions of Sections 26(a)(2) and 27(c)(2) to the extent necessary so that Hartford Bank may (1) deduct an annual fee of $100.00 from the account maintained with respect to a non-allocated John Doe Group Contract issued with respect to HVA–QP–VA, (2) deduct an annual fee of $10 from each Participant's account maintained under an allocated Group Variable Only Accumulation Contract issued with respect to HVA–QP–VA or DC–I and (3) deduct an annual fee of $100 from the account maintained with respect to a non-allocated Group Variable Only Accumulation Contract issued with respect to HVA–QP–VA or DC–I, and pay such fees to HVA.

The fee which is charged for the servicing and handling of the individual account or accounts under the Contracts issued with respect to HVA–QP–VA and DC–I is deducted from the value of each such Contract account on the last business day of each calendar year; provided, however, if the value of a non-allocated John Doe or Group Variable Only Accumulation Contract or the value of the interest of a Participant under an allocated Group Variable Only Accumulation Contract is redeemed in full at any time before the last business day of the year, the annual policy fee charge in the case of a non-allocated Contract, will be deducted from the proceeds of such redemption. No annual policy fee deduction in the case of a John Doe Contract issued with respect to HVA–QP–VA or a Group Variable Only Accumulation Contract issued with respect to HVA–QP–VA and DC–I will be made during the annuity pay-out period.

Applicants have consented that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) The charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) the payment of sums and charges out of the assets of HVA–QP–VA and DC–I shall not be deemed to be exempted from regulation by the Commission by reason of the requested Order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

Notice is further given, that any interested person may, not later than September 18, 1979 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an Order disposing of the Application will be issued, as of course, following September 18, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing has been ordered, will receive any Notices and Orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–27227 Filed 8–30–79; 8:45 am]

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[Rel. No. 21199; 70–6339]

Louisiana Power & Light Co.; Proposal To Finance Construction of Pollution Control Facilities

August 24, 1979.

Notice is hereby given that the Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana Power & Light Company has constructed and installed at its Ninemile Point Steam Electric Generating Station ("Ninemile Point Station") in Jefferson Parish, Louisiana, certain facilities solely for water pollution control purposes.

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LP&L proposes to enter into a sale agreement with the Parish of Jefferson, Louisiana ("Sale Agreement"), which will provide for the Parish to issue and sell its pollution control revenue bonds ("Bonds") in the principal amount of $4,000,000, sufficient to cover construction and related costs of the pollution control facilities, for the Bond sale proceeds to be deposited with a Trustee pursuant to an Indenture ("Trust Indenture") to be entered into by the Parish and the Trustee, for LP&L to sell such pollution control facilities at the Ninemile Point Station to the Parish for cash, which is to be paid by the Trustee out of such proceeds, and for LP&L simultaneously to re-purchase from the Parish the pollution control facilities sold to it, on an installment payment basis for an aggregate price equal to the amount of money that will be required to fully pay or retire the Bonds in accordance with their terms.

The re-purchase price will be payable by LP&L in semi-annual installments, to be made on the last business day before each Bond interest payment date, in such amounts as, together with other moneys available for such purpose in the Bond Fund, will enable the Trustee to pay the interest on the Bonds, the principal amount of any of the Bonds then to be redeemed under the Trust Indenture, and any premium on any such Bonds to be redeemed. Such installment payments are to be made directly to the Trustee pursuant to an assignment and pledge thereof by the Parish to the Trustee as set forth in the Trust Indenture.

LP&L will also be obligated to pay the reasonable and necessary expenses incurred by the Parish pursuant to the Sale Agreement and the Trust Indenture and the reasonable and necessary compensation of and expenses incurred by the Trustee and any registrar or paying agent thereunder, but the initial compensation and expenses of the Trustee, and the legal, accounting, financial and printing expenses and fees, and substantially all other expenses except the fee of the underwriter or the underwriters, incurred in connection with the issuance of the Bonds, are included in the cost of the facilities as defined in the Sale Agreement and therefore will be included in the purchase and re-purchase prices and will be financed by the sale of the Bonds.

The Bonds will mature thirty years after the first day of the month in which they are initially issued, but a mandatory sinking fund effective during the eleventh through the twenty-ninth years of the term of the Bonds will effect the redemption (without premium) of $1,000,000 principal amount (25%) of the Bonds prior to such maturity date.

The Sale Agreement provides that LP&L will have the option to prepay the re-purchase price at any time upon payment of a premium corresponding to the redemption premium on the Bonds as determined by the provisions of the Trust Indenture, or without premium in certain extraordinary and burdensome circumstances. Prepayment of the re-purchase price (without premium) will be mandatory if it is determined that the interest on the Bonds is subject to Federal income tax. Under the Trust Indenture, the Bonds are non-callable for redemption prior to October 1, 1989, except in the event that the Company shall exercise its prepayment option or shall be obligated to pre-pay under the above mandatory prepayment provision, in either of which events the Bonds shall be called and redeemed without premium.

The Trust Indenture will provide for the establishment with the Trustee thereof of a Bond Fund and a Project Acquisition Fund; for any accrued interest and/or premium paid by the purchasers of the Bonds to be deposited in the Bond Fund and the remainder of the sale proceeds to be deposited in the Project Acquisition Fund; for the cash price payment to LP&L upon the sale by LP&L to the Parish of the pollution control facilities to be paid out of the Project Acquisition Fund; for any funds remaining in the Project Acquisition Fund after the pollution control facilities have been paid for to be deposited in the Bond Fund and/or used by the Trustee to purchase Bonds in the open market for cancellation, as LP&L shall direct; and for the Bond Fund to be used to pay the principal of, premium, if any, and interest on the Bonds. The installment payments to be made by LP&L in payment of the re-purchase price are to be deposited in the Bond Fund.

The Sale Agreement provides that the Parish will sell, issue and deliver the Bonds as and when but only if requested by LP&L. LP&L will not be a party to the Trust Indenture nor to the underwriting arrangements for the Bonds. However, since the amounts of the installments to be paid by LP&L in payment of the re-purchase price will be determined by the interest rate of the Bonds, LP&L will request the sale, issuance and delivery of the Bonds only if it considers satisfactory the interest rate thereof offered (and the amounts of underwriters' fees proposed) by the underwriters, and only with the further authorization of this Commission. It is contemplated in the last connection that the proposed interest rate and underwriters' fees would be reported to this Commission by post-effective amendment to this application-declaration.

LP&L presently contemplates that the Bonds will be sold to a group of underwriters who will immediately make a public re-offering thereof. However, in the event that, in the opinion of LP&L time, scheduling, costs and expenses, or other factors make it desirable or necessary that the sale of the Bonds be effected by private placement, LP&L may, prior to the issuance of the Commission's order hereon, amend this application-declaration to propose such private placement.

It is LP&L's understanding that under Section 103 of the Internal Revenue Code of 1954, as amended, the interest to be paid on the Bonds will be exempt from Federal income taxes. It is LP&L's further understanding that the interest rates of bonds and other debt obligations, the interest on which is exempt from Federal income taxes, have been in the past and can be expected to be 1½% to 2½% lower, or perhaps even lower than that at this time, than the interest rates on bonds and other debt obligations of similar tenor and comparable quality the interest which is not so exempt.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is further stated that no federal or state commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 19, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or be mailed upon the applicants-declarants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-27228 Filed 8-30-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16130; File No. SR-NSCC-79-6]

National Securities Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s (b) (1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 30, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Board of Directors of National Securities Clearing Corporation has approved and adopted the following Policy Statement at its meeting which was held on June 5, 1979:

Policy Statement of the Board of Directors

* * * Application of Retained Earnings—Member Impairments * * *

Under SCC Division Rule 4, Section 4, if the Corporation suffers a loss or liability by reason of a Member's impairment, and such loss or liability is not satisfied or otherwise made good from the impaired Member's Clearing Fund deposit, the Corporation in its discretion may either satisfy such loss or liability or any part thereof out of its then existing retained earnings or, after appropriate notice to both the membership and the Securities and Exchange Commission, directly from the Clearing Fund deposits of all other Members on a pro rata basis.

While neither the Corporation nor its three predecessor clearing agencies have ever subjected their memberships to such a pro rata assessment, the ability exists for the Corporation to bypass completely its retained earnings. Since the Board of Directors of the Corporation is desirous of clarifying its intentions with respect to the usage of retained earnings in Member impairment situations, the Board has adopted this Policy Statement.

The Board of Directors of the Corporation hereby advises the membership of the Corporation that pursuant to Rule 4, Section 4 of the Rules of the SCC Division of the Corporation, the Corporation will apply no less than twenty-five percent (25%) of its retained earnings, existing at the time of a Member impairment which gives rise to a loss or liability not satisfied by the impaired Member's Clearing Fund deposit, to such loss or liability.

Nothing herein, however, shall prevent the Corporation from applying more than twenty-five percent (25%) of its then existing retained earnings, if the Board of Directors, in its sole discretion, believes such to be appropriate under the factual situation existing at the time of the Member impairment.

This Policy Statement may not be changed, modified or altered, without thirty days prior written notice to the membership and to the Securities and Exchange Commission. Any such change, modification or alteration shall only be prospective in effect, and shall not be applicable to any losses or liability previously incurred as a result of prior Member impairments.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change categorizes by Statement of Policy of the Board of Directors the circumstances under which the Board will exercise its discretion, conferred by SCC Division Rule 4, Section 4 to apply corporate retained earnings to losses occasioned by Member impairments rather than satisfy the entire amount of such loss from the Clearing Fund.

The proposed rule change relates to the equitable allocation of reasonable dues, fees and other charges among NSCC's participants by clarifying how NSCC will utilize retained earnings in the event of Member impairments.

No comments on proposed rule change have been solicited or received.

The Corporation does not not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 21, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 24, 1979.

[FR Doc. 79-27230 Filed 8-30-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 6112; 18-52]

Reavis & McGrath Retirement Plan; Filing of Application for an Order

August 24, 1979.

Notice is hereby given that Reavis & McGrath (the "Applicant"), 345 Park Avenue, New York, NY 10022, a law firm organized as a partnership under the laws of the State of New York, has on May 21, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Reavis & McGrath Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein which are summarized below.

I. Introduction

Applicant states that Applicant has adopted the Plan to provide retirement benefits for eligible employees of Applicant. Applicant states that because the Plan covers persons (in this case,

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Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), the Plan is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description of the Plan

Applicant states that the Plan was originally established, effective December 31, 1971, to provide retirement benefits for eligible employees of the Applicant. The Plan was amended and restated effective January 1, 1975, to incorporate into one document (a) all pre-1975 amendments, and (b) amendments effective as of January 1, 1975, to effect compliance with the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant further states that the Plan and related trust received a favorable determination letter on October 15, 1976, to the effect that the Plan and related trust meet the requirements of Section 401(a) of the Code and that the Trust is tax exempt under Section 501(a) of the Code.

The Plan was further amended effective in April 1979 to permit participants in the Plan to choose to have their interests in the Plan invested in whole or in part in two separate investment funds, as explained below.

The Plan provides that employees and partners of Applicant are eligible to participate in the Plan if they are at least 25 years of age, do not own more than 10% of the capital or profit interests in Applicant and have completed 1,000 hours of service in the twelve consecutive months following the commencement of employment, or a subsequent twelve consecutive month period beginning on the anniversary date of the commencement of employment. As of December 31, 1978, 26 partners, 58 legal associates and other employees of the Applicant were participants in the Plan.

Applicant contributes on behalf of each participant who had more than 500 hours of service during the year in amounts equal to a specified percentage of that participant's compensation, up to a maximum of $7,500 for any participant. No participant is required to make contributions under the Plan. A participant may, however, make annual voluntary contributions to the Plan in amounts up to 10% of his or her compensation.

The assets of the Plan are managed by Wertheim Asset Management Services, Inc. ("WAMSI"), a registered investment adviser. The assets are held by Lewco Securities Corp., a registered broker-dealer, as agent for WAMSI. The manager is appointed by the trustees of the Plan who exercise management and control of the Plan's assets. The trustees are three partners of the Applicant. The Plan is administered by a committee appointed by Applicant (the"Committee"). The Committee is responsible for interpreting the Plan, making determinations concerning eligibility, status and rights to benefits and all other matters of administration. The Committee's actions are binding upon Applicant, trustees, participants, beneficiaries and all other persons.

The assets of the Plan are segregated into two funds. Each participant may direct that his annual contributions, including any voluntary contributions, be placed in one of the two funds or be split between the two. One fund consists of fixed income securities, to be selected by the trustees or manager selected by the trustees, to be limited to investments in certificates of deposit, treasury bills, commercial paper, notes, bonds, debentures, or other corporate or governmental debt obligations or in securities issued by an investment company registered under the Investment Company Act of 1940 whose assets are invested in substantially similar securities or in guaranteed insurance contracts. The other fund is a "balanced fund" consisting of cash, and cash equivalents, government and corporate bonds, and common stock, currently managed by WAMSI.

III. Discussion

Applicant states that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because Applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption, plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring finanical institution or promoter to numerous unrelated self-employed persons. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under the Employee Retirement Income Security Act of 1974 to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants for inspection, upon request and without charge, copies of the Plan and all documents relating to it.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Partnership, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 17, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following September 17, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-27229 Filed 8-30-79; 8:45 am]

BILLING CODE 8010-01-M

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Members of Performance Review Board.

SUMMARY: The members of a Senior Executive Service Performance Review Board must be published in the **Federal Register**.

DATE: Performance Review Board effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT: James W. House, RM:P:X, 1111 Constitution Avenue, N.W., Room 1510, Washington, D.C., 20224, Telephone No. 202-566-4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board are as follows:

William E. Williams, Chairman, Deputy Commissioner.
James I. Owens, Assistant Commissioner, Taxpayer Service and Returns Processing.
S. Allen Winborne, Assistant Commissioner, Employee Plans and Exempt Organizations.
Harold A. McGuffin, Regional Commissioner, Southeast Region.
Edwin P. Trainor, Regional Commissioner, Midwest Region.
Thomas A. Cardoza, Regional Commissioner, Western Region (Alternate).
Donald J. Porter, Assistant Commissioner, Data Services (Alternate).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

William E. Williams,

Deputy Commissioner.

[FR Doc. 79-27285 Filed 8-30-79; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Holiday Inn, Massachusetts Avenue at Thomas Circle, NW., Washington, D.C. on October 10, 11, and 12, 1979. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., October 10, 11, and 12, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, D.C. (202) 389-3702 prior to September 21.

The meeting will be closed from 8:30 a.m. to 6:15 p.m., October 10-11, and 8:30 a.m. to 12:30 p.m., October 12, for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and Subsection 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 23, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

[FR Doc. 79-27238 Filed 8-30-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 127]

Assignment of Hearings

August 28, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 21060 (Sub-18F), Iowa Parcel Service, Inc., now assigned for hearing on November 26, 1979 (2 weeks), at Des Moines, IA, in a hearing room to be later designated.
MC 72423 (Sub-7F), Platte Valley Freightways, Inc., now being assigned for hearing on October 29, 1979 (2 weeks), at Denver, CO, location of hearing room to be later designated.
MC 108382 (Sub-32F), Short Freight Lines, Inc., now assigned for hearing on October 9, 1979 at the Holiday Inn, 15000 West Wackerly, Midland, MI.
AB 43 (Sub-56F), Illinois Central Gulf RR CO, Abandonment Near Kevil and Barlow in Ballard And McCracken Counties, KY, now assigned for hearing on October 29, 1979 (5 days), at Paducah, KY, in a hearing room to be later designated.
MC 111302 (Sub-144F), Highway Transport, Inc., Application Dismissed.
MC 4810 (Sub-5F), Rocky Mountain Trucking Co., MC 23618 (Sub-39F), McAlister Trucking, d.b.a. Matco, MC 25518 (Sub-20F), John Bunning Transfer Co., Inc., MC 43867 (Sub-43F), A. Leander McAlister Trucking Co., MC 95350 (Sub-8F), R. W. Jones Trucking Co., MC 105006 (Sub-7F and 9F), L. L. Smith Trucking, MC 105984 (Sub-21), John B. Barbour Trucking Co., MC 110617 (Sub-25F), E. L. Farmer & Co., MC 113531 (Sub-2F), B&M Service, Inc., MC 113822 (Sub-6F and 8F), Dalgarno Transportation, Inc., MC 114761 (Sub-13),

Getter Trucking, Inc., MC 119774 (Sub-96), Eagle Trucking Co., MC 135705 (Sub-11F), Melrose Trucking Company, Inc., MC 143446 (Sub-1F and 3F), Gary L. McCallister & Monte A. McCallister, d.b.a. McCallister Brothers, MC 143993 (Sub-4F), Black Hills Trucking, Inc., MC 144961 (Sub-1F), Reed Transportation, MC 145568F, Pollard Transportation, Inc., MC 4405 (Sub-585), Dealers Transit, Inc., and MC 125433 (Sub-170F), F-B Truck Line Company, now assigned for hearing on September 11, 1979 (2 weeks) at Salt Lake City, UT, are assigned for locations as follows: September 11, 12, 13, and 14, 1979, at the TRI-ARC Hotel, 161 West 6th South, September 17, 18, 20, and 21, 1979, at the Hilton Hotel, 150 West 5th South, and September 19, 1979, at the Hilton Inn, 154 West Sixth South.

MC-C-10300, Fogarty Van Lines, Inc.—Investigation and Revocation of Certificates, now assigned for hearing on September 10, 1979 (5 days), at Atlanta, GA will be held in Conference Room No. 556, 275 Peachtree Street, on September 10, 12, and 14, 1979, and on September 11, 1979 (1 day), in Room 205, State Court House, 160 Pryor Street, S.W.

MC 11207 (Sub-462), Deaton, Inc., now assigned for hearing on September 6, 1979 at Atlanta, GA, will be held at the Admiral Benbow Midtown, 1470 Spring Street, NW.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27282 Filed 8-30-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 128]

Assignment of Hearings; Correction

August 28, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 119789 (Sub-524F), Caravan Refrigerated Cargo, Inc. (44 CFR 49351, 9/22/79), now assigned for hearing on September 5, 1979 (3 days), at Tampa, FL, will be held at the Ramada Inn Airport, 2522 North Dale Mabry, instead of Room No. 511, Federal Court House, 500 Zack Street.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27285 Filed 8-30-79; 8:45 am]

BILLING CODE 7035-01-M

[Exception No. 13 to Revised Service Order No. 1312]

Soo Line Railroad Co.; Car Service Order

Because of the inability of the railroad to assemble the cars, a movement of thirty-four (34) loaded covered hopper cars will be seriously delayed on Soo Line Railroad Company enroute to Buffalo, New York, for unloading. Standard Milling desires to ship a sixty (60) car unit-grain-train of wheat to Buffalo, New York, routed Soo Line-ConRail. The consignee at Buffalo is badly in need of the wheat, but only 34 covered hoppers have arrived at Minneapolis. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Soo Line Railroad Company is authorized to operate a sixty (60) car unit-grain-train from Minneapolis, Minnesota, to Buffalo, New York, comprised of sixty (60) railroad owned covered hoppers, on a one trip basis, with a minimum of 34 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 13 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective August 17, 1979.

Expires 11:59 p.m., August 31, 1979.

Issued at Washington, D.C., August 17, 1979.

Joel E. Burns,

Director.

[FR Doc. 79-27284 Filed 8-30-79; 8:45 am]

BILLING CODE 7035-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Levels for Certain Cotton Textile Products from the Republic of Singapore

August 28, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation levels for Category 320 (other cotton fabrics, such as lawn and voile) and 341 (women's, girls' and infants' woven cotton blouses) and controlling imports at those new levels for the agreement year that began on January 1, 1979.

SUMMARY: Paragraph 5 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore provides for the establishment of consultation levels for certain categories, like Category 641, which are not subject to specific limits. The two governments have agreed by an exchange of letters dated May 31 and June 20, 1979 to increase the consultation level for Category 320 from 6,000,000 square yards to 8,000,000 square yards and for Category 341, from 48,276 dozen to 55,172 dozen during the agreement year which began on January 1, 1979.

EFFECTIVE DATE: September 5, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the **Federal Register** (44 F.R. 932) a letter dated December 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 320 and 341, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1979, in excess of the designated levels of restraint. The levels of restraint have not been adjusted to account for imports during the January-June period of 1979. During that period imports in Category 320 have amounted to 2,743,271 square yards; in Category 341, 13,897 dozen. Further charges will be made to account for the period beginning on July 1, 1979 and extending through the effective date of this action.

Paul T. O'Day,

3Acting Chairman, Committee for the Implementation of Textile Agreements.

August 28, 1979.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 28, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21, and 22, 1978, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on September 3, 1979, and for the 12-month period beginning on January 1, 1979 and extending through December 31, 1979, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 320 and 341 in excess of the following levels of restraint:

Category	12-month level of restraint [1]
320	8,000,000 yd[2]
341	55,172 doz.

[1] The levels of restraint have not been adjusted to account for imports after December 31, 1978. During the January-June 1979 period imports have amounted to 2,743,271 square yards in Category 320 and 13, 897 dozen in Category 341.

Cotton textile products in Categories 320 and 341 that have been exported prior to January 1, 1979 shall not be subject to this directive.

Cotton textile products in Categories 320 and 341 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-27476 Filed 8-30-79; 10:20 am]

BILLING CODE 3510-25-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-63/65]

Certain Precision Resistor Chips; Prehearing Conference

Notice is hereby given that a prehearing conference will be held in this case at 1:00 p.m. on September 6, 1979, in Room 610, in the Bicentennial Building, U.S. International Trade Commission, 600 E Street, NW., Washington, D.C. The hearing will commence immediately after the prehearing conference.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1979.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 79-27483 Filed 8-30-79; 10:48 am]

BILLING CODE 7020-02-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 171
Friday, August 31, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-240, Amdt. 1; Aug. 28, 1979]

CIVIL AERONAUTICS BOARD.

Deletion and addition of items to the August 31, 1979, meeting.

TIME AND DATE: 9:00 a.m., August 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Deletion: 4. Docket 35578, (Texas International Airlines, Inc. Enforcement Proceeding) Order 79-5-127—TXI's motion to disqualify the Board Members and to dismiss Proceeding (OGC).

Deletion: 25. Agreement CAB 27337, *et al.*, Agreements for intercarrier division of joint fares (BDA, OGC, BIA, BCP).

Addition: 25a. Cancellation of the "guaranteed air fare rule" proposed by TXI and Western (BDA).

STATUS: Open (1-30). Closed (Item 31).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Items 4 and 25 are being deleted from the August 31, 1979, calendar in order that the staff may have additional time to prepare and coordinate the recommendations to the Board on these matters. Item 25a is being added to the August 31, 1979, calendar because if the Board wishes to suspend the proposal, it must do so by September 1 or lose the authority to do so under section 1002 of the Federal Aviation Act of 1958. Accordingly, the following Members have voted that items 4 and 25 be deleted from the meeting and that item 25a be added to the August 31, 1979, meeting and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1702-79 Filed 8-29-79; 3:17 pm]
BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., September 5, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Continuation of discussion on Domestic Options Pilot Program.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1700-79 Filed 8-29-79; 3:17 pm]
BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., September 5, 1979.

PLACE: 2033 K Street, N.W.; Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters/civil action.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1701-79 Filed 8-29-79; 3:17 pm]
BILLING CODE 6351-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:00 a.m. on Tuesday, August 28, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the application of Vista Hills Bank, a proposed new bank to be located in El Paso, Texas, for Federal deposit insurance.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of this matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of this matter in a meeting open to public observation; and that this matter was eligible for consideration in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 28, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1696-79 Filed 8-28-79; 4:57 pm]
BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, September 5, 1979, at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel.

DATE AND TIME: Thursday, September 6, 1979, at 10:00 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1979-31, James E. Ritchie, Treasurer Western Enterprise Policial Action Committee (WE-PAC). AO 1979-41, I. Philip Sipser (National Committee for a Democratic Alternative).
1980 Elections and Related Matters: Procedures for public disclosure of submissions of Presidential candidates for matching funds.

Appropriations and Budget: FY 81 budget request.
Pending legislation.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on September 5, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

Lena L. Stafford,
Acting Secretary to the Commission.

[S-1704-79 Filed 8-29-79; 3:46 pm]
BILLING CODE 6715-01-M

6

August 29, 1979.
FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10:00 a.m., September 5, 1979.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE IMFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevent to the items on the agenda, however, all public documents may be examined in the Office of Public Imformation.

Power Agenda—337th Meeting, September 5, 1979, Regular Meeting (10:00 a.m.)

CAP-1. Project No. 2878, Turlock Irrigation District.
CAP-2. Docket No. ER77-347, Wisconsin Power & Light Co.
CAP-3. Docket Nos. ER79-92 and ER79-93, New England Power Co.
CAP-4. Docket Nos. ER78-433 and ER78-68, Oklahoma Gas & Electric Co.

Miscellanous Agenda—337th Meeting, Septmeber 5, 1979, Regular Meeting

CAM-1. Docket No. RM79-3, Interim Regulations Implementing the Natural Gas Policy Act of 1978.
CAM-2. Docket No. RA79-27, Coastal States Gas Corp.

Gas Agenda—337th Meeting, September 5, 1979, Regular Meeting

CAG-1. Docket No. RP73-8 (PGA No. 79-4), North Penn Gas Co.
CAG-2. Docket Nos. RP79-47 and RP72-157 (PGA Nos. 79-4A and 79-4B), Consolidated Gas Supply Corp.
CAG-3. Docket No. RP78-23, Midwestern Gas Transmission Co.
CAG-4. Docket Nos. RP76-39 and RP77-6, Sea Robin Pipeline Co.
CAG-5. Docket No. RP76-93, Kentucky West Virgina Gas Co.
CAG-6. Docket No. CI73-293, Belco Petroleum Corp.
CAG-7. Docket No. CP-79-180, Michigan Wisconsin Pipe Line Co.
CAG-8. Docket No. CP79-145, Columbia Gas Transmision Corp., Tennessee Gas Pipleline Co., a division of Tenneco Inc., and Northern National Gas Co.
Docket No. CP79-282, Transcontinental Gas Pipe Line Corp.
CAG-9. Docket No. CP73-219, Natural Gas Pipeline Co. of America.
Docket No. CP76-469, United Gas Pipe Line Co.
Docket No. CP76-495, Trunkline Gas Co.
Docket No. CP-79-316, Stingray Pipeline Co.
CAG-10. Docket No. CP77-473, Northern Natural Gas Co.
Docket No. CP77-479, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.
Docket No. CP77-532, Columbia Gas Transmission Corp.
CAG-11. Docket No. CP79-341, United Gas Pipe Line Co.
CAG-12. Docket No. CP79-407, Transcontinental Gas Pipe Line Corp.
CAG-13. Docket No. CP79-222, Florida Gas Transmision Co., South Georgia Natural Gas Co. and Southern Natural Gas Co.
CAG-14. Docket Nos. CP71-223, et al., and CP79-144, Great Lakes Gas Transmission Co.

Power Agenda—337th Meeting, September 5, 1979, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 199, South Carolina Public Service Authority. Docket No. E-9110, *James H. Quackenbush* v. *South Carolina Public Service Authority.*

II. Electric Rate Matters

ER-1. Docket Nos. ER79-522, 554, 563, and 574, Florida Power & Light Co.
ER-2. Docket No. ER79-528, Cincinnati Gas & Electric Co.
ER-3. Docket No. ER76-5, Indiana & Michigan Power Co.
ER-4. Docket No. E-7777 (Phase II), Pacific Gas & Electric Co.
Docket No. E-7796, Pacific Power & Light Co.
ER-5. Docket No. EL78-29, Village of Penn Yan New York.

Miscellaneous Agenda—337th Meeting, September 5, 1979, Regular Meeting

M-1. Reserved.
M-2. Reserved.
M-3. Docket No. RM79-14, Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978.
M-4. Docket No. RM79-21, Regulations Implementing Alternative Fuel Cost Ceiling on Incremental Pricing Under the Natural Gas Policy Act.
M-5. Docket No. RM79- , Final Subpart K of Part 271 Regulations Under the Natural Gas Policy Act of 1978.
M-6. Docket No. RM79- , Final Rule Promulgating Subpart I of Part 271 Concerning § 109 of the Natural Gas Policy Act of 1978.
M-7. Docket No. GP79-30, Notice of Well Category Determination by Department of Natural Resources, Division of Oil, and Gas and Mining, JD79-3063.
M-8. Docket No. GP79-37, Notice of Well Category Determination by USGS Northern Rocky Mountain Area Oil and Gas Supervisor, JD79-4542.
M-9. Docket No. GP79-69, Grace Petroleum Corp. State Docket Nos. 4-6-7928 PD and 3-2-7912 PD FERC JD Nos. 79-9658 and 79-9659.
M-10. Amax Petroleum Corp., Delacroix Corp. No. 1 Well JD79-13791, Louisiana No. NGPA 79-1710.
M-11. Well Category Determinations.

Gas Agenda—337th Meeting, September 5, 1979, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP74-97 (PGA No. 78-1), Montana-Dakota Utilities Co.

II. Pipeline Certificate Matters

CP-1. Docket No. CP76-255, et al., Michigan-Wisconsin Pipeline Co.
CP-2. Docket No. TC79-134 (Related to Docket No. RP71-122), Arkansas-Louisiana Gas Co.

Kenneth F. Plumb,
Secretary.

[S-1703-79 Filed 8-29-79; 3:46 pm]
BILLING CODE 6450-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 50135, published August 27, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., August 29, 1979.

CHANGE IN MEETING: Addition to the agenda meeting of August 29, 1979.

Item No., Docket No., and Company

M-9. GP-79 , State of Nebraska, § 102 NGPA Determination, Chain Oil, Inc., Schoen No. 1 Well JD79-13110.
M-10. GP79-34, State of Lousiana, § 103 NGPA Determination, Union Oil Co. of California, CIB C6 RB VUA Laterre Co., Inc., "C" No. 11 Well, API Well No. 1710920978 JD79-334.
CP-1. CP79-295, Black Warrior Pipeline, Inc., and Rayar Pipeline, Inc.
M-8(B). CP78-123, et al., Northwest Alaskan Pipeline Co.
M-11. GP79-5, State of Louisiana, § 103 Determination, Pennzoil Producing Co., Laterre Co. Inc., C No. 14 Well, FERC DJ79-1007, Louisiana No. NGPA 79-487.
ER-5. ER79-182, Commonwealth Edison Co.

Kenneth F. Plumb,
Secretary.

[S-1705-79 Filed 8-29-79; 3:46 pm]
BILLING CODE 6450-01-M

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 5, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—Kentucky Enterprise Federal Savings & Loan Association of Newport, Newport, Kentucky.
Application for Branch Office—California Federal Savings & Loan Association, Los Angeles, California.
Application for Limited Facility—First Federal Savings & Loan Association of North Platte, North Platte, Nebraska.
Application for Limited Facility—State Federal Savings & Loan Association, Beatrice, Nebraska.
Application for Further Extension of Time for Long Beach Branch Office—Laguna Federal Savings & Loan Association, Laguna Beach, California.
Applications for Concurrently Submitted Branch Office—Falls City Federal Savings & Loan Association, Falls City, Nebraska.
Application to Change Branch Office—Coast Federal Savings & Loan Association, Los Angeles, California.
Application for Merger; Maintenance of Branch Office, Cancellation of Membership and Insurance and Transfer of Stock—Momence Federal Savings & Loan Association, Momence, Illinois into Bloomington Federal Savings & Loan Association, Bloomington, Illinois.
Application for Modification of Condition, Re: Merger of—Roseville Federal Savings & Loan Association, Roseville, Ohio into First Federal Savings & Loan Association of Zanesville, Zanesville, Ohio.
Application for Request for Commitment to Insure Accounts—Edward J. Janos, et al., Phoenix, Arizona.
Application for Permission to Organize a New Federal Association—Thomas L. Scott, et al., Conyers, Georgia.
Application for Request for Reduction in Liquidity Deficiency Penalties—Marquette Savings & Loan Association, West Allis, Wisconsin.
Application for Proposed Amendment to Section 5 of Charter S—Metropolitan Federal Savings & Loan Association, Bethesda, Maryland.
Application for 1979 Budget Reallocation for the Office of Neighborhood Reinvestment.
Application for Satellite Office—DeKalb Federal Savings & Loan Association, Decatur, Georgia.
Application to Acquire—County Savings & Loan Company, Ravenna, Ohio by Transohio Financial Corporation, Cleveland, Ohio.

August 29, 1979.

[S–1697–79 Filed 8–29–79; 12:22 pm]

BILLING CODE 6720–01–M

9

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 9:30 a.m., Thursday, September 6, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Henry Judy (202–789–4734).

MATTERS TO BE CONSIDERED:

Consideration of amendment to FHLMC pension plan.

No. 267, August 29, 1979.

J. J. Finn,

Secretary.

[S–1708–79 Filed 8–29–79; 3:58 pm]

BILLING CODE 6720–02–M

10

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:45 a.m., Wednesday, August 29, 1979 (following a recess at the conclusion of an open meeting held earlier in the day).

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review of Board Officer positions. (This matter was originally announced for a meeting on August 24, 1979).

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on August 24, 1979).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: August 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–1707–79 Filed 8–29–79; 3:58 pm]

BILLING CODE 6210–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 4, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, September 5, 1979, at 2:30 p.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402 (a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 5, 1979, will be:

1. Consideration of an application by Robert L. Ferman to lift the bar imposed by Commission Order of March 29, 1973, suspending him from association with any broker-dealer in a proprietary or supervisory capacity. For further information, please contact Michael F. Perlis at (202) 755–1498.

2. Consideration of whether to issue a release soliciting comments on a rule under the Investment Company Act of 1940 (the "Act"), which would permit open-end management investment companies to bear expenses associated with the distribution of their shares, if such companies complied with certain conditions and procedures. The proposed rule would require that any decision by an open-end management investment company to use its assets to finance distribution be approved by its shareholders and directors, including its disinterested directors, following procedures generally similar to those prescribed by the Act for approval of investment advisory contracts. The proposed rule also contains provisions intended to ensure that the disinterested directors are neither dominated nor unduly influenced by management, that the directors are fully informed, and that they exercise reasonable business judgment. In addition, the Commission will consider whether to propose for public comment: (1) a rule to exempt from the requirement of prior Commission approval certain transactions between open-end management investment companies and their affiliated persons whereby investment company assets are used for distribution, if those arrangements comply with the conditions and procedures generally applicable to a plan to bear distribution expenses; and (2) certain disclosure and reporting requirements relating to the use of assets for distribution, including a revision of the registration and reporting form for open-end management investment companies. For further information, please contact Richard W. Grant at (202) 755–0242 or Dianne E. O'Donnell at (202) 755–1796.

3. Consideration of a request for rulemaking submitted by Alliance Capital Management Corporation to exempt certain transactions from the prohibition of Section 11(a) of the Securities Exchange Act of 1934. For further information, please contact Arnold Dean at (202) 755–4372.

4. Consideration of an application by Paine, Webber, Jackson & Curtis, Inc. for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 755–1290.

5. consideration of an application by Advest, Inc. for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 755–1290.

6. Consideration of whether to issue a release soliciting comments on (1) an amendment to Rule 12b–25 under the Securities Exchange Act of 1934 which would eliminate the extension of time procedures and would require notification if an issuer or reporting person is unable to timely file a report required by Sections 13 or 15(d) of the Act; and (2) a proposed Rule 12b–26 under the Securities Exchange Act which require disclosure on the cover page of a periodic report if a required portion of the report is omitted. For further information, please contact Bruce S. Mendelsohn at (202) 755–1750.

7. Consideration of whether to issue a release concerning the proxy statement disclosure requirements of Schedule 14A relating to certain business and personal affiliations of directors. The Commission will also consider whether to include a request for comments on the disclosure requirements adopted in December 1978 (Release No. 34–15384) relating to the structure, functioning and composition of boards of directors. for further information, please contact Richard B. Nesson at (202) 755–7622 or G. Michael Stakias at (202) 755–1750.

8. Consideration of whether to issue a release soliciting comments on a proposed new small issue exemption rule under Section 3(b) of the Securities Act of 1933, to be designated Rule 242, which would allow certain corporate issuers to sell up to $2,000,000 of their restricted securities to an unlimited number of institutional-type purchasers and to thirty-five other purchasers if the issuers meet conditions relating to the manner of the offering, the furnishing of information, and the filing of a notice of sales. For further information, please contact Mary Beach at (202) 755–4370.

9. Consideration of whether to affirm action taken by the duty officer to issue an order setting a briefing schedule on issues not fully examined in a proceeding involving the proposed acquisition under Sections 9(a)(1) and 10 of the Public Utility Holding company Act of 1935 by American Electric Power Company, Inc., a registered holding company, of the common stock of Columbus and Southern Ohio electric Company. For further information, please contact Grant G. Guthrie at (202) 523–5156.

The subject matter of the closed meeting scheduled for Wednesday, September 5, 1979, immediately following the 2:30 p.m. open, will be:

Formal orders of investigation.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Litigation matter.
Institution of injunctive actions.
Formal order of investigation and subpoena enforcement action.
Institution and settlement of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Freedom of Information Act appeal.
Personnel security matter.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 755—1638.

August 29, 1979.

[S–1699–79 Filed 8–29–79; 2:02 pm]

BILLING CODE 8010–01–M

12

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: September 10, 1979, 8:00 a.m.

PLACE: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO BE CONSIDERED:

8:00 a.m. Meeting—Educational Affairs Committee

(1) Faculty Appointments; (2) Report—Admissions Committee Fact Sheet—Class of 1983 Summary Chart; (3) Report—Disenrollment during Pre-Freshman Orientation; (4) Report—Graduate Medical Education Plans of Charter Class; (5) Report—Medical College Admission Test—Statement—Association of American Medical Colleges—Proposed Statement—Uniformed Services University; (6) Report—Graduate Program Update; (7) Report—Continuing Medical Education Accreditation.

8:00 a.m. Meeting—Administrative Affairs Committee

(1) Report—Assistant Dean for Administration—Construction Update; (2) Report—Director Resource Management—Budget; (3) Report—Legal Counsel—Policy on Memorials.

9:15 a.m. Meeting—Board of Regents

(1) Correction and Approval of Minutes, June 4, 1979; (2) Report—Educational Affairs Committee; (3) Report—Administrative Affairs Committee; (4) Report—Acting President; (5) Report—Dean, School of Medicine—Faculty Compensation—Schedule for Graduation; (6) Report—Associate Dean, School of Medicine—LCME Self-Study; (7) Report—Departmental Program Review—Jerome E. Singer, Ph.D., Chairman, Department of Medical Psychology.
New Business.
Scheduled Meetings: November 13, 1979.

CONTACT PERSON FOR MORE INFORMATION: Frank M. Reynolds, Executive Secretary of the Board, 202–295–2111.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 29, 1979.

[S–1698–79 Filed 8–29–79; 12:22 pm]

BILLING CODE 3810–70–M

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federal register

Friday
August 31, 1979

Part II

Department of Energy

Energy Information Administration

Annual Survey of Domestic Oil and Gas Reserves; Data Due for Report Year 1978

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DEPARTMENT OF ENERGY

Energy Information Administration

Annual Survey of Domestic Oil and Gas Reserves (Form FIA-23); Data Due for Report Year 1978

AGENCY: Department of Energy, Energy Information Administration.

ACTION: Notice of Reports to be Filed.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice that its Annual Survey of Domestic Oil and Gas Reserves, Form EIA-23, is to be filed for report year 1978 by certain oil and gas well operators listed herein. Form EIA-23 was approved for 1977 and 1978 report year data collection by the Office of Management and Budget on December 22, 1978. Report forms for 1977 report year data were mailed to selected respondents in January 1979.

Form EIA-23 for the 1978 report year must be filed by all oil and gas well operators who produced during that year 400,000 barrels of crude oil or more, or 2 billion cubic feet of natural gas or more, or both. In addition, a statistically selected sample of operators who produced less than these amounts must also file Form EIA-23. Report forms for 1978 report year data were mailed to the selected respondents approximately August 7, 1979.

DATES: Form EIA-23 submittals for the 1978 report year must be filed as follows: Part I—on or before September 20, 1979. Part II—on or before December 4, 1979.

ADDRESS: Completed forms must be mailed to: U.S. Department of Energy, Box OK, Norman, Oklahoma 73070.

FOR FURTHER INFORMATION CONTACT: The EIA-23 Coordinator (405) 360-1971.

SUPPLEMENTARY INFORMATION:

I. Sanctions
II. Confidentiality
III. Requests for Extensions of Time to File
IV. Requests for Exception from Filing
V. Respondents for the 1978 Report Year
VI. Form EIA-23. Category I and II Operator Package. Category III Operator Package.

I. Sanctions

Failure to provide the information requested on Form EIA-23 pursuant to the provisions of section 13(b) of the Federal Energy Administration Act of 1974 (FEAA, Pub. L. 93-275) shall be subject to penalties as provided in the FEAA, section 13(i), as amended.

II. Confidentiality

In accordance with section 14 of the FEAA, in responding to specific requests received from members of the public, data collected on this form will be held confidential to the extent that they are determined by DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 U.S.C. 552(b)(4)).

III. Requests for Extension of Time to File

All requests for extension of time to file Form EIA-23 must be in writing and must state the time period desired and the reason why the original filing date cannot be met. The request is to be addressed to the Director, Office of the Oil and Gas Information System, EI-82, Room 2E-076 Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

IV. Requests for Exception From Filing

All requests for exception from filing Form EIA-23 must be in writing and must be based on an assertion of serious hardship or gross inequity. The procedure for filing for an exception is set forth in Part 205, Subpart D of the FEA Procedural Regulations. A request for an exception from filing is to be addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, Room 6002A, 2000 M Street, NW., Washington, D.C. 20461.

V. Respondents for the 1978 Report Year

The group of oil and gas well operators required to file Form EIA-23 for the 1978 report year is listed in the last section of this **Federal Register** notice.

VI. Form EIA-23

The Category I and II operator package and the Category III operator package, each containing instructions, glossary and schedules, are printed for information purposes on the following pages of this **Federal Register** notice.

Issued at Washington, D.C. on August 21, 1979.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

BILLING CODE 6450-01-M

A & P OIL CO
900 STEVE OWENS BLDG
MIAMI OK 74354

ABBOTT G T
1410 We MAIN ST.
EL DORADO AR 71730

ABILENE PETROLEUM & MFG CORP
3950 CONCORD
ABILENE TX 79603

ACOTT MEL E & ACOTT MEL E II
P O BOX 248
HOMINY OK 74035

ADAMS K S JR
APC BLDG SUITE 318-S 6910FANNIN
HOUSTON TX 77030

ADDIS ICEK
5307 E CENTRAL
WICHITA KS 67208

ADOLPH LOUKS COMPANY
DEPARTMENT 338
GULDEN CO 80401

AK-SAR-BEN PETROLEUM CORPORATI
BOX 310
ELGIN NE 68636

ALAMO PETHOLEUM CO
ONE ENERGY SQUARE STE 600
DALLAS TX 75206

ANDERSON E E
730 BROENHAMER DR.
EL DORADO AR 71730

ALICE-SIDNEY OIL CO
310 ARMSTRONG BLDG
EL DORADO AR 71730

ALLEN C D
BOX 7233
BEAUMONT TX 77706

A & T OIL CO
ROUTE 2 BOX 330
COLORADO CITY TX 79512

ABELL GEORGE T
BOX 430
MIDLAND TX 79701

ABSHER OIL CO
PO BOX 372
CARMI IL 62821

ADA OIL EXPLORATION CORP
P O BOX 844
HOUSTON TX 77001

ADAMS R W
513 BANK OF THE SOUTHWEST BLDG
AMARILLO TX 79109

ADKINS R M
P. O. BOX 555
HAMLIN WV 25523

ADY BROTHERS
BOX 65
CAMERON OK 43914

AKIN JOE
200 PARKER SQUARE BANK BLDG.
WICHITA FALLS TX 76308

ALBRITTON EXPLORATION CO
BOX 706
BRYAN TX 77801

ALEXANDER R L
1400 E 9TH
OKMULGEE OK 74447

ALL STATES OIL&PRODUCING CO INC
515 MELLETT BLDG
CANTON OH 44702

ALPAR RESOURCES INC
BOX 1046
PERRYTON TX 79070

AARON GLEN & ASSOCIATES INC
PO BOX 2391
MIDLAND TX 79702

ABERCROMBIE A L INC
801 UNION CENTER
WICHITA KS 67202

ACCO OIL & GAS CO
ONE BRIAR DALE CT
HOUSTON TX 77027

ADAMS JOSEPH CORP THE
5740 GRAFTON ROAD
VALLEY CITY OH 44280

ADCO PRODUCING CO INC
114 JEFF DAVIS BLVD
NATCHEZ MS 39120

ADOBE OIL & GAS CORP
1100 WESTERN UNITED LIFE BLDG
MIDLAND TX 79701

AGAPA PARTNERSHIP
RD #2-BOX 324
SUGAR GROVE PA 16350

ALADDIN PETROLEUM CORP
809 PETROLEUM BLDG
WICHITA KS 67202

ALCORN JERRY D
3006 MIDWESTERN PKWY
WICHITA FALLS TX 76308

ALGONKIN TRUST
PO BOX 194
YOUNGSVILLE PA 16371

ALLEN & SHUMATE INC
BOX 98
ALICE TX 78332

ALPHA PETROLEUM CORP
13610 MIDWAY RD
DALLAS TX 75240

ALTHEIRS OIL INC
BOX 415
CORNING OH 43730

AMAREX INC
PO BOX 1678
OKLAHOMA CITY OK 73101

AMCOLE ENERGY CORP
4625 LBJ FREEWAY STE 110
DALLAS TX 75234

AMERICAN ENERGY CORP
2705 PHILTOWER BLDG
TULSA OK 74103

AMERICAN PACIFIC INTL INC
700 SOUTH FLOWER STREET
LOS ANGELES CA 90017

AMERICAN PUBLIC ENERGY CO
8350 N CENTER EXPRESSWAY
DALLAS TX 75206

AMES OIL & GAS
5051 WESTHEIMER SUITE 600
HOUSTON TX 77056

AMINOIL USA INC
2800 N LOOP WEST PO BOX 94193
HOUSTON TX 77018

ANADARKO PRODUCTION CO
PO BOX 1330
HOUSTON TX 77001

ANDERSON MARGUERITE TRUST
PO BOX 607
OJAI CA 93023

ANDERSON THORNTON E
SUITE 740 300 W DOUGLAS
WICHITA KS 67202

ANGLE DON
510 W TEXAS AVE
ARTESIA NM 88210

ALTUS EXPLORATION LTD
1611 PRUDENTIAL PLAZA BLDG
DENVER CO 80265

AMARILLO OIL CO
BOX 151
AMARILLO TX 79189

AMERADA HESS CORP
P O BOX 2040
TULSA OK 74102

AMERICAN EXPLORATION CO
611 E WEBER RD.
COLUMBUS OH 43211

AMERICAN PETROFINA CO OF TEXAS
PO BOX 2159
DALLAS TX 75221

AMERICAN QUASAR PETROLEUM CO.
2500 FT WORTH NATL BK BLDG
FT. WORTH TX 76102

AMINI K K
DRAWER 3068
MIDLAND TX 79701

AMOCO PRODUCTION COMPANY
200 EAST RANDOLPH DR
CHICAGO IL 60680

ANDERSON E D
BOX 18446
DALLAS TX 75218

ANDERSON OIL CO
THREE PARK CENTRAL SUITE 1060
1515 ARAPAHOE STREET
DENVER CO 80202

ANDOVER OIL CO
4500 ONE WILLIAMS CENTER
TULSA OK 74172

ANNCO PETROLEUM CO INC
BOX 52412
LAFAYETTE LA 70503

AMALGAMATED BONANZA PETR LTD
6610 HARWIN DRIVE STE 254
HOUSTON TX 77036

AMAX PETROLEUM CORP
900 TOWN & COUNTRY LANE SUITE 400
HOUSTON TX 77024

AMERICAN ENERGY COMPANY INC
1521 RUSH ROAD
WICKLIFFE OH 44092

AMERICAN NATIONAL PETROLEUM
9975 STATE
NEWBURY OH 44065

AMERICAN PETROLEUM CO
1100 1ST CITY E
HOUSTON TX 77002

AMERICAN TRADING & PROD CORP
P O BOX 238
BALTIMORE MD 21203

AMINOIL DEVELOPMENT INC
PO BOX 94193
2800 NORTH LOOP WEST
HOUSTON TX 77018

AN-SON CORPORATION
3814 N SANTE FE
OKLA CITY OK 73118

ANDERSON JAMES K INC
ONE ENERGY SQUARE STE 654
DALLAS TX 75206

ANDERSON R S INC
PO BOX 1484
MIDLAND TX 79702

ANDREASSI BROTHERS MILWIG
RD #2
KARNS CITY PA 16041

ANSCHUTZ CORP
555 17TH ST STE 2400
DENVER CO 80202

ANTWELL MORRIS R
RR 4 2010

[illegible] NM 88240

APPALACHIAN EXPLORATION & DEVL
[illegible] HOUSTON CENTER SUITE 1000

[illegible]STON TX 77002

ARAPAHO PETROLEUM INC
PO BOX 1272

[illegible] OKLAHOMA CITY TX 73102

ARCADIA REFINING CO
SUITE 305 AMERICAN FIDELITY BLDG

TYLER TX 75702

ARCHER ANTHONY J JR AGENT
174 SHATTUCK AVE

BERKELEY CA 94704

ARCO PETROLEUM CORPORATION
[illegible] WILSHIRE BLVD. SUITE 1003

LOS ANGELES CA 90024

ARKANSAS WESTERN GAS CO
[illegible] BOX 1626

FAYETTEVILLE AR 72701

ARMENTROUT CHARLES
[illegible]

[illegible]TON IL 61938

ARMSTRONG ROBERT C
DBA/N ARROW

[illegible]TA KS 67206

ARROW PUMP & SUPPLY CO
[illegible] BOX 1466

[illegible] OK 74820

ASH [illegible]
[illegible] BOX 5266

SHREVEPORT LA 71105

ATLANTIC OIL CO
[illegible] W SEVENTH ST

LOS ANGELES LA 90014

APOLLO GAS CO
3096 MAIN ST.

MINDEN PA 15120

APPALACHIAN EXPLORATION INC
1251 30TH STREET N. W.

CANTON OH 44709

ARAPAHO SUPPLY CO
BOX 1278

ODESSA TX 79760

ARCO OIL & GAS CO
P O BOX 2819

DALLAS TX 75221

ARMBRUSTER DRILLING CO
BOX 308

ARNETT OK 73401

ARTESIAN ENERGY CORPORATION
PO BOX 12090

AMARILLO TX 79101

ARKANSAS WESTERN PRODUCTION CO
2400 NO CLASSEN SUITE 301

OKLAHOMA CITY OK 73116

ARMOUR GAS COMPANY
BOX P

DISTANT PA 16223

ARNOLD INC
BOX 1340

ALICE TX 78332

ARTHUR MCNEILL ESTATE
BOX 132

NEW ORLEANS LA 70149

ASHLAND EXPLORATION INC
P O BOX 1503

HOUSTON TX 77001

ATLANTIS RESOURCES CORP
9990 KATY FREEWAY STE 510/RON 1007
BOX 10775

HOUSTON TX 77024

APOLLO PETROLEUM CORP
BOX 51

SPENCER WV 25276

APPALACHIAN PETROLEUM CORP
426 DIME BANK BUILDING

MARIETTA OH 45750

ARBAC PETROLEUM INC
400 E 2ND ST

NEWKIRK OK 74644

ARD DRILLING CO THE
BOX 1030

MIDLAND TX 79701

ARCO DEVELOPMENT INC
PO BOX 217

DELAWARE OK 74024

ARKANSAS LOUISIANA GAS COMPANY
PO BOX 21734

SHREVEPORT LA 71151

ARKLA EXPLORATION CO.
PO BOX 21734

SHREVEPORT LA 71151

ARMSTRONG HARRY L
ROUTE #3

LOGAN OH 43138

ARROW PETROLEUM COMPANY
123 PETROLEUM CENTER

SAN ANTONIO TX 78209

ARTZBERGER JOHNSON
1202 AMERICANA BLDG
811 DALLAS AVE
HOUSTON TX 77002

ASPEN DRILLING CO
BOX 783

GREAT BEND KS 67530

ATLAS ENERGY CORP
311 ROUSER RD

CORAOPOLIS PA 15108

[illegible]WOOD C P
BOX 453

MIDLAND TX 79701

AUSTRAL OIL COMPANY INC.
C/O THE SUPERIOR OIL CO PO BOX 452

HOUSTON TX 77001

AYLWARD DRILLING COMPANY
[illegible] FIRST NATIONAL BANK BLDG

WICHITA KS 67202

B & E PRODUCING CO
[illegible] CROWN TOWER BLDG

SAN ANTONIO TX 78209

B D R PRODUCTION CO INC
BOX 2487

VICTORIA TX 77901

B T & P OIL CO
BOX 566

WEST LIBERTY KY 41472

BARRINGTON LEE E STOCKMAN JR & CO
911 CUTTER EXCHANGE BLDG

NEW ORLEANS LA 70130

BAIN MURRY
[illegible] BLDG

TULSA OK 74103

BAKER IL INC
[illegible] W 5TH

EL DORADO KS 67042

[illegible]TH MCNEILL & GALLOWAY MILTON
[illegible]

LONGVIEW TX 75601

BANKS MAX ENTERPRISES
BOX 2746

AMARILLO TX 79105

BARKER ENGINEERING INC
P. O. BOX 2307 2115 LINCOLN AVE.

EVANSVILLE IN 47714

AUSANKA OIL OPERATIONS
604 PILGGAS BLDG

WICHITA FALLS TX 76301

AUTUMN OIL CO
BOX 6413 STATION B

EVANSVILLE IN 47712

B & B OIL CO
R 1 BOX 44

OKLOGAH OK 74053

B E T OIL COMPANY
BOX 6121

CORPUS CHRISTI TX 78411

B L B OIL & GAS INC
BOX 758

STINNETT TX 79083

BEM OPERATING CO INC
FIVE GREENWAY PLAZA EAST
SUITE 1704
HOUSTON TX 77046

BAILEY OIL CO
AT #1

PLEASANTVILLE PA 16341

BAIRD OIL CO INC
FIRST NATIONAL BANK

LOGAN KS 67646

BALDRIDGE N A DRILLING CO INC
BOX 336

ASHLEY IL 62808

BANKOFF OIL CO
PO DRAWER 2479

TULSA OK 74101

BARBOUR ENERGY CORP
5101 N PENNSYLVANIA

OKLAHOMA CITY OK 73112

BARHAM CO.
100 FREMONT PL.

LOS ANGELES CA 90005

AUSTIN JIMMIE
PO BX 1240

SEMINOLE OK 74868

AUVENSHIRE CATHIE
PO BOX 1148

LOVINGTON NM 88260

B & E COAL CORP
PO BOX 226

SPENCER WV 25276

B C R DEVELOPMENT INC
205 N MAIN STREET

BOLIVAR NY 14715

B S G COMPANY
P.O. BOX 787

GRAND PRAIRIE TX 75051

BABARE NICK JR
PO BOX 647

CENTRALIA IL 62801

BAILEY,FLOYD
SE OF CITY

PARTLESVILLE OK 74003

BAKER & TAYLOR DRILLING CO
BOX 2748

AMARILLO TX 79105

BALLARD & CORDELL CORP THE
P O BOX 52151

LAFAYETTE LA 70501

BANKS LEE
360 SUTTON PLACE

WICHITA KS 67202

BARBOUR, A. K.
BOX 842

AZTEC NM 87410

BARKER GULL
BOX R.

EDGEMONT SD 57735

BARNES J C OIL CO
PAUGHIX BLD

MIDLAND TX 79701

BARNETT HAROLD
147 SOUTH COLLEGE STREET

BAREVILLE KY 42501

BASTA ENTERPRISES
2612 CARDINAL CIRCLE

EDMOND OK 73034

BASS ENTERPRISES PRODUCTION CO
3100 FT WORTH NATIONAL BK BLDG

FT WORTH TX 76102

BAXTER MURPHY M
2 ALLEN CENTER SUITE 2450

HOUSTON TX 77002

BEA DRILLING CO
BOX 6478 E

ELLINWOOD KS 67526

BEAN R J
BOX 13

MIAMI TX 79059

BEAUMONT C E
1109 GLENDALE RD

MENIETTA OH 45750

BECK C P
BOX 177

OIL CITY LA 71061

BEEBE J S OIL CO
P O BOX 1551
720 S WASHINGTON
EL DORADO AR 71730

BEEVERS RUSSELL
BOX 1[illegible]

EVADALE AR 71751

BELCO DEVELOPMENT CORP
1 DAG HAMMARSKJOLD PLAZA

NEW YORK NY 10017

BARNES PETRO CORP
3700 N MERIDI AVE

OKLAHOMA CITY OK 73112

BARNHART CO.
2221 SAGE RD, STE 333

HOUSTON TX 77027

BASAL CORPORATION
BOX 55

FLEURUNE TX 76031

BASS PERRY R
3100 FT WORTH NATL BK BLDG

FORT WORTH TX 76102

BAYOU STATE OIL CORP
PO BOX 2147

SHREVEPORT LA 71166

BEAL TRIBAUGH & ASSOC
104 SOUTH PECOS

MIDLAND TX 79704

BEARD FRANCIS L
123 NORTH ST., BOX 263

MT CARMEL IL 62863

BEARING SERVICE & SUPPLY CO
BOX 100

ARTESIA NM 88210

BECKHAM & BECKHAM
521 S 105 PL E

TULSA OK 74120

BEECHER TRUST
PO BOX 3265

SPRINGFIELD IL 62708

BEL OIL CORP
P O BOX 1447

LAKE CHARLES LA 70601

BELCO PETROLEUM CORP.
1 DAG HAMMARSKJOLD PLAZA

NEW YORK NY 10017

BARNETT OIL INC
1625 VICKERS-KSBLT BLDG

WICHITA KS 67202

BARRETT DRILLING CO
PO BOX 1345

SHAWNEE OK 74801

BASIN OPERATING CO LTD
533 CITIZENS NATL BK BLDG

TYLER TX 75701

BATES LEW JR
PO BOX 741

WORTHINGTON OH 43085

BCO INCORPORATED
BOX 669

SANTA FE NM 87501

BEAN J O E MOLDEN J O
BOX 188

SANTO TX 76472

BEARD OIL COMPANY
2000 CLASSEN BLDG
200 SOUTH
OKLAHOMA CITY OK 73106

BEAVER MESA EXPLORATION CO
900 METROBANK BUILDING

DENVER CO 80202

BEEBE A V
BOX 386 1620 E MAIN

EL DORADO AR 71730

BEESON RICHARD M
42 PERMANENT FEDERAL SAVINGS BLDG
1018 E 3RD
EVANSVILLE IN 47708

BELCHIC GEORGE JR
814 COMMERCIAL NAT BNK

SHREVEPORT LA 71101

BELDEN & BLAKE OIL PRODUCTION
7555 FREEDOM AVENUE NW

NORTH CANTON OH 44720

BELDEN BRICK COMPANY
P O BOX 910

CANTON OH 44701

BELL DRILLING & PRODUCING CO
PHILO BOX 502

LUGAN WV 25113

BELL OIL & GAS COMPANY
PL BOX 2004

WICHITA KS 67201

BELMONT OILS
8625 E RL JR FREEWAY SUITE 110

DALLAS TX 75230

BENATTY CORPORATION
P.O. BOX 75

CAMBRIDGE OH 43725

BENDORF OTTO
BOX 668

BRECKENRIDGE TX 76024

BENSON CHARLES
RFD #1

LEWIS RUN PA 16738

BENZ CLAIRE ESTATE
902 INFINITY UNIVERSAL BLDG

DALLAS TX 75201

BERG LANEY & BROWN
PHILO BRANCH

SMACKOVER AR 71762

BERRY MOLDING CO
BIN MFR

TAFT LA 93268

BERT FIELDS, JR.
14435 PRESTON ROAD

DALLAS TX 75230

BERTMANN HERBERT L
RFD #1

CLAFLIN KS 67525

BELDEN W L
BOX 158

ST ELMO IL 62458

BELL EDWARD A
BOX 164

KNOX PA 16232

BELL WILLIAM A
RR 1

STURGIS KY 42459

BELMONT RESOURCES
230 ONE BALA-CYNWYD PLAZA

BALA CYNWYD PA 19004

BENDROOK OIL CORP
2305 CONTINENTAL LIFE BLDG

FT WORTH TX 76102

BENNETT MILLS ESTATE
9030 KATY FWY SUITE 202
PO BOX 19662
HOUSTON TX 77024

BENSON-MONTIN-GREER DRILLING
1616 CALIFORNIA ST SUITE 505
ADD BLDG
DENVER CO 80202

BERDO PRODUCTION
272 SOUTH 1

SAN BERNARDINO CA 92400

BERING CO
PO BOX 419

TYLER TX 75710

BERRY OPERATING CO
PO BOX 528

STILLWATER OK 74074

BERTOLET W C & SERIO EXPL
P. O. BOX 1366

NATCHEZ MS 39120

BETA DEVELOPMENT CO
BOX 1659

MIDLAND TX 79701

BELL BROTHERS
BOX 581 203 N JEFFERSON

ROBINSON IL 62454

BELL LAVONNE
PX 1085

DUNCAN OK 73533

BELLOWS & DUSER
BOX 18

CALLIHAM TX 76007

BELRIDGE OIL CO
1300 W 6TH ST

LOS ANGELES CA 90017

BENDORF BROTHERS
PO BOX 45185

OKLA CITY OK 73109

BENNETT PRODUCTION CORPORATION
P O BOX 391

ROWIE TX 76230

BENT TWIG OIL CO
31 NE 10TH

OKLAHOMA CITY OK 73104

BEREN CORP
970 FOURTH FINANCIAL CENTER

WICHITA KS 67202

BERRY DAN E
BOX 67

EUNICE NM 88231

BERRY THOMAS N & CO
PO BOX 111

STILLWATER OK 74074

BERTSCHINGER OIL COMPANY
1140 NW 63 ST

OKLA CITY OK 73116

BEVER ELLIS D
713 FIRST NATIONAL BANK BLDG

WICHITA KS 67202

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

BI-CENTENNIAL OIL CO
BOX 25
TAHLEQUAH OK 74464

BIGLANE OPERATING COMPANY
P O BOX 988
NATCHEZ MS 39120

BINGHAM FULTON ETAL
BOX D
SHELBY MT 59474

BISAGNO BROTHERS INC
PO BOX 606
AUGUSTA KS 67010

BLACKWOOD & NICHOLS CO INC
2013 FIRST NATIONAL CENTER WEST
OKLAHOMA CITY OK 73102

BLAIR-VREELAND
BOX 2603
CORPUS CHRISTI TX 78403

BOGCAW CO
1300 MERCANTILE DALLAS BLDG
DALLAS TX 75201

BOLIN OIL CO
1120 OIL & GAS BLDG.
WICHITA FALLS TX 76301

BONANZA OIL CORP
3400 REPUBLIC BANK TOWER
DALLAS TX 75201

BOSWELL CORP
310 KERMAC BLDG
OKLAHOMA CITY OK 73102

BOWLES JACK
101 PARK AVE., SUITE 1230
OKLAHOMA CITY OK 73102

BOX CLAUDE LEE JR
BOX 2591
WICHITA FALLS TX 76307

BOYLE JIMMY JACK
P O BOX 607
MUENSTER TX 76252

BRILLINGSLEA P R
1125 NBT BLDG
TULSA OK 74103

BRINKLEY PETROLEUM
307 MASONIC BLDG
SHAWNEE OK 74801

BRISHOP GEORGE
1721 E 8TH
OKMULGEE OK 74447

BLAIR OIL CO
203 PARK AVE
OKLA CITY OK 73102

BLOCO INC
210 W BOWEN AVE
BISMARCK ND 58501

BOETTCHER FRED JR
BOX 156
ANTELOPE KS 66836

BOLZ RAYMOND
RT 2 BOX 556
SAND SPRINGS OK 74063

BORDEN INC
P.O. BOX5316
LAFAYETTE LA 70505

BOTTS OIL & GAS
BOX 615
MATTOON IL 61938

BOWLING CULLEN
RT 2 BX 31A
OKMULGEE OK 74447

BOYD KATHARINE
PO BOX 367
ESSEX CT 06426

BIG B DRILLING CO
P.O. BOX 20
SISSONVILLE WV 25320

BILLS & PRESTON
1416 CHESTNUT ST.
FRANKLIN PA 16323

BIRD & MANLEY
ROUTE 1 BOX 82
TORONTO KS 66777

BLACK RIVER CORP
2100 FIRST NATIONAL BANK BLDG.
MIDLAND TX 79701

BLAIR OIL COMPANY
BOX 1277
BORGER TX 79007

BLUE CREEK GAS CO
P.O. BOX 6357
CHARLESTON WV 25302

BOHNER OIL CO
917 OIL & GAS BLDG
WICHITA FALLS TX 76301

BOHAR COMPANY
230 W. MONROE STREET
CHICAGO IL 60606

BOSTON OIL CORPORATION
BOX 416
DALLAS TX 75221

BOUNTY PRODUCTION COMPANY
900 NE LOOP EXPY 410
SAN ANTONIO TX 78209

BOWMAN PROPER
MAIN ST
TIONESTA PA 16353

BOYLE BETTIS & STOVALL
P O BOX 1168
GRAHAM TX 76046

BP ALASKA INC
100 PINEST
SAN FRANCISLO CA 94111

BRADCO OIL & GAS CO
3410 ENTEX BLDG.
HOUSTON TX 77002

BRADSHAW A E E R R JR
PO BOX 946
MCCAMEY TX 79752

BRADY TEXAS MUNICIPAL GAS CORP
BOX 311
BRADY TX 76825

BRAMMER ENGINEERING INC
508 BECK BLDG
SHREVEPORT LA 71101

BRAUN L F & CO
1000 S FREMONT AVE
ALHAMBRA CA 91802

BRIDGEPORT DRILLING CO INC
BOX 483
OLNEY IL 62450

BRIDWELL OIL CO
PO BOX 1930
WICHITA FALLS TX 76307

BRITAIN R M
BOX 189
AMARILLO TX 79105

BROCK EXPLORATION CORP
231 CARONDELET ST. 5TH FLOUR
NEW ORLEANS LA 70130

BROKENSTRAW OIL DEVELOPMENT CO
NO #1
PLEASANTVILLE PA 16341

BROUGHER OIL INC
PO DRAWER 1367
GREAT BEND KS 67530

BRACKIN MARSHALL
121 COLLIER DR ROOM 12
NORMAN OK 73069

BRADEN OIL COMPANY
P O BOX 2007
HUTCHINSON KS 67501

BRADY BROTHERS R A & A V
BX 1348
CUSHING OK 74023

BRADY TROY A JR
P. O. BOX 371
BUCKHANNON WV 26201

BRANYAN D J
PO BOX 1167
CUSHING OK 74023

BRENDEL PRODUCING COMPANY
PO BOX 2107
NORTH CANTON OH 44720

BRINGER PETROLEUM CORP
2600 NORTH LOOP WEST
SUITE 400
HOUSTON TX 77092

BRIGHT & COMPANY
2355 STEMMONS BLDG.
DALLAS TX 75207

BRITISH AMERICAN PETROLEUM
141 MAIN ST
BRADFORD PA 16701

BROCK HARVEY B
RT 2
COMANCHE OK 73529

BROOKS ERNEST L
915 UNITED FOUNDERS LIFE TOWER
OKLAHOMA CITY OK 73112

BROWN & KEPPEL OIL CO.
130 N. CENTER ST.
CORRY PA 16407

BRADBERRY OIL COMPANY
BOX 427
IOWA PARK TX 76367

BRADLEY JACK C SR
BOX 67
NEWCASTLE WY 82701

BRADY EVERETT
BX 249
MANNFORD OK 74044

BRAMAN D H JR
400 VICTORIA BANK & TRUST BLDG
VICTORIA TX 77901

BRASWELL MOTOR FREIGHT LINES
BOX 487
MOORINGSPORT LA 71060

BREW R D
821 17TH ST SUITE 415
DENVER CO 80202

BRIDGES DELBERT
STAR ROUTE BOX 351
GRAFORD TX 76045

BRISCOE MILTON V
PO BOX 304
HOLIDAY TX 76366

BRITTON ROBERT B
BOX 515 1205 E ELM
OLNEY IL 62450

BROCK R T
STAR ROUTE
SAINT JO TX 76265

BROOKS HALL OIL CORP
101 PARK AVE SUITE 600
OKLAHOMA CITY OK 73102

BROWN GEORGE R
800 SAN JACINTO BLDG
HOUSTON TX 77002

BROWN GORDON R
840 WAXAHACHIE
HOUSTON TX 77079

BROWN MARVIN R
427 ELM ST
STERLING CO 80751

BROWN TOM INC
BOX 2608
MIDLAND TX 79702

BROWNLEE WALLACE ARMSTRONG & BANUE
950 17TH ST., STE. 2300
DENVER CO 80202

BRUNSON-SPINES INC
618 FOURTH FINANCIAL CENTER
WICHITA KS 67202

BTA OIL PRODUCERS
104 S PECOS
MIDLAND TX 79701

BUCKALEW DON
ROUTE 3
SEYMOUR TX 76380

BUCKTHAL W P
NEW BANK OF SOUTHWEST BLDG
AMARILLO TX 79109

BUNK ROYALTY CO
NCB OIL AND GAS BLDG.
WICHITA FALLS TX 76301

BURNETT CORP
FIRST NATL. BANK BLDG., SUITE 420
AMARILLO TX 79101

BURNS L E ESTATE
600 1ST NATIONA BUILDING
WICHITA FALLS TX 76301

BURNS ROSS INC
200 WEST NINTH S.
WAYNESBURG PA 15370

BROWN M L
PO BOX 2237
MIDLAND TX 79701

BROWN MAURICE L CO THE
9229 WARD PARKWAY
KANSAS CITY MO 64114

BROWN TOSS M
711 CITY NATIONAL BLDG.
WICHITA FALLS TX 76301

BRUCE GEORGE T
BOX 122
GALVA KS 67443

BRYANT OIL
BOX 1085
LEVELLAND TX 79336

BUCHANAN WAYMAN W.
644 PETROLEUM COMMERCE BLDG
SAN ANTONIO TX 78205

BUCKEYE OIL PRODUCING COMPANY
P. O. BOX 123
WOOSTER OH 44691

BULLOCK A O DRILLING & PROD
BOX 821
310 GUDDSTEIN BLDG 130 S CENTE
CASPER WY 82602

BURKS R W
529 MIDLAND SAVINGS BLDG
DENVER CO 80202

BURNETT H N
STE 450 FIRST NATIONAL BK BLDG
AMARILLO TX 79101

BURNS P C
ONE PARKER SQUARE SUITE 401
WICHITA FALLS TX 76308

BURNS TRUST #2
400 1ST NATL. BLDG.
WICHITA FALLS TX 76301

BROWN JOE
RT. #3
ROCKDALE TX 76567

BROWN OIL & GAS CO
BOX 888
MEXIA TX 76667

BROWN WARREN L
BOX 91124 OCS BLDG 12 OIL CTR
LAFAYETTE LA 70505

BRUNEL JOHN H
P.O. BOX 229
GOLDEN CO 80401

BRYSON ARTHUR T JR
306 PRICE BLDG
ASHLAND KY 41101

BUCK EXPLORATION
SUITE 608 2925 NW EXPRESSWAY
OKLA CITY OK 73112

BUCKLES R D
RR1, BOX 520
HENDERSON KY 42420

BURGER FRANK W
416 FIRST NATIONAL BLDG
ABILENE TX 79601

BURLINGTON NORTHERN INC
BOX 1855
BILLINGS MT 59103

BURNHAM DRILLING CORP
BOX 7256
SHREVEPORT LA 71107

BURNS R L CORP
5110 FIRST INTERNATIONAL BLDG
DALLAS TX 75270

BURTON HAWKS INC
PO BOX 359
CASPER WY 82602

BUSBY EARL E
BOX 93
MCLEANSBORO IL 62859

BUTLER W F
212 N BROADWAY
HOBART OK 73651

BUZUN LOUIS
500 WINSTON AVE.
BRADBURY CA 91010

C & K OIL COMPANY
ROUTE 1, BOX 10
MONUE TX 78141

C & R PETROLEUM INC.
660 C AND R PETROLEUM BUILDING
MIDLAND TX 79701

C AND M OILS
1717 W 2ND
ROSWELL NM 88201

C-U DRILLING CO
1107 DOUGLAS BUILDING
WICHITA KS 67202

CADDELL E SPRINGS
c/o 172 S WALNUT AVE
EULESS TX 76040

CAIN BUFFORD
6116 N CENTRAL EXPRESSWAY
DALLAS TX 75225

CALLON PETROLEUM CO
P O BOX 1267
NATCHEZ MS 39120

CAMERON P E & M
PO BOX 81
SMACKOVER AR 71762

CANAN THOMAS C
711 OIL & GAS BUILDING
WICHITA FALLS TX 76301

BUSH K E WELL SERVICE
PO BOX 200
SMITH MILLS KY 42457

BUTTES RESOURCES CO
PO BOX 2067
HOUSTON TX 77001

BUZZARD CHEVROLET COMPANY
SKIATOOK OK 74070

C E D OPERATING CO
PO BOX 1090
VADALIA LA 71373

C E R OIL GAS CO
14 WEST MAIN STREET
ALLEGANY NY 14706

C E C CORP
PK T 5200 S YALE
TULSA OK 74135

CABANA OIL CORP
120 DEVONIAN BLDG
310 NORTH WILLIS ST
ABILENE TX 79603

CADDO OIL CO INC
P O BOX 800
SHREVEPORT LA 71162

CAL-TEX OIL CO
P O BOX 1028
BORGER TX 79007

CALTO OIL CO.
BOX 12266
DALLAS TX 75225

CAMPBELL F M
PO BX 546
BRANSON MO 65616

CANDELARIA PAUL M
103 W 31ST ST
FARMINGTON NM 87401

CANTEY ROBERT K
921 UMADILLA ST
SHREVEPORT LA 71106

CAPTRAN PETROLEUM CO
PO BOX 746
PONCA CITY OK 74601

CARPENTER M W
RT 1 BOX 288
VIVIAN LA 71082

CARTER OFFSHORE CO
1 HOUSTON CENTER SUITE 2600
HOUSTON TX 77002

CARTER SERVICE INC
1401 DENVER CLUB BLDG
DENVER CO 80202

CASE OIL COMPANY
PO BOX 177
BRISTOW OK 74010

CABOT CORPORATION
1 HOUSTON CENTER
SUITE 1000
HOUSTON TX 77002

CAIN FRANCIS E
P.O. BOX 80
BIG BEND WV 26136

CALHOUN CLAYTON J
BOX 4380 2930 CANAL
STREET
NEW ORLEANS LA 70178

CAMERON & KINCAID
3636 ADAMSVILLE ROAD
ZANESVILLE OH 43701

CAMPBELL GRAHAM S
510 WALKER BANK BLDG
SALT LAKE CITY UT 84111

CANNAN NORRIS
1644, MILAM BLDG
SAN ANTONIO TX 78205

CANNON DALE
BOX 635
KIMBALL NE 69145

CANTRELL CORPORATION
C/O MEYER & ASSOCIATES
MIDLAND TX 79703

CAPITAL OIL & GA CORP
MAJESTIC BLDG
CHEYENNE WY 82001

CARDELL-TLAPER C.)
PO BOX 248
1400 EAST MAIN
MAGNOLIA AR 71753

CARNEGIE NATURAL GAS CO.
3Mn. MAIN ST
MONMALL PA 15120

CARR W P
6700 FOREST LANE
DALLAS TX 75230

CARTER FOUNDATION PROD CO
P O BOX 1036
FORT WORTH TX 76101

CASEBEER CHARLES
805 W MARLIN
MCPHERSON KS 67460

CATHEY OIL CO
4292 LONG BEACH BLVD.
LONG BEACH CA 90806

CATTLEMENS OIL CO
CATHERINE KT BOX 32
MAYS KS 67601

CAYWOOD HOWARD E
101 WOODLAWN
TAFT CA 93268

CEN-TEX DRILLING CO INC
BOX 637
LUCKMART TX 78644

CENTEES GAS CO
1614 7TH AVE
HUNTINGTON WV 25708

CANUS PETROLEUM INC
1700 BROADWAY, SUITE 1400
DENVER CO 80290

CAPITOL WELL SERVICING COMPANY
BX 96281
OKLA CITY OK 73109

CARL WILLIAM E
1850 B&T TOWER
CORPUS CHRISTI TX 78401

CAROLINE HUNT SCHOELLKOPF
2500 FIRST NATIONAL BANK BLDG
DALLAS TX 75202

CARTER & ROREX
PO BOX 339
OIL CITY LA 71061

CARTER-WATERS CORP
2447 PENNWAY
KANSAS CITY MO 64141

CASS FRANK W
2001 BRYAN TOWER STE 2555
SUITE 2555
DALLAS TX 75201

CATHEY JOHN H
612 SOUTH WEBSTER
KIMBALL NE 69145

CAULKINS OIL COMPANY
2100 COLORADO STATE BANK BLDG
DENVER CO 80202

CEJA CORP
4400 ONE WILLIAMS CENTER
TULSA 74172

CENTRAL AMERICAN DRILLING
P.O. BOX 82
WELLSDALE MI 49262

CANTRELL BILL G
BX 394
ADA OK 74820

CAPITAL OIL & GAS CO
BOX 787
RICHMOND KY 40475

CARBIDE INTERNATIONAL LTD
713 LINCOLN LIBERTY LIFE BLDG
HOUSTON TX 77002

CARLIN C D OIL CO
328 E ELM ST
TITUSVILLE PA 16354

CARR F WILLIAM
1116 GUARANTY BANK PLAZA
CORPUS CHRISTI TX 78475

CARTER BARNEY ESTATE
PEOPLES NATL BANK BLDG
TYLER TX 75701

CASA OIL ASSOCIATES INC
PO BOX 1664
BAKERSFIELD CA 93302

CASWELL BROS OIL CO
BOX 567
BOWIE TX 76230

CATT DRILLING COMPANY
255 N WATER RM 14
WICHITA KS 67202

CAYMAN EXPLORATION CORP
4030 1ST PLACE TOWER
TULSA OK 74103

CELY OIL CO INC
PO BOX 5757
SHREVEPORT LA 71105

CENTRAL CALIFORNIA OIL CO.
2920 9TH ST.
BAKERSFIELD CA 93301

CENTRAL KANSAS OIL
PO BOX 12024
OVERLAND PARK KS 66212

CENTURY REFINING COMPANY
BOX 1197
KANSAS CITY MO 64141

CHALMERS JOHN M
606 CITIZENS NAT'L BANK BLDG.
ABILENE TX 79601

CHANSLOR WESTERN OIL & DEVELOPMENT
10737 SHOEMAKER AVENUE
SANTA FE SPRINGS CA 90670

CHARM OIL COMPANY
BOX 2053
SOUTH PADRE ISLAND TX 78597

CHAVES OIL LTD
820 HAMILTON BLDG.
WICHITA FALLS TX 76301

CHENOWETH O L JR
210 CHANCELLOR BLDG
MIDLAND TX 79701

CHESTER OIL COMPANY
3707 RAWLINS
DALLAS TX 75219

CHIEF DRILLING CO INC
905 CENTURY PLAZA
WICHITA KS 67202

CHISUM OPERATING COMPANY
BLK 1698
PAMPA TX 79065

CHRISTMAN OIL COMPANY
ROUTE 3
WOODSFIELD OH 43793

CIC EXPLORATION INC
9 GREENWAY PLAZA
HOUSTON TX 77046

CENTURA INCORPORATED
1106 GUARANTY BANK TOWER
CORPUS CHRISTI TX 78475

CERCO PETROLEUM INC
PO BOX 3133
ABILENE TX 79604

CHAMPLIN EXPLORATION INC
BOX 1066
ENID OK 73701

CHAPARRAL OIL & GAS CO.
BOX 8
AZTEC NM 87410

CHARMANE OILGAS CO
POST OFFICE BOX 98
PRAIRIETON IN 47870

CHEBUL BILL
PO BOX 97
BILLINGS MT 59103

CHEROKEE & PITTSBURG COAL AND MINI
BOX 12058
AMARILLO TX 79101

CHEVRON USA INC
575 MARKET ST
SAN FRANCISCO CA 94105

CHIEF PETROLEUM INC
4968 TAMARACK BOULEVARD
COLUMBUS OH 43229

CHITAL PETROLEUM CORP
BOX 628
WICHITA FALLS TX 76307

CHRISTMANN & WELBORN
1500 BROADWAY, SUITE 1212
LUBBOCK TX 79401

CITIES SERVICE CO
PO BOX 300
TULSA OK 74102

CENTURY OIL & GAS COMPANY
PO BX 94010
OKLA CITY OK 73109

CHAIN OIL INC
220 WEST 27TH STREET
SCOTTSBLUFF NE 69361

CHAMPLIN PETROLEUM CO
PO BOX 9365
P O BOX 9365
FORT WORTH TX 76107

CHAPMAN M.A
404 CITIES SERVICE BUILDING
TULSA OK 74119

CHASE MACK
P O DRAWER V
ARTESIA NM 88210

CHEM-REX COMPLEX INC
1200 RANCHO DR
OJAI CA 93023

CHERRY OIL & GAS
BOX 42
LULING TX 78648

CHEYENNE PETROLEUM COMPANY
3555 NW 58TH ST
OKLAHOMA CITY OK 73112

CHINOOK PIPELINE INC
P O BOX 950
DOUGLAS WY 82633

CHRISTIE C B JR
4720 TAFT BLVD
WICHITA FALLS TX 76308

CICO OIL & GAS COMPANY
1822 BANK OF THE SOUTHWEST BLD
HOUSTON TX 77002

CITIZENS GAS & COKE UTILITY
2020 NORTH MERIDIAN STREET
INDIANAPOLIS IN 46202

CLARDY & BARNETT
4925 GREENVILLE AVE SUITE 610
DALLAS TX 75206

CLARK LESTER
BOX 752
BRECKENRIDGE TX 76024

CLAYTON CONSULTING SVC
PO BOX 3637
CORPUS CHRISTI TX 78404

CLEMISHIRE JERRY
110 NE 11
MORINY LK 74035

CLIFTON RESOURCES INC
PO BOX 86
ENAMAN LK 74632

CLINGEN W F SR
12 W TERRACE AVE
LAKEWOOD NY 14750

COAST RANGE OIL COMPANY
364 LA BREA AVENUE
LOS ANGELES CA 90036

COATES GEORGE M ESTATE
1610 MILAM BLDG.
SAN ANTONIO TX 78205

COOY, J. J.
C-111 PETROLEUM CTR-FOC.MIDELL
SAN ANTONIO TX 78209

COLDREN BROS
101 N WYANDOTTE
DEWEY OK 74029

COLLIER DIAMOND C OILS INC
6100 WESTERN PLACE SUITE 353
FT WORTH TX 76107

COLLINS JAMES W
PO BOX 188
ELLINWOOD KS 67526

CLARION OIL & GAS CORP
PO BOX 465
DUNKIRK NY 14048

CLARKSON F L
FIRST NATIONAL BANK
HATTINGER ND 58801

CLERCO
120 S COLLEGE
TYLER TX 75702

CLEVELAND E V JR
P. O. BOX 16421
JACKSON MS 39206

CLINE WALTER
POST OFFICE BOX 363
EVANSVILLE IN 47701

CLOFAS CASE OIL CO
PO BOX 202
RIVERDALE CA 93656

COASTAL BEND OPERATORS INC
BOX 1873
CORPUS CHRSTI TX 78403

CORRA OIL & GAS CORPORATION
1600 10TH
WICHITA FALLS TX 76301

COKINOS G P
947 HAZEL ST.
BEAUMONT TX 77701

COLLER JESSIE E TRUSTEE
BOX 8612
ANN ARBOR MI 48107

COLLINS BROTHERS OIL CO
P O BOX 689
MT. VERNON IL 62864

COLLINS OIL CO
6740 E. 24TH ST
TULSA OK 74129

CLARK JOHNNY
DRAWER 60
WICHITA FALLS TX 75307

CLAY OIL COMPANY
445 ELM
GRAHAM TX 76046

CLEMENT WILLIAM N ET AL
BX 998
BURKBURNETT TX 76354

CLEVELAND KATHRYN C
P O BOX 71
ALLENTOWN NY 14707

CLINE WILLARD M
16 EAST MAIN ST
BRADFORD PA 16701

CNG PRODUCING COMPANY
1010 COMMON ST
1800 BNO BLDG
NEW ORLEANS LA 70112

COASTAL STATES GAS PRODUCING CO
9 GREENWAY PLAZA
HOUSTON TX 77046

COCKRELL CORPORATION
999 THE MAIN BLDG
HOUSTON TX 77002

COLBURN ENGINEERING
3719 S GLENCOE
DENVER CO 80237

COLLIER DAVID C
STAR ROUTE EAST BOX 2
ARTESIA NM 88210

COLLINS M D
3304 1ST NATIONAL TOWER
TULSA OK 74103

COLORADO AIR DRILLING INC
2495 INDUSTRIAL BLVD
GRAND JUNCTION CO 81501

COLORADO OIL COMPANY INC
24 GREENWAY PLAZA
HOUSTON TX 77046

COMBINED GAS & OIL CO INC
1515 S 1100 E
SALT LAKE CITY UT 84105

CONCHO PETROLEUM COMPANY
1222 FIDELITY UNION TOWER
DALLAS TX 75201

CONE J. A.
P O BOX 871
LUBBOCK TX 79408

CONNER WILLIAM M
BOX 1195
ALBANY TX 76430

CONSUMERS POWER CO
212 W MICHIGAN AVE
JACKSON MI 49201

CONVEST SERVICE INC
1700 WEST LOOP SOUTH #1000
HOUSTON TX 77027

COOK D L
PO BOX 2581
DENVER CO 80201

COPANO CO
711 NBC BLDG.
SAN ANTONIO TX 78205

CORDILLERA CORP
2324 E 3RD
DENVER CO 80206

CORNELIUS FRED
RT 1 BX 84
KELLYVILLE OK 74039

CORPUS CHRISTI OIL AND GAS CO
BOX 779
CORPUS CHRSTI TX 78403

COLUMBIA GAS DEVELOPMENT CORP
PO BOX 1350 2223 WEST LOOP S
HOUSTON TX 77001

COMPADRE SERVICE COMPANY, INC.
BOX 2111
BIG SPRING TX 79720

CONDOR OPERATING CO
RT 4 BOX 62
MIDLAND TX 79701

CONNALLY OIL CO INC
P O BOX 911
ABILENE TX 79604

CONSOLIDATED GAS SUPPLY CORP
445 W MAIN ST
CLARKSBURG WV 26301

CONTINENTAL OIL COMPANY
P O BOX 2197
HOUSTON TX 77001

CONYERS OIL WELL SERVICE INC
ROUTE 1 BOX 222
NEW HARMONY IN 47631

COOK ROY L
1126 BK. OF NEW MEXICO BLDG.
ALBUQUERQUE NM 87102

COPPOCK PAUL E
4209 RIVERCREST
WICHITA FALLS TX 76309

CORK PETROLEUM CO
P O BOX 1152
THERMOPOLIS WY 82443

CORNELIUS TONY
1800 S MAIN
SAPULPA OK 74066

COSTANZO CRESCENZO EGVINCIE
LEWIS RUN PA 16738

COLUMBIA GAS TRANSMISSION CORP
1700 MACCORKLE AVE S E
CHARLESTON WV 25325

COMPTON CARL
1159 LORI STREET
YPSILANTI MI 48197

CONE GORDON M
PO BOX 1148
LOVINGTON NM 88260

CONNELL R M DR
5101 ROSS AVE
DALLAS TX 75206

CONSOLIDATED OIL & GAS INC
1860 LINCOLN ST
STE 1300
DENVER CO 80295

CONTROLLED RESOURCES OIL AND GAS C
P.O. BOX 148
PRESTONBURG KY 41653

COOK BURL
BOX 898
HOLDENVILLE OK 74848

COOK W R CO
BX 69
DUNCAN OK 73533

COQUINA OIL CORPORATION
PO DRAWER 2960
MIDLAND TX 79702

CORNELISON ED
PO BOX 559
HOLLIDAY TX 76366

CONNELL OIL COMPANY
4616 GREENVILLE AVENUE
DALLAS TX 75206

COTTON PETROLEUM CORP
ONE WILLIAMS CENTER
TULSA OK 74172

COUCH OIL CO
522 No. GRAND AVE
GAINESVILLE TX 76240

COWDEN WRIGHT E
BOX 482
MIDLAND TX 79702

COY OIL INC
2229 WEST PENNSYLVANIA AVENUE
EVANSVILLE IN 47712

CRAIN JOHN R
1006 PETROLEUM BLDG
TULSA OK 74103

CRESCENT OIL CO
1111 MERCANTILE BLDG
DALLAS TX 75201

CRIMMINS, W C
BOX 4145
AUSTIN TX 78767

CROUCH W J
910 INTERMOUNTAIN BLDG
CASPER WY 82601

CROWN ZELLERBACH JOYCE OPERATIONS
PO DRAWER 1
JOYCE LA 71440

CUMMINGS O O
RT 1 BOX 115
FARMERVILLE LA 71241

D & M OIL PRODUCERS
RT 3 BOX 3468
EXISTON OK 74010

E S & W WELL SERVICING INC
CLAFLIN KS 67525

DALBY ARNOLD
BOX 818
POST TX 79356

DAVEY OIL & GAS CO
855 DELMAR
BEAUMONT TX 77707

DAY EDWIN L
3800 FIRST NATIONAL BK BLDG
DALLAS TX 75202

DRAFT PETROLEUM CO INC
5139 GALAXIE DR PO BOX 16
86
JACKSON MS 39206

DRAWLEY MARVIN
PO BX 79
ADA OK 74820

DRESPI PIETRO
PO BOX 1490
DALLAS TX 75221

DROSS DEVELOPMENT COMPANY
PO BOX 145
SMACKOVER AR 71762

DROW DAVID
900 TRAVIS PLACE
SHREVEPORT LA 71101

DRYSTAL OIL CO
P. O. BOX 2101
SHREVEPORT LA 71120

DURTIS HOWARD AND SON
BOX 277
SUGAR GROVE PA 16350

D E R OIL CO.
BOX 767
SEYMOUR TX 76380

DAGGET OIL CO
P O BOX 265
BOLIVAR NY 14715

DALCO OIL CO
1200 MERCANTILE BANK BLDG
DALLAS TX 75201

COVINGTON E COVINGTON
BOX 784
PAWHUSKA OK 74056

COX JOHN L
BOX 2217 400 WEST WALL
MIDLAND TX 79702

CRAIG OIL CO
411 NORTHWEST AVE
EL DORADO AR 71730

CREIGHTON R L JR
PO BOX 284
GRAHAM TX 76046

CRESTMONT OIL & GAS CO.
2622 MISSION ST
SAN MARINO CA 91108

CROSTHWAIT ARLON
706 W. ELM
OLNEY TX 76374

CROWN CENTRAL PETROLEUM CORP
6790 WEST LOOP SOUTH SUITE 300
HOUSTON TX 77001

CSG EXPLORATION COMPANY
P. O. BOX 25128
OKLAHOMA CITY OK 73125

CYCLOPS CORP
650 WASHINGTON RD
PITTSBURGH PA 15228

D & E & D J HUGHES PARTNERSHIP
DRAWER 869
BEEVILLE TX 78102

DAL-KEN CORPORATION
6161 BUSH BLVD SUITE 111
COLUMBUS OH 43229

DALLAS PRODUCTION INC
BOX 479
DECATUR TX 76234

DALTON E HANNA CO
345 N MARKET ST.
WOOSTER OH 44691

DANIEL OIL CO
1100 MILAM BLDG STE 1715
HOUSTON TX 77002

DARE PETROLEUM
RR 201 MALTONVILLE RD.
MT. VERNON IL 62864

DAUBE CO
107 EAST MAIN BOX 36
ARDMORE OK 73401

DAVIDSON GLENN D & ASSOCIATES
BOX 75
BLADENSBURG OH 43005

DAVIS GOWIN
420 CITY NATL BLDG
WICHITA FALLS TX 76301

DAVIS LARRY R
RT 3 BOX 616
WICHITA FALLS TX 76306

DAVIS RAY E
BOX 776
OLNEY TX 76374

DAWSON OPERATING CORP INC
PO BX 7361
AMARILLO TX 79109

DEBEAUFORD MRS E A
P.O. BOX 28
HENDERSON KY 42420

DECKER HARVEY L
1096 LEROY ST
SAN DIEGO CA 92106

DELATTE I M
PO BOX 52511
LAFAYETTE LA 70505

DAWSON OIL CORP
260 NORTH BELT EAST SUIT 300
HOUSTON TX 77060

DANNEMILLER WILLIAM F
P O BOX 627
YPSILANTI MI 48197

DARNIELLE GEORGE J
2118 WELCH
HOUSTON TX 77019

DAUGHERTY DICK
P O BOX 713
CHANUTE KS 66720

DAVIS BROTHERS
1150 MERCANTILE CONT BLDG
DALLAS TX 75201

DAVIS JB
112 EAST YOUNG
HORRIS OK 74445

DAVIS OIL CO
217 E LOCUST
INDEPENDENCE KS 67301

DAVIS ROGER & PEARL
PO BX 107
WELFETKA OK 74880

DCW PRODUCTION
1406 S CEDAR
BORGER TX 79007

DECALTA INTERNATIONAL CORP
BOX 2404
CALGARY ALBERTA CANADA T2P3M7

DECLEVA PAUL
102 OIL CENTER
WICHITA FALLS TX 76302

DELFERN OPERATING ACCOUNT
1603 BROADWAY ROOM 8
LUBBOCK TX 79401

DANDEN PETROLEUM INC
P.O. BOX 5084
BORGER TX 79007

DARRY J C
BOX 747-E ELMER EVANS
KILGORE TX 75662

DART OIL CO.
3600 S YOSEMITE ST STE 1030
DENVER CO 80237

DAVENPORT VERNON PROD CO
1300 N MAIN
SHAMROCK TX 79079

DAVIS C G
P.O.BOX 308
MAGNOLIA AR 71753

DAVIS L D
BOX 324
GREAT BEND KS 67530

DAVIS OIL COMPANY
410 17TH ST STE 1400
STE 1400
DENVER CO 80202

DAWN OIL CO.
P.O. BOX 452
ELDRED PA 16731

DEATON O C
ROUTE 2 BOX 156A
OKMULGEE CITY OK 74447

DECK OIL CO
SUITE 4000 ONE WILLIAMS CENTER
TULSA OK 74172

DEE DRILLING COMPANY
BOX 352, 431 MARKET ST
MT CARMEL IL 62868

DELONE M S
914 STRONG HIGHWAY
EL DORADO AR 71730

DELRAY OIL INC
A-107 PETROLEUM CENTER
SAN ANTONIO TX 78209

DELTA OIL & GAS CO
BOX 367
BRECKENRIDGE TX 76024

DEMPSEY CHARLES A
BOX 313
MASKOM TX 75692

DESPLT EXPLORATION INC
402 BECK BLDG
SHREVEPORT LA 71101

DIAMOND HARRY M INC
BX 270
MULDENVILLE OK 74848

DIEKEMPER KAY J JR
BOX 734
LUBBOCK TX 79408

DUDGE EUGENE W
2323 TERRANCE WAY
BAKERSFIELD CA 93304

DULLEY CHESTER F
523 W 8TH ST
LOS ANGELES CA 90014

DUMINY CHARLES F
BOX 1686
FT. WORTH TX 76101

DUNEMAN PRODUCTION CO
2315 MERCANTILE BANK BLDG
DALLAS TX 75201

DUROUGH & BORCHERT
P.O. BOX 1196
ENGLEWOOD CO 80150

DUWERT LE VERNE JDS
4503 VISTA ST
LONG BEACH CA 90803

DELTA CORP
1606 FIRST NATL BLDG
OKLAHOMA CITY OK 73102

DELTA PRODUCTION CORPORATION
1428 COMMERCE BLDG
HOUSTON TX 77002

DEPCO INC
1000 PETROLEUM BLDG
110 16TH ST
DENVER CO 80202

DEVON CORP
3300 LIBERTY TOWER
OKLAHOMA CITY OK 73102

DIAMOND K OIL CO
415 SOUTH AVENUE R
POST TX 79356

DILMUR OIL COMPANY
RT. 2 BOX 80
WEST UNION WV 26456

DODSON WAYNE
P O BOX 1092
SYNDER TX 79549

DOME PETROLEUM CORP
SUITE 1400
COLORADO STATE BANK BLDG
DENVER CO 80202

DORCHESTER EXPLORATION INC
1100 MIDLAND NATL BANK TOWER
MIDLAND TX 79701

DORLAND D L
1309 W WALL
MIDLAND TX 79701

DOUBLE U OIL CO
2012 NBC BLDG
SAN ANTANIO TX 78205

DOWNING PATRICK M
BOX 1055
FREER TX 78357

DELTA DRILLING CO
PO BOX 2012
TYLER TX 75710

DEMAN JOHN M OIL CO
BOX 38
SEDAN KS 67368

DERRICK PRODUCTION
BOX 152
GRANDFALLS TX 79742

DEWITT JOHN N & GRAHAM PAUL
PO BOX 787
RIO VISTA CA 94571

DIAMOND SHAMROCK CORP
PO BOX 631
AMARILLO TX 79173

DINERO OIL COMPANY
890 RAND MORGAN RD
CORPUS CHRISTI TX 78410

DOHENY PATRICK A
136 EL CAMINO
BEVERLY HILLS CA 90212

DOMINION OIL & GAS CO
P O BOX 479
DALLAS TX 75221

DORCHESTER GAS PRODUCING CO
900 UNITED NATIONAL BANK BUILDING
1909 MAIN
DALLAS TX 75201

DORNEY STEVE
BOX 747
KILGORE TX 75662

DOUGLAS L A
C-117 PETROLEUM CENTER
SAN ANTONIO TX 78209

DREILING OIL INC
ROUTE 1
VICTORIA KS 67671

DRENIK LAURENCE
306 W MCKAY
PHONTENAC KS 66762

DRURY DNIS DALE
RT 1
ALMA OK 73003

DUNCAN WALTER INC
SUITE 1200 100 PARK AVENUE BLDG.
OKLAHOMA CITY OK 73102

DUNITH OIL CO
1610 KAREN LANE
IOWA PARK TX 76367

DUSTY DRILLING COMPANY
ROUTE #2
NEW LEXINGTON OH 43764

DYNCO PETROLEUM CO
8781 E FREMONT C
ENGLEWOOD CO 80110

E & H DRILLING CO.
BOX 1038
GRAHAM TX 76046

EARLSBORO OILGGAS COMPANY
BOX 18482
OKLAHOMA CITY OK 73154

EASTERN KENTUCKY EXPLORATION C
2560 HOODS CREEK PIKE
ASHLAND KY 41101

EBY R E
PO BOX 414
WILSON OK 73463

ECOLOGICAL ENGINEERING SYSTEMS
3905 WEST MONMOUTH
LITTLETON CO 80123

EDWARD M EVERETT CO
P O BOX 636
NEWARK OH 43055

DREYER LELAND
PO BOX 706
MADYSON KS 66860

DUCHARME EUGENE
2929 KNIGHT STE6777
SHREVEPORT LA 71105

DUNIGAN JAMES P INC
BOX 2378
ABILENE TX 79604

DUNN MAR OIL & GAS CO
200 E. ROBINSON ST.
ORLANDO FL 32801

DUVALL S WILEY
2600 VALLEY VIEW CIRCLE
ZANESVILLE OH 43701

DYNAMIC EXPLORATION INC
P.O. BOX 52889
LAFAYETTE LA 70505

E & S DRILLING CO INC
PO BOX 160
NEW IBERIA LA 70560

EASON OIL CO
2601 N W EXPRESSWAY
OKLAHOMA CITY OK 73112

EBENEZER OIL CO INC
85 N MAIN ST
WELLSVILLE NY 14895

ECC OIL COMPANY
3850 EAST FRANK PHILLIPS BLVD
BARTLESVILLE OK 74003

EDDY REFINING CO.
BOX 185
HOUSTON TX 77001

EDWARDS GUS
330 PETROLEUM BLDG
ABILENE TX 79601

EDIFWOOD OPERATING CO.
BOX 411
CORSICANA TX 75110

EDGAN PRODUCTION CORP
BOX 234
FARMINGTON NM 87401

EDNIGAN OPERATING CO INC
BOX 261
PAMPA TX 79065

EDNME EQUITIES INC
STE 140 260 NORTH ROCK RD
WICHITA KS 67206

EDYCO PETROLEUM CORP
420 NBT BLDG
320 S BOSTON
TULSA OK 74103

EDYNAMIC INDUSTRIES
P. O. BOX 22
POWDER RIVER WY 82648

EARL SCHWARTZ
PO BOX 852
KENMARE ND 58746

EAST OHIO GAS COMPANY
1717 EAST NINTH
CLEVELAND OH 44114

EBERLY NATURAL GAS CO
PO BOX 2023
UNIONTOWN PA 15401

ECKERT E SON
#700 CROWN MILL TOWER #506
SAN ANTONIO TX 78208

EDMISTON OIL CO
800 VICKERS K S B & T BLDG
LDG.
WICHITA KS 67202

EDWARDS LAWRENCE & MEDRICH W J
P.O. BOX 1121
CORPUS CHRISTI TX 78403

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

EGO OIL CO INC
SUITE 407 1ST NATL. BANK BLDG.
CENTRALIA IL 62801

EL PASO PRODUCTS COMPANY
P. O. BOX 3986
ODESSA TX 79760

ELECTROSEIS INC
217 N MAIN ST
CRYSTAL CITY TX 78839

ELMHEAD GAS & OIL
5900 RICHE DR. SUITE 480
COLUMBUS OH 43229

EMPIRE DRILLING CO
125 N MARKET SUITE 1750
WICHITA KS 67202

ENDICOTT PETROLEUM COMPANY
1030 STRAIT LAN
DALLAS TX 75229

ENERGY EXCHANGE CO INC
2621 H ST
PO BOX 881
BAKERSFIELD LA 93302

ENERGY METHODS CORP
8400 HM STEELE S
DENVER CO 80206

ENERGY RESERVES GROUP INC
P O BOX 1201
WICHITA KS 67201

ENTERPRISE RESOURCES INC
1100 MILAM BLDG STE 776
HOUSTON TX 77002

ERNST IRVING
BOX 307
SUMMERSET TX 78069

ESTORIL PRODUCING CORPORATION
1120 VAUGHN BLDG
MIDLAND TX 79701

ETSNER JOHN J
603 2ND PL
ABERNATHY TX 79311

EL TORO PRODUCTION CO INC
PO DRAWER M
NATCHEZ MS 39120

ELF AQUITAINE INC
950 THREADNEEDLE STE 200
HOUSTON TX 77079

ELY CRUDE OIL CO
VIA TONOPAH STAGE
RAILROAD VALLEY
ELY NV 89301

EMPIRE OIL & GAS CO INC
PO BOX 1408
OWENSBORO KY 42301

ENERCO EXPLORATION & MGMT CO
419 MARKET ST SUITE 730
SHREVEPORT LA 71101

ENERGY INTERNATIONAL
BOX 412
SUGAR LAND TX 77478

ENERGY MINERALS CORP
1630 DENVER CLUB BLDG
DENVER CO 80202

ENGELKE R H
D-407 PETROLEUM CENTER
SAN ANTONIO TX 78209

ENTEX PETROLEUM, INC.
P. O. BOX 14837
OKLAHOMA CITY OK 73113

ERSO INC
2120 FIRST CITY NATL BANK BLDG
HOUSTON TX 77002

ETCHIESON & WATKINS
P O BOX 947
BORGER TX 79007

EL PASO NATURAL GAS CO
BOX 1492
EL PASO TX 79978

ELDER S M & CO
P O BOX 1446
SMETHPORT PA 16749

ELISON JAMES M
2201 F ST
BAKERSFIELD CA 93301

ELZAC CORPORATION
P O R 4288
MONROE LA 71201

EN RE CORP
PO BOX 6027
SAN ANTONIO TX 78209

ENERGY CORP OF AMERICA INC
P O BOX 8407
3636 NORTH CAUSEWAY BLVD
METAIRIE LA 70002

ENERGY INVESTMENT ASSOC INC
P O BOX 69 4 HAMILTON AV.
CRANFORD NJ 07016

ENERGY RESERVE INC
5119 N 19TH AVE STE G
PHOENIX AZ 85015

ENSERCH EXPLORATION INC
1817 WOOD ST
DALLAS TX 75201

EQUITABLE GAS CO.
420 BLVD. OF THE ALLIES
PITTSBURGH PA 15219

ESCUE NELSON B
PO BOX 296
LIBERAL KS 67901

ETCHIFSON W S
BOX 947
BORGER TX 79007

ETOWAH MANUFACTURING COMPANY,
POST OFFICE BOX 322
GADSDEN AL 35902

EVANS GLEN V
PO BOX 261
MANNFORD OK 74044

EVERTS DRILLING COMPANY
505 N ERVAY SUITE 240
DALLAS TX 75201

EXCELSIOR OIL CORP
P O BOX 15265
LAKEWOOD CO 80215

EXPANDO OIL CO
1130 THE 600 BLDG
CORPUS CHRISTI TX 78401

EYLER NELSON
P.O. BOX 333
CLEVELAND OK 74020

FAIR ENERGY
BOX 1084
TYLER TX 75710

FAIRMAN DRILLING CO
BX. 280
DUBOIS PA 15801

FARGO ENERGY CORP
5513 SO LEWIS
TULSA OK 74105

FARMERS GAS INC
RT 1 BX 140
BLACKWELL OK 74631

FARMS NADINA
RT 1 BOX 174
HASKELL OK 74436

FAULCONER VERNON E
1130 PEOPLES BANK BLDG.
TYLER TX 75702

EVANS & CAREY INC
1717-28TH ST.
BAKERSFIELD CA 93301

EVANS JULIAN
3110 SW FREEWAY STE 234
HOUSTON TX 77006

EVINCZIK JOSEPH E JOHNSON CARL
BOX 248 RT 3
JAMESTOWN NY 14701

EXCHANGE OIL & GAS CORP
16TH FLOOR - 1010 COMMON ST
NEW ORLEANS LA 70112

EXPANDO PRODUCTION CO
607 HAMILTON BLDG
WICHITA FALLS TX 76301

FAGADAU SAMFORD P
2050 LTV TOWER BLDG. 1525 ELM STRE
T
DALLAS TX 75201

FAIR OIL LTD
PO BOX 689
TYLER TX 75710

FALCON PETROLEUM CO
BOX 1104
COALINGA CA 93210

FARLEY J F
1511 N W 16
OKLAHOMA CITY OK 73106

FARMERS PETROLEUM COOP INC
P.O. BOX 30960
LANSING MI 48909

FARRAR OIL COMPANY
BX 747, 10AN. 10TH.
MT. VERNON IL 62864

FEAZEL OPERATING COMPANY
804 COMMERCIAL NATL BK BLDG
SHREVEPORT LA 71101

EVANS BROTHERS
HWY 171 SO P O BOX 35
CONVERSE LA 71419

EVANS R R OIL COMPANY
908 HULMAN BLDG
EVANSVILLE IN 47708

EXCALIBUR PRODUCTION CO INC
PO BOX 278
MCPHERSON KS 67460

EXETER EXPLORATION COMPANY
POST OFFICE BOX 17349
DENVER CO 80217

EXXON COMPANY USA
PO BOX 2180
HOUSTON TX 77001

FAIR E BILLINGS
BOX 689
TYLER TX 75701

FAIR RALPH E INC
1616 ALAMO NATIONAL BLDG
SAN ANTONIO TX 78205

FANNIN ROY B & HOMER
RT 1 BOX 790
ASHLAND KY 41101

FARMER JOHN D INC
370 W WICHITA
RUSSELL KS 67665

FARMERS UNION CENTRAL EXCHANGE INC
BOX 126
LAUREL MT 59044

FASKEN DAVID & INEZ G
608 1ST NATL BANK BLDG
MIDLAND TX 79701

FEE ENERGY CORP
2810 LIBERTY TOWER
OKLAHOMA CITY OK 73102

FELDERHOFF PRODUCTION CO
BOX 739
GAINESVILLE TX 76240

FENDER HARRIS H
BOX 449
TYLER TX 75701

FESTER J K
309 N 15TH
FREDONIA KS 66736

FISHER ISAAC
BOX 347
MARS PA 16046

FITZGERALD L
PO BOX 548
OIL CITY LA 71061

FLAG-REDFERN OIL CO
P O BOX 23
MIDLAND TX 79702

FLINT OIL & G S INC
421 FRANKLIN STREET
BUFFALO NY 14202

FLUID POWER PUMP COMP
1420 CARLISLE N.E SUITE 202
ALBUQUERQUE NM 87110

FORD JEWEL P
PUB 415
JUNESVILLE LA 71343

FORMAN EXPLORATION COMPANY
500 BANK OF NEW ORLEANS BLDG
NEW ORLEANS LA 70112

FORT WORTH PRODUCTION CO.
2600 FT. WORTH NATL BANK BLDG
FT WORTH TX 76102

FORUM RESOURCES INC
144 MEADOWS BLDG
DALLAS TX 75206

FELL & WOLFE OIL CO
BOX 7447
TULSA OK 74105

FENIX & SCISSON INC
P O BOX 3880
CASPER WY 82602

FIELD JAMES R
BOX 579
MUNGLE TX 77338

FISHER-WEBB INC
333 BANK OF COMMERCE BLDG
ABILENE TX 79605

FITZGERALD M E
604 BEECH
ABILENE TX 79601

FLANIGAN BROTHERS
145 LORANA AVENUE
BRADFORD PA 16701

FLORIDA GAS EXPLORATION CO
P O BOX 44
WINTER PARK FL 32790

FLYNN ENERGY CORP
1602 4TH NAT BDG
TULSA OK 74119

FORREST OIL CORP
1500 COLORADO NATL BLDG
DENVER CO 80202

FORMAX OIL CO
2192 DUPONT DR.
IRVINE CA 92715

FORTUNE DRILLING COMPANY INC
1400 FNB TOWER
SHREVEPORT LA 71101

FOSTER OIL & GAS COMPANY INC
BOX 751
CUSHING OK 74023

FELMONT OIL CORP
6 EAST 43RD ST
NEW YORK NY 10017

FERGUSON OIL & GAS CO INC
2700 LIBERTY TOWER
OKLAHOMA CITY OK 73102

FINE PETROLEUM ENERGY INC
320 W TRAVIS STE 305
SHERMAN TX 75090

FITKIN PETROLEUM CORP
208 NIGHTOWER BLDG
OKLAHOMA CITY OK 73102

FLAG OIL CORP OF DEL
1603 1ST NATIONAL BLDG
OKLAHOMA CITY OK 73102

FLETCHER E CO
C/O TRUST DEPT.
THE CITIZENS NATIONAL BANK DECATUR
DECATUR IL 62525

FLOURNOY PRODUCTION CO
BOX 1579
ALICE TX 78332

FOLTZ D R
4700 RAVENNA AVE SE
EAST CANTON OH 44730

FORMAN EXPLORATION CO
3420 ENTEX BLDG
HOUSTON TX 77002

FORT WORTH OIL & GAS INC
811 W. OHIO
MIDLAND TX 79701

FORTUNE GAS & OIL INC
504 MID SOUTH TOWERS
SHREVEPORT LA 71101

FOSTER ROBERT W
PO BOX 795
NEWCASTLE WY 82701

FOUR C OIL & GAS CORP
1 ENERGY SQUARE STE 1154
DALLAS TX 75202

FOX AUDREY Jo
652 DERRICK ROAD
BRADFORD PA 16701

FRANK RAYMOND
PO BOX 248
CISCO TX 76437

FREEPORT OIL CO
P O BOX 3038
MIDLAND TX 79702

FRENCH L R JR
1010 WEST WALL
MIDLAND TX 79701

FRONTIER ENERGIES INC
PU BOX 18877 SHARTEL STATION
OKLAHOMA CITY OK 73118

FULTON PRODUCING COMPANY
1600 BROADWAY SUITE 1100
DENVER CO 80202

FULTZ OIL COMPANY
900 OIL & GAS BLDG.
WITCHA FALLS TX 76301

G & M PRODUCING CO
RT 1
MUBART OK 73651

G O K OIL CO
P O BOX 644
BAKERSFIELD CA 93302

GALE JOHN A
PU BOX 126
PASS LAKE CA 93604

GALLAWAY W M
101-2 PETROLEUM PLAZA BLDG.
FARMINGTON NM 87401

FOUR J CATTLE CO
BOX 2708
ABILENE TX 79604

FOX MORRIS
D-200 PETROLEUM CENTER
SAN ANTONIO TX 78209

FRANKS PETROLEUM INC
244 MONTGOMERY ST
SHREVEPORT LA 71101

FRENCH & WINTERSCHEID INC
BRIDLEY KS 66852

FRIESS HAROLD TURNEY
207 DEL RIO ST.
SONORA TX 76950

FRONTIER OIL CO
1720 KANSAS STATE BANK BUILDING
WICHITA KS 67201

FULTON R H
BOX 1526
LUBBOCK TX 79408

FULTZ ROY E
BOX 174
WALNUT KS 66780

G B E OIL INVESTMENT CO
BOX 158
BILLINGS OK 74630

G M K OIL CO
PO BOX 3023
MIDLAND TX 79702

GALLAGHER C R JR
1603 BROADWAY
LUBBOCK TX 79401

GALLETS CLAIR F
SOUTH NINE-MILE ROAD
ALLEGANY NY 14706

FOWLER TOM D
117 TOWER BLDG
MIDLAND TX 79701

FRANCIS PIERCE
1709 BROADWAY P O BOX 320
HATTOON IL 61938

FRARY G S & B L
501 2ND ST SE
CUT BANK MT 59427

FRENCH CREEK CO
RURAL ROUTE 1
GRAYVILLE IL 62844

FRITTS A E
9901 LOWELL
OVERLAND PARK KS 66212

FUEL RESOURCES DEVELOPMENT CO
1250 14TH STREET
DENVER CO 80202

FULTON WILLIAM M OPERATING ACCOUNT
125 MAIN STREET
SHELBY MT 59474

FUNK PETROLEUM INC
101 PARK AVE BLDG RM 830
OKLAHOMA CITY OK 73102

G O PRODUCTION CO
BOX 191
BORGER TX 79007

GALAXY OIL CO
910 LAMAR STREET
WICHITA FALLS TX 76301

GALLAGHER VICTOR R
P O BOX 237
EVANSVILLE IN 47702

GALLUP ELINOR M
30 JUNIPER ROAD
SEEKONK MA 02771

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

GAMBLE IDA MAE
PO BOX 396
NUMINY OK 74035

GANT WALTER M
BOX 771
ARDMORE OK 73401

GARDNER RUY
PO BX 104
UCHELATA OK 74051

GARRNER, FRANCI. A
R R # 1 BOX 293
DUNMOR KY 42339

GAS CORP OF AMERICA
P. O. BOX 34059
DALLAS TX 75234

GEAR PETROLEUM CO
900 SUTTON PLACE
WICHITA KS 67202

GEISEMAN GROVER J
808 HOUSTON CLUB BLDG.
HOUSTON TX 77002

GENERAL CRUDE OIL CO
PO BOX 2654
HOUSTON TX 77001

GEODYNAMICS OIL & GAS INC
PO BOX 1341
CORPUS CHRISTI TX 78403

GERNHARDT GEORGE M
605 NORTH DIAMOND STREET
MANSFIELD OH 44902

GHK CO
2601 NW EXPRESSWAY SUITE 300
OKLA CITY OK 73112

GIBRALTAR OIL CORPORATION
1710 THE SIX HUNDRED BLDG
CORPUS CHRISTI TX 78401

GAMBLE-DANIEL OPERATING CO
1100 MILAM BLDG STE 1715
HOUSTON TX 77002

GARCIA A M
BOX 137
SAN DIEGO TX 78384

GARLAND J D
604 JOHNSON BLDG
SHREVEPORT LA 71101

GARTNER HAROLD M SR
318 N MAPLE DRIVE #106
MAPLE TOWERS
BEVERLY HILLS CA 90210

GAS PRODUCING ENTERPRISES INC
9 GREENWAY PLAZA
HOUSTON TX 77046

GEARHART FLOYD A
P.O.BOX 748
INDIANA PA 15701

GEMINI OIL CO
BOX 277
SUGAR GROVE PA 16350

GENERAL EXPLORATION INC
PO BOX 80
DRUMRIGHT OK 74030

GEORGE T W TRUST
BOX 152, 726 MARKET
MT. CARMEL IL 62863

GERODETTI A JR
1711 SO LAREDO
SAN ANTONIO TX 78200

GIANT PETROLEUM CORP
1014 PHILTOWER BLDG
TULSA OK 74103

GIBSON J M HEIRS
P O BOX 362
BRADFORD PA 16701

GAMMA RESOURCES
400 E ANDERSON LANE STE 124
AUSTIN TX 78752

GARDENA OIL CO.
2925 E 7TH ST
LONG BEACH CA 90804

GARRETT RUTH & ROUSSER BROS
BOX 568
SUNRAY TX 79086

GARY ENERGY CORP
4 INVERNESS COURT EAST
ENGLEWOOD CO 80110

GAS WEST
BOX 88
BORGER TX 79007

GEER I L & SONS
RD #1
CLARENDON PA 16313

GENERAL AMERICAN OIL CO OF TEX
MEADOWS BLDG
DALLAS TX 75206

GENESIS INC
PO BOX 1647
SEMINOLE OK 74868

GERMANY INVESTMENT COMPANY
BOX 59 316 MAIN
NATCHEZ MS 39120

GETTY OIL CO
3810 WILSHIRE BLVD
LOS ANGELES CA 90010

GIBBS DRILLING CO.
BOX 704
IRAAN TX 79744

GIBSON LEE OIL CO
20811 S BLYTHE AVE
RIVERDALE CA 93656

GIBSON R L
BOX 1360
KILGORE TX 75662

GILBERT A A PROPERTIES
PO BOX 3465
SHREVEPORT LA 71103

GILLRING OIL CO
PO DRAWER 1270
1500 MCALLEN STATE BANK TOWER
MCALLEN TX 78501

GLASS ROBERT R
R D #2
LOWELL OH 45744

GLENCLIFT OIL CO
10 SOUTH 10TH STREET
MARTINS FERRY OH 43935

GLENRUSE PRODUCTION CO
BOX 636
QUITMAN TX 75783

GMC OIL & GAS CORP
1276 FIRST NATIONAL CENTER EAST
OKLA CITY OK 73102

GOLCANDA PETROLEUM CO
BOX 466
WHARTON TX 77488

GOLDSTEIN JAKE ESTATE
115 FAIRFAX
DENVER CO 80220

GOOD HOPE REFINERIES INC
1100 MILAM BLDG STE 3730
HOUSTON TX 77002

GOODRICH OIL CO
906 BECK BLDG
SHREVEPORT LA 71101

GORTON LESLIE E
BOX 29
ALMA NY 14708

GIFFORD AND MITCHELL OIL
MIDLAND NATL BK TWR : TE 1280
MIDLAND TX 79701

GILLELAND,ELMER E
BOX 545
SPERRY OK 74073

GINNEL OIL & GAS ASSOCIATES
502 STATLER HILTON
BUFFALO NY 14202

GLASSCOCK C G MRS
417 UNITED SAVINGS BLDG
CORPUS CHRSTI TX 78411

GLENDA PETROLEUM CORPORATION
P. O. BOX 4312
MONROE LA 71201

GLORIETA OIL CO
6141 PRESTONDELL CT
DALLAS TX 75240

GO OIL CORP
BOX 187
JACKSBORO TX 76056

GOLDKING PROD CO
900 1ST CITY NATL BK BLDG
HOUSTON TX 77002

GOLDSTON OIL CORP
P O BOX 22568
HOUSTON TX 77027

GOODPASTURE BERT
PO BOX 814
ENID OK 73701

GORDON W K JR
914 RIDGLEA STATE BANK BLDG
FT. WORTH TX 76116

GOSE STEVE
918 LAMAR
WICHITA FALLS TX 76301

GIL-MC OIL CORP
BOX 763
HOBBS NM 88240

GILLIAM B C
DRAWER M
JACKSBORO TX 76056

GINTHER N C CONTRACT OPERATOR
1400 BANK OF SW BLDG
HOUSTON TX 77002

GLEN-DAR PETROLEUM INC
2334 FREDERCA ST.
OWENSBORO KY 42301

GLENN D L
916 9TH ST
WICHITA FALLS TX 76301

GMB GAS CORP
P O BOX 4903
MONROE LA 71201

GODDARD, A R
RT 1, BX 215
OKEMAH OK 74859

GOLDSBERRY OPERATING CO INC
1200 AMERICAN TOWER
SHREVEPORT LA 71101

GOLLAHER OIL
FOUR MILE ROAD
ALLEGANY NY 14706

GOODRICH JOHN S
304 C E K PETROLEUM BLDG
MIDLAND TX 79701

GORE THEODORE
125 N MARKET SUITE 1750
WICHITA KS 67202

GOTREAUX GENEVA RAE
STAR ROUTE, BOX 4
JENNINGS LA 70546

GOULD JOSEPH B
230 KITTERIDGE BUILDING 511 16 ST
DENVER CO 80202

GRACE PETROLEUM
C/O JIM VAUGHT
6501 N BROADWAY
OKLAHOMA CITY OK 73116

GRAHAM KEITH D
P O BOX 71
MIDLAND TX 79702

GRANT LARL
P O BUX 305
IMPERIAL TX 79743

GRAVES J M
1700 PHILTOWER BLDG
TULSA OK 74103

GRAY JIM
1016 MAIN ST
DUNCAN OK 73533

GRAYSON PETROLEUM COMPANY
BOX 182
WHITESBORO TX 76273

GREEN HOWARD & HUGH B
BUX 213
ALBANY TX 76430

GREENE JOHN & JONES OWEN
1804 SOUTHVIEW
FARTLESVILLE OK 74003

GRIGSBY JACK M
1108 COMMERCIAL NATIONAL BK. B
SHREVEPORT LA 71101

GRUBB RONALD J
PO BOX 866
STROUD OK 74079

GRUY MANAGEMENT SERV CO
6501 CEDAR SPGS
DALLAS TX 75201

GRACE HENRY PROD CO
813 CITY NATIONAL BLDG.
WICHITA FALLS TX 76301

GRAHAM BILL J
BOX 5321
MIDLAND TX 79701

GRAHAM-MICHAELIS CORP
211 NORTH BROADWAY P O BOX 247
WICHITA KS 67201

GRANT CO
1100 MILAN BLDG 1400
HOUSTON TX 77002

GRAVIS BLANCA R
1713 ALAMO NATL BK BLDG
SAN ANTONIO TX 78205

GRAY OIL COMPANY
BOX 638
RAYTOWN TX 77520

GREAT BASINS PETROLEUM CO
1011 GATEWAY WEST BLDG
1801 AVE OF THE STARS CENTURY CITY
LOS ANGELES CA 90067

GREEN RIVER GAS CO INC
BOX 809
GREENVILLE KY 42345

GREENUP & PARSELL
BOX 603
SHELBY MT 59474

GROOMS T O
PO BX 244
COYLE OK 73027

GRUENWALD & ASSOCIATES INC
BOX 909
COLORADO SPRINGS CO 80901

GUERNSEY PETROLEUM CORP
633 ANTONE ST. NW
ATLANTA GA 30318

GRACE JACK PROD CO
821 PETROLEUM BLDG
WICHITA FALLS TX 76301

GRAHAM GEORGE W INC
400 WICHITA NATL BK BLDG
WICHITA FALLS TX 76301

GRAMER OIL CO
2525 LEMON
LONG BEACH CA 90806

GRAOKLA GAS CORPORATION
BX 1029
WICHITA FLS TX 76307

GRAY HARRY E
BOX 155
GALVA KS 67443

GRAY OPERATING COMPANY
PO BX 368
ARDMORE OK 73401

GREAT WESTERN DRILLING CO
BOX 1659
MIDLAND TX 79702

GREENBRIER 61 LIMITED
PO BOX 297
DALLAS TX 75221

GREER W M
BOX 1373
OWENSBORO KY 42301

GROW GEORGE C HEIRS
626 SHADOWLAWN DRIVE
WESTFIELD NJ 07090

GRUENEWALD WILLIAM AND ASSOCIATIO
BOX 653
PAMPA TX 79065

GULF COAST PRODUCING COMPANY
1480 ONE ALLEN CENTER
HOUSTON TX 77002

GULF OIL CORP
PO BOX 2100
HOUSTON TX 77001

GUTHRIE A K OPERATING CO
611 MAIN ST
BIG SPRING TX 79720

GWALTNEY HENRY
1906 3RD ST P O BOX 520
WASHINGTON IN 47501

H & H INVESTMENTS INC
BOX 20211
BILLINGS MT 59104

H & M OIL CO
820 AMERICANA BLDG
HOUSTON TX 77002

H & W OIL COMPANY
BOX 209
OKLAHOMA CITY OK 73101

HADSON OHIO OIL COMPANY
P. O. BOX 1466
SHAWNEE OK 74801

HALBERT & PROUGH
BOX 1118
ABILENE TX 79604

HALL WILLIAM L
BOX 153
DOUGLAS WY 82633

HAMILTON BROTHERS OIL CO
1600 BROADWAY SUITE 2000
DENVER CO 80202

HAMILTON RALPH R
300 W DOUGLAS STE 635
WICHITA KS 67202

HAMON JAKE L
P O BOX 603
DALLAS TX 75221

GUNDOLL HENRY H ASSOC
BX 1422
ENID OK 73701

GUTHRIE C W
516 PERMIAN BLDG.
BIG SPRING TX 79720

H E D DRILLING COMPANY INC.
RT. 3
FRAZEYSBURG OH 43822

H E M OIL CO
PO BOX 8144
MT CARMEL IL 62863

H E M OIL PRODUCERS
321 E 18TH AVE #202
DENVER CO 80203

HEN OPERATING CO INC
PO BOX 1487
NATCHEZ MS 39120

HAIGH WILFRED
5027 LASLLAJAS CANYON RD.
SIMI VALLEY CA 93063

HALBOUTY MICHEL T
5100 WESTHEIMER STE 500
HOUSTON TX 77056

HALLIBURTON OIL PRODUCING CO
2919 CLASSEN BLVD 300 CAMERON BLDG
OKLAHOMA CITY OK 73106

HAMILTON JIMMY GAS & OIL CO
1392 LAKEWOOD DR
LEXINGTON KY 40502

HAMILTON W B ESTATE
1220 HAMILTON BLDG
WICHITA FALLS TX 76301

HANAGAN PETROLEUM CORPORATION
P O BOX 1737
ROSWELL NM 88201

GUNN R D
723 FIRST WICHITA NATIONAL BLD
WICHITA FALLS TX 76301

GUYMON WESLEY L
RR 1 BOX 337
EVANSVILLE IN 47712

H E D OIL COMPANY
BOX 130
LULING TX 78648

H E L OPERATING CO
P O BOX 7401
AMARILLO TX 79109

H E S OPERATING CO
2645 HYACINTH DR
NORTH CANTON OH 44720

HACKATHORN H A
230 WEST 6TH AVE
DENVER CO 80204

HAITSCHER JAMES H
P.O. BOX 197
CLARK LAKE MI 49234

HALEY JIM PRODUCTION CO
P. O. BOX 81
CARMI IL 62821

HAMBLIN RALPH H
846 RICHLAND TERRACE
MARION OH 43302

HAMILTON OIL CORP
SUITE 42 PERMANENT FEDERAL SAVINGS
EVANSVILLE IN 47708

HAMMAN BLAKE
706 CONTINENTAL LIFE BLDG.
FT. WORTH TX 76102

HANKINS ENERGY CO
709 PHILTOWER BLDG
TULSA OK 74103

MANKS ROGER C
BOX 3168
MIDLAND TX 79702

MANLEY COMPANY
1204 WILCO BLDG.
MIDLAND TX 79701

MANOVER HANOVER & LEWIS TRS
BOX 747
KILGORE TX 75662

MANSFORD EARL E
700 RIVER OAKS BANK & TRUST
HOUSTON TX 77019

MANSIN JAMES B
BOX 38125
DALLAS TX 75238

MANSING OIL COMPANY
4917 OAK LAWN
DALLAS TX 75219

MANKINS E COMPANY
PO BOX 1960
ALICE TX 78332

MARPER & LAWLESS
BOX 1712
MIDLAND TX 79701

MARPER OIL PROPERTIES INC
BOX 10545 827 BRANDON AVE
JACKSON MS 39206

MARRIS DRILLING COMPANY
BLK 99 HWY 1 S
GRAYVILLE IL 62844

MARRIS ROY
203 NORTH ST
PLEASANTON TX 78064

MARTMAN W L
BOX 54
WICHITA KS 67201

MANKS S R
STAR ROUTE, BOX 54
COLORADO CITY TX 79512

MANNA OIL & GAS COMPANY
P O BOX 1956
FT SMITH AR 72903

MANOVER MANAGEMENT COMPANY
2001 BRYAN TOWER, SUITE 1100
DALLAS TX 75201

MANSON OIL CORP
P. O. BOX 1515
ROSEWELL NM 88201

MARDAWAY LTD
BOX 1266
ALBANY TX 76430

MARDLY ABLE OIL CO
PO BOX 550
HUNTINGTON BEACH CA 92648

MARP CLAUDE C
16 WEST FRANKLIN
SHAWNEE OK 74801

MARPER O G
3409 F 28TH ST
MITCHINSON KS 67501

MARPER WAYNE
4925 GREENVILLE #1316
DALLAS TX 75206

MARRIS ELMO
1403 S BELL CREE
CUSHING OK 74023

MARRISON DAN J JR
520 S POST OAK RD
STE 600
HOUSTON TX 77027

MARVEY DERELL WAYNE
305 W 13TH
CRANE TX 79731

MANLEY & BIRD
28 KENNEDY ST.
BRADFORD PA 16701

MANNAM OIL CO
BOX 9077
CANTON OH 44711

MANSEN DANE G TRUST
BOX 187
LOGAN KS 67646

MAR-KEN OIL CO
POST OFFICE BOX 616
OWENSBORO KY 42301

MARDEY C O
1324 COMMERCIAL NATL BK BLDG
SHREVEPORT LA 71101

MARGRAVES F E & SONS DRLG CO
P.O. BOX 700
OIL CITY LA 71061

MARP PROD. CO.
104 E. 3RD ST -HOYER & HARRISTY
MONAHANS TX 79756

MARPER OIL COMPANY
904 HIGHTOWER BLDG.
OKLAHOMA CITY OK 73102

MARRINGTON D D ESTATE
SUITE 701 112 W EIGHTH AVE
AMARILLO TX 79101

MARRIS R C
221 HALL BLDG
BEEVILLE TX 78102

MARTER OIL CO
2800 YOUREE DR
SHREVEPORT LA 71104

MARVICK OIL CO.
BOX 325
THROCKMORTON TX 76083

MASELUFF HOMER
RT 3
VERNON TX 76384

MAYRE DRILLING CO
P O DRAWER D
MAYKE MT 59501

MAWLEY M M
BOX 515
GRANDFALLS TX 79742

MAWTHORNE DAVID G
1331 NIELS ESPERSON BLDG
HOUSTON TX 77002

MAYNES CHARLES A
BOX 7604
MIDLAND TX 79701

MAYS T G LTD
1010 WILSON BLDG
CORPUS CHRSTI TX 78401

MEARNSBERGER HENRY G JR
1252 PLESANT VALLEY
LITTLE ROCK AR 72207

MEATH B M
BOX 428
STILLWATER OK 74074

MEDGES C T
ROUTE 1
OLNEY TX 76374

MELENA PRODUCTION CORP
BOX 9699
SHREVEPORT LA 71109

MELMERICH & PAYNE INC
1579 EAST 21ST ST
TULSA OK 74114

MENLICH FRANCES M
3778 CLEVELAND ROAD
WOOSTER OH 44691

MASLAM JOAN M
409 S. JEFFERSON
PLAINVILLE KS 67663

MAWKINS H L & H L MAWKINS JR
SUITE 907
225 BARONNE ST
NEW ORLEANS LA 70112

MAWLEY JOHN B JR TRUST #1
1915-57TH AVENUE NORTH
MINNEAPOLIS MN 55430

MAWTHORNE OIL & GAS CORP
BOX 52429
LAFAYETTE LA 70505

MAYROB COMPANY
BOX 400
MCLEAN TX 79057

MEADCO PRODUCTION COMPANY
2820 LIBERTY TOWER
OKLAHOMA CITY OK 73102

MEARTLAND ENTERPRISES INC
353 F ST
PHILLIPSBURG KS 67661

MECHT WILLIAM H
8444 LACKLAND RD
OVERLAND MO 63114

MEDGES S B
2030 W 44TH
CASPER WY 82601

MELTS WILLIAM G EST-PARTNERSHP
912 WHITNEY BLDG.
NEW ORLEANS LA 70130

MELMLY & PRATHER OIL CORP
3RD FLOOR FISK BLDG
AMARILLO TX 79101

MEMPEN GEORGE
310 S 4TH
MEDPESHA KS 66757

MAUGHT GLENN L & SONS
ROUTE 3 BOX 14
SMITHVILLE WV 26178

MAWKINS OIL & GAS
1504 PHILTOWER BLDG
427 S BOSTON
TULSA OK 74103

MAWN PETROLEUM INC
PO BOX 1065
MCPHERSON KS 67460

MAYES CHARLES F & ASSOC INC
1908 DEPOSIT GUARANTY PLAZA
JACKSON MS 39201

MAYS & KINSEY
BOX 751
OLNEY TX 76374

MEARD OIL CO
26158 GRANT ST
HOUSTON TX 77006

MEARTLAND EXPLORATION
825 CRAVENS BLDG
OKLAHOMA CITY OK 73102

MEDGECOKE PROPERTIES
540 AMARILLO BLDG
AMARILLO TX 79101

MEFFINGTON LEO
RT 3
MARLOW OK 73055

MELLMAN ESTATE
P.O. BOX 2398
SEAL BEACH CA 90740

MEMBREE BROS OIL PROD
PO BOX 1225
SHAWNEE OK 74801

MENDRIX JOHN H CORP
905 MIDLAND TOWER
MIDLAND TX 79701

MENRY PETROLEUM CORP
801 PETROLEUM BLDG
MIDLAND TX 79701

MERNSTADT BERTHA ETAL
BX 86
ARDMORE OK 73401

MERSCHAP BILLY G
P O BOX 263
BASTROP TX 78602

MESS LEWIS F
705 W GREEN ST
SMETHPORT PA 16749

MEYDRICK PETRO EUN COMPANY
P O BOX 4285 1103 8TH
WICHITA FALLS TX 76308

MICKMAN J F
PO BOX 12307
EL PASO TX 79912

MIGHLAND RESOURCES INC
600 SAN JACINTO BLDG
HOUSTON TX 77002

MILL A G
2500 1ST NATIONAL BANK BLDG.
DALLAS TX 75202

MILL JOHN H
8350 N CENTRAL EXPRESSWAY STE 140
DALLAS TX 75206

MILLENBURG OIL CO
116TH ST & SO LYNN LANE RD
BROKEN ARROW OK 74012

MINGS C L
112 BROADMOOR
BORGER TX 79007

MINTON JACK
ROUTE 1
ADOLPHUS KY 42120

MERCULES PETROLEUM COMPANY
2200 CALHOUN ROAD
OWENSBORO KY 42301

MERRING CASEY OIL CO
TRICKHAM ROUTE
SANTA ANNA TX 76878

MESS DICK
1414 DOVER RD
MCPHERSON KS 67460

MESTER R M & SON
P.O. BOX 2588
WICHITA FALLS TX 76307

MEAWATHA OIL COMPANY INC
SUITE 700 CITY CENTER BLDG
OKLA CITY OK 73102

MICKMAN MERLIN & LEAKE CLAUDE
BOX 610
ARKANSAS CITY KS 67005

MILBERT R L
RFD 2 SE
CLAREMORE OK 74017

MILL DAVID
P.O. 1
REDFORD IN 47421

MILL WILLIAM E
R R 1
MT VERNON IN 47620

MILLTARD OIL & GAS INC
1100 MIDLAND NATL BK TWR
MIDLAND TX 79701

MINES ANTHONY
5315 SPELLMAN
HOUSTON TX 77096

MINTON PRODUCTION CO
1805 NORTH JEFFERSON
MT PLEASANT TX 75455

MERD ROB L - MERD PRODUCING CO INC
915 PEOPLES BK BLDG
TYLER TX 75702

MERRINGTON BERRY
2700 ROYAL DR
KILGORE TX 75662

MESS GEORGE R
BOX 89
MCPHERSON KS 67460

MEWIT & DOUGHERTY
LAMBERT PLAZA
REFUGIO TX 78377

MIBBERT R E
1401 HOUSTON CLUB BLDG
HOUSTON TX 77002

MIGGINS GILBERT A
124 WASHINGTON AVE
MT CARMEL IL 62863

MILBURN INDUSTRIES INC
BOX 426
OIL CITY LA 71061

MILL GEORGE D OIL PRODUCER
3404 FT WORTH NATL BK BLDG
FT WORTH TX 76102

MILL WILLIAM F
BOX 341
KILLBUCK OH 44637

MILNOR OIL CO
EVERVIEW DRIVE
MT. VERON OH 43059

MINES, LEONARD T.
128 MAPLE AVE.
WOODSFIELD OH 43793

MIRSCH SANDOR S
1C E 70TH STREET
NEW YORK NY 10021

MNG FUSSIL FUELS CO
PO BOX 1186
HOUSTON TX 77001

MODGES BILLY M
BOX 274
FT STOCKTON TX 79735

MOLDEN ELMO
P O BOX 555
MENDERSON KY 42420

MOLLIS G M ETAL
325 PINFOREST DR.
RUSTON LA 71270

MOLT JAMES
STAR ROUTE 4
SNIATOUK OK 74070

MOME-STAKE PRODUCTION CO
PHILTOWER BLDG 10TH FLOOR
TULSA OK 74103

MOOVER MOBLE C
302 NATIONAL BK OF COMMERCE BL
EL DUKADO AR 71730

MOPPES WILLIAM B JR
RR 1 BOX 52A
DEPEW OK 74028

MORNE RANSOM JR
BOX 5847
ARLINGTON TX 76011

MOUSTON OIL & MINERALS CORP
242 THE MAIN BLDG 1212 MAIN ST
HOUSTON TX 77002

MUNARD JOHN D
ROUTE 1
CUPAN OK 74022

MUNELL OIL & GAS INC
800 HOUSTON NATURAL GAS BLDG
HOUSTON TX 77002

MNG OIL COMPANY
PO BOX 2267
MIDLAND TX 79702

MOERMAN GEO A
BOX 537
MENDERSON KY 42420

MOLLAND NADA A
2347 JEFFREY RD
CAMARILLO CA 93010

MOLLOWAY ALVIS S
423 S 49TH W AVE
TULSA OK 74127

MOLWELL DRILLING CO.
BOX 143
OSAGE WY 82723

MONDO DRILLING CO
P O DRAWER 2516
MIDLAND TX 79702

MOOVER NATA JANE
406 W CENTRAL AVE
FT. WORTH TX 76106

MORIZON OIL & GAS CO OF TEXAS
1216 HARTFORD BLDG
DALLAS TX 75201

MORNER ARNOLD
BOX 58
CALLENSBURG PA 16213

MOUSTON PETROLEUM CO
3171 BUFFALO SPEEDWAY, SUITE 40
MOUSTON TX 77098

MOWARD LAWRENCE
RD #2
PLEASANTVILLE PA 16341

MURER CLARA M
121 RUSSELL ST
WARREN PA 16365

MODGEN JACK D
1100 MASS BLDG
ENID OK 73701

MOLBROOK F W
504 1ST NATL BK BLDG
MIDLAND TX 79701

MOLLINSWORTH C D
BOX 1061
NATCHEZ MS 39120

MOLLOWAY OIL CO
P. O. BOX 3200
AUSTIN TX 78764

MOLY ENERGY INC
2001 BRYAN TOWER SUITE 2600
DALLAS TX 75201

MOOVER & BRACKEN INC
2800 LIBERTY TOWER
OKLAHOMA CITY OK 73102

MOPE ALVIN C ESTATE
P.O. BOX 300
SAN ANTONIO TX 78291

MORN R L OIL CO
RT # 1 BOX 298 A
NOMINY OK 74035

MORTON NORMAN W
BOX 86
PAWNUSKA OK 74056

MOUTCHENS D D
BOX 56
SAINT JO TX 76265

MOWELL DRILLING INC
635 MILAM BLDG
SAN ANTONIO TX 78205

MUBER J M CORP
2000 WEST LOOP SOUTH
MOUSTON TX 77027

V 4 4 / 1 7 1

A G 3 1 7 9

UMI

MUBRIS OIL & GAS
BOX 3502

MC ALLEN TX 78501

MUEBNER EUGENE O
207

BUSHTON KS 67427

MUGHEY W K OPERATING CO INC
117 E. ELM

TYLER TX 75702

MULAM PRODUCTION CO
PO BX 248

MOMENY OK 74035

MUNT H L ESTATE
2400 FIRST NATIONAL BANK BUILDING

DALLAS TX 75202

MUNT INVESTMENT CORP
2400 FIRST NATIONAL BK BLDG

DALLAS TX 75202

MUNT OIL CO
2400 FIRST NATL BANK BLDG

DALLAS TX 75202

MUNT WILLIAM HERBERT ESTATE
2400 FIRST NATL BK BLDG

DALLAS TX 75202

MUNTBUT & R K G ERG CO
RT 1 BOX 424

ODESSA TX 79763

MUSKY OIL CO
1125 E CLARK AVE

SANTA MARIA CA 93454

ILLINO OIL CORP
STE 42 PERMANENT SAVINGS BL

EVANSVILLE IN 47708

1MHT W C
210 W 38th ST

FARMINGTON NM 87401

MUCKABAY E DOYLE LTD
1706 SECURITY LIFE BLDG

DENVER CO 80202

MUFFMAN H L LTD
819 FIRST NATIONAL BANK BLDG.

MIDLAND TX 79701

MUGUS INVESTMENT CO INC
PO BOX 3106

LONGVIEW TX 75601

MUNGIVILLE M ESTATE
150 JACKSON AVE.

BRADFORD PA 16701

MUNT HASSIE INC
2500 FIRST NATIONAL BANK BLDG

DALLAS TX 75202

MUNT LAMAR
2400 FIRST NATL BK BLDG

DALLAS TX 75202

MUNT PETROLEUM CORP.
2400 1ST NATL BK BLDG

DALLAS TX 75202

MUNTER-SCANLIN
1482 E. VALLEY RD.

SANTA BARBARA CA 93108

MURLEY RD E & GLADYS RD LA
400 PETROLEUM BLDG

SHREVEPORT LA 71101

MYDROCARBON GATHERING INC
704 S W TOWER

HOUSTON TX 77002

ILLINOIS CASING PULLING CO
BOX 157

GRAYVILLE IL 62844

IMC EXPLORATION COMPANY
PO BOX 55583

HOUSTON TX 77055

HUDMAN WYLIE PROD CO
BOX 969

STINNETT TX 79083

HUGHES JAMES
BX 248

SKIATOOK OK 74070

HUISACHE OPERATING CO
BOX 1121

CORPUS CHRSTI TX 78403

HUNNICUTT & CAMP DRILLING CO.
P.O. BOX 399

RIO VISTA CA 94571

HUNT INDUSTRIES
2500 1ST NATL BK BLDG

DALLAS TX 75202

HUNT N B
2500 FIRST NATL BANK BLDG

DALLAS TX 75202

HUNT W H
2500 FIRST NATIONAL BANK BLDG

DALLAS TX 75202

HUNTON OIL & GAS CORP
5400 N BROOKLINE

OKLAHOMA CITY OK 73112

HUSKY OIL CO
PO BOX 308

CODY WY 82414

I E R M INC
2909 NORTHWEST THIRTY FIRST

OKLAHOMA CITY OK 73112

ILLINOIS MID-CONTINENT CO.-DEE DRI
BOX 352

MT CARMEL IL 62863

IMPERIAL OIL CO
4TH NATL BLDG

WICHITA KS 67202

INCA OIL CO
P.O. BUX 52069

TULSA UK 74152

INDIAN WELLS OPERATING CO. INC
630 SUTTON PLACE

WICHITA KS 67202

INLAND GAS CO INC
340 17TH STREET

ASHLAND KY 41101

INTERCOASTAL OPERATING CO.
600 JEFFERSON STE 616

HOUSTON TX 77002

INOQUOIS TRUST

PROMPRET LT 06256

IRVINE RUN PARTNERSHIP
RD 1 BUX 324

SUGAR GROVE PA 16350

ISEMN PETROLEUM CO
BOX 486

ELLINWOOD KS 67526

J & L OIL CORP
ROUTE 4 17566 RD 30

STERLING CO 80751

J F S INC
70 NIAGARA ST

BUFFALO NY 14202

J M RUDY CO
BOX 465

CLAY CITY IL 62824

J-K COMPANY
BOX 30652

DALLAS TX 75230

JACOBS C E CO
BOX 1178

ALBANY TX 76430

INDIAN OIL CO
BOX 632

GAINESVILLE TX 76240

INDUSTRIAL GAS CORP
P O BOX 1473

CHARLESTON WV 25325

INLAND STATES GAS CO
PO BX 7364

TULSA OK 74105

INTERMOUNTAIN PETROLEUM CO
625 PETROLEUM CLUB BLDG

DENVER CO 80202

IRWIN PRODUCING CO
202 MASONIC TEMPLE BLDG

ZANESVILLE OH 43701

ISCO INC
280 PARK AVE

NEW YORK NY 10017

IVANSONS OIL PRODUCTION
2221 STONE ST

FALLS CITY NE 68355

J & L OIL GAS & MINERALS PART
7131 SCENIC BROOK DRIVE

AUSTIN TX 78736

J J PRODUCTION CO
556 GLENCOE RD.

GLENCOE IL 60022

JEC OIL & GAS CO INC
106 W 8TH ST

MCCOOK NE 69001

J-M OPERATING COMPANY
1900 LTV TOWER

DALLAS TX 75201

JADOIL INC
BOX 398

GRANVILLE OH 43023

INDIAN WELLS OIL CO
920 N JEFFERSON

KEARNEY MO 64060

INEXCO OIL CO
1100 MILAM BLDG. SUITE 1900

HOUSTON TX 77002

INTEGRAL ENERGY CORP
1816 GUARANTY BANK PLAZA

CORPUS CHRISTI TX 78475

IRBY V T JR
BOX 505

BEACLAIR TX 78107

IRVIN WEITZMAN
2248 E MT HOPE

OKEMOS MI 48864

ISENHOWER W D
BOX 1195

ALBANY TX 76430

J & J ENTERPRISES INC
PO BOX 697

INDIANA PA 15701

J & M OIL COMPANY
BOX 312

DALE IN 47523

J M S ASSOCIATES INC
1325 HOWELL

BEAUMONT TX 77706

J-A-H INC
601 JEFFERSON #3605

HOUSTON TX 77002

JACK TOM
BX 1088

ARDMORE OK 73401

JAMCO
BX 2319

BIG SPRING TX 79720

JAMES DRILLING CORP
436 NEWPORT RD.

BLAIRSVILLE PA 15717

JAX OIL CO.
PO BOX 1070

KERMIT TX 79745

JAY-DEE PRODUCING COMPANY
1406 S CEDAR

BURGER TX 79007

JEFFERSON-WILLIAMS ENERGY CORP
7540 LBJ FREEWAY

DALLAS TX 75251

JET OIL CO
600 MID-CONTINENT BLDG

TULSA OK 74103

JOHNSON & LINDLEY INC
1313 FIRST CITY NATL BK BLDG
1021 MAIN
HOUSTON TX 77002

JOHNSON G P & CO
5155 DEL ROY

DALLAS TX 75229

JOHNSON VIDE M
BOX 147

HUTCHISON KS 67501

JONES B J
1101 W. PAYNE

OLNEY TX 76374

JONES MERLE K
RT #1

NICLVAR NY 14715

JUNITA OIL CO
BOX 792

OLNEY TX 76374

JUNIPER PETROLEUM CORPORATION
1660 LINCOLN ST #2410

DENVER CO 80264

JAMES T L & COMPANY INC
P O BOX 1305

RUSTON LA 71270

JAY BROTHERS
BOX 278

GORMAN TX 76454

JAYHAWK OIL CO
625 SUTTON PLACE

WICHITA KS 67202

JENKINS & WOODRUFF OIL CO INC
105 MAIN ST.

NORTH ADAMS MI 49262

JOHNSON & JOHNSON
1414 NORTH JEFFERSON

EL DORADO AR 71730

JOHNSON E LYLE
626 N BOWY

MOORE OK 73160

JOHNSON T C ESTATE
LITWIN BLDG SUITE 205
110 N MARKET
WICHITA KS 67202

JONES & PELLOW OIL CO
2921 NW 50

OKLA CITY OK 73112

JONES CO
DRAWER 787

ALBANY TX 76430

JONES RAY
BOX 221

CROSS PLAINS TX 76443

JORDAN R R OPERATOR
BOX 1698

PAMPA TX 79065

JUSTISS-MEARS OIL CO INC
POST OFFICE DRAWER N

JENA LA 71342

JARRED HARRY M
PO BOX 52

SHREVEPORT LA 71161

JAY PETROLEUM INC
1000 CITY CENTER BUILDING

OKLAHOMA CITY OK 73102

JEFFERS WILLIAM E
BOX 65

ARTESIA NM 88210

JENKINS WILLIAM A INC
2601 NW EXPWY

OKLAHOMA CITY OK 73112

JOHNSON & JOHNSON OIL & GAS CO
BOX 61

FULTON TX 78358

JOHNSON F T JR
1010 OIL & GAS BLDG

WICHITA FLS TX 76301

JOHNSON TALLY
RT 1 BOX 247A

TERLTON OK 74081

JONES A V & SONS
BOX 787

ALBANY TX 76430

JONES L E PRODUCTION CO
PO BOX 1185

DUNCAN OK 73533

JONES-OBRIEN CORP
631 COMM NATL BK BLDG

SHREVEPORT LA 71101

JOSEY LENOIR M INC
504 WAUGH DRIVE

HOUSTON TX 77019

K & H WELL SERVICE INC
BOX 178

GRAHAM TX 76046

K & M OPERATING CORP
11900 WESTLIN DRIVE

ST LOUIS MO 63141

K M OIL ACCOUNT
BOX 2102

ABILENE TX 79604

K-B OIL & GAS INC
BOX 1594

BRECKENRIDGE TX 76024

KADANE OIL COMPANY
BOX 1740

WICHITA FALLS TX 76307

KANABA OIL CORP
P O BOX 791

SEABROOK TX 77586

KANSOURI PIPE LINE CO INC
516 COURT BLDG

EVANSVILLE IN 47708

KATZ OIL CO
BOX 2057

ABILENE TX 79604

KEENER OIL COMPANY
320 SOUTH BOSTON SUITE 406

TULSA OK 74103

KELTON FRANK
2220 PARADISE POINT DRIVE

PENSACOLA FL 32503

KENAI OIL & GAS INC
ENERGY ONE BLDG STE 2000
717 SEVENTEENTH ST
DENVER CO 80202

KENNEDY & MITCHELL INC
7400 W JEFFERSON AVE

DENVER CO 80235

KENO OIL & GAS INC
PO BOX 247

MENNESSEY OK 73742

K OIL INCORPORATED
P O BOX 1234

DECATUR IL 62525

KGE DRILLING INC
816 UNION CENTRE

WICHITA KS 67202

K-B OIL COMPANY
906 S. HARWOOD

DALLAS TX 75201

KAISER-FRANCIS
BOX 35528

TULSA OK 74135

KANSAS NATURAL GAS INC
BOX 818

HAYS KS 67601

KARCHNER PIPE&SUPPLY CO
BOX 581

CENTRALIA IL 62801

KEDCO MANAGEMENT CORP
816 UNION CENTER BLDG

WICHITA KS 67202

KEITH P WALKER
BOX 1725

ARDMORE OK 73401

KEN PETROLEUM CORPORATION
4815 REPUBLIC NATL BK TOWER

DALLAS TX 75201

KENDALL DAVID L
719 W. APACHE

FARMINGTON NM 87401

KENNEDY E R & FAULKNER M
DRAWER 1171

PECOS TX 79772

KENT DRILLING CO
332 W 8TH ST

GARNETT KS 66032

K P M PETROLEUM CORP
817 17TH STREET

DENVER CO 80202

K-ARCY CORPORATION
313 NORTH MAIN STREET

WELLSVILLE NY 14895

K-VILL OIL & GAS
BOX 271

WOOSTER OH 44691

KALER HOWARD W
P. O. BOX 568

GAINESVILLE TX 76240

KANSAS NEBRASKA NATURAL GAS CO
PO BOX 15265

LAKEWOOD CO 80215

KASAN CORP
1209 IRIS ST

MC ALLEN TX 78501

KEEFER M E & EVELYN M
PO BX 84

ADA OK 74820

KELLY CORINNE ROY
1040 DELAWARE

SHREVEPORT LA 71105

KEN-LYNN CORP.
16325 OLD VALLEY BLVD.

CITY OF INDUSTRY CA 91744

KENDRICK E MULLIGAN
DRAWER 3057

ABILENE TX 79604

KENNEMUTH RICHARD L
BOX 278

DUKE CENTER PA 16729

KENTUCKY NATL OIL CO
P. O. BOX 84

OIL SPRINGS KY 41238

KENTUCKY WEST VIRGINIA GAS CO
PO BLX 1388
ASHLAND KY 41101

KERN CO DRILLING AND ASSOCIATES
1725 ORLANDO RD
PASADENA CA 91106

KEY PRODUCTION CO
BOX 1706
LONGVIEW TX 75601

KIEFFER BRUTHER
RR #4
MT CARREL IL 62063

KILLINGSWORTH C C
11030 CHAYOTE
LOS ANGELES CA 90049

KILROY CO OF TE AS
1908 FIRST CITY NATIONAL BK BL
HOUSTON TX 77002

KIMBELL KAY ESTATE
PO BOX 1540
FORT WORTH TX 76101

KIMMELL C E
1630 MILAM BLDG
SAN ANTONIO TX 78205

KING TURNER M
BOX 486
ADA OK 74820

KINSEY INTERESTS INC
SUITE 1407 PETROLEUM TOWER
SHREVEPORT LA 71101

KISSINGER PETROLEUM CORP
PO BOX 22004
DENVER CO 80222

KNIGHT DRLG EXPL CO
BOX 856
BORGER TX 79007

KER-OIL CO
13000 EAST TEMPLE AVE
CITY OF INDUSTRY CA 91749

KERR-MCGEE CORP
PO BOX 25861 MT-25M
OKLAHOMA CITY, OK 73125

KEYSTONE GAS CO
400 MILLCRAFT CENTER
WASHINGTON PA 15301

KIERNAN THOMAS M
PO BOX 1234
DECATUR IL 62525

KILLINGSWORTH LEE O ERATOR
BOX 1266
LONGVIEW TX 75601

KIMBALL PRODUCTION CO
6000 RICHMOND STE 111
HOUSTON TX 77062

KIMBELL OIL CO
3000 FT WORTH NATL BANK BLDG
FT WORTH TX 76102

KING DRILLING CO
P.O. BOX 52
SEVILLE OH 44273

KINGERY DRLG CO INC
BX 1598
ARDMORE OK 73401

KIRKPATRICK OIL COMPANY
1300 N BROADWAY
OKLAHOMA CITY OK 73103

KLINE HUGH E
1208 ST RT 89 RFD #2
ASHLAND OH 44805

KNIVETON J HOYT
BOX 516
IRAAN TX 79744

KERN CO
250 MID AMERICA BUILDING
MIDLAND TX 79701

KEWANEE OIL CO
P O BOX 2239
TULSA OK 74101

KIDD BARRON
SUITE 500,TWO TURTLE CREEK VILLAGE
DALLAS TX 75219

KILLAM & HURD LTD
PO BOX 499
LAREDO TX 78040

KILLION & MCCLEMENT OIL OPER
501 S JACKSON
WEST FRANKFORT IL 62896

KIMBARK OPERATING CO
1860 LINCOLN ST STE 808
DENVER CO 80295

KIMBERLIN C DUNN
BOX 2746
AMARILLO TX 79105

KING M J KING J E SHERWOOD C
6586 S LAFAYETTE
LITTLETON CO 80120

KINLEY OIL & GAS CORP.
BANK OF NEW YORK BLDG.
OLEAN NY 14760

KIRKWOOD WILLIAM C
P O BOX 3439
CASPER WY 82602

KNIGHT & MUSSELMAN
1266 BUTTERNUT ST
ABILENE TX 79602

KNOB HILL OIL & GAS CO INC
16TH FL BNO BLDG
NEW ORLEANS LA 70112

KNUTT BILLY J
4925 GRANVILLE AVE
DALLAS TX 75206

KOCH P S
GENERAL DELIVERY
SUTHERLND SPG TX 79161

KREMBIEL HOMER G SR
1343 N MAPLE
MCPHERSON KS 67460

KULMS MARGARET ANN
BOX 1026
LUCKHART TX 78644

KUYKENDALL M C
ROUTE 1 BOX 98
ELECTRA TX 76360

L & L OIL CO
BOX 13
BENEDICT KS 66714

L S K L OIL CO
P. O. BOX 832
LULING TX 78648

LACY R INC
BOX 2146
LONGVIEW TX 75601

LAGUNA OIL & GAS CORP.
BOX 593
PORTLAND TX 78374

LAMB PAUL A
PO BOX 273
COFFEYVILLE KS 67337

LAMMERTS, ROBERT P.
165 PARK AVE
OKLAHOMA CITY OK 73102

LANDRUM PETROLEUM CO
BOX 635
BURKBURNETT TX 76354

KNOX INDUSTRIES INC
BOX 3023
MIDLAND TX 79702

KORMAN OPERATING INC
BOX 177
ABILENE TX 79604

KRIEBEL EDWARD G GAS CO
8 SOUTH 8TH AVE.
CLARION PA 16214

KUNLER W L
1901 AVE OF STARS STE 1600
LOS ANGELES CA 90067

KUYKENDALL OIL PRODUCING CO
P O BOX 934
DECATOR IL 62525

L & M OIL CO
4424 GREENVILLE AVE-SUITE 1144
DALLAS TX 75206

L V M
BOX 954
GRAHAM TX 76046

LADD PETROLEUM CORP
830 DENVER CLUB BLDG
DENVER CO 80202

LAHOTI INC
P O BOX 278
MATTOON IL 61938

LAMBERT STANLEY EST
403 W. 3RD ST.
OWENSBORO KY 42301

LANDERS TOM W
500 E YOUNG
LONGVIEW TX 75602

LANE OIL CO.
P O BOX 766
KILGORE TX 75662

KOCH EXPLORATION CO
BOX 2256
WICHITA KS 67201

KOURI OIL CO.
328 HAMILTON BLDG.
WICHITA FALLS TX 76301

KUHN WALTER DRILLING
427 UNION CENTER-BLDG
WICHITA KS 67202

KUNES G GERALD
POST OFFICE BOX 985
TIFTON GA 31794

KWB OIL PROPERTY MGMT INC
320 S BOSTON STE 1125
TULSA OK 74103

L & M OIL COMPANY
PO BOX 296
PALOS VERDES ESTATES CA 90274

LABECO OPERATING COMPANY
173 MEADOWS BLDG.
DALLAS TX 75206

LAFORTUNE ROBERT J
2104 PHILTOWER BUILDING
TULSA OK 74103

LAKE ROWEL OIL COMPANY
PO BOX 179
TYLER TX 75710

LAMBERTON W J
2904 4TH NATL BK
TULSA OK 74119

LANDES EXPLORATION CO
416 UNION CENTER
WICHITA KS 67202

LANGE R W
BOX 1034
GARDEN CITY KS 67846

LAMPMAN'S INC
27102 GRAND RIVER AVE.
DETROIT MI 48240

LARSON LARSON&LARSON
53 HURD STREET
YOUNGSVILLE PA 16371

LAWBAK PETROLEUM INC
10880 WILSHIRE BLVD. SUITE 2005
LOS ANGELES CA 90024

LAWRENCE M D
PO BOX 4
LOCO OK 73442

LAYMAL CORP
1717 - 28TH ST
BAKERSFIELD CA 93301

LEASE MANAGEMENT INC
BOX 290 903 INDUSTRIAL AVE
MT. PLEASANT MI 48858

LEBOW & LEBOW
8150 BEVERLY BLVD #306
LOS ANGELES CA 90048

Lee CHARLES
PO BOX 94611
OKLAHOMA CITY OK 73109

LEE WILLIAM V STATE
1032 TUSTIN PINES WAY
TUSTIN CA 92680

LENACKE OIL CO
BOX 477
SUGAR GROVE PA 16350

LIBERTY PETROLEUM CORP
1113 BROADWAY
TOLEDO OH 43609

LILES PRODUCTION CO.
BOX 666
THROCKMORTON TX 76083

LARCO DRILLING CO INC
SUITE 1700 CAPITAL TOWERS
JACKSON MS 39201

LARWELL
BOX 2586
WICHITA FALLS TX 76303

LAWMASTER CLIFFORD
1021 N ASH
BROKEN ARROW OK 74012

LAWTON OIL CO
BOX 362
BRADFORD PA 16701

LAYTON OIL COMPANY
BX 263
INDEPENDENCE KS 67301

LEATHERMAN M A
708 LEONHARDT BG
OKLA CITY OK 73102

LECLAIR OPERATING CO INC
1266 BUTTERNUT ST
ABILENE TX 79602

LEE JANIE C TRUST
2312 FIRST CITY NATL BK BLDG
HOUSTON TX 77002

LEFOE OIL & GAS INC
516 BLDG OF SOUTHWEST
MIDLAND TX 79701

LEON WILLIAM EARL
RD #1
ANDOVER NY 14806

LIEDEN OIL INC
1600 N ANN ARBOR
OKLAHOMA CITY OK 73127

LINDEMANN W L DRILLING CO
1411 13TH ST BLDG 1-A
WICHITA FALLS TX 76301

LARIO OIL & GAS CO
301 SOUTH MARKET
WICHITA KS 67202

LAUCK D R OIL CO INC
221 S. BROADWAY SUITE 400
WICHITA KS 67202

LAWRENCE C P ASSOCIATES INC
BOX 2418
MIDLAND TX 79701

LAY J D
ROUTE 1, BOX 186
LOCKHART TX 78644

LEAR PETROLEUM CORP
STE 950 ONE ENERGY SQUARE
4925 GREENVILLE AVE
DALLAS TX 75206

LEREN OIL CORP
BOX 35528
TULSA OK 74135

LEDFORD OBIE
RR 1
MORRIS OK 74445

LEE JOHN G
BOX 431
RISING STAR TX 76471

LEGG ARTHUR L
R. R. #3
ROBINSON IL 62454

LEWIS R T
712 S. WASHINGTON
SEYMOUR TX 76380

LIGHTNING OIL CO.
4118 MCCULLOUGH #10
SAN ANTONIO TX 78212

LISLE PETE-ROTARY HOSES SALES
RT 2 BOX 2-8A
OLNEY TX 76374

LIVE OAK CORPORATION
400 1-ENERGY SQUARE
DALLAS TX 75206

LLOYD CORP LTD
9441 OLYMPIC BLVD
BEVERLY HILLS CA 90212

LOCK 3 OIL COAL & DOCK CO
200 UNION CARBIDE BLDG.
PITTSBURGH PA 15220

LOEB OIL CO
P O BOX 524
LAWRENCEVILLE IL 62439

LUGAN OIL CO.
606 VINE STREET
MT. PULASKI IL 62548

LONG BROTHERS
BOX 294
NORPHLET AR 71759

LOUDEN PROPERTIES CO
P O BOX 54228
LOS ANGELES CA 90054

LOVELADY T. W.
P O DRAWER 2666
MIDLAND TX 79702

LUBELL OIL COMPANY
1033 MAYO BLDG
TULSA OK 74103

LUNN RAY
2011 HAMPSTEAD
WICHITA FALLS TX 76308

LYNCO OIL CORP
5490 DTC PARKWAY BLDG 4
ENGLEWOOD CO 80111

M & W COMPANY
1201 N. W. 13TH
ANDREWS TX 79714

LIVELY EXPLORATION CO
1010 FIRST CITY NATL BANK BLDG
HOUSTON TX 77002

LOCATORS OIL & GAS INC
PO BOX 291
GUTHRIE OK 73044

LOCKE LEON L
HUNGERFORD TX 77448

LOFTIN ORA
BOX 398 RT. 3
OLNEY TX 76374

LOGUE & PATTERSON INC
1300, ONE ENERGY SQUARE
DALLAS TX 75206

LOOP FREDERICK F
42 ELM ST
ELDRED PA 16731

LOUISIANA LAND & EXPLORATION C
PO BOX 60350
NEW ORLEANS LA 70160

LOWER LAFOURHE CORP
BOX 263
INDEPENDENCE KS 67301

LUFF KENNETH
1730 COLORADO STATE BANK BLDG
DENVER CO 80202

LYNAL INC
BOX 52185-OCS
LAFAYETTE LA 70505

LYONS PETROLEUM INC
1500 BECK BUILDING
SHREVEPORT LA 71101

M C P OIL CO
6048 COTTONWOOD RD NW
DELLROY OH 44620

LIZZIE REYNOLDS O & G CO
BIG BEN WV 26136

LOCHETRACY ENGINEERING CO
BOX 1037
GAINESVILLE TX 76240

LOCKHART OIL & GAS
P. O. BOX 1020
LOCKHART TX 78644

LOFTON OIL COMPANY
707 OIL & GAS BLDG
WICHITA FALLS TX 76301

LONG BEACH OIL DEVELOPMENT CO
925 HARBOR PLAZA
P O BOX 1330
LONG BEACH CA 90801

LOPEZ MONROE M
504 E. AVE.
AUSTIN TX 78701

LOVE & MASSINGILL
641 BRENTWOOD BLVD
LAFAYETTE LA 70501

LOWERY JOHN T OIL CO
P O BOX 1048
EL DORADO AR 71730

LULING OIL AND GAS CO INC
8622 CROWNHILL BLVD
SAN ANTONIO TX 78209

LYNCH OIL COMPANY
BOX 412
BELLYTOWN TX 79068

M & E DRILLING CO
P O BOX 155 19 W MAIN ST
CASEY IL 62420

M K DRILLING COMPANY
3407 62ND STREET
DES MOINES IA 50311

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

M R SUITS
BOX 215
ELETRA TX 76360

MABRY DEBBIE & DELORIS
RT.1, BOX 136
OLIVE HILL KY 41164

MACERO MINERALS INC
1202 GUARANTY BANK PLAZA
CORPUS CHRISTI TX 78475

MACHII-ROSS PETROLEUM CO
1131 OCEAN AVE
SANTA MONICA CA 90403

MACKELLAR INC
6601 N W EXPRESSWAY STE#203
OKLA CITY OK 73112

MACRATE OIL CO
3341 CHERRY AVE.
LONG BEACH CA 90807

MAGUIRE OIL CO
4200 FIRST NATL BK BLDG
DALLAS TX 75202

MALLARD EXPLORATION INC
500 WILCO BUILDING
MIDLAND TX 79701

MANGES CLINTON
BOX 570
PEER TX 78657

MAPCO PRODUCTION CO
1600 S BALTIMORE
TULSA OK 74119

MARATHON OIL CO
539 S MAIN ST
FINDLAY OH 45840

MARJO OIL COMPANY
BOX 126
LOCKHART TX 78644

M-TEX INC
BOX 307
MANCHER MN 56244

MACDONALD & GREEN
2750 E SPRING ST STE 201A
LONG BEACH CA 90806

MACEY & HERSHON OIL INC
1600 BROADWAY SUITE 1040
DENVER CO 80202

MACHIN ART & ASSOCIATES INC
P. O. BOX 1069
LONGVIEW TX 75601

MACKINGA PAT O
32346 SAILVIEW LANE
WESTLAKE VILLAGE CA 91361

MADDOX ENERGY CORP
2525 STEMMONS FREEWAY STE 702
DALLAS TX 75207

MAI LOUIS M OPERATIONS
BOX 33
RUSSELL KS 67665

MAMMOTH PRODUCING CO
P. O. BOX 89
CLARE MI 48617

MANGRUM B R
RT 1 BX 89
MORRIS OK 74445

MARALO INC
BOX 832
MIDLAND TX 79702

MARINE CONTRACTING & SUP INC
BOX 27344
HOUSTON TX 77027

MARKWELL ED L JR
SUITE 400 LEININGER BUILDING
OKLAHOMA CITY OK 73112

MABEE PETROLEUM CORP
2532 FIRST PLACE
TULSA OK 74103

MACDONELL CO OF LIMA INC
BOX 267
LIMA OH 45802

MACFARLANE COMPANY
205 ARMSTRONG BUILDING
EL DORADO AR 71730

MACK OIL COMPANY
BX 400
DUNCAN OK 73533

MACMILLAN RING-FREE OIL CO INC
P O BOX 1623
EL DORADO AR 71730

MAGEE INVESTMENT CO
PO BOX 11073
OAKLAND CA 94611

MAJESTIC PETROLEUM CORP
12900 PRESTON RD STE 630
DALLAS TX 75230

MANAGEMENT CONTROL CORP
P.O. BOX 772
EAST LIVERPOOL OH 43920

MANY-WELL SERVICE
P.O. BOX 170
MANY LA 71449

MARAN OIL COMPANY
P. O. BOX 2549 300 FIRST VICTORIA
NAT'L BANK BLDG.
VICTORIA TX 77901

MARION CORP
P O BOX 16006 BEL AIR STATION
MOBILE AL 36616

MARLIN EXPL INC
BOX 4546
SHREVEPORT LA 71104

MARR M H
2500 REPUBLIC NATIONAL BK. BLD
DALLAS TX 75201

MARSHALL EXPLORATION INC
BOX 729
MARSHALL TX 75670

MARTIN GEORGE F
516 PHILTOWER BLDG
TULSA OK 74103

MARWOOD OIL COMPANY
14626 KENNY ST.
HOUSTON TX 77015

MASON JAMES M
R1 1 BOX 182
PRINCETON KY 42445

MAXSON W F

SHINGLEHOUSE PA 16748

MB OIL GAS
205 CENTRAL PLAZA S 5TH FLOOR
CANTON OH 44702

MCALLISTER OIL PRODUCERS
BOX 296
WORPHLET AR 71759

MCALLEN M M ESTATE
22818 COSTA BELLA EL TORO
EL TORO CA 92630

MCCANTS DAN D
PO BOX 11
SASAKWA OK 74867

MCCARTY W A
6905 ELMHURST ROAD
AMARILLO TX 79106

MCCLAIN CHARLES M
P. O. BOX 712
DAYTON TX 77535

MARSH TOM F
P.O. BOX 1746
AMARILLO TX 79105

MARSHALL R YOUNG OIL CO
750 WEST FIFTH ST
FORT WORTH TX 76102

MARTIN M L
BOX 605
BURKBURNETT TX 76354

MARVE N B
1400 BK OF SOUTHWEST
HOUSTON TX 77002

MASON JOHN C
R. R. 2 BOX 219
MILLERSBURG OH 44654

MAY PETROLEUM INC
ONE ENERGY SQUARE
DALLAS TX 75206

MCADAMS PIPE & SUPPLY CO
PO DRAWER 960
BRISTOW OK 74010

MCBEE WILLIAM D. ESTATE
2100 LYT TOWER 1525 ELM
T
DALLAS TX 75201

MCCAMMON J H
BOX 1321
SAN ANGELO TX 76901

MCCARTER W B JR INC
708 SOUTH WEST TOWER BLDG.
HOUSTON TX 77002

MCCARVER A G
2900 NORTH BIG SPRING
MIDLAND TX 79701

MCCLANAHAN R O
608 EMMONS
KILGORE TX 75662

MARSHALL & WINSTON INC
BOX 874
MIDLAND TX 79702

MARTIN EXPLORATION CO
3501 N CAUSEWAY BLVD SUITE 901
METAIRIE LA 70002

MARTIN OIL SERVICE INC
PO BOX 298
BLUE ISLAND IL 60406

MASON & ASSOCIATES
2560 LIBERTY TOWER
OKLAHOMA CITY OK 73102

MAXBY OIL COMPANY
RT #1
LINCOLNVILLE KS 66858

MAYNARD OIL CO
600 N DALLAS BK TOWER
DALLAS TX 75230

MCALESTER FUEL CO
P O BOX 10
MAGNOLIA AR 71753

MCBRIDE W C-SILURIAN OIL CO
25 N BENTWOOD BLVD
ST LOUIS MO 63105

MCCANN DRILLING INC
131 E MAIN
SEDAN KS 67361

MCCARTHY DIANNE
RR #2
EUREKA KS 67045

MCCAULEY LAVERNE SR
PO BOX 74
FOXBURG PA 16036

MCCLELLAN KROHN & BURRELL
P.O. BOX 729
CHILLICOTHE TX 79225

MCCLURE OIL CO
1080 BRIDGE ST.
ALMA MI 48801

MCCOMMONS OIL CO
500 ADOLPHUS TOWER
1412 MAIN STREET
DALLAS TX 75202

MCCORMICK & SHORT
708 HOUSTON CLUB BLDG.
HOUSTON TX 77002

MCCRACKEN OIL TRUST
BOX 3128
WICHITA FALLS TX 76309

MCCUTCHIN GENE
4230 LBJ FREEWAY - SUITE 200
DALLAS TX 75234

MCDONNALD CLEAVES OIL & GAS
708 C & I BLDG
HOUSTON TX 77002

MCDONNELL OIL CORP INV
1402 HIGHLAND DR.
ABILENE TX 79603

MCFARLAND ENERGY INC
1625 S PAINTER AVENUE
P O BOX 3608
SANTA FE SPRINGS CA 90670

MCGREGHAN LAND CO
711 NATIONAL OIL BLDG
SIXTH & GRAND
LOS ANGELES CA 90017

MCHUGH JEROME P & ASSOCIATES
600 S CHERRY ST STE 1225
DENVER CO 80222

MCMAHON-BULLINGTON DRILLING CO
P. O. BOX 2569
WICHITA FALLS TX 76307

MCMURREY GATHERING SYSTEM
P. O. BOX 1074
KILGORE TX 75662

MCCLURE WALTER
RR # 1
ST. FRANCISVILLE IL 62460

MCCONNELL D B
293 LEO AVE
SHREVEPORT LA 71105

MCCORMICK OIL & GAS CORP
3600 2 ALLEN CNTR
HOUSTON TX 77002

MCCULLOCH OIL AND GAS CORP
10880 WILSHIRE BLVD.
LOS ANGELES CA 90024

MCCUTCHIN OIL CO
4230 LBJ FRWY STE 200
DALLAS TX 75234

MCDIVITT OIL CO
RFD#1
ELDRED PA 16731

MCENDREE EBER
1207 S. MAIN
BENTON IL 62812

MCGOLDRICK OIL CO
610 BECK BUILDING
400 TRAVIS
SHREVEPORT LA 71101

MCHAN OIL & GAS
BOX 1608
PAMPA TX 79065

MCKENZIE MANAGEMENT CO
PO BOX 29191
COLUMBUS OH 43229

MCMILLEN R M
654 NILES CORTLAND ROAD
WARREN OH 44484

MCMURREY R J PROD CO
615 PEOPLES BANK BLDG
TYLER TX 75702

MCCOMBS-CONRAD & BARRETT
P. O. BOX 88
NEW CONCORD OH 43762

MCCORD AL INC
320 S CRAWFORD
NORMAN OK 73069

MCCOY PETROLEUM COMPANY
ONE MAIN PLACE SUITE 410
WICHITA KS 67202

MCCULLOCH PROPERTIES, INC
16830 E PALISADES BLVD
FOUNTAIN HILLS AZ 85268

MCDANIEL M K
P. O. BOX 308
LA MARQUE TX 77568

MCDONALD W W LAND CO INC
PO BOX 1770
LOGAN WV 25601

MCFARLAND DRILLING CO.
BOX 2329
CORPUS CHRSTI TX 78403

MCGOWAN JOHN W
PO BOX 92
CANTON MS 39046

MCHUGH JAMES ANTHONY
311 MONTCLAIR
CORPUS CHRISTI TX 78412

MCKINNEY WILLARD OIL PRODUC.
BOX 14
LOUISVILLE IL 62858

MCMORAN EXPLORATION CO
PO BOX 6800
METAIRIE LA 70009

MCOUTLLEN J D
BX 575
WEWOKA OK 74884

MCVAY C M
1906 NOBLESTOWN ROAD
PITTSBURG PA 15205

MEASON OPERATING CO
P.O. BOX 1366
NATCHEZ MS 39120

MEDDERS OIL CO
414 CITY NATIONAL BLDG
WICHITA FALLS TX 76301

MEGARGEL DRILLING COMPANY
P. O. BOX 356
MEGARGEL TX 76370

MELVIN DRILLING CO
612 W MT PLEASANT RD
EVANSVILLE IN 47711

MERLANTILE OIL & GAS PROD. COR
2019 JEAN ST
HOUSTON TX 77023

MERIDIAN EXPLORATION CORP
400 PENN CENTER BOULEVARD
PITTSBURGH PA 15235

MERRITT OIL CO
BOX 157
HAVEN KS 67543

MESSER OIL CORP
101 NORTH UNION STREET
OLEAN NY 14760

MGF OIL CORP
VAUGHN BLDG 7TH FLR
MIDLAND TX 79701

MICH-OHIO PIPELINE CORP
PO BOX 231
ALMA MI 48801

MICHIGAN OIL CO
P.O. BOX 147
ALMA MI 48801

MEAD GEARY
393 W MAIN ST
CLARENDON PA 16313

MECHALKE JOE
240 NORTH ELEVENTH AVE
BRIGHTON CO 80601

MEEKER & CO
6000 CAMP BOWIE BLVD
FT WORTH TX 76116

MELLON OIL UNIT
711 NBC BUILDING
SAN ANTONIO TX 78205

MELZER & HENDERSON
BOX 1791
MIDLAND TX 79701

MERCURY GAS CO
P O BOX 1425
CHARLESTON WV 25325

MERLIN HANES
522 EAST MAIN ST
BRADFORD PA 16701

MESA DEVELOPMENT COMPANY
BOX 1060
MC ALLEN TX 78501

METHANE GAS CO
6440 N CENTRAL EXPY STE 310
DALLAS TX 75206

MGU DEVELOPMENT CO
899 SOUTH TELEGRAPH RD
MONROE MI 48161

MICHAEL J S CO
1228 SAN JACINTO BLDG
HOUSTON TX 77002

MICHIGAN WISCONSIN PIPE LINE
5075 WESTHEIMER, SUITE 1100 GALLER
1A TOWERS WEST
HOUSTN TX 77056

MEADCO PROPERTIES
BOX 2236
MIDLAND TX 79702

MECOM JOHN W
P. O. BOX 2566
HOUSTON TX 77001

MEEKS JOE F
RT 3
ADA OK 74820

MELTZER OIL COMPANY
DRAWER B
GREAT BEND KS 67530

MENGDEN W
P.O BOX 22837
HOUSTON TX 77027

MERCURY PRODUCTION COMPANY
1212 RIDGLEA STATE BANK BLDG
FT. WORTH TX 76116

MERRION & BAYLESS
PO BOX 507, SUITE 205
PETROLEUM CENTER BLDG
FARMINGTON NM 87401

MESA PETROLEUM CO.
BOX 2009
AMARILLO TX 79189

MEWBOURNE OIL CO
P O BOX 7698
TYLER TX 75711

MIAMI OIL PRODUCERS INC
FIRST NATIONAL BK BLDG ONE EAST FI
ST ST
REND NV 89501

MICHIGAN CONSOLIDATED GAS CO
1 WOODWARD AVE
DETROIT MI 48226

MID ATLANTIC OIL CO
P O BOX 280
HILLSDALE MI 49242

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

MID-AMERICAN OIL & GAS INC
1200 MILAM SUITE 3323
HOUSTON TX 77002

MIDLAND NATIONAL BANK TRUSTEE
PO BOX 2097
MIDLAND TX 79701

MIDWEST EXPLORATION INC
813 SOUTH VILLA AVE.
VILLA PARK IL 60181

MILAM M C
POST OFFICE BOX 97
CASEY IL 62420

MILLER BOB I
1404 CONTINENTAL NATL. BLDG.
FT. WORTH TX 76102

MILLER ELNA
HORIZON LODGE APT 502
CONRAD MT 59425

MILLER PAUL
ALLEN OK 74825

MILLPORT GAS CO
PO BOX 294
MILLPORT PA 16737

MINARD RUN OIL CO
BOX 18
BRADFORD PA 16701

MISS-TEX OIL PRODUCERS
P O BOX 8248
JACKSON MS 39204

MITCHELL ENERGY OFFSHORE CORP
3400 ONE SHELL PLAZA
HOUSTON TX 77002

MK OIL & GAS INC
5450 DRESSER TOWER
HOUSTON TX 77002

MID-LOUISIANA GAS CO
21ST FLOOR LYKES CENTER
300 POYDRAS ST
NEW ORLEANS LA 70130

MIDLANDS GAS CORP
P O BOX 15265
LAKEWOOD CO 80215

MIDWEST OIL CORP
1500 WILCO BLDG
MIDLAND TX 79701

MILES PRODUCTION CO
P.O. BOX 154
CARROLLTON TX 75006

MILLER BROTHERS
P. O. BOX 146
ALLEGAN MI 49010

MILLER J T
PO BX 383
HOLDENVILLE OK 74848

MILLER W A & CO
BOX 432
NACOGDOCHES TX 75961

MILLS GLEN A
4703 MELDRUM RD
RICHMOND MI 48062

MINYER LEE E
475 MINARD RUN
BRADFORD PA 16701

MITCHELL E O
1965 LONG BEACH BLVD
LONG BEACH CA 90806

MITCHELL GEORGE M DRILLING CO
PO BOX 254
CARMI IL 62821

MO-KY OIL CO
209 S 5TH ST
LOUISVILLE KY 40202

MID-WESTERN PETROLEUM EXCHANGE
BOX 5204
ARLINGTON TX 76011

MIDROC OIL COMPANY
4925 GREENVILLE AVE
DALLAS TX 75206

MIDWEST WELL SERVICING, INC
986 AVONDALE
CINCINNATI OH 45229

MILLER & WILSON
P.O. BOX 264
ALHAMBRA CA 91802

MILLER C EDWARD
9150 WILSHIRE BLVD
LOS ANGELES CA 90036

MILLER JOHN C
RT 1 BX 130
DUNCAN OK 73533

MILLICAN OIL CO
908 TOWN AND COUNTRY BLVD
SUITE 400
HOUSTON TX 77024

MILLS LOUIE W
BOX 753
ALICE TX 78332

MIRAMAR PETROLEUM INC
900 GUARANTY BK PLAZA
CORPUS CHRISTI TX 78401

MITCHELL ENERGY & DEVELOPMENT CORP
3400 ONE SHELL PLAZA
HOUSTON TX 77002

MITCHELL OIL CO
PO BOX 636
IOWA PARK TX 76367

MOBERLY-FULTON ETAL
BOX 0
SHELBY MT 59474

MOBIL OIL CORP
150 EAST 42ND ST
NEW YORK NY 10017

MONAHAN REX
BOX 1231
STERLING CO 80751

MONSANTO CO
1300 POST OAK TOWER
5051 WESTHEIMER
HOUSTON TX 77056

MONTANA PETROLEUM CO
2 PALO ALTO SQUARE
PALO ALTO CA 94304

MOONEY, THOMAS L.
115 FIRST STREET
BOLIVAR, NY 14715

MOORE JERRY INC
536 CITIZENS SAVINGS BLDG
CANTON OH 44702

MOORE W T
BOX 946
SAPULPA OK 74066

MORAN F E OIL CO
102 ARLINGTON PL
RUSSELL KY 41169

MORGAN DAVE OIL CO
P O BOX 820
BLACKWELL OK 74631

MORGAN ROBERT L
2520 SOUTH GRIFFITH AVENUE
OWENSBORO KY 42301

MORRIS A J
BOX 698
ARCHER CITY TX 76351

MORRIS, LOWRY
RT 1
MOUNDS OK 74047

MOBLEY & DAVIS
1011 COMMERCIAL NATL BANK
SHREVEPORT LA 71101

MONCRIEF W A & SONS
SUITE 1200 FORT WORTH CLUB TOWER
FT. WORTH TX 76102

MONTANA POWER COMPANY
40 EAST BROADWAY
BUTTE MT 59701

MONTERREY PRODUCTION CO
900 MELOOP 410 STE C-103
SAN ANTONIO TX 78209

MOORE BELVE R
RED EAGLE ROUTE
PAWHUSKA OK 74056

MOORE LESTER D
5011 WASHINGTON AVE
EVANSVILLE IN 47715

MORAN E F INCORP
1810 NATIONAL BANK OF TULSA BLDG
TULSA OK 74103

MORAN PIPE & SUPPLY COMPANY
810 ENTERPRISE B
TULSA OK 74103

MORGAN ENTERPRISES INC
PO BOX 1166
CORPUS CHRISTI TX 78403

MORMAC OIL & GAS CO
1500 GUARANTY BANK PLAZA
CORPUS CHRISTI TX 78475

MORRIS EUGENE E
1661 LINCOLN AVE
EVANSVILLE IN 47714

MORRISON JAMES O
1823 MCELROY ST
CRANE TX 79731

MOBLEY O B
BOX 1091
1101 BECK BLDG
SHREVEPORT LA 71163

MONITOR PETROLEUM CORP
489 FIFTH AVE
NEW YORK NY 10017

MONTANA-DAKOTA UTILITIES CO
400 NORTH FOURTH STREET
BISMARCK ND 58501

MONTGOMERY BILL
225 WILLIAMSBURG SQUARE
OWENSBORO KY 42301

MOORE JACK M
BOX 1058
ALBANY TX 76430

MOORE PRODUCTION CO
5011 WASHINGTON AVE STE 6
EVANSVILLE IN 47715

MORAN EXPLORATION INC
400 WILCO BLDG
MIDLAND TX 79701

MORGAN & AMBROFF
13243 RAVEN ST.
SAN FERNANDO CA 91342

MORGAN GEORGE J
BOX 541
RANGER TX 76470

MORRIS & WHITE SUPPLY CO
P O BOX 0
BEATTYVILLE KY 41311

MORRIS MARK & IRENE
PO BOX 1752
BAKERSFIELD CA 93302

MOSBACHER ROBERT
2100 CAPITAL NATL BANK BLDG
HOUSTON TX 77002

MOSLEY J W
BOX 236
BATSON TX 77519

MOSS PETROLEUM COMPANY
2641 FIRST INTERNATIONAL BLDG
DALLAS TX 75270

MOUNTAIN FUEL SUPPLY COMPANY
180 EAST 1ST SOUTH P. O. BOX 11368
SALT LAKE CITY UT 85139

MSC OIL & GAS CO
10 E 3RD ST
TULSA OK 79701

MUNOCO CO
300 MURPHY BLDG
EL DORADO AR 71730

MURFIN DRILLING CO
617 UNION CENTER
WICHITA KS 67202

MURPHY OIL CO OF OKLAHOMA, INC
BOX 446
DALLAS TX 75221

MUSKELL GENE
5566 POST OAK PLACE DR STE 12
HOUSTON TX 77027

MUSSER J T
BOX 3
MOUNTVILLE PA 17554

MUTUAL OIL & GAS CO
100 N. MILLER RD.
AKRON OH 44313

MYERS ENGINEERING & OIL MANAGE
501 UNION CENTER BLDG
WICHITA KS 67202

NABOB PRODUCTION COMPANY
PO BOX 9598
AMARILLO TX 79105

NOSS C R & SONS
RT 2 BOX 260
COLUMBIA KY 42728

NOTE RESOURCES INC
MEADOWS BLDG STE 290
DALLAS TX 75206

NOVERY W L
R-1. BOX 47
HOBART OK 73651

NUELLER BRASS CO
1929 LAPEER AVE.
PORT HURON MI 48060

NUNSON DAVID M
1800 FIRST NATL BK BLD;
DALLAS TX 75220

NURPHY E DONNELL
BOX 262
GRAHAM TX 76046

NURPHY OIL CORPORATION
200 NORTH JEFFERSON AVE
EL DORADO AR 71730

NURVIN OIL COMPANY
P O BOX 297
OLNEY IL 62450

NUSTANG PRODUCTION CO
1100 FIRST NATIONAL CENTRE EAST
OKLAHOMA CITY OK 73102

NWJ PRODUCING CO
1804 FIRST NATIONAL BANK BLDG.
MIDLAND TX 79701

NYERS JOHNEY M
901 ZUNI DR.
FARMINGTON NM 87401

NADEL & GUSSMAN
9232 FIRST NATL TOWER
TULSA OK 74103

NOSS GLENN
2812 230TH ST
TORRANCE CA 90505

NOTTERN M R
SPRANKLE MILLS PA 15776

NRT EXPLORATION CO
9900 CLAYTON ROAD
ST LOUIS MO 63124

NULL DRILLING CO INC
221 N MAIN STE 300
WICHITA KS 67202

NURCHISON & CLOSUIT
D 105 PETROLEUM CENTER
SAN ANTONIO TX 78209

NURPHY ARTHUR G
634 ONE ONTA ST
SHREVEPORT LA 71106

NURPHY PETE
BOX 185
ALICE TX 78332

NUSKEGON DEVELOPMENT CO
1425 SOUTH MISSION ROAD
MT. PLEASANT MI 48858

NUTTONTOWN OIL CO INC
412 PERE MARQUETTE BLDG.
NEW ORLEANS LA 70112

NYCO INDUSTRIES INC
YATES BLDG
207 S FOURTH
ARTESIA NM 88201

N & W OIL CO
BOX 230
EL DORADO KS 67042

NATVAR ED
RT 3 BOX 317
TEMPLE TX 76501

NAPECO INC
5051 WESTHEIMER-POST OAK TOWER BUILDING P. O. BOX 289
HOUSTON TX 77001

NATIONAL EXPLORATION CO
5373 WEST ALABAMA SUITE 400
HOUSTON TX 77056

NATIONAL OIL CO
200 W DOUGLAS SUITE 550
WICHITA KS 67202

NATURAL GAS PIPELINE COMPANY OF AM
P O BOX 283 POST OAK TOWER
5051 WESTHEIMER ROAD
HOUSTON TX 77001

NELSON DONALD A
PO BOX 66100
CHICAGO IL 60666

NEUHAUS V F
PO DRAWER 1028
MISSION TX 78572

NEWMAN BROTHERS DRILLING CO
1432 MILAM BLDG.
SAN ANTONIO TX 78205

NICKLUS OIL & GAS CO
518 FIRST CITY NATIONAL BK BLD
HOUSTON TX 77002

NIXON R P OPERATIONS
207 W 12TH ST
HAYS KS 67601

NOBLE JUD & ASSOCIATES
6070 BUSH BLVD
COLUMBUS OH 43229

NORCEN PETROLEUM INC
NORCEN TOWER
715 5TH AVENUE S W
CALGARY ALBERTA CANADA T2P 2X 7

NORMAN O M
OIL & GAS BLDG. P. O. BOX 1585
MIDLAND TX 79701

NATIONAL COOP REFINERY ASSOC
404 LINCOLN TOWER BLDG
DENVER CO 80205

NATIONAL FUEL GAS SUPPLY CORP
308 SENECA ST
PO BOX 347
OIL CITY PA 16301

NATIONWIDE ENERGY CORP
104 OLD YORK ROAD
JENKINTOWN PA 19046

NATURAL RESOURCES CORP
DENVER CLUB BLDG
STE 500
DENVER CO 80203

NENNO LENA C
FOUR MILE ROAD
ALLEGANY NY 14706

NEUMIN PRODUCTION CO
P O DRAWER O
PORT LAVACA TX 77979

NEWMONT OIL CO
600 JEFFERSON STREET
HOUSTON TX 77002

NIELSON ENTERPRISES INC
633 17TH ST
1300 FIRST OF DENVER PLAZA
DENVER CO 80202

NOAH CALVIN
601 N BIRCH
VALLEY CENTER KS 67147

NOF & WOODS ETAL
P O B 4706
MONROE LA 71201

NORDAN & COMPANY
711 NRC BLDG
SAN ANTONIO TX 78205

NORMAN M E
3845 ARUNDEL
FT WORTH TX 76109

NATIONAL DRILLING CO.
4810 N. KENNETH AVE. 30
CHICAGO IL 60630

NATIONAL OIL & GAS INC
P.O. BOX 476
BLUFFTON IN 46714

NATOMAS NORTH AMERICA INC
1000 FIRST PLACE
TULSA OK 74103

NEBRASKA DRILLERS INC
574 STEVENS AVE
SOLANA BEACH CA 92075

NETHERS CHARLES D
RT. 7
NEMARK OH 43055

NEVADA OIL OPERATORS
BOX 1103
EL DORADO AR 71730

NFC PETROLEUM CORPORATION
3535 NW 58TH STREET
OKLAHOMA CITY, OK 73112

NIKOLORIC L A
P O B 7627
SHREVEPORT LA 71107

NOAM PETROLEUM CO
BOX 6141 STATION B
EVANSVILLE IN 47712

NOLAN HARRY L ESTATE
BOX 2300
TULSA OK 74102

NORMAN BILLY JACK
BX 5
SASAKWA OK 74867

NORSWORTHY C L JR ESTATE
2001 BRYAN TOWER-SUITE 3327
DALLAS TX 75201

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

NORTH AMERICAN EXPLORATION CO.
400 FIRST STATE BNK BLDG
ABILENE TX 79604

NORTH EAST NATURAL GAS CO INC
RD 1 US 20 WEST
LENNAUT IN 46530

NORTHERN NATURAL GAS COMPANY
6750 WEST LOOP SOUTH
BELLAIRE TX 77401

NORTHWEST OIL COMPANY
6421 CAMP BOWIE BLVD
FORT WORTH TX 76116

NORTON OIL CO INC
BOX 1666
11TH FLOOR MID SOUTH TOWERS
SHREVEPORT LA 71165

NUCORP ENERGY CO
520 MARKET STREET
EAST LIVERPOOL OH 43920

NUTTALL BRANDON J
POST OFFICE BOX 545
MADISONVILLE KY 42431

OBERMILLER C R
150 MYERS STREET
CRESTON OH 44217

OLEAN PRODUCTION COMPANY
PO BOX 61780
NEW ORLEANS LA 70161

OETH ROBERT H-OPERATOR INC
P.O. BOX 573
HENDERSON KY 42420

OIL DEVELOPMENT CO OF UTAH
P O BOX 12058
AMARILLO TX 79101

OIL RESOURCES INCORPORATED
P. O. BOX 986
BILLINGS MT 59103

NORTH AMERICAN ROYALTIES INC
200 EAST EIGHTH STREET
CHATTANOOGA TN 37402

NORTH STAR PETROLEUM CORP
8626 TESORO DRIVE SUITE 808
SAN ANTONIO TX 78217

NORTHERN PUMP CO
1915 57TH AVE N
MINNEAPOLIS MN 55430

NORTHWEST PIPELINE CORP
BOX 1526
SALT LAKE CITY UT 84110

NORWOOD ARVIN DRILLING CO
DRAWER 310
MIDLAND TX 79702

NUEVE OPERATING CO OF TEXAS
410 1ST BANK BLDG
ABILENE TX 79602

OAKLAND CORP
630 COMMERCIAL NATL BK BLDG
SHREVEPORT LA 71101

OBRIEN R J
630 COMMERICAL BK BLDG
SHREVEPORT LA 71101

ODESSA NATURAL CORPORATION
BOX 3908
ODESSA TX 79760

OGDEN OIL CO.
BOX 564
NATCHEZ MS 39120

OIL LEASE OPERATING CO
2223 WESTHEIMER
HOUSTON TX 77098

OIL WELL MANAGEMENT CO
4299 MAC ARTHUR BLVD
NEWPORT BEACH CA 92660

NORTH CENTRAL OIL CORPORATION
P.O. BOX 27491
HOUSTON TX 77027

NORTHERN MICHIGAN EXPLORATION
ONE JACKSON SQUARE
PO BOX 1150
JACKSON MI 49204

NORTHWEST EXPLORATION CO
PO BOX 1526
SALT LAKE CITY UT 84110

NORTHWEST PRODUCTION CORP
BOX 1492
EL PASO TX 79978

NRM PETROLEUM CORP
900 BLDG OF THE SOUTHWEST
MIDLAND TX 79701

NUEVO DIA CORP
501 HILLCREST
ODESSA TX 79760

OAKS PETROLEUM INC
923 N CHERRY
OTTAWA KS 66067

OCCO COMPANY
504 MAY-EX BLDG-5622 N.W.EXPY.
OKLAHOMA CITY OK 73112

OELZE ELMER JR.
RR 1
NASHVILLE IL 62263

OGLE JAMES H
BOX 372
OLNEY TX 76374

OIL PROPERTIES CO INC
PO BOX 335
ANDOVER KS 67002

OIL WELL OPERATORS INC
BOX 2336
PAMPA TX 79065

OILFIELD CASING PULLING CO
PO BX 1236
SEMINOLE OK 74868

ONEAL LINDELL
PO BX 538
ROCONA TX 76255

ONG EXPLORATION INC
PO BX 671
TULSA OK 74102

ONBIT GAS COMPANY
711 LEITCHFIELD RD
OWENSBORO KY 42301

ORR ROBERT M
PO BOX 176
MONAHANS TX 79756

OSTERHOUT LEO C
BOX 366
ANDREWS TX 79714

OWEN DRILLING CO
BOX 861
MAGNOLIA AR 71753

OWL OIL COMPANY
BOX 437
SIDNEY NE 69162

OXLEY PETROLEUM CO
1230 AMOCO BLDG.
TULSA OK 74103

PACE & NEILL
P. O. BOX 747
KILGORE TX 75662

PACIFIC TRANSMISSION SUPPLY CO
245 MARKET ST
SAN FRANCISCO CA 94105

PALMER OIL & GAS CO
PO BOX 2564
BILLINGS MT 59103

OKMAR OIL CO
PO BOX 548
DENVER CO 80202

ONEILL CHARLES A JR
225 BARRONE ST—SUITE 1418
NEW ORLEANS LA 70112

ONYX OIL CO
P. O. BOX 490
ABILENE TX 79604

ORBIT OIL & GAS
BOX 6277 STE 202
515 W SW LOOP 323
TYLER TX 75711

ORWIG OIL COMPANY
BOX 864
LOGAN OH 43138

OTEX OF TEXAS INC
414 OIL & GAS BLDG
WICHITA FALLS TX 76301

OWEN J P & CO INC
P.O BOX 51144 OCS
LAFAYETTE LA 70501

OXFORD EXPLORATION CO
1930 DENVER CLUB BLDG
DENVER CO 80202

OXY PETROLEUM INC
5000 STOCKDALE HIGHWAY
BAKERSFIELD CA 93309

PACE RESOURCES INC
PO BX 14812
OKLAHOMA CITY OK 73114

PALM PETROLEUM CORPORATION
1509 MAIN ST STE 900
DALLAS TX 75201

PALOMINO PETROLEUM
900 INSURANCE BLDG
WICHITA KS 67202

OLEUM INC
DRAWER 2232
LONGVIEW TX 75601

ONEILL JOSEPH I JR
P O BOX 2840
MIDLAND TX 79702

ORANGE PETROLEUM CO
BOX 226
ORANGEFIELD TX 77639

ORR OIL CO.
1415 COOLEY DR.
BORGER TX 79007

OSBORN W B JR
P O BOX 17968
SAN ANTONIO TX 78286

OUTLINE OIL CORP
ONE ENERGY SQUARE, SUITE 1354
4925 GREENVILLE AVENUE
DALLAS TX 75206

OWENS WILLARD ASSOCIATES INC
7391 W 38TH AVE
WHEATRIDGE CO 80033

OXFORD OIL CO
BOX 2909
ZANESVILLE OH 43701

OYER HELEN C
2800 S UNIVERSITY BLVD #67
DENVER CO 80210

PACIFIC LIGHTING EXPLORATION
720 W EIGHTH ST
LOS ANGELES CA 90017

PALMCO MANAGEMENT CO
8918 TESORO DRIVE SUITE 215
SAN ANTONIO TX 78217

PAMALE PETROLEUM COMPANY
8626 TESORO DRIVE
STE 802
SAN ANTONIO TX 78217

PAN EASTERN EXPLORATION CO
BOX 1642
HOUSTON TX 77001

PANTHER CITY INVESTMENT COMPAN
3100 FT WORTH NATL BK BLDG
FORT WORTH TX 76102

PARAFFINE OIL CO
5405 STOCKDALE HWY
SUITE 111
BAKERSFIELD CA 93309

PARDUE OIL
BOX 308
BRECKENRIDGE TX 76024

PARKER & TURNER
1110 ALAMO NAT'L BLDG
SAN ANTONIO TX 78205

PARKER LLOYD S
525 BELLEVIEW
CORPUS CHRSTI TX 78412

PARKES FRANK
BOX 953
HOOKER OK 73945

PARTEN J R
1038 BANK OF THE SOUTHWEST BLDG.
HOUSTON TX 77002

PAULEY OIL CO INC
BOX 181
JUDESVILLE MI 49250

PAYNE OIL & GAS CO
RINARD MILLS OH 45776

PDC GAS COMPANY
2616 FRONTIER
MIDLAND TX 79701

PEARSON CHRIS ESTATE
BOX 322
MT VERNON IL 62864

PANHANDLE PRODUCTION CO OPER
8626 TESORO DRIVE
SAN ANTONIO TX 78217

PANTHER CITY TRUST
3100 FT WORTH NATL BK BLDG
FT WORTH TX 76102

PARAGON RESOURCES INC
P. O. BOX 1320
SHREVEPORT LA 71164

PARDUE W N III
BOX 449
BRECKENRIDGE TX 76024

PARKER CRAIG
418 NATIONAL BANK OF TULSA BLD
TULSA OK 74101

PARKER W A
725 PICWICK ST
SHREVEPORT LA 71108

PARRISH OIL CO
120 N MARKET SUITE 201
WICHITA KS 67202

PATRICK PETROLEUM CORP OF MICHIGAN
744 MICHIGAN AVE
JACKSON MI 49204

PAULEY PETROLEUM INC
10000 SANTA MONICA BLVD
LOS ANGELES CA 90067

PAYNE W C
800 UNITED FOUNDERS TOWER
OKLAHOMA CITY OK 73112

PEAKE OPERATING COMPANY
1430 CAPITOL NATL BK BLDG
HOUSTON TX 77002

PEARSON LEE
PO BOX 39
SHIPROCK NM 87420

PAND TECH EXPLORATION CORP.
2015 C & I BUILDING
HOUSTON TX 77002

PANTHER HOLLOW RANCH LTD
806 FIRST CITY NATL BANK BLDG
HOUSTON TX 77002

PARAMOUNT PRODUCING INC
P O BOX 1581
PAMPA TX 79065

PARHAM FLOYD J
RT 1 BX 85
BEGGS OK 74421

PARKER GEORGE E
RD 2 BOX 7
EMLENTON PA 16373

PARKER&PARSLEY INC
BOX 3178
MIDLAND TX 79702

PARRISH PRODUCTION COMPANY
805 HICKORY DR
NEWTON IL 62448

PATTON DONALD L
5682 MORNING GLORY LANE
LITTLETON CO 80123

PAUTSKY NOEL DRILLING CO
820 HAMILTON BLDG
WICHITA FALLS TX 76301

PAYNE-JOHNSON
724 CITIZENS BANK BLDG.
TYLER TX 75701

PEARCE LEONARD D
PO BOX 632
MORLAND WY 82401

PEARSON-SIBERT OIL CO OF TEXAS
901 W MISSOURI AVE
MIDLAND TX 79701

PECH OIL COMPANY
P. O. BOX 401
MIDLAND TX 79701

PENCO GAS INC
3430 FULTON DR N W SUITE 107
CANTON OH 44718

PENNANT OPERATING COMPANY
3010 SANTA MONICA BLVD
SANTA MONICA CA 90404

PENNZOIL PRODUCING COMPANY
P O BOX 2967
HOUSTON TX 77001

PERKINS & CULLUM
P. O. BOX 1470
WICHITA FALLS TX 76307

PERKINS-PROTHRO COMPANY
P O BOX 2099
WICHITA FALLS TX 76307

PERRYMAN OPERATING CO INC
DRAWER A
ATHENS TX 75751

PETHEL OIL & GAS CO
ROUTE 3
NEW MATAMORAS OH 45767

PETRO-LEWIS CORP
7175EVENTEENTH ST
PO BOX 2250
DENVER CO 80201

PETROFUNDS INC
601 JEFFERSON ST
800 DRESSER TOWER
HOUSTON TX 77002

PETROLEUM CORP OF TEXAS
BOX 911
BRECKENRIDGE TX 76024

PETROLEUM EXPL & DVLPMT FUNDS
BOX 3547
MIDLAND TX 79702

PECKHAM GEORGE J JR
1935 W. 233RD ST.
TORRANCE CA 90501

PEND OREILLE OIL & GAS CO
1203 CAPITAL NATL BANK BLDG
HOUSTON TX 77002

PENNY EVERETT J
100 OIL & GAS BUILDING
WICHITA FALLS TX 76301

PENROC OIL CORP
P O DRAWER 831
MIDLAND TX 79702

PERKINS E R
P. O. BOX 5180
WICHITA FALLS TX 76307

PERMEATOR CORPORATION
5200 MITCHELLDALE STE F30
HOUSTON TX 77092

PERRYMAN SID
BOX 666
SEYMOUR TX 76380

PETREX PETROLEUM CORP
1360 STATLER HILTON BLDG
BUFFALO NY 14202

PETRO-MANAGEMENT INC
302 COOP SAVINGS & LOAN BLDG
TYLER TX 75702

PETROL INDUSTRIES INC
P.O. BOX 7961
SHREVEPORT LA 71107

PETROLEUM DEVELOPMENT CORP.
P. O. BOX 26
BRIDGEPORT WV 26330

PETROLEUM INC
800 R M GARVEY BLDG
300 W DOUGLAS
WICHITA KS 67202

PEL-TEX OIL COMPANY INC
1100 MILAM BLDG., SUITE 3333
HOUSTON TX 77002

PENINSULA RESOURCES CORP
PO BOX 1121
CORPUS CHRISTI TX 78477

PENNZOIL COMPANY
PO BOX 2967
HOUSTON TX 77001

PEOPLES NATURAL GAS CO
TWO GATEWAY CENTER
PITTSBURGH PA 15222

PERKINS R E
RT 4 BOX 196
EL DORADO AR 71730

PERRY OIL CO
5400 N BROOKLINE
OKLAHOMA CITY OK 73112

PETERSEN PETROLEUM CORP
BOX 4566
SHREVEPORT LA 71104

PETRO FUNDS & SUNNY SO
220 FSPERSON
HOUSTON TX 77002

PETROC CO
21360 CENTER RIDGE RD
ROCKY RIVER OH 44116

PETROLEUM CASUALTY COMPANY
BOX 3342
HOUSTON TX 77002

PETROLEUM ENERGY PRODUCTION
190 N. WACKER DRIVE
CHICAGO IL 60606

PETROLEUM MANAGEMENT INC
400 N WOODLAWN
WICHITA KS 67208

PETROLEUM MGMT INC
BOX 2627
LAUREL MS 39440

PETROLEUM RESOURCES CO
1130 WEST 28TH ST.
ERIE PA 16508

PHILADELPHIA OIL CO
420 BLVD OF THE ALLIES
PITTSBURGH PA 15219

PHILLIPS JACK L
DRAWER 392
GLADEWATER TX 75647

PHILLIPS OIL O EXATING COMPANY
PO BX 706
ENID OK 73701

PILKENS CO INC
600 PRESTON BK BLDG
DALLAS TX 75225

PIERCE RAY A
BOX 303
EUNICE NM 88231

PINON PETROLEUM
DRAWER 1177
LIBERAL KS 67901

PIP PETROLEUM CORPORATION
511 N MAIN ST SHELTON BLDG.
MIDLAND TX 79701

PLACID OIL CO
1600 FIRST NATL BK BLDG
DALLAS TX 75202

PUI ENERGY INC
777 E 79TH ST
CLEVELAND OH 44103

PUMYKAL FRANK G
RT. 4 BOX 68AA
BRENHAM TX 77833

PETROLEUM OPERATING CO
3304 FIRST NATL TOWER
TULSA OK 74103

PETROVEST INC
129 GOLDSMITH ST
JEFFERSON LA 70181

PHILCON DEVELOPMENT CO
P O BOX 2686
AMARILLO TX 79105

PHILLIPS LEE OIL CO
125 NORTH MARKET - SUITE 1532
WICHITA KS 67202

PHILLIPS PETROLEUM CO
958 FRANK PHILLIPS BUILDING
BARTLESVILLE OK 74004

PICKRELL DRILLING O
205 LITWIN BUILDIN 110 N. MARKET
WICHITA KS 67202

PINE RUN OIL CO
118 PRALEY ST
KANE PA 16735

PINTA JACK
5744 VANTAGE
NORTH HOLLYWOOD CA 91607

PIPES PURSIE E
1008 1/2 MAIN ST
MOUNT VERNON IL 62864

PLATTE VALLEY OIL CO INC
214 MILLCREST CENTER BLDG
RALSTON NE 68127

POLK B R INC
2009 1ST NATL CENTER
OKLAHOMA CITY OK 73102

PONDER J T
718 LIBERTY ST.
EL DORADO AR 71730

PETROLEUM RESERVE CORP
4815 S HARVARD SUITE 305
TULSA OK 74135

PETROVEST INTERNATIONAL
2070 BUSINESS CENTER DR STE 130
IRVINE CA 92715

PHILLIPS & FLOCKER21
R D 2
OIL CITY PA 16301

PHILLIPS LOYD H
1314 KANSAS AVE
GREAT BEND KS 67530

PHOENIX RESOURCES CO
3545 NORTHWEST 58TH STREET, SUITE 300
OKLAHOMA CITY OK 73112

PIERCE & PETERSON
413 PLEASANT DR.
WARREN PA 16365

PINNEY WARREN JR
1160 MERCANTILE CONTINENTAL BL
DALLAS TX 75201

PIONEER PRODUCTION CORP.
PO BOX 2542
AMARILLO TX 79189

PITCOCK INC
BOX 749
GRAHAM TX 76046

PODOLSKY BERNARD
P O BOX 278
FAIRFIELD IL 62837

POLK-PATTON INC
P O BOX 3399
ABILENE TX 79604

PONDEROSA OIL CO.
405 WEST LIBERTY ST.
WOOSTER OH 44691

POOLE J W
BOX 279
RUENSTER TX 76252

POSTON OPERATING CO INC
P.O. BOX 267
ASHLEY OH 43003

POWELL J R
POST OFFICE BOX 126
SEBREE KY 42455

POWERINE OIL COMPANY
910 SOUTH WINDHAM AVE.
LONG BEACH CA 90802

PRAIRIE WELL SERVICE, INC.
BOX 793
PERRYTON TX 79070

PREMIER RESOURCES LTD
633 17TH ST STE 2190
DENVER CO 80202

PRICE BRUTHERS
709 WALNUT
DUNCAN OK 73533

PRIMOS PRODUCTION CO
PO BOX 4528
MONROE LA 71203

PROFFITT ROY
BOX 248
RACINE OH 45771

PRUDENTIAL DRILLING CO
5433 WESTHEIMER SUITE 620
HOUSTON TX 77056

PUBLISHERS PETROLEUM
BX 25125
OKLAHOMA CITY OK 73125

PUTNAM WILLIAM H
P.O. BOX 647
MARIETTA OH 45750

PORTABLE DRILLING CORP
8555 S LEWIS
TULSA OK 74136

POTTER PETROLEUM COMPANY
2104 GRISSO DR
SEMINOLE OK 74868

POWELL N P ESTATE
410 CITIZENS BANK BLDG.
TYLER TX 75702

POYNOR J T TRUSTEE
P. O. BOX 1848
LIBERTY TX 77575

PRATT DON E
BOX 370
HAYS KS 67601

PRENALTA CORP
PO BOX 2514
CASPER WY 82602

PRICE DRILLING & EXPL CO
BOX 90
ALICE TX 78332

PRITZ & PRITZ OIL COMPANY
GENERAL DELIVERY
LOST SPRINGS KS 66859

PRONGHORN PETROLEUM CORP.
BOX 341
BILLINGS MT 59101

PRUDENTIAL OIL CO
BOX 504
LAWRENCEVILLE IL 62439

PULVER AUGUSTA C
2800 S. UNIVERSITY BLVD #67
DENVER CO 80210

PYRAMID OIL CO
PO BOX 122
LITCHFIELD PARK AZ 85340

POSTEL WAIT M L
BOX 105
KEVIN MT 59454

POWELL GENE
BOX 747
KILGORE TX 75662

POWER EXPLOSIVE & SUPPLY CO
1614 7TH AVE
HUNTINGTON WV 25703

PRAIRIE PRODUCING CO
2200 HOUSTON NATURAL GAS BLDG
HOUSTON TX 77002

PREMIER OIL CO
2005 SOUTH 300 WEST
SALT LAKE CITY UT 84115

PREUITT & GILL
614 BUCHANAN ST.
TAFT CA 93268

PRIMOS CUSTER K & NICHOLAS
P. O. BOX 990
YAZOO CITY MS 39194

PRODUCERS OIL COMPANY
711 PHILTOWER BG
TULSA OK 74103

PROSPER ENERGY CORP
PO BOX 757
TIOGA ND 58852

PRUITT TOOL & SUPPLY COMPANY
3200 SOUTH ZERO
FORT SMITH AR 72906

PURSLEY C P & ERWIN & CORNUTT
BOX 900
PAMPA TX 79065

PYRAMID OIL CO
10707 S NORWALK
P O BOX 2131
SANTA FE SPRINGS CA 90670

PYRMID OIL CO.
4502 NORTH PINEWAY DR
BOX 424
MOBILE AL 36605

QUASAR INC
PO BOX 5067
EVANSVILLE IN 47715

R & D OIL CORP
1717 ST JAMES PLACE STE 602
HOUSTON TX 77056

R K G ENGINEERING INC
PO BOX 4981
OLESSA TX 79760

RABY A D & RABY JAMES T
BOX 1856
ROSWELL NM 88201

RAINS&WILLIAMSON OIL CO
435 PAGE COURT
220 WEST DOUGLAS
WICHITA KS 67202

RALSTON OIL & G.S COMPANY
3600 S YOSEMITE #830
DENVER CO 80222

RANCHO OIL CORP.NY
1818 REPUBLIC NATL BANK TOWER
DALLAS TX 75201

RANGER OPERATING CO
PO BOX 296
GRAHAM TX 76046

RAY E STONE
BOX 146
HOLLIDAY TX 76366

RAYBURN DON F
321 NORTH MAIN ST BOX 729
STANDISH MI 48658

READ & STEVENS INC
BOX 1518
ROSWELL NM 88201

QUAKER STATE OIL REFINING CORP
PO BOX 989
OIL CITY PA 16301

QUINTANA PETROLEUM CORPORATION
BOX 3331
HOUSTON TX 77001

R & R OIL CO
PO BOX 2241
KANSAS CITY KS 66110

R K PETROLEUM CORPORATION
P. O. DRAWER 8528
MIDLAND TX 79703

RAINEY & WYLIE
BOX 476
HOLLIDAY TX 76366

RAINWATER C E
RT 1 BOX 133
MORRIS OK 74445

RAMCO OIL & GAS CORPORATION
PO BOX 7056
HOLLYWOOD FL 33021

RANGE OIL COMPANY INC
240 PAGE COURT, 220 W. DOUGLAS
WICHITA KS 67202

RANKIN ROBERT E
PO BOX 1377
SEYMOUR TX 76380

RAY J D
PO BX 664
CHICKASHA OK 73018

RAYMOND OIL COMPANY INC
200 W DOUGLAS
WICHITA KS 67202

READING & BATES PETROLEUM CO
3800 FIRST PLACE
ON AVE
TULSA OK 74103

QUANICO OIL & GAS INC
203 W MAIN P O BOX 1714
EL DORADO AR 71730

QUINTIN LITTLE CO
PO BOX 1509
ARDMORE OK 73401

R B PETROLEUM CO
1 ALLEN CENTER STE 1480
500 DALLAS
HOUSTON TX 77002

R S V CO INC
P. O. BOX 2290
PIKEVILLE KY 41501

RAINBOW RESOURCES INC
305 GOODSTEIN BUILDING
CASPER WY 82601

RALPH C D AGENT
1907 GRIFFITH AVENUE
OWENSBORO KY 42301

RAMSEY W M
413 E PHILLIPS B
BARTLESVILE OK 74003

RANGER OIL CO
1212 MAIN ST STE 710
HOUSTON TX 77002

RAVENCLIFFS DEVELOPMENT CO
PO BOX 300
RAVENCLIFF WV 25913

RAYBURN CHARLES N
BOX 433
KENEDY TX 78119

RAZOOK JIMMY
2101 E. 21ST STREET
WICHITA KS 67214

REAUX SANDRA C DESHOTELS
PO DRAWER 278
KAPLAN LA 70548

REAVES JACKS ESTATE
BOX 953
MIDLAND TX 79701

REESE DALE
415 E. PRESCOTT
SALINA KS 67401

REIDT CECIL FROEHKE
254 MAIN
SHELBY MT 59474

REMO PRODUCTION COMPANY
PO BX 444
CUSHING OK 74023

RENCE GUY A
RT 1 BOX 207
PONCA CITY OK 74601

RESERVE GAS CO INC
732 TIMES SQUARE BLDG
ROCHESTER NY 14614

REVELL, LARRY & E. J.
BOX 751 - THELMA BRYAN, AGENT
OLNEY TX 76374

REYNOLDS J D CO
BOX 366
CAMDEN AR 71701

RHODES & HICKS DRILLING CORP
P. O. BOX NO. 1579
ALICE TX 78332

RIAL OIL CO
PO DRAWER 3068
MIDLAND TX 79702

RICHARDSON PETROLEUM CORPORATION
100 NORTH MAIN ST
WELLSVILLE NY 14895

RIDDLE JAMES I
1700 SOUTHERN NATL BANK BLDG
HOUSTON TX 77002

RED CLOUD OIL COMPANY
PO BX 1104
TULSA OK 74101

REETZ JOHN ASSOCIATES
43 WOODLAND AVE.
BROKVILLE NY 10708

RELIABLE PRODUCTION SVC INC
P O B 176
LIVONIA LA 70755

RENUDA OIL & GAS CO
350 MID-AMERICA BLDG
MIDLAND TX 79701

REPUBLIC MINERAL CORP
P O BOX 27406
HOUSTON TX 77027

RESERVE OIL INC
1776 LINCOLN ST BOX 5568
DENVER CO 80217

REX & NORRIS DRILLING
BOX 334
EL DORADO KS 67042

REYNOLDS METALS CO
BOX 9177
CORPUS CHRSTI TX 78408

RHODES DRILLING CO
BOX 5617
ABILENE TX 79605

RICHARD CHARLES J
1329 1ST NATL BG
OKLA CITY OK 73102

RICKELSON OIL & GAS CO
7611 E 46TH PL
TULSA OK 74145

RIDDLE OIL CO
1804 NE LOOP 410 STE 100
SAN ANTONIO TX 78217

REDFERN JOHN J JR
PO BOX 1747
MIDLAND TX 79701

REFUGIO ENTERPRISES INC
BOX 6306
CORPUS CHRISTI TX 78411

RELIANCE OIL CORPORATION
PO BOX 7445
CHARLOTTESVILLE VA 22902

REN MAR DRILLING COMPANY
BX 535
DEWEY OK 74029

REPUBLIC NATIONAL GAS CO
2010 AVENUE S APT 11
LUBBOCK TX 79411

RESOURCES INVESTMENT CORP
555 17TH ST
SUITE 3500 ANACONDA TOWER
DENVER CO 80202

REYNOLDS J C & W P
700 FIRST WICHITA NATL.BK.BLDG
WICHITA FALLS TX 76301

REYNOLDS ROBERT D
11661 SAN VINCENTE BLVD STE 306
LOS ANGELES CA 90049

RHODES J CECIL
1268 MIDLAND NATL BK BLDG
MIDLAND TX 79701

RICHARDS K S ESTATE
BOX 443
FT. WORTH TX 76101

RICKS RAN JR
400 CITY CENTER BLDG
OKLAHOMA CITY OK 73102

RIDLEY J K
BOX 5088
ABILENE TX 79605

RIFE M D JR
P. O. BOX 9437
FT WORTH TX 76107

RITCHIE A SCOTT
145 N MARKET—SUITE 950
WICHITA KS 67202

ROANE PETROLEUM COMPANY
4529 LORRAINE
DALLAS TX 75205

ROBBINS PETROLEUM CORP
P. O. BOX 2347
LONGVIEW TX 75601

ROBERTSON ALISON SUZANNE
601 JEFFERSON SU TE 3800
CULLEN CENTER
HOUSTON TX 77002

ROBINSON CARL DRILLING CO INC
P. O. BOX 153
ABILENE TX 79604

ROCKET - SCHUSTERMAN OIL ACCOUNT
2700 FIRST PLACE
TULSA OK 74103

RODGERS R W
945 EBONY DRIVE
EDINBURG TX 78539

ROHINGER & PITZER OPERATING ACCOUN
1311 W. WALKER
BRECKENRIDGE TX 76024

ROSE HENRY
1233 ROTUR STREET
DALLAS TX 75220

ROSS BILL C
628 FAIR FOUNDATION BLDG.
TYLER TX 75701

ROUDYBUSH EARL
BX 116
COWETA OK 74429

RIGGS PETROLEUM CO
P O BOX 236
GRAHAM TX 76046

RIKLOON B
316 E 14
ADA OK 74820

ROARK & HOOKER
PO BOX 2708
ABILENE TX 79604

ROBERT OIL COMPANY
R D 4
WELLSVILLE NY 14895

ROBERTSON BRUCE E
6619 FLEUR DELLIS BLVD
NEW ORLEANS LA 70124

ROBINSON ENGINEERING CO.
P.O. BOX 5269
EVANSVILLE IN 47715

ROCKY MOUNTAIN OIL & MINERALS
BOX 548
SHELBY MT 59474

ROGERS PIPE & SUPPLY COMPANY
5963 E 31ST S 114
TULSA OK 74135

ROONEY OIL COMPANY
1400 MID CONT BG
TULSA OK 74103

ROSE PASS MINES INC
P O BOX 608
OIL CITY LA 71061

ROSS PAUL J
BOX 178
SHREVEPORT LA 71161

ROUSH PRODUCTION COMPANY
1024 WILLOW POND RD.
NEWORA OK 74884

RILEY JAMES C
7703 SAN FELIPE STE 200
HOUSTON TX 77063

ROADS PAUL E
6709 CALUMET
AMARILLO TX 79106

ROARK HOOKER & CHAMPLIN
BOX 2708
ABILENE TX 79604

ROBERTS C L ESTATE
DRAWER 633
RUSSELL KS 67665

ROBINOWITZ OIL COMPANY
6650 S LEWIS
TULSA OK 74136

ROBINSON PRODUCTION INC
BOX 131, EAST HIGHWAY
FAIRFIELD IL 62837

ROCKY PETROLEUM CORPORATION
BOX 842
LOGAN OH 43138

ROLLERT PETROLEUM CO
P.O. BOX311
LULING TX 78648

ROSE CLAUDE
BOX 193
RAMON TX 77430

ROSECLARE OIL CO
37 JUDITH LANE
TERRE HAUTE IN 47802

ROSSI PAUL
3455 FIRST AVE
EVANSVILLE IN 47710

ROUZER OIL CO
PO BOX 171
SPENCER WV 25276

ROYSEK ADOLPH
1500 NORTH TELEGRAPH RD.
DEARBORN MI 48128

ROYALCO INC
PO BOX 3046
EVANSVILLE IN 47730

RUNYON OIL EXPL CO
505 W MACK AVE
RT 5
OLNEY IL 62450

RUSSELL EUGENE
BX 404
HASKELL OK 74436

RUST ED C
920 WEST "A" ST.
BELLEVILLE IL 62221

RYAN JOHN M
408 N.E. 1ST
CASEY IL 62420

S & C DRILLING INC
1309 STEVENS DR
HAYS KS 67601

S A OIL ACCOUNT
BOX 3075
BORGER TX 79007

SABRE EXPLORATION CORPORATION
4925 GREENVILLE AVE STE 1340
DALLAS TX 75206

SAGE PETROLEUM CO
BOX 1179
BORGER TX 79007

SAMSON OIL CO
3080 LIBERTY TOWER
OKLAHOMA CITY OK 73102

SANCHEZ OBRIEN MINERAL CORP
19 BROOK HOLLOW LANE
STE 200
HOUSTON TX 77027

ROYAL MINERALS CORPORATION
P O B 6
JENA LA 71342

RUDMAN RESOURCES INC
711 MERCANTILE DALLAS BLDG
DALLAS TX 75210

RUSH CLAUDE E ETAL
BURKESVILLE KY 42717

RUSSELL JAMES E. PETROLEUM INC
P O BOX 2618
ABILENE TX 79604

RUSTEX OIL INC
PO DRAWER 888
MAGNOLIA AR 71753

RYAN OIL COMPANY
P.O. BOX 507
EVANSVILLE IN 47703

S E M OPERATING COMPANY
1608 OLD NATIONAL BANK BLDG
EVANSVILLE IN 47708

SABINE PRODUCTION CO
1200 MERCANTILE BK BLDG
DALLAS TX 75201

SAFARI DRILLING COMPANY
610 1ST NATL BANK BLDG
ABILENE TX 79601

SALLEE OIL COMPANY
224 N 15
COLLINSVILE OK 74021

SAMSON RESOURCES CO
2700 FIRST NATIONAL TOWER
TULSA OK 74103

SAND SPRINGS OIL AND GAS COMPANY
BOX 489
SAND SPRINGS OK 74063

ROYAL OIL & GAS CORP
PO BOX 278
INDIANA PA 15701

RULON, E. O.
2508 BARTLETT
HOUSTON TX 77006

RUSH CREEK OIL CO INC
BOX 366
NEW HARMONY IN 47301

RUSSELL OIL & GAS CO
PO BOX 389
WESTON WV 26452

RUTHERFORD OIL CORPORATION
2550 TWO SHELL PLAZA
HOUSTON TX 77002

RYDER SCOTT OIL COMPANY
1400 HAMILTON BUILDING
WICHITA FALLS TX 76301

S & W DRILLING CO
807 E SIXTH ST
PANA IL 62557

SABIO OIL & GAS INC
337 MEADOWS BLDG
DALLAS TX 75206

SAGE GEORGE
111 W SECOND
VIRGIL KS 66870

SAMEDAN OIL CORP
BOX 909
ARDMORE OK 73401

SAMUEL JOE L
5906 S KNOXVILLE
TULSA OK 74135

SANDER TRUCKING COMPANY
BOX 21
SEILING OK 73663

SANDERS W J
3507 KENT LANE
WICHITA FALLS TX 76308

SANTA FE ENERGY CO
AMERICAN NATIONAL BANK BUILDING
AMARILLO TX 79101

SARGENT R W
BOX 665
ELECTRA TX 76360

SAVAGE J W
804 S HELEN ST
OVERTON TX 75684

SAXON OIL CO
8150 NORTH CENTRAL EXPRESSWAY, SUI
TE 1055, CAMPBELL CENTRE II
DALLAS TX 75206

SCHAEFFER OIL CO
1704 BROADWAY
BOX 35
MATTOON IL 61938

SCHKADE BROTHERS DRILLING CO
BOX 2617
ABILENE TX 79604

SCHULL KENNETH H
ROUTE 1
PHILPOT KY 42366

SCHUSTER HARRY
RR2
LAVERNE OK 73848

SCIPE INDUSTRIES
4250 WILSHIRE BLVD.
LOS ANGELES CA 90010

SCOTT OIL
1020 BROWN BLDG 7 & COLO ST
AUSTIN TX 78701

SCOTT T C
P. O. BOX 203
IOWA PARK TX 76367

SANDS-AMERICAN CORP
P O BOX 19508
DALLAS TX 75219

SANTA FE INTERNATIONAL CORP
3131 TURTLE CREEK BLVD STE 700 505
MAIN ST
DALLAS TX 75219

SARITA ROYALTY
BOX 752
STERLING CITY TX 76951

SAWYER DRILLING & SERVICE INC
PO BOX 1533
SHREVEPORT LA 71165

SAYERS OPERATING CO
211 M & F BLDG
MIDLAND TX 79701

SCHELL SAM H
RT 1, BX 88
BARNSDALL OK 74002

SCHLACHTER DAVID A
BX 30278
DALLAS TX 75230

SCHONWALD SUPPLY COMPANY
BX 1571
OKLAHOMA CITY OK 73101

SCHUTZ HAROLD
P O BOX 726
CHROMO CO 81128

SCOTT & REMINGTON
P. O. BOX 788
GRAHAM TX 76046

SCOTT ROSS M TRUSTEE
2715 MERCANTILE NATL. BK BLDG
DALLAS TX 75201

SE-RO-BEE DRILLING CO
256 N TOPEKA
WICHITA KS 67202

SAMLA OIL & GAS OPERATORS INC
ROUTE 2, BOX 46
HOUSTON TX 77018

SANTER OIL CO
BOX 13348
ARLINGTON TX 76013

SARKEYS INC
1170 1ST NAT CTR
OKLA CITY OK 73102

SAXON CARL OIL ACCOUNT
BOX 3002
BORGER TX 79007

SCHAEPER CECILE
832 ELMWOOD
SHREVEPORT LA 71104

SCHKADE & BULLOCK
ROUTE 1, BOX 839
SAN ANGELO TX 76901

SCHNEIDER ERNEST
ROUTE 3
ROCKDALE TX 76567

SCHULTHEISS R W
PO BOX 148
COLLINSVILLE OK 74021

SCHWARTZ EARL
BOX 853
KENNARE ND 58746

SCOTT JOSEPH ARNOLD
500 JEFFERSON BLDG
HOUSTON TX 77002

SCOTT RUSSELL III
500 JEFFERSON BLDG
HOUSTON TX 77002

SEABOARD OIL & GAS CO
10425 S PAINTER AVE P O BOX 3608
POST OFFICE BOX 3608
SANTA FE SPRINGS CA 90670

SEANOR MARCUS E
P.O. #1
NEW ALEXANDRIA PA 15670

SECAN OIL CO INC
P. O. BOX 1248
200 SOUTH WALL STREET
NATCHEZ MS 39120

SECWALD HUGHES
STE 701 112 W EIGHTH AVE
AMARILLO TX 79101

SENORA OIL COMPANY
4553 E 45 STREET
TULSA OK 74135

SHADID ABE & GEORGE
106 W MAIN
ALTUS OK 73521

SHANDS P C
ROUTE 1 BOX 76
ORANGE GROVE TX 78372

SHAR-ALAN OIL COMPANY
4101 EAST LOUISIANA AVE
DENVER CO 80222

SHAW T G
P. O. BOX 2392
FT. WORTH TX 76101

SHEBESTER INC
PO BX 6696
MOORE OK 73160

SHELTER FUNDS INC
ROUTE 1
FRAZEYSBURG OH 43822

SHIELD HUME & WHITAKER
1442 MILAM BLDG
SAN ANTONIO TX 78202

SHIMER HARRY A JR
PO BOX 122
BEDFORD PA 15522

SEARCY BROS INC
905 THOMPSON BG
TULSA OK 74103

SECO PRODUCTION CO
406 WALL TOWERS E
MIDLAND TX 79701

SEIP FRED & SEIP OIL PROPERTIES IN
P O BOX 744
CENTRALIA IL 62801

SERVICE DRILLING CO
1800 FOURTH NATL BK BLDG
TULSA OK 74119

SHAFFER ENTERPRISES
RD 1
PLEASANTVILLE PA 16341

SHANER W G
BOX 226
ST PETERSBURG PA 16054

SHARACO OIL CO
2416 SOUTH UTICA
TULSA OK 74104

SHAWNAR OIL CO
PO BOX 127
LINCOLNVILLE KS 66858

SHELL OIL CO
PO BOX 2463
HOUSTON, TX 77001

SHENANDOAH OIL CORP
1500 BK OF COMMERCE BLDG
FORT WORTH TX 76102

SHIELDS OIL PRODUCERS, INC
SHIELDS BLDG. BOX 709
RUSSELL KS 67665

SHOEMAKE LUTHER PRESTON
RFD 1
MORRIS OK 74445

SEARS M F
BX 94238
OKLA CITY OK 73109

SEDCO
105 PETROLEUM BLDG.
EL DORADO AR 71730

SEITZ J R & ADAM
720 OIL & GAS BLDG.
WICHITA FALLS TX 76301

SESCO PROD CO
BOX 6102
LONGVIEW TX 75601

SHAKESPEARE OIL CO
P O BOX 669
SALEM IL 62881

SHANNON OIL COMPANY
3098 S PENN AVE
DENVER CO 80110

SHARPLES PHILIP T OIL PROP
1660 LINCOLN STE 3100
DENVER CO 80264

SHAWNEE OIL & GAS CORPORATION
2601 NW EXPRESSWAY
200 OIL CENTER WEST
OKLAHOMA CITY OK 73112

SHELLEY OIL COMPANY
416 UNION CENTER
WICHITA KS 67202

SHERTZER BROTHERS
2305 GREENHILL D
KILGORE TX 75662

SHILLELAGH CORPORATION
P. O. BOX 85
WICHITA FALLS TX 76307

SHRIDER W E CO
165 OAKWOOD AVE.
NEWARK OH 43055

SHULER DRILLING CO INC
3514 W. HILLSBORO
EL DORADO AR 71730

SIDWELL WILLIAM A JR
SUITE 2130 FIRST NATL BANK BLG
DENVER CO 80293

SIGNOR CORP
P.O. BOX 20267
SAN ANTONIO TX 78220

SIMMONS & WILSON
PO BOX 876
FT. STOCKTON TX 79735

SINDEN GUY & LEAST R
122 WEST DETROIT
BROKEN ARROW OK 74012

SIRERA WALTER B II
149 DONNA DR
MANDEVILLE LA 70448

SKIDMORE JAMES E
P. O. BOX 243
NOCONA TX 76255

SMACKOVER PRODUCING CO
P O BOX 370
EL DORADO AR 71730

SMEDLEY PETROLEUM RESOURCES CO
2501 CEDAR SPRINGS RD
DALLAS TX 75201

SMITH CARL E
P.O. BOX 1069
ZANESVILLE OH 43071

SMITH EARL T & ASSOC INC
PO BOX 9000
AMARILLO TX 79105

SMITH OPERATING & MGT CO INC
P.O. BOX 52
SHREVEPORT LA 71161

SMULMAN BROTHERS INC
P.O. BOX 99
VANDALIA IL 62471

SIEGFRIED R H INC
1920 SOUTH UTICA SUITE 1120
TULSA OK 74103

SIGNAL PETROLEUM
PO BOX 7946
METAIRIE LA 70010

SIMPKINS JOE OIL DEVELOPMENTS
7777 BONHOMME SUITE 2030
ST. LOUIS MO 63105

SINGER PETROLEUM CORPORATION
PO BOX 23
PAWHUSKA OK 74056

SKAFF ENTERPRISES INCORPORATED
1818 WESTERN FEDERAL SAVINGS BLVD
718 SEVENTH STREET
DENVER CO 80202

SKINNER GRAIN & LUMBER CO INC
CHAPIN BLDG
MEDICINE LODGE KS 67104

SMALLEY RICHARD LOUIS
RT 1 BOX 192
LA VERNIA TX 78121

SMI-BRO EQUIPMENT CO
PO BOX 123
WICHITA FALLS TX 76307

SMITH CARL E INC
BOX 4
SANDYVILLE WV 25275

SMITH GEORGE A
108 DEL RANCHO RD.
BORGER TX 79007

SMITH R E ESTATE
2000 WEST LOOP SOUTH SUITE 190
HOUSTON TX 77027

SIDWELL OIL&GAS INC
P O BOX 2479
PAMPA TX 79065

SIERRA PETROLEUM CO INC
P. O. BOX 247
WICHITA KS 67201

SILVERTIP OIL INC
BOX 307
KIMBALL NE 69145

SIMS OIL CO INC
300 FT WORTH NATL BK BLDG
FORT WORTH TX 76102

SIOUX NATURAL GAS CORP
1100 MILAM SUITE 3400
HOUSTON TX 77002

SKELTON OIL CO.
BOX 840
HOBBS NM 88240

SLAWSON DONALD C
200 DOUGLAS BLDG
WICHITA KS 67202

SMART MARSHALL
ROUTE 3
STEPHENS, AR 71764

SMITH A L
BX 37
DUNCAN OK 73533

SMITH CONLEY P
650 SEVENTEENTH ST STE 508
DENVER CO 80202

SMITH JAMES T
BOX 3398
TYLER TX 75701

SMITH WAYNE OPERATOR INC
BOX 150, HWY. 15
LAWRENCEVILLE IL 62439

SMITH-FANCHER
650 17TH ST. SUITE 508
DENVER CO 80202

SNYDER DRILLING CORP
BOX 212
ALBANY TX 76430

SOLO ENERGY CORP
100 N CENTRAL EXPWY STE 905
RICHARDSON TX 75080

SOUTH DAKOTA ASSOCIATES
BOX 1363
CHEYENNE WY 82001

SOUTHEASTERN GAS COMPANY
PO BOX 2347
CHARLESTON WV 25328

SOUTHERN CRUDE
BOX 2131
WICHITA FALLS OK 76307

SOUTHERN TRIANGLE OIL CO
P. O. BOX 473
MT. CARMEL IL 62863

SOUTHPORT EXPLORATION INC
124 E FOURTH ST STE 200
TULSA OK 74103

SOUTHWESTERN ELECTRIC POWER CO FUE
P O BOX 21106
428 TRAVIS
SHREVEPORT LA 71156

SPARTAN GAS CO
P. O. BOX 766
CHARLESTON WV 25323

SPEAR-TEX GRAIN CO
410 FIDELITY PLAZA
OKLAHOMA CITY OK 73102

SPEEDMAN OIL COMPANY
PO BOX 7218
CORPUS CHRSTI TX 78415

SNIDER OIL CO
DRAWER 710
BORGER TX 79007

SOHIO NATURAL RESOURCES CO
50 PENN PL SUITE 1100
OKLAHOMA CITY OK 73118

SONAT EXPLORATION CO
P O BOX 1513
HOUSTON TX 77001

SOUTH LOUISIANA PROD CO
P. O. BOX 52088 1602 PINHOOK RD.
LAFAYETTE LA 70505

SOUTHEASTERN RESOURCES CORP
3608 PERSHING AVENUE
FORT WORTH TX 76107

SOUTHERN GULF PRODUCING CO
1 ALLEN CENTER 500 DALLAS
HOUSTON TX 77002

SOUTHLAND MIN CO/D S LAND DR CO
9235 KATY FREEWAY SUITE 400
HOUSTON TX 77024

SOUTHWELL RUSSELL W
BOX 175,RD.#3
SUGAR GROVE PA 16350

SOUTHWESTERN GAS PIPELINE INC
3900 ONE SHELL PLAZA
HOUSTON TX 77002

SPARTAN PETROLEUM CO
111 EAST FIFTH STREET
MT. CARMEL IL 62863

SPEARON CO INC
BOX 166
OSAWATOMIE KS 66064

SPENCER CHARLES
410 DMD BLDG
MONROE LA 71201

SNUGGS FRED
P O BOX 700
GAINESVILLE TX 76240

SOJOURNER DRILLING CORP
BOX 3234
ABILENE TX 79604

SOURDOUGH OIL & GAS CO
3419 KIAMESHA COURT
MISSOURI CITY TX 77459

SOUTH TEXAS ENERGIES INC
BOX 7546
CORPUS CHRSTI TX 78415

SOUTHERN CALIFORNIA COMPANY
P.O BOX 3249
LOS ANGELES CA 90051

SOUTHERN NATURAL GAS COMPANY
P O BOX 1513
HOUSTON TX 77001

SOUTHLAND ROYALTY CO
1000 FORT WORTH CLUB TOWER
FORT WORTH TX 76102

SOUTHWELL WILLIAM
R D #3
SUGAR GROVE PA 16350

SPARKS SIDNEY A TRUSTEE
DRAWER 2030
ALICE TX 78332

SPEAKS ROY
1431 HIGHLAND DRIVE
STAYTON OR 97383

SPEARTEX GRAIN CO
PO BOX 666
SPEARMAN TX 79081

SPERRY KENNETH
444 W. OCEAN BLVD.
LONG BEACH CA 90802

SPRAGINS ED
312 HAMILTON BLDG
WICHITA FALLS TX 76301

ST. JOE PETROLEUM(U.S.A) CORP.
P.O. BOX 3632
MIDLAND TX 79702

STACK JACK E JR
P.O.BOX 1023
MERIDIAN MS 39301

STANCO PETROLEUM INC
BOX 202
KIMBALL NE 69145

STARKEY OILFIELD SERVICES INC
1220 BROADWAY,SUITE 810
LUBBOCK TX 79401

STAUFFER CHEMICAL CO
PO BOX 506
GRANBURY TX 76048

STELZER J C
1008 WEST 10TH TO
POST TX 79356

STEPHENS PRODUCTION CO
623 GARRISON AVENUE
FT. SMITH AR 72901

STERLING CO
302 BLDG OF SOUTHWEST
MIDLAND TX 79701

STEVENSON WILLIAM G
1100 GREENBRIAR
LONGVIEW TX 75601

STEWART PRODUCERS INC
P O BOX 546
MT VERNON IL 62864

STINNETT OIL CO.
9 CABALLEROS RD
ROLLING HILLS CA 90274

SRG OIL CORPORATION
BOX 1675
ABILENE TX 79604

STAAB FRANCIS C
BOX 92
CATHARINE KS 67627

STALEY JACK C
BOX 810
WICHITA FALLS TX 76307

STARBUCK OIL CO.
114 SAN ENRIDO
TAFT CA 93268

STASNEY W R & SONS COMPANY
P. O. BOX 307
ALBANY TX 76430

STAVER JOHN
PO BOX 950
VIRGINIA MN 55792

STEPHAN FRANK H OIL GROUP
FOUR MILE ROAD
ALLEGANY NY 14706

STEPHENSON L G & CO INC
340 FARM CREDIT BANK BLDG
WICHITA KS 67207

STERLING DRILLING COMPANY
BOX 129
STERLING KS 67579

STEWARDSON S C ESTATE
ROCKWOOD ROUTE
SANTA ANNA TX 76878

STEWART SYLVESTER H
P.O. BOX 28
PRINCETON IN 47570

STOCKARD W A C/O BIG SIX DRILLING
7980 SAN FELIPE SUITE 666
HOUSTON TX 77063

ST CLAIR OIL COMPANY AND SKYLARK G
219 EAST MAIN STREET
ST CLARKSVILLE OH 43950

STAATS INC
P. O. BOX 3407
ENID OK 73701

STALLWORTH OIL & GAS INC
P. O. BOX 479
DALLAS TX 75221

STARK F O JR
284 DERRICK RD.
BRADFORD PA 16701

STATES TRANSMISSION CO
PO BOX 911
BRECKENRIDGE TX 76024

STELBAR OIL CORPORATION INC
200 W DOUGLAS STE 950
WICHITA KS 67202

STEPHENS INC
114 E CAPITOL AVE
LITTLE ROCK AR 72201

STEPHENSON W W
210 PARK DR
ADA OK 74820

STEVENS W C
BOX 747
KILGORE TX 75662

STEWART OIL CO
310 UNION CENTER BLDG
WICHITA KS 67202

STICEBOARD
RT 4
BROWNFIELD TX 79316

STOCKER & SITLER INC
575 INDUSTRIAL PKWY
HEATH OH 43055

STOEPPELWERTH DRILLING INC
22005 NORRIS
MCCOOK NE 69001

STONE J & OIL ACCT
BOX 178
LOLITA TX 77971

STRATA OIL COMPANY INC
7631 PARK DRIVE
RALSTON NE 68127

STROCK ROGERS & DYMOND
PO BOX 2675
CASPER WY 82602

SUBURBAN PROPANE GAS CORP
P O BOX 17689
SAN ANTONIO TX 78217

SUMMIT ENERGY INC
1925 MERCANTILE DALLAS BLDG.
DALLAS TX 75201

SUN RENTALS INC
604 HULMAN BLDG
EVANSVILLE IN 47708

SUNJANCE OIL CO.
1776 LINCOLN ST STE 910
DENVER CO 80203

SUPRON ENERGY CORP
BLDG V FIFTH FLOOR
10300 NORTH CENTRAL EXPRESSWAY
DALLAS TX 75231

SWANNER PROPERTIES
2315 BULLINGTON ST.
WICHITA FALLS TX 76301

SWEARINGEN W P
11715 WENDOVER
HOUSTON TX 77024

SYLVANIA CORP THE
PO BOX 397
308 SENECA ST
OIL CITY PA 16341

STOKER JOHN MRS & GRUBBS C T
1612 NAUGH DR.
HOUSTON TX 77006

STONE OIL CO
P. O. BOX 52382 O. C. S.
LAFAYETTE LA 70505

STREETER VIRGIL
CASEY IL 62420

STRUBE ARTHUR P
CLAFLIN KS 67525

SULPETRO INTERNATIONAL LTD
1100 ONE ENERGY SQUARE
4925 GREENVILLE AVE
DALLAS TX 75206

SUMMIT OIL
PO BOX 35 391
HOUSTON TX 77033

SUNRISE GAS INC
P O BOX 969
MINOT ND 58701

SUNRISE EXPLORATION
4TH NATL BLDG STE 2300 15N 6TH
TULSA OK 74119

SURVEY ANALYSIS CORP.
P O BOX 4110
DALLAS TX 75208

SWANSON & SCHALK
P. O. BOX 272
ELECTRA TX 76360

SWEETRIDGE OIL CO
168 MAIN ST
ELDRED PA 16731

SYNDEX, INC.
294 WASHINGTON ST. E.
BOSTON MA 02121

STOLTZ WAGNER & BROWN
BOX 1714
MIDLAND TX 79702

STOUP HUGH C
124 W MAYFIELD
SAN ANTONIO TX 78221

STRIKE RESOURCES INC
BOX 655
CORPUS CHRSTI TX 78403

STUART DEVELOPMENT COMPANY
2301 N AKARD
DALLAS TX 75201

SULPHUR RIVER EXPL INC
2001 BRYAN TOWER SUITE 925
DALLAS TX 75201

SUN CO INC
100 MATSUNFORD ROAD
RADNOR PA 19087

SUNDANCE ENERGY CORP
PO BOX 3804
ENID OK 73701

SUPERIOR OIL COMPANY
PO BOX 1521
HOUSTON TX 77001

SUTTON M E
BOX 639
OIL CITY LA 71061

SWARTS GLEN G
3630 W.PIONEER PARKWAY,STE 101
ARLINGTON TX 76013

SWINNEY BROTHERS DRILLING COMP
ROUTE 3
GREENVILLE KY 42345

SYSTEM FUELS INC
PO BOX 61932
NEW ORLEANS LA 70161

V 44 / 171 A
AUG 31 79
UMI

T & B OIL CO
BOX 567
MEALDTON OK 73438

T E L OIL & GAS CORPORATION
PO BX 292
GUYMON OK 73942

TACKLON INCORPORATION
1014 TRAVIS ST
AMARILLO TX 79101

TAPP AND CURTIS
BOX 277
SUGAR GROVE PA 16350

TARTAN PRODUCTION CO
819 PETROLEUM TOWER
CORPUS CHRISTI TX 78474

TAYLOR BEN J
PL BX 52582
TULSA OK 74152

TELL DRILLING & PRODUCTION INC
RT 2 F-28 CADDO
WICHITA FALLS TX 76301

TENJAB OIL & GAS CO
2334 FREDERICA
OWENSBORO KY 42301

TENNECO WEST INC
PO BOX 2511
HOUSTON TX 77001

TERPIN CORP
1901 NORTH CENTURY BLVD
SANTA ANA CA 92703

TERRELL J B JR
247 S CENTRAL AVE
HAMLIN TX 79520

TESORO PETROLEUM CORPORATION
8700 TESORO DRIVE
SAN ANTONIO TX 78286

T & O DRILLING CO
P. O. BOX 723
GAINESVILLE TX 76240

T J ENTERPRISES INC
BOX 482
RUSSELL KS 67665

TAMARACK PETROLEUM CO INC
P O BOX 995 941-A BLND ST
EVANSVILLE IN 47706

TARGET OIL COMPANY
2001 PRESTON TOWER
DALLAS TX 75225

TASCOSA GAS CO
1105 MCGEE TOWER PO BOX 25861
OKLAHOMA CITY OK 73125

TAYLOR W H ESTATE
1100 OIL & GAS BLDG.
WICHITA FALLS TX 76301

TEMPLE DRILLING CO
1108 OLD NATL BLDG
320 INDIANA BK BLDG
EVANSVILLE IN 47708

TENK L O
BOX 588
OTTAWA KS 66067

TENNYSON OIL CO
BOX 125
SNACKOVER AR 71762

TERRA RESOURCES INC
PO BOX 2329
TULSA OK 74101

TERRELL JOHN S
PO BOX 1096
SHREVEPORT LA 71130

TEX-OTL EXPLORATION INC
BOX 101
MIDLAND TX 79701

T CATTLE CO
806 FIRST CITY NATIONAL BANK BLDG
HOUSTON TX 77002

T-C OIL CO
711 NATIONAL BANK OF COMMERCE BLDG
SAN ANTONIO TX 78205

TANNEHILL OIL CO
P. O. BOX 149
MONTEREY CA 93940

TARTAN OIL COMPANY
BOX 338
CARMI IL 62821

TAUBERT & STEED
1000 FIRST WICHITA NATL. BLDG.
WICHITA FALLS TX 76301

TEEL ROY M
4111 S DARLINGTON STE 400
TULSA OK 74135

TENEXCO COMPANY
PO BOX 56100
CHICAGO IL 60656

TENNECO OIL CO
PO BOX 2511
HOUSTON TX 77001

TENSAS DELTA LAND CO
920 COMMERCIAL NATL BANK BLDG
SHREVEPORT LA 71101

TERRAPET LTD INC
136 PRESTON RD 909 WEST
DALLAS TX 75240

TERRY LEWIS D
P. O. BOX 721
OLNEY TX 76374

TEXACO INC
PO BOX 52332
HOUSTON TX 77052

TEXAS AMERICAN OIL CORP
300 W WALL STE 1012
MIDLAND TX 79701

TEXAS EASTERN TRANSMISSION CORPORA
P O BOX 2521
HOUSTON TX 77001

TEXAS GAS EXPLORATION CORP
BOX 52310
HOUSTON TX 77052

TEXAS OIL & GAS CORP
2700 FIDELITY UNION TOWER BLDG
DALLAS TX 75201

TEXAS WEST OIL & GAS CORP
1480 MIDLAND NATIONAL BANK TOWER
MIDLAND TX 79701

TGT PETROLEUM
209 E WILLIAM ST
WICHITA KS 67202

THOLL OIL CO
PO BOX 460
OIL CITY LA 71061

THOMPSON & CONE
BOX 871
LUBBOCK TX 79408

THOMPSON FLOYD E OIL CO INC
15 W 130 PLAINFIELD RD
HINSDALE IL 60521

THOMPSON JOHN R OPERATING INC
1950 E HIGHWAY 80
ABILENE TX 79601

THREE S & T OIL CO INC
1519 HIGHWAY 90 EAST
MORGAN CITY LA 70380

THROPP OIL & GAS CORP
212 NORTH THIRD STREET
OLEAN NY 14760

TEXAS CITY REFINING INC
PO BOX 1271
TEXAS CITY TX 77590

TEXAS ELECTRIC SERVICE COMPANY
BOX 970
FT. WORTH TX 76101

TEXAS INTERNATIONAL PETROLEUM CORP
3535 NW 58 STE 300
OKLAHOMA CITY OK 73112

TEXAS PACIFIC OIL COMPANY INC
1700 ONE MAIN PL
DALLAS TX 75250

TEXASGULF INC
ELEVEN HUNDRED MILAM BLDG
HOUSTON TX 77002

THACKER CURTIS
POST OFFICE BOX 89
LOUISA KY 41230

THOMAS E BROWN
RT 1
COPAN OK 74022

THOMPSON DRILLING
3333 WEST COAST HIGHWAY
SUITE 402
NEWPORT BEACH CA 92660

THOMPSON J CLEO & JAMES CLEO JR
4500 REPUBLIC NATIONAL BANK TOWER
DALLAS TX 75201

THREE B OIL COMPANY
MARIETTA OH 45750

THREE-C OIL PRODUCER
2020 W 46TH ST
TULSA OK 74107

THUMS LONG BEACH CO
P O BOX 2900
LONG BEACH CA 90801

TEXAS CRUDE INC
700 HOUSTON NATURAL GAS BLDG
1200 TRAVIS
HOUSTON TX 77002

TEXAS FUEL & ASPHALT CO INC
PO BOX 485
HONDO TX 78861

TEXAS LAND & TRADING CO INC
BOX 367
ROUND ROCK TX 78664

TEXAS PLAINS OIL CORP
101 LOBO DRIVE
LEVELLAND TX 79336

TEXLAND-RECTOR & SCHUMACHER
3402 FT WORTH NATL BK BLDG
FT WORTH TX 76102

THE DOW CHEMICAL COMPANY
P O BOX 4322
HOUSTON TX 77210

THOMAS & WHITTINGTON OIL CO.
P. O. BOX 987
LULING TX 78648

THOMPSON EVANS & BAILEY
RR #1
RICHVIEW IL 62877

THOMPSON JACK
BOX 125
BORGER TX 79007

THREE MILE JOINT VENTURE
1706 1ST CITY NATL BANK BLDG
HOUSTON TX 77002

THROCKMORTON R E JR
PO BOX 1271
MIDLAND TX 79701

THUNDERBIRD DRILLING INC
7701 EAST KELLOG P O BOX 18407
WICHITA KS 67218

THUNDERBIRD INTERNATIONAL CORP
BOX 1778
MIDLAND TX 79701

TIDWELL ELMER
BOX 1058
ALBANY TX 76430

TIPPERARY OIL & GAS CORP
PO BOX 1665
2483 COMMERCE BLVD
GRAND JUNCTION CO 81501

TIOD EXPLORATIO INC
BOX 60
SHAMROCK TX 79079

TOMAHAWK OIL CO
BOX 865
ROUNDUP MT 59072

TOPA TOPA OIL CO
3412 W VICTORY BLVD
BURBANK CA 91505

TOWNER DAVID S
PO BOX 402
2445 BEAVERCREEK DR
LORAIN OH 44052

TRAMMELL W B
601 SOUTHERN NAT'L BK. BLDG.
HOUSTON TX 77002

TRANSOLEAN OIL INC
1700 FIRST CITY EAST BLDG
1111 RANNIN ST
HOUSTON TX 77002

TREES OIL CO
424 STATE BANK BUILDING
WINFIELD KS 67156

TREY OIL CO
BOX 5617
ABILENE TX 79605

TRI-STAR PETROLEUM CORP
MERCANTILE NATL BK BLDG-27TH F
DALLAS TX 75201

THUNDERBIRD RESOURCES CORP
BOX 3004
MINOT ND 58701

TIGER OIL CO
5 GREENWAY PLAZA E
HOUSTON TX 77046

TITAN WELLS INC
P.O. BOX 737
MARIETTA OH 45750

TODD&SANDERS INC
BOX 5384
WICHITA FALLS TX 76307

TOMLINSON OIL CO INC
200 W DOUGLAS STE 1 30
WICHITA KS 67202

TOPE H E INC
P. O. BOX 266
1425 S. MISSION ROAD
MT. PLEASANT MI 48858

TOWNES HARRISON L II C
208 PHILTOWER BLDG
TULSA OK 74103

TRANS DELTA OIL AND GAS CO INC
6300 RIDGLEA PL-NO 1008-RID BK
FORT WORTH TX 76116

TRAVELERS OIL COMPANY
P O BOX 1680
BORGER TX 79007

TREND EXPLORATION LIMITED
600 CAPITAL LIFE CENTER
DENVER CO 80203

TRI PETROLEUM
TRICKHAM STATION
SANTA ANNA TX 76878

TRIAD OIL & GAS CO INC
PO BOX 8248
JACKSON MS 39204

THURLKILL TOMMY C
P.O. BOX 578
IOWA PARK TX 76367

TIPKA WILLIAM M
7706 ALAN PARKWAY
MIDDLEBURG HEIGHTS OH 44130

TOCO CORP
26 SOUTH SENECA AVE
NEW CASTLE WY 82701

TOM JORDAN
1700 BROADWAY STE 1407
DENVER CO 80290

TOOMEY OIL COMPANY INC
BOX 1090
TULSA OK 74101

TOTAL PETROLEUM INC
2950 ONE ALLEN CENTER 8 DG
500 DALLAS AVE
HOUSTON TX 77002

TRAIL E C DRLGEARMSTRON TOOL
BOX 158
HEALDTON OK 73438

TRANSCONTINENTAL OIL CO P
1400 FIRST NATIONAL BANK TOWER
SHREVEPORT LA 71101

TRAVERSE CORP
P. O. BOX 1036
TRAVERSE CITY MI 49684

TREPEL PETROLEUM EXPLOR & DEV
5505 FORMAN DR
BIRMINGHAM MI 48010

TRI-SERVICE DRILLING CO
BOX 70
MIDLAND TX 79701

TRIANGLE J OIL COMPANY
580 MOHAWK DRIVE
BOULDER CO 80302

TRIANGLE OIL PRODUCERS INC
PO BOX 1061
NATCHEZ MS 39120

TRIGG DRILLING CO
BOX 16005
OKLAHOMA CITY OK 73154

TRIPLE J OIL CO.
BOX 1800
PAMPA TX 79065

TRIUMPH OIL COMPANY
BOX 20202
DALLAS TX 75220

TROUT W B
PO BOX 248
CISCO TX 76437

TUCK L L
P O BOX 369
LITTLETON CO 80160

TUTHILL & BARBEE
300 FISK BLDG
AMARILLO TX 79101

TXO OIL CO
2700 FID UNION T
DALLAS TX 75201

UNGER JOHN W
BOX 592
ELECTRA TX 76360

UNION TEXAS PETROLEUM
BOX 2120
HOUSTON TX 77001

UNITED COMPANY
507 TEXAS COMMERCE BANK BUILDING
LUBBOCK TX 79401

UNIVERSAL OPERATING INC
COURT BUILDING, ROOM 702
EVANSVILLE IN 47706

TRICENTROL UNITED STATES INC
3000 SHELL CENTRE 400 4TH AVE SW
CALGARY ALBERTA CANADA T2P 0J4

TRINITY GAS CORPORATION
1150 MERCANTILE DALLAS BLDG.
DALLAS TX 75201

TRIPLE M OPERATING CO
601 COMMERCE B B
MUSKOGEE OK 74401

TROBAUGH ALLEN K
1405 FIRST NATIONAL BANK BLDG
MIDLAND TX 79701

TRUCKER DRILLING CO INC
PO BOX 1876
SAN ANGELO TX 76901

TULLOUS GOAL
2508 A N. GRANDVIEW
ODESSA TX 79761

TWIN MONTANA INC
PO BOX 720
GRAHAM TX 76046

TYSON R W PRODUCING CO
PO BOX 16448
JACKSON MS 39206

UNION DRILLING INC
P O DRAWER 40
BUCKHANNON WV 26201

UNIT MANAGER CITRONELLE UNIT
PO BOX 408
CITRONELLE AL 36522

UNITED PETROLEUM DRILLING CO
5412 WOODWAY
HOUSTON TX 77027

UNIVERSAL RESOURCES CORP
13601 PRESTON ROAD
1000 EAST CARILLON TOWER
DALLAS TX 75240

TRIDENT OIL & GAS CORP
P. O. BOX 4043
MONROE LA 71201

TRIPLE B OIL PRODUCERS INC
BOX 274 HWY 250E
OLNEY IL 62450

TRITON OIL & GAS CORP
4925 GREENVILLE AVE 14TH FLOOR
DALLAS TX 75206

TROJAN ENERGY COMPANY
PO BOX 8708
SAN MARINO CA 91108

TRUE OIL CO
P O BOX 2360
CASPER WY 82601

TUMBLE WEED PRODUCTION CO.
BOX 191
BORGER TX 79007

TWIN MOUNTAIN OIL COMPORATION
BX 720
GRAHAM TX 76046

UMEN INDUSTRIES INC
1108 MILAM BLDG
SAN ANTONIO TX 78205

UNION OIL CO OF CALIF
PO BOX 7600
LOS ANGELES CA 90051

UNITED AMERICAN OIL & GAS
148 CLASSEN AVE
BROOKLYN NY 11205

UNITED TEXAS TRANSMISSION CO
PO BOX 1478 700 MILAM
HOUSTON TX 77001

UNLIMITED OPPORTUNITIES
1720 S BELLAIRE RD STE 410
DENVER CO 80222

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

UPHAM OIL AND GAS CO
PO BOX 940
MINERAL WELLS TX 76067

V A B INC
PO BX 281
MELEETKA OK 74880

VALWOOD PRODUCTION CO
708 E. MANCHESTER
INGLEWOOD CA 90301

VANDALE-BUCKLER
%10 BUCKLER
PAMPA TX 79065

VAUGHAN BEN F II
PO BOX 1579
CORPUS CHRISTI TX 78403

VENUS OIL CO
2100 NATIONAL BANK OF COMMERCE BLD
SAN ANTONIO TX 78205

VICTORY OIL CO
3301 MYRTLE AVE
LONG BEACH CA 90807

VINSON M C
601 WESTERN UNITED LIFE BLDG.
MIDLAND TX 79701

VOSBURG OIL COMPANY
SALT RISING ROAD
BOLIVAR NY 14715

W H P OIL CORP
%20 COMMERCIAL NATL BK BLDG
SHREVEPORT LA 71101

WADE W M
1201 TEXAS STREET
GRAHAM TX 76046

WAGONER ROBERT
302 MAIN STREET
ROCKPORT IN 47635

URBANA WELL SERVICING CO.
RT. 1
STRONG AR 71768

W-P PETROLEUM INC
1 MARIENFELD PLACE STE 980
MIDLAND TX 79701

VAN OSDOL DAREN
4570 ADAM RD
SIMI VALLEY CA 93063

VANDERBILT RESOURCES CORP
1730 COLORADO NATL BLDG
DENVER CO 80202

VAUGHN PETROLEUM INC.
1407 MAIN
DALLAS TX 75202

VESSELS OIL & GAS CO
600 SOUTH CHERRY ST SUITE 1220
DENVER CO 80222

VIERSON & COCHRAN
BX 160
OKMULGEE OK 74447

VISTA RESOURCES INC
44 UNION BLVD STE 619
LAKEWOOD CO 80228

VUKASOVICH J DRILLING CO
2570 EL CAMINO REAL WEST
MOUNTAIN VIEW CA 94042

W W LINDSEY
P.O. BOX 902
PIKEVILLE KY 41501

WAGGONER W T ESTATE
BOX 2130
WICHITA FALLS TX 76307

WAINOCO OILGAS CO
SUITE 1500,1200 SMITH STREET
TWO ALLEN CENTER
HOUSTON TX 77002

UV INDUSTRIES INC
19TH FLOOR UNIVERSITY CLUB BLDG
EAST SOUTH TEMPLE ST.
SALT LAKE CTY UT 84111

VALLEY ENERGY EXPL INC
PO BOX 2491
BAKERSFIELD CA 93303

VAN TINE OIL CO
P O BOX 130
BRADFORD PA 16701

VANDEVER PETROLEUM CO
204 MAYO BLDG.
TULSA OK 74103

VAWTER IRWIN J
BOX 614
ONEIDA TX 37841

VI-ROI OIL CO
P O BOX 1624
DUNCAN OK 73533

VIKING RESOURCES CORP
8041 MOSBROOK RD.
CINCINNATI OH 45236

VOIGT R L
BOX 996
LULING TX 78648

W E W PRODUCTION INC
1009 E. FLORIDA ST.
MIDLAND TX 79701

WADE RALPH
R.R. 1
WADESVILLE IN 47638

WAGNER WAGNER WAGNER DRILLING
SAGAMORE PA 16250

WALKER & WITHROW INC
101 PARK AVE STE 1040
OKLAHOMA CITY OK 73102

WALKER GAS AND OIL CO
BRUIN PA 16022

WALL EARL E
3019 MERCEDES STREET
NEW ORLEANS LA 70114

WALTER S FEES JR
2111 BROADWAY
GRAND JUNCTION CO 81501

WALTERS M L
1716 DOGWOOD DRIVE
MALVERN AR 72104

WARE W E INCORPORATED
1608 4TH NATL BANK BLDG
TULSA OK 74119

WARREN JAMES E
4925 GREENVILLE AVE SUITE 92
DALLAS TX 75206

WARRIOR RESOURCES INC.
4100 ONE SHELL PLAZA
HOUSTON TX 77002

WATKINS VAUGHN
1338 CAPITAL TOWERS BLDG
JACKSON MS 39201

WAUSAU PETROLEUM CORP
400 COURT BLDG.
EVANSVILLE IN 47708

WEAVER & PRESTON
1416 CHESTNUT ST
FRANKLIN PA 16323

WEBSTER JAMES H
RR #2
LEON KS 67074

WEINER TED OIL PROPERTIES
P O BOX 12819
FORT WORTH TX 76116

WALKER LUMBER & CONST INC
PO DRAWER G
OAK FOREST IL 60452

WALSH & WATTS INC
1111 SEVENTH STREET
WICHITA FALLS TX 76301

WALTER W R
214 BETTY DR
LONGVIEW TX 75601

WARD HAROLD L & JAMES E
BOX 626
ELIASVILLE TX 76038

WARE, LLOYD & IRA
2002 GRISSO DR
SEMINOLE OK 74868

WARREN JOE H
1 ENERGY SQUARE SUITE 1154
DALLAS TX 75221

WATERBURY ROBERT L
P.O. BX. 1256
OPELOUSAS LA 70570

WATSON FRED S JR
6118 S FLORENCE PLACE
TULSA OK 74136

WAVERLY OIL INC
E210 ROUTE 4 AND FOREST AVENUE
PARAMUS NJ 07652

WEBB R P
BOX 1477
VERNON TX 76384

WEEKS PETROLEUM CORPORATION
287 RIVERSIDE AVE
WESTPORT CT 06880

WEINERT H H ESTATE
P O BOX 231
SEGUIN TX 78155

WALKER WEIR
RD 4
WASHINGTON PA 15301

WALSH FRANK H
BOX 30
STERLING CO 80751

WALTERS DRILLING CO
400 INSURANCE BLDG
WICHITA KS 67202

WARD L O
BX 1187
ENID OK 73701

WARNER FRANK A
5300 LYNDALE AVE SO
MINNEAPOLIS MN 55419

WARRIOR OIL CO
1776 LINCOLN ST., SUITE 801
DENVER CO 80203

WATKINS B J
16300 YOSEMITE
DENVER CO 80238

WATSON OIL CORP
4801 WOODWAY SUITE 480 W
HOUSTON TX 77056

WAY ENTERPRISES INC
BOX 1796
MIDLAND TX 79702

WEBB RESOURCES INC
633 17TH STREET
FIRST OF DENVER PLAZA, SUITE 2000
DENVER CO 80202

WEEKS ROBERT
3031 WALLACE CIRCLE
HUNTINGTON WV 25705

WEISER - BROWN OIL CO
PO BOX 805
MAGNOLIA AR 71753

WELLS EARL
BX 638
MENAVETTA OK 74437

WES-TEX DRILLING CO
BOX 2895
ABILENE TX 79604

WEST EAST GAS CO
10575 KATY FREEWAY STE 330
HOUSTON TX 77024

WEST-MONT OIL INC
645 PEYTON BLDG
SPOKANE WA 99201

WESTERN NATURAL GAS CO
BOX 830
SHELBY MT 59474

WESTHEIMER NEUSTADT CORP
PO BX 788
ARDMORE OK 73401

WETZEL WILLIAM S
BX 1372
DUNCAN OK 73533

WHARTON C L JR
R.D#3
BURGETTSTOWN PA 15021

WHEELER ROGER M
P O BOX 1526
TULSA OK 74101

WHITE ALTON L
%20 N PECAN
NOWATA OK 74048

WHITE USCAR
RT. 1 BOX 1340
TUSCOLA TX 79562

WHITESIDE H W
BOX 1803
ABILENE TX 79604

WENNER PETROLEUM CORPORATION
7503 MARIN DRIVE
ENGLEWOOD CO 80110

WESSLEY ENERGY CORP
2001 BRYAN TOWER
DALLAS TX 75201

WEST GORDON T TRUSTEE
BOX 1675
WICHITA FALLS TX 76307

WESTERMAN & SON INC
RT 1
RISING STAR TX 76471

WESTERN PRODUCTS CORP
121 E BROADWAY
FAIRVIEW OK 73737

WESTLAND OIL DEVELOPMENT CORP
P O BOX 36389
HOUSTON TX 77036

WEVA OIL CO
325 7TH ST
PARKSBURG WV 26101

WHEELER ISAAC
TSONVILLE KY 41160

WHEELER W RIDLEY ESTATE
2010 FT WORTH NATL BK BLDG
FT WORTH TX 76102

WHITE HAWK OIL CO
P. O. BOX 3363
TULSA OK 74101

WHITE ROCK OIL & GAS INC
8533 FERNDALE RD
DALLAS TX 75238

WHITSON BRUCE H OIL OPERAT
8533 FERNDALE RD. SUITE 101
DALLAS TX 75238

WES-MOR DRILLING INCORP
BOX 1169
GRAHAM TX 76046

WEST ALICE SNEED TRUST
515 HOUSTON NATL GAS BLDG.
HOUSTON TX 77002

WEST W M
401 N. COLORADO
MIDLAND TX 79701

WESTERMAN CARL
P O BOX 5031
LONGVIEW TX 75601

WESTERN RESOURCES INC
600 E OCEAN BLVD
LONG BEACH CA 90802

WESTON PETROLEUM INC
1321 ATHENS DR. 84
WHITEHALL PA 18052

WEXPRO COMPANY
PO BOX 11070
SALT LAKE CITY UT 84148

WHEELER PROPERTIES
2010 FORT WORTH NATIONAL BANK BLDG
FT. WORTH TX 76102

WHELESS DRLG CO
920 COMMERCIAL NATL BK BLDG
SHREVEPORT LA 71101

WHITE JAMES OIL CO
316 SO. BON VIEW
ONTARIO CA 91761

WHITEHEAD PROD CO INC
905 UNIVERSITY DR
FT WORTH TX 76107

WHITSON JAMES A. JR.
5900 W. LOOP S. SUITE #215
BELLAIRE TX 77401

WHITTIER M M CORP
1300 W. 4TH ST.
LOS ANGELES CA 90017

WIEGAND P W
ROUTE 1 BOX 101
LOCKHART TX 78644

WILCO PROPERTIES INC
2310 REPUBLIC BANK TOWER
DALLAS TX 75201

WILLIAMS BROS ENGINEERING
FLD BLDG RM 3344
12TH AND PENN AVE NW
WASHINGTON DC 20461

WILLIAMS EXPLORATION CO
PO BOX 3102
TULSA OK 74101

WILLIAMS RAYMOND A JR
711 MERCANTILE DALLAS BLDG
DALLAS TX 75201

WILSHIRE OIL CO OF TEXAS
200 NORTH HARVEY
OKLAHOMA CITY OK 73102

WILSON WYNZNT S
2014 BROOK HOLLOW DRIVE
ABILENE TX 79605

WILTON FRANK
1116 CRESCENT ST
DENTON TX 76201

WINDFOHR OIL CO
1214 FIRST NATL. BANK BLDG.
FORT WORTH TX 76102

WISE JAMES W
209 W 7TH ST
OKMULGEE OK 74447

WITCO CHEMICAL CORP - KENDALL-AMAL
P O BOX 305
PARAMUS NJ 07652

WICHITA INDUSTRIES INC
475 SEVENTEENTH STREET SUITE 1100
DENVER CO 80202

WIGGINS W M
RT 1
EUREKA KS 67045

WILKINSON ROBERT
2001 G
BAY CITY TX 77414

WILLIAMS CLAYTON W JR
PO BOX 1668
FT.STOCKTON TX 79735

WILLIAMS PAUL H
PLAINVILLE KS 67663

WILLIS DARWIN
P O BOX 510
GRAHAM TX 76046

WILSON CHARLES F
BOX 7604
MIDLAND TX 79701

WILSON-OWENS PRODUCTION CO
402 PETROLEUM BLDG
LONGVIEW TX 75601

WINSETT OIL INC
RR 2 BOX 98
CHANUTE KS 66720

WINDSOR GAS CORP
2300 NIELS ESPERSON BLDG
HOUSTON TX 77002

WISE OPERATING INC
BOX 908
TYLER TX 75710

WORFORD MARY NEWTON
318 E REUSS BLVD.
CUERO TX 77954

WORTIG DONALD M
751 E EUCLID
MCPHERSON KS 67460

WIL-MC OIL CORP
3950 1ST INTERNATIONAL BLDG
DALLAS TX 75270

WILLETS AND PAUL CORP
SUITE 1146 ONE OLIVER PLAZA
PITTSBURGH PA 15222

WILLIAMS DEWEY
535 GLADSTONE
SHREVEPORT LA 71104

WILLIAMS PETROLEUM COMPANY
BOX 998
BURKBURNETT TX 76354

WILLOW PIPE LINE
ROUTE 5,BOX 127
NORMAN OK 73069

WILSON M C
151 WAGNER ROAD
MORGANTOWN WV 26505

WILSON,FRED G
RT 3
DUNCAN OK 73533

WINCHESTER OIL COMPANY
BOX 366
TALCO TX 75487

WINTERSCHEID JOHN D
P O BOX 153
VIRGIL KS 66870

WISER OIL CO
P O BOX 192
SISTERSVILLE WV 26175

WOHLFORD CHARLES
FIRST SAVING BLDG
SAN ANGELO TX 76902

V 4 4 / 1 7 1
A G 3 1 7 9
UMI

MOUTON STANLEY
BOX 161
COOPERSTOWN PA 16317

MOLSEY V L
PO BOX 87
BUNIE TX 76230

MOOD GEORGE
306 THOMAS ST.
CALDWELL TX 77836

MOOD MCSHANE & THOMAS
BOX 968
MONAHANS TX 79756

MOODLEY FRED
A-105 PETROLEUM CENTER
SAN ANTONIO TX 78209

MOODS PETROLEUM CORP
S 500-3555 NW 58
OKLA CITY OK 73112

MOOSLEY JAMES P
BOX 1227
CORTEZ CO 81321

MORSMAN JOE A
2001 BRYAN TOWER
DALLAS TX 75201

MRIGHTSMAN JAYNE
1715 FIRST CITY NATIONAL BANK
HOUSTON TX 77002

MYLD GAS COMPANY
1338 3RD AVENUE
HUNTINGTON WV 25701

YATES DRILLING CO
207 S 4TH ST.
ARTESIA NM 88210

YEAGLE GEORGE M
BOX 924
WARREN PA 16350

WOLFSON OIL COMPANY
3206 REPUBLIC NATL. BK. TOWER
DALLAS TX 75201

WOLVERINE GAS & OIL CO INC
537 TRUST BUILDING
GRAND RAPIDS MI 49503

WOOD JOE & WILBUR
BOX 345
LULING TX 78648

WOOD OIL CO
320 S BOSTON STE 318
TULSA OK 74103

WOODRUFF DRILLING CO
PO BOX 1563
ARDMORE OK 73401

WOODSON PIPE LINE & PRODUCING
P O BOX 454
TOLA KS 66749

WORLD PRODUCERS INC
FIRST NATIONAL BANK BLDG STE 4095
DALLAS TX 75202

WORTHAM E H
700 PETROLEUM BLDG
WICHITA FALLS TX 76301

WY-VEL CORPORATION
PO BOX 498
PAMPA TX 79065

WYNN INDUSTRIES INC.
BOX 6715
CORPUS CHRSTI TX 78411

YATES JOHN A
207 S 4TH ST
ARTESIA NM 88210

YEATES P L
6313 JUNEAU RD.
FT. WORTH TX 76116

WOLL ALBERT A
P O BOX 5446 LAWNDALE BRANCH
LAWNDALE BRANCH
EVANSVILLE IN 47715

WOOD B H JR
301 FARMERS & BANKERS BLDG
WICHITA KS 67202

WOOD LESTOR B
BOX 306
BRECKENRIDGE TX 76024

WOODFIN GENE M TRUSTEE
2300 FIRST NATL BANK BLDG
HOUSTON TX 77002

WOODS DALTON J
1412 MIDSOUTH TOWERS
SHREVEPORT LA 71101

WOOLET FOWLER B
7727 ARNOLDTOWN RD
LOUISVILLE KY 40214

WORRALL ENGINEERING
1106 4TH N B B
TULSA OK 74119

WRIGHT RALPH S
RT 1
FORD CITY PA 16226

WYCKOFF DEVELOPMENT CO
810 CRICKLEWOOD DRIVE
STATE COLLEGE PA 16801

YANAC PRODUCTION CO
P O DRAWER M
PORT LAVACA TX 77979

YATES PETROLEUM
207 S. 4TH ST.
ARTESIA NM 88210

YOFLIN SHERWIN D
UNION BANK TOWER 416
21515 HAWTHORNE BLVD
TORRANCE CA 90503

YORK OIL CO
112 MARSH AVE.
YOUNGSVILLE PA 16371

YUCCA PETROLEUM CO
BX 2585
AMARILLO TX 79105

Z E S CONSTRUCTION INC
BOX 310
KIMBALL NE 69145

ZENITH DRILLING CORP INC
SUITE 600, 200 N. DOUGLAS
WICHITA KS 67202

ZIA-YOLO
12042 VALLEY VIEW ST STE 204
GARDEN GROVE CA 92645

ZODIAC EXPLORATION
BOX 934
GILLETTE WY 82716

YOUNG OIL CO
BOX 665
OLNEY TX 76374

YUNKER MILTON S
P O BOX 1218
OWENSBORO KY 42301

ZANETIS OIL PROPERTIES
P O BOX 99
OLNEY IL 62450

ZENITH EXPLORATION CO
10 E BEAU STREET
WASHINGTON PA 15301

ZIMMERMAN J B
BOX 6247
DOESSA TX 79762

ZOGG OIL COMPANY INC
1520, SWEENEY STREET
OWENSBORO KY 42301

YOUNGBLOOD J LEE
BX 1865
DALLAS TX 75202

Z & O INC
BOX 136
BAGWELL TX 75412

ZARSKY JOHN L
BOX 45
REFUGIO TX 78377

ZETLER MERLE R
RIXFORD PA 16745

ZINN PETROLEUM COMPANY
1600 C & I BLDG
HOUSTON TX 77002

4-B TRUST
400 FIRST NATL BLDG
WICHITA FALLS TX 76301

BILLING CODE 6450-01-C

Department of Energy,
Washington, D.C. 20461.

July 31, 1979.

Dear Sir: The Energy Information Administration (EIA) of the United States Department of Energy (DOE), as part of its legislated responsibilities, has instituted an "Annual Survey of Domestic Oil and Gas Reserves." It will provide to energy analysts verifiable and credible basic data regarding the Nation's oil and gas reserves posture. These data are, in turn, essential to the formulation and adoption of effective and fair national energy policies.

All oil or gas well operators above a certain size, as well as a statistically selected sample of smaller operators, are required to respond to the survey for report year 1978. You have been determined to be a respondent this year on the basis of your identification as an operator in Federal and/or State records. These records indicate that you produced more than 400,000 barrels of crude oil or 2 billion cubic feet of natural gas from properties which you operated in calendar year 1978. We have therefore attached a full Form EIA–23 entitled "Category I and II Operator Package." Instructions for obtaining a "Category III Operator Package" are provided in the event that your 1978 production was smaller than our records indicate. Instructions are also provided on what to do if you were not an operator in calendar year 1978.

Please note that Part I of the form which you are receiving must be submitted on or before September 20, 1979. Part II of the form must be submitted on or before December 4, 1979. Instructions for mailing are included in each package.

REQUESTS FOR FURTHER INFORMATION OR ADDITIONAL FORMS OR SCHEDULES SHOULD BE DIRECTED TO THE EIA–23 COORDINATOR AT (405) 360–1971.

You should be aware that failure to make information requested on Form EIA–23 available to the DOE or failure to allow the DOE to verify the information submitted on the form will be subject to penalties as provided in Section 13(i) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended. In responding to specific requests for information made by members of the public, information collected on Form EIA–23 will be held confidential to the extent that it is determined to constitute trade secrets or commercial or financial formation considered to be privileged or confidential, in accordance with Section 14 of the above mentioned Act and the Freedom of Information Act (5 USC Sec. 552(b)(4)).

The timely provision of your best available data in the requested format is solicited. Thank you for your cooperation and participation in this portion of the National Energy Program.

Sincerely,

Lincoln E. Moses,

Administrator, Energy Information Administration.

DEPARTMENT OF ENERGY

Energy Information Administration, Office of the Oil and Gas Information System

Annual Survey of Domestic Oil and Gas Reserves, Form EIA–23, Report Year 1978

Category I and II Operator Package

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FOR INFORMATION OR ASSISTANCE, PLEASE CONTACT: The EIA–23 Coordinator at (405) 360–1971.

GENERAL INSTRUCTIONS

A. Purpose

The Energy Information Administration (EIA) of the Department of Energy (DOE) seeks, with Form EIA–23, to gather and summarize credible, timely data regarding proved reserves and production of crude oil, natural gas and other related matters. The DOE will use the resulting information in many ways; for example:

- To develop national and regional estimates of production and proved reserves of domestic crude oil and natural gas, and
- To facilitate national energy policy decisions.

This survey segregates operators into three categories, according to the annual production of hydrocarbons from wells which they operated on December 31 of the report year. Proved reserve estimates are required from the smaller operators only if such data exist in company records. The largest operators must provide proved reserves data.

EIA will follow this survey with efforts to validate the data to assess the meaningfulness and accuracy of the resulting information. Respondents may encounter two principal activities included in this validation:

- Government personnel will make or supervise independent reserve estimates on a sample basis, and
- A sample of operators will be visited to confirm the data submitted.

EIA recognizes that the judgment of geologists and petroleum engineers is required in the reserve estimation process, and that as a result, proved reserves are estimates rather than precise quantitative measurements.

B. Who Must Submit Form EIA–23 for Report Year 1978

Each operator [1] of domestic oil and/or gas wells as of December 31 of report year 1978 has filing requirements as described in Section C below.

If you are not an operator (perhaps a former operator or solely a working or royalty interest owner), please submit the Part I Cover Page which immediately follows the Glossary, so EIA can remove your name from its active operator identification list.

Please note that each operating affiliate (whose production places it in Category I or II as described in Section C) of a parent company must file its own Form EIA–23. The parent company must file only if it is itself an operator. If you have an affiliate who should have received this form instead of or in addition to you, please notify EIA by contacting the EIA–23 Coordinator at (405) 360–1971.

C. What Must Be Submitted

Filing requirements are based on operator category. Your operator category is determined from the following table. "Production Level" refers to the total year's production from all domestic oil and/or gas wells you operated on December 31 of the

[1] The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells on December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil and/or natural gas in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" on December 31.

report year, including wells abandoned during the year.

Operator Category and Report Year Production Level	Crude oil [1]	Dry natural gas [2]
I Greater than or equal to.	1,500 MBbl or	15,000 MMcf or both
II Greater than or equal to.	400 MBbl or	2,000 MMcf or both And BOTH less than category I levels
III Less than	400 MBbl and	2,000 MMcf

[1] One barrel is 42 U.S. gallons at 14.73 PSIA (pounds per square inch absolute) and 60 degrees Fahrenheit. MBbls is thousands of barrels.
[2] At 14.73 PSIA and 60 degrees Fahrenheit. MMcf is millions of cubic feet.

- Category I Operators are required to submit one copy of:

Part I Cover Page/Attestation; Summary Report.

Part II Cover Page; Schedule(s) 1 ". . . Reserves and related Data by State and Subdivision"; Schedule(s) 3 ". . . Reserves and Related Data by Field and Reservoir"; Schedule(s) 4 "Footnotes" (if needed).

- Category II Operators are required to submit one copy of:

Part I Cover Page/Attestation; Summary Report.

Part II Cover Page; Schedule(s) 1 ". . . Reserves and Related Data by State and Subdivision"; Schedule(s) 2 ". . . Reserves and Production Data by Field"; Schedule(s) 4 "Footnotes" (if needed).

A Category II operator may elect to file as a Category I operator.

- Category III Operators are required (if they have received a forms package) to submit one copy of:

Part I only. Contact the EIA–23 Coordinator at (405) 360–1971 to obtain the Category III forms package, if necessary.

D. When and Where To Submit

Part I of Form EIA–23 must be submitted on or before September 20, 1979, for report year 1978 data. Part II of Form EIA–23 must be submitted on or before December 4, 1979, for report year 1978 data.

Completed forms should be submitted to: U.S. Department of Energy; Box OK; Norman, OK 73070.

For information concerning requests for extensions of time to file Form EIA–23, contact the EIA–23 Coordinator at (405) 360–1971.

E. Record Keeping Requirements

All records necessary to reconstruct the data reported on this form must be kept for a period of three (3) years at the reporting site.

F. Sanctions

Failure to make information requested on Form EIA–23 available to the Secretary of DOE or failure to allow the Secretary to verify the accuracy of the information he has received in that form shall be subject to penalties as provided in the Federal Energy Administration Act of 1974 (FEAA, P.L. 93–275) Section 13(e)(2) and (i), as amended.

G. Confidentiality

In accordance with Section 14 of the FEAA, in responding to specific requests received from members of the public, data collected on this form will be held confidential to the extent that they are determined by the DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 USC Section 552(b)(4)).

H. Reporting Standards

1. Operated and Ownership Reporting Bases

Data on all schedules, except Schedule 1 of Part II, are to be reported on a Total Operated Basis. On Schedule 1, data are requested to be reported on both a Total Operated Basis (right side) and a Gross Working Interest Ownership Basis (left side). (See definitions in the Glossary.)

When reporting on a *Total Operated Basis*, production and reserve changes data are required for the full report year, even though the operator of the wells on December 31 may not have operated those wells for the entire year. These data will differ from those reported previously if the operator has acquired, or disposed of, operated properties during the report year.

When reporting on a *Gross Working Interest Ownership Basis*, the respondent reports what he owned at the beginning of the year, and all subsequent reserves changes, including sales and purchases of in-place reserves. Gross working interest is sometimes known as expense interest.

Under this reporting concept total reserves for a given property equal the sum of the reserves attributable to all the gross working interests in that property. Thus the respondent reports all of his own working interest plus a proportionate share of royalty and overriding royalty interests. The proportionate share is determined by the respondent's working interest relative to the total of all working interests. If the respondent's only interest in a particular property is royalty interest or overriding royalty interest, then he should not include such property in his Gross Working Interest Ownership Basis computations.

The respondent must include data in his ownership report for properties owned by affiliated companies if *both* of the following conditions are satisfied:

a. The respondent operates the subject property for his affiliate, *and*

b. The affiliate is a nonoperator or a Category III operator and therefore not required to file Part II.

Examples:

- Of the total interest, respondent's working interest is 75 percent and the combined royalty is 25 percent. Respondent reports 100 percent of proved reserves (75 percent plus 25 percent).
- Of the total interest, respondent's working interest if 40 percent. Another working interest is 40 percent and royalty owners' combined interest is 20 percent. Respondent reports 50 percent of proved reserves (40 percent plus one half of 20 percent).
- Of the total interest, respondent has royalty interest of 10 percent. The working and combined royalty interests of other parties total 90 percent. Respondent does not include ownership data for this property.

As opposed to reporting on a Total Operated Basis, data on ownership are required only for the portion of the year in which the respondent actually was an owner.

- Respondent acquires a property on July 1 via purchase or merger. He reports the proved reserves purchase as a "Purchase of In-Place Reserves" and includes in the reported production data only production from July 1 to December 31. Reserve changes data are reported in a similar manner.

2. States and Geographic Subdivisions

The determination of which State or geographic subdivision within which to report proved reserves and production data is based on the location of the reservoir(s) containing the oil and/or gas. If a reservoir or field overlaps two or more States or subdivisions, the proved reserves data must be split into the appropriate geographic components. Offshore proved reserves data are required separately for the State and Federal domain. If a field or reservoir lies on or between disputed boundaries, include all data in the State Offshore area, and for Part II *only* note this fact is a footnote.

3. Proved Reserves: Tested and Untested

In this survey a distinction is made between reserves which have been proved by a flow test or by actual production (tested), and reserves proved by well log or core analyses only (untested). It is not intended that operators review their old well logs for the purpose of "finding" untested proved reserves except as they normally do so in their course of business.

4. Report Year Production

Production data are required from all operators. If actual production data are not available at the time Form EIA–23 is prepared, estimate production. Note that amended schedules are *not* required to correct preliminary production data. To the extent that production data are corrected in a subsequent report year, operators would report corrections to previously reported proved reserves as a data item. (See CORRECTIONS in the Glossary.)

5. Crude Oil

All crude oil volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel) at 14.73 PSIA (pounds per square inch absolute), corrected to 60 degrees Fahrenheit and excluding basic sediment and water.

6. Natural Gas

All natural gas volumes are to be reported as *dry* natural gas in millions of cubic feet (MMcf) at 14.73 PSIA and 60 degrees Fahrenheit. It is recognized that although natural gas is defined on a dry basis, the operator in many instances has no knowledge of the ultimate reduction of the gas stream resulting from natural gas liquids extraction by other parties.

The operator is expected to generate dry natural gas data by applying a shrinkage factor based upon all data available to him. He is not expected to perform gas analyses to determine the shrinkage factor, except as required for business reasons. (See NATURAL GAS, DRY and SHRINKAGE FACTOR in the Glossary.)

Operators must segregate most natural gas data into associated-dissolved and nonassociated gas entries. If the classification of gas type for a given reservoir should change from one to the other for any reason, the respondent should record all data according to the latest classification of gas type. Category I operators are to footnote changes arising from gas type reclassification of reservoirs.

7. Natural Gas Liquids—Lease Condensate Production

Proved reserves of natural gas liquids and lease condensate production volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel), at 14.73 PSIA and 60 degrees Fahrenheit. Note that natural gas liquids proved reserves data are not required for report years 1977 and 1978, but lease condensate production data are required for *all* report years.

Natural gas liquids proved reserves are calculated by the use of a factor applied to the total volume of recoverable gas. Such a factor, usually expressed in stock tank barrels per million cubic feet of gas, is based on the recovery efficiency of installed or planned processing facilities. Such factors may be judged from laboratory gas analyses adjusted to surface processing facility efficiency or obtained from actual plant or separator production statistics. The calculation of proved reserves of natural gas liquids takes into consideration the effect of retrograde condensation in the reservoir where applicable.

When no information is available on plans for processing of gas known to contain liquefiable hydrocarbons, recoveries used in the calculation of reserves are based on separator yields or formation tests.

8. Schedule Preparation Standards

a. *Negative and Positive Volumes.* Negative volumes are by definition acceptable only for data items marked (+,−). They are to be reported by entering a minus (−) sign to the left of the left-most digit. Plus (+) signs should never be used.

b. *Rounding.* When rounding crude oil and natural gas volumes, round 500 barrels or 500 Mcf and above up; less than 500 barrels or 500 Mcf, round down.

Examples	Actual volume	Repoted volume
Crude oil	7,500 barrels	8 MBbls.
	7,469 barrels	MBbls.
Gas	8,500,000 cubic feet	9 MMcf.
	10,457,000 cubic feet	10 MMcf.

c. *Collation of Part II.* Prior to submission, completed Part II must be assembled and page-numbered consecutively in the following order:

Page 1.—Part II Cover Page.

Page 2, 3, 4, etc.—Schedule(s) 1 in alphabetical order by State, and by subdivision within applicable States. Schedule(s) 2 (if required) in alphabetical order by State, by subdivision within applicable States, and by field name within subdivision or State. Schedule(s) 3 (if required) in alphabetical order by State, by subdivision within applicable States, and by field name within subdivision or State. Schedule(s) 4 (if needed).

Note.—Do not staple or bind your filing.

d. *Reproduction.* If mechanically reproduced forms are submitted in lieu of originals, they must have been clearly reproduced, must be of identical format and scale (within 3 percent overall dimension) to the provided forms and must have been accurately aligned during the reproduction process. Computer printouts on other than an exact duplicate of the provided original forms are not acceptable. Computer tapes are not acceptable at the present time.

e. *Character Set.* Responses must be typed or printed in black ink. If you are writing the response by hand, print and use all capital letters. Long hand is unacceptable. The form was designed to be completed using a 10-pitch (Standard Pica) typewriter, although a 12-pitch machine can be used.

SPECIFIC INSTRUCTIONS

I. Part I: Operator Identification and Summary Report

1. Cover Poge (Page 1)

Item Instructions

Note.—Numbers in parentheses immediately following item, subitem or column titles indicate the maximum number of spaces avaiable for the data.

Item A: *Were you an operator*—Check the appropriate box.

Item B: *I.D. code (6)*—Copy into this space the six digit number which appears on the mailing label affixed to this forms package. If no code has been assigned, please leave this space blank.

Item C: *Identification*—Name, Address, City, State, ZIP Code, Responsible Preparer, Telephone Number. IMPORTANT: If the company name or address as it appears on the mailing label does not match your response to this item, check the box.

Enter the legal name and address of the operator. Please use standard State abbreviations found in the Glossary.

If a foreign address, enter city, local equivalent of State name (e.g., province), and country on the second address line.

Enter the full name and business telephone number of the individual who is responsible for the preparation of Form EIA–23.

Item D: *EIN number (9)*—Enter the operating firm's IRS Employer Identification Number (EIN) if it has one. If the operator does not have an EIN, enter the social security number of the attestor and check the box.

Item E: *Parent company identificotion*—Name, Address, City, State, ZIP Code. Enter the legal name and address of the parent company, if any, which exercises *ultimate* control over the respondent.

Example: You are Company A, which takes direction from Company B, which in turn takes direction from Company C. Report Company C as the parent company, rather than Company B.

Item F: *Parent company EIN number (9)*—Enter the EIN number of the parent company, if any.

Item G: *Attestation*—Enter the name and title of the individual designated by the company to sign the certification, and the date of signing, in the spaces provided. This report must be sworn to or affirmed by a responsible officer (for example: a senior officer or the officer responsible for regulatory filings).

2. Summary Report (Poges 2 and 3)

On the Summary Report (Pages 2 and 3 of Part I), operators must supply proved reserves and production estimates on a Total Operated Basis (see definition in the Glossary) for all properties operated on December 31 of the report year.

Exception: Category II and III operators are required to report proved reserves data only for those properties for which estimates exist in company records. To the extent that Category II and III operators do not have proved reserve estimates associated with one or more specific properties, they must separate their production data according to production from properties for which proved reserves have been estimated, and production from properties for which proved reserves have not been estimated.

Data filed in Part II will automatically supersede that filed in Part I. Thus, an amended Part I need not be submitted.

Section 1.0: Operator and Report Identification Data

The information in Section 1.0 is to be reported on both pages 2 and 3 of Part I.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy into this space the six digit operator code which you entered on the Cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Original (1)*—Enter an 'X' if this is the first submission of this schedule for the report year; otherwise leave blank.

Item 1.5: *Amended (1)*—Enter an 'X' if this schedule amends a previously submitted schedule; otherwise leave blank.

Section 2.0: State and Geographic Subdivision Data

Provide data in Columns A–F for each State or geographic subdivision in which you were an operator of oil and/or gas wells on December 31 of the report year. Proved reserves and production (for the report year) of crude oil and dry natural gas are to be reported on a Total Operated Basis (see definition in the Glossary); include production from wells abandoned during the year. If all column entries for a particular State or subdivision are zero, leave that line blank.

For fields or reservoirs overlapping two or more States or subdivisions, the data are to be separated and reported in their respective States or subdivisions. Refer to maps in the glossary for subdivision boundaries in the States of Alaska, California, Louisiana, New Mexico, and Texas.

of Alaska, California, Louisiana, New Mexico, and Texas.

Sum all columns and enter the totals on line 64—"U.S.—Totals."

Column A: Crude Oil Reserves—End of Report Year (10) and Column D: Dry Natural Gas Reserves—End of Report Year (10). Enter estimates of total proved reserves (tested and untested) for operated properties: the estimates should be based on your most recent evaluations, adjusted for production through December 31 of the report year and for any other relevant factors. The resulting estimates for reserves should be consistent with the definitions of proved reserves in the Glossary. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.) If you are a Category II operator and no proved reserves estimates are available, enter 'NA'. If depleted during the report year, enter zero (0). Operators need not review well logs to "find" untested proved reserves except as is normally done in the course of their business.

Production data are required of all respondents. If actual data are not available at the time this Part of the form is being prepared, the data must be estimated.

Column B: Crude Oil Report Year Production—Reserves Estimated (10) and Column E: Dry Natrual Gas Report Year Production—Reserves Estimated (10). Enter the production for the report year from those operated properties for which proved reserves data were reported in Columns A or D. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Column C: Crude Oil Report, Year Production—Reserves Not Estimated (10)—(Category II and III Operators Only) and Column F: Dry Natural Gas Report Year Production—Reserves Not Estimated (10)—(Category II and III Operators Only). Enter the production for the report year from operated properties for which proved reserves estimates are not avalilable in existing company records. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Note.—Category III operators are not required to proceed to part II.

J. Part II: Detailed Report

1. Cover Page

Item Instructions

Note.—Numbers in parentheses immediately following item, subitem or column titles indicate the maximum number of spaces available for the data.

Item A: *Operator I.D. Code (6)*—Copy into this space the six digit number which appears on the mailing label affixed to this forms package. If no code has been assigned, leave this space blank.

Item B: *Operator Identification*—Name, Address, City, State, ZIP Code, Responsible Preparer, Telephone Number.

Enter the legal name and address of the operator. Use the standard State abbreviations found in the Glossary.

If a foreign address, enter city, local equivalent of State name (e.g., province), and country on the second address line.

Enter the full name and business telephone number of the individual who is responsible for the preparation of Form EIA–23.

Item C: *Attestation*—Enter the name and title of the individual designated by the company to sign the certification, and the date of signing, in the spaces provided. This report must be sworn to or affirmed by a responsible officer (for example: a senior officer or the officer responsible for regulatory filings).

2. Schedule 1—"Crude Oil, Dry Natural Gas, and Natural Gas Liquids Reserves and Related Data by State and Subdivision"

A separate Schedule 1 is to be completed for each State or geographic subdivision in which you:

a. Were an operator of oil and/or gas wells on December 31 of the report year, *or*

b. Held working interest ownership in oil or gas reserves *during* the report year whether you were the operator of those reserves or not, provided you were an operator elsewhere in the U.S.

Section 1.0: Operator and Report Identification Data

This information is to be entered on each Schedule 1 submitted.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy into this space the six digit operator code which you entered on the Part II Cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Original (1)*—Enter an 'X' if this is the first submission of this schedule for the report year; otherwise leave blank.

Item 1.5: *Amended (1)*—Enter and 'X' if this schedule amends a previously submitted schedule; otherwise leave blank.

Item 1.6: *Page (4) of Pages (4)*—Enter the current page number, and then the last page number of your entire Part II filing.

Item 1.7: *Page Footnote (4)*—Enter the page number on which Schedule 4 footnotes pertaining to data filed on this schedule begin. Leave blank if there are no footnotes to the data filed on this schedule.

Item 1.8: *State Abbreviation (2)*—Enter the two character alphabetic abbreviation of the State to which data reported on this schedule pertain. For an offshore area, enter the abbreviation of the adjacent State. (See Location Codes in the Glossary.)

Item 1.9: *Subdivision Code (2)*—Enter the two digit code of the geographic subdivision to which data reported on this schedule pertain; leave blank if not applicable. (See Location Codes in the Glossary.)

Section 2.0 Proved Reserves Data and Report Year Reserves Changes Gross Working Interest Ownership Basis (Columns A–D)

Report on a Gross Working Interest Ownership Basis (see definition in the Glossary), data for any proved reserves located in the State or subdivision in which you had a working interest during the report year. Include both operated and nonoperated properties. These data should reflect only that portion of the report year in which you were actually a working interest owner.

Along with you ownership data, you are required to include data on proved reserves, production and reserves changes for properties which you operated for any affiliated company, but ONLY if that company is not required to file PART II. Identify these affiliate(s) by name and IRS Employer Identification Number (EIN) in a footnote.

Total Operated Basis (Columns E–H)

Report on a Total Operated Basis (see definition in the Glossary), data for all proved reserves associated with the wells you operated on December 31 of the report year, regardless of whether or not you were a working interest owner of such reserves. Include data for the entire year's operations of these properties, even if they were operated by another firm earlier in the report year. Also report data for properties abandoned during the report year.

When a comparable data item appears on Schedule 2 or 3, the Schedule 1 entry must be the sum of data reported on those schedules.

Category I operators are required to provide information for each data item requested.

Category II operators must provide only those proved reserves estimates which exist in the company's records.

Item 2.1: *Reserves—End of Previous Year (10)*—Enter in Columns A–H, the volumes of proved reserves at the end of the calendar year *preceding* the report year. Proved reserves data for natural gas liquids (Columns D and H) are not required for report years 1977 and 1978. (See Proved Reserves of Crude Oil, and Proved Reserves of Natural Gas or Proved Reserves of Natural Gas Liquids in the Glossary.)

Item 2.2: *Purchases of In-Place Reserves (10)*—Enter in Columns A–C, the volumes of proved reserves purchased or otherwise acquired during the report year. In the case of each merger, footnote the name of the company absorbed. (See Purchases of In-Place Reserves in the Glosary.)

Item 2.3: *Sales of In-Place Reserves (10)*—Enter in Columns A–C, the volumes of proved reserves sold or otherwise disposed of during the report year. Production is not to be included here. Do not use a minus (−) sign. (See Sales of In-Place Reserves in the Glossary.)

Item 2.4: *Corrections (+, −) (10)*—Enter in Columns A–C and E–G, the net changes to "Reserves—End of Previous Year" attributable to corrections made during the report year. Use a minus sign (−) to indicate net reductions. (See Corrections in the Glossary.)

Item 2.5: *Revision Increases (10)*—Enter in Columns A–C and E–G, the additions to "Reserves—End of Previous Year" attributable to revisions made during the report year. (See Revisions in the Glossary.)

Item 2.6: *Revision Decreases (10)*—Enter in Columns A–C and E–G, the reduction from "Reserves—End of Previous Year" attributable to revisions made during the report year. Do not use a minus (−) sign. (See Revisions in the Glossary.)

Item 2.7: *Extensions (10)*—Enter in Columns A–C and E–G, the increases to "Reserves—End of Previous Year" attributable to extensions made during the report year. (See Extensions in the Glossary.)

Item 2.8: *New Field Discoveries (10)*—Enter in Columns A–C and E–G, the additions to "Reserves—End of Previous Year" attributable to new fields discovered during the report year. (See New Field Discoveries in the Glossary.)

Item 2.9: *New Reservoir Discoveries in Old Fields (10)*—Enter in Columns A–C and E–G, the additions to "Reserves—End of Previous Year" attributable to new reservoirs discovered in old fields during the report year. (See New Reservoir Discoveries in Old Fields in the Glossary.)

Item 2.10: *Report Year Production—Reserves Estimated (10)*—Enter in Columns A–C and E–G, the volumes produced during the report year from properties for which data were entered in Items 2.1 through 2.9. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Item 2.11: *Reserves—End of Report Year (10)*—Enter in Columns A–H, the volumes of proved reserves at the end of the report year. Specifically: Columns A–C and E–G: These volumes should equal the algebraic sum of Items 2.1, 2.2, 2.4, 2.5, 2.7, 2.8, and 2.9, less the sum of Items 2.3, 2.6, and 2.10. Columns D and H: Proved reserves data for natural gas liquids are not required for report years 1977 and 1978.

Item 2.12: *Reserves in Nonproducing Reservoirs (10)*—Enter in Columns A–H, the volumes of proved reserves at the end of the report year which are attributable to reservoirs which were in a nonproducing status. Entries in Columns D and H are not required for report years 1977 and 1978. (See Nonproducing Reservoirs in the Glossary.)

Item 2.13: *Report Year Production—Reserves Not Estimated (10)*—Category II Operators Only)—Enter in Columns A–C and E–G, the volumes produced during the report year from properties for which proved reserves estimates and reserves changes data are not included in Items 2.1–2.9 and 2.11.

Item 2.14: *Report Year Lease Condensate Production (10)*—Enter in Columns D and H, the volumes of lease condensate produced during the report year. (See Production, Lease Condensate in the Glossary.)

Section 3.0: Indicated Additional Reserves of Crude Oil (8)

Enter the estimated volumes of crude oil which may become available through the application of improved (enhanced) recovery techniques. (See Indicated Additional Reserves of Crude Oil in the Glossary.)

Section 4.0: Commitment Status of Proved Natural Gas Reserves

Report in this section the total proved reserves of natual gas reported in Item 2.11, sum of Columns B and C , on a Gross Working Interest Ownership Basis, according to the commitment status of the reserves. (See Commitment Status of Proved Natural Gas Reserves in the Glossary.)

Item 4.1: *Interstate Contracts*—Enter in Columns A–E, the proved natural gas reserves committed for sale under contracts subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) as of December 31 of the report year.

Item 4.2: *Intrastate Contracts*—Enter in Columns A–E, the proved natural gas reserves committed for sale under contracts not subject to FERC jurisdiction as of December 31 of the report year.

Column A: For Resale—Long-Term (10)—Enter the volumes of proved natural gas reserves committed for resale under "long-term" contracts. Interstate: "Short-term" contracts are distinguished in FERC Order Nos. 418, 431, or 491 A–D. All others are "long-term". Intrastate: "Long-term" contracts are those longer than one year's duration.

Column B: For Resale—Short-Term (10)—Enter the volumes of proved natual gas reserves committed for resale under "short-term" contracts. Interstate: "Short-term" contracts are distinguished in FERC Order Nos. 418, 431, or 491 A–D. Intrastate: "Short-term" contracts are those of one year's duration or less.

Column C: Direct Sale—Industrial (10)—Enter the volumes of proved reserves committed to industrial end-users of natural gas under interstate and intrastate contracts. This includes sales to other producers and to electric utilities.

Column D: Direct Sale—Other (10)—Enter the volumes of proved reserves committed to end users other than industrial consumers under interstate and intrastate contracts. Include reserves dedicated to gas processing plants where the ultimate disposition of gas is unknown to the respondent, and include any distribution sales to residential and commerical users.

Column E: Warranty (10)—Enter the volume of proved reserves committed under interstate and intrastate warranty contracts. Report only the volume of proved reserves held for fulfillment of warranty gas sales contracts as of the end of the report year. Do not report contract sales volumes. In a footnote on Schedule 4, indicate the volumes of proved reserves that may yet need to be dedicated to fulfill the terms of this type of contract.

Item 4.3: *Other*—Enter, in Columns A–D, the volumes of proved natural gas reserves committed for uses other than sale, or uncommitted, as of December 31 of the report year. Columns A–D are:

Column A: Company Use—Feedstock (10)—Enter the estimated volume of proved reserves committed for use as feedstock in plants owned by you. (See Feedstock in the Glossary.)

Column B: Company Use—Fuel (10)— Enter the estimated volume of proved reserves committed for use as fuel in your operations. (See Fuel Use in the Glossary.)

Column C: Other Committed (10)—Enter the estimated volume of proved reserves committed under any other contractual arrangement. Specify details in a footnote on Schedule 4.

Column D: Uncommitted (10)—Enter the estimated volume of proved reserves uncommitted as of the end of the report year.

Section and Item 5.0: Commitment Status of Nonproducing Natural Gas Reserves

In this section, the total proved reserves of natural gas in nonproducing reservoirs are to be reported on a Gross Working Interest Ownership Basis (Item 2.12, sum of Columns B and C) according to the following commitment status categories:

Column A: Committed Interstate (10)—Enter the volumes of nonproducing proved natural gas reserves committed under interstate contracts.

Column B: Committed Intrastate (10)—Enter the volumes of nonproducing proved natural gas reserves committed under any arrangement, company use or commitment, other than interstate contracts.

Column C: Uncommitted (10)—Enter the volumes of nonproducing proved natural gas reserves not committed under any arrangement.

Section and Item 6.0: Net Successful Nonassociated Natural Gas Well Footage (10)

Enter your "gross working interest" portion of the total net footage drilled which is related to the nonassociated natural gas reserve changes reported in Column C, Items 2.7 through 2.9. Do not include footage of expendable wells (e.g., stratigraphic tests). (See Net Successful Nonassociated Natural Gas Well Footage in the Glossary.)

EXAMPLES:

1. A 2,000 foot TD (total depth) well is completed for nonassociated gas at TD. Include 2,000 feet in your answer to this item, multiplied by your gross working interest percentage.

2. A 12,000 foot TD well is completed for nonassociated gas at 7,000 feet and for oil at 11,000 feet. Include 7,000 feet in your answer to this item, multiplied by your gross working interest percentage.

3. An old 5,000 foot well is deepened to a TD of 6,000 feet and completed for nonassociated gas at 5,500 feet. Include 500 feet in your answer to this item, multiplied by your gross working interest percentage.

4. A 14,000 foot TD well is completed for oil at 12,000 feet and for nonassociated gas at 13,000 feet. Include 1,000 feet in your answer to this item, multiplied by your gross working interest percentage.

3. Schedule 2—"Crude Oil and Dry Natural Gas Reserves and Production Data by Field"

All proved reserves and production data on Schedule 2 are to be reported on a Total Operated Basis (see TOTAL OPERATED BASIS in the Glossary) by field for each State or geographic subdivision in which the respondent operated oil and/or gas wells on December 31 of the report year, including fields abandoned during the report year.

Section 1.0: Operator and Report Identification Data

This information is to be reported on each Schedule 2 submitted.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy into this space the six digit operator code which you entered on the Part II Cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Original (1)*—Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise leave blank.

Item 1.5: *Amended (1)*—Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise leave blank.

Item 1.6: *Pages (4) of Page (4)*—Enter the current page number, and then the last page number of your entire Part II filing.

Item 1.7: *Page Footnote (4)*—Enter the page number on which Schedule 4 footnotes pertaining to data filed on this schedule begin. Leave blank if there are no footnotes to the data filed on this schedule.

Section 2.0: Field Data

Enter only one type of hydrocarbon (crude oil, associated-dissolved dry gas, or nonassociated dry gas) on each line. Group all data pertaining to an individual field on consecutive lines, and group all fields by State and by geographic subdivision within each State. Complete all lines of Section 2.0 before using any additional Schedule 2 pages.

Note that provision is made in Column F to avoid sequential recopying of identical field identification data.

If a field overlaps two or more States and subdivisions, data pertaining to each must be separately reported.

Items 2.1 Through 2.34

Column A: Field Code (6)—Do not fill in. This space is reserved for future use.

Column B: Field Name (26)—Enter the name of the field to which data on this line pertain. If this is a new field discovery, indicate this in a footnote on Schedule 4. (See Field and Reservoir Naming Conventions in the Glossary.)

Column C: State Abbreviation (2)—Enter the two character alphabetic abbreviation of the State to which data reported on this line pertain. For an offshore area, use the abbreviation of the adjacent State. (See Location Codes in the Glossary.)

Column D: Subdivision Code (2)—Enter the two digit code of the appropriate geographic subdivision to which data on this line pertain; leave blank if not applicable. (See Location Codes in the Glossary.)

Column E: County Code (3)—For onshore areas, enter the three digit numeric code for the county or parish in which the field is located. If the field is located in more than one county, enter the code of the county which contains the largest lease acreage, overlying proved reserves, which you operate. Identify by Federal Information Processing Standards (FIPS) Code other counties (within the State or subdivision) in a footnote on Schedule 4. For State and Federal Offshore areas leave this item blank. (Sources of county and parish codes include: FIPS publication 6–2, and Rand McNally's *Commercial Atlas and Marketing Guide).*

Column F: Continuation Block (2)—If, for a given line, the field identification data (Columns B–E) are the same as the immediately previous line enter an 'X' in this block. You then need not recopy the field identification data in Columns B–E.

Column G: Oil (2)—Enter an 'X' in this block if the data reported on the line pertain to crude oil. Otherwise leave blank. (See Crude Oil in the Glossary.)

Column H: Associated—Dissolved Gas (2)—Enter an 'X' in this block if the data reported on the line pertain to associated-dissolved natural gas. Otherwise leave blank. (See Natural Gas, Associated-Dissolved in the Glossary.)

Column I: Nonassociated Gas (2)—Enter an 'X' in this block if the data reported on the line pertain to nonassociated natural gas. Otherwise leave blank. (See Natural Gas, Nonassociated in the Glossary.)

Column J: Proved Reserves—End of Report Year—Tested (8)—Enter the estimated volume of tested proved reserves, as of the end of the report year, for the field and type of hydrocarbon indicated on the line. If no tested or untested proved reserves estimates are available from your existing records for this field, enter 'NA'. If all proved reserved are untested or were depleted during the report year, enter zero (0). (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column K: Proved Reserves—End of Report Year—Untested (8)—Enter the estimated volume of untested proved reserves, as of the end of the report year, for the field and type of hydrocarbon indicated on the line. If no tested or untested proved reserves estimates are available from your existing records for this field, enter 'NA'. If all proved reserves are tested, or were depleted during the report year, enter zero (0). (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column L: Report Year Production—1977 (7)—Enter the volume produced during the report year from the field and for the type of hydrocarbon indicated on the line. If none, enter zero (0). See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Columns M Through P: Prior Annual Production—1977 Through 1974 (7)—If you entered a volume of proved reserves in either Column J or Column K or both, leave Columes M through P blank. If an 'NA' was entered in both Column J and Column K you must report the annual production, which occurred during each of the years 1974 through 1977, from the field and for the type of hydrocarbon indicated on the line. If there was no production in a particular year, enter a zero (0) for the year.

Note.—Prior annual production volumes in Columns M through P are not required if you reported these production data in report year 1977 From EIA–23.

4. Schedule 3—"Crude Oil and Dry Natural Gas Reserves and Related Data by Field and Reservoir"

All proved reserves, production and reserve changes data on Schedule 3 are to be reported on a Total Operated Basis (see Total Operated Basis in the Glossary), for each field in which the respondent operated oil and/or gas wells on December 31 of the report year, including abandonments during the report year.

Section 1.0: Operator and Report Identification Data

This information is to be reported on each Schedule 3 submitted.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy into this space the six digit operator code which you entered on the Part II Cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Original (1)*—Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise leave blank.

Item 1.5: *Amended (1)*—Enter an 'X' if this schedule amends a previously submitted schedule. Otherwise leave blank.

Item 1.6: *Page (4) of Pages (4)*—Enter the current page number, and then the last page number of your entire Part II filing.

Item 1.7: *Page Footnote (4)*—Enter the page number on which Schedule 4 footnotes pertaining to data filed on this schedule begin. Leave blank if there are no footnotes to data filed on this schedule.

Section 2.0: Field Identification Data

Repeat Items 2.1 through 2.5 for each Schedule 3 page submitted.

Item 2.1: *Field Code (6)*—Do not fill in. This space is reserved for future use.

Item 2.2: *Field Name (26)*—Enter the name of the field to which data reported on this Schedule 3 pertain. (See Field and Reservoir Naming Conventions in the Glossary.)

Item 2.3: *State Abbreviation (2)*—Enter the two character alphabetic abbreviation of the State to which data reported for this field pertain. For offshore fields, use the abbreviation of the adjacent State. (See Location Codes in the Glossary.)

Item 2.4: *Subdivision Code (2)*—Enter the two digit code of the appropriate geographic subdivision to which data reported for this field pertain; leave blank if not applicable. (See Location Codes in the Glossary.)

Item 2.5: *County Code (3)*—For onshore areas, enter the three digit numeric code for the county or parish in which the field is located. If the field is located in more than one county, enter the code of the county

which contains the largest lease acreage, overlying proved reserves, which you operate. Identifying other counties, by FIPS code, (within the State or subdivision) in a footnote on Schedule 4. For State and Federal Offshore areas leave this item blank. (Sources for county and parish codes include FIPS Publication 6–2 and *Rand McNally's Commercial Atlas and Marketing Guide.)*

Item 2.6: *OCS Block Number (6)*—For offshore fields, enter the block number, if it exists, of that offshore block which contains your largest lease acreage, overlying proved reserves. This block number need not be identical to the block number appearing in the field name. If two blocks have equal proved acreage, enter the number of the block having the earliest lease date; arbitrarily choose one block number if multiple answers are still possible given these selection rules. Leave blank if OCS block number is not applicable.

Item 2.7: *Federal Lease Number (5)*—Offshore Fields—Enter the numeric portion of the OCS Lease number (excluding the initial letter) which is associated with the block number reported in the previous item.

Onshore Fields—Enter the numeric portion of the Federal lease number (excluding the initial letter) of that lease which contains your largest lease acreage, overlying proved reserves. If two leases have equal proved lease acreage, enter the number of the lease having the earliest lease date; arbitrarily choose one lease number if mulitple answers are still possible given these selection rules. Leave blank if Federal lease number is not applicable.

Item 2.8: *Water Depth (4)*—For an offshore field, enter the average depth of water (from sea level to seabed) over the field in feet. Leave blank if an onshore field.

Item 2.9: *Field Discovery Year (4)*—Enter the calendar year in which the field was discovered. Footnote on Schedule 4 if this represents a change from the previously reported discovery year. Enter "NA" if not known. (See Field Discovery Year in the Glossary.)

Item 2.10: *Number of Reservoirs in Field (4)*—Enter the number of reservoirs which you operate in this field. This reservoir count should *include* any reservoirs having Indicated Additional Reserves of Crude Oil, or which were abandoned during the report year due to proved reserves depletion.

Section 3.0: Reservoir Data

For report years 1977 and 1978, only the following oil and/or gas reservoirs must be individually reported:

- All gas reservoirs operated by jurisdictional natural gas companies (as defined by the Natural Gas Act);
- New reservoirs;
- Reservoirs for which proved reserves estimates were subject to corrections or revisions or were increased by extensions during the report year;
- Reservoirs which were nonproducing during the last quarter of the report year; and
- Reservoirs located under Federal lands.

Items 3.1 Through 3.4

Subitem 1: *Reservoir Code (6)*—Do not fill in. This space is reserved for future use.

Subitem 2: *Reservoir Name (38)*—Enter the name of the reservoir to which data reported in this item pertain. (See Field and Reservoir Naming Conventions in the Glossary.)

Subitem 3: *Depth to Midpoint (5)*—Enter the average distance, in feet, from ground level (or sea level, if offshore) to the midpoint of the reservoir. For commingled reservoirs, enter depth to midpoint of the deepest reservoir. (See Depth to Midpoint in the Glossary.)

Subitem 4: *Reservoir Discovery Year (2)*—Enter the last two digits of the calendar year in which the reservoir was discovered. For commingled reservoirs, enter the year for the earliest discovered reservoir; use a footnote (Schedule 4) to indicate whether this represents a change to previously reported data. Enter "NA" if not known. (See Reservoir Discovery Year in th Glossary.)

Subitem 5: *Year of First Production (2)*—Enter the last two digits of the calendar year in which production of oil and/or natural gas from the reservoir first began. For commingled reservoirs, enter year for the earliest produced reservoir. Enter "NA" if not known. Leave blank if the reservoir has never produced. (See year of first production in the Glossary.)

Subitem 6: *Lithology (1)*—For reservoirs discovered during the report year, enter the one digit numeric code for the predominant lithology of the reservoir; optional for old reservoirs. Otherwise leave blank. (See Codes for Lithology in the Glossary.)

Subitem 7: *Trap Type (1)*—For reservoirs discovered during the report year, enter the one digit numeric code for the type of trap applicable to the reservoir; optional for old reservoirs. Otherwise leave blank. (See Codes for Trap Type in the Glossary.)

Subitem 8: *Geologic Age (3)*—For reservoirs discovered during the report year, enter the three digit numeric code for the geologic age of the reservoir rock; optional for old reservoirs. Otherwise leave blank. For commingled reservoirs, enter the code for the youngest reservoir rock. Footnote older age reservoir rocks, if known, on Schedule 4. Use the code that presents the most detailed information available. (See Codes for Geologic Age in the Glossary.)

Subitem 9: *Gas Type (1)*—Enter an "A" if the type of gas occurring in the reservoir is predominantly associated-dissolved. Enter an "N" if the type of gas occurring in the reservoir is predominantly nonassociated. Leave blank if no gas data are reported for this reservoir. For commingled reservoirs, enter the code letter corresponding to the overall predominant gas type. If the classification of gas type has changed from that previously reported, note and explain why in a footnote on Schedule 4. (See Natural Gas, Associated–Dissolved and Natural Gas, Nonassociated in the Glossary.)

Subitem 10: *Shrinkage Factor (3)*—Following the preprinted decimal point, enter the first three digits of the shrinkage factor as of December 31 of the report year used in computing the dry natural gas data shown for this reservoir. Leave blank if no gas data are reported. Enter "0" if there is no shrinking. (See Shrinkage Factor in the Glossary.)

Subitem 11: *Type Calculation (1)*—Enter the one digit numeric code applicable to the type of calculation used to make the oil and/or gas proved reserve estimates for this reservoir. (See Codes for Type of Calculation, and Calculation Types in the Glossary.)

Subitem 12: *Recovery Method (2)*—Enter the two digit numeric code applicable to the predominant type of recovery method which is currently used, or will be used (if a new or nonproducing reservoir), for production from this reservoir. (See Codes for Recovery Method in the Glossary.)

Subitem 13: *Indicated Additional Reserves of Crude Oil (8)*—Enter the volumes of crude oil, other than proved reserves, which are estimated to be recoverable through the application to this reservoir of secondary and tertiary (enhanced) recovery methods. Enter a zero (0) if none. Leave blank if a nonassociated gas reservoir. (See Indicated Additional Reserves of Crude Oil in the Glossary.)

Subitem 14: *Production Status (1)*—Enter an 'N' if there as no production from this reservoir during the last three months of the report year. Otherwise leave blank.

Subitem 15: *Reason Nonproducing (2)*—If the reservoir was in a nonproducing status, enter the two digit code which identifies the principal reason for its nonproducing status. If in producing status, leave blank. (See Codes for Reason Nonproducing in the Glossary.)

Subitem 16: *Date of Last Production (4)*—If the reservoir was in a nonproducing status, enter the month and the last two digits of the year in which the reservoir last produced. (Example: enter '0377' for March, 1977.) Leave blank if the reservoir is in producing status or if the reservoir has never produced.

Subitem 17: *Estimated Date of Future Production (4)*—For reservoirs in a nonproducing status, enter the estimated month and last two digits of the year in which production is expected to commence. (Example: enter '0280' for Feburary, 1980.) Leave blank if the reservoir is in producing status.

Subitem 18: *Oil (MBbls)*—Report in Columns A–K the following data for the reservoir pertaining to crude oil; and

Subitem 19: *Gas (MMcf)*—Report in Columns A–K the following data for the reservoir pertaining to dry natural gas for the indicated gas type.

Column A: Tested (1)—Enter an 'X' in this block if the data reported on this line pertain to tested proved reserves. Leave blank if untested. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column B: Untested (1)—Enter an 'X' in this block if the data reported on this line pertain to untested proved reserves. Leave blank if tested. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column C: Original Hydrocarbons In-Place (10)—Enter the estimated original in-place

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volumes in the reservoir. Enter 'NA' if not available. Changes to previously reported proved reserve estimates may also necessitate changes in estimates of original hydrocarbons in-place. (see Original Hydrocarbons In-Place in the Glossary.)

Column D: Cumulative Production (10)—Enter the volumes of cumulative production as of December 31 of the report year for the reservoir. Note that production from untested proved reserves is zero (0) by definition. If cumulative production is not available or partially available, enter 'NA' and provide annual production data where available in a footnote on Schedule 4. (See Production, Cumulative Crude Oil and Production, Cumulative Natural Gas in the Glossary.)

Column E: Reserves—End of Previous Year (10)—Enter the volumes of proved reserves which existed as of the end of the calendar year preceding the report year. Enter a zero (0) for a new reservoir. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column F: Corrections (+,−) (10)—Enter the net changes to "Reserves—End of Previous Year" attributable to corrections made during the report year. Use a minus sign (−) to indicate net reductions. Enter a zero (0) if there were no net corrections or if this is a new reservoir. Explain any net correction in excess of 200 MBbls of oil or 2,000 MMcf of gas in a footnote on Schedule 4. (See Corrections in the Glossary.)

Column G: Revisions (+,−) (10)—Enter the net changes to "Reserves—End of Previous Year" attributable to revisions made during the report year. Use a minus sign (−) to indicate net reductions. Enter a zero (0) if there were no net revisions or if this is a new reservoir. Explain any net revisions in excess of 200 MBbls of oil or 2,000 MMcf of gas in a footnote on Schedule 4. Regardless of magnitude, indicate positive revisions due to transfer of reserves from the "Indicated Additional" to "Proved" category in a footnote. (See Revisions in the Glossary.)

Column H: Extensions (10)—Enter the increases to "Reserves—End of Previous Year" attributable to extensions made during the report year. Enter a zero (0) if there were not extensions, or if this is a new reservoir. (See extensions in the Glossary.)

Column I: New Discoveries (10)—If the reservoir was discovered during the report year, enter the estimated initial volumes of proved reserves (before reducing it by production during the report year, if any). Enter a zero (0) if the reservoir was discovered prior to the report year. (See New Discovery in the Glossary.)

Column J: Report Year Production (10)—Enter the volumes produced during the report year. Enter a zero (0) if there was no production. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Column K: Reserves—End of Report Year (10)—Enter the volumes of proved reserves at the end of the report year. Enter a zero (0) if the reservoir is depleted. This item should equal the algebraic sum of Columns E–I, less Column J.

Section 4.0: Field Total Data

This section should be filled out only on the last Schedule 3 used in reporting on a particular field. These data must include and represent all reservoirs in which you operate in the field (regardless of the number of individual reservoirs for which you reported data by reservoir for report years 1977 and 1978).

Item 4.1: Oil (MBbls), *and* Item 4.2: Associated-Dissolved Gas (MMcf), *and* Item 4.3: Nonassociated Gas (MMcf). Data reported in Columns A–I should equal the algebraic sum of the appropriate reservoir data for a given field unless some reservoir items were not required to be reported or were not available.

Column A: Reserves—End of Previous Year (10)—Enter the volumes of proved reserves at the end of the calendar year preceding the report year. Enter a zero (0) for a new field. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

Column B: Corrections (−,+) (10)—Enter the net changes to "Reserves—End of Previous Year" attributable to corrections made during the report year. Use a minus sign (−) to indicate net reductions. Enter a zero (0) for a new field or if there were no net corrections. (See Corrections in the Glossary.)

Column C: Revisions (−,+) (10)—Enter the net changes to "Reserves—End of Previous Year" attributable to revisions made during the report year. Use a minus (−) sign to indicate net reductions. Enter a zero (0) for a new field or if there were no revisions. (See Revisions in the Glossary.)

Column D: Extensions (10)—Enter the increases to "Reserves—End of Previous Year" attributable to extensions made during the report year. Enter a zero (0) for a new field or if there were no extensions. (See Extensions in the Glossary.)

Column E: New Discoveries (10)—If the field, or any reservoir in the field, was discovered during the report year, enter the estimated initial volumes of proved reserves attributable thereto, (before reducing it by production during the report year, if any). Enter a zero (0) if this is *not* a new field *and* if there were no new reservoirs discovered in it. (See New Discoveries in the Glossary.)

Column F: Report Year Production (10)—Enter the volumes produced from the field during the report year. Enter a zero (0) if there was not production for the field. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Column G: Reserves—End of Report Year (10)—Enter the volumes of proved reserves at the end of the report year. Enter a zero (0) if the field is depleted. This item should equal the algebraic sum of Columns A–E, less Column F.

Column H: Nonproducing Reserves (10)—Enter the estimated volumes of proved reserves in the field which were in nonproducing status at the end of the report year. Enter a zero (0) if there were none. (See Nonproducing reservoirs in the Glossary.)

Column I: Untested Reserves (10)—Enter the estimated volumes of untested proved reserves which existed in the field at the end of the report year. Enter a zero (0) if there were none. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.)

5. Schedule 4—"Footnotes"

At a minimum submit footnotes in clarification of reported data items when required to do so by the instructions for the applicable schedule. Additionally, you may footnote any other reported item if this will enhance its clarity.

Section 1.0: Operator and Report Identification Data

This information is to be reported on each Schedule 4 submitted.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy into this space the six digit operator code which you entered on the Part II Cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Orginal (1)*—Enter an "X" if this is the first submission of this schedule for the report year. Other wise leave blank.

Item 1.5: *Amended (1)*—Enter an "X" if this schedule amends a previously submitted schedule. Otherwise leave blank.

Item 1.6: *Page (4) of Pages (4)*—Enter the current page number, and then the last page number of your entire Part II filing.

Section 2.0: Footnote Data

Please use all lines on each Schedule 4 page before using additional pages. Columns A–E must be filled in only for the first line of each footnote.

Column A: Schedule Number (5)—Enter the schedule number referenced by the footnote which starts on this line.

Column B: Page Number (5)—Enter the page number that is referenced by this footnote.

Column C: Item Number (5)—Enter the item number that is referenced by this footnote.

Column D: Subitem Number (5)—(Applicable only to Schedule 3)—Enter the subitem number (1 through 19) that is referenced by this footnote. Leave blank if not applicable.

Column E: Column Designation (5)—Enter the column designation (alphabetic character) that is referenced by this footnote, if applicable. Otherwise leave blank.

Column F: Sequence Number (5)—Enter the line number of this line of the footnote. For a single line footnote, enter "1" and increase this number one unit with each successive line of the footnote. Always revert to "1" with each new footnote.

Column G: Notation (75)—Enter the actual footnote, including all appropriate information, using as many lines as necessary.

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Form EIA–23

Glossary and Codes

The definitions contained herein have been formulated with reference to the particular purposes to be served by EIA forms. They are not necessarily synonymous with the same or similar terms as used in DOE regulations, and are not to be construed as definitions applicable for any purpose other than for the collection and reporting of data on EIS forms.

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1. Lithology of Reservoir.
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A. Definitions

Affiliated (Associated) Company—An "affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. (See Person and Control.)

Calculation Types—

1. *Material Balance—Reservoir Simulation:* Estimates of reserves in which the theory of fluid flow in porous media and phase behavior data have been used to simulate reservoir performance and provide estimates for depletion. Reservoir simulation is a more complex and costly procedure than material balance, usually used only for large projects. Both methods are primarily used to predict reservoir performance; however, reserve estimates are derived in the process.

2. *Pressure Decline:* Calculation of gas reserves by recording the decline in reservoir pressure as a function of the cumulative production from the reservoir. The proved reserves of the reservoir are a measure of the point at which the pressure is reduced to the extent that the reservoir will no longer economically produce.

3. *Time Decline:* Calculation of reserves by production decline over time. Generally an equation is found which fits the observed rate-time graph and is used for extrapolation into the future. Three of the most useful equations are equal percentage decline, harmonic decline, and hyperbolic decline. Normally an economic limit based on the operating costs is used to determine a cut-off for economically recoverable reserves.

4. *Volumetric:* Calculation of reserves by determination of the pore volume of reservoir rock that can be occupied by hydrocarbons and the application of a recovery factor to it based on knowledge of the type of reservoir drive mechanism. Where available, analogous comparisons to producing reservoirs of the same physical characteristics are made. Primarily, calculation is based on well log analysis and when available, core data.

5. *Nominal:* Estimate of reserves based on the operator's experience, where producing characteristics or other information available do not allow for reserve estimation by any of the above calculation techniques.

Commitment Status of Proved Natural Gas Reserves—Applies to those proved reserves committed to a customer or other recipient under terms of a gas purchase contract, by advance payment agreements or by some other contractual arrangements, or set aside for the respondent's own use. Proved reserves not so committed are classified as "uncommitted".

Commitment Categories

1. *For Resale:* Proved natural gas reserves committed for sale to natural gas pipeline or distribution utilities for resale purposes.

2. *Direct Sale:* Proved natural gas reserves committed for sale to end users.

3. *Warranty:* Proved natural gas reserves committed through gas sales agreements wherein the seller warrants that an amount of gas will be available to meet the contracted commitments over the life of the contract.

4. *Company Use:* Proved natural gas reserves committed for use as feedstock in respondent-owned plants or as fuel in respondent's operations. (See Feedstock and Fuel Use.)

5. *Other Committed:* Proved natural gas reserves committed under any arrangements other than (1), (2), (3) or (4) above (e.g., gas taken in-kind by a royalty owner; vented and flared gas).

6. *Uncommitted:* Proved natural gas reserves that have not been committed by the respondent, including those reserves under negotiation or option as of December 31 of the report year.

Control—The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. (See Person.)

Corrections—Net changes to proved reserves attributable to correction of prior arithmetic or clerical errors, or to adjustments of previously reported production volumes.

Crude Oil—A mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Crude oil may also include:

1. Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and that subsequently are commingled with the crude stream without being separately measured; and

2. Small amounts of nonhydrocarbons produced with the oil.

Note.—When a State regulatory agency specifies a definition of crude oil which differs from that set forth above, the State definition is to be followed and its use footnoted on Schedule 4.

Depth to Midpoint—The average vertical distance, in feet, from ground level (or sea level, if offshore) to the midpoint of a reservoir.

Extensions—The reserves credited to a reservoir because of enlargement of its proved area. Normally the ultimate size of newly discovered fields, or newly discovered reservoirs in old fields, is determined by wells drilled in years subsequent to discovery. When such wells add to the proved area of a previously discovered reservoir, the increase in proved reserves is classified as an extension.

Feedstock—Natural gas used as a raw material for its nonfuel chemical properties in creating an end product.

Field—An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

Field Area—A geographic area encompassing two or more pools that have a common gathering and metering system, the reserves of which are reported as a single unit. This concept applies primarily to the Appalachian region. (See Pool.)

Field Discovery Year—The calendar year in which a field was first recognized as containing economically recoverable accumulations of oil and/or gas.

Fuel Use—All natural gas used by the respondent, other than for feedstock, which was produced by the respondent and not purchased from other producers.

Gross Working Interest Ownership—Gross working interest ownership is the respondent's working interest in a given property plus the proportionate share of any royalty interest, including overriding royalty interest, associated with the working interest. (See definitions of Working Interest and Royalty (including Overriding Royalty) Interests in the Glossary, and examples in the GENERAL INSTRUCTIONS, p. 6.)

Indicated Additional Reserves of Crude Oil—Quantities of crude oil (other than proved reserves) which may become economically recoverable from existing productive reservoirs through the application of improved recovery techniques using current technology.

These recovery techniques may: (1) Already be installed in the reservoir, but their effects are not yet known to the degree necessary to classify the additional reserves as proved, or (2) be installed in another similar reservoir, where the results of that installation can be used to estimate the indicated additional reserves.

Indicated additional reserves are not included in proved reserves due to their uncertain economic recoverability. When economic recoverability is demonstrated, the

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indicated additional reserves must be transferred to proved reserves as positive revisions.

Natural Gas—A mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes. Tpical nonhydrocarbon gases which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide and nitrogen. Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil, and are not distingusihable at that time as separate substances. (See Natural Gas, Nonassociated and Natural Gas, Associated-Dissolved.)

Natural Gas, Associated-Dissolved—The combined volume of natural gas which occurs in crude oil reservoirs either as free gas (associated) or as gas in solution with crude oil (dissolved).

Natural Gas, Dry—The actual or calculated volumes of natural gas which remain after: (1) The liquefiable hydrocarbon portion has been removed from the gas stream, and (2) any volumes of nonhydrcarbon gases have been removed where they occur in sufficient quantity to render the gas unmarketable.

Natural Gas, Nonassociated—Natural gas not in contact with significant quantities of crude oil in a reservoir.

Natural Gas Liquids—Those hydrocarbons which are separated from natural gas as liquids either in the reservoir through retrograde condensation or at the surface through a variety of means (e.g., condensation, absorption or adsorption in separators, scrubbers, gas processing plants, or cycling plants). Such liquids generally consist of propane and heavier hydrocarbons. Hydrocarbons lighter than propane recovered as liquids, are also included in natural gas liquids.

Net Successful Nonassociated Natural Gas Well Footage—The total net footage, based on the respondent's gross working interest, of successful gas well drilling completed during the report year related to nonasssociated natural gas reserve additions. This footage is the distance from the surface to the point of deepest penetration measured along the well bore, or any portion of this distance drilled, which results in nonassociated reserve additions. (See p. 24 for examples, and see Gross Working Interest Ownership Basis.)

New Discoveries—New field discoveries or new reservoir discoveries in old fields made during the report year.

New Field—A field discovered during the report year.

New Field Discoveries—The volumes of proved reserves of crude oil and/or natural gas discovered in new fields during the report year.

New Reservoir—A reservoir discovered during the report year.

New Reservoir Discoveries in Old Fields—The volumes of proved reserves of crude oil and/or natural gas discovered during the report year in new reservoir(s) located in old fields.

Nonproducing Reservoirs—Reservoirs in which proved oil and/or gas reserves have been identified, but which did not produce during the last 3 months of the report year regardless of the availability and/or operation of production, gathering, or transportation facilities.

Old Field—A field discovered prior to the report year.

Old Reservior—A reservoir discovered prior to the report year.

Operator—The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells as of December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil and/or natural gas in the reservoirs associated with them, whether or not they are producing . Wells abandoned during the report year are also to be considered "operated" as of December 31. (See Person, Proved Reserves of Crude Oil, Proved Reserves of Natural Gas, Report Year, and Reservoir.)

Original Hydrocarbons In-Place—The estimated volumes of crude oil and/or dry natural gas contained in known reservoirs prior to any production.

Ownership—See Gross Working Interest Ownership Basis.

Parent Company—The parent company of a business entity is an affilated company which exercises ultimate control over that entity, either directly or indirectly through one or more intermediaries. (See Affiliated (Associated) Company and Control.)

Person—An individual, a corporation, a partnership, an association, a joint-stock company, a bussiness trust, or an unicorporated organization.

Pool—In general, a reservoir. In certain situations a pool may consist of more than one reservoir. (See Field Area.)

Production, Crude Oil—The volumes of crude oil which are extracted from oil reservoirs during the report year. These volumes are determined through measurement of the volumes delivered from lease storage tanks, or at the point of custody transfer, with adjustment for (1) net differences between opening and closing lease inventories, and for (2) basic sediment and water. Oil used on the lease is to be included.

Production, Cumulative Crude Oil—The sum of the actual or estimated crude oil production during the report year and prior years.

Production, Cumulative Natural Gas—The sum of the actual or estimated dry natural gas production during the report year and prior years.

Production, Lease Condensate—The portion of natural gas liquids recovered in lease separators or field facilities from associated or nonassociated natural gas produced from gas wells during the report year.

Production, Natural Gas—The volume of natural gas withdrawn from producing reservoirs during the report year less (1) the volume returned to such reservoirs in cycling, repressuring of oil reservoirs and conservation operations; less (2) shrinkage resulting from the removal of the liquefiable portions of the gas; and less (3) nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. Volumes of gas withdrawn from gas storage reservoirs and native gas which has been transferred to the storage category are not considered production.

Proved Reserves of Crude Oil—Proved reserves of crude oil as of December 31 of the report year are the estimated quantities of all liquids defined as crude oil, which geological and engineering data demonstrate with reasonable certainly to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered (1) *proved* and *tested* if economic producibility is supported by either actual production or conclusive formation tests (drill stem or wire line), or (2) *proved* and *untested* if economic producibility is supported only by core analyses and/or electric or other log interpretations. The area of an oil reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of crude oil placed in underground storage are not to be considered proved reserves.

Reserves of crude oil which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved crude oil reserves do not include the following: (1) oil that may become available from known reservoirs but is reported separately as "indicated additional reserves"; (2) natural gas liquids (including condensate); (3) oil, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (4) oil that may occur in undrilled prospects; and (5) oil that may be recovered from oil shales, coal, gilsonite and other such sources. It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved.

Proved Reserves of Natural Gas or Proved Reserves of Natural Gas Liquids—Proved reserves of natural gas or proved reserves of natural gas liquids as of December 31 of the report year are the estimated quantities which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered (1) *proved* and *tested* of economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (2) *proved* and *untested* if economic producibility is supported only by core analyses and/or electric or other log interpretations. The area of a gas reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or gas-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of natural gas placed in underground storage are not to be considered proved reserves.

For natural gas an appropriate reduction in the reservoir gas volume is made to cover the removal of the liquefiable portions of the gas and the exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. It is to be assumed that compression will be initiated if and when economically justified.

Purchases of In-Place Reserves—Proved crude oil, natural gas, or natural gas liquids reserves within the reservoir (in-place) purchased or otherwise acquired by the respondent during the report year.

Report Year—The calendar year to which data reported herein pertain; the current report year is shown on the Cover Pages to Part I and Part II.

Reserves—See Proved Reserves.

Reserve Additions—The algebraic sum of all reserve changes during the report year.

Reserve Changes—Positive and negative corrections, positive and negative revisions, extensions, new reservoir discoveries in old fields, and new field discoveries, which occurred during the report year.

Reservoir—A porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

Reservoir Discovery Year—The year in which a reservoir was first recognized as containing economically recoverable accumulations of oil and/or gas.

Revisions—Changes in earlier estimates, either positive or negative, resulting from new information, except for an increase in proved acreage (extension). Revisions for a given report year also include increases in proved reserves associated with the installation of improved recovery techniques.

Royalty (including Overriding Royalty) Interests—These interests entitle their owner(s) to a share of the mineral production from a property or to a share of the proceeds therefrom. They do not contain the rights and obligations of operating the property, and normally do not bear any of the costs of exploration, development and operation of the property.

Sales of In-Place Reserves—Proved crude oil, natural gas or natural gas liquids reserves within the reservoir (in-place) sold, or otherwise disposed of, by the respondent during the report year.

Shrinkage Factor—The fraction as of December 31 of the report year (expressed as a decimal) by which the volume of natural gas is reduced by the removal of natural gas liquids and/or nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

Example: The removal of 112 MMcf of natural gas liquids vapor and/or nonhydrocarbon gase from 1000 MMcf of natural gas represents a shrinkage factor of 0.112.

Subdivision—A prescribed portion of a given State or other geographical region defined herein for statistical reporting purposes. (See State Abbreviation and Subdivision Codes, p. 55 of this glossary.)

Subsidiary Company—A company which is controlled through the ownership of voting stock, or a corporate joint venture in which a corporation is owned by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group. (See Control.)

Total Operated Basis—The total reserves or production of oil or gas associated with the wells operated by an individual operator. This is also commonly known as the "gross operated" or "8/8ths" basis.

Working Interest—A working interest permits the owner(s) to explore, develop and operate a property. The working interest owner(s) bear(s) the costs of exploration, development and operation of the property, and in return is (are) entitled to a share of the mineral production from the property or to a share of the proceeds therefrom.

Year of First Production—The year in which continuous, sustained production of crude oil and/or natural gas from the reservoir commenced.

B. Location Codes and Maps

Wherever applicable, the following codes are those specified in Federal Information Processing Standards (FIPS).

1. State Abbreviation and Geographic Subdivision Codes: (State Abbreviation Used In: Schedule 1, Item 1.8; Schedule 2, Items 2.1–2.35 (Column C); Schedule 3, Item 2.3) (Subdivision Code Used In: Schedule 1, Item 1.9; Schedule 2, Items 2.1–2.35 (Column D); Schedule 3, Item 2.4).

State name and geographic subdivisions[1]	State abbreviation	Subdivision code
Alabama—Onshore	AL	Blank
Alabama—State Offshore[2]	AL	05
Alaska—North Onshore and Offshore[3]	AK	50
Alaska—South Onshore	AK	10
Alaska—South State Offshore[2]	AK	05
Alaska—South Federal Offshore	AK	00
Arizona	AZ	Blank
Arkansas	AR	Blank
California—Coastal Region Onshore	CA	50
California—Los Angeles Basin Onshore	CA	90
California—San Joaquin Basin Onshore	CA	10
California—State Offshore[2]	CA	05
California—Federal Offshore	CA	00
Colorado	CO	Blank
Connecticut	CT	Blank
Delaware	DE	Blank
District of Columbia	DC	Blank
Florida—Onshore	FL	Blank
Florida—State Offshore[2]	FL	05
Georgia	GA	Blank
Hawaii	HI	Blank
Idaho	ID	Blank
Illinois	IL	Blank
Indiana	IN	Blank
Iowa	IA	Blank
Kansas	KS	Blank
Kentucky	KY	Blank
Louisiana—North	LA	50
Louisiana—South Onshore	LA	10
Louisiana—South State Offshore[2]	LA	05
Louisiana—South Federal Offshore	LA	00
Maine	ME	Blank
Maryland	MD	Blank
Massachusetts	MA	Blank
Michigan	MI	Blank
Minnesota	MN	Blank
Mississippi—Onshore	MS	Blank
Mississippi—State Offshore[2]	MS	05
Missouri	MO	Blank
Montana	MT	Blank
Nebraska	NE	Blank
Nevada	NV	Blank
New Hampshire	NH	Blank
New Jersey	NJ	Blank
New Mexico—East	NM	10
New Mexico—West	NM	50
New York	NY	Blank
North Carolina	NC	Blank
North Dakota	ND	Blank
Ohio	OH	Blank
Oklahoma	OK	Blank
Oregon	OR	Blank
Pennsylvania	PA	Blank
Rhode Island	RI	Blank
South Carolina	SC	Blank
South Dakota	SD	Blank

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State name and geographic subdivisions[1]	State abbreviation	Subdivision code
Tennessee	TN	Blank
Texas—Railroad Commission District 1	TX	10
Texas—Railroad Commission District 2 Onshore	TX	20
Texas—Railroad Commission District 3 Onshore	TX	30
Texas—Railroad Commission District 4 Onshore	TX	40
Texas—Railroad Commission District 5	TX	50
Texas—Railroad Commission District 6	TX	60
Texas—Railroad Commission District 7B	TX	70
Texas—Railroad Commission District 7C	TX	75
Texas—Railroad Commission District 8	TX	80
Texas—Railroad Commission District 8A	TX	85
Texas—Railroad Commission District 9	TX	90
Texas—Railroad Commission District 10	TX	95
Texas—State Offshore[3]	TX	05
Texas—Federal Offshore	TX	00
Utah	UT	Blank
Vermont	VT	Blank
Virginia	VA	Blank
Washington	WA	Blank
West Virginia	WV	Blank
Wisconsin	WI	Blank
Wyoming	WY	Blank
Atlantic Coast—Federal Offshore	AC	00
Gulf of Mexico—Other Federal Offshore[4]	OG	00
Pacific Coast—Other Federal Offshore[4]	OP	00

[1] Refer to maps on pages 58–62 for subdivision boundaries in the States of Alaska, California, Louisiana, New Mexico, and Texas, respectively.

[2] If you are not certain whether an offshore field lies in the Federal or the State domain, assume that it lies in the State domain and indicate this in a footnote on Schedule 4.

[3] Includes both State and Federal domain.

[4] Gulf of Mexico—Other Federal Offshore includes areas adjacent to Mississippi, Alabama and Florida only. Pacific Coast—Other Federal Offshore includes areas adjacent to Oregon and Washington only.

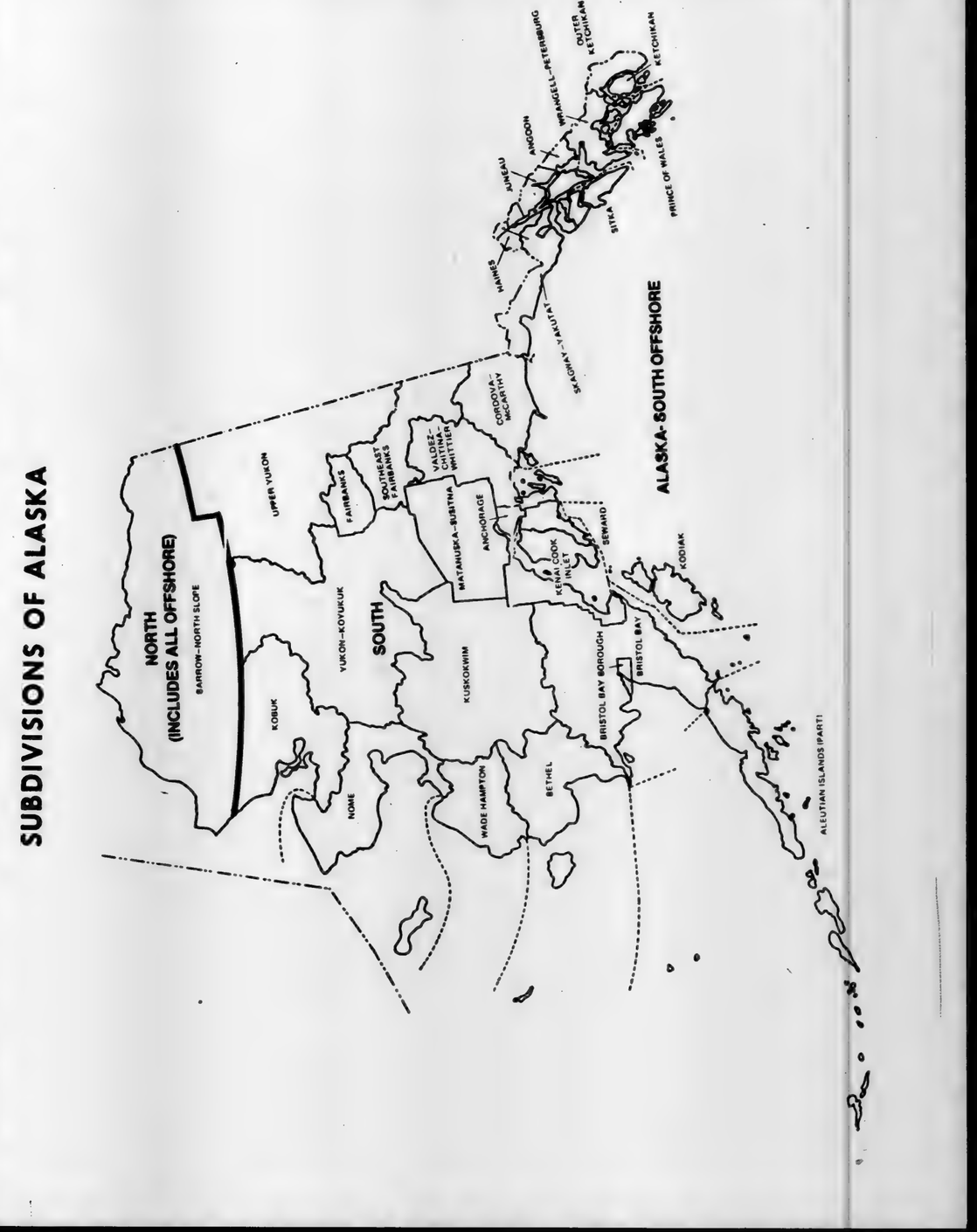
County Codes

Used In: Schedule 2, Items 2.1–2.34, Column E; Schedule 3, Item 2.5.

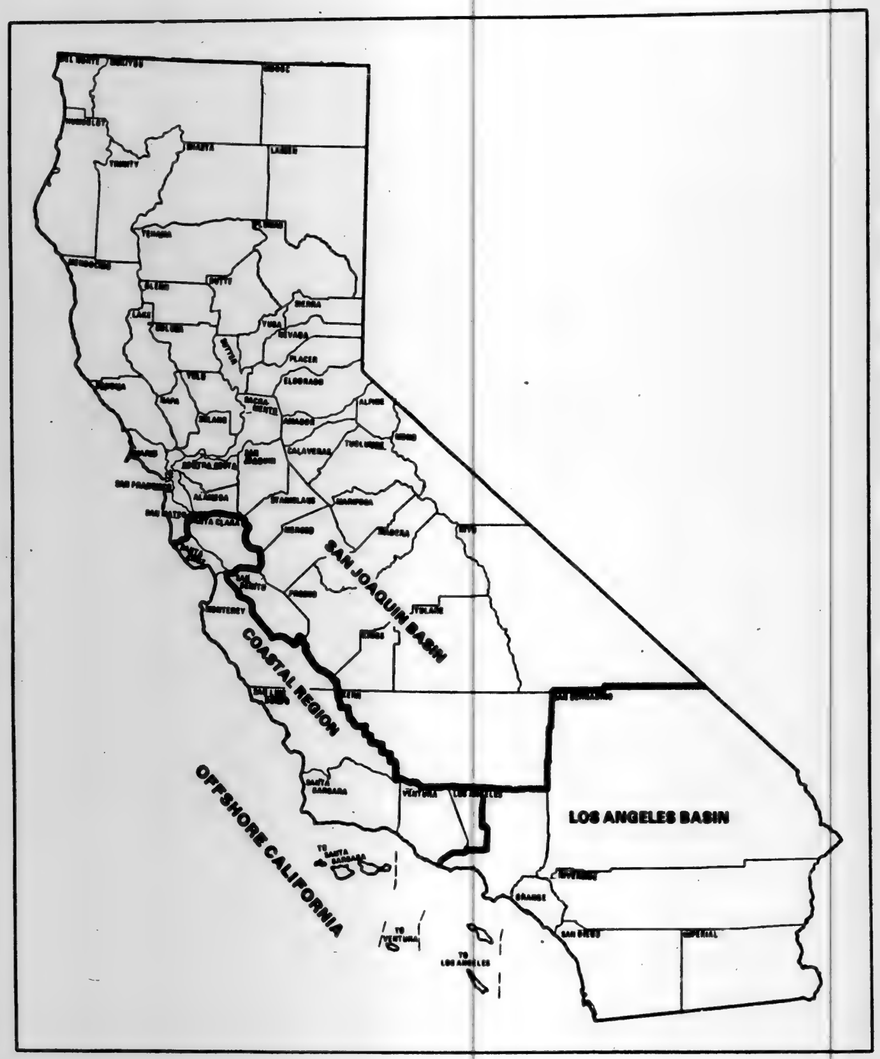
County codes, Parish codes (in Louisiana), and Census Division codes (in Alaska), used in the completion of Schedules 2 and 3, may be found in FIPS Publication 6–2, available at most municipal and college libraries. FIPS county codes may also be found in the *Commercial Atlas and Marketing Guide*, Rand McNally and Company, Chicago.

2. Subdivision Maps: (See next five pages).

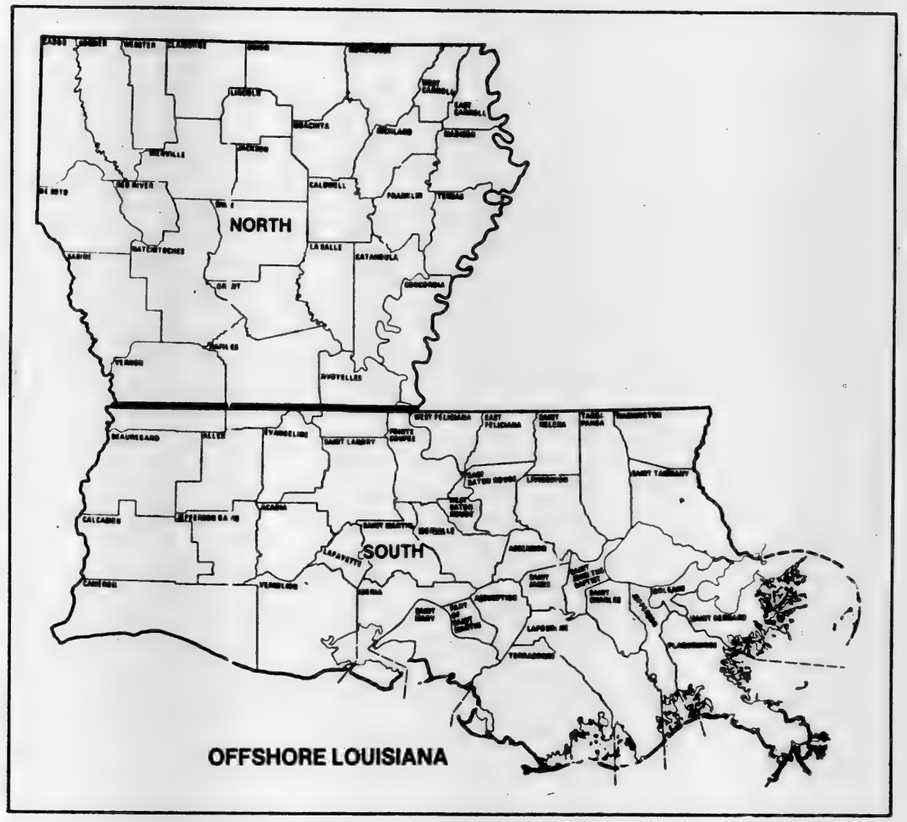
BILLING CODE 6450-01-M



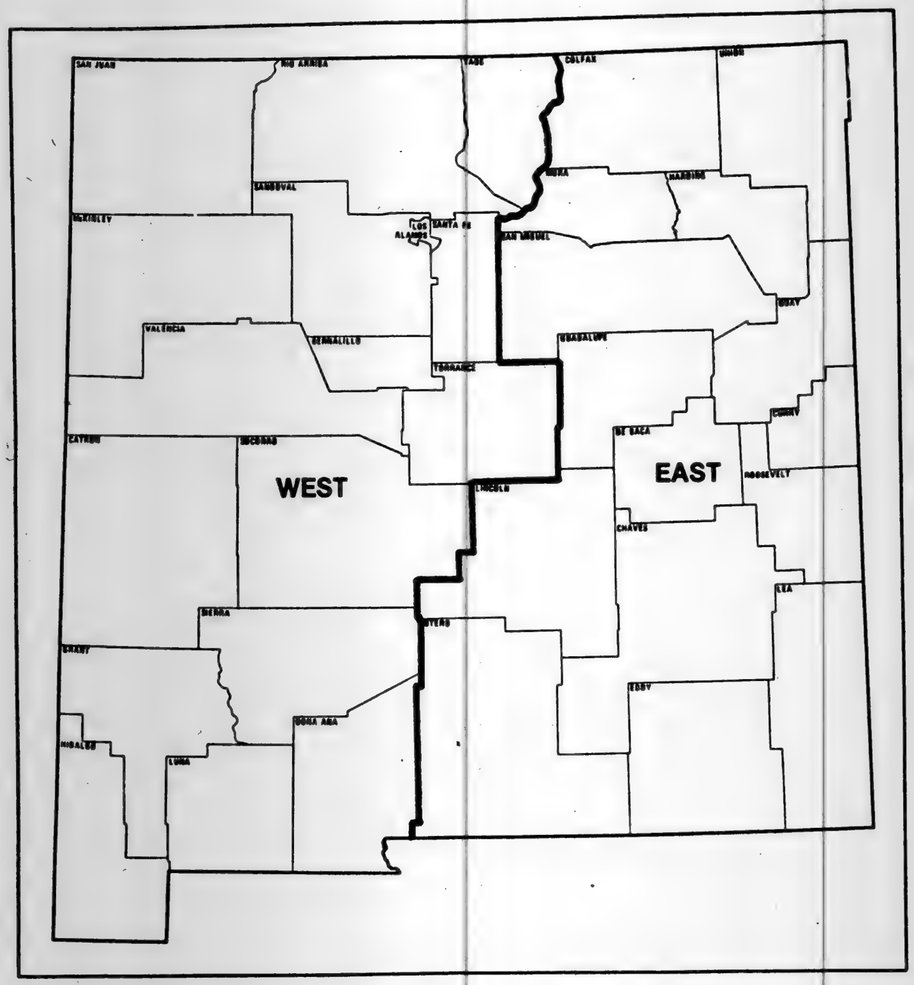
SUBDIVISIONS OF CALIFORNIA



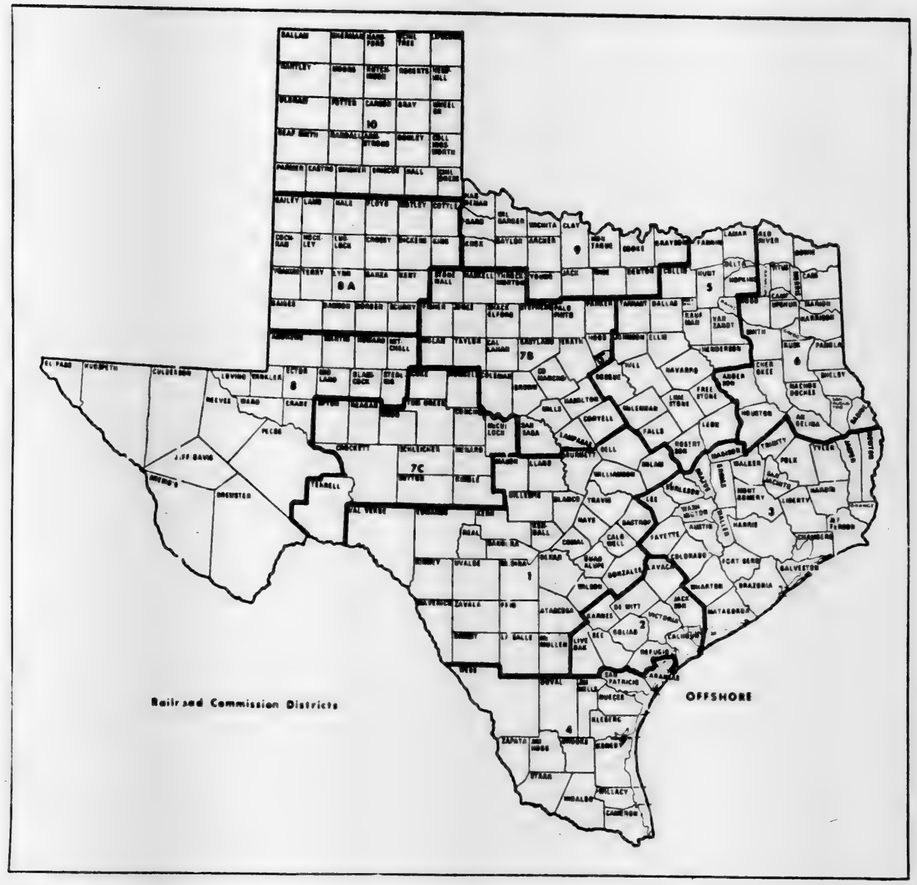
SUBDIVISIONS OF LOUISIANA



SUBDIVISIONS OF NEW MEXICO



SUBDIVISIONS OF TEXAS



BILLING CODE 6450-01-C

V44/171 AG 31 79 UMI

C. Field and Reservoir Naming Conventions

1. *Fields.* In most instances, field names will reflect the conventions imposed by State oil and gas regulatory agencies. In the absence of such authority, field names which have come into general acceptance in an area may be used. In the Appalachian Region field area names may be used.

Exceptions occur for names of fields located in Texas and New Mexico, in which States the regulatory agencies consider distinct geologic reservoirs to be "fields." For example, in Texas, Parker (Pennsylvanian) and Parker (Wolfcamp) are considered separate fields by the State. In actuality, Parker is the name of the geologic field and Pennsylvanian and Wolfcamp are the names of the geologic reservoirs in the field (by Texas Railroad Commission convention, the geologic reservoir name appears in parentheses after the geologic field name). For the purpose of reporting field names on Schedules 2 and 3 of Form EIA–23, the geologic field name will be used. In the example above, Schedule 3 would be headed with the field name "Parker" and the reservoir names "Pennsylvanian" and "Wolfcamp" would appear below it in the data space marked "Reservoir Name".

Offshore field names usually (but not always) consist of a basic offshore area name and block number specified by the U.S. Geological Survey. Example: East Cameron South Addition Block 265. If offshore area names must be abbreviated to fit within the 26 characters allowed, the following standard abbreviations should be used: North, N; North Addition, NA; South, S; South Addition, SA; East, E; East Addition, EA; West, W; West Addition, WA; Block, BLK; South Extension, SX; Island, IS; East Extension, EX.

For example, High Island East Addition South Extension Block A–375 would be abbreviated as follows: HIGH IS EA SX BLK A–375.

2. *Reservoirs.* In reservoirs or unitized fields where the gas or oil is commingled prior to metering, the production cannot be credited to an individual reservoir, and the word "commingled" may be entered in place of a reservoir name. All commingled reservoirs within a field should be reported as a single "commingled" entry. Known names of any individual reservoirs which were reported as commingled should then be listed in a footnote on Schedule 4.

In the Appalachian Region, some multiple reservoirs have not been defined because of unknown areal extent, complex geology, or other reasons. In these cases the term "undifferentiated" may be entered for the reservoir name. Also in this area, pool names may be used where they consist of multiple reservoirs and data are available for the pool only.

Except in the above mentioned cases, reservoirs must be listed separately for each field. Reservoir names such as "All", "Various", "Combined", or "Other" *are not acceptable.*

D. Codes Specific to Part II, Schedule 3

Codes for Lithology of Reservoir

[Used in Schedule 3, Items 3.1–3.4, Subitem 6]

Lithology	Code
Sandstone	1
Carbonate	2
Other	3

Codes for Trap Type

[Used in Schedule 3, Items 3.1–3.4, Subitem 7]

Trap Type	Code
Structural	1
Stratigraphic	2
Combined Structural and Stratigraphic	3

Codes for Geologic Age[1]

[Used in Schedule 3, Items 3.1–3.4, Subitem 8]

Code	Era	Code	System	Code	Series
100	Cenozoic	110	Quaternary	111	Recent
				112	Pleistocene
		120	Tertiary	121	Pliocene
				122	Miocene
				123	Oligocene
				124	Eocene
				125	Paleocene
200	Mesozoic	210	Cretaceous		
		220	Jurassic		
		230	Triassic		
300	Paleozoic	310	Permian		
		320	Pennsylvanian		
		330	Mississippian		
		340	Devonian		
		350	Silurian		
		360	Ordovician		
		370	Cambrian		
400	Pre-Cambrian				

[1] If the age of the reservoir rock is a combination of the above, e.g. Permo-Triassic, footnote this fact on Schedule 4 and enter on Schedule 3 the code of the youngest age involved, e.g. Triassic (230).

Codes for Type of Calculation

[Used in Schedule 3, Items 3.1–3.4, Subitem 11]

Type of Calculation	Code
Volumetric	1
Pressure Decline	2
Material Balance	3
Time Decline	4
Nominal	5

Codes for Recovery Method

[Used in Schedule 3, Items 3.1–3.4, Subitem 12]

Recovery Method	Code
Primary:	
Solution Gas	01
Water Drive	02
Gas Cap	03
Gravity Drainage	04
Fluid Expansion (Depletion)	05
Combinations	06
Secondary or Tertiary:	
Waterflood	07
Polymer Waterflood	08
Natural Gas Injection	09
Combination of Water and Natural Gas Injection	10
Carbon Dioxide, Alcohol or Miscible (Solvent) Fluid. Slug	11
Steam Drive	12
In-situ Combustion	13
Steam Soak	14
Surfactant	15
Caustic	16
Other: (Explain in a footnote on Schedule 4)	17

Codes for Reason Nonproducing

[Used in Schedule 3, Items 3.1–3.4, Subitem 15]

Reason Nonproducing	Code
Insufficient pressure to deliver into sales line	01
Waiting for installation of producing facilities	02
Waiting for installation of pipeline facilities	03
Workover required or in progress	04
Associated gas cap awaiting depletion of oil reserves	05
Too remote to justify connection at this time	06
Reservoir depleted during report year	07
Proved reserves known to exist but not being produced because of State or Federal regulations	08
Awaiting State or Federal governmental action	09
Behind pipe awaiting depletion of other zone(s) in the well(s)	10
Proved reserves being developed by drilling	11
Replacement well or additional well required	12
Negotiating sales contract	13
Other (Explain in a footnote on Schedule 4)	14

BILLING CODE 6450–01–M

Form Approved
OMB No. 38-R0371
Expires 12/79

EIA 23 LIMITED OFFICIAL USE

U.S. DEPARTMENT OF ENERGY
Box OK
Norman, Oklahoma 73070

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
REPORT YEAR 1978

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law

PART I, COVER PAGE

A. WERE YOU AN OPERATOR *(see definition of* **OPERATOR**, *p. 2 footnote)* of one or more oil or gas wells on December 31 of the report year?

☐ YES or ☐ NO

If *no*, please fill out only items B, C and G below and return this page to the address given on page 2 (or 4) of this forms package.

If *yes*, fill out all of Part I *(after reading the instructions beginning on page 1)* and return it to the address given on page 2 (or 4) of this forms package.

B. I.D. CODE *(copy from mailing label)* ☐☐☐☐☐☐☐☐☐☐☐☐

C. IDENTIFICATION ☐ Information changed from label

a. Name _____
b. Address _____
_____
c. City _____ d. State _____ e. Zip Code _____
f. Responsible Preparer _____
g. Telephone Number (___) ___-____ ☐ Check if Social Security Number

D. EIN NUMBER _____

E. PARENT COMPANY IDENTIFICATION

a. Name _____
b. Address _____
_____
c. City _____ d. State _____ e. Zip Code _____

F. PARENT COMPANY EIN NUMBER _____

G. ATTESTATION *(This report must be attested to by a responsible official of the company.)*

I hereby swear or affirm that I have read the report and am familiar with its contents, and that to the best of my knowledge, information, and belief the information provided and appended is true and complete.

Name: _____ Signature: _____

Title: _____ Date: _____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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A G 3 1 7 9
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EIA 23 LIMITED OFFICIAL USE

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

PART I, SUMMARY REPORT

PAGE 1 OF 2

Form Approved
OMB No. 38-R037.
Expires 12/79

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS [MBbls]; NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET [MMcf] AT 14.73 PSIA AND 60°F.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATOR NAME	1.3 REPORT DATE	1.4 ORIGINAL	1.5 AMENDED
		12 31		

2.0 STATE AND GEOGRAPHIC SUBDIVISION DATA

	STATE OR GEOGRAPHIC SUBDIVISION	CRUDE OIL: RESERVES END OF REPORT YEAR (MBbls) (A)	CRUDE OIL: REPORT YEAR PRODUCTION RESERVES ESTIMATED (MBbls) (B)	CRUDE OIL: REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MBbls) (C)	DRY NATURAL GAS: RESERVES END OF REPORT YEAR (MMcf) (D)	DRY NATURAL GAS: REPORT YEAR PRODUCTION RESERVES ESTIMATED (MMcf) (E)	DRY NATURAL GAS: REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MMcf) (F)
01	ALABAMA-ONSHORE						
02	ALABAMA-STATE OFFSHORE						
03	ALASKA-NORTH ONSHORE AND OFFSHORE						
04	ALASKA-SOUTH ONSHORE						
05	ALASKA-SOUTH STATE OFFSHORE						
06	ALASKA-SOUTH FEDERAL OFFSHORE						
07	ARIZONA						
08	ARKANSAS						
09	CALIFORNIA-COASTAL REGION ONSHORE						
10	CALIFORNIA-LOS ANGELES BASIN ONSHORE						
11	CALIFORNIA-SAN JOAQUIN BASIN ONSHORE						
12	CALIFORNIA-STATE OFFSHORE						
13	CALIFORNIA-FEDERAL OFFSHORE						
14	COLORADO						
15	FLORIDA-ONSHORE						
16	FLORIDA-STATE OFFSHORE						
17	ILLINOIS						
18	INDIANA						
19	KANSAS						
20	KENTUCKY						
21	LOUISIANA-NORTH						
22	LOUISIANA-SOUTH ONSHORE						
23	LOUISIANA-SOUTH STATE OFFSHORE						
24	LOUISIANA-SOUTH FEDERAL OFFSHORE						
25	MARYLAND						
26	MICHIGAN						
27	MISSISSIPPI-ONSHORE						
28	MISSISSIPPI-STATE OFFSHORE						
29	MISSOURI						
30	MONTANA						
31	NEBRASKA						
32	NEVADA						
33	NEW MEXICO-EAST						
34	NEW MEXICO-WEST						

EIA-23 LIMITED OFFICIAL USE

U.S. DEPARTMENT OF ENERGY
Box OK
Norman, Oklahoma 73070

Form Approved
OMB No. 38-R0371
Expires 12/79

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
REPORT YEAR 1978

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law.

PART II, COVER PAGE

A. OPERATOR I.D. CODE *(copy from mailing label)* [ ][ ][ ][ ][ ][ ]

B. OPERATOR IDENTIFICATION

a. Name _____
b. Address _____
_____
c. City _____ d. State _____ e. Zip Code _____
f. Responsible Preparer _____
g. Telephone Number (___) ___ - ____

C. ATTESTATION *(This report must be attested to by a responsible official of the company.)*

I hereby swear or affirm that I have read the report and am familiar with its contents, and that to the best of my knowledge, information, and belief the information provided and appended is true and complete.

Name _____ Signature: _____

Title: _____ Date: _____

Title 18, USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

UMI 97-13GA-171/44V

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OMB No. 38-R0371
Expires 12/79

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

PART II, SCHEDULE 1 - CRUDE OIL, DRY NATURAL GAS, AND NATURAL GAS LIQUIDS RESERVES AND RELATED DATA BY STATE AND SUBDIVISION

(REPORT ALL VOLUMES OF CRUDE OIL AND NATURAL GAS LIQUIDS IN THOUSANDS OF BARRELS (MBbls); NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET (MMcf) AT 60° F. AND 14.73 PSIA)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATOR NAME	1.3 REPORT DATE	1.4 ORIGINAL	1.5 AMENDED	1.6 PAGE ___ OF ___ PAGES	1.7 PAGE FOOTNOTE
		1231			—	

1.8 STATE ABBREVIATION	1.9 SUBDIVISION CODE

2.0 PROVED RESERVES DATA AND REPORT YEAR RESERVES CHANGES	GROSS WORKING INTEREST OWNERSHIP BASIS				TOTAL OPERATED BASIS			
	OIL (MBbls) (A)	ASSOCIATED - DISSOLVED GAS (MMcf) (B)	NONASSOCIATED GAS (MMcf) (C)	NATURAL GAS LIQUIDS * (MBbls) (D)	OIL (MBbls) (E)	ASSOCIATED - DISSOLVED GAS (MMcf) (F)	NONASSOCIATED GAS (MMcf) (G)	NATURAL GAS LIQUIDS * (MBbls) (H)
2.1 RESERVES - END OF PREVIOUS YEAR								
2.2 PURCHASES OF IN-PLACE RESERVES								
2.3 SALES OF IN-PLACE RESERVES								
2.4 CORRECTIONS (+ -)								
2.5 REVISION INCREASES								
2.6 REVISION DECREASES								
2.7 EXTENSIONS								
2.8 NEW FIELD DISCOVERIES								
2.9 NEW RESERVOIR DISCOVERIES IN OLD FIELDS								
2.10 REPORT YEAR PRODUCTION - RESERVES ESTIMATED								
2.11 RESERVES - END OF REPORT YEAR								
2.12 RESERVES IN NONPRODUCING RESERVOIRS								
2.13 REPORT YEAR PRODUCTION - RESERVES NOT ESTIMATED								
2.14 REPORT YEAR LEASE CONDENSATE PRODUCTION								

3.0 INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)

GROSS WORKING INTEREST OWNERSHIP BASIS

4.0 COMMITMENT STATUS OF PROVED NATURAL GAS RESERVES

	FOR RESALE		DIRECT SALE		
	LONG TERM (A)	SHORT TERM (B)	INDUSTRIAL (C)	OTHER (D)	WARRANTY (E)
4.1 INTERSTATE CONTRACTS (MMcf)					
4.2 INTRASTATE CONTRACTS (MMcf)					

	COMPANY USE		OTHER COMMITTED (C)	UNCOMMITTED (D)
	FEEDSTOCK (A)	FUEL (B)		
4.3 OTHER (MMcf)				

5.0 COMMITMENT STATUS OF NONPRODUCING NATURAL GAS RESERVES (MMcf)	COMMITTED INTERSTATE (A)	COMMITTED INTRASTATE (B)	UNCOMMITTED (C)

6.0 NET SUCCESSFUL NON-ASSOCIATED NATURAL GAS WELL FOOTAGE (Feet)

* NATURAL GAS LIQUIDS DATA: LINES 2.1, 2.11, AND 2.12 ARE NOT REQUIRED FOR REPORT YEARS 1977 AND 1978

EIA-23 LIMITED OFFICIAL USE

Form Approved
OMB No. 38-R0371
Expires 12/79

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

PART II, SCHEDULE 2 - CRUDE OIL AND DRY NATURAL GAS RESERVES AND PRODUCTION DATA BY FIELD

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS (MBbls); NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET (MMcf) AT 60° F. AND 14.73 PSIA)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATION NAME	1.3 REPORT DATE	1.4 ORIGINAL	1.5 AMENDED	1.6 PAGE ___ OF ___ PAGES	1.7 PAGE FOOTNOTE
		1231			—	

2.0 FIELD DATA

	FIELD CODE * (A)	FIELD NAME (B)	STATE ABBREVIATION CODE (C)	SUBDIVISION CODE (D)	COUNTY CODE (E)	CONTINUATION BLOCK (F)	OIL (G)	ASSOCIATED - DISSOLVED GAS (H)	NONASSOCIATED GAS (I)	PROVED RESERVES - END OF REPORT YEAR: TESTED (J)	PROVED RESERVES - END OF REPORT YEAR: UNTESTED (K)	REPORT YEAR PRODUCTION 1978 (L)	PRIOR ANNUAL PRODUCTION: 1977 (M)	1976 (N)	1975 (O)	1974 (P)
2.1																
2.2																
2.3																
2.4																
2.5																
2.6																
2.7																
2.8																
2.9																
2.10																
2.11																
2.12																
2.13																
2.14																
2.15																
2.16																
2.17																
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2.21																
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2.24																
2.25																
2.26																
2.27																
2.28																
2.29																
2.30																
2.31																
2.32																
2.33																
2.34																

* NOT REQUIRED AT THIS TIME - THIS SPACE IS RESERVED FOR FUTURE USE

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LIMITED OFFICIAL USE

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

Form Approved
OMB No. 38-R0371
Expires 12/79

PART II, SCHEDULE 3 - CRUDE OIL AND DRY NATURAL GAS RESERVES AND RELATED DATA BY FIELD AND RESERVOIR

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS (MBbls); NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET (MMcf) AT 60° F. AND 14.73 PSIA)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATOR NAME	1.3 REPORT DATE	1.4 ORIGINAL	1.5 AMENDED	1.6 PAGE OF PAGES	1.7 PAGE FOOTNOTE
		1,2,3,1			—	

2.0 FIELD IDENTIFICATION DATA

2.1 FIELD CODE* ☆	2.2 FIELD NAME	2.3 STATE ABBREVIATION	2.4 SUBDIVISION CODE	2.5 COUNTY CODE

2.6 OCS BLOCK NUMBER	2.7 FEDERAL LEASE NUMBER	2.8 WATER DEPTH (Feet)	2.9 FIELD DISCOVERY YEAR	2.10 NUMBER OF RESERVOIRS IN FIELD

3.0 RESERVOIR DATA

3.1 | 1. RESERVOIR CODE ☆ | | 2. RESERVOIR NAME | | 3. DEPTH TO MID POINT (Feet) | | 4. RESERVOIR DISCOVERY YEAR | | 5. YEAR OF FIRST PRODUCTION | | 6. LITHOLOGY¹ | | 7. TRAP TYPE¹ | | 8. GEOLOGIC AGE¹ |

9. GAS TYPE	10. SHRINKAGE FACTOR	11. TYPE CALCULATION	12. RECOVERY METHOD	13. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	14. PRODUCTION STATUS	15. REASON NON-PRODUCING	16. DATE OF LAST PRODUCTION	17. ESTIMATED DATE OF FUTURE PRODUCTION
	0.							

TYPE HYDROCARBON	TESTED (A)	UNTESTED (B)	ORIGINAL HYDROCARBONS IN PLACE (C)	CUMULATIVE PRODUCTION (D)	RESERVES END OF PREVIOUS YEAR (E)	CORRECTIONS (+ -) (F)	REVISIONS (+ -) (G)	EXTENSIONS (H)	NEW DISCOVERIES (I)	REPORT YEAR PRODUCTION (J)	RESERVES END OF REPORT YEAR (K)
10. OIL (MBbls)											
11. GAS (MMcf)†											

3.2 | 1. RESERVOIR CODE ☆ | | 2. RESERVOIR NAME | | 3. DEPTH TO MID POINT (Feet) | | 4. RESERVOIR DISCOVERY YEAR | | 5. YEAR OF FIRST PRODUCTION | | 6. LITHOLOGY¹ | | 7. TRAP TYPE¹ | | 8. GEOLOGIC AGE¹ |

9. GAS TYPE	10. SHRINKAGE FACTOR	11. TYPE CALCULATION	12. RECOVERY METHOD	13. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	14. PRODUCTION STATUS	15. REASON NON-PRODUCING	16. DATE OF LAST PRODUCTION	17. ESTIMATED DATE OF FUTURE PRODUCTION
	0.							

TYPE HYDROCARBON	TESTED (A)	UNTESTED (B)	ORIGINAL HYDROCARBONS IN PLACE (C)	CUMULATIVE PRODUCTION (D)	RESERVES END OF PREVIOUS YEAR (E)	CORRECTIONS (+ -) (F)	REVISIONS (+ -) (G)	EXTENSIONS (H)	NEW DISCOVERIES (I)	REPORT YEAR PRODUCTION (J)	RESERVES END OF REPORT YEAR (K)
10. OIL (MBbls)											
11. GAS (MMcf)†											

3.3 | 1. RESERVOIR CODE ☆ | | 2. RESERVOIR NAME | | 3. DEPTH TO MID POINT (Feet) | | 4. RESERVOIR DISCOVERY YEAR | | 5. YEAR OF FIRST PRODUCTION | | 6. LITHOLOGY¹ | | 7. TRAP TYPE¹ | | 8. GEOLOGIC AGE¹ |

9. GAS TYPE	10. SHRINKAGE FACTOR	11. TYPE CALCULATION	12. RECOVERY METHOD	13. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	14. PRODUCTION STATUS	15. REASON NON-PRODUCING	16. DATE OF LAST PRODUCTION	17. ESTIMATED DATE OF FUTURE PRODUCTION
	0.							

TYPE HYDROCARBON	TESTED (A)	UNTESTED (B)	ORIGINAL HYDROCARBONS IN PLACE (C)	CUMULATIVE PRODUCTION (D)	RESERVES END OF PREVIOUS YEAR (E)	CORRECTIONS (+ -) (F)	REVISIONS (+ -) (G)	EXTENSIONS (H)	NEW DISCOVERIES (I)	REPORT YEAR PRODUCTION (J)	RESERVES END OF REPORT YEAR (K)
10. OIL (MBbls)											
11. GAS (MMcf)†											

3.4 | 1. RESERVOIR CODE ☆ | | 2. RESERVOIR NAME | | 3. DEPTH TO MID POINT (Feet) | | 4. RESERVOIR DISCOVERY YEAR | | 5. YEAR OF FIRST PRODUCTION | | 6. LITHOLOGY¹ | | 7. TRAP TYPE¹ | | 8. GEOLOGIC AGE¹ |

9. GAS TYPE	10. SHRINKAGE FACTOR	11. TYPE CALCULATION	12. RECOVERY METHOD	13. INDICATED ADDITIONAL RESERVES OF CRUDE OIL (MBbls)	14. PRODUCTION STATUS	15. REASON NON-PRODUCING	16. DATE OF LAST PRODUCTION	17. ESTIMATED DATE OF FUTURE PRODUCTION
	0.							

TYPE HYDROCARBON	TESTED (A)	UNTESTED (B)	ORIGINAL HYDROCARBONS IN PLACE (C)	CUMULATIVE PRODUCTION (D)	RESERVES END OF PREVIOUS YEAR (E)	CORRECTIONS (+ -) (F)	REVISIONS (+ -) (G)	EXTENSIONS (H)	NEW DISCOVERIES (I)	REPORT YEAR PRODUCTION (J)	RESERVES END OF REPORT YEAR (K)
10. OIL (MBbls)											
11. GAS (MMcf)†											

4.0 FIELD TOTAL DATA

TYPE HYDROCARBON	(A) RESERVES END OF PREVIOUS YEAR	(B) CORRECTIONS (+ -)	(C) REVISIONS (+ -)	(D) EXTENSIONS	(E) NEW DISCOVERIES	(F) REPORT YEAR PRODUCTION	(G) RESERVES END OF REPORT YEAR	(H) NONPRODUCING RESERVES	(I) UNTESTED RESERVES
4.1 OIL (MBbls)									
4.2 ASSOCIATED-DISSOLVED GAS (MMcf)†									
4.3 NONASSOCIATED GAS (MMcf)†									

☆ NOT REQUIRED AT THIS TIME. THIS SPACE IS RESERVED FOR FUTURE USE.

† THESE DATA ITEMS ARE REQUIRED FOR NEW RESERVOIRS ONLY. OPTIONAL FOR OLD RESERVOIRS.

EIA 23 LIMITED OFFICIAL USE

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

Form Approved
OMB No. 38-R0371
Expires 12/79

PART II, SCHEDULE 4 - FOOTNOTES

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

1.1 OPERATOR I.D. CODE	1.2 OPERATOR NAME	1.3 REPORT DATE	1.4 ORIGINAL	1.5 AMENDED	1.6 PAGE OF PAGES
		1,2,3,1			—

2.0 FOOTNOTE DATA

SCHEDULE NUMBER (A)	PAGE NUMBER (B)	ITEM NUMBER (C)	SUBITEM NUMBER (D)	COLUMN DESIGNATION (E)	SEQUENCE NUMBER (F)	NOTATION (G)

BILLING CODE 6450-01-C

V 4 4 / 1 7 1

Department of Energy,
Washington, D.C. 20461.

July 31, 1979.

Dear Sir:

The Energy Information Administration (EIA) of the United States Department of Energy (DOE), as part of its legislated responsibilities, has instituted an "Annual Survey of Domestic Oil and Gas Reserves." It will provide to energy analysts verifiable and credible basic data regarding the Nation's oil and gas reserves posture. These data are, in turn, essential to the formulation and adoption of effective and fair national energy policies.

All oil or gas well operators above a certain size, as well as a statistically selected sample of smaller operators, are required to respond to the survey for report year 1978. You have been determined to be a respondent this year on the basis of your identification as an operator in Federal and/or State records. These records indicate that you produced more than 400,000 barrels of crude oil or 2 billion cubic feet of natural gas from properties which you operated in calendar year 1978. We have therefore attached a full Form EIA–23 entitled "Category I and II Operator Package." Instructions for obtaining a "Category III Operator Package" are provided in the event that your 1978 production was smaller than our records indicate. Instructions are also provided on what to do if you were not an operator in calendar year 1978.

Please note that Part I of the form which you are receiving must be submitted on or before September 20, 1979. Part II of the form must be submitted on or before December 4, 1979. Instructions for mailing are included in each package.

Requests for further information or additional forms or schedules should be directed to the EIA–23 Coordinator at (405) 360–1971.

You should be aware that failure to make information requested on Form EIA–23 available to the DOE or failure to allow the DOE to verify the information submitted on the form will be subject to penalties as provided in Section 13(i) of the Federal Energy Administration Act of 1974 (Public Law 93–275), as amended. In responding to specific requests for information made by members of the public, information collected on Form EIA–23 will be held confidential to the extent that it is determined to constitute trade secrets or commercial or financial information considered to be privileged or confidential, in accordance with Section 14 of the above mentioned Act and the Freedom of Information Act (5 USC Sec. 552(b)(4)).

The timely provision of your best available data in the requested format is solicited. Thank you for your cooperation and participation in this portion of the National Energy Program.

Sincerely,

Lincoln E. Moses,

Administrator, Energy Information Administration.

Department of Energy

Energy Information Administration Office of the Oil and Gas Information System, Annual Survey of Domestic Oil and Gas Reserves, Form EIA–23, Report Year 1978, Category III Operator Package

Contents

General Instructions
A. Purpose
B. Who Must Submit Form EIA–23 For Report Year 1978
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D. When and Where to Submit
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H. Reporting Standards
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2. Natural Gas
3. Schedule Preparation Standards
a. Rounding
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I. Part I: "Operator Identification and Summary Report"
1. Cover Page
2. Summary Report
Glossary
A. Definitions
B. Subdivision Maps
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GENERAL INSTRUCTIONS

A. Purpose

The Energy Information Administration (EIA) of the Department of Energy (DOE) seeks, with Form EIA–23, to gather and summarize credible, timely data regarding proved reserves and production of crude oil, natural gas and other related matters. The DOE will use the resulting information in many ways; for example:

To develop national and regional estimates of production and proved reserves of domestic crude oil and natural gas, and

To facilitate national energy policy decisions.

This survey segregates operators into three categories, according to the annual production of hydrocarbons from wells which they operated on December 31 of the report year. Proved reserve estimates are required from the smaller operators only if such data exist in company records. The largest operators must provide proved reserves data.

EIA will follow this survey with efforts to validate the data to assess the meaningfulness and accuracy of the resulting information. Respondents may encounter two principal activities included in this validation:

Government personnel will make or supervise independent reserve estimates on a sample basis, and

A sample of operators will be visited to confirm the data submitted.

EIA recognizes that the judgment of geologists and petroleum engineers is required in the reserve estimation process, and that as a result, proved reserves are estimates rather than precise quantitative measurements.

B. Who Must Submit Form EIA–23 for Report Year 1978

Each operator [1] of domestic oil and/or gas wells as of December 31 of report year 1978 has filing requirements as described in Section C below.

If you are not an operator (perhaps a former operator or solely a working or royalty interest owner), please submit the Part I Cover Page which immediately follows the Glossary, so EIA can remove you name from its active operator identification list.

Not all Category III operators (those with the smallest annual production) are being asked to file Form EIA–23 at this time. Each year, a sample of all Category III operators will be selected. Receipt of this forms package indicates that you are among those selected this year.

C. What Must Be Submitted

You have been tentatively identified as a Category III (small) operator. To minimize reporting burden, EIA requires Category III operators to submit one copy of only Part I of Form EIA–23. There is a Part II which has not been included in your forms package. If the total year's production from wells which you operated as of December 31, 1978 was equal to or more than 400,000 barrels of crude oil or more than 2 billion cubic feet of dry natural gas, or both, you have been sent the wrong forms package. Contact the EIA–23 Coordinator at (405) 360–1971 to obtain the correct package.

D. When and Where to Submit

Part I of Form EIA–23 must be submitted on or before September 20, 1979, for report year 1978 data. Mail the completed forms to: U.S. Department of Energy, Box OK, Norman, OK 73070.

For information concerning requests for extensions of time to file Form EIA–23, contact the EIA–23 Coordinator at (405) 360–1971.

E. Record Keeping Requirements

All records necessary to reconstruct the data reported on this form must be kept for a period of three (3) years at the reporting site.

F. Sanctions.

Failure to make information requested on Form EIA–23 available to the Secretary of DOE or failure to allow the Secretary to verify the accuracy of the information he has received in that form shall be subject to penalties as provided in the Federal Energy Administration Act of 1974 (FEAA, P.L. 93–275), Section 13(e)(2) and (i), as amended.

[1] The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells on December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil and/or natural gas in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" on December 31.

G. Confidentiality

In accordance with Section 14 of the the FEAA, in responding to specific requests received from members of the public, data collected on this form will be held confidential to the extent that they are determined by the DOE to be within the exemption for trade secrets and confidential commercial information as specified in the Freedom of Information Act (5 U.S.C. Section 552(b)(4)).

H. Reporting Standards

1. Crude Oil

All crude oil volumes are to be reported in thousands of stock tank barrels (MBbls) (42 U.S. gallons per barrel) at 14.73 PSIA (pounds per square inch absolute), corrected to 60 degrees Fahrenheit and excluding basic sediment and water.

2. Natural Gas

All natural gas volumes are to be reported as *dry* natural gas in millions of cubic feet (MMcf) at 14.73 PSIA and 60 degrees Fahrenheit. It is recognized that although natural gas is defined on a dry basis, the operator in many instances has no knowledge of the ultimate reduction of the gas stream resulting from natural gas liquids extraction by other parties.

The operator is expected to generate dry natural gas data by applying a shrinkage factor based upon all data available to him. He is not expected to perform gas analyses to determine the exact shrinkage factor, except as required for business reasons. (See NATURAL GAS, DRY and SHRINKAGE FACTOR in the Glossary.)

3. Schedule Preparation Standards

a. *Rounding.* When rounding crude oil and natural gas volumes, round 500 barrels or 500 Mcf and above up; less than 500 barrels or 500 Mcf, round down.

Examples:	Actual volume	Reported volume
Crude Oil...	7,500 barrels	8 MBbls
	7,567 barrels	5 MBbls
Gas	8,500,000 cubic feet	9 MMcf
	10,459,000 cubic feet	10 MMcf

b. *Reproduction.* If mechanically reproduced forms are submitted in lieu of originals, they must have been clearly reproduced, must be of identical format and scale (within 3% overall dimension) to the provided forms and must have been accurately aligned during the reproduction process. Computer printouts on other than an exact duplicate of the provided original forms are not acceptable. Computer tapes are not acceptable at the present time.

Note.—Do not staple or bind your filing.

c. *Character Set.* Responses must be typed or printed in black ink. If you are writing the response by hand, print and use all capital letters. Long hand is unacceptable. The form was designed to be completed using a 10–pitch (Standard Pica) typewriter, although a 12-pitch machine can be used.

SPECIFIC INSTRUCTIONS

I. Part I: Operator Identification and Summary Report

1. Cover Page (Page 1)

Item Instructions:

Note.—Numbers in parentheses immediately following item, subitem or column titles indicates the maximum number of spaces available for the data.

Item A: *Were you an Operator*—Check the appropriate box.

Item B: *I.D. Code (6)*—Copy into this space the six digit number which appears on the mailing label affixed to this forms package. If no code has been assigned please leave this space blank.

Item C: *Identification*—Name, Address, City, State, ZIP Code, Responsible Preparer, Telephone Number. Important: If the company name or address as it appears on the mailing label does not match your response to this item, check the box. Enter the legal name and address of the operator. Please use the standard two-letter State Postal abbreviation. If a foreign address, enter city, local equivalent of State name (e.g., province), and county on the second address line. Enter the full name and business telephone number of the individual who is responsible for the preparation of Form EIA–23.

Item D: *EIN Number (9)*—Enter the operating firm's IRS Employer Identification Number (EIN) if it has one. If the operator does not have an EIN, enter the social security number of the attestor and check the box.

Item E: *Parent Company Identification*—Name, Address, City, State, ZIP Code. Enter the legal name and address of the parent company, if any, which exercises *ultimate* control over the respondent. Example: You are Company A, which takes direction from Company B, which in turn takes direction from Company C. Report Company C as the parent company, rather than Company B.

Item F: *Parent Company EIN Number (9)*—Enter the EIN number of the parent company, if any.

Item G: *Attestation*—Enter the name and title of the individual designated by the company to sign the certification, and the date of signing, in the spaces provided. This report must be shown to or affirmed by a responsible officer (for example: a senior officer or the officer responsible for regulatory filings).

2. Summary Report (Pages 2 and 3)

On the Summary Report (Pages 2 and 3 of Part I), operators must supply proved reserves and production estimates on a Total Operated Basis (see definition in the Glossary) for all properties operated on December 31 of the report year.

Exception: Category III operators are required to report proved reserves data only for those properties for which estimates exist in company records. To the extent that Category III operators do not have proved reserve estimates associated with one or more specific properties, they must separate their production data according to production from properties for which proved reserves have been estimated, and production from properties for which proved reserves have not been estimated.

Section 1.0: Operator and Report Identification Data

The information in Section 1.0 is to be reported on both pages 2 and 3 of Part I.

Item Instructions

Item 1.1: *Operator I.D. Code (6)*—Copy of this space the six digit operator code which you entered on the cover Page. If no code has been assigned to you, leave this space blank.

Item 1.2: *Operator Name (35)*—Enter the first 35 characters of the operator name from the Cover Page. If the name exceeds 35 characters, do not abbreviate, but simply truncate the extra characters on the right.

Item 1.3: *Report Date (2)*—Enter the last two digits of the report year to which data reported on this schedule pertain.

Item 1.4: *Original (1)*—Enter an 'X' if this is the first submission of this schedule for the report year. Otherwise leave blank.

Item 1.5: *Amended (1)*—Enter an 'X' if this schedule corrects a previously submitted schedule. Otherwise leave blank.

Section 2.0: State and Geographic Subdivision Data

Provide data in Columns A–F for each State or geographic subdivision in which you were an operator of oil and/or gas wells as of December 31, 1978. Also include production from wells abandoned during the report year. If all column entries for a particular State or subdivision are zero, leave that line blank.

For fields or reservoirs in which your operated proved reserves overlap two or more States or subdivisions, the data are to be separated and reported in their respective States or subdivisions. Refer to maps in the Glossary for subdivision boundaries in the States of Alaska, California, Louisiana, New Mexico, and Texas.

If you are not certain whether an offshore field or reservoir lies in the Federal or the State domain, assume it lies in the State domain.

Sum all columns and enter the totals on line 64—"U.S.—TOTALS."

Column A: Crude Oil Reserves—End of Report Year (10) and Column D: Dry Natural Gas Reserves—End of Report Year (10). Enter estimates of total proved reserves (tested and untested) for operated properties; the estimates should be based on your most recent evaulations, adjusted for production through December 31 of the report year and for any other relevant factors. The resulting estimates for reserves should be consistent with the definitions of proved reserves in the Glossary. (See Proved Reserves of Crude Oil and Proved Reserves of Natural Gas in the Glossary.) If no proved reserves estimates are available, enter 'NA'. If depleted during the report year, enter zero. Operators need not review well logs to "find" untested proved reserves except as is normally done in the course of their business.

Production data are required of all respondents. If actual data are not available at the time this form is being prepared, the data must be estimated.

A G 3 1 7 9 UMI

Column B: Crude Oil Report Year Production—Reserves Estimated (10) and Column E: Dry Natural Gas Report Year Production—Reserves Estimated (10). Enter the production for the report year from those operated properties for which proved reserves data were reported in Columns A or D. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Column C: Crude Oil Report Year Production—Reserves Not Estimated (10) and Column F: Dry Natural Gas Report Year Production—Reserves Not Estimated (10). Enter the production for the report year from operated properties for which proved reserves estimates are not available in existing company records. (See Production, Crude Oil and Production, Natural Gas in the Glossary.)

Form EIA-23

Glossary

The definitions contained herein have been formulated with reference to the particular purposes to be served by EIA forms. They are not necessarily synonymous with the same or similar terms as used in DOE regulations, and are not be construed as definitions applicable for any purpose other than the collection and reporting of data on EIA forms.

CONTENTS

A. Definitions.
B. Subdivision Maps:
1. Alaska.
2. California.
3. Louisiana.
4. New Mexico.
5. Texas.

A. Definitions

Crude Oil—A mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Crude oil may also include:

1. Small amounts of hydrocarbons that exist in the gaseous phase in natural underground reservoirs but are liquid at atmospheric pressure after being recovered from oil well (casinghead) gas in lease separators, and that subsequently are commingled with the crude stream without being separately measured; and

2. Small amounts of nonhydrocarbons produced with the oil.

Note.—When a State regulatory agency specifies a definition of crude oil which differs from that set forth above, the State definition is to be followed.

Field—An area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same individual geological structrual feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both.

Natural gas—A mixture of hydrocarbon compounds and small quantities of various nonhydrocarbons existing in the gaseous phase or in solution with crude oil in natural underground reservoirs at reservoir conditions. The principal hydrocarbons usually contained in the mixture are methane, ethane, propane, butanes and pentanes. Typical nonhydrocarbon gases which may be present in reservoir natural gas are carbon dioxide, helium, hydrogen sulfide and nitrogen. Under reservoir conditions, natural gas and the liquefiable portions thereof occur either in a single gaseous phase in the reservoir or in solution with crude oil, and are not distinguishable at that time as separate substances.

Natural Gas, Dry—The actual or calculated volumes of natural gas which remain after: (1) The liquefiable hydrocarbon portion has been removed from the gas stream, and (2) any volumes of nonhydrocarbon gases have been removed where they occur in sufficient quantity to render the gas unmarketable.

Operator—The person responsible for the management and day-to-day operation of one or more crude oil and/or natural gas wells as of December 31 of the report year. The operator is generally a working interest owner or a company under contract to the working interest owner(s). Wells included are those which have proved reserves of crude oil and/or natural gas in the reservoirs associated with them, whether or not they are producing. Wells abandoned during the report year are also to be considered "operated" as of December 31. (See Person, Proved Reserves of Crude Oil, Proved Reserves of Natural Gas, Report Year, and Reservoir.)

Person—An individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

Production, Crude Oil—The volumes of crude oil which are extracted from oil reservoirs during the report year. These volumes are determined through measurement of the volumes delivered from lease storage tanks, or at the point of custody transfer, with adjustment for (1) net differences between opening and closing lease inventories, and for (2) basic sediment and water. Oil used on the lease is to be included.

Production, Natural Gas—The volumes of natural gas withdrawn from producing reservoirs during the report year less (1) the volume returned to such reservoirs in cycling, repressuring of oil reservoirs and conservation operations; less (2) shrinkage resulting from the removal of the liquefiable portions of the gas; and less (3) nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable. Volumes of gas withdrawn from gas storage reservoirs and native gas which has been transferred to the storage category are not considered production.

Proved Reserves of Crude Oil—Proved reserves of crude oil as of December 31 of the report year are the estimated quantities of all liquids defined as crude oil, with geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered (1) *proved* and *tested* if economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (2) *proved* and *untested* if economic producibility is supported only by core analyses and/or electric or other log interpretations. The area of an oil reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of crude oil placed in underground storage are not to be considered proved reserves.

Reserves of crude oil which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

Estimates of proved crude oil reserves do not include the following: (1) oil that may become available from known reservoirs but is reported separately as "indicated additional reserves"; (2) natural gas liquids (including condensate); (3) oil, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (4) oil that may occur in undrilled prospects; and (5) oil that may be recovered from oil shales, coal, gilsonite and other such sources. It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved.

Proved Reserves of Natural Gas—Proved reserves of natural gas as of December 31 of the report year are the estimated quantities which analysis of geologic and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions.

Reservoirs are considered (1) *proved* and *tested* if economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (2) *proved* and *untested* if economic producibility is supported only by core analyses and/or electric or other log interpretations. The area of gas reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or gas-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

Volumes of natural gas placed in underground storage are not to be considered proved reserves.

An appropriate reduction in the reservoir gas volume is made to cover the removal of the liquefiable portions of the gas and the exclusion of nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. It is to be assumed that compression will be initiated if and when economically justified.

Report Year—The calendar year to which data reported herein pertain; the current report year is shown on the Cover Page to Part I.

Reservoir—A porous and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) which is confined by impermeable rock or water barriers and is characterized by a single natural pressure system.

Shrinkage Factor—The fraction as of December 31 of the report year (expressed as a decimal) by which the volume of natural gas is reduced by the removal of natural gas liquids and/or nonhydrocarbon gases where they occur in sufficient quantity to render the gas unmarketable.

Example: The removal of 112 MMcf of natural gas liquids vapor and/or nonhydrocarbon gases from 1000 MMcf of natural gas represents a shrinkage factor of 0.112.

Subdivision—A prescribed portion of a given State or other geographical region defined herein for statistical reporting purposes. (See Subdivision Maps below.)

Total Operated Basis—The total reserves or production of oil or gas associated with the wells operated by an individual operator. This is also commonly known as the "gross operated" or "8/8th" basis.

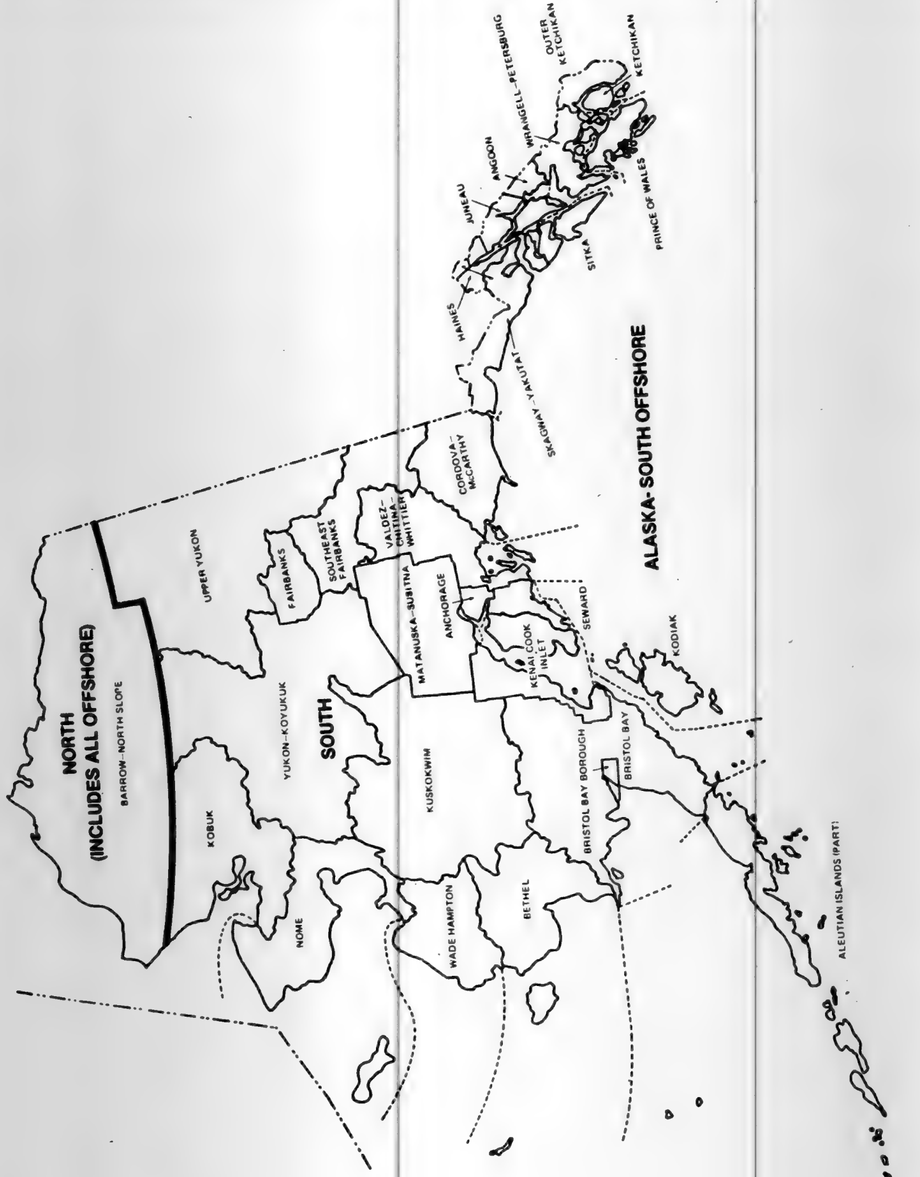
B. Subdivision Maps (Used in: Summary Report, Section 2.0)

The following maps indicate the boundaries of the geographic subdivisions:

- Subdivisions of Alaska, p. 16.
- Subdivisions of California, p. 17.
- Subdivisions of Louisiana, p. 18.
- Subdivisions of New Mexico, p. 19.
- Subdivisions of Texas, p. 20.

BILLING CODE 6450-01-M

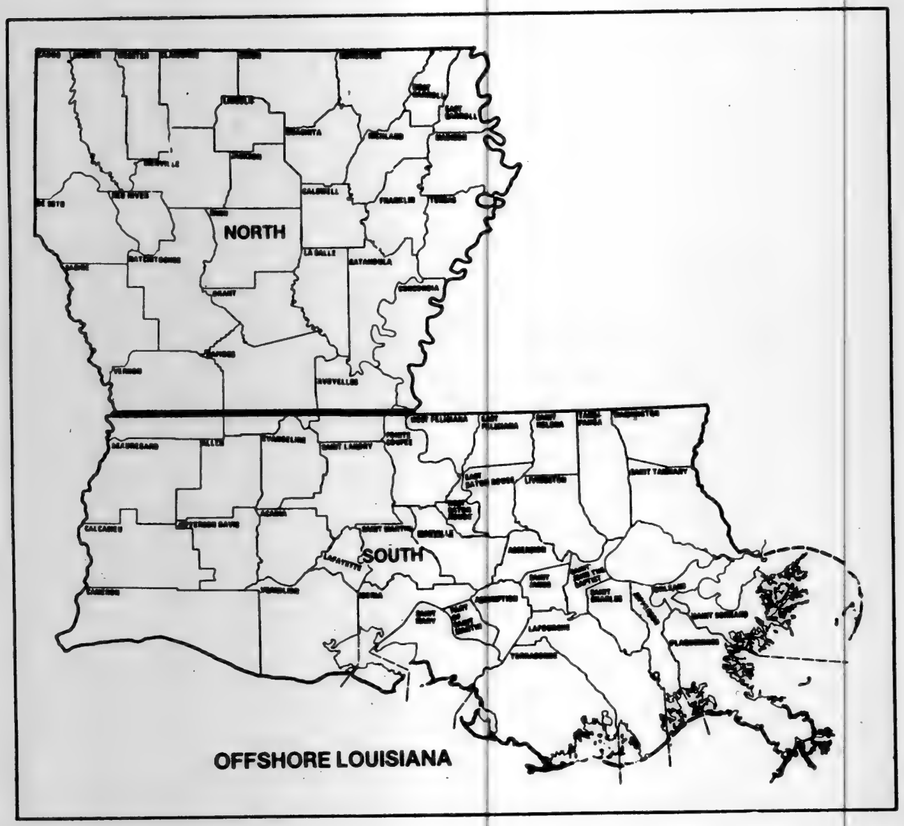
SUBDIVISIONS OF ALASKA



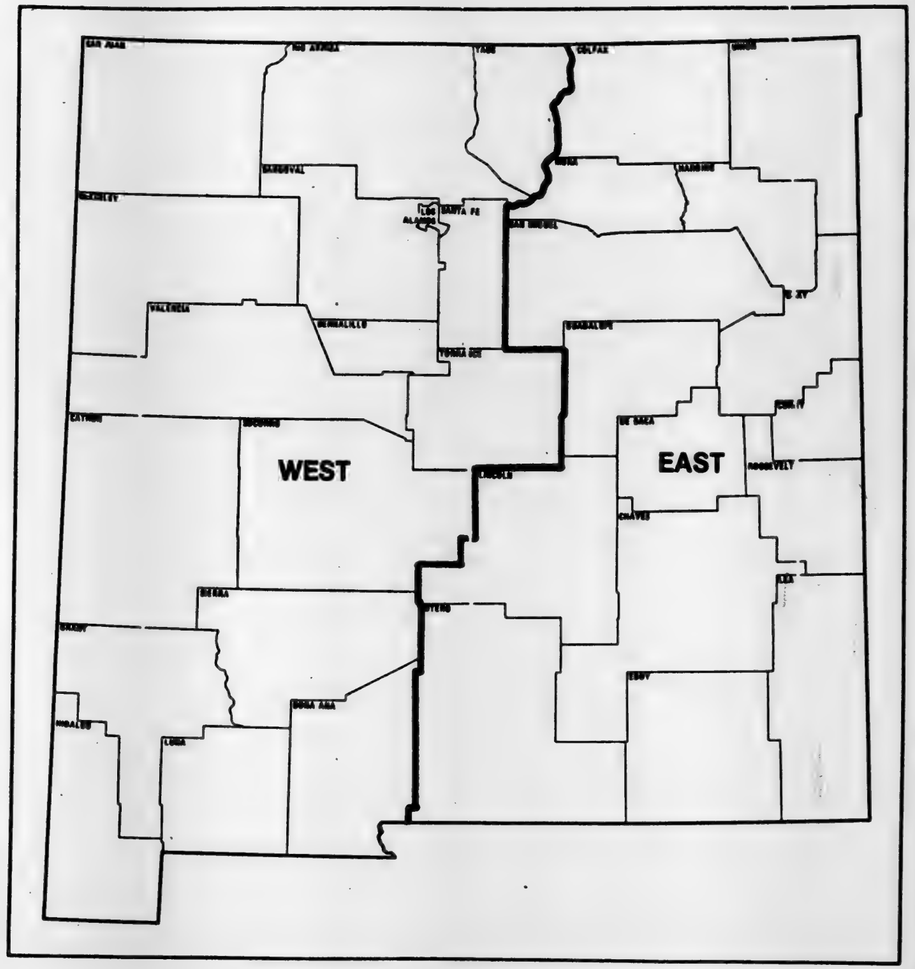
SUBDIVISIONS OF CALIFORNIA



SUBDIVISIONS OF LOUISIANA

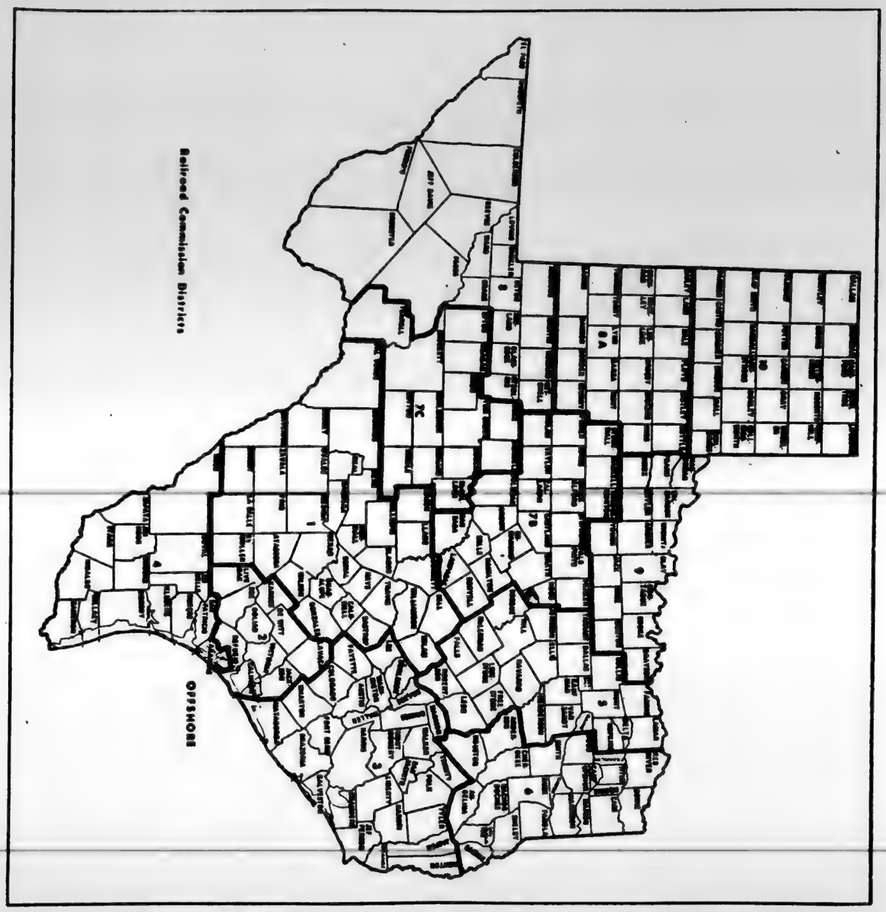


SUBDIVISIONS OF NEW MEXICO



V 44/171 AG 31 79 UMI

SUBDIVISIONS OF TEXAS



EIA-23 LIMITED OFFICIAL USE

U.S. DEPARTMENT OF ENERGY
Box OK
Norman, Oklahoma 73070

Form Approved
OMB No. 38-R0371
Expires 12/79

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES
REPORT YEAR 1978

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law.

PART I, COVER PAGE

A. WERE YOU AN OPERATOR *(see definition of* **OPERATOR,** *p. 2 footnote)* of one or more oil or gas wells on December 31 of the report year?

☐ YES *or* ☐ NO

If *no*, please fill out only items B, C and G below and return this page to the address given on page 2 (or 4) of this forms package.

If *yes*, fill out all of Part I *(after reading the instructions beginning on page 1)* and return it to the address given on page 2 (or 4) of this forms package.

B. I.D. CODE *(copy from mailing label)* ☐☐☐☐☐☐☐

C. IDENTIFICATION ☐ Information changed from label

a. Name _____
b. Address _____
_____
c. City _____ d. State _____ e. Zip Code _____
f. Responsible Preparer _____
g. Telephone Number (___)___-____

D. EIN NUMBER _____ ☐ Check if Social Security Number

E. PARENT COMPANY IDENTIFICATION

a. Name _____
b. Address _____
_____
c. City _____ d. State _____ e. Zip Code _____

F. PARENT COMPANY EIN NUMBER _____

G. ATTESTATION *(This report must be attested to by a responsible official of the company.)*

I hereby swear or affirm that I have read the report and am familiar with its contents, and that to the best of my knowledge, information, and belief the information provided and appended is true and complete.

Name: _____ Signature: _____

Title: _____ Date: _____

Title 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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EIA 23 LIMITED OFFICIAL USE

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

PART I, SUMMARY REPORT

PAGE 1 OF 2

Form Approved
OMB No. 38-R0371
Expires 12/79

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS [MBbls]; NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET [MMcf] AT 14.73 PSIA AND 60°F.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

11 OPERATOR I.D. CODE	12 OPERATOR NAME	13 REPORT DATE	14 ORIGINAL	15 AMENDED
		1,2,3,1,		

2.0 STATE AND GEOGRAPHIC SUBDIVISION DATA

	STATE OR GEOGRAPHIC SUBDIVISION	CRUDE OIL			DRY NATURAL GAS		
		RESERVES END OF REPORT YEAR (MBbls) (A)	REPORT YEAR PRODUCTION RESERVES ESTIMATED (MBbls) (B)	REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MBbls) (C)	RESERVES END OF REPORT YEAR (MMcf) (D)	REPORT YEAR PRODUCTION RESERVES ESTIMATED (MMcf) (E)	REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MMcf) (F)
01	ALABAMA–ONSHORE						
02	ALABAMA–STATE OFFSHORE						
03	ALASKA–NORTH ONSHORE AND OFFSHORE						
04	ALASKA–SOUTH ONSHORE						
05	ALASKA–SOUTH STATE OFFSHORE						
06	ALASKA–SOUTH FEDERAL OFFSHORE						
07	ARIZONA						
08	ARKANSAS						
09	CALIFORNIA–COASTAL REGION ONSHORE						
10	CALIFORNIA–LOS ANGELES BASIN ONSHORE						
11	CALIFORNIA–SAN JOAQUIN BASIN ONSHORE						
12	CALIFORNIA–STATE OFFSHORE						
13	CALIFORNIA–FEDERAL OFFSHORE						
14	COLORADO						
15	FLORIDA–ONSHORE						
16	FLORIDA–STATE OFFSHORE						
17	ILLINOIS						
18	INDIANA						
19	KANSAS						
20	KENTUCKY						
21	LOUISIANA–NORTH						
22	LOUISIANA–SOUTH ONSHORE						
23	LOUISIANA–SOUTH STATE OFFSHORE						
24	LOUISIANA–SOUTH FEDERAL OFFSHORE						
25	MARYLAND						
26	MICHIGAN						
27	MISSISSIPPI–ONSHORE						
28	MISSISSIPPI–STATE OFFSHORE						
29	MISSOURI						
30	MONTANA						
31	NEBRASKA						
32	NEVADA						
33	NEW MEXICO–EAST						
34	NEW MEXICO–WEST						

EIA 23 LIMITED OFFICIAL USE

ANNUAL SURVEY OF DOMESTIC OIL AND GAS RESERVES

PART I, SUMMARY REPORT

PAGE 2 OF 2

Form Approved
OMB No. 38-R0371
Expires 12/79

(REPORT ALL VOLUMES OF CRUDE OIL IN THOUSANDS OF BARRELS [MBbls]; NATURAL GAS IS TO BE REPORTED IN MILLIONS OF CUBIC FEET [MMcf] AT 14.73 PSIA AND 60°F.)

1.0 OPERATOR AND REPORT IDENTIFICATION DATA

11 OPERATOR I.D. CODE	12 OPERATOR NAME	13 REPORT DATE	14 ORIGINAL	15 AMENDED
		1,2,3,1,		

2.0 STATE AND GEOGRAPHIC SUBDIVISION DATA

	STATE OR GEOGRAPHIC SUBDIVISION	CRUDE OIL			DRY NATURAL GAS		
		RESERVES END OF REPORT YEAR (MBbls) (A)	REPORT YEAR PRODUCTION RESERVES ESTIMATED (MBbls) (B)	REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MBbls) (C)	RESERVES END (MMcf) (D)	REPORT YEAR PRODUCTION RESERVES ESTIMATED (MMcf) (E)	REPORT YEAR PRODUCTION RESERVES NOT ESTIMATED (MMcf) (F)
35	NEW YORK						
36	NORTH DAKOTA						
37	OHIO						
38	OKLAHOMA						
39	PENNSYLVANIA						
40	SOUTH DAKOTA						
41	TENNESSEE						
42	TEXAS–RRC DISTRICT 1						
43	TEXAS–RRC DISTRICT 2 ONSHORE						
44	TEXAS–RRC DISTRICT 3 ONSHORE						
45	TEXAS–RRC DISTRICT 4 ONSHORE						
46	TEXAS–RRC DISTRICT 5						
47	TEXAS–RRC DISTRICT 6						
48	TEXAS–RRC DISTRICT 7B						
49	TEXAS–RRC DISTRICT 7C						
50	TEXAS–RRC DISTRICT 8						
51	TEXAS–RRC DISTRICT 8A						
52	TEXAS–RRC DISTRICT 9						
53	TEXAS–RRC DISTRICT 10						
54	TEXAS–STATE OFFSHORE						
55	TEXAS–FEDERAL OFFSHORE						
56	UTAH						
57	VIRGINIA						
58	WEST VIRGINIA						
59	WYOMING						
60	ATLANTIC COAST–FEDERAL OFFSHORE						
61	GULF OF MEXICO–OTHER FEDERAL OFFSHORE *						
62	PACIFIC COAST–OTHER FEDERAL OFFSHORE * *						
63	OTHER STATE (SPECIFY):						
64	U.S. TOTALS						

*FEDERAL OFFSHORE AREAS ADJACENT TO MISSISSIPPI, ALABAMA, AND FLORIDA ONLY

**FEDERAL OFFSHORE AREAS ADJACENT TO OREGON AND WASHINGTON ONLY

[FR Doc. 79-28679 Filed 8-27-79; 8:06 am]
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federal register

Friday
August 31, 1979

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 224–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Maryland.....MD79–3026
New York.....NY79–3030

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:
AL79–1043..... Mar. 9, 1979
AL79–1066..... Apr. 13, 1979
Arizona—AZ79–5100..... Feb. 9, 1979
California:
CA78–5122..... Aug. 11, 1978
CA78–5123..... Aug. 18, 1978
Florida—FL79–1019..... Feb. 2, 1979
Iowa—IA78–4109..... Nov. 24, 1978
Maryland—MD78–3020..... Apr. 14, 1978
Nevada—NV79–5107..... Mar. 9, 1979
Oregon—OR79–5127..... July 13, 1979
Pennsylvania—PA79–3005..... Mar. 16, 1979

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia—GA79–1013(GA79–1122)..... Jan. 5, 1979
Montana—MT79–5101(MT79–5133)..... Feb. 9, 1979
Nevada—NV79–5114(NV79–5131)..... June 29, 1979

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 24th day of August 1979.

Sterling B. Williams,

Acting Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

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DECISION NO. MD79-3026

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS	12.60	.65			.01
MARBLE MASONS	10.88	.70	.50		.07
MARBLE, TILE & TERRAZZO WORKERS FINISHERS	6.675	.40	.20		
PAINTERS: (ELKTON) Brush	8.97	.95	.55		.01
PAINTERS: (REMAINDER OF COUNTY) Brush & Roller	9.35	1.00	.55		.07
Spackling, Taping & Wall-covering	9.50	1.00	.55		.07
Steel painting, all epoxies & sand and water blasting	9.85	1.00	.55		.07
Spray painting, except steel	9.60	1.00	.55		.07
PLUMBERS	11.19	.87	.99		.16
ROOFERS: Roofers, damp & Waterproof Workers	9.00	.60	.45		
Slate, Tile, Asphalt & Asbestos Shingle	9.45	.60	.45		
Woodblock layer & Precast Slab	10.00	.60	.45		.08
SPRINKLER FITTERS	11.76	.75	1.05		.14
STEAMFITTERS	10.98	.77	.80		.07
STONEMASONS	10.88	.70	.50		.07
SHEET METAL WORKERS	10.12	.75	.70		.04
TILE & TERRAZZO WORKERS	9.41	.70	.50		
TRUCK DRIVERS: Goose neck & drop frame trailers	9.40	1.05	.75	c+d	
All "A" frames, winch truck, fork lifts & trailers	9.20	1.05	.75	c+d	
Flat beds & Pick ups	8.20	1.05	.75	c+d	
Dump trucks	7.94	1.05	.75	c+d	
TRUCK DRIVERS (Excavation): Dump trucks	8.64	1.05	.75	e+f	
Euclid wagon & dumpster	8.95	1.05	.75	e+f	
Drop frame, goose neck & trailer	8.84	1.05	.75	e+f	
Pick up	8.43	1.05	.75	e+f	

NEW DECISION

STATE: MARYLAND
DECISION NO.: MD79-3026
DESCRIPTION OF WORK: Building Projects (excludes single family homes and apartments up to and including 4 stories) and Heavy Projects Construction

COUNTY: CECIL
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.95	.85	.95		.02
BOILERMAKERS	12.775	1.175	1.00		.04
BRICKLAYERS	10.88	.70	.50		.07
CARPENTERS & SOFT FLOOR LAYERS	9.80	.75	.69		.07
CEMENT MASONS	10.00	.60	.55		.04
ELECTRICIANS	11.90	9%	9%		
ELEVATOR CONSTRUCTORS	10.71	.745	.35	4%+4%	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.50	.745	.35	4%+4%	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	5.355				
GLAZIERS (ELKTON)	10.53	.50	.30		.01
GLAZIERS (REMAINDER OF COUNTY)	9.97	.80	1.53		.06
IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING	11.95	.84	1.36		.05
LABORERS, BUILDING: Laborers	7.85	.35	.55		.075
Hod Carriers, Gunite Nozzle & Gun Operators	8.25	.35	.55		.075
Plasterers' Laborers	8.00	.35	.55		.075
Power Tool Operators	7.95	.35	.55		.075
Pipelayers (Concrete & Clay)	8.05	.35	.55		.075
Wagon Drill Operators Jackhammer Operators - 80 lbs. and over, & Barco Tampers	8.10	.35	.55		.075
Burners (demolition)	8.35	.35	.55		.075
Mason Tenders	8.20	.30	.50		.075
Scaffold Builders	8.40	.30	.50		.075
LABORERS, HEAVY: Laborers	6.60	.30	.50		.075
Power Tool Operators	6.70	.30	.50		.075
Pipelayers, Wagon Drill Operators, Air Track Drillers, Burners (demolition)	7.10	.30	.50	9	.075
PAINTERS	11.34		.35		.01

DECISION NO. MD79-3026

Welders - receive rates prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 weeks paid vacation; 10 years of service - 3 weeks paid vacation, provided the employee has worked 125 days in the previous contract year.
d. Holidays: A through F plus the employee's birthday, the day after Thanksgiving Day and Christmas Eve (provided the employee has worked one day and has been available for work during holiday week).
e. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 week paid vacation; 10 years of service - 3 weeks paid vacation, provided employee has worked 100 days in the contract year.
f. Holidays A through F plus the employee' birthday, Good Friday and Christmas Eve (providing the employee has worked one day and has been available for work during the holiday week).
g. Employee working Christmas Eve shall work 4 hours and receive 8 hours pay.

DECISION NO. MD79-3026

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING AND HEAVY CONSTRUCTION					
GROUP 1	11.09	.95	1.00	i	.12
GROUP 2	10.87	.95	1.00	i	.12
GROUP 3	10.32	.95	1.00	i	.12
GROUP 4	9.78	.95	1.00	i	.12
GROUP 5	8.71	.95	1.00	i	.12
GROUP 6:					
A	11.49	.95	1.00	i	.12
B	11.69	.95	1.00	i	.12
C	11.89	.95	1.00	i	.12
D	12.09	.95	1.00	i	.12
E	12.34	.95	1.00	i	.12

FOOTNOTE:
i. Paid Holidays - New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-THanksgiving Day; F-Christmas Day.

GROUP 1: Operators handling or setting steel, stone, prestressed concrete or machinery. Tower Cranes.

GROUP 2: Backfiller, backhoe, batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1¼ yds.), concrete mixing plants, concrete paver, derrick boat, double concrete pump, dragline, Eimco type overhead loader, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, hoist (2 active drums or more), multiple conveyor, pile driving machine, power shovel, repair mechanic, shield, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whitley rig.

GROUP 3: Asphalt spreader, bulldozer, bull float, crane type backhoe (with a front end bucket 1¼ yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), Hi-lift fork lift, longitudinal float, narrow gauge locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used)

DECISION NO. MD79-3026

POWER EQUIPMENT OPERATORS
(BUILDING AND HEAVY CONSTRUCTION)

GROUP 4: Caterpillar type tractor, compressors, elevator operator, firemen, fuel truck, grease truck, grout pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, well point system.

GROUP 5: Deck hands, oilers (all types)

GROUP 6: Long boom cranes, including jibs and on piledriver machines with leads: when working with piledrivermen or ironworker

GROUP 6A: 130' to 169'

GROUP 6B: 170' to 209'

GROUP 6C: 210' to 249'

GROUP 6D: 250' to 289'

GROUP 6E: 300' and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

NEW DECISION

STATE: NEW YORK COUNTY: STEUBEN
DECISION NO.: NY79-3030 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories) Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.22	1.40	.80		.04
BOILERMAKERS	12.80	1.10	1.55		.03
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, TILE AND TERRAZZO WORKERS	10.65		.50		
CARPENTERS:					
Village of Hammondsport, Village of Pulteney, Pleasant Valley to Rheims, Village of Plattsburg, Tyrone to Watkins Glen:					
Carpenters	10.36	.95	1.45		.005
Millwrights and Piledrivers	10.46	.95	1.45		.005
Carpenters and Piledrivers, Heavy and Highway	8.92	.80	1.35		.025
Twps. of Troupsburg, Hartsville, Cameron, Fremont, Wayland, Jasper, Bath, Canisteo, Hornellsville, City of Hornell, Avoca, Cohocton, Dansville, Wheeler, Howard, Greenwood and West Union:					
Carpenters and Soft Floor Layers	9.87	.60	1.13	a	.02
Millwrights and Piledrivers	10.12	.60	1.13	a	.02
Carpenters, Heavy and Highway	9.34	.80	1.35	b	.025
Remainder of County:					
Carpenters and Soft Floor Layers	9.51	.40	1.00		.02
Millwrights and Piledrivers	9.76	.40	1.00		.02
Carpenters and Piledrivers, Heavy and Highway	9.44	.50	1.13	b	.025

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS, HEAVY AND HIGHWAY	10.50		.50		
ELECTRICIANS	12.70	1.00	3%+.75	c	.05
GLAZIERS	7.18	.35	.30		.01
IRONWORKERS:					
Twps. of Atlantic and South Dansville:					
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors and Stone					
Derrickmen	11.95	1.00	1.05		.10
Sheeters	12.20	1.00	1.05		.10
Sheeters, Bucker-up	12.075	1.00	1.05		.10
IRONWORKERS:					
Remainder of County:					
Structural, Ornamental, Reinforcing, Riggers, Rodmen, Machinery Movers, Fence Erectors and Stone					
Derrickmen	10.65	.85	1.05		.05
Sheeters	10.90	.85	1.05		.05
Sheeters, Bucker-up	10.77	.85	1.05		.05
LABORERS, BUILDING:					
Common Laborers	7.97	.45	.30		
LATHERS	10.28		.20		
LEADBURNERS	10.75	.40	.25	d	.01
PAINTERS:					
Twps. of Cameron, Thurston, Bradford, Campbell, Erwin, Lindley, Hornby, Corning City, Caton, Addison and Rathbone:					
Brush	8.01	.35	.30		
Swing Scaffold and Chair, Power Grinder with Respirator	8.51	.35	.30		
Sandblasting-Steamcleaning, Acid or High Pressure	8.71	.35	.30		
Spray	9.86	.35	.30		
Structural Steel	9.01	.35	.30		

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Toothpick Staging over 25" and Structural					
Scaffold in excess of 39"	8.21	.35	.30		
Spray Epoxy and Bridges	9.26	.35	.30		
Paper and Vinyl Hangers	8.36	.35	.30		
Epoxy-Brush or Roll	8.56	.35	.30		
Steeple Jack over 100'	9.01	.35	.30		
PAINTERS:					
Remainder of County:					
Brush	11.605	1.275	.40		.11
Swing Stage, Sandblasting, Spray, Scaffold Work, Bosun Chair and Epoxy or Similar	11.855	1.275	.40		.11
35' from road level	13.27	1.275	.40		.11
PLUMBERS AND STEAMFITTERS: Twps. of Avoca, Canisteo, Cohocton, Dansville, Fremont, West Union, Greenwood, Hartsville, Hornellville, Howard, Wheeler, Jasper, Prattsburg, Pulteney, Troupsburg, Wayland, Woodhull, Cameron, Rathbone and Tuscarora	11.99	2.365	.82	.80+e	.16
Remainder of County	10.40	.60	.85		.10
ROOFERS	10.19	.84	1.00		
SHEET METAL WORKERS	9.89	.60	3%+.80		.07
SPRINKLER FITTERS	13.29	.75	1.05		.08
WELDERS- Receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. NY79-3030

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Two hours off with pay on Election Day.

b. Paid Holidays; C and D

c. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve.

d. Paid Holidays: A through F, Washington's Birthday, Good Friday, Christmas Eve providing the employee has worked the 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceeding and following the holiday.

e. Paid Holidays: A, C, D, E and F.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)."

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Electricial Overhead and Undeground Distribution Work:					
Lineman and Technicians	10.50	1.00	3%+.75	a	3%
Cable Splicers	13.70	1.00	3%+.75	a	3%
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	3%
Groundman Mobile Equipment Operator, Mechanic 1st Class, groundman Truck Driver (tractor trailer units)	8.40	1.00	3%+.75	a	3%
Groundman Truck Driver, Driver-Mechanic, Groundman	7.825	1.00	3%+.75	a	3%
All Overhead Transmission Line Work and Lighting For Athletic Fields:					
Lineman and Technicians	11.85	1.00	3%+.75	a	3%
Groundman Digging Machine Operator, Groundman Dynamiteman	10.665	1.00	3%+.75	a	3%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Drive: (tractor trailer unit)	9.48	1.00	3%+.75	a	3%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	8.8875	1.00	3%+.75	a	3%
All Pipe Type Cable Installation:					
Lineman and Groundman Equipment Operator	12.45	1.00	3%+.75	a	3%
Cable Splicer	13.695	1.00	3%+.75	a	3%
Groundman Truck Driver Groundman (experienced)	9.3375	1.00	3%+.75	a	3%
Sub-station, Switching Structures (when not part of the line), Traffic					

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DECISION No. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D): Signals, Street Lighting and Electricial, Telephone or CATV Commercial Work:					
Linemen and Technicians	12.45	1.00	3%+.75	a	3½
Cable Splicers	13.695	1.00	3%+.75	a	3½
Groundman Digging Machine Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.96	1.00	3%+.75	a	3½
Groundman Truck Driver, Driver-Mechanic, Groundman	9.3375	1.00	3%+.75	a	3½
Groundman dynamiteman, groundman digging machine operator	11.205	1.00	3%+.75	a	3½
Telephone and other Communication Systems, both overhead and underground:					
Linemen and Installer Repairmen	8.34	1.00	3%+.75	a	3½
Splicers	8.89	1.00	3%+.75	a	3½
Groundman Digging Machine Operator	7.73	1.00	3%+.75	a	3½
Groundman	5.72	1.00	3%+.75	a	3½
Groundman Truck Driver	6.82	1.00	3%+.75	a	3½
Groundman Dynamiteman	6.60	1.00	3%+.75	a	3½

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES

A. Paid Holidays: A through F, Washington Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	9.10	.55	.50	a	
CLASS B	9.30	.55	.50	a	
CLASS C	9.50	.55	.50	a	
CLASS D	9.70	.55	.50	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or crew op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION					
GROUP I:					
A	12.09	.80	.50	a	.10
B	12.37	.80	.50	a	.10
C	12.64	.80	.50	a	.10
D	12.92	.80	.50	a	.10
E	13.47	.80	.50	a	.10
F	14.03	.80	.50	a	.10
G	14.57	.80	.50	a	.10
H	15.13	.80	.50	a	.10
GROUP II	12.09	.80	.50	a	.10
GROUP III	11.90	.80	.50	a	.10
GROUP IV	10.76	.80	.50	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F; providing employee works the working day immediately preceding the holiday, or on the scheduled work day immediately following the holiday.

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DECISION NO. NY79-3030

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I - Cranes:
A - 121 ft. & under
B - Between 121 - 151 ft.
C - Between 151 - 201 ft.
D - Between 201 - 251 ft.
E - Between 251 - 301 ft.
F - Between 301 - 351 ft.
G - Between 351 - 401 ft.
H - Between 401 - 451 ft.

GROUP II - Air tugger, backhoe, clamshell, dragline, shovel and similar machines over three eighths (3/8) cu. yd. capacity (factory rating), big generator plant, bridge crane (all types), cableway, caisson auger & similar type machine, climbing and/or tower crane (all kinds and all types), derrick, dredge, forklift (with factory rating of fifteen (15) ft. or more of lift) hoist (on steel erection), mucking machine, Ross Carrier (and similar types), three drum hoist (when all drums are in use)

GROUP III - "A" Frame truck, back filling machine, Barber Green and similar type loader, belt crete and similar type machine, bituminous spreading machine, bulldozer, carry-all type scraper, compressors; four (4) not to exceed 2000 c.f.m. combined capacity, three (3) or less with more than 1200 c.f.m., but not to exceed 200 c.f.m., concrete mixer, concrete pump, core drill, crane-hoe-shovel (3/8 yd. capacity or less), (factory rating), dinky locomotive (all types), elevating type grader, elevator, fine grade machine (all kinds), front end loader, forklift (with factory rating of less than (15) fifteen ft. of lift.), high pressure boiler (over 15 pounds pressure), hoist (1 or 2 drums), Motor grader, maintenance engineer, post hole digger, sheepsfoot roller, side boom, stone crusher, submersible Electric Pump, when used in lieu of well point system, tandem roller, Tournedozer and similar types, tournapull, tower mobile and similar kinds trenching machine, vibratory type roller and similar equipment of all kinds, welder, well drill, well point system

GROUP IV - Any combination (not to exceed three (3) pieces of equipment) pumps, welding machines or mechanical conveyors, (over 12 ft. in length), belt crete generator, compressors - 3 or less not to exceed 1200 c.f.m. combined capacity, Fireman, longitudinal float, mechanical heater, roller (fill and grade), rubber tired tractor, oilers

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION					
GROUP I	11.58	1.05	.85	a	.15
GROUP II	11.19	1.05	.85	a	.15
GROUP III	10.11	1.05	.85	a	.15
GROUP IV	9.15	1.05	.85	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel

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DECISION NO. NY79-3030

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), Hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point systems, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler parapet - (concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: TOWNSHIP OF WAYLAND					
CLASS 1	9.24	.85	.80	a	
CLASS 2	9.29	.85	.80	a	
CLASS 3	9.34	.85	.80	a	
CLASS 4	9.49	.85	.80	a	
CLASS 5	9.64	.85	.80	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:
CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpster, greasers, truck tiremen.

CLASS 2 - Tandems, batch trucks and mechanics.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loader, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

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DECISION NO. NY79-3030	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVER: REMAINDER OF COUNTY					
CLASS 1	9.13	1.01	.75	a	
CLASS 2	9.18	1.01	.75	a	
CLASS 3	9.23	1.01	.75	a	
CLASS 4	9.38	1.01	.75	a	
CLASS 5	9.53	1.01	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:
CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and and receivers, greasers, truck tiremen, mechanic helpers and part chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. AL79-1063 Mod. # 1 (44 FR-13213 - March 9, 1979) Jefferson, Shelby St. Clair and Walker Counties, Alabama					
Change:					
Electricians:					
Electricians	12.05	.55	3%+.40		1%
Cable splicers	12.30	.55	3%+.40		1%
Elevator Constructors	10.56	.895	.69	a+b	.03
Terrazzo workers, Tile setters	9.95		.50		
Decision No. AL79-1066 Mod. # 2 (44 FR 22307-April 13, 1979 Madison County, Alabama)					
ADD:					
Roofers	8.55				
DECISION #AZ79-5100 - Mod. #2 (44 FR 8482 - February 9, 1979) Statewide, Arizona					
Change:					
Electricians:					
Cochise, Graham, Greenlee, Pima, Pinal County (south part), Santa Cruz, Yuma Cos.:					
Zone A:					
Electricians	$14.94	.60	11%		1/2%
Cable Splicers	15.19	.60	11%		1/2%
Zone B:					
Electricians	15.68	.60	11%		1/2%
Cable Splicers	15.93	.60	11%		1/2%
Zone C:					
Electricians	16.31	.60	11%		1/2%
Cable Splicers	16.56	.60	11%		1/2%

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CA78-5122-Mod. #6 (43 FR 35835 - August 11, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Sheet Metal Workers:					
Imperial County	$14.96	$1.04	$2.24		.01
Los Angeles County (Remaining portion)	13.55	1.14	2.35		.10
Orange County	14.16	1.14	2.64		.09
Riverside and San Bernardino Counties	13.90	1.14	1.91		.16
DECISION #CA78-5123-Mod. #7 (43 FR 36819 - August 18, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California					
Change:					
Sheet Metal Workers:					
Imperial County	14.96	1.04	2.24		.01
Los Angeles County (Remaining portion)	13.55	1.14	2.35		.10
Orange County	14.16	1.14	2.64		.09
Riverside and San Bernardino Counties	13.90	1.14	1.91		.16

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # FL79-1019-Mod.#5 (44 FR 6852-February 2, 1979) Duval County, Florida					
Change:					
Mod. # 5 published in Federal Register of 8-17-79 to read: Mod. # 4					
Decision NO. IA78-4109-Mod. #5 (43 FR 55174-November 24,1978) Building Scott County, Iowa					
CHANGE:					
Bricklayers and Stonemasons	$11.90	.65	1.30		.04
Carpenters	11.86	.65	1.00		.06
DECISION NO. MD78-3020 - Mod. #10 (42 FR 16045 - April 14, 1978) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, & Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland					
CHANGE:					
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories) and Heavy Construction Projects (does not include sewer and water lines)					

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV79-5107-Mod. #3 (44 FR 13225 - March 9, 1979) Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada					
Change:					
Carpenters:					
Carpenters	$14.06	.85	$1.10		.06
Floor Layers	14.085	.85	1.10		.06
Millwrights	14.86	.85	1.10		.06
Electricians:					
Electricians; Equipment Operators; Linemen	14.87	.98	3%+1.80		.05
Cable Splicers	15.20	.98	3%+1.80		.05
Groundman	12.03	.98	3%+1.80		.05
Ironworkers:					
Ornamental; Reinforcing; Structural	12.51	1.39	2.82	1.90	.07
Painters:					
Buffing, Steel; Sandblasters, Steel	12.31	.80	.70	1.50	.06
Plumbers; Steamfitters	13.75	1.25	2.50	2.00	.08
Roofers	15.70	.80			
Sheet Metal Workers	15.25	1.14	1.62		.10
Truck Drivers:					
Group 1	11.84	.62	1.19		
Group 2	11.95	.62	1.19		
Group 3	12.00	.62	1.19		
Group 4	12.16	.62	1.19		
Group 5	12.34	.62	1.19		

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MODIFICATIONS P. 5

DECISION #OR79-5127-Mod. #1 (44 FR 41052 - July 13, 1979) Statewide, Oregon	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$12.76	$1.175	$1.00	$1.00	.03
Dredging:					
Leverman:					
Dipper	12.78	1.00	1.47	.50	.05
Hydraulic	13.41	1.00	1.47	.50	.05
Assistant Engineer (including Watch Engineer Welder, Mechanic, Machinist); Mate	12.42	1.00	1.47	.50	.05
Tenderman (Boatman, attending dredge plant); Firemen	12.18	1.00	1.47	.50	.05
Assistant Mate (deckhand); Oiler	11.92	1.00	1.47	.50	.05
Timber Sales Roads:					
Operating Engineer	9.95	1.00	1.47		
Operating Engineer Assistant (Oiler)	8.95	1.00	1.47		
Teamster	9.10	.78	.77		
Laborer	7.41	1.07	1.23		
Power Saw, Driller, Powderman	8.08	1.07	1.23		
Mason Tenders: (including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	10.71	1.07	1.23		.10
Sheet Metal Workers: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Wheeler and Yamhill Counties	13.59	1.07	1.23	1.00	.08
Sprinkler Fitters	13.30	.75	1.05		.08

MODIFICATIONS P. 6

DECISION NO. PA79-3005 - MOD. #4 (44 FR 16320 - March 16, 1979 Lycoming County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CEMENT MASONS	10.60				
ELECTRICIANS	9.98	.60	3%+.85	.75	.02
SPRINKLER FITTERS	13.30	.75	1.05		.08

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA79-1122 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA79-1013, dated January 5, 1979, in 44 FR 1632.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (does not include Sewer & Water Lines Construction Projects).

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICK MASONS	$ 9.85	.55	.50		.05
CARPENTERS	10.55	.50	.45		.02
CEMENT MASONS/FINISHERS	9.20	.40	.55		
ELECTRICIANS	11.15	9%	11%		½ of 1%
IRONWORKERS	10.55	.70	.67		.07
LABORERS:					
Unskilled	7.05	.30	.33		.10
Air tool operators (air, electric or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipelayers	7.27	.30	.33		.10
Tunnell laborers	7.80	.30	.33		.10
Powdermen	8.12	.30	.33		.10
Miners	9.05	.30	.33		.10
PAINTERS:					
Brush & Roller	10.35	.55	.75		.05
Spray	11.35	.55	.75		.05
PILEDRIVERMEN	10.70	.50	.45		.02
PLUMBERS & PIPEFITTERS	11.90	.90	.70		.11
SHEET METAL WORKERS	11.10	.70	.91		.07
TRUCK DRIVERS	6.13				
WATERPROOFERS (ROOFERS)	7.45	.30	.20		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Backhoe, Crane, Mechanic, & Mucker	10.00	.55	.75		.07
Bulldozer, Front end loader, & Motor grader	9.65	.55	.75		.07
Oiler/Greaser, & Pump	7.02	.55	.75		.07

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT79-5133 DATE: Date of Publication
Supersedes Decision No. MT79-5101 dated February 9, 1979, in, 44 FR 8505
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$10.53	.80	.75		.02
Piledrivermen; Sawfilers; Carpenters on charred and creosote wood	10.78	.80	.75		.02
Millwrights	11.53	.80	.75		.02
CEMENT MASONS:					
Cement Masons	10.13	.85	.40		
Grinder, Bush Hammer and Clipping Fan preparing finished surface; Epoxy	10.28	.85	.40		
ELECTRICIANS:					
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties	12.55	.65	3%+.50		1/2%
Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure, Wibaux, Carter, Dawson, Prairie and Yellowstone Counties Electricians	12.77	.50	3%+.75		1/2%
Blaine, Hill, Liberty and Phillips Counties					
Contracts over $150,000	12.90	.65	3%+.75		1/2%
Contracts under $150,000	12.10		3%+.75		1/2%
Broadwater, Lewis and Clark and Meagher Counties	12.15	.60	3%+.50		1/2%
Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties Electricians	12.90	.65	3%+.75		1/2%
Cable Splicers	13.15	.65	3%+.75		1/2%
Custer and Garfield Cos.	9.40		3%		1/2%

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DECISION NO. MT79-5133 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Daniels, McCone, Richland, Roosevelt, Sheridan and Valley Counties					
Electricians	$10.15	.60	3%+.75		1/2%
Cable Splicers	10.40	.60	3%+.75		1/2%
Fergus, Petroleum and Wheatland Counties					
Contracts over $30,000	10.85	.45	3%+.50		1/2%
Contracts under $30,000	9.25	.45	3%+.50		1/2%
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties					
Electricians	12.25	.65	3%+.50		1/2%
Cable Splicers	12.85	.65	3%+.50		1/2%
Gallatin County	11.95	.50	3%+.25		1/2%
Park and Sweetgrass Cos.	10.50	.45	3%+.50		1/2%
IRONWORKERS:					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silver Bow Counties	12.06	.75	1.35		.15
Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties	13.66	.93	1.70		.10
Remaining Counties (including Northern half of Lewis and Clark County)	12.06	.75	1.35		.15

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Silver Bow County, South part of Jefferson County, from a line running due west from the south limits of Tosten, south part of Broadwater County, from a line running east and west through the north limits of Tosten, the west part of Madison County, from a line running north and south through the west limits of Harrison - Beaverhead County	$ 9.32	.42	.35		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland (south of the City of Harlowtown), Wilbaux and Yellowstone Counties					
Brush, Roller	9.86	.56	.20		
Spray (not steel), Sandblaster	10.84	.56	.20		
Steel (brush or roller)	10.11	.56	.20		
Spray (structural steel and tanks), Sandblaster (structural steel and tanks)	11.09	.56	.20		
Deer Lodge County and the Southern part of Granite County from a line east-west through the southern limits of Philipsburg					
Painter	9.02				
Paint Mitts	9.52				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water Sandblasting and steam cleaning; Stacks and steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	$11.80	—			
Cascade, Chouteau (south of a line running east and west through the southern limits of Big Sandy), Daniels, Fergus, Glacier, (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark (northern portion from a line running east and west through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland (northern area from a line running east and west through the southern limits of Harlowtown) Counties:					
Painter, Brush, Preparatory work, Pot Tender, Parking lot striping and related work, Roller up to 9 inches	10.62	.56	.40		1%
Paperhanger, Brush on steel	11.12	.55	.40		1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Water and Sandblasting, Application of cold tar products, epoxies, polyurethanes and acid resistant paints, Spraying and airless spray	$12.87	.56	.40		1%
Roller over 9" long	14.22	.56	.40		1%
Broadwater, Gallatin, Jefferson (northern area from a line running east and west 5 miles south of the southern City limits of Boulder), Lewis & Clark (southern portion from a line running east and west thru the southern limits of Craig), Madison (east of the west City limits of Harrison), Meagher, Park, Powell (northern area from a line running east and west through the southern City limits of Helmsville)		—			
Brush, Preparatory work, Pot Tender, Parking lot striping and related work	9.27	.56	.40		1%
Spraying & Airless Spray	11.52	.56	.40		1%
Sandblasting, Waterblasting	11.52	.56	.40		1%
Structural Steel Brush	9.77	.56	.40		1%
Blaine, Hill, Liberty and Chouteau (north of the southern limits of the City of Big Sandy) Cos.	8.40				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Flathead, Granite (northern area north limits of Phillipsburg), Lake southern area including the City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli and Sanders Counties	$11.15	.44	.40		.04
PLUMBERS:					
Flathead, Lake, Lincoln, Mineral, Missoula and Sanders Counties	14.28	.75	.70		.15
Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Counties	13.85	.75	1.10		.15
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, Madison, Park, Powell, Silver Bow and Sweetgrass Counties	14.05	.70	.85		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties	12.70	1.00	.90		.10
SHEET METAL WORKERS:					
Broadwater, Jefferson (including north half of the City of Boulder), Lewis and Clark and Meagher Cos.	10.31	.77	.25		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	$13.66	.93	$ 1.70		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	10.805	.68	3%+.725		.23
Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties	12.36	.48	.50		.09
Beaverhead, Deer Lodge, Granite, Jefferson (southern half), Madison, Powell and Silver Bow Counties	12.27	.44	.44		.03

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LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$ 9.60	.62	.53		.05
Axeman	9.30	.62	.53		.05
Burning Bar	9.46	.62	.53		.05
Car and Truck Loaders, Scissorman	9.30	.62	.53		.05
Caisson Workers (free air)	9.46	.62	.53		.05
Carpenter Tender	9.30	.62	.53		.05
Cement Handlers	9.46	.62	.53		.05
Cement Mason Tender	9.46	.62	.53		.05
Choker Setter	9.46	.62	.53		.05
Chuck Tender and Nipper (above ground)	9.30	.62	.53		.05
Concrete Laborers (wet or dry); Buckelman and Signalman	9.46	.62	.53		.05
Concrete or Asphalt Saw	9.46	.62	.53		.05
Concrete Vibrator (5" and over)	9.60	.62	.53		.05
Cosmolene applying and removing	9.30	.62	.53		.05
Core Drill	10.30	.62	.53		.05
Curb Machine	9.46	.62	.53		.05
Drills, Air-tract, self-propelled, cat or truck mounted air operated	9.60	.62	.53		.05
Drills, Air-tract, with dual mast	9.60	.62	.53		.05
Drills, Air-tract, self-propelled, Mustang type or similar	9.60	.62	.53		.05
Dumpman (spotter)	9.30	.62	.53		.05
Dumpman (grademan)	9.46	.62	.53		.05
Fence Erector and Installer (including installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers)	9.30	.62	.53		.05
Form Stripper	9.30	.62	.53		.05

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LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Form Setter	$ 9.46	.62	.53		.05
Grade Setter	10.30	.62	.53		.05
General Laborer	9.30	.62	.53		.05
Hand Faller	9.46	.62	.53		.05
High Scaler	9.60	.62	.53		.05
High Pressure Machine Nozzleman	9.60	.62	.53		.05
Heater Tender	9.30	.62	.53		.05
Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanic Tamper, Vibrating Roller, hand steered and other power tools	9.46	.62	.53		.05
Landscape Laborers	9.30	.62	.53		.05
Nozzleman-air and water, gunite and Placo Machine	9.46	.62	.53		.05
Pipe Layer (all types)	9.46	.62	.53		.05
Pipe Wrapper	9.46	.62	.53		.05
Post Hole Digger (power auger)	9.46	.62	.53		.05
Power Saw, bucking	9.46	.62	.53		.05
Power Saw, falling	9.60	.62	.53		.05
Powderman Tender	9.46	.62	.53		.05
Powderman	10.30	.62	.53		.05
Power Driven Wheelbarrow	9.46	.62	.53		.05
Riprapper	9.46	.62	.53		.05
Riprap Tender	9.30	.62	.53		.05
Scaleman	9.20	.62	.53		.05
Sandblaster	9.60	.62	.53		.05
Sandblaster Tail Hoseman, Pot Tender	9.30	.62	.53		.05
Sodcutter-hand operated	9.30	.62	.53		.05
Spike Driver, single, dual or hand	9.46	.62	.53		.05
Stake Jumper for Equipment	9.30	.62	.53		.05
Switchman	9.46	.62	.53		.05
Tar Pot	9.46	.62	.53		.05
Tool Checker, Tool Houseman	9.30	.62	.53		.05
Welder	10.30	.62	.53		.05

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$11.30	.75	.65	.45	.07
Air Compressor, single	10.99	.75	.65	.45	.07
Air Compressor, two or more	11.16	.75	.65	.45	.07
Air Doctor	11.46	.75	.65	.45	.07
Asphalt Paving Machine	11.46	.75	.65	.45	.07
Asphalt Paving Machine Screed	11.46	.75	.65	.45	.07
Automatic Finegrader, Gurries and other similar types	11.59	.75	.65	.45	.07
Belt Finish Machine	11.16	.75	.65	.45	.07
Bit Grinder	11.46	.75	.65	.45	.07
Bituminous Mixer Paving, Travel Plant	11.46	.75	.65	.45	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.05	.75	.65	.45	.07
Boring Machine (large)	11.46	.75	.65	.45	.07
Broom, self-propelled	11.13	.75	.65	.45	.07
Cableway Highline	11.97	.75	.65	.45	.07
Cement Silo	11.25	.75	.65	.45	.07
Central Mixing Plants, Concrete dam and stationary	11.71	.75	.65	.45	.07
Chain Bucket Loader	11.18	.75	.65	.45	.07
Chip or Gravel Spreader, self-propelled	11.18	.75	.65	.45	.07
Concrete Batch Plant, one and two Mixers	11.46	.75	.65	.45	.07
Concrete Batch Plant, three and four Mixers	11.66	.75	.65	.45	.07
Concrete Batch Plant, five Mixers and over	11.86	.75	.65	.45	.07
Concrete Batch Plant Oiler, up to and including two Mixers	10.98	.75	.65	.45	.07
Concrete Batch Plant Oiler, three Mixers and over	11.29	.75	.65	.45	.07
Concrete Bucket Dispatcher	11.46	.75	.65	.45	.07
Concrete Curing Machine	11.46	.75	.65	.45	.07
Concrete Finish Machine Paving	11.46	.75	.65	.45	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Float-Spreader	$11.46	.75	.65	.45	.07
Concrete Mixer, three bags and under	11.05	.75	.65	.45	.07
Concrete Mixer, four bags and over	11.22	.75	.65	.45	.07
Concrete Power Saw, self-propelled	11.46	.75	.65	.45	.07
Concrete Travel Batcher	11.46	.75	.65	.45	.07
Concrete Conveyor under 40 feet	11.04	.75	.65	.45	.07
Concrete Conveyor over 40 feet	11.79	.75	.65	.45	.07
Concrete Pump	11.79	.75	.65	.45	.07
Conveyor Loader Operator, up to and including 42' belt	11.04	.75	.65	.45	.07
Conveyor Loader Operator over 42" belt	11.16	.75	.65	.45	.07
Crane, to and including 80' boom	11.62	.75	.65	.45	.07
Crane, 81' to 130' boom	11.77	.75	.65	.45	.07
Crane, 131' to 150' boom	11.82	.75	.65	.45	.07
Crane, 151' boom and over	11.87	.75	.65	.45	.07
Crane Oiler	11.03	.75	.65	.45	.07
Crane with jibs an additional $.15 per hour					
Crusher	11.46	.75	.65	.45	.07
Crusher Oiler	10.95	.75	.65	.45	.07
Crusher Conveyor, when required	10.92	.75	.65	.45	.07
Distributor	11.46	.75	.65	.45	.07
DW 10, 15, or 20 tractor pulling Roller	11.18	.75	.65	.45	.07
Electric Overhead Cranes	11.64	.75	.65	.45	.07
Elevating Grader	11.46	.75	.65	.45	.07
Farm type tractor up to and including 50 HP engine	10.92	.75	.65	.45	.07
Farm type tractor, over 50 HP engine	11.00	.75	.65	.45	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fireman	$11.05	.75	.65	.45	.07
Forklift, on construction job site	11.27	.75	.65	.45	.07
Form Grader	11.23	.75	.65	.45	.07
Gradall	11.46	.75	.65	.45	.07
Grade Setter	11.92	.75	.65	.45	.07
Heavy Duty Drill, all types	11.46	.75	.65	.45	.07
Heavy Duty Driller	11.05	.75	.65	.45	.07
Herman-Nelson Heaters and similar type	11.00	.75	.65	.45	.07
Hoist, two or more drums	11.46	.75	.65	.45	.07
Helicopter Hoist	11.96	.75	.65	.45	.07
Hot Plant	11.46	.75	.65	.45	.07
Hot Plant Fireman, when in operation	11.46	.75	.65	.45	.07
Hot Plant Oiler, 100 ton per hour or over	10.95	.75	.65	.45	.07
Hydra Lift and similar types	11.35	.75	.65	.45	.07
Industrial Locomotive all classes	11.46	.75	.65	.45	.07
Mechanic and/or Welder on job	11.56	.75	.65	.45	.07
Mixermobile	11.54	.75	.65	.45	.07
Motor Patrol	11.59	.75	.65	.45	.07
Mountain Logger or similar type	11.46	.75	.65	.45	.07
Mucking Machine	11.46	.75	.65	.45	.07
Oiler-Driver, Rubber tired Cranes	11.03	.75	.65	.45	.07
Oilers, other than Shovels and Cranes	10.95	.75	.65	.45	.07
Oiler, Hoist House, dams	11.36	.75	.65	.45	.07
Pavement Breakers, Emsco and similar	11.46	.75	.65	.45	.07
Paving and Mixing Machine	11.59	.75	.65	.45	.07
Power Auger, large truck or tractor mounted and Punch	11.46	.75	.65	.45	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Mixer, single or double drum	$11.46	.75	.65	.45	.07
Power Saw, multiple cut, self-propelled	11.46	.75	.65	.45	.07
Pumpcrete or Grout Machine	11.46	.75	.65	.45	.07
Pumpman	10.99	.75	.65	.45	.07
Push Tractor	11.46	.75	.65	.45	.07
Quad Cat	11.76	.75	.65	.45	.07
Quad Loader and similar type	12.04	.75	.65	.45	.07
Radiator Repairman	11.27	.75	.65	.45	.07
Raygo Gaint	12.04	.75	.65	.45	.07
Refrigeration Plant	11.46	.75	.65	.45	.07
Retort	11.05	.75	.65	.45	.07
Roller, on blade or hot mix oil paving	11.46	.75	.65	.45	.07
Roller, on other blade or hot mix paving	11.16	.75	.65	.45	.07
Roller, 25 ton or over	11.46	.75	.65	.45	.07
Ross and similar type Carriers, on construction site	11.46	.75	.65	.45	.07
Rubber-tired Dozer	11.46	.75	.65	.45	.07
Rubber-tired Front End Loader, 1 yard and under	11.17	.75	.65	.45	.07
Rubber-tired Front End Loader, 1 yard to and including 3 yards	11.46	.75	.65	.45	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	11.57	.75	.65	.45	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	11.68	.75	.65	.45	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	11.78	.75	.65	.45	.07
Rubber-tired Front End Loader, over 15 yards	11.88	.75	.65	.45	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Scraper, DW 15, 20, 21 and similar type if power unit is not used	$11.46	.75	.65	.45	.07
Scraper, single or twin engine pulling Belly Dump Trailer	11.84	.75	.65	.45	.07
Scraper, single engine	11.59	.75	.65	.45	.07
Scraper, twin engine	11.69	.75	.65	.45	.07
Scraper, tandem engine or 3 engine	11.95	.75	.65	.45	.07
Self-propelled Sheepfoot and similar type	11.46	.75	.65	.45	.07
Shovels, including all attachments, under 1 cu.yd.	11.46	.75	.65	.45	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	11.64	.75	.65	.45	.07
Shovels, including all attachments, over 3 cu.yds. to and including 5 cu. yds.	11.91	.75	.65	.45	.07
Shovels, including all attachments over 5 cu. yds.	12.04	.75	.65	.45	.07
Shovel Oiler, 3 yds. and under	10.95	.75	.65	.45	.07
Shovel Oiler, over 3 cu. yds.	11.36	.75	.65	.45	.07
Slip Form Paver	11.59	.75	.65	.45	.07
Stiff Leg Derrick and Guy Derrick	11.91	.75	.65	.45	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	11.46	.75	.65	.45	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	11.69	.75	.65	.45	.07
Track-type Front End Loaders, over 10 cu. yds. to & including 15 cu. yds.	11.79	.75	.65	.45	.07
Track-type Front End Loaders, over 15 cu. yds.	11.89	.75	.65	.45	.07
Track-type Tractor w/wo attachments	11.46	.75	.65	.45	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Tractor, on Euclid Loader	$11.64	.75	.65	.45	.07
Trenching Machine	11.46	.75	.65	.45	.07
Turnhead Conveyor, or Head Tower on Batch Plant	11.46	.75	.65	.45	.07
Wagner Roller and similar type	11.46	.75	.65	.45	.07
Whirley Crane	11.99	.75	.65	.45	.07
Whirley Crane Oiler	11.36	.75	.65	.45	.07
Water Pull when used for compaction	11.46	.75	.65	.45	.07
Washing and Screening Plant	11.46	.75	.65	.45	.07
Washing and Screening Plant Oiler	11.95	.75	.65	.45	.07
Yo-Yo Cat, both ends	11.66	.75	.65	.45	.07

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$10.34	.75	.77		
Over 4 cu. yds. to and including 6 cu. yds.	10.42	.75	.77		
Over 6 cu .yds. to and including 8 cu. yds.	10.47	.75	.77		
Over 8 cu. yds. to and including 10 cu. yds.	10.58	.75	.77		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	10.32	.75	.77		
DRY BATCH TRUCKS:					
3 Batch or under	10.09	.75	.77		
Over 3 Batch to and including 5 Batch	10.22	.75	.77		
Over 5 Batch to and including 10 Batch	10.35	.75	.77		
Over 10 Batch to and including 15 Batch	10.54	.75	.77		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.19	.75	.77		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.09	.75	.77		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.09	.75	.77		
Over 7 cu. yds. to and including 10 cu. yds.	10.22	.75	.77		
Over 10 cu. yds. to and including 15 cu. yds.	10.40	.75	.77		
Over 15 cu. yds. to and including 20 cu. yds.	10.52	.75	.77		
Over 20 cu. yds. to and including 25 cu. yds.	10.58	.75	.77		
Over 25 cu. yds. to and including 30 cu. yds.	10.64	.75	.77		
Over 30 cu. yds. to and including 35 cu. yds.	10.70	.75	.77		
Over 35 cu. yds. to and including 40 cu. yds.	10.76	.75	.77		
Over 40 cu. yds. to and including 45 cu. yds.	10.82	.75	.77		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.22	.75	.77		
POWER TRUCK DRIVER (bulk unloader type)	10.27	.75	.77		
FLAT TRUCKS:					
To and including 3 tons	10.24	.75	.77		
Over 3 tons factory rating	10.44	.75	.77		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$10.68	.75	.77		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	10.34	.75	.77		
LUMBER CARRIERS, LIFT TRUCKS and FORK LIFTS	10.34	.75	.77		
POWER BROOM	10.18	.75	.77		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.09	.75	.77		
Over 2,500 gallons to and including 4,500 gallons	10.38	.75	.77		
Over 4,500 gallons to and including 6,000 gallons	10.58	.75	.77		
Over 6,000 gallons to and including 8,000 gallons	10.64	.75	.77		
Over 8,000 gallons to and including 10,000 gallons	10.72	.75	.77		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK MECHANIC	11.08	.75	.77		

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LINE CONSTRUCTION: Flathead, Lake and Lincoln Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
All construction of "H" fixtures and steel tower transmission lines with capacity of 69 K.V. voltages and over, Switch yard and substation rated at 5000 K.V.A. and all work not covered by schedule "B".					
SCHEDULE "A"					
Lineman	$11.73	.45	3%+.25		1/2%
Cable Splicer	13.05	.45	3%+.25		1/2%
Powderman, Jackhammer, Compressorman	8.67	.45	3%+.25		1/2%
Line Equipment Operators	9.99	.45	3%+.25		1/2%
Groundman (experienced)	8.13	.45	3%+.25		1/2%
All work for power utilities except work covered under Schedule "A", all highway lighting, street lighting and motor traffic controlling.					
SCHEDULE "B"					
Lineman	10.55	.45	3%+.25		1/2%
Cable Splicer	11.73	.45	3%+.25		1/2%
Pole Sprayer	10.42	.45	3%+.25		1/2%
Line Equipment Operators	9.15	.45	3%+.25		1/2%
Powderman, Jackhammer, Compressorman	7.97	.45	3%+.25		1/2%
Groundman	7.48	.45	3%+.25		1/2%
Tree Trimmer	10.84	.45	3%+.25		1/2%

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LINE CONSTRUCTION: (Cont'd) Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
On jobs over 69 K.V. and all work on highway lighting and traffic control systems					
Lineman, Pole Sprayer	$11.20	.45	3%+.50		1/2%
Cable Splicer	11.90	.45	3%+.50		1/2%
Line Equipment Operators; Powderman	10.00	.45	3%+.50		1/2%
Groundman	8.10	.45	3%+.50		1/2%
DREDGING					
Assistant Mate (Deckhand)	12.02	.85	1.00		.11
Fireman	12.12	.85	1.00		.11
Oiler	12.12	.85	1.00		.11
Assistant Engineer (electric, Diesel, Steam or Booster Pump)	12.46	.85	1.00		.11
Mates and Boatman	12.46	.85	1.00		.11
Engineer Welder	12.51	.85	1.00		.11
Craneman	12.51	.85	1.00		.11
Assistant Engineer (Electric, Generator Operator for Primary Pump, Power Barge or Dredge)	12.56	.85	1.00		.11
Leverman, Dipper:					
(a) 5 yards and under	13.27	.85	1.00		.11
(b) over 5 yards	13.82	.85	1.00		.11
Leverman, Hydraulic	12.88	.85	1.00		.11

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)((ii))."

SUPERSEDEAS DECISION

STATE: Nevada COUNTY: Washoe
DECISION NUMBER: NV79-5131 DATE: Date of Publication
Supersedes Decision No. NV79-5114 dated June 29, 1979, in 44 FR 38131
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.00	$1.12	$1.30	$2.00	.11
BOILERMAKERS	14.36	1.175	1.00	1.00	.03
BRICKLAYERS; Stonemasons	13.10	.95	.75		.01
BRICK HOD CARRIERS	10.80	.95	1.20		.05
CARPENTERS	11.75	.95	1.51	1.00	.10
CEMENT MASONS:					
Lake Tahoe Area:					
Cement Masons	11.65	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	11.90	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	12.15	.90	1.00	1.45	.05
Remainder of Washoe County:					
Cement Masons	10.20	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	10.45	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	10.70	.90	1.00	1.45	.05
DRYWALL INSTALLERS	10.90	.70	1.36	1.00	.05
ELECTRICIANS:					
Washoe County, does not include Lake Tahoe Area:					
Electricians; Technicians	15.63	.99	3%+1.37		.08
Cable Splicers	17.19	.99	3%+1.37		.08
Lake Tahoe Area:					
Electricians; Technicians	16.63	.99	3%+1.37		.08
Cable Splicers	18.19	.99	3%+1.37		.08
ELEVATOR CONSTRUCTORS	16.37	.895	.69	a	.03
ELEVATOR CONSTRUCTORS' HELPERS	11.46	.895	.69	a	.03
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	8.185				
GLAZIERS	11.39	.81	1.60	1.39	
IRONWORKERS:					
Fence Erectors	11.61	1.39	2.82	1.90	.07
Ornamental; Reinforcing; Structural	12.50	1.39	2.82	1.90	.07
MARBLE MASONS	12.75	.95	.75		.01

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller	$14.43	.70	.75		.02
Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster	14.70	.70	.75		.02
Spray; Taper; Paperhangers	14.95	.70	.75		.02
Spray-swing stage, up to 40 ft.; Spray-steel	15.20	.70	.75		.02
PLASTER HOD CARRIERS:					
Plaster Hod Carriers serving Plasterers	11.70	.95	1.20		
Plaster Hod Carriers working on any type of gun	12.30	.95	1.20		
PLASTERERS	12.52	.70	1.20		.03
PLUMBERS; Steamfitters	13.74	1.13	1.00	1.95	.20
ROOFERS	13.92	.85	1.00		.05
SHEET METAL WORKERS:					
Residential construction not over 3 stories in height, where each individual family apartment is individually conditioned by a separate and independent unit or system	8.98	1.04	2.13		.05
All other residential construction	11.22	1.04	2.13		
SOFT FLOOR LAYERS	12.64	.70	.20		
SPRINKLER FITTERS	16.72	.75	1.05		.08
TERRAZZO WORKERS; Tile Setters	12.75	.95	.75		.01

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1: In Washoe County, the area within 5 road miles of the following communities - Carson City, Lovelock; also area within 10 road miles of Reno, Nevada, and Carson City, Nevada, but not including any area futher than the foot of the mountains to the east or west side of Washoe Valley; Also the area of Stead Air Force Base:					
Group 1	$ 9.00	.95	$1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities named in Zone 1:					
Group 1	9.60	.95	1.20		.10
Group 2	9.70	.95	1.20		.10
Group 3	9.85	.95	1.20		.10
Group 4	10.10	.95	1.20		.10
Group 5	10.40	.95	1.20		.10
Group 6-A	10.40	.95	1.20		.10
Group 6-B	10.10	.95	1.20		.10
Group 6-C	9.75	.95	1.20		.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 9.80	.95	$1.20		.10
Group 2	9.90	.95	1.20		.10
Group 3	10.05	.95	1.20		.10
Group 4	10.30	.95	1.20		.10
Group 5	10.60	.95	1.20		.10
Group 6-A	10.60	.95	1.20		.10
Group 6-B	10.30	.95	1.20		.10
Group 6-C	9.95	.95	1.20		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	10.50	.95	1.20		.10
Group 2	10.60	.95	1.20		.10
Group 3	10.75	.95	1.20		.10
Group 4	11.00	.95	1.20		.10
Group 5	11.30	.95	1.20		.10
Goup 6-A	11.30	.95	1.20		.10
Group 6-B	11.00	.95	1.20		.10
Group 6-C	10.65	.95	1.20		.10

LABORERS

Group 1: All cleanup work of debris, grounds and buildings including Brushloader and windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler; Flagman

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) - all concrete work not listed in Group 3; Crusher or Grizzly Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) - handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete; Railroad Trackmen (maintenance, repair or builders); Sloper; Semi-skilled Wreckers (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (broadpan type) (handling, cleaning, stripping); Concrete Saw, shipping, grinding, sanding, vibrator; Cribbing, Shoring, Lagging, Trench Jacking, handguided Lagging Hammer; Curbing or Divider Machine; Curb Setter (pre-cast or cut); Ditching Machine (handguided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Workers (wet or dry); Pipe Wrapper, Kettleman, Potman, and Men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric not listed in Group 5); Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete wet or dry; Rototiller; Rigger and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures.

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline or conduit; Asphalt Rakers

Group 5: Blasters and Powdermen, all work or loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Material

Group 6-C: Reboundman

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	AREA 1	AREA 2				
Group 1-A	$ 10.18	$11.37	$1.98	$2.35	$1.67	.10
Group 2	10.58	11.73	1.98	2.35	1.67	.10
Group 3	10.79	11.94	1.98	2.35	1.67	.10
Group 4	11.35	12.50	1.98	2.35	1.67	.10
Group 5	11.58	12.73	1.98	2.35	1.67	.10
Group 6	11.71	12.86	1.98	2.35	1.67	.10
Group 7	11.90	13.05	1.98	2.35	1.67	.10
Group 8	12.35	13.50	1.98	2.35	1.67	.10
Group 9	12.59	13.74	1.98	2.35	1.67	.10
Group 10	12.86	14.01	1.98	2.35	1.67	.10
Group 10-A	13.00	14.15	1.98	2.35	1.67	.10
Group 11	13.19	14.34	1.98	2.35	1.67	.10
Group 11-A	14.43	15.58	1.98	2.35	1.67	.10

SEE "AREA DEFINITIONS" Following TRUCK DRIVERS' Classifications.

Group 1-A: Assistant to Engineer, including Brakeman, Deckhand, Fireman, Oiler, Partsman (heavy duty repair shops parts room when needed), Switchman, Tar Pot Fireman; Boiler Tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box Operator (Bunker); Concrete Curing Machines (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 H.W.); Fireman, Hot Plant, Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane); Rodman or Chainman; Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multipurpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Screedman (Barber-Greene and similar)(asphaltic or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saw (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb Gutter Machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe Wrapping, Cleaning and Bending Machine; Pavement Breaker or Tamper (with or without compressor (combination); Pavement Breaker, truck mounted, with compressor combination; Small Rubber-tired Tractors; Self-propelled Tape Machine; Auger type drilling equipment up to and including 30 ft. depth digging capacity m.r.c.

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe wrapping machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plant; Self-propelled Boom type lifting device (center mount)(10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 5 ft. depth); Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt); Instrument Man; Auger type drilling equipment over 30 ft. depth capacity m.r.c.

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy Duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermboile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired Earthmoving equipment (up to and including 35 cu. yds. "struck" m.r.c.)(Euclids, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Sheepfoot; Small Tractor (with boom); Soil Stabilizer P & H or equal); Timber Skidder (rubber tire) or similar equipment; Tractor; Tractor drawn Scraper; Tractor mounted Compressor Drill Combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600 B Block Cutter

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yd.); Combination Mixer and Compressor (gunnite); Lull Hi-lift (20 ft or over); Mucking Machine; Tractor with boom (D-6 or larger); Track Laying type earth moving Machine (single engine with tandem Scrapers); Sub-grader (Gurries or other types)

Group 10: Boom type Backfilling Machine; Bridge Crane; Carylift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earth Moving Machines (Euclid, Dozers, etc.); Pre-stress Wire Wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (Re-claim Station); Single Engine Scraper (over 35 cu. yds.); Train Loading Station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar); Chief or Party

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yds.); Rubber-tired Scraper, self-loading (twin engine); Self-propelled Boom type lifting device (center mount)(over 10 tons); CMI dual lane Auto-grade SP 30 or similar

Group 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine Earthmoving Equipment (up to and including 75 cu. yds. "struck" m.r.c.); Power Shovels, Clamshells, Draglines, Backhoes, Gradeall (over 1 yd. and up to and including 7 cu. yds. m.r.c.); Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber-tired Earth-moving Machine (with Tandem Scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loaders (over 12 cu. yds.); Multi-engine Earth-moving Equipment (over 75 cu. yds. "struck" m.r.c.); Operator or Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Remote-controlled Earth-moving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd) Steel Erection	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.19	$1.98	$2.35	$1.67	.10
Group 2	11.60	1.98	2.35	1.67	.10
Group 3	12.72	1.98	2.35	1.67	.10
Group 4	12.88	1.98	2.35	1.67	.10
Group 4-A	13.21	1.98	2.35	1.67	.10
Group 5	13.76	1.98	2.35	1.67	.10
Group 6	14.23	1.98	2.35	1.67	.10
Group 6-A	14.88	1.98	2.35	1.67	.10
Group 7	16.03	1.98	2.35	1.67	.10

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only)

Group 4: Heavy Duty Repariman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman-Welder

Group 5: Boom Truck or Dual Purpose A-frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton m.r.c. or less); Self-propelled Boom-type Lifting Device (center mount) (10 capacity or less m.r.c.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons m.r.c.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); two or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd) Piledriving	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.68	$1.98	$2.35	$1.67	.10
Group 1-A	11.05	1.98	2.35	1.67	.10
Group 1-B	11.28	1.98	2.35	1.67	.10
Group 2-A	11.28	1.98	2.35	1.67	.10
Group 2-B	12.10	1.98	2.35	1.67	.10
Group 3	12.43	1.98	2.35	1.67	.10
Group 3-A	12.90	1.98	2.35	1.67	.10
Group 4	13.50	1.98	2.35	1.67	.10
Group 5	13.69	1.98	2.35	1.67	.10
Group 6	14.93	1.98	2.35	1.67	.10

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

~~Group 2-A: Operator of Tugger Hoist (hoisting material only)~~

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frame; Self-propelled boom-type Lifting Device (center mount)(10 ton capacity or less m.r.c.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs; Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without Boiler) (up to and including 1 cu. yd. rating); self-propelled boom-type lifting device (center mount)(over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type driver (Raymond or similar type); ~~Truck Crane Operator (over 25 tons) (hoisting material or~~ performing piledriving work)

Group 6: Cranes (over 12 tons)

TRUCK DRIVERS	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.49	$11.64	$1.00	.91		.05
Group 2	10.54	11.69	1.00	.91		.05
Group 3	10.65	11.80	1.00	.91		.05
Group 4	10.71	11.86	1.00	.91		.05
Group 5	10.76	11.91	1.00	.91		.05
Group 6	10.81	11.96	1.00	.91		.05
Group 7	10.92	12.07	1.00	.91		.05
Group 8	10.98	12.13	1.00	.91		.05
Group 9	11.03	12.18	1.00	.91		.05
Group 10	11.09	12.24	1.00	.91		.05
Group 11	11.20	12.35	1.00	.91		.05
Group 12	11.25	12.40	1.00	.91		.05
Group 13	11.36	12.51	1.00	.91		.05
Group 14	11.53	12.68	1.00	.91		.05
Group 15	11.69	12.84	1.00	.91		.05
Group 16	11.86	13.01	1.00	.91		.05

See "AREA DEFINITION" following Truck Driver's Classifications.

TRUCK DRIVERS

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: Bus and Manhaul Drivers, single units, Pickup up to 18,000 lbs.

Group 3: Bus and Manhaul Drivers, single unit, Pickup, 18,00 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Drivers; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yds. and under 8 yds.; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yds. and under 18 yds.; Transit Mix under 8 yds.; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yds. and including 12 yds.

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yds. and under 35 yds.; Heavy Duty Transport (Highbed); Heavy Duty Transport (Gooseneck Lowbed); Tilt-bed or Flatbed Pull Trailers

Group 11: DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water Tank Trailers, Fuel and/or Grease Tank, or other miscellaneous trailers (except as defined under Dump Trucks)

TRUCK DRIVERS (Cont'd)

Group 12: Transit Mix, over 12 yds.; Truck Repairman

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 35 yds. and under 60 yds.

Group 14: Dump (single or multiple units including semis, double and transfer units); Dumpcrete and Bulk Cement Spreaders, 60 yds. and under 75 yds.; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yds. and under 100 yds.

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 100 yds. and over

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))."

AREA DEFINITIONS
Power Equipment Operators and Truck Drivers
WASHOE COUNTY

AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.W. corner of Township 22N, Range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence Easterly to the N.E. corner of Township 22N, Range 22E;
Thence Southerly to the N.E. corner of Township 20N, Range 22E;
Thence Easterly to the N.W. corner of Township 20N, Range 26E;
Thence Northerly to the N.W. corner of Township 22N, Range 26E;
Thence Easterly to the N.W. corner of Township 22N, Range 26E;
Thence Northerly to the N.W. corner of Township 30N, Range 29E;
Thence Easterly to the N.E. corner of Township 30N, Range 33E;
Thence Southerly to the S.E. corner of Township 24N, Range 33E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 16N, Range 31E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 16N, Range 31E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 15N, Range 30E;
Thence Westerly to the S.E. corner of Township 15N, Range 27E;
Thence Southerly to the S.E. corner of Township 14N, Range 27E;
Thence Westerly to the S.E. corner of Township 14N, Range 23E;
Thence Southerly to the S.E. corner of Township 13N, Range 23E;
Thence Westerly to the S.E. corner of Township 13N, Range 22E;
Thence Southerly to the N.E. corner of Township 10N, Range 22E;
Thence Easterly to the N.E. corner of Township 10N, Range 23E;
Thence Southerly along the Easterly line of Range 23E to the intersection of the California-Nevada Border;
Thence North-Westerly, then Northerly following the California-Nevada Border to the point of beginning.

AREA DEFINITIONS (Cont'd)
Power Equipment Operators and Truck Drivers
WASHOE COUNTY

AREA 1 also includes that portion of Northern Nevada included within the following line:

Commencing at the S.W. corner of Township 37N, Range 52E;
Thence Easterly to the S.E. corner of Township 37N, Range 52E;
Thence Northerly to the N.E. corner of Township 37N, Range 52E;
Thence Easterly to the N.E. corner of Township 37N, Range 58E;
Thence Southerly to the S.W. corner of Township 37N, Range 58E;
Thence Easterly to the S.E. corner of Township 37N, Range 58E;
Thence Southerly to the N.E. corner of Township 31N, Range 58E;
Thence Westerly to the N.W. corner of Township 31N, Range 58E;
Thence Southerly to the S.W. corner of Township 31N, Range 58E;
Thence Westerly to the S.E. corner of Township 31N, Range 52E;
Thence Northerly to the N.E. corner of Township 31N, Range 52E;
Thence Westerly to the S.E. corner of Township 32N, Range 51E;
Thence Northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

[FR Doc. 79-26859 Filed 8-30-79; 8:45 am]
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federal register

Friday
August 31, 1979

Part IV

Department of Health, Education, and Welfare

Food and Drug Administration

Warner-Lambert/Parke-Davis & Co.; Benylin; Final Decision

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0483]

Warner-Lambert/Parke-Davis & Co.; Benylin; Final Decision

AGENCY: Food and Drug Administration.

ACTION: Final Decision following a formal evidentiary public hearing in an adjudicatory proceeding.

SUMMARY: The Commissioner of Food and Drugs is issuing his Final Decision concerning a supplemental new drug application for Benylin (diphenhydramine hydrochloride) a drug which the sponsor, Warner-Lambert/Parke-Davis & Co., claims is indicated for use in the treatment of cough due to colds or inhaled irritants. The Commissioner has determined that Benylin has not been shown to be effective for this use and is refusing to approve the application. In view of the decision on effectiveness, the Commissioner has not decided whether Benylin is safe for over-the-counter (OTC) distribution. The Decision reverses the Initial Decision of the Administrative Law Judge, which found that Benylin is effective for its recommended use and is safe for OTC distribution.

EFFECTIVE DATE: June 29, 1979.

ADDRESS: The transcript of the hearing, evidence submitted, and all other documents cited in this decision may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: The purpose of this proceeding has been to determine whether the Food and Drug Administration (FDA) should approve a supplemental new drug application (NDA 6-514 S-007) for the over-the-counter (OTC) marketing of Benylin Expectorant (Benylin) as an antitussive drug (a drug which specifically inhibits or suppresses coughs).

Benylin is a liquid preparation containing, among other ingredients, diphenhydramine hydrochloride, ammonium chloride, and sodium citrate. Warner-Lambert/Parke-Davis (WL/PD), the sponsor of the supplemental new drug application (NDA), holds an approved NDA for prescription distribution of Benylin as an antitussive drug. WL/PD markets two other well known products, Benadryl and Benylin DM, which should not be confused with the product that is the subject of this proceeding. Benadryl is a prescription antihistamine drug with several other uses; it has diphenhydramine hydrochloride as its active ingredient. The recommended adult antihistiminic dosage of Benadryl provides 50 mg diphenhydramine hydrochloride every 4 hours. The recommended adult antitussive dosage of Benylin provides 25 mg diphenhydramine every 4 hours. Benylin DM is an OTC antitussive drug having dextromethorphan, rather than diphenhydramine hydrochloride, as its active ingredient. Benadryl has been on the market since the 1940's; marketing of Benylin DM began during this proceeding.

The effect of this Decision is to refuse to approve the supplemental NDA for marketing of Benylin as an OTC antitussive drug. This Decision leaves unaffected the approved NDA for marketing of Benylin as a prescription antitussive. However, the finding that Benylin has not been shown to be effective for its recommended use is equally applicable whether the drug is marketed OTC or is subject to prescription requirement. Accordingly, in light of this finding, the Bureau of Drugs (the Bureau) should consider whatever action seems appropriate with respect to the approved NDA for prescription Benylin.

In a notice published in the **Federal Register** of November 30, 1976 (41 FR 52537), the Bureau proposed to deny approval of the supplemental NDA for the OTC marketing of Benylin as an antitussive drug on two grounds:

1. That diphenhydramine hydrochloride, one of the ingredients in Benylin, causes a level of drowsiness in those who take it that is sufficient to render it unsafe for use except under the supervision of a physician or other practitioner licensed to dispense prescription drugs.

2. That the studies submitted to establish the effectiveness of Benylin as an antitussive drug do not provide substantial evidence of its effectiveness for that use as required by section 505(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(d)) and § 314.111(a)(5) of the regulations (21 CFR 314.111(a)(5)).

I. Background

A more detailed history of the regulation of Benylin and of this proceeding is found in the Bureau's November 30, 1976 proposal to deny approval of the supplemental NDA. The original NDA, approved in 1948, was for use of the drug as an expectorant (a drug that makes it easier for a patient to raise secretions from the chest and throat). Restriction to prescription was a condition of the approval of the drug, then called "Benylin Expectorant."

In 1966, FDA permitted the inclusion of an antitrussive indication in the labeling. During the same year, FDA began a review of the effectiveness of all drugs that had been approved before the Drug Amendments of 1962 added to the act the requirement that the sponsor of an NDA show the new drug to be effective, as well as safe. This review, carried out in cooperation with the National Academy of Sciences/National Research Council (NAS/NRC), resulted in a 1971 NAS/NRC report and an FDA notice in the **Federal Register** of June 18, 1971 (36 FR 11758), classifying diphenhydramine hydrochloride as "lacking substantial evidence of effectiveness" as an antitussive. In a notice published in the **Federal Register** of February 9, 1973 (38 FR 4006), the Bureau announced its conclusion that there is a lack of substantial evidence of the effectiveness of Benylin Expectorant and certain other products as fixed combinations for the indications in their labeling, and offered an opportunity for a hearing on a proposal to withdraw approval of the NDA for Benylin Expectorant.

By letter of March 9, 1973, WL/PD requested a hearing on the proposed withdrawal. In its request, the firm referred to the submission it had filed for review by the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drugs (CCABA Panel). The CCABA Panel had been established as part of FDA's program for review of the safety and effectiveness of all OTC drugs. The firm also responded to the notice of opportunity for a hearing by filing, on March 22, 1973, a supplemental NDA for Benylin Expectorant. The supplemental NDA provided for changing the name of the product to "Benylin Cough Syrup," for deletion of all ingredients except diphenhydramine hydrochloride from from the list of active ingredients, but not from the product formulation, and for a change in the description of the product's mechanism of action and in the indications for which the product was recommended. By letter of November 28, 1973, the Bureau refused to approve the supplemental NDA.

On February 5, 1974, WL/PD also submitted a supplemental NDA with

two studies relating to the effectiveness of Benylin as an antitussive. On November 25, 1974, the firm submitted a supplemental NDA with revised labeling providing for OTC use of Benylin as an antitussive. The later supplemental NDA is the subject of this Decision. By letter of March 11, 1975, the Bureau informed the firm that no action would be taken on the two supplemental NDA's pending completion of review by the CCABA Panel of the data before it.

In response to a letter from WL/PD, FDA's Division of OTC Drug Evaluation informed the firm on March 18, 1975, that OTC marketing of Benylin would be unlikely to be subject to regulatory action under the enforcement policy then in effect comcerning new OTC products. Thereafter, WL/PD commenced OTC marketing of Benylin with indications for use as an antitussive.

On August 4, 1976 (41 FR 32580), however, FDA published a final regulation, based on a proposal published on December 4, 1975 (40 FR 56675), that changed FDA's enforcement policy concerning OTC marketing of drug ingredients that had previously been limited to prescription use and for which OTC use had not been approved by FDA. This regulation, codified in §§ 310.200 and 330.13 (21 CFR 310.200, 330.13) allows the OTC marketing of products containing such ingredients upon publication of the report of an OTC advisory review panel recommending that the ingredients and indications be classified as generally recognized as safe and effective for OTC use (Category I) unless the Commissioner of Food and Drugs (the Commissioner) disagrees with that decision.

In the **Federal Register** of September 9, 1976 (41 FR 38312), the Commissioner published a proposal setting forth the report and recommendations of the CCABA panel. The Panel recommended that diphenhydramine hydrochloride be classified in Category I for OTC use as an antitussive. In the preamble to the proposal, the Commissioner stated that his decision concerning the safety and effectiveness of diphenhydramine hydrochloride as an antitussive would be made in the context of his ruling on the supplementyal NDA for OTC marketing of Benylin.

On September 8, 1976, the Bureau informed WL/PD that its supplemental NDA for Benylin as an OTC antitussive was not approvable. On September 17, 1976, the firm requested that the supplemental NDA for OTC use of Benylin be filed over protest pursuant to § 314.110(d) (21 CFR 314.110(d)).

In a notice published in the **Federal Register** of November 30, 1976 (41 FR 52537), the Bureau proposed to deny approval of the supplemental NDA for OTC marketing of Benylin Expectorant and provided WL/PD with notice of opportunity for a hearing on this proposed action. On the same date, the Commissioner published a notice (41 FR 52536) announcing that he did not, at that time, accept the CCABA Panel's recommendation that diphenhydramine hydrochloride be classified in Category I for OTC antitussive use. Accordingly, any OTC product marketed containing diphenhydramine hydrochloride was subject to immediate regulatory action. The Commissioner had concluded that the recommended antitussive dose of diphenhydramine hydrochloride (25 mg) causes an unacceptable level of drowsiness for an OTC drug. Furthermore, although he agreed with the Panel that some data indicated that this ingredient has some antitussive effect, he found that there was a lack of substantial evidence consisting of adequate and well-controlled studies, as required by § 314.111(a)(5)(ii) (21 CFR 314.111(a)(5)(ii)), on which to base a determination concerning the effectiveness of Benylin for the temporary control of cough.

On November 29, 1976, the firm filed an action seeking a declaratory judgment that Benylin is not a new drug or, in the alternative, an order enjoining FDA enforcement actions involving Benylin pending final determination of the drug's status (Civil Action No. 6-72464, E.D. MI). On November 30 and December 1, 1976, three United States Attorneys for other districts filed complaints resulting in seizures of Benylin. The Michigan case ultimately resulted in a decision by the United States Court of Appeals for the Sixth Circuit holding that the district court lacked jurisdiction to review the agency's decision to initiate enforcement action and that the pending enforcement actions provided an opportunity for full hearing on all issues. *Parke, Davis & Co.* v. *Califano*, 564 F.2d 1200 (6th Cir. 1977), *rev'g Parke, Davis & Co.* v. *Mathews*, Civil Action No. 6-72464 (E.D. MI, Memorandum Opinion issued Jan. 7, 1977).

WL/PD then submitted a request for hearing, which the Commissioner granted in a notice published in the **Federal Register** of March 29, 1977 (42 FR 16675). The proceeding was referred to the presiding officer, Administrative Law Judge Daniel J. Davidson.

The March 29, 1977, notice of hearing observed that the issue of the effectiveness of Benylin as an OTC product is indistinguishable from the issue of its effectiveness as a prescription product and therefore announced that the hearing would concern the effectiveness of Benylin for prescription use as well as for OTC use. For this reason, the Administrative Law Judge (ALJ) in a pretrial order dated June 2, 1977, broadened the issues at the hearing to include consideration of "[w]hether there is any other evidence relating to the effectiveness of Benylin as an antitussive." Although the effectiveness of Benylin as a prescription antitussive is required to be resolved in a separate withdrawal proceeding, "there would be no need to duplicate the hearing process with respect to other evidence relating prescription use" (ID,[1] p. 4).

As revised by the ALJ, the issues at the hearing were:

1. Whether the NDA for Benylin contains reports of investigations or other information adequate to demonstrate the safety of the drug for OTC distribution, as required by 21 U.S.C. 355(d)(1), (2), and (4);

2. Whether the NDA for Benylin demonstrates that there is substantial evidence of effectiveness of the drug as an antitussive in the form of adequate and well-controlled clinical investigations, as defined by § 314.111(a)(5) (21 CFR 314.111(a)(5)), on the basis of which it could fairly and responsibly be concluded by experts, qualified by scientific training and experience to evaluate drugs, that Benylin is effective as an antitussive for OTC use;

3. Whether there is any other evidence relating to the effectiveness of Benylin as an antitussive;

4. Whether Benylin is generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use as an OTC antitussive under the conditions prescribed, recommended, or suggested in its labeling.

The oral portion of the hearing was held from October 11 through 25, 1977. The parties were the Bureau, in support of the proposed denial, and WL/PD, in opposition to the proposed denial. Both parties filed briefs.

[1] The following abbreviations have been used in citing material in the record: Initial Decision: ID; Transcript: Tr; Brief of a participant to the ALJ: Brief; the Bureau's exceptions to Initial Decision: Exceptions; WL/PD's reply to the Bureau's exceptions to Initial Decision: Reply. This decision refers to the exhibits submitted to the record, including written direct testimony, by the symbol for the participant and number assigned to them upon filing by the Hearing Clerk. The Hearing Clerk used the following symbols to refer to the exhibits by the participants: WL/PD: P; Bureau: G.

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II. Alleged Deficiencies in Clinical Studies of Benylin's Effectiveness

In an appendix to the Initial Decision, the ALJ summarized the major clinical studies submitted by WL/PD to show that Benylin is an effective antitussive agent. For convenience, excerpts from that summary are set forth as Appendix A to this Decision, and the Bureau's allegations concerning deficiencies in these studies are listed below.

The Bureau contends that studies of Benylin in groups other than the target population may be considered only if diphenhydramine hydrochloride is shown conclusively to act specifically on the cough center of the brain, and not through some other mechanism such as soothing the throat or causing general sedation (G–11, pp. 11–13; G–29, pp. 2–3). The Bureau also asserts that it has not been shown that this drug acts specifically on the cough center (G–1 pp. 8, 14–15; G–11, pp. 12–13; G–29, pp. 2, 7; T–529, T–961). The Bureau contends that Benylin has not been shown to be effective as an antitussive because the two submitted studies of Benylin in the drug's target population contain deficiencies that prevent the studies from being considered adequate and well-controlled investigations meeting the requirements of 21 CFR 314.111(a)(5)(ii).

The Bureau assets that the Tebrock study (Protocol 266–17, P9–1 through P9–6) is deficient in the following respects:

(a) Both a positive control and a placebo control should have been used (Brief, pp. 98–108; G–11, p. 5; G–13, pp. 6–7; G–17, p. 14; G–27, pp. 6–7; G–138, p. 465).

(b) The study lacks an adequate placebo control in that the Benylin vehicle contains ingredients, ammonium chloride and sodium citrate, that may be active (Brief, pp. 24–52; G–11, pp. 8–10, 18, 20; G–13, pp. 5–6; G–15, pp. 7–8; G–27, pp. 18–19).

(c) The subjective measurement of cough improvement used in the study does not permit quantitative evaluation of test results as required by 21 CFR 314.111(a)(5)(ii)(*a*)(*4*); the sponsor should have measured cough improvement by objective means, e.g., having subjects keep detailed diaries throughout the day, rather than rate their cough improvement once daily on a 4-point scale (Brief pp. 82–92; G–11, p. 21; G–17, pp. 12–13; T–564).

(d) Having subjects evaluate their cough improvement by comparing their cough experience on one day to that on the previous day does not permit quantitative evaluation and statistical analysis of the results of treatment and control as required by 21 CFR 314.111(a)(5)(ii)(*a*) (*4*) and (*5*); the protocol should have had subjects compare their coughs after treatment to their coughs on the day immediately preceding the 3-day trial (G–13, pp. 8, 9; G–7, p. 4; G–17, p. 11).

(e) Data from the 5 test centers should not have been pooled because homogeneity of treatment effect among centers is a prerequisite to such pooling, and statistical tests show lack of homogeneity (Brief, pp. 52–72; G–7, pp. 7–8; G–13, p. 9).

(f) The results of the study are not clinically significant; an improvement in cough of only 9 percent in the Benylin group compared to the Benylin vehicle group is not sufficient to satisfy the requirement of substantial evidence of effectiveness (Brief, pp. 73–81; G–11, pp. 20–21; G–13, pp. 10–11; G–15, pp. 9–10; G–27, p. 19; T–560).

The Bureau contends that the Burke study (Protocol 266–9 P7–1 through P7–5) is deficient in the following respects:

(a) Both a positive control and a placebo control should have been used (Brief, pp. 98–107; G–11, p. 5; G–13, p. 7; G–27, pp. 6–7; G–138, p. 465).

(b) Because the effectiveness of a combination of Benylin and codeine has not been established, the use of this combination is not an "effective regimen of therapy," i.e., a positive control, meeting the requirements of 21 CFR 314.111(a)(5)(ii)(*a*)(*4*)(*iii*) (Brief, pp. 137–143; G–11, p. 19; G–13, p. 11; G–15, pp. 10–11; G–17, p. 11; G–27, p. 17).

(c) The study results do not permit quantitative evaluation because the study relied on subjective evaluations by children, most of whom were between the ages of 6 and 12; children of this age group are unreliable for the subjective evaluation of an antitussive drug when the evaluation requires a single judgment of the effects of the drug over 3 to 4 days (Brief at 147–153; G–3, pp. 8–9; G–11, p. 19; G–31, p. 17).

III. Initial Decision

On May 31, 1978, the ALJ issued an Initial Decision in which he found that Benylin had been shown, by adequate investigations, to be safe and effective for use as an OTC antitussive and ordered that the supplemental NDA (6–514/S–007) be approved.

A. Specific Findings

Specifically, the ALJ found (ID, pp. 21–22):

(1) The evidence of record in this proceeding is insufficient to determine whether Benylin, in the opinion of the medical community, is generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use as an OTC antitussive under the conditions prescribed, recommended, or suggested in its labeling. Therefore, the exemption from new drug status * * * has not been shown to apply to Benylin.

(2) The supplemental NDA for Benylin (NDA 6/514/S–007) contains reports of investigations or other information adequate to demonstrate the safety of the drug for OTC distribution as required by 21 U.S.C. 355(d) (1), (2) and (4).

(3) The supplemental NDA for Benylin (NDA 6–514/S–007) demonstrates that there is substantial evidence of effectiveness of the drug as an antitussive in the form of adequate and well-controlled clinical investigations, as defined by § 314.111(a)(5) [21 CFR 314.111(a)(5)], on the basis of which it could fairly and responsibly be concluded by experts, qualified by scientific training and experience to evaluate drugs, that Benylin is effective as an antitussive for OTC use.

(4) There is no other evidence relating to the effectiveness of Benylin as an antitussive for prescription use.

Also included in the initial Decision was a detailed discussion of the ALJ's findings with respect to the safety and effectiveness of Benylin. (To conform to the format elsewhere in this Decision, the summary below of the Initial Decision first discusses effectiveness, then safety.)

B. Effectiveness

The ALJ considered only the Tebrock study (Protocol 266–17, P9–1 through P9–6) and the Burke study (Protocol 266–9, P9–1 through P9–6), the two studies in patients with cough due to cold, in support of Benylin's claimed effectiveness in cough due to cold. He rejected all of the Bureau's contentions with respect to alleged deficiencies in these studies. He found with respect to both studies that there is no requirement in the regulations that both a positive and a negative control be used (ID, pp. 9, 20).

With respect to the Tebrock study, the ALJ also found:

(a) The Benylin vehicle was a suitable placebo; the Bureau had failed to show that ammonium chloride or sodium citrate possesses activity (ID, pp. 10–11, 20).

(b) The subjective measurement of cough improvement used in the study was acceptable (ID, pp. 11–12, 20–21);

(c) Having subjects compare cough improvement by comparing experience on one day with that on the previous day is acceptable, given the study results (ID, p. 12);

(d) It was appropriate for WL/PD to pool data from 5 test centers (ID, pp. 12–14);

(e) WL/PD had met the statutory requirement of proof of effectiveness, because the results of this study showed that Benylin offers a statistically

significant benefit over the control and these results were corroborated by the Burke study, which the ALJ interpreted as showing Benylin to be 8 percent more effective than codeine [2] (ID. pp. 14–15, 21).

With respect to the Burke study, the ALJ found that:

(a) The study was adequately controlled (ID, pp. 11, 20, 21), and

(b) The study results were susceptible to quantitative evaluation despite the reliance upon subjective evaluations by young children (ID, p. 12).

The ALJ considered two of the induced cough studies (Protocols 266–18, P6–6 through P6–9; and 794–1, P6–10 through P6–14) as substantial evidence of the effectiveness of Benylin for cough due to inhaled irritants (ID, pp. 16–19). He also accepted a third study (the 1960 Bickerman Protocol, P6–3 through P6–5) as corroborative evidence of the effectiveness of Benylin for this use (ID, p. 18). He rejected the Bureau's contentions that these studies qualify only as Phase I studies of the pharmacological action of Benylin, that there is no target population having cough due to inhaled irritants, that the numbers of subjects were too small, that the studies are not adequate and well-controlled, that cough reduction in Protocol 266–18 may have been due to an anesthetic effect from gargling rather than antitussive activity, and that Protocol 794–1 did not test the finished drug product.

C. Safety

The ALJ found that the supplemental NDA for Benylin contains reports of investigations or other information adequate to demonstrate the safety of the drug for OTC distribution as required by section 505(d) of the act (ID, pp. 9,-22). (He did not, however, mention any particular studies as satisfying this requirement.) The ALJ cited the extensive use of Benylin over a period of 30 years and its approval for prescription use as "a substantial indication that it can be used safely" (ID, p. 5).

The ALJ also stated that the Bureau's argument that limiting Benylin to prescription use would reduce the chance of the drug causing injury "does not take into account the limited scope of agency authority" under section 503(b) of the act to restrict drugs to prescription, and under section 505(d) of the act to consider use of drugs contrary to label provisions (ID, pp. 6–8). He stated his belief that drowsiness due to Benylin while driving a motor vehicle is the only hazard that the Bureau contends is associated with the drug (ID, p. 6). He pointed out that this drowsiness presents a hazard only when a patient ignores the proposed lable warning against use of Benylin while driving a motor vehicle (ID, pp. 6–8). He considered this use to be outside the scope of the provision that the safety of a drug is to be evaluated in terms of its use "under the conditions prescribed, recommended, or suggested in the proposed labeling thereof" (ID, p. 7). The ALJ held that "questions of the safety of a drug when it is used in a manner contrary to the label warnings can be considered in only limited circumstances" (ID, p. 8). Once the manufacturer has shown a drug to be safe under the conditions prescribed, recommended, or suggested in the labeling, the drug is approvable unless the Bureau can show, by "convincing evidence of harm," that "there is a reasonable probability that such non-label indicated uses can be expected to occur" before the Bureau can deny approval of a drug because of hazards when used contrary to label warnings (ID, p. 8). Finding that the Bureau had made no such showing in the record of this csse, the ALJ found the safety record of Benylin during 30 years of its use to be "controlling in this proceeding" (ID, pp. 8–9).

The Bureau filed exceptions to the Initial Decision and appealed it to the Commissioner. WL/PD filed a reply disagreeing with each of the Bureau's exceptions and urging that the Initial Decision be affirmed.

IV. Statute and Regulations

A. Effectiveness

The act requires that a sponsor show a new drug to be effective before FDA may approve it for marketing. Section 505(d) of the act requires the Commissioner (by delegation from the Secretary, 21 CFR 5.1) to issue an order refusing to approve an NDA if the Commissioner finds, after notice and opportunity for a hearing, that:

(5) evaluated on the basis of the information submitted to him as part of the application and any other information before him with respect to such drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof * * *[T]he term "substantial evidence" means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

FDA has promulgated regulations (21 CFR 314.111(a)(5)(ii)) that set forth the principles concerning the conduct of adequate and well-controlled clinical investigations and that provide the basis for determining whether there is "substantial evidence" to support claims of effectiveness for new drugs.

Also relevant to this proceeding are the regulations describing the principles to be used to determine general recognition that an OTC drug is effective (21 CFR 330.10(a)(4)(ii)):

(ii) Effectiveness means a reasonable expectation that, in a significant proportion of the target population, the pharmacological effect of the drug, when used under adequate directions for use and warnings against unsafe use, will provide clinically significant relief of the type claimed. Proof of effectiveness shall consist of controlled clinical investigations as defined in § 314.111 (a)(5)(ii) of this chapter, unless this requirement is waived on the basis of a showing that is not reasonably applicable to the drug or essential to the validity of the investigation and that an alternative method of investigation is adequate to substantiate effectiveness. Investigations may be corroborated by partially controlled or uncontrolled studies, documented clinical studies by qualified experts, and reports of significant human experience during marketing. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered. General recognition of effectiveness shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data.

B. Safety

The act requires that a sponsor show a new drug to be safe before FDA may approve it for marketing. Section 505(d) of the act (21 U.S.C. 355(d)) requires the Commissioner to issue an order refusing to approve an NDA if the Commissioner finds, after notice and opportunity for a hearing,

That (1) the investigations, reports of which are required to be submitted * * *, do not include adequate tests by all methods reasonably applicable to show whether or not [the new] drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; * * * (4) upon the basis of the application, or upon the basis of any other

[2] As noted correctly in the summary of the Burke study in the appendix to the Initial Decision, Benylin was compared to a combination of Benylin plus 20 mg of codeine. However, elsewhere in the Initial Decision it is stated, incorrectly, that the Burke study compared Benylin to a combination of the Benylin vehicle plus codeine (ID, pp. 10, 18), or to codeine (ID, pp. 15, 20, 21).

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information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions * * *.

Because the safety issue in this proceeding concerns whether Benylin is safe for OTC distribution, section 503(b)(1) of the act (21 U.S.C. 353(b)(1)) defining the criteria for restricting drugs to prescription use also is important in this proceeding. Section 503(b)(1) states:

> A drug intended for use by man which—
> (A) Is a habit-forming drug to which section 502(d) applies; or
> (B) Because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or
> (C) Is limited by an approved application under section 505 to use under the professional supervision of a practitioner licensed by law to administer such drug; shall be dispensed only (i) upon a prescription of a practitioner licensed by law to administer such drug * * *.

The agency's authority to restrict drugs to prescription did not originate with the prescription drug provisions set forth above, which were added by the Durham-Humphrey Amendments of 1951 (Pub. L. 82–215). Before the enactment of these Amendments, FDA had issued regulations restricting certain drugs to prescription. These regulations were upheld in *United States* v. *Sullivan*, 332 U.S. 689 (1948) and *United States* v. *El-O-Pathic Pharmacy*, 192 F.2d 62 (9th Cir. 1951). The House Report on the 1951 Amendments explained the legal basis for the regulations:

> The Present law prohibits the over-the-counter sale of drugs labeled as being for prescription only, but it does this in the following indirect manner.
> A drug is required by present law to bear adequate directions for use. This requirement may be relaxed by the Federal Security Administrator [predecessor of the Commissioner] when such directions are not necessary for the protection of the public health. Drugs suitable for use only by or under the order of a licensed practitioner have been exempted from the adequate directions requirement on condition that they be labeled "Caution—To be dispensed only by or on prescription of a physician." If a druggist just sells without a prescription a drug bearing this caution label, the drug is misbranded and the druggist violates the act.

H R. Rept. No. 82–700, 82d Cong., 1st Sess. 4 (1951). The Durham-Humphrey Amendments' criteria for classifying a drug as a prescription drug were essentially the same as those contained in the FDA regulations. H.R. Rept. No. 82–700 at 11; S. Rept. No. 82–946, 82d Cong., 1st Sess. 4 (1951).

Also relevant to the agency's decision concerning the safety of Benylin as an OTC antitussive are the regulations setting forth the principles to be used to determine general recognition that a category of OTC drugs is safe (21 CFR 330.10(a)(4)(i)):

> Safety means a low incidence of adverse reactions or significant side effects under adequate directions for use and warnings against unsafe use as well as low potential for harm which may result from abuse under conditions of widespread availability. Proof of safety shall consist of adequate tests by methods reasonably applicable to show the drug is safe under the prescribed, recommended, or suggested conditions of use. This proof shall include results of significant human experience during marketing. General recognition of safety shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data.

C. General Recognition of Safety and Effectiveness

Section 201(p)(1) of the act (21 U.S.C. 321(p)(1)) defines "new drug" as:

> Any drug * * * the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof * * *.

The applicant has the burden of proving that a drug is generally recognized as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling. See *Weinberger* v. *Hynson, Westcott, and Dunning*, 412 U.S. 609, 620–21, 628–31 (1973); 21 CFR 12.87(e). The regulations governing hearing procedures for proposed denials of new drug applications (21 CFR 314.200(e)) further state:

> (1) A contention that a drug product is generally recognized as safe and effective within the meaning of section 201(p) of the act must be supported by submission of the same quantity and quality of scientific evidence as is required to obtain approval of a new drug application for the product * * *. General recognition of safety and effectiveness shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

The Supreme Court has held that "general recognition" of a drug's safety and effectiveness requires at least substantial evidence of effectiveness as required for approval of an NDA. *Weinberger* v. *Hynson, Westcott and Dunning, supra*, at 629.

A. Effectiveness

In reviewing the Initial Decision, I have all the powers that I would have in making the Initial Decision (21 CFR 12.130). The Initial Decision and this Decision must meet the requirements of 21 CFR 12.120 and 12.130.

After reviewing the record carefully, I reverse the Initial Decision. I find, based on the evidence in the record, that there is a lack of substantial evidence that Benylin will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling. Expert witnesses who testified in this proceeding came to the same conclusion (G–1, pp. 5–6, 16; G–11, pp. 30–31; G–13, p. 4; G–15, pp. 5–6, 19; G–27, pp. 4, 27–28).

1. *Which Studies May be Considered.* An understanding of the principles for study of drugs to suppress coughs requires, first, an understanding of why and how humans cough.

Cough is a protective reflex that occurs in the healthy as well as in the ill (G–39, p. 113; G–40, p. 443; G–138, p. 462; P14–1, p. 38321; P22–18, p. 395). The function of a cough is to clear the respiratory tract of secretions or inhaled irritants (id.). In many cases, it is unwise to suppress coughs (G–19, pp. 7–8; G–35). A variety of stimuli can cause cough, including mechanical, thermal, chemical, allergic, and toxic agents (G–38, p. 492; G–138, p. 471).

Coughing is normally produced by the stimulation of a patient's "cough receptors" (sensory endings of the glossopharyngeal and vagus nerves) in the patient's throat and respiratory passageway (G–46, p. 426; G–138, p. 461). The "cough center," located in the medulla of the brain, is largely responsible for control of the cough reflex in humans (G–1, p. 7; G–46, p. 426; P22–18, p. 395). The central nervous system pathways for coughing are not fully understood (G–40, p. 445; P22–18, p. 396).

The CCABA Panel described an antitussive agent as one that "specifically inhibits or suppresses the act of coughing" (P14–1, p. 38338). Drugs may inhibit cough in several ways: by depressing the cough center or higher centers of the brain by diminishing the sensitivity of the cough receptors; by interrupting the transmission of cough impulses to the brain or to the muscles that are involved in the act of coughing; or by removing irritants and excessive secretions through improved bronchial drainage (P14–1, p. 38338, P19–2, p. 16; G–1, p. 7, G–29, pp. 2–3; G–40, p. 446; G–138, p. 462; P22–18, p. 397).

Among the causes of cough are chronic conditions (such as chronic bronchitis or emphysema), the common cold, and other acute upper respiratory infections. Chronic cough is quite different from acute cough (G–1, p. 13–15; G–15, pp. 11–12; G–17, pp. 8–9, T–938–39). In chronic lung conditions, chronic inflammatory processes in the patient's lower bronchial pulmonary passages produce thick, tenacious sputum; patients with such conditions need to cough in order to evacuate this sputum. Patients with acute upper respiratory infection usually cough because of minor irritation of the upper portions of the throat or respiratory system by thin secretions from the upper nasal and nasal pharyngeal passages. In such patients, the cough is generally of short duration and generally does not produce the thick, tenacious secretions seen in chronic lung conditions. Aside from these observable clinical differences between acute cough and chronic cough, chronic cough may involve nerve pathways from the throat or lungs to the cough center that are different from those involved in acute cough (T–995; T–942). Also, in chronic cough, patients cough for such a long period that they adapt to the cough by becoming less aware of the cough and sometimes less sensitive to cough stimuli (G–36, p. 422; G–46, p. 427; T–559–60). Adaptation to chronic cough may have physiological as well as pyschological origin; it may result from decreased excitability of certain receptors in the lung (T–995, G–40, p. 445).

The major indication for use of antitussive drugs is suppression of cough in a patient who has an upper respiratory infection that is interfering with rest and sleep (P22–18, p. 397). By suppressing cough, the drug allows the patient to sleep.

Investigation of an antitussive drug involves both animal studies and human (clinical) studies. With respect to new drugs generally and antitussive drugs in particular, there is no absolute requirement that a sponsor show the precise mechanism of action of a drug. In fact, mechanisms of action have not been identified for many drugs, including certain drugs marketed subject to approve NDA's. This situation reflects certain limits, both technical and ethical, on the extent to which biomedical research may establish pharmacological mode of activity in human subjects. Because these limits exist in the case of antitussive drugs, animal studies are used to determine, among other things, the mechanism of action of such drugs, i.e., specific inhibition of the cough center or other action as described earlier in this section. Many drugs have antitussive effects but do not act specifically on the cough center.[3] For example, a drug that depresses the entire central nervous system also will suppress cough. However, it is important to eliminate general depression of the central nervous system as the cause of a drug's antitussive effect: if a drug only suppresses cough due to such general depressant effect, the patient would have to take a dose large enough to produce sedation to a hazardous degree (P19–1, p. 6).

Clinical studies of antitussive drugs have been done in healthy volunteers in whom cough is experimentally induced, in chronic cough patients, and in patients with cough due to cold or other upper respiratory infections (P14–1, p. 38341). It is generally, but not universally, believed that an antitussive drug needs to be studied in the target population, unless the drug is shown to act by specific suppression of the cough center (G–1, pp. 13–18; G–11, pp. 11–12; G–17, pp. 8–9). Some clinical studies of antitussive drugs have employed subjective techniques in which evaluation is based on the opinions of patients regarding the frequency and intensity of cough and other matters (G–46, p. 433; G–61, p. 146; G–64, p. 125; G–138, pp. 463–64). Others have employed objective measures, such as cough counting devices or use of trained observers (id.).

Applying these principles to this proceeding, I first confront the threshold question of which clinical studies of Benylin or diphenhydramine hydrochloride (see Appendix A) may be considered in support of Benylin's claimed effectiveness "[f]or the temporary relief of cough due to minor throat and bronchial irritation as may occur with the common cold or with inhaled irritants" (P14–5). Different answers to this question have been offered by the parties, the CCABA Panel and the ALJ.

The Bureau contends that studies of Benylin in groups other than the target population may be considered only if diphenhydramine hydrochloride is shown conclusively to act specifically on the cough center of the brain, and not through some other mechanism such as soothing the throat or causing general sedation (G–11, pp. 11–13; G–29, pp. 2–3). The Bureau also asserts that it has not been shown that this drug acts specifically on the cough center (G–1, pp. 6, 14–15; G–11, pp. 12–13; G–29, pp. 2, 7; T–529; T–961).

WL/PD argues that all of the studies submitted should be considered, and that the issue of the mechanism and site of action of diphenhydramine hydrochloride as an antitussive has been "distorted out of proportion" and "is of only marginal importance in this case" (Brief, pp. 87–93). The companies claim that, in any event, two of the animal studies (P5–5; study by Rispat, et al., attached to P19–16) show that diphenhydramine hydrochloride's antitussive activity occurs in the cough center of the brain.

The CCABA Panel reached the following conclusion concerning the mechanism of activity of diphenhydramine hydrochloride (41 FR 38312; September 9, 1976):

> The exact mechanism of action of diphenhydramine is not precisely known. However, because of its ability to inhibit the cough reflex resulting from stimulation of the superior laryngeal nerve, the Panel believes a central site of activity of diphenhydramine is a reasonable mode of action. Furthermore, the animal studies are cited as evidence that cough inhibition is not due to a general depression of the central nervous system but to a specific action, similar to codeine, on the "cough center."

Based upon this conclusion, the CCABA Panel apparently considered all studies of diphenhydramine in its determination that the drug is a safe and effective antitussive agent.

In the Initial Decision, the ALJ considered only the two studies in subjects with acute cough in support of Benylin's claim for relief of cough due to cold; he considered only the studies of subjects with experimentally induced cough in support of Benylin's claim for relief of cough due to inhaled irritants (ID, pp. 15–17, 19, 20). The ALJ found that animal studies indicated that diphenhydramine hydrochloride possessses antitussive activity (ID, p. 17). He did not, however, find that the drug acts specifically on the cough center. In addition, he did not accept clinical studies in patients with chronic cough (Protocols 702–3, P7–6 through P7–10; 702–4, P8–1 through P8–5; 184–35, P9–7 through P9–10; 184–36, P9–11 through P9–14; and 184–37, P9–15 through P9–19) as evidence of Benylin's effectiveness. He reasoned that chronic cough is not among the proposed conditions of use in the labeling (ID, p. 16).

Due to the differences among types of coughs and the possibility of underlying neurological differences, as described above, I find that an antitussive drug needs to be studies in its intended target population, unless the sponsor shows that the drug specifically suppresses activity in the cough center of the brain (G–1, pp. 13–15; G–11, pp. 11–13, 18, 30–31; G–17, pp. 8–9). If the sponsor shows that an antitussive drug intended for use

[3] For example, before a patient is bronchoscoped, a local anesthetic may be applied to the bronchial mucosa to prevent the patient from coughing (T–940; G–46, p. 435). Although the anesthetic stops cough, it is not classified as an antitussive drug (id.). Similarly, drugs that paralyze the musculature prevent cough, but are not classified as antitussive drugs (id.).

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in cough due to cold specifically suppresses activity in the cough center of the brain, the sponsor may study the drug in patients with other forms of pathological cough, e.g., chronic cough (id.). Nevertheless, studies in the target population are best and are considered by some experts to be indispensable (G–15, pp. 11–12; G–27, pp. 13, 27; G–78, p. 2193). I find that an antitussive drug that acts by inhibiting the cough center is likely to be effective in both chronic and acute cough (G–1, pp. 13–15; G–11, pp. 11–12, 18, 30–31; G–17, pp. 8–9, G–46, p. 437), at least in the absence of certain overwhelming stimuli that may exist in extreme cases of certain diseases (G–1, p. 14). If the sponsor does not show that an antitussive drug's mechanism of action is specific suppression of activity in the cough center, the sponsor must submit at least two studies in the target population to satisfy the statutory requirement of substantial evidence of effectiveness (G–11, p. 31; G–27, pp. 5–6).

Because WL/PD has not shown that diphenhydramine hydrochloride suppresses or inhibits cough by means of specific activity in the cough center, it is scientifically inappropriate for FDA to consider the chronic cough studies in support of Benylin's claimed effectiveness for cough associated with the common cold. If in the future WL/PD proves such activity, the agency will consider these studies.

The requirement of at least two studies is found in § 505(d) of the act "*investigations*" (emphasis added) and in §§ 314.1(c)(2)12.c. and 314.111(a)(5)(i) of the regulations (21 CFR 314.1(c)(2)12.c. and 314.111(a)(5)(i)). These requirements are founded upon a basic proposition of science that an experiment must be reproducible in order for the results to be considered valid (G–11, p.13).

In reaching my finding about diphenhydramine hydrochloride's mechanism of action, I considered those animal studies in the record that were submitted as relevant to this question. Several of the reports submitted (P5–4, P5–6 through P5–11) were not designed to allow determination of the drug's mechanism of action; others lack sufficient detail to permit scientific evaluation or do not even mention diphenhydramine (G–1, pp. 8–12; G–29, pp. 6–7). WL/PD's one expert witness on the drug's mechanism of action does not refer to these reports (P19–16).

The company relies on two studies, the Domenjoz study (P5–5) and the Rispat study (Attachment, P19–16), to show that the antitussive activity of diphenhydramine occurs in the cough center of the brain (Brief, p. 93; P19–16, pp. 4–6).

The 1952 Domenjoz study was conducted in anesthetized cats in which cough was induced by stimulating the superior laryngeal nerve (P5–5; G–1, p. 12; P19–16, pp. 2–3). This is one of the major nerves carrying impulses from the upper respiratory tree, including the throat and larynx, to the medulla, where the central cough center is located (G–1, p. 12). The principal purpose of this study was to describe the mechanical aspects of this type of experiment (P5–5; G–1, p. 12; G–11, p. 12). Although the author states that "we were also able to observe a clear antitussive action of benedryl [diphenhydramine hydrochloride] * * * with the use of our method," he gives no supporting data for this statement that would allow any sound conclusions to be drawn about diphenhydramine's mechanism of action (G–1, p. 12; G–11, p. 12; G–29, p.3).

The 1976 Rispat study (Attachment, P, 19–16) was a French study, also conducted in anesthetized cats. WL/PD learned about this study from its expert witness, during the proceeding. The Rispat study employed the Domenjoz method and another method which, the witness conceded, does not distinguish between central and peripheral action of an agent (P19–16, p. 5). The study compared a drug called zipeprol to several antitussive drugs, including diphenhydramine. From the report of the study, it is evident that the authors did not consider the method used to be capable of establishing conclusively a drug's mechanism of action. With respect to zipeprol, the article states that "[t]he antitussive properties *appear to be* due to a central action" and that "[t]he antitussive properties of zipeprol *may be* attributable to a central action" (Attachment, P19–16, pp. 523, 530, emphasis added). The article also states that "other properties may be implicated in the antitussive action of zipeprol (id., p. 530). Moreover, it is unclear whether "a central action" refers to general action on the central nervous system or to specific action in the cough center (T–961). Thus, the results of this study are consistent with the Bureau's position that the mechanism of action of diphenhydramine has not been conclusively established (T–529). In analyzing the Rispat study, WL/PD's expert witness claimed only that "[t]he antitussive properties of diphenhydramine *may* thus be attributable to a central action" and conceded that the study does not rule out cough suppression due at least in part to diphenhydramine's "potential anticholinergic and antihistaminic properties" (P19–16, p. 5). The Bureau agrees (G–29, pp. 5–7; T–529).

Both of these studies are subject to the fundamental criticism that the superior laryngeal nerve stimulation method is incapable of distinguishing general depression of the central nervous system from specific action in the cough center of the brain (G–29, p. 5; T–523–29; T–993). In recent years, many researchers have begun using more sophisticated methods such as insertion of needle electrodes directly into the cough center of the laboratory animal's brain to determine the mechanism of action of an antitussive drug (G–1, p. 13; T–981, 982, 985, 986, 993; P23–12; P23–9). The superior laryngeal nerve stimulation method still is sometimes used to determine whether a drug under study possesses *any* antitussive activity (P23–10, P23–11).

Another limitation of the Domenjoz method is the need for controls to eliminate the possibility that the drug used to anesthetize the subject cats, rather than the test drug, is responsible, through general depression of the central nervous system, for any observed antitussive effect (G–29, pp. 3–5; G–46, p. 429). Alternatively, or additionally, local anesthetic properties of diphenhydramine may have contributed to suppression of cough in the Domenjoz and Rispat studies of this drug (G–29, p. 5; G–46, p. 436; G–51, p. 606).

WL/PD's expert witness argues that because the Domenjoz method requires that the cats be deeply anesthetized before challenge with the potential antitussive agent, the Rispat study rules out the possibility that diphenhydramine stops cough through general central nervous system depression (P19–16, p. 5). I reject this argument, for two reasons. First, the authors do not state that the cats were deeply anesthetized (Attachment, P19–16; T–961–62). Second, Domenjoz describes this method as requiring light anesthesia (P5–5, p. 3). Pronounced anesthesia would interfere with the elicitation of cough by means of electrical stimulation of the superior laryngeal nerve (G–29, p. 4).

I find, therefore, that the Domenjoz and Rispat studies do not provide any basis for concluding that any antitussive effects of diphenhydramine are due to specific action on the cough center of the brain (G–1, pp. 8, 14–15; G–11, pp. 12–13; G–29, p. 7; T–529, T–961). Due to limitations in the method used in these studies, their results are not inconsistent with the Bureau's belief that diphenhydramine hydrochloride has antitussive activity but that neither the mechanism by which diphenhydramine acts nor the proper dose for cough suppression has been established (G–11, pp. 11, 30; G–17, p. 15; G–27, pp. 9, 26; G–29, p. 7; T–588–09). This activity may be general central nervous system depression rather than specific depression of the cough center (G–1, pp. 7–8, 14–15; G–5, p. 5; G–11, pp. 11–30; G–29, pp. 6–7; G–40, p. 446; T–529).

To determine the mechanism of action of diphenhydramine hydrochloride, the CCABA Panel considered several of the animal studies referred to above (P5–4; P5–6; P5–7) and a review article, Loew, E. R., "Pharmacology of Antihistamine Compounds," *Physiological Reviews*, 27:542, 1947) (P14–1, p. 38341). Among the literature the Panel considered was a discussion in another paper (P5–9, p. 425) that mentions the Domenjoz study (P5–5). As mentioned above, the Panel acknowledged that "[t]he exact mechanism of action of diphenhydramine is not precisely known," but concluded that "a central site of activity of diphenhydramine is a reasonable mode of action" (P14–1, p. 38341). The Panel went on to say that "the animal studies are cited as evidence that cough inhibition is not due to a general depression of the central nervous system but to a specific action, similar to codeine, on the 'cough center'" (id.).

It is evident from the Panel's own words that it had reservations about its findings concerning diphenhydramine's mechanism of action. The Panel found merely that a central site of action is a "reasonable" (meaning "plausible") mechanism of action and apparently treated the animal studies as persuasive although not conclusive evidence in support of this finding. It is on the question of how certain one must be that an antitussive drug acts specifically on the cough center, before FDA may consider clinical studies in other than the target population, that I part company with the Panel. I believe that the Panel applied too loose a standard. It is not enough that specific action on the cough center be a plausible inference from the various animal studies. Plausibility is not proof. Under section 505 of the act, approval of an NDA must be based, among other things, on scientifically rigorous and valid evidence of effectiveness. The requirement for such evidence applies to each step in the chain of reasoning intended to show effectiveness. It is necessary, therefore, that a sponsor show with scientific rigor and validity that specific action on the cough center is an antitussive drug's mechanism of action, before FDA may accept studies done in other than the target population as substantial evidence of the drug's effectiveness. All of the evidence in the record concerning the mechanism of action of diphenhydramine hydrochloride is merely suggestive; more carefully designed studies are needed to establish precisely what this mechanism is.

I am also concerned that the Panel's protocols for studies required to move a Category III drug (one for which available data are now insufficient to permit final classification of the drug) into Category I (consisting of drugs that are generally recognized as safe and effective) (P14–1, pp. 38354–55) do not recognize the principle that an antitussive drug needs to be studied in the target population unless scientifically rigorous and valid evidence exists that the drug acts specifically on the cough center. The Panel recommended that the two required studies consist of either one study with experimentally induced cough plus a study in cough due to respiratory disease, or two studies by different investigators in patients with respiratory disease (P14–1, p. 38355). FDA will respond to this recommendation, and to my concerns, in its tentative final regulation on the CCABA Panel report and the September 9, 1976 proposal.

The induced cough studies considered in this proceeding (see Appendix B, paragraphs 3, 4, and 5) show that diphenhydramine hydrochloride possesses some pharmacologic activity in subjects with experimentally induced cough (G–17, pp. 6–8; G–27, pp. 10–11), but do not clearly demonstrate antitussive effects even in this artificial setting (G–11, pp. 13–15). Moreover, there is strong evidence that studies of an antitussive drug in subjects with experimentally induced cough are only of limited value in demonstrating that the drug has antitussive properties for treatment of pathological cough (G–1, pp. 17–18; G–11, pp. 14–15, comparing G–136, G–46, G–137, and G–64; G–17, pp. 7–8; G–36, p. 421; G–46, pp. 431–33; G–51, pp. 278–79; G–61; G–62; G–64; P19–11, p. 10; T–745–46).[4] Accordingly, I find that, in determining the effectiveness of a drug whose precise mechanism of antitussive action has not been established and that is offered for treatment of cough associated with the common cold, induced cough studies are no substitute for adequate and well-controlled studies in the target population (id.). (If the sponsor shows specific action on the cough center, the sponsor may study the drug in patients with chronic cough.) Induced cough studies do, however, have value as an early screening technique to determine whether an agent has any form of antitussive activity (G–1, pp. 17–18; G–11, p. 14; G–17, p. 7; G–138, p. 465), but cannot be offered as substantial evidence of the drug's effectiveness in pathological cough. Induced cough studies simply do not show that the drug will have the effect it purports or is represented to have under the recommended conditions of use (section 505(d) of the act).

Because I do not believe that diphenhydramine has been shown to act by specific suppression of the brain's cough center, it is necessary that Benylin has been the subject of two or more adequate and well-controlled studies producing evidence of a significant reduction in coughs in the target population.

What is the target population for Benylin? The sponsor-proposed labeling for Benylin states that the drug is "[f]or the temporary relief of cough due to minor throat and bronchial irritation as may occur with the common cold or inhaled irritants." In its brief, WL/PD identifies two studies (Protocols 266–9 and 266–17) as having been done in the "target population of patients with coughs associated with the common cold" (Brief p. 48). Similarly, the Bureau identifies these two studies of Benylin as the only ones done in the target population (Brief, p. 159). The Bureau also asserts that no target population exists, outside industrial settings, that has cough due to inhaled irritants (id.). In the Initial Decision, the ALJ interpreted the labeling as creating two distinct conditions for Benylin usage: cough due to the common cold, and cough due to inhaled irritants (ID, pp. 15–16).

I find that the target population for Benylin is cough associated with the common cold. In the first place, even if there exists a target population with cough due to inhaled irritants, it is not clear that it would be desirable for these patients to suppress coughs that would help eliminate the irritants (G–46, p. 427; T–801). Second, to the extent that such population consists of individuals who work in industrial environments in which they are exposed to inhaled irritants, many of these individuals would be performing tasks, e.g., operation of machinery, that contraindicate use of a drug that produces drowsiness (G–5, p. 5). Third, even if there exists a target population with cough due to inhaled irritants, I find that the record does not support the

[4] The cited sources raise additional and legitimate doubts about the wisdom of the CCABA Panel's recommendation that FDA treat significant results from one induced cough study and one study in cough due to respiratory disease as acceptable evidence of effectiveness.

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ALJ's finding (ID, p. 17) that there is sufficient similarity between experimentally induced cough and cough due to inhaled irritants to extrapolate test results from one situation to another. Early studies of the induced cough technique explored the suitability of various irritants for inducing coughs (G–36, pp. 402–407; G–46, pp. 428–29). These studies suggest that different irritants (or even different concentrations of the same irritant) do not uniformly have the same effects on subjects in terms of production of coughs (id.). Nor are the coughs produced by different irritants consistently affected by standard antitussives (id.). These studies show that it cannot be assumed that an agent effective in suppressing cough induced by citric acid aerosol or another test substance will suppress cough due to any other inhaled irritant.

Finally, cough due to inhaled irritants to which a patient is exposed over a long period of time may differ from experimentally induced cough in which the subject is exposed suddenly and briefly to an irritant; this possible difference also renders invalid any prediction of antitussive effect on cough due to inhaled irritants that is based on induced cough studies (G–36, p. 422).

In light of the above findings, FDA should consider disagreeing with the recommendation of the CCABA panel that the emphasized phrase in the following claim be regarded as acceptable indication for a safe and effective OTC antitussive drug: "For the temporary relief of cough due to minor throat and bronchial irritation as may occur with the common cold (cold) *or with inhaled irritants*" (P14–1, p. 38342, emphasis added).

2. *Adequacy of studies in patients with cough due to cold.* Two of the studies of Benylin were done in patients with cough due to the common cold (the Tebrock study, Protocol 266–17, P9–1 through P9–6), and the Burke Study, Protocol 266–9, P7–1 through P7–5. Neither is an adequate and well-controlled study that offers substantial evidence of Benylin's effectiveness as an antitussive drug (G–3, p. 8; G–7, pp. 3, 9; G–11, p. 31; G–13, p. 5; G–15, pp. 7, 10–11).

Before I discuss the particular deficiencies in these studies, I believe I should express my general disappointment that the sponsor, a major pharmaceutical firm, submitted so many studies that fall so short, in so many different ways, of meeting scientific standards for clinical evaluations. It seems almost tragic that the Tebrock study, a large study in the target population, was not designed to include adequate controls and to use sufficiently objective methods so that Benylin's effectiveness as an antitussive could be evaluated.

Even if the design and conduct of the Tebrock study satisfied fully the requirements of the act and 21 CFR 314.111(a)(5)(ii) for an adequate and well-controlled investigation (which they do not, as explained elsewhere in this Decision), the results of the study do not provide substantial evidence of Benylin's effectiveness under the conditions of use recommended in its labeling. In this study, Benylin relieved cough in 32.4 percent of patients receiving it, while the "placebo" (Benylin vehicle) relieved cough in 23.2 percent of patients receiving it. Thus Benylin offered only a 9 percent advantage over the control. As discussed below, the statute's requirement that a drug "have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof" (section 505(d) of the act) is not met unless a drug offers a clinically significant benefit.

Both the Tebrock study and the Burke study employed unsuitable controls. The "placebo" in the Tebrock study contained ingredients that may be active. Also, no positive control was used. The Burke study is deficient in that it did not include a placebo drug. Furthermore, the positive control used (Benylin plus codeine) is not a suitable positive drug control.

The issues of clinical significance and the need for adequate controls are of overriding importance and deserve detailed treatment here. There are other important deficiencies in the Tebrock and Burke studies that prevent their consideration as substantial evidence of Benylin's effectiveness. These deficiencies are addressed below in section VI. of this Decision, below.

3. *Clinically Significant Effectiveness.* The evaluation of any drug starts with a determination of its effectiveness. FDA may approve a new drug only if the sponsor shows, by substantial evidence, "that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof" (section 505(d) of the act). Even a drug that is not a new drug is misbranded and subject to regulatory action under section 502 (a) and (f) of the act (21 U.S.C. 352 (a) and (f)) if it does not perform as claimed.

Although the act provides an exact standard for evidence of new drug effectiveness, it does not define "effectiveness" itself. Congress has left to FDA the task of deciding exactly how effective a new drug must be to merit approval. As mentioned above in section IV.A. of this Decision, FDA has by regulation established a definition of "effectiveness" for OTC drugs (21 CFR 330.10(a)(4)(ii)).

In administering the act and regulations thereunder, the agency has not quantified the required degree of effectiveness for new drugs, and cannot do so. FDA recognizes that a drug may not be effective for all patients with a disease, or may not be equally effective in all patients. See S. Rept. No. 1703, 87th Cong., 2d Sess. 16 (1962). Determination of a drug's effectiveness is a part of the risk-benefit analysis that lies at the center of the drug approval process and that takes into account such factors as the seriousness of the disease for which the drug is intended, the availability of other therapies, and the public health implications of the product's availability (Ref. 1, pp. 3, 61). Thus, a drug that is moderately or even highly effective in the treatment of such minor, self limiting conditions as the common cold would not be approved if it were characterized by even moderately serious side effects. On the other hand, relatively toxic drugs are approved if they have value in the treatment of malignant tumors.

Drug effectiveness is determined principally through comparative clinical experiments (see 21 CFR 314.111(a)(5)(ii)). The objective of these experiments is to detect a difference between the test drug and a control. A statistical test can determine the probability that an observed difference between the test drug and the control occurred by chance. As a matter of scientific custom, a statistically significant difference has sometimes been considered one that is likely to occur by chance 1 in 20 times or less (P19–9, p. 2; T–557). The probability (P) of 1 in 20 or less is expressed as a decimal $P<0.05$. With increased use of computers, it has become more common for statisticians to supply the probability that a difference is likely to occur by chance and leave to others judgments about the significance of the result in the particular settings in which it is to be used (e.g., medicine, engineering, sociology, or industry). One expert on design of clinical trials explains that, "[i]t is well to remember that statistics prove nothing—they are merely a device for establishing the betting odds on the reproducibility of the results by mere chance" (G–78, p. 2196).

Clinical significance concerns the degree of benefit a patient will receive from a drug (G–13, pp. 10–11). In its

exceptions to the Initial Decision, the Bureau essentially equates clinically significant effectiveness with substantial evidence of effectiveness as required by section 505 of the act (Exceptions, p. 56). Statistically significant evidence is not the same as clinically significant evidence that a drug will have the effect it is represented to have (G–13, p. 10).

Achievement of a statistically significant difference between groups depends heavily on sample size (T–278, 946–47). Using large enough samples of subjects, an investigator testing a particular drug could obtain results that are highly significant statistically even if the clinical advantage of the drug is trivial (Ref. 2):

> [In a therapeutic trial of 200 patients, improvement occurs] in 49 of 100 patients treated with Drug W, and in 50 of 100 patients treated with Drug V. Noting the small increment of 1 percent between 49 percent and 50 percent, we would conclude that the difference was clinically unimportant. Suppose we now conducted the same therapeutic trial with a sample size of 50,000 rather than 200 patients. If we encountered the same difference of 49 percent improvement for Drug W and 50 percent for Drug V, we might still be unimpressed by the difference of 1 percent. Nevertheless, in the second trial, with 50,000 patients, the 1 percent difference is "statistically significant" ($X^2=5.0$; $P<0.05$), whereas in the first trial of 200 patients, the identical increment of 1 percent is not "significant" ($X^2=0.02$, $P<0.75$).

In this example, the 1 percent difference would not be judged clinically significant if the improvement represented 2 pounds lost after treatment with an anorectic agent (Ref. 1, pp. 18–19). But if the treatment were life-saving, the 1 percent difference, representing 250 individuals out of 25,000 whose lives were saved by Drug V, would be judged highly important. Thus, the seriousness of the disease for which a drug is indicated is a critical element in a judgment whether a statistically significant difference is also clinically significant.

The fallacy of equating statistical significance with clinical significance can be shown by considering that in a study of 100,000 subjects in which 50,000 subjects receive the test drug and 50,000 subjects receive the control, an improvement in just 5 subjects who received the test drug would have statistical significance ($P=0.03$). Yet the percentage of subjects in the test drug group who improved would be only 0.01 percent. Although only one in 10,000 subjects responded, the results would be statistically significant because of the large sample size. This result is a *reductio ad absurdum* of the argument that statistical significance is the same as, or is sufficient for, clinical significance. (Obviously, with such a result, no risks associated with the drug could be considered acceptable.)

These examples show why, in determining whether results are clinically significant, a decisionmaker must take into account factors in addition to the 95 percent confidence level. It should also be noted that, in other cases, a result that is only at the 90 percent confidence level could have great clinical significance.

Applying these principles to the Tebrock study of Benylin, I find that the 9 percent difference on the first day of the study between patients receiving Benylin and those receiving the vehicle may be statistically significant because of the large number of patients involved and the analysis used, but is not clinically significant (G–11, p. 21; G–13, p. 11; G–15, pp. 9–10; G–27, p. 19, T–557–560).[5] Aside from the smallness of this difference, the percentages of patients reporting improvement in both groups—32.4 percent in the Benylin group and 23.2 percent in the Benylin vehicle group—seem surprisingly low considering the placebo effects that have been observed with the administration of antitussive drugs (G–36, p. 400; G–46, pp. 434–35) and considering the self-limiting nature of upper respiratory infections. Of every 3 patients who received Benylin, 2 were not helped; of every 5 patients who received the vehicle, 4 were not helped. Thus, calculations of the statistical significance of differences between the groups are based on figures that already seem low, in terms of clinical significance. With these considerations in mind, a demonstration of only 9 percent difference between the groups is particularly unimpressive. Based on the results of the Tebrock study, of every 9 patients who receive Benylin, 6 will report no benefit. Of the 3 who report benefit, only 1 will report benefit from the drug itself, while the other 2 who report benefit might have been equally benefitted by a placebo. (For purposes of this analysis; I am treating the Benylin vehicle as a true placebo.) A demonstration of no more than a 1 in 9 [6] chance of obtaining relief from a cough preparatation does not show that the drug will have the effect it purports to have under the conditions of use suggested in Benylin's labeling.

The discussion so far considers the Tebrack study results from the viewpoint of a physician or other scientist trying to decide whether statistically significant results are also clinically significant. Also important is the viewpoint of the patient, especially when one considers that the sponsor has proposed to make Benylin available to the public without a prescription. A patient who buys an OTC drug for relief of symptoms associated with the common cold expects that it will, in fact, treat the indicated condition effectively. The patient does not expect to be taking a 1 in 9 chance that the drug will help. If the drug were for a more serious condition (which generally, but not always, would be a prescription drug), the patient may be more willing to take such a chance when that course of action appears medically advisable. In the case of a prescription drug, the labeling sometimes makes available to physicians summaries of the findings of clinical studies, including differences between results with the drug and those with the controls. Some physicians may even explain to patients that studies of a prescription drug have not shown effectiveness in all who take it. In the case of OTC drugs, however, such information is not provided in the labeling or otherwise available to patients. Certainly, the proposed labeling of Benylin does not provide information about the clinical studies of the drug's effectiveness.

It should also be noted that the results of the Tebrock study were statistically significant only on the first day of the study, and that the results even on that day were just on the borderline of statistical significance (G–15, pp. 9–10). A change in the reports of just a few patients would have eliminated this significance (id.).

In addition, results of the study's other measures of drug-attributable results, which do not support Benylin's effectiveness, should not be ignored (G–7, p. 6). The second such measure was a question directed to patients as to whether they would take this medication the next time they got a cough. More patients were satisfied with the Benylin vehicle (90.3 percent) than with Benylin (84.3 percent).

The other such measure was a question directed to investigators, which called for an overall rating as to beneficial drug-attributable results from medication. The results did not reveal any statistically significant differences

[5] In another context, witnesses for WL/PD who testified concerning the Tebrock study recognized the distinction between statistical significance and clinical significance by arguing that the incidence of drowsiness in the Benylin group, although statistically significant, was not clinically significant (P19–5, p. 3; P19–20, p. 3).

[6] The Bureau's argument that the likelihood of benefit from Benylin is 1 in 11 (G–11, p. 21; G–13, p. 10; T–560) is based on the difference between 32.4 percent in the Benylin group and 23.2 percent in the placebo group. The argument does not take into account the large numbers of subjects unaided by either medication.

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between Benylin and the Benylin vehicle: positive ratings were 91.6 percent for Benylin and 89.9 percent for the vehicle. Thus, the slight but statistically significant improvement in cough response reported by the Benylin group on day 1 does not carry over to other responses that also are relevant to overall evaluation of the drug's treatment effect.

Witnesses for WL/PD have speculated that the relatively small difference between results with Benylin and results with placebo may have been due to demulcent (soothing) activity of ingredients in the Benylin vehicle, which was used as a control (P19–3, p. 6). The company has also speculated that the percentage of patients who reported subjective observation of reduction in cough is lower than the percentage whose coughs actually were reduced (P19–3, p. 6, T–558–559). (This speculation is based on studies of chronic cough patients; these studies which are not pertinent here because chronic cough patients become acclimated to their coughs in a way that patients with acute cough associated with the common cold do not (T–560, T–995). Adaptation by chronic cough patients is discussed above in section V.A.1. of this Decision.) Moreover, it is at least possible that the subjective methodology resulted in more differences between the two groups than actually existed (T–232; G–46, p. 434; G–64). These theories would not need to be offered if the Tebrock study had employed a true placebo, an active control, and more objective methods of measuring improvement, as discussed in sections V.A.4., VI.A.5, and VI.A.6. of this Decision. In any event, I cannot base my decision on speculations about what the Tebrock study might have shown had it been designed differently.

I also reject the assertion that "[t]he issue of whether 32 percent versus 23 percent (a difference of 9 percent) is clinically significant can only be answered yes when subjective estimates of benefits are used in a disease with a highly variable course" (P19–7, p. 16; T–76; T–108; T–111–113; P19–19, p. 2). As discussed above, I cannot base a decision on speculation that, because of the subjective methodology employed, the test results may show less difference than actually existed. In addition, the bare fact that a drug is for use in a disease with a highly variable course does not have much bearing on the acceptability of a 9 percent difference between test drug and control without consideration of the seriousness of the disease and other relevant factors.

4. *Need for Adequate Controls.* A clinical investigation to show new drug effectiveness must be "adequate and well-controlled" (section 505(d) of the act). FDA's regulations on adequate and well-controlled clinical investigations (21 CFR 314.111(a)(5)(ii)) spell out the principles recognized by the scientific community as the essentials of such investigations (G–1, p. 5, G–3, p. 4; G–5, p. 4; G–11, p. 4; G–13, p. 13; G–15, p. 5; G–17, p. 6; G–31, p. 6). The regulations' "criteria for an adequate and well-controlled clinical investigation * * * are minimal requirements for any valid objective study." *Pharmaceutical Manufacturers Ass'n* v. *Richardson,* 318 F. Supp. 301, 310 (D. Del. 1970). Compliance with the regulations does not guarantee, however, that the investigation will be scientifically valid in every respect.

The regulations require, among other things, that the protocol and the report of study results provide "a comparison of the results of treatment or diagnosis with a control in such a fashion as to permit quantitative evaluation" and state that, "[g]enerally," four types of comparison are recognized: no treatment, placebo control, active treatment control, and historical control (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

The Bureau argues that this provision, in some cases, requires more than one of the four types of "generally recognized" controls (G–11, p. 5; G–27, pp. 6–7; T–492–96, T–690–92; Brief, pp. 98–99).

I agree with the Bureau and find that § 314.111(a)(5)(ii)(*a*)(*4*) establishes general principles and essential requirements of adequate and well-controlled studies generally, but does not prescribe detailed directions for every type of study. Scientific principles determine whether, in a particular study on series or studies, all or some of the types of comparison listed in the regulation are properly used (G–11, p. 5; G–27, pp. 6–7).[1] In the case of some drugs or conditions, use of more than one type of comparison may be necessary. The types of comparison listed thus are illustrative, rather than alternative and mutually exclusive. It is no more correct to interpret the regulation as requiring use of but one of the methods of comparison listed than to interpret the regulation as requiring use of all four of these methods. Moreover, the regulation requires that the controls be used "in such a fashion as to permit quantitative evaluation." As discussed below, quantitative evaluation of drug effects is impossible in some cases without use of more than one type of control. Interpreting the regulation to mean that selection of any of the four named types of controls is acceptable in all cases would compel FDA to accept as substantial evidence of effectiveness studies that, due to the nature of certain drugs and the conditions in which they are used, are not in fact well-controlled, susceptible to quantitative evaluation, or otherwise scientifically valid. This result obviously would be at odds with the statutory intent.

I find, based upon what appears to me to be the preponderance of expert opinion, that use of a placebo is necessary to assure the validity of studies of antitussive drugs; in addition, use of a positive control is essential in some such studies, e.g., those that rely on patients' subjective responses, insensitive experimental methods, or experimental methods of unknown sensitivity (G–7, p. 5; G–11, pp. 5, 20–21; G–13, pp. 6–7; G–15, pp. 7, 10–11; G–17, p. 14; G–39, p. 118; G–78, pp. 2195, 2198; G–79, p. 120; G–138, p. 465; T492–96).

A placebo control is needed to distinguish between a true pharmacological effect of the test drug and fortuitous matters such as psychological effects of taking medication or spontaneous improvement of the disease (G–13, p. 5; G–15, p. 7; G–39, p. 126; G–46, p. 431; G–78, p. 2195). A positive control (e.g., a drug known to be effective) is needed to measure the sensitivity of the experimental procedure, i.e., its ability to measure or detect a drug-related effect when one occurs (G–13, pp. 6–7; G–17, p. 14; G–27, p. 7; G–78, p. 2198; G–79, p. 120). Both controls are essential when the sensitivity of an experimental procedure is in doubt (id.). Both controls are at least highly desirable, and may sometimes be essential, when a high degree of sensitivity is needed to detect or measure an effect, such as suppression of cough due to colds, or where the disease or condition is of short duration or is self-limiting (G–7, p. 5; G–11, p. 5; G–17, p. 14; G–27, pp. 6–7).

Applying these principles to Benylin, I find that neither the Tebrock study (Protocol 266–17) nor the Burke study (Protocol 266–9) is well-controlled. The Tebrock study is deficient because it

[1] There are many ways in which FDA informs sponsors of what FDA expects in investigations. FDA encourages sponsors to consult with FDA to determine what controls are needed in studies of particular drugs (T–754–55). FDA provides sponsors with the opportunity to submit protocols for FDA comments before studies begin and to confer with the agency's reviewing staffs (T–754). FDA also makes available guidelines and other information concerning the conduct of drug investigations (G–11, pp. 3–4). Although WL/PD did consult with the CCABA Panel concerning the additional clinical studies needed to show safety and effectiveness, it apparently did not consult the agency's new drug evaluation staff, as would be appropriate for a new drug subject to a prescription requirement.

failed to include a positive control (G–11, pp. 20, 21; G–13, pp. 6–7; G–27, p. 19), which was essential given the study's reliance upon patients' subjective evaluations. Inclusion of a positive control woud have helped determine whether the lack of any statistically significant difference on days 2 and 3 of the study was due to the normal course of the cold, by showing whether a recognized antitussive such as codeine demonstrated a statistically significant difference on these days (G–17, p. 14). Without this information, we do not know whether the lack of difference between Benylin and the vehicle shows that Benylin is ineffective or that most patients' colds had improved rapidly (G–17, pp. 14–15). In addition, the Tebrock study did not employ a true placebo (see section VI.A.5. of this Decision, below).

The Burke study is deficient because it failed to include a placebo control (G–11, p. 19; G–13, p. 11; G–15, p. 10–11). It therefore is not known whether either of the drugs tested, Benylin or Benylin plus codeine, actually had a significant effect of suppressing cough. Furthermore, the Burke study did not include an adequate positive control; a combination of Benylin and codeine is not adequate because the combination has not itself been established as an effective antitussive drug product (G–11, p. 19; G–13, p. 11; G–15, pp. 10–11, 13; G–17, p. 11; G–27, pp. 14, 17). With a combination that has not been established as an effective drug product, there may be an interaction among the ingredients that results in a different pharmacological effect, e.g., decreased effectiveness of one or more ingredients due to lack of adequate absorption (G–15, p. 10; T–535). The CCABA Panel characterized the Burke study as "uncontrolled" (P14–1, p. 38341). Due to the lack of controls, no conclusions may be drawn from the Burke study at to Benylin's effectiveness.

Witnesses for WL/PD contended that the Burke study should not be considered deficient due to lack of placebo control because it would be unethical to use a placebo with sick children (P19–4, p. 4; P19–11, pp. 9–10). Although I agree that there are many cases in which it would be unethical to use a placebo control with sick children (P23–3, pp. 17–18), I do not believe that this practice is unethical in tests of drugs for mild, self-limiting conditions such as cough due to the common cold (T–788–89, T–849). Indeed, the principal investigator in the Burke study testified that none of the subjects was critically ill or had a disease of a serious nature (P19–4, p. 2).

B. *Safety*

In view of my finding that Benylin has not been shown to be effective, I need not reach a final decision on whether Benylin is safe for OTC distribution. When the effectiveness of a drug is unknown, the agency cannot decide whether its benefits outweigh its risks. These alternative products are discussed in section V.B.7. of this Decision, below. As discussed earlier, it is appropriate for the agency to scrutinize carefully the risks associated with use of a drug for a mild condition, especially when effective alternative products are available that present only acceptable risks. Moreover, any additional clinical studies of Benylin intended to show its effectiveness as an antitussive may shed new light on its safety for OTC use. Accordingly, I cannot now find that WL/PD has satisfied the requirements for establishing the safety of a new drug.

In fairness to the parties, who have long been at odds on the question of Benylin's safety as an OTC drug, I will give my opinion on this question based on studies in the present record and FDA policies. My opinion is that the risks associated with the use of Benylin in the recommended adult dosage of 25 mg might not be so severe as to require a prescription, if Benylin were shown to be effective and were adequately labeled and packaged for OTC use.

1. *Bureau's Safety Concerns.* The Bureau concedes the safety of Benylin if restricted to prescription (Bureau's Motion to Strike, p. 27). It contends, however, that WL/PD has not met its burden of proof that Benylin is safe for OTC distribution and, further, that the available evidence shows conclusively that Benylin is unsafe for use as an OTC antitussive (Bureau's Brief, p. 232).

The Bureau's belief that Benylin is unsafe for OTC distribution is based principally on its soporific (sleep-inducing) effects, which the Bureau believes are associated with impairment of psychomotor functions required in the performance of such tasks as driving a motor vehicle and operating machinery (41 FR 52537 (November 30, 1976); Bureau's Brief, p. 232). The Bureau's position is that a drug that causes drowsiness in the degree that Benylin does is safer when restricted to prescription because patients believe that a prescription drug is potent and are more likely to handle the product carefully and heed any oral warnings given by a physician concerning a prescription drug than the written warnings accompanying an OTC drug (see section V.B.5, below).

The Bureau asserts that Benylin presents additional hazards besides drowsiness: undesirable drying of secretions, which may interfere with the ability of individuals with chronic coughs to raise secretions and to breathe (G–19, pp. 4–5; G–15, p. 18); the possibility of injury to children due to accidental ingestion of Benylin (G–3, pp. 4–6; G–9, pp. 5–6; G–31, pp. 6–18); the possibility that Benylin will be used to treat children, due to its sedative effects, and its toxicity in children (G–3, pp. 5–6; G–9, pp. 5–6, 9; G–31, pp. 6–13, 15); evidence that diphenhydramine's soporific effects are magnified by interaction with barbiturates (G–29, p. 4; G–63; G–66; G–67) or alcohol (G–3, p. 8; G–21, pp. 6–7; G–23, pp. 12–13; G–53, G–55, G–83, G–146); and concern about the interaction between Benylin and other drugs (G–21, p. 7).

I find, however, that the critical safety issue is whether Benylin causes such drowsiness that it should continue to be restricted to prescription. The other safety concerns expressed by the Bureau are also raised by many products that are now distributed OTC and can be addressed adequately by labeling and child resistant packaging.

2. *FDA's Authority to Restrict Benylin to Prescription.* Like the Bureau, I believe that the Initial Decision erred in finding that FDA has limited authority under section 503(b) of the act (21 U.S.C. 353(b)) to restrict a drug such as Benylin to prescription use (Exception A.2, pp. 10–17, citing ID, pp. 6–9). The Initial Decision adopts an overly restrictive interpretation of section 503(b) of the act. That interpretation is unsupported by the statute's plain language, its legislative history, and judicial interpretation. As discussed below in numbered paragraph VI.B.2., Rulings on Exceptions, FDA has ample authority to restrict a drug such as Benylin to prescription use if the agency finds that this restriction is necessary for the protection of the public health.

Although FDA has broad authority to restrict a drug such as Benylin to prescription use, the agency is not compelled to use this authority if it determines that there is sufficient evidence that the drug is safe for OTC distribution.

3. *Evidence Concerning Benylin's Safety.* The record includes voluminous evidence relevant to Benylin's safety. Benylin has been the subject of a number of studies aimed at measuring either effects of diphenhydramine on psychomotor function (Protocol 266–15, P2–6; the Moskowitz study, G–23A, G–146) or drowsiness (Protocol 184–15, P2–10; Protocol 184–18, P3–3; Protocol 184–40, P16–1; Protocol 184–41, P17–1).

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Certain of the clinical studies intended to show Benylin's effectiveness also produced data on drowsiness and other effects (Protocols 266–17, 184–35, 184–36, 184–37, P9–3, P9–9, P9–13, P9–17).

I find that two of the studies of drowsiness (Protocol 184–15, P2–10; Protocol 184–18, P3–3) are not valid evidence concerning the safety of Benylin because they were conducted on prisoners, who are an unsuitable population for the study of drowsiness due to medication because prisoners often are drowsy and bored anyway due to inactivity) G–11, pp. 26–27; G–13, pp. 15–17; G–19, pp. 10–11; G–21, pp. 20–21, P10–5, p. 8; P19–9, p. 2; T–248–49; T–583). Prisoners may also be unusually suggestible, may exchange information or the test drugs themselves, and may not be motivated to cooperate fully in the study (id.). In both studies, there was a high frequency of drowsiness reports by subjects in the placebo groups as well as by subjects in the diphenhydramine groups. See Appendix B, paragraphs 3 and 4. I disagree with WL/PD's argument (P19–9, p. 2) that the double-blind, randomized nature of Protocol 184–15 allows comparison of various treatment groups despite the normal drowsiness among prisoners. Subjects who would have reported drowsiness with a placebo can also actually experience a drug effect; it cannot be determined how many of the treated subjects were reporting a drug effect and how many, if any, were reporting a placebo effect (G–13, p. 16; T–281, T–571–72).

Based on the remainder of the studies, I find that there is substantial evidence in the record to support either a finding that Benylin is safe for OTC distribution, or that Benylin is not safe for OTC distribution, if the required information establishing Benylin's effectiveness were available for use in essential therapeutic risk-benefit judgments.

When the record supports either finding, it is important to identify the factors that are criticial in making a choise, to consider these factors from the perspective of public protection, and to reach a decision based on the preponderence of evidence on these factors. Although I cannot now make a final decision on safety, I will, nevertheless, identify the critical factors in such a decision in the hope that this effort will assist the agency should Benylin be shown in the future to be an effective antitussive. First, FDA should pinpoint the extent and degree of risks to the public due to the drowsiness that Benylin causes. Second, FDA should consider whether, and to what extent, prescription status will reduce these risks. Third, FDA should consider the benefits of OTC distribution. Fourth, FDA should consider the benefits and risks of alternative OTC antitussive drugs.

4. *Risks Due to Drowsiness From Benylin.* Diphenhydramine hydrochloride has a pronounced tendency to produce drowsiness in a relatively high proportion of those who take it (G–51, p. 608; G–9, p. 6; G–11, p. 22; G–21, p. 4; G–49, p. 197; G–115, p. 57304). Drowsiness is dose-related: more patients report drowsiness after receiving the antihistaminic dose (50 mg) than after receiving the antitussive dose (25 mg) (G–51, p. 608; P9–10). Objective studies using brain wave measurements have demonstrated that both 25 mg and 50 mg of diphenhydramine hydrochloride have a sedative effect (G–50; G–11, p. 25).

Based upon Protocols 184–40 (P16–1) and 184–41 (P17–1), I find that approximately one-fourth to one-third [8] of patients receiving diphenydramine 25 mg can expect to feel drowsy as a result of the medication. Most of the drowsiness experienced would be moderate or mild, but some patients would feel extremely drowsy (id.; G–17, pp. 16–18; G–21, pp. 14–15).

I reject WL/PD's argument that the evidence of reports of drowsiness in these studies should be disregarded because these reports were inflated by the informed consent procedure and the choice of a relatively sophisticated group of subjects (P16–2, p. 3, P17–2, p. 3; P19–16, pp. 6, 8; T–129). First, I am not convinced that the informed consent procedure employed was unduly suggestive) G–21, pp. 15–16; G–118, G–119). Furthermore, even if this procedure, or the nature of the subject population, or both, tended to inflate the number of reports of drowsiness, these factors would have had an equal impact on reports of drowsiness in the placebo, dextromethorphan, and codeine groups in this double blind study. The study results show, however, that the incidence of drowsiness in these other groups was much lower than the incidence of drowsiness in the diphenhydramine group (P16–3, p. 4, P17–3, p. 4; G–21, p. 16). See Appendix B, paragraph 7. Thus, the results show that most of the reported drowsiness is due to the pharmacological activity of diphenhydramine (T–130–31).

Drowsiness is a common side effect of OTC antihistamine products (P14–1, pp. 38379–92). However, Benylin probably causes drowsiness in more cases than do other products (id.). The degree of drowsiness that Benylin causes may also be more pronounced than that caused by current OTC products (id.). Moreover, it is inappropriate to do a comparative risk/benefit analysis of drugs used for different indications or under different conditions of use (G–21, pp. 17–18; G–31, p. 18). The benefits of many OTC antihistamines under their recommended conditions of use are established; the benefit of Benylin as an antitussive is not.

5. *Significance of Prescription Status in Assuring Drug Safety.* I am not persuaded by the record that a drug that causes drowsiness is safer when restricted to prescription. The Bureau argues that patients believe that a prescription drug is potent and are more likely to handle the product carefully and heed any oral warnings given by a physician than the written warnings accompanying an OTC drug (G–3, pp. 5–6; G–5, p. 6; G–9, p. 9; G–11, pp. 24–25; G–15, pp. 17–18; G–19, p. 5; G–21, p. 22; G–31, p. 16; G–49, pp. 213–216; T–592, 636, 646–47, 668–70, 842). Yet virtually all of the reports of injuries from Benylin found in the record (e.g., G–3, pp. 4–5; G–9, pp. 5–6; G–31, pp. 7–11; G–41; G–44; G–45; G–49, pp. 203–10; G–60; G–65; G–85; G–88; G–91; G–92; G–117; G–135) occurred with Benylin or Benadryl that had been dispensed upon prescription. Obviously, prescription status is no guarantee that injuries from a drug will not occur (G–49, p. 214).

I believe that, if Benylin were shown to be an effective antitussive drug, it might be possible to devise labeling that would provide adequate warnings of the risk of drowsiness and other ill effects and that, coupled with child-resistant packaging, would enable the product to be safely used as an OTC drug. In devising any such labeling, WL/PD and the Bureau would have to consider inclusion of some or all of the information in the approved labeling for prescription Benylin as well as that

[8] In Protocol 184–40, the incidence of drowsiness in the diphenhydramine group was 38 percent and in the placebo group, 10 percent, a difference of 28 percent. In Protocol 184–41, the incidence of drowsiness in the diphenhydramine group was 34.3 percent and in the placebo group, 10.1 percent, a difference of 24.2 percent. The true difference between the two groups may be greater than the 28 percent found in Protocol 184–40 or the 24.2 percent found in Protocol 184–41. Some of the subjects who reacted to placebo might also have reacted to diphenhydramine (G–13, p. 16; T–281; T–571–72). (In the alternative, some of the subjects who reacted to diphenhydramine might also have reacted to placebo; if this were the case, the true incidence of drowsiness due to diphenhydramine would be less than the difference between the reported figures.) The Bureau argues, in addition, that individuals afflicted with cough due to cold are weak and therefore more susceptible to drowsiness than were the healthy volunteers who were the subjects in these studies, so that drowsiness in the target population may be actually higher (G–15, p. 15).

recommended by the CCABA Panel.[9] The risk to patients from a drug that causes drowsiness is indirect. The drowsiness itself does not cause harm. It is only when the patient tries to undertake a task that requires alertness, such as driving a car, that the drug's sedative qualities pose a risk to the patient and to other members of the public. Suitable labeling of an OTC drug may provide sufficient safeguards for a drug that presents such indirect risks. When a drug presents serious direct risks (e.g., of cancer or other serious disease), adequate labeling for lay use without medical supervision generally cannot be written.

With respect to indirect risks associated with drowsiness, I do not believe that the risk that consumers will not read, or will read and disregard, the OTC drug labeling is greater than the risk that the prescribing physician will not give or that the patient will not remember and heed equivalent oral warnings.

Physicians should provide patients with information about prescription drugs (G–48, p. 33), but often do not (G–80, Refs. 3, 4). Patients often cannot remember much of what their physicians do tell them, especially about treatments (G–80, Refs. 5–10). Oral communications by health professionals are useful when they occur, but they simply are not a dependable source of information that patients need to have in order to use prescription drugs properly. For this reason, FDA has required patient labeling for certain prescription drugs (see, e.g., §§ 310.501, 310.501a, and 310.502 of the regulations (21 CFR 310.501, 310.501a, and 310.502)). Moreover, the agency has underway a program to require most prescription drug products dispensed for human use to be dispensed with labeling directed to the patient to serve as an adjunct to oral communications between the physician and the patient. In the **Federal Register** of November 7, 1975 (40 FR 52075) FDA published a notice requesting comments to help formulate this program. In the future, FDA will publish a proposed regulation concerning patient labeling for most prescription drugs.

Available information on the inadequacy of oral communications undermines the Bureau's argument that a soporific drug such as Benylin is safer when restricted to prescription because a consumer is more likely to heed a physician's oral warnings than OTC written warnings. A consumer cannot heed a warning he or she does not receive or does not remember. Although it is undoubtedly true that some consumers would not read and heed written information accompanying an OTC drug [10] because that information accompanies each package, it will at least be available to reach more consumers than are reached by physicians' oral warnings (P19–15, pp. 1–2). Moreover, the written information that would appear on the OTC drug will remain with the drug for its shelf life (P19–15, p. 2), long after many consumers would have forgotten any information provided orally. (Eventually, this advantage of OTC status will diminish as prescription drugs become subject to patient labeling requirements, when FDA implements its comprehensive prescription drug patient information program. Meanwhile, more and more pharmacists use stick-on labels to provide certain information vital to safe and effective use of prescription drugs.)

The Bureau's expert witnesses testified that consumers are more likely to assume that a prescription drug is potent and, therefore, are more likely to adhere to the recommended dosage and heed any warnings that are given (G–31, p. 14; T–842). Studies show, however, that many consumers (30 to 80 percent) fail to follow the recommended regimen for prescription drugs (G–80, Refs. 11–14). It is clear that consumers often do not take prescription drugs and what physicians say about them seriously (T–301). To the extent that patient noncompliance stems from a patient's lack of information about the drug, written labeling may improve compliance (Ref. 15). Moreover, even if it is true that many consumers believe that prescription drugs are more potent than OTC drugs, I question whether this belief alone would justify restricting to prescribing a drug that could be adequately labeled and packaged for OTC distribution.

With respect to some drugs, including Benylin, the principal reason for the prescription restriction is the desire to assure patient compliance with instructions and warnings. (Other reasons for such a restriction are discussed in section VI.B.1. of this Decision, below.) It is tempting to reason that all drugs restricted to prescription solely for this reason can be transferred from prescription to OTC status, once adequate patient labeling is required. In some cases, however, the agency may properly decide that the risks a drug poses when patients do not comply are so serious that it is necessary to provide for the additional protection of physician warnings (when they are given) as well as the required written information. For such drugs, the ideal situation would be one in which the physician provides essential drug information orally when writing the prescription, the patient receives a patient information leaflet containing clear, concise, and complete drug information, and the vial of the dispensed drug bears on its label the most important features of this information.

In the case of Benylin, however, the risks presented by the drug do not seem sufficient to warrant continued restriction to prescription as a way of gaining the added protection of physician communications, when they occur, provided that the manufacturer provides essential information in the labeling and packages the drug in child-resistant containers.

6. *Benefits of OTC Distribution.* The preceding section discusses one present advantage of OTC status; the guarantee that important drug information is at least available to consumers. As mentioned, this advantage will eventually be eliminated through implementation of FDA's prescription drug patient information program.

There are other benefits of OTC status where a drug is for a condition that can be self-diagnosed and self-treated, including cough due to cold. OTC status makes a product for such a condition available to consumers without wasting physicians' time and consumers' time and money in office visits. OTC drugs are cheaper than prescription drugs. In addition, because OTC drugs may be purchased in other retail outlets in addition to pharmacies, they also are more readily available and can be obtained with less delay.

Of course, a drug can be made safer by restricting it to prescription, particularly if this restriction is accompanied by a requirement of patient labeling with the dispensed drug. But these restrictions carry costs that should not be imposed unnecessarily.

Self-medication is important, both to consumers as individuals and to a society that is concerned about how best to use its scarce health care resources. FDA should, therefore, strive to allow drugs to be available without need of a prescription whenever this can

[9] In advising WL/PD on any new labeling for Benylin, and in preparing the tentative final regulation based on the CCABA Panel report, FDA needs to examine carefully the Panel recommendation that the labeling of diphenhydramine 25 mg warn of the possibility of "marked drowsiness." (P14–1, p. 38341). The word "marked" may not be understood by the average consumer.

[10] In Protocol 184–41 (P17–1), at least 2 of the 100 subjects failed to heed both written and oral warnings not to drive. We know this because two subjects, one in the diphenhydramine group and one in the dextromethorphan group, reported impaired driving ability as an adverse effect (P17–3, p. 4).

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be done without exposing the public to unacceptable risks.

7. *Risks and Benefits of OTC Antitussives.* When evaluating a drug, it is important to carry out a therapeutic risk/benefit analysis that includes consideration of alternative therapies. There are two drugs, codeine and dextromethorphan, that may now be used as active ingredients in OTC antitussive products. The CCABA Panel found that both drugs have been shown to be effective antitussive drugs, with specific activity on the cough center (G–46, p. 437; P22–18, pp. 400–01), and that they present acceptable levels of risk (P14–1, pp. 38339–40). Neither the Bureau nor the agency has disagreed with this finding (G–11, p. 17). The risks associated with the use of these drugs are described in the CCABA Panel report (P14–1, pp. 38339–40). The principal adverse effect of these drugs is respiratory depression, generally due to doses well above antitussive doses (id.). Neither of these drugs causes much drowsiness at antitussive doses (id.; P16–3, pp. 4; P17–3, pp. 4–5; G–3, p. 7; G–9,pp. 7, 9–10; G–11, p. 23; G–13, p. 14; G–15, p. 14–15; G–17, p. 20; G–21, p. 16; G–31, p. 18; G–46; G–47).

Considering diphenhydramine's unproven effectiveness as an antitussive, its pronounced tendency to produce drowsiness, and the relatively low toxicity of codeine and dextromethorphan in OTC antitussive doses, I find that Benylin exposes the patient to greater risks, with little or no proven benefit, compared to codeine and dextromethorphan. This view is supported by substantial evidence in the record (G–3, pp. 9–10; G–5, p. 7; G–11, p. 27; G–15, p. 19; G–17, p. 20; G–19, pp. 5–7; G–21, p. 16; G–27, p. 22; G–31, pp. 18–19).

* * * * *

As noted at the outset of this section, V.B., on safety, because I have found that Benylin has not been shown to be effective, I do not decide whether it has been shown to be safe.

C. *General Recognition of Safety and Effectiveness*

Because WL/PD has failed to submit substantial evidence of effectiveness (see section V.A. of this Decision above), Benylin is a "new drug" within the meaning of section 201(p)(1) of the act. In addition, there is a lack of published medical and scientific data on the safety and effectiveness of the drug, including literature describing adequate and well-controlled studies demonstrating the effectiveness of the drug (G–1, p. 6; G–15, p. 5; G–17, p. 5; G–31, pp. 4–5). I find that Benylin is not generally recognized by qualified experts as safe and effective under the conditions of use prescribed, recommended, or suggested in the proposed labeling (G–1, p. 6; G–3, p. 3; G–5, pp. 6–7; G–7, p. 9; G–9, pp. 4–5; G–11, p. 6; G–15, p. 5; G–17, pp. 4–6; G–19, p. 11; G–21, pp. 13–14; G–27, pp. 8, 28; G–31, pp. 4–5).

VI. Rulings on Exceptions

A. *Effectiveness*

The Bureau expressed general concern that by relying upon such poorly controlled, poorly designed, and poorly executed studies as the Tebrock and Burke studies, Protocols 266–17 and 266–9, the Initial Decision has set a new low standard for the approval of new drugs and that this standard will adversely affect the Bureau's evaluation of effectiveness studies generally (Exceptions, p. 32). The Bureau requests that I consider the impact of the Initial Decision on the Bureau's evaluation of all NDA's (Exceptions, p. 6).

1. *Burden of Proof Concerning Alleged Deficiencies in Studies.* The Bureau contends that the Initial Decision improperly places on the Bureau the burden of substantiating certain alleged deficiencies in effectiveness studies of Benylin (Exception B.1, pp. 32–35, citing ID, pp. 11, 12, 21). The Bureau argues that because the Initial Decision has misplaced the burden of proof, the Initial Decision's ultimate finding that Protocols 266–17, 266–9, 266–18 and 794–1 are adequate and well-controlled studies is invalid. WL/PD maintains that the Initial Decision does not shift the burden of proof from the manufacturer to the agency and that WL/PD has met its burden in the proceeding (Reply, pp. 27–31).

It may be useful to explain who has the burden of showing what under the new drug provisions of the act. There appears to be no dispute that a manufacturer has the burden of establishing the safety and effectiveness of a new drug. See *Weinberger* v. *Hynson, Westcott and Dunning, Inc., supra, North American Pharmacal, Inc.* v. *HEW*, 491 F.2d 546 (8th Cir. 1973); *Ubiotica Corp.* v. *FDA*, 427 F.2d 376, 378 (6th Cir. 1970). In fact, WL/PD concedes that it has the burden of proof in this proceeding (Reply, pp. 8–10, 27, 48). It is also clear that the manufacturer has the initial burden of coming forward with some evidence of safety and effectiveness to which the Bureau may respond. If there were absolutely no evidence on either point, the NDA plainly could not be approved because the Commissioner would be required to make the negative findings enumerated in section 505(d).

When the Bureau proposes to withdraw approval of an NDA, it bears the initial burden of adducing new information that, when evaluated together with the information available when the NDA was approved, shows that the drug is not shown to be safe or effective for use under the conditions of use upon the basis of which the NDA was approved. *Hess & Clark* v. *FDA*, 495 F.2d 975 (D.C. Cir. 1974). To meet its burden, the Bureau need only raise significant doubts as to the prior showing of safety or effectiveness. Once this threshold burden is met, the manufacturer is required to prove the drug's safety, effectiveness, or both.

In a proceeding such as this one involving a proposed denial of approval of an NDA (in contrast to a withdrawal of a previous approval), it is less clear whether, and to what extent, the Bureau has a burden of coming forward with evidence or arguments raising an issue. Less guidance is available from the legislative history and case law. Clearly, the Bureau's burden is less than in a withdrawal proceeding, because "new information" obviously is not a prerequisite to initiation of a denial proceeding. In any event, when, in a denial proceeding, the manufacturer has presented its initial evidence of safety and effectiveness and the Bureau has come forward with evidence or arguments that raise a significant question about the adequacy of that evidence to support approval, it seems reasonable that the manufacturer then be required to persuade the decisionmaker that, notwithstanding the question, the drug is safe and effective; if the manufacturer fails to carry its burden of persuasion, the NDA must be denied approval. This allocation carries forward the de facto allocation that prevailed during the period when the NDA was under review in the Bureau. It is the obligation of the applicant to present sufficient evidence to resolve significant questions raised by the Bureau concerning effectiveness or safety. Any different allocation of burden at the denial hearing would distort the pre-hearing review process.

The Bureau takes exception to the following findings: (1) "* * * in the absence of quantitative evidence of activity, ammonium chloride and sodium citrate must be considered inactive substances" (ID, p. 11); (2) "* * * in the absence of a showing of unreliability, the subjective responses of children from the ages of 6 to 12 for Protocol 266–9 will be considered reliable" (ID, p. 12); (3) "[e]ven though the applicant has the burden of showing that a study is adequate and well-controlled, subjective responses will be considered reliable in the absence of a showing that such responses are inaccurate" (ID, p. 21); and any other findings that similarly place a burden on the Bureau to make a showing as to the inadequacy of a particular aspect of a study. I have identified two such findings in addition to those quoted by the Bureau: (1) "[m]ere allegation by counsel for the Bureau without substantiation that these hypothesized differences between test groups are fatal to the validity of a test cannot be held to be controlling in the present determination" (ID, p. 13); and (2) "[n]o evidence in support of [the Bureau's assertion that the reduction of cough by Benylin in Protocol 266–18 may have been due to gargling the drug for 15 seconds before swallowing, resulting in topical anesthesia of the contact surface and not in antitussive activity] is offered by the Bureau" (ID, p. 18).

I agree with the Bureau that these findings place upon it an inappropriate burden to substantiate possible deficiencies in effectiveness studies. I believe that the Bureau has met its burden of coming forward with evidence or arguments concerning these alleged deficiencies. The Bureau's evidence on these issues, and my resolution of them, are discussed below in numbered paragraphs 5, 6, 7, 9, and 14 of the Decision. The questions raised by the Bureau are not frivolous or trivial; they are significant and material. Therefore, the manufacturer bears the burden of persuading the decisionmaker that the studies are adequate and well-controlled despite the Bureau's allegations.

2. *Definition of "Antitussive".* The Bureau argues that the Initial Decision improperly takes official notice of the definition of "antitussive" in Dorland's Illustrated Medical Dictionary; the Bureau contends that the Initial Decision should, instead, have relied on the definition of "antitussive agent" in the CCABA Panel report (41 FR 38312, September 10, 976; P14–1) (Exception B.2, pp. 35–39, citing ID, pp. 9, 20–21). WL/PD replies that the Bureau's objection to reference to Dorland's definition is "just preposterous" (Reply, p. 31).

I do not share the Bureau's belief that the ALJ erred in taking official notice of Dorland's definition of "antitussive" ("an agent that relieves or prevents cough"). A definition in such a work properly may be the subject of official notice under § 12.95 (21 CFR 12.95).

I do, however, agree with the Bureau that it was improper to treat this definition as controlling in this proceeding, particularly when both parties apparently agree with the definition of "antitussive agent" (an agent that "specifically inhibits or suppresses the act of coughing") in the CCABA Panel report (P14–1, p. 38338). The difference between the two definitions is that Dorland's treats as an antitussive a drug that "relieves" cough without necessarily preventing, inhibiting, or suppressing it. The ALJ then interpreted "relief" of cough as follows (ID, pp. 9, 20–21):

> Relief is the removal or lightening of something oppressive, painful, or distressing. This, in turn, means that as long as an antitussive lessens the intensity or discomfort of a cough, then it is effective regardless of whether or not a reduction in cough frequency has occurred.
>
> * * * * *
>
> Antitussive action is not limited to a mere reduction in number of coughs. A reduction in the severity of the cough or its disconfort can constitute an antitussive action.

The Bureau contends that that interpretation of "antitussive" holds Benylin to too low a standard and that, as a result, the initial Decision's ultimate finding on effectiveness is "meaningless" (Exceptions, p. 37).

I agree with the Bureau that mere relief of the discomfort of a cough is an inadequate criterion against which to judge an antitussive drug. Many products, including alcoholic beverages, may reduce the discomfort of a cough without affecting its frequency or severity. An antitussive drug should reduce the frequency of cough, or stop it altogether.

It is unclear how the definition of "antitussive" adopted in the Initial Decision affected its ultimate finding that Benylin has been shown to be effective. The definition played but a minor part (ID, pp. 20–21) in the discussion of the clinical studies on which the ALJ based his finding of effectiveness (ID, pp. 9–21).

3. *Use of Both a Positive Control and a Placebo.* The Bureau disagrees with the Initial Decision's conclusion that FDA's regulations do not require that a study has employed both a positive control and a placebo (Exception B.3, pp. 39–40, with respect to ID, pp. 9–20). WL/PD replies that no FDA regulation requires use of both a positive control and a placebo (Reply, pp. 33–34).

As explained above in section V.A.4, I agree with the Bureau's view that, in certain cases, a study does not meet the requirements of the act and 21 CFR 314.111(a)(5)(ii) unless it included both a positive control and a placebo.

4. *Adequacy of Control in Burke Study.* The Bureau points out that the Initial Decision states that the control in the Burke study (Protocol 266–9) was the Benylin vehicle plus codeine, when actually the control was Benylin plus codeine (Exception B.4, pp. 41–42, citing ID, p. 11). The Bureau contends that this factual error invalidates the Initial Decision's conclusion that the study employed an adequate positive control because a combination of a known active drug such as Benylin and a known effective drug such as codeine is not an adequate positive control. WL/PD contends that the Bureau has distorted the ALJ's comments (Reply, pp. 34–37).

I agree with the Bureau that the finding in the Initial Decision that the Burke study is adequately controlled may have been based on a misunderstanding concerning the control used (see footnote 2, above, of this Decision). In any event, as explained above in section V.A.4. of this Decision, I have found that a combination of Benylin plus codeine is not an acceptable positive control.

5. *Use of Benylin Vehicle as Placebo in Tebrock Study.* The Bureau maintains that the Initial Decision concludes erroneously that the Benylin vehicle is an adequate placebo in the Tebrock Study (Protocol 266–17); the Bureau argues that ammonium chloride and sodium citrate, ingredients in the vehicle, may be active substances (Exceptions B.5, B.6, and B.7, pp. 42–46, citing ID, 10–11, 18, 20). (Five ml of Benylin contain 12.5 mg diphenhydramine hydrochloride, 125 mg ammonium chloride, 50 mg sodium citrate, 1 mg menthol and 5 alcohol; 5 ml of the Benylin vehicle contain all of these ingredients except the diphenhydramine). WL/PD replies that the Bureau has mischaracterized both the expert testimony by a witness for the company and the Initial Decision (Reply, pp. 37–39). The company believes that the presence of ammonium chloride and sodium citrate in the Benylin vehicle does not prevent its use as a placebo.

I find that ammonium chloride and sodium citrate in the amounts used in the Benylin vehicle may have expectorant, demulcent, or other pharmacological activity (G–11, pp. 9, 10, 31; G–13, pp. 5–6, 12; G–15, pp. 7–9; G–27, p. 18; P14–1, p. 38359; T39–41, 45, 520–23). Although both the NAS/NRC and the CCABA Panel (P14–1, p. 38312) found that the effectiveness of these ingredients as expectorants has not been proven, these findings do not establish that these ingredients lack pharmacological activity. Inclusion of ammonium chloride and sodium citrate in the "placebo" prevents Protocol 266–17 from being considered an adequate and well-controlled study under

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§ 314.111(a)(5)(ii)(*a*)(*4*)(*ii*), (21 CFR 314.111(a)(5)(ii) (*a*)(*4*)(*ii*)). This regulation requires that a placebo be "an inactive prepartation designed to resemble the test drug as far as possible" (id., emphasis added). "[A] test of two possibly effective agents constitutes two uncontrolled tests, not a test with two controls, "*Cooper Laboratories* v. *Commissioner, FDA*, 501 F.2d 772, 784 (D.C. Cir. 1974).

As explained above in section V.A.4. of this Decision, the purpose of a placebo control is to distinguish between a true pharmacological effect of the test drug and fortuitous matters such as psychological effects of taking medication or spontaneous improvement of the disease.

If the purpose of the Tebrock study was to determine the effectiveness of Benylin, the sponsor should have selected an inactive drug for use as a placebo. Selection of a control that has, or may have, pharmacological activity makes it impossible to determine whether any difference between the test drug and the control is due to pharmacological activity of the test drug.

Inclusion of active ingredients in a placebo could make the test drug look worse than it actually is, if these ingredients have activity that is similar to that of the test drug. For example, if ammonium chloride or sodium citrate has demulcent activity that lessens cough by soothing the throat, patients receiving the Benylin vehicle may cough less. Subtracting the perceptage of patients reporting improvement with the Benylin vehicle from the percentage of patients reporting improvement with Benylin would, then, underestimate the true difference between the two drugs in effect on cough. In other words, if these ingredients are demulcents, Benylin may be a more effective antitussive drug than the calculated difference suggests. WL/PD argued that this is the case (P19–3,p. 6). (If this theory is correct, selection of the Benylin vehicle as a control against which to test Benylin shows surprisingly poor judgment on the sponsor's part.)

On the other hand, inclusion of active ingredients in a placebo could make the test drug look better than it actually is, if the ingredients in the placebo have activity that worsens the patient's underlying condition. For example, if ammonium chloride or sodium citrate has expectorant activity that increases the frequency, intensity, or duration of a patient's cough, or that makes the cough more efficient in raising phlegm, patients receiving the Benylin vehicle may cough more, at least initially. (Later, as phlegm is removed, the cough may lessen in frequency, intensity, duration, and efficiency.) Subtracting the percentage of patients reporting improvement with the Benylin vehicle from the percentage of patients reporting improvement with Benylin would, then overestimate the true difference between the two drugs. In other words, Benylin may be a less effective antitussive drug than the calculated difference suggests. The Bureau argued that this was the case (G–11, p. 21; G–15, pp. 8–9; T–806). The plausibility of this theory is supported by the fact that 13 of the 14 patients in the Tebrock study who volunteered the information that the drug they received made their coughs more productive were in the Benylin vehicle group; only one was in the Benylin group (G–94 through G–107). If the Bureau's theory is correct, the marginally statistically significant difference between the two groups on the first day of the study could have been produced, wholly or in part, by the temporary "worsening" of cough in patients in the Benylin vehicle group. Interaction between diphenhydramine and one or both of the two ingredients in question could have prevented a similar effect in the Benylin group. Or any antitussive or sedative effect of diphenhydramine could have counteracted any expectorant effect of ammonium chloride, sodium citrate, or both.

It simply is not known whether ammonium chloride or sodium citrate have demulcent, expectorant, or other pharmacological activity. Without this knowledge, it cannot be determined whether the reported difference between the Benylin group and the vehicle group was underestimated or exaggerated due to activity of these ingredients. Nor can we, with any confidence, attribute the reported difference between the groups to antitussive activity of diphenhydramine. Accordingly, inclusion of ammonium chloride and sodium citrate in the "placebo" makes it impossible to perform the quantitative comparison of the test drug to the control that is central to any clinical investigation of a new drug.

I disagree with WL/PD's argument (P17–3, p. 5; P19–6, p. 8; P19–7, p. 16; P19–9, p. 11) that it would be impossible to formulate a placebo other than the Benylin vehicle without unblinding the study. The regulations do not require that the placebo be identical to the test drug in color, taste, and consistency. The regulations require, rather, that the placebo be "designed to resemble the test drug as far as possible," 21 CFR 314.111(a)(5)(ii)(*a*)(*4*)(*iii*). On cross-examination, expert witnesses for the Bureau suggested ways in which a true placebo could be used without impairing the double blind character of the study (T553, Bureau's Brief, pp. 31–32; T–787, 806).

6. *Subjective Evaluation Generally.* The Bureau takes exception to the finding that the subjective methods of evaluation in the Tebrock and Burke studies (Protocols 266–17 and 266–9) are adequate to permit quantitative evaluation (Exception B.8, pp. 46–48, citing ID, pp. 11–12, 21). WL/PD replies that use of subjective responses is unavoidable in a large scale study of cough due to cold, conducted in a target population in an industrial setting (Reply, pp. 40, 28–30).

I agree with the Bureau and find that the subjective methods of evaluation used in these studies are not adequate to permit quantitative evaluation.

The preponderance of expert opinion is that clinical trials of antitussive drugs that base their findings on patients' subjective impressions do not produce reliable evidence of effectiveness (G–17, pp. 12–13; G–36; G–39, p. 122; G–61, p. 146; G–62, p. 384; G–64, p. 130; G–68; G–72;). Patients' subjective responses concerning the effects of antitussive drugs may be "grossly misleading" (G–61, p. 146). The drug may simply make a patient less aware of cough without reducing its frequency or severity (G–17, p. 12; aG–68, p. 1137). A patient's response may be affected by memory, concentration, mood, sense of well-being, pain or discomfort from other causes, degree of distraction, and passage of time (G–17, pp. 12–13). Most individuals do not sense diurnal and daily changes in their coughs and misjudge treatment effects (G–36, p. 422; G–43, p. 9; G–64, pp. 129–30). Studies using both subjective and objective techniques have repeatedly shown a lack of agreement between a patient's subjective assessment of cough and the actual cough count (G–39, p. 122; G–43, p. 9; G–46, p. 434; G–51, p. 279; G–61, pp. 383–84; G–64, pp. 129–30; G–68; pp. 1239–41).

Countering this evidence is testimony by several expert witnesses for WL/PD that objective cough counting techniques could not practically be used in ambulatory subjects having cough due to cold (P19–3, p. 3; P19–6, pp. 9–11; P19–7, pp. 15–16; P19–9, p. 12; P10–11, p. 8). It was argued that such techniques would diminish the value of the study populations in Protocols 266–17 and 266–9 as reflecting the "real world" (P19–6, p. 9; P19–11, pp. 8, 9).

Although I agree that it is more difficult to use objective techniques to evaluate cough improvement in such patients, the record shows that there are several ways in which this evaluation can be done. Use of these methods would increase, rather than diminish, the value of these studies in the real world by enabling valid conclusions to be drawn concerning Benylin's effectiveness in the target population.

The Bureau is willing to accept studies of antitussive drugs employing subjective techniques that are designed to avoid the well-documented pitfalls in subjective evaluation of antitussives and that permit quantitative evaluation (G–27, p. 18). I agree with the Bureau's contention that use of a daily diary with specific questions on such matters as number and severity of coughs, pain, and the extent to which the patient's coughs raise secretions from the throat and respiratory system, is one method of obtaining detailed and objective information that would permit quantitative evaluation, including comparison of each day's experience to the baseline (G–11, p. 21; G–17, p. 12; G–27, p. 16; G–77; T–564–65). In addition, it may well be possible for WL/PD to devise an objective study of Benylin's effectiveness (T–849). The CCABA Panel recommended use of objective studies employing the actual recording of cough to document a decrease in cough frequency, intensity, or both (P14–1, pp. 38354–55). The Panel did not find objective techniques unacceptable for evaluating drugs for use in cough due to cold. There are populations, e.g., university students or officer workers, that can be used to study antitussives in cough due to cold by either detailed subjective methods or objective techniques. WL/PD was not obligated to test Benylin in an industrial setting. Alternatively, if the sponsor establishes that diphenhydramine suppresses cough by inhibiting the brain's cough center, the Bureau would accept objective studies in chronic cough patients as evidence of Benylin's effectiveness in cough due to cold (see section V.A. of this Decision; T–565). Accordingly, I do not accept the argument that it would not be possible to develop a more objective study of Benylin's effectiveness in acute cough than was used in the Tebrock study (G–39, p. 126; T–413).

The Tebrock study used a patient record instructing patients to check a box showing whether their coughs were "gone," "better," "same," or "worse" compared to the previous day (P9–3). This was the only question asked concerning the effect of the test drug or control upon the patient's cough. In evaluating test results, WL/PD combined the "gone" and "better" responses to identify patients whose coughs had "improved", and the "same" and "worse" responses to identify patients whose coughs had "not improved" (P9–5, p. 1).

Given the known drawbacks of subjective studies of antitussive agents (as discussed in the third paragraph of this section), it is inappropriate to base a decision concerning a drug's antitussive qualities upon a patient's once-daily subjective perception of the progress of the cough and the patient's interpretation of such undefined terms as "gone," [11] "better," [12] "same," or "worse." [13] This rating system is inadequate because it does not ask the patient to describe changes in a cough's frequency or severity, the extent to which sputum is raised, or pain (G–17, pp. 12–13). The rating used may only have measured patients' awareness of cough (G–17, p. 13).

The fact that a large number of patients participated in the study (P19–3, p. 3) cannot compensate for the inherent unreliability of subjective responses obtained in that study. As the Bureau points out, enrolling many patients merely increases the amount of uninterpretable data without improving its quality (Bureau's Brief, p. 90), especially in the absence of adequate controls.

The Burke study involved 100 children aged 6 through 12. To determine effects of the medication given (Benylin, or Benylin plus codeine), the protocol required that one day after receiving medication the subjects be contacted either by having the patients return to the clinic or sending visiting nurses to the patients' homes (P7–3, p. 8). The protocol stated: "Questions should at first be broadly phrased, such as: 1. How did the medicine work? 2. How did it taste? 3. Was there anything wrong with it?" (P7–3, p. 8). If the initial response was unclear, further questions were to be asked to enable the investigator or nurse to complete a form for each patient that, among other things, described whether the medication stopped cough, reduced severity, reduced frequency, or had no effect (P7–3, pp. 8, 10 (attachment)). The procedure was to be repeated on the third day (P7–3, p. 8). WL/PD's summary of the study notes, however, that each patient was in fact observed only once for the recording of these opinions and that the reporting forms did not state on which day of medication the recording occurred (P7–5, p. 1).

The protocol did not mention that individuals other than the child were to provide information on cough improvement. According to Dr. Burke, responses obtained from children were supplemented by responses from someone else, often a parent or other relative (T–768). No record was kept of who actually furnished a response and whether this individual actually had been able to observe the child's cough during the treatment period (T–768).

This subjective method used in the Burke study also is unacceptable because it required the patient (or relative) to make a single judgment of the effects of the medication as many as 3 or 4 days after treatment began (G–31, p. 17; G–3, p. 9; G–27, p. 17). The Burke study used non-standardized questions to obtain responses that are classified by the health professional performing the contact into one of four ill-defined categories. Because no record was kept of the day of medication on which the contact occurred, there is no way of determining the extent to which responses may have been affected by the patient's (or relative's) inability, due to passage of time, to remember the nature of the cough. Similarly, the failure to keep records as to who furnished a response concerning a child's cough, and as to that individual's ability to observe the cough, makes it impossible to perform a quantitative analysis of data from the study because the records of individual patient responses are too variable to be reliable.

It is possible to design objective studies of antitussives in children (T–555). Asking parents to record observations of children's coughs would be a valid way to study antitussive drugs in children, as would using a tape recorder or other apparatus (T–641). However, careful records of parents' observations would have to be kept (T–641).

7. *Subjective Evaluation By Children.* The Bureau takes exception to the Initial Decision's conclusion that the Burke study (Protocol 266–9) is not deficient by reason of its reliance upon the subjective responses of children aged 6 to 12 (Exception B.9, pp. 48–49; citing ID,

[11] "Gone": Evidence from other studies (e.g., G–68, pp. 1139, 1141) suggests that some patients who are still coughing would report a cough as "gone," while others who have stopped coughing or who are coughing but little would report that a cough still is present. A patient's report that a cough is "gone" or "better" may reflect a patient's awareness of the frequency or severity of the cough rather than any actual effect on these parameters (G–17, p. 12). This is especially true when a drug has sedative or hypnotic properties as Benylin does (id.).

[12] "Better": As explained in the text, when a patient reported that his cough is "better," there was no way of knowing what was meant. Was the cough less frequent? Less severe? More productive of sputum? Less painful? One cannot say, based on the study design. The sponsor concedes that patients may have had difficultry in discriminating between "better" and "same" (P9–5, p. 1).

[13] "Same" or "worse": Here, too, it is impossible to say whether a patient's report that a cough is the "same" or "worse" concerns its frequency, severity, or productivity, the presence of pain, the patient's awareness of the cough, or some unknown factor.

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p. 12). WL/PD replies that subjective evaluation of cough by children is an acceptable method (Reply pp. 40, 28).

I reject the exception. The preceding section of this discussion explains why subjective responses generally are unreliable. Based on the evidence in the record, I find that children's subjective responses are not inherently less reliable than those of adults (T–554–55; T–642). Neither group is capable of providing valid subjective evaluations over a period of several days. Whether an antitussive is studied in adults or in children, the study should use objective techniques or careful, detailed subjective techniques, as discussed in the preceding section.

8. *Analysis of Tebrock Study Results.* The Bureau disputes the Initial Decision's finding that the results of days 2 and 3 of the Tebrock study (Protocol 266–17) must be disregarded because they do not permit quantitative evaluation without invalidating the study (Exception B.10, p. 50, with respect to ID, p. 12). The Bureau argues that instead of disregarding the study results on these days, the Initial Decision should have found the study invalid because "the average cough due to cold lasts three days" and Benylin must be effective for at least that long (id.). WL/PD replies that the exception misinterprets the Initial Decision, and the company disputes the contention that the average cold last three days (Reply, pp. 40–41).

The statement in the Initial Decision to which the Bureau excepts follows (ID, p. 12):

> The Bureau additionally asserts that Protocol No. 266–17 does not allow quantitative evaluation due to its use of the previous day as a comparison for cough improvement instead of to an established baseline. This is a valid criticism only with respect to the statistically insignificant results obtained for days two and three. Therefore, the results for these days must be disregarded. However, this criticism is not valid for day one because the use of the drug immediately preceding the study is generally the same point at which a baseline would be established. The subjects of Protocol 266–17 recorded their responses concerning cough on day one at bedtime. Therefore, the use of the previous day baseline is valid for day one and those results are appropriate for quantitative evaluation and statistical analysis.

I agree with the Bureau that it was improper to disregard the statistically insignificant results obtained for days 2 and 3. These results, as well as the clinically insignificant results on day 1 and the failure to detect drug effects using other measures, show that this study does not demonstrate Benylin's effectiveness in cough due to cold of any duration.

9. *Pooling of Data in Tebrock Study.* The Bureau also disagrees with the finding that it is appropriate to pool data from the five test centers for statistical analysis of the test results (Exception B.11, pp. 50–54, citing ID, pp. 12–14). The Bureau argues that such pooling is inappropriate because of the lack of homogeneity of treatment effect among the five centers. WL/PD replies that the Initial Decision decided this issue correctly (Reply p. 41).

I reject the exception. In my opinion, both parties have placed too much emphasis on the appropriateness of pooling results of the five centers participating in this study. In making a scientific judgment about the results of the Tebrock study, one should analyze both the results at each center alone and the pooled results, noting the differences in sample size, the differences in results at various centers, and the closeness of results with the two medications both at the individual centers and overall. As an aid to this analysis, it is wise to employ a statistical technique to determine whether differences between study centers are greater than would be expected by chance alone. A finding of significance, i.e., a difference greater than expected by chance, provides information useful in making a scientific judgment about the results of the study but does not dictate that pooled data be ignored.

I disagree with the Bureau's argument (G–7, pp. 7–8; T–435–36, 446, 464–65) that it is in appropriate to use the Mantel-Haenszel test to determine the appropriateness of pooling data from the five centers because of lack of homogeneity of test results. The developers of the method contemplated that it might be used in situations where there are substantial variations among subgroups with respect to the parameter being measured (Ref. 17, p. 740; T–435). There is no evidence in the record, other than the Bureau's expert testimony, that the Mantel-Haenszel technique requires homogeneous treatment effects as a prerequisite to its use. In a study such as this, results from the Mantel-Haenszel test and other statistical techniques provide data that are useful in making a scientific judgment about the results of a study and how they should be intepreted. For example, in this case, application of the Mantel-Haenszel test resulted in a finding that differences among results at the five centers exceed those that would be due to chance alone (P19–9, p. 9; G–25, p. 4). This result is undoubtedly influenced by the differences in group size at different centers, the small size of some groups, the closeness of the reported results in the Benylin and the Benylin vehicle groups, and possible geographical differences in such things as pollen count (P19–9, pp. 8–9; Bureau's Brief, p. 54).

With the above modifications and one exception, I agree with the Initial Decision's discussion (ID, pp. 12–14) of the appropriateness of the statistical analysis of the Tebrock study in which the data from the five centers were pooled. The exception is that I do not adopt the statement that, "Mere allegations by counsel for the Bureau without substantiation that these hypothesized differences between test groups are fatal to the validity of a test cannot be held to be controlling in the present determination" (ID, p. 13). As discussed in section VI.A.1. of this Decision, above, this statement places on the Bureau an inappropriate burden to substantiate its concerns about a study.

10. *Clinically Significant Effectiveness.* The Bureau takes exception to the finding that the Tebrock study (Protocol 266–17) shows Benylin's effectiveness. The Bureau points out that the study results demonstrate only a 9 percent advantage over placebo (Exception B.12, pp. 54–57, citing ID, p. 15). The Bureau also disputes the ALJ's belief that section 505(d) of the act (21 U.S.C. 355(d)) compels this finding. The Bureau argues that, to be found effective, a drug must offer not just a statistically significant benefit over placebo, but a clinically significant benefit. WL/PD replies, in effect, that Benylin is probably more effective than these figures show because a patient must experience a major reduction in coughs per day before recognizing an improvement (Reply pp. 41–42, Brief pp. 60–61).

I agree with the exception, for the reasons given above in section V.A.3. of this Decision.

11. *Execution of Tebrock Study.* The Bureau takes exception to the statement that the Tebrock study (Protocol 266–17) was carefully executed (Exception B.13, p. 57, citing ID p. 21). WL/PD contends that the study is an adequate and well-controlled scientific investigation that meets all criteria of the regulations (Reply pp. 42–43).

I agree with the exception and find that the Tebrock study was not carefully executed (G–7, pp. 3, 5; T–448). I have already discussed inadequacies in the design of the protocol with respect to controls and measurement of drug effects (see sections V.A.4., VI.A.5., and VI.A.6. of this Decision), as well as in the significance of the study's results (see section V.A.3., above). In addition, the protocol was not closely adhered to. First, the protocol called for each of the five test centers to enroll enough patients so that at least 120 patients would complete the study (P9–3, p. 2). In fact, only 556 subjects completed the study and 325, representing 58 percent, were in New York City (P9–4, p. 3, Table 4). Also, the efficacy analysis used only 472 subjects (id.). A drop of 84 subjects, or 15 percent, is a substantial number for a 3 day study (G–7, p. 5). Second, although the protocol required investigators to control the number of doses given subjects on the first day of the study (P9–3, p. 3), this was not done (P9–4, p. 4). Rather, the distributions of subjects receiving 1, 2, 3, or 4 doses were established by post-stratification, which was not planned in the design (P19–9, p. 7). Third, a few patients included in the study did not meet the entrance criteria of having cough due to cold. These patients had chronic cough of up to 2 months in duration. Inclusion of them could have affected the study's overall results, in view of the marginally significant difference between the Benylin group and the vehicle group (G–11, pp. 19–20). Their inclusion suggests inattention to detail that could be reflected in other aspects of the study as well (id.).

Although these deficiencies in the execution of the Tebrock study would not, by themselves, warrant rejection of the study under § 314.111, 314.111(a)(5)(ii), they show that the study was not carefully executed.

12. *Use of Pediatric Study to Replicate Adult Study.* The Bureau contends that the Burke study (Protocol 266–9), involving a pediatric population, cannot be relied upon as a replication of the results of the Tebrock study (Protocol 266–17), involving an adult population; and that the sponsor thus has failed to satisfy the requirement that a drug be shown effective by at least two studies (Exception B.14, pp. 57–58, citing ID, p. 15). WL/PD replies that there is no regulation that prevents a study in children from being considered a replication of a study in adults (Reply, pp. 43–44).

Where children comprise part of the target population for a drug, it is important that the drug be tested separately in children (P19–11, pp. 9–10; P23–3; T–554; T–846–47). It cannot be assumed that a drug that acts a certain way in adults will act the same way in children (P23–3. p. 20). As individuals grow from conception to adulthood, they undergo profound and complex changes in anatomy, physiology, biochemistry, and behavior (id.). These changes cause variation in the absorption, distribution, metabolism, and excretion of pharmacological agents and in receptor sensitivity (id). For this reason, FDA has sometimes required sponsors of new drugs to conduct separate studies in children, and the agency is considering a broad program to encourage manufacturers of many drugs commonly used in children to conduct tests in pediatric populations.

As explained above in section V.A.1. of this Decision, the requirements that a sponsor submit at least two studies demonstrating effectiveness is founded on the scientific principle that an experiment must be reproducible in order for the results to be considered valid (G–11, p. 13). In this case, the Burke study cannot be treated as replicating the Tebrock study. Due to the possible differences in drug activity in adults and children, the agency generally cannot rely upon one study of a drug in adults and one in children, as were submitted in this case, as satisfying the requirement of substantial evidence of effectiveness. (There are exceptions to this rule, e.g., with respect to studies of a topical, relatively nonabsorbable, antifungal agent when there is a sound scientific basis for expecting the drug's safety and effectiveness in adults and in children to be similar.) For example, there are observable differences in how children and adults react to toxic dosages of diphenhydramine (G–31, pp. 7–9; G–44, pp. 107–08; G–49, p. 194; G–51, p. 608; G–88; T–91). These differences may reflect variant pharmacological activity. Accordingly, I agree with the Bureau's exception and find that submission of one study of Benylin in adults (Protocol 266–17) and one in children (Protocol 266–9) does not satisfy the substantial evidence requirement of the act and FDA's regulations.

13. *Reliance on Induced Cough Studies.* Several exceptions relate to the Initial Decision's reliance on Protocol 266–18 and 794–1 as adequate and well-controlled studies, and on the 1960 Bickerman protocol as a corroborative study, in support of Benylin's effectiveness in cough due to inhaled irritants.

The Bureau disputes the ALJ's finding that these investigations are not Phase I studies as defined in § 312.1(a)(2) 10a. and b. of the regulations (21 CFR 312.1(a)(2) 10a. and b.) (Exception B.15, pp. 58–59, citing ID, pp. 16–17). The Bureau also takes exception to the findings that there exists a target population with cough due to inhaled irritants (Exception B.16, p. 59, citing ID, p. 17), and that the induced cough studies show that Benylin will suppress cough in this population (Exception B.17, pp. 59–60, citing ID, p. 17). In addition, the Bureau disputes the finding that Protocols 794–1 and 266–18 and the 1960 Bickerman Protocol are adequate and well-controlled studies (Exception B.18, pp. 60–61, citing ID, p. 18). WL/PD replies that the Initial Decision's findings on these matters are correct (Reply, pp. 44–46).

The issues raised by these exceptions have been addressed in the discussion by my finding that induced cough studies are not adequate and well-controlled studies of antitussive drugs for use in cough due to cold or inhaled irritants (see section V.A.1. of this Decision). For the reasons stated there, I agree with these exceptions.

14. *Effect of Gargling Benylin.* The Bureau takes exception to the finding that cough reduction in Protocol 266–18 was due to an antitussive effect rather than to the possible anesthetic effect of gargling the Drug for 15 seconds (Exception B. 19, p. 61, citing ID, p. 18). WL/PD replies that the Initial Decision is correct.

I agree with the Bureau that there is inadequate support in the record for the finding that cough suppression in Protocol 266–18 is "consistent with the type of activity an antitussive would exhibit and not a anesthetic" (ID, p. 18). It is at least possible that diphenhydramine may have local anesthetic effects (G–29, p. 5; G–46, p. 436; G–51, p. 606), and that, in Protocol 266–18, any cough suppression was due to anesthetic effects. In any event, the proposed labeling of Benylin does not call for gargling before swalling. Therefore, a study in which subjects were told to gargle before swallowing may not be offered in support of Benylin's effectiveness "under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof" (section 505(d) of the act). Because that instruction was given under Protocol 266–18, this study is not acceptable evidence. (Changing the labeling to recommend gargling would not solve the problem because induced cough studies are not acceptable predictors of a drug's effectiveness in cough due to cold or inhaled irritants (see section V.A.1. of this Decision). The Tebrock study is similarly deficient because the record given to each patient instructed the patient to gargle each spoonful of the drug 15 seconds before swallowing (P9–3). (WL/PD's medical interpretation states, however, that each dose was to be gargled for 10–15 seconds before swallowing (P9–4, p.2).)

15. *Effectivenes of Benylin Compared to Codeine.* The Bureau takes exception to the statement that the Burke study (Protocol 266–9) "demonstrated Benylin to be 8 percent more effective than the known antitussive codeine." The Bureau points out that the positive control in the study was Benylin plus codeine, and that no expert witness testified that Benylin is more effective than codeine (Exception B.20, pp. 61–62, citing ID, p. 15). WL/PD replies that the finding is justified by the results of the study.

I agree with the Bureau that a study comparing Benylin to Benylin plus codeine does not support a finding concerning the effectiveness of codeine. Addition of Benylin to codeine creates a distinct combination drug whose effects may be different from those of codeine alone. It is possible that Benylin combined with codeine reduced the codeine's effectiveness (see section V.A.4. of this Decision).

B. *Safety*

1. *Finding of Safety Based on Evidence Other Than Studies.* The Bureau contends that the Initial Decision's factual finding with respect to safety cannot sustain the ultimate determination to approve the supplemental NDA (Exception A.1., pp. 7–9, citing ID, p. 5). The Initial Decision found that the extensive use of Benylin for over 30 years and FDA's approval of prescription Benylin "is a substantial indication that it can be used safely" (ID, p. 5). The Bureau contends that, under the act, it is not enough to have a "substantial indication of safety" and that, accordingly, this factual finding compels disapproval of the supplemental NDA. The Bureau also argues that the Initial Decision relies improperly upon marketing experience, poison control reports, DAWN data, and the agency's approval of the drug for prescription use as the basis for concluding that Benylin is safe for OTC use (Exception A.4., pp. 21–23, citing ID, pp. 5, 9, 19–20). WL/PD contends that the Initial Decision's factual finding as to Benylin's safety is adequate to support an approval decision and that marketing experience with Benylin demonstrates its safety for OTC use (Reply, pp. 8–10, 13–17).

I believe that the ALJ statement that there is "substantial indication of a drug's safety" is merely his way of saying that he believed the statute's criteria with respect to new drug safety are satisfied. However, I do agree with the Bureau's position that neither extensive use of Benylin for over 30 years nor FDA's aproval of prescription Benylin is sufficient evidence on the basis of which to find a prescription new drug to be safe for OTC use.

The Initial Decision does not apply correctly the principles governing the type of data that may be considered to determine the safety of a new drug, including the safety in OTC use of an approved prescription new drug. Since 1938 the law has required that decisions concerning the safety of new drugs be based upon tests. Specifically, the primary evidence demonstrating the safety of a new drug is required to be "investigations * * * [that] include adequate tests by all methods reasonably applicable to show whether or not [a new] drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof" (section 505(d)(1) of the act). If OTC use is to be a condition prescribed, recommended, or suggested in the labeling, then safety for OTC use must be demonstrated (G–5, p. 6).

FDA may appropriately consider reports of marketing experience, poison control data, and DAWN data as additional safety evidence, especially when a drug has a long marketing history (see, e.g., FDA's OTC drug regulations, 21 CFR 330.10(a)(4)(i)). However, evidence from these secondary sources is merely corroborative and cannot substitute for adequate safety tests. I believe that the Initial Decision does not sufficiently consider safety tests (certainly, none are cited) and relies excessively upon evidence from other sources.

The Bureau argues that the phrase "results of significant human experience during marketing" in § 330.10(a)(4)(i)) (21 CFR 330.10(a)(4)(i) means "adequate tests" (Brief, p. 377). I do not agree with this argument. Nevertheless, the reports in the record on Benylin's marketing history are not of sufficient quality to corroborate a finding, based on the studies, either that Benylin is safe, or that it is unsafe, for OTC use.

Reports of marketing experience, poison control data, and DAWN data are too fragmentary, incomplete, and nonrepresentative to serve as the basis for a conclusion that a drug is safe (G–31, pp. 10–13; G–82, G–90; T–501–07, 612–13, 651, 653–54). For example, poison control data and DAWN data would be expected to include reports of at least a fraction of the overdoses and abuse that may occur, but not reports of drug-induced drowsiness (G–21, pp. 21–22; T–501, 649–651). Similarly, physicians may not report to the manufacturer or to FDA a type of reaction that is already well-known, e.g., drowsiness from Benadryl or from Benylin (G–15, pp. 18–19; G–21, pp. 21–22; G–31, p. 13; T–505, 649, 655). Patients may not associate their involvement in an automobile accident with their having taken a drug (G–15, p. 19; T–501). Adverse reaction reporting systems in other countries such as Canada, where Benylin is sold OTC, may be designed to gather information from physicians concerning prescription drugs, rather than information from consumers on OTC drugs (T–503). Accordingly, a paucity of reports about Benylin in adverse reaction reports, poision control statistics, and DAWN data cannot be treated as proof that Benylin is safe for OTC use.

The Bureau's concern about patient compliance with warnings about drowsiness had led it, since 1948, to limit Benylin to prescription. As stated above in section V.B. of this Decision, the risks presented by the drug do not seem sufficient to warrant continued restriction to prescription as a way of gaining the added protection of physician communications. In contrast to the Initial Decision (pp. 5, 9, 19–20), this view is not based on the agency's approval of Benylin as safe for prescription use, or on lack of legal authority, but on my assessment of the safety studies and other evidence in the record as well as policy considerations about the comparative benefits of prescription and OTC status (see sections V.B. and VI.B.2. of this Decision).

2. *FDA's Authority to Restrict Drugs to Prescription Use.* The Bureau maintains that the Initial Decision adopts an an impermissibly narrow interpretation of the agency's authority to restrict drugs to prescription use under section 503(b) of the act. (Exception A.2., pp. 10–17 citing ID. p. 6–9). The Bureau argues that the Initial Decision's interpretation of section 503(b) is inconsistent with its plain language, its legislative history, and judicial interpretation. WL/PD replies that the Initial Decision interprets section 503(b) correctly (Reply, pp. 10–12).

The Initial Decision discussed FDA's authority under 503(b) of the act as follows (ID at 6–8):

> The Bureau's line of argument [that restricting Benylin to prescription use will enhance its safety because consumers show extra care in following directions for prescription drugs] does not take into account the limited scope of agency authority under the Federal Food, Drug, and Cosmetic Act. The lengthy House and Senate debates which culminated in the expansion of § 503(b) reveal a strong distrust of administrative power in this area [97 Cong. Rec. 2312 (1951), 97 Cong. Rec. 9235 (1951), 97 Cong. Rec. 13126 (1951)].
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> It is clear from these debates that the main purpose of the legislation was to put the pharmacists on notice as to the legal status of a drug * * *. Even a cursory review of the legislative history of these portions of the statute reveals that this legislation was not directed toward expanding the powers of the Commissioner to include his dictating prescription status of drugs.
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> The use of prescription requirements to insure patient compliance with non-technical label restrictions which do not require any medical expertise for their comprehension is not what Congress intended when it revised § 503(b) [21 U.S.C. 353(b)].

I agree with the Bureau's contention that the Initial Decision has adopted an overly restrictive view of the agency's authority to limit a drug to prescription use. The plain language of section 503(b)(1)(B) of the act sets forth four separate grounds for limiting a drug to prescription dispensing. It provides for a prescription limitation whenever (1) the method of use, (2) collateral measures necessary for use, (3) toxicity or, (4) other potentiality for harmful effect of a drug justifies a conclusion that it is not safe for unrestricted self medication. The Initial Decision effectively reads out of the statute any assessment of a drug's "other potentiality for harmful effect" by holding that FDA's inquiry is limited to determining whether "non-technical label restrictions" can be comprehended by laymen.

The obligation of the manufacturer and the agency to the public demands an inquiry more extensive and searching than mere label reading to determine whether a drug may be safely used by all groups in the general population. The public has a justifiable expectation that, within the limits of scientific knowledge, significant uncertainties about a drug will be resolved before general marketing commences. In this respect, it is entirely reasonable for the agency to satisfy itself that label restrictions are not only understandable, but likely to be followed. Unlike an umpire passively calling balls and strikes, FDA has the responsibility to require an affirmative showing that patients will comply with label instructions and that failure to observe those instructions does not place consumers in significant jeopardy. Certainly, in the case of a soporific drug, hazards that ensue from failure to observe labeling directions may threaten the patient and others. The potentiality for harm to the operator of a motor vehicle or heavy machinery, as well as to others in his vicinity, is a serious concern and cannot be ignored when assessing the question of prescription status under section 503(b)(1)(B).[14]

[14] In addition to the authority provided in section 503(b)(1)B), there appears to be a wholly independent legal basis for requiring a new drug—in this case Benylin—to be dispensed only upon the prescription of a physician. Section 503(b)(1)(C) authorizes prescription status for a drug that "is limited by an approved application under section 505 to use under the professional supervision of a practitioner licensed by law to administer such drug." A drug that satisfies the criteria of either paragraph (A) "or" paragraph (B) "or" paragraph (C) of section 503(b)(1) may be limited to prescription status. The committee reports accompanying this legislation show that a prescription requirement imposed under the authority conferred by section 503(b)(1)(C) on a drug subject to section 505 is independent of the prescription drug classification effected under section 503(b)(1)(B). See S. Rept. 946, 82d. Cong., 1st Sess., pp. 4, 81; H.R. Rept. 700, 82d. Cong., 1st Sess., pp. 6–7, 10 (1951). Indeed, in enacting section 503(b)(1)(C), Congress was codifying what had been, and what it understood to be, existing practice of the FDA in regard to new drugs. As the Senate report noted, "There is no controversy whatever about * * * new drugs restricted to prescription sale by effective new drug applications under section 505 of the *present statute.*" S. Rept. 946, 82d. Cong., 1st Sess., p. 4 (1951) (emphasis added). Section 503(b)(3) provides that the Secretary may by regulation remove drugs subject to section 505 from the prescription dispensing requirements "when such requirements are not necessary for the protection of the public health." Because, in practice, FDA has not established different criteria for specifying when prescription requirements for new drugs are "necessary for the protection of the public health," the general prescription drug criteria in section 503(b)(1)(B) also apply to decisions restricting a new drug to prescription use under section 503(b)(1)(C) (see 21 CFR § 310.200(b)). It appears that the principal purpose of section 503(b) (1)(C) and (3) is evidentiary, i.e., to create a presumption that a new drug is restricted to prescription, except where exempted by regulation, and thus to simplify the burden upon the agency in an enforcement action against a new drug that is being sold without a required prescription. These provisions also reinforce my position that WL/PD, as a new drug appplicant, has the burden of establishing Benylin's safety for OTC use (see section VI.B.4. of this Decision).

The Bureau's argument that the Initial Decision incorrectly relied upon selected portions of legislative history is persuasive. When the purpose of a congressional enactment "has been effected by plain and unambiguous language, and the act is within the power of Congress, the only duty of the courts is to give it effect according to its terms." *United States* v. *Lexington Mill Co.*, 232 U.S. 399, 409 (1914); see *TVA* v. *Hill*, 437 U.S. 153, 173, 187, 193–195 (1978). The only circumstance in which a statute may properly be construed to mean something other than what it plainly says is where a literal reading " 'would lead to absurd results * * * or would thwart the obvious purpose of the statute.' " *Trans Alaska Pipeline Rate Case*, 436 U.S. 631, 643 (1978), quoting *Commissioner* v. *Brown*, 380 U.S. 563, 571 (1965). Implied exceptions to clearly delineated statutory coverage are disfavored and will not be found unless they are essential to avoiding an obvious inconsistency within the statutory scheme. *United States* v. *Key*, 397 U.S. 322, 324–325 (1970); see *TVA* v. *Hill, supra*, 437 U.S. at 188; 2A *Sutherland, Statutes and Statutory Construction*/47.11 at 90 (C. Sands 4th ed. 1973).

When the proper construction of a statute is in doubt, there is a special principle applicable to public health legislation. It is "the well-accepted principle that remedial legislation such as the Food, Drug, and Cosmetic Act is to be given a liberal construction consistent with the act's overriding purpose to protect the public health * * *." *United States* v. *An article of Drug * * * Bacto-Unidisk*, 394 U.S. 784, 798 (1969).

Whether one accepts the plain meaning of the words "other potentiality for harmful effect" in section 503(b)(1)(B) or applies them in the manner that best promotes the remedial purposes of the act, there is no justification for relying upon selected portions of congressional debates to reach a conclusion that section 503(b)(1) should be read less expansively than other sections of the same statute. A policy of liberality in the construction of the act certainly does not justify carving out exemptions to its coverage; on the contrary, a liberal approach to interpreting the statute should serve to carry out its central purpose. *United States* v. *Dotterweich*, 320 U.S. 277, 284 (1943).

Congressional debates of the type relied upon in the Initial Decision are generally accorded little, if any, weight. *National Welfare Rights Organization* v. *Mathews*, 533 F.2d 637, 642–643 (D.C. Cir. 1976); *Castaneda-Gonzalez* v. *Immigration and Naturalization Service*, 564 F.2d 417 (D.C. Cir. 1977); *Warner* v. *Dwarsky*, 194 F.2d 277, 279 (8th Cir. 1952). See 2A Sutherland, *Statutes and Statutory Construction* /48.13 (C. Sands 4th ed. 1973). The reason for this reluctance is apparent from a reading of the debates on the Durham-Humphrey Amendments.

Although the Initial Decision states that the debates evidenced "a strong distrust of administrative power in this area." examination of the debates reflects primarily a conventional legislative concern that the statute contain reasonable substantive standards and procedural safeguards. Certain speakers fearing socialized medicine and over-regulation spoke out against the bill. Their comments are for the most part stated in the minority report attached to H.R. Rept. 700, 82d Cong., 1st Sess., pp. 28–37 (1951). Their rhetoric in floor debate focused on Oscar Ewing, then Federal Security

Administrator,[15] as the object of their stated antipathy. Mr. Ewing was a controversial and, in some circles, unpopular public figure; the debates presented an opportunity to attack him [97 Cong. Rec. 9533 col. 1 (1951); 97 Cong. Rec. 9447 col. 1 (1951); 97 Cong. Rec. 9549 col. 2 (1951)]. Reliance on statements made in debate are equally available to support a broad, liberal interpretation of section 503(b)(1), e.g., the statement that section 503(b) was "plain and broad and [gave] the Administrator all the power he needs * * *" 97 Cong. Rec. 9547 col. 2, (1951). The problem with statements made in debate is that they generally do not reflect the collective will of Congress.

Legislative consensus is reflected in legislation as finally passed and in authoritative committee reports on that legislation. The committee reports pertinent here show that Congress was concerned with increasing public protection. In explaining the objectives of the bill, the House Report stated that it was intended "To *strengthen* the protection of the public health against dangerous abuses in the sale of potent prescription drugs * * *" H.R. Rept. No. 700, 82d Cong., 1st Sess. p. 2 (1951) (emphasis added). As explained elsewhere in the report, the legislation was considered (Id. at 7):

> * * * important to the enforcement agency because it permits more effective enforcement through appropriate control over drugs that are too dangerous, or otherwise unsuitable, to be used by a layman without medical diagnosis or supervision. Under this proposed legislation it will be possible to prevent injury to the public, as contrasted with the present system which is largely concerned with punishing past violations.

The Senate Report also stated that the legislation was designed "to protect the public," S. Rept. No. 946, 82d Cong., 1st Sess., p. 1 (1955), and explained:

> The word "safe", as used in the definition, is intended to have its ordinary meaning. * * * The language of the definition clearly shows that toxicity is only one factor to be considered by the courts in determining whether a particular drug is safe for use without medical supervision. *The definition requires the Court to consider other potentialities for harmful effect * * * When this language is given judicial interpretation consistent with the over-all purpose of the Federal Food, Drug, and Cosmetic Act to protect the public health it will effectively restrict to prescription sale all drugs that require professional supervision for their use.* (Emphasis added.)

[15] At the time, FDA was a component of the Federal Security Administration, the predecessor of the Department of Health, Education, and Welfare.

My conclusion is also guided by judicial opinions construing section 503(b)(1) of the act. These opinions arose from challenges by the National Nutritional Foods Association (NNFA) to FDA's regulations classifying high dosages of vitamins A and D as prescription drugs. See *National Nutritional Foods Ass'n* v. *Weinberger*, 366 F. Supp. 1314 (S.D. N.Y. 1973), *aff'd*, 491 F.2d 845 (2d Cir. 1973); 376 F. Supp. 142 (S.D. N.Y. 1974), *remanded*, 512 F.2d 688 (2d Cir. 1975), *cert. denied sub nom., National Nutritional Foods Ass'n* v. *Mathews*, 416 F. Supp. 394 (S.D. N.Y. 1976), *rev'd* 557 F.2d 325 (2d Cir. 1977). For reasons that are not apparent, these *NNFA* cases were not discussed in the Initial Decision. Their relevance here, however, is inescapable.

The position adopted in the Initial Decision is similar to the argument that was advanced by the National Nutritional Foods Association and rejected in the *NNFA* cases.[16] In the three initial *NNFA* cases, the reviewing courts held that section 503(b)(1) affords the agency broad authority to restrict drugs to prescription. In denying a motion to enjoin enforcement of the vitamin A and D regulations, the district court held that the statutory term "potentiality for harmful effect" plainly "imposes broad responsibility on the Commissioner to safeguard human health." 366 F. Supp. at 1346, *aff'd*, 491 F.2d 845. In later opinions both the district court and appellate court held that, although the legislative history of the prescription drug provisions is not entirely clear, 376 F. Supp. at 143, 512 F.2d at 698, it does not detract from the conclusion that the agency's power to limit drugs to prescription is quite broad, 376 F. Supp. at 144–46, 512 F.2d at 699.

In sum, Congress lef it to FDA to decide whether medical supervision will help ensure patient compliance with labeling restrictions needed for safe use of a drug. FDA has authority under section 503(b)(1) to continue to restrict Benylin to prescription use, if it concludes that such medical supervision is warranted. But the agency is not compelled to continue this restriction if it determines that there is sufficient evidence to show that the drug is safe for OTC distribution. See section V.B. of this Decision, above.

[16] The Court of Appeals for the Second Circuit held in its final decision that there was not adequate support in the record for FDA's classification of high dosages of vitamins A and D *as drugs at all*, rather than as foods. On the basis of that court's earlier opinions there is little doubt that if the court had held that FDA could regulate the articles *as drugs at all*, it would have held that there was ample evidence to support restricting them *to prescription use*.

3. *FDA's Authority to Consider Use of a New Drug Contrary to Labeling.* The Bureau maintains that the Initial Decision's strict reliance on the term "under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof" in section 505(d) of the act is erroneous (Exception A.3., pp. 17–20, citing ID, p. 7). The Bureau contends that the use of a drug without the supervision of a physician is a condition of use within the meaning of section 505(d). WL/PD replies that the Initial decision interprets the act correctly (Reply, pp. 12–13).

The Initial Decision discusses FDA's authority under section 505(d) of the act as follows (ID, pp. 7–8):

> In the section of the statute which sets forth the factors to be considered in the evaluation of new drug applications [§ 505(d)(1)–(6)], each subparagraph includes the provision that the safety of the drug is to be evaluated in terms of its use "under the conditions prescribed, recommended, or suggested in the proposed labeling thereof." For the evaluation of a drug to go beyond this scope, there must be a strong showing that label requirements will be disregarded or cannot practicably be complied with and that the safety implications of the resulting use outside the labeling requirements would require the [Commissioner] to broaden his investigation. * * * In the case of Benylin, however, it has not been demonstrated that the side effects are so dangerous as to require additional administrative controls.
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> Therefore, questions of the safety of a drug when it is used in a manner contrary to the label warnings can be considered in only limited circumstances. Once the manufacturers have shown the drug to be safe under the conditions prescribed, recommended or suggested in the labeling, they have fulfilled their statutory requirement and the drug is eligible for certification. Consideration of safety evidence relating to uses of a drug outside of the label requirements necessitates a showing that there is a reasonable probability that such non-label indicated uses can be expected to occur. The mere allegation of potential injury resulting from noncompliance with label requirements does not result in the manufacturers being required to submit evidence to disprove such a claim. To support its claim, the Bureau would have to show convincing evidence of harm rather than presenting what is a mere supposition of possible harm. Such a showing has not been made on the record of this case.

I agree with the Bureau. The Initial Decision misconceives the intent of section 505 to require those who would market drugs to demonstrate that the drugs they distribute will be safe for use under circumstances that may reasonably be expected. FDA may require of new drug applicants who propose labeling a convincing showing that proposed labeling will be followed by users and that the consequences of a failure to follow the labeling will not represent a significant risk to the user and the public. Consumers of OTC drugs would not be well served if the Bureau were required to shoulder the burden of showing that labeling requirements will be disregarded or cannot practicably be followed. It is sufficient for the agency to raise reasonable questions about labeling compliance. At that juncture, the burden of resolving those questions must be carried by the new drug applicants.

The provisions of section 505 do not dictate or support the position adopted in the Initial Decision. Section 505(b)(1) requires the new drug applicant to submit "full reports of investigations which have been made."

The provisions of section 505 do not dictate or support the position adopted in the Initial Decision. Section 505(b)(1) requires the new drug applicant to submit "full reports of investigations which have been made to show whether or not such drug is safe for use * * *" Such reports are not limited by this section to investigations under the conditions of use prescribed, recommended, or suggested in the proposed labeling. Section 505(b)(6) requires the submission of "the labeling proposed to be used for such drug." Approval of the application must be denied under section 505(d)(1) when the reports of investigations "do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the labeling * * *." Given the laboratory and clinical data derived from appropriate tests, other questions must also be answered: (1) Can the proposed labeling be comprehended; (2) if so, will it be followed; and (3) if not, what are the consequences for patient safety of failure to follow the labeling? These questions are implicit in any thorough evaluation of an application under section 505(d)(1).

The same questions arise from the scrutiny of a drug under section 505(d)(4), which provides, in pertinent part, for the disapproval of a drug when the FDA has "insufficient information to determine whether such drug is safe for use under such conditions * * *" Even if the FDA were required to limit its inquiry to the labeling a manufacturer proposed under section 505(d)(1), it is apparent that Congress sought through section 505(d)(4) to provide the agency with some authority not granted elsewhere in section 505(d). Otherwise, one of the grounds for disapproval would be a statutory redundancy.

Applying the cardinal rule that "significance and effect shall, if possible, be accorded to every word" in a statute and "if it can be prevented, no clause, sentence, or word be superfluous, void, or insignificant," *Ex Parte Public Bank*, 278 U.S. 101, 104 (1928), it is only reasonable to conclude that an inquiry into labeling compliance is authorized under section 505(d)(2) or (4). See also: *Jaracki* v. *G. D. Searle & Co.*, 367 U.S. 303, 307, (1961); *Ginsberg & Sons, Inc.* v. *Popkin*, 285 U.S. 204, 208 (1932).

The conclusion that, in determining the safety of a drug, FDA must consider the totality of patient exposure to the drug, and not just use within the boundaries of the proposed labeling, was also reached in *National Nutritional Foods Ass'n* v. *Weinberger*, 366 F. Supp. 1341, 1346 (S.D. N.Y. 1973), *aff'd* 491 F.2d 845 (2d Cir. 1973). There, Judge Frankel explained that the FDA has the authority and responsibility to protect those consumers who do not heed label instructions, as well as those who do:

> * * * The Commissioner is not only entitled but required to be at least as prudent as lay understanding of human behavior would dictate * * *. He knows, because we all do, of the prevalent wisdom among us pill swillers that "if one is good, two are better." * * * Knowing such obvious things and other matters less patent, the Commissioner is not required to circumscribe his responsibilities in terms solely of the completely "rational" consumer. He may and he must consider the "potentiality for harmful effect" through excessive use to the merely "average" man and even to the substantial numbers of us who help create the average by falling below it.
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> The Commissioner is not required to set the over-the-counter limit at a maximum which the consumer (be he old, young, weak or strong) might withstand. See *United States* v. *Bodine Products*, 206 F. Supp. 201, 207 (D. Ariz. 1962). A substantial margin of safety probably should—certainly may—be used, at least in a case like this, where it can have only beneficial effects for the Commissioner's paramount subject of health.
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> "One making a rule for the future which in practical effect will determine whether millions of people shall eat something every day may reasonably refuse to subject the general public to even slight risks and small deceptions." *Atlas Power* v. *Ewing*, 201 F.2d 347, 355 (3d Cir. 1962).

The Second Circuit, although remanding the case on different grounds, adopted the district court's reasoning (512 F.2d at 704):

> We reject petitioners' contention that because the higher dosage levels are not "inherently" unsafe but become unsafe only if used in violation of cautionary labelling (sic) they do not qualify as "prescription" drugs within the meaning of § 503(b) of the Act, 21 U.S.C. § 353(b). The broad language of § 503(b)(1)(B) [footnote omitted] permits consideration of the various factors surrounding the use of a particular drug in determining that it "is not safe for use except under the supervision of" a physician. There was ample evidence before the FDA that Vitamins A and D, when consumed in large quantities over a period of time, can be acutely toxic. It was reasonable for the Commissioner to recognize that the risks of toxicity are increased by over-the-counter availability of readily ingestible, high dosage forms, and therefore he could rationally conclude that these forms have a "potential harmful effect."

The court suggested that FDA might properly decide not to restrict a drug to prescription use in "a case in which there was the mere possibility that a drug would be occasionally misused," in contrast to a case "in which the actual way in which the product is apparently used on a normal basis by many persons presents serious risks of toxicity." ID.

These opinions recognize FDA's broad authority under section 503(b)(1) of the act to protect consumers from "potentiality for harmful effect" due to uses contrary to label warnings. Whether FDA acts to restrict a drug to prescription status under section 503(b)(1)(B) alone or through the new drug procedures set forth in section 505 of the act, FDA believes that it is not limited to a consideration of the safety of a drug under an assumption that the proposed labeling will always be followed; the principle that FDA is authorized to consider possibilities and consequences of use outside the labeling remains operative.

In requiring the Bureau to "make a strong showing" that harm from uses outside the labeling will occur, the Initial Decision places on the Bureau a burden that is administratively infeasible and contrary to the agency's mandate under the new drug provisions of the act. In the usual case in which FDA is considering whether to approve an NDA, factual evidence concerning a drug's potential for causing harm due to uses outside the labeling simply would be unavailable because the drug would not yet be on the market. FDA's decisions that the potential effects of drug use may warrant restricting a drug to prescription use—or may require, in some cases, disapproval of the NDA on grounds that the drug is unsafe—are necessarily based upon FDA officials' scientific judgment and experience. Even in the case of previously marketed drugs that are the subject of supplemental applications, it would not be a wise use of public funds for FDA to have to conduct the tests or surveys necessary to make "a factual showing of

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significant noncompliance with * * * lable warnings" (ID, p. 8). Furthermore, a general requirement for such tests or surveys conducted by FDA would be contrary to the agency's mandate under the new drug provisions of the act to provide an "authoritative review of the manufacturers' tests," and not to duplicate tests that manufacturers are supposed to carry out. H.R. Rept. No. 75–2139, 75th Cong. 3d. Sess. (1938). Individual manufacturers are better able than FDA to conduct tests that address concerns about possible dangers from their drugs.

4. *Burden of Proof Concerning Justification for Prescription Status and Harm From Use Outside Labeling.* The Bureau contends that the Initial Decision improperly places on the Bureau the burden of demonstrating that prescription status is justified because it will enhance safety (Exception at A.5., pp. 23–25, citing ID at 5, 20). Similarly, the Bureau argues that the Initial Decision improperly places on the Bureau the burden of showing that "label requirements will be disregarded or cannot practicably be complied with and that the safety implications of the resulting use outside the labeling requirements would require the [Commissioner] to broaden his investigation" (Exception A.1., pp. 6–9, Exception A.6., pp. 25–27, citing ID, p. 7). The Bureau contends that, even if it has some burden to come forward with evidence on these matters, the Bureau has met this burden by evidence in the record. WL/PD claims that the Bureau has misinterpreted the Initial Decision (Reply, pp. 1820). The company argues that it has successfully carried its burden of proof in showing the safety of Benylin in OTC distribution and believes that the Bureau properly has the burden of coming forward with evidence to contradict the company's evidence (Reply, p. 18).

For the reasons given in section VI.A.1. and B.3. of this Decision, I agree with the contention that the Initial Decision improperly places on the Bureau the burden of demonstrating that prescription status is justified and of showing that the proposed label warnings on Benylin will be disregarded. It would have been better for the Initial Decision's conclusion concerning Benylin's safety to have been based on the evidence of record, rather than on a technical, legal approach of resolving the safety issue against the party to whom the Initial Decision, under a novel theory, assigns the burden of proof.

In this case, I believe that the Bureau has satisfied its burden of coming forward with evidence or arguments concerning the difference between the use of a drug under the supervision of a physician and the unsupervised use of an OTC drug (G–3, pp. 5–7; G–5, p. 6; G–9, p. 9; G–11, pp. 24–25; G–15, pp. 17–18; G–17, p. 18; G–19, p. 5; G–21, p. 22; G–31, pp. 13–14, 16–17; G–49, pp. 213–16; T–636, 647, 668–70, 842). Similarly, I believe that the Bureau has satisfied its burden of coming forward with evidence on the harm that has occurred, or may occur, due to disregard of warnings of the type proposed for inclusion in Benylin's labeling (G–3, pp. 4–7; G–5, pp. 5–6; G–9, pp. 5–6, 9–10; G–11, pp. 24–25; G–15, p. 18; G–19, pp. 4–5; G–21, pp. 12–13; G–31, pp. 7–11, 14; G–49; G–65; T–668–70).

As discussed above in section V.B. of this Decision, I also believe that there is substantial evidence to support a finding either that WL/PD has nevertheless—or that it has not—overcome the Bureau's evidence and arguments and met the company's burden of persuasion.

5. *Hazards Associated With Use of Benylin.* The Bureau takes exception to the statement that the "Bureau asserts that accidents which occur due to drowsiness are the only hazard associated with the drug" (Exception A.7. pp. 27–29, citing ID, p. 6). The Bureau argues that the Initial Decision has misinterpreted a statement in the Bureau's motion to strike of September 6, 1977 (p. 26) and ignores evidence in the proceeding of other hazards associated with Benylin. WL/PD replies that the Initial Decision interprets the Bureau's position correctly (Reply, pp. 20–22). The company argues that the other alleged safety hazards from Benylin are speculative and, in any event, are adequately dealt with in the proposed labeling.

I agree that the Initial Decision appears to take out of context a statement in the Bureau's motion to strike. It is clear from the record that the Bureau's principal safety concern with Benylin is accidents that may occur due to drowsiness. See sections V.B.1., 3., and 4. of this Decision. However, it also is clear that the Bureau has other concerns with respect to the safety of Benylin. See section V.B.1. of this Decision.

I believe, however, as explained in section V.B.1. of this Decision, that consideration of these other hazards does not affect the outcome of this proceeding. These other hazards, although not trivial, do not justify a decision to continue restricting Benylin to prescription use. Many current OTC drugs present risks similar to these, and such risks have been addressed adequately by labeling and child resistant packaging.

6. *Initial Decision's Lack of Findings and Conclusions.* The Bureau contends that the Initial Decision is defective because it fails to include "findings and conclusions, and the reasons or basis therefor," 5 U.S.C. 577(a)(3)(A), to support the ultimate conclusion that "[t]he report of investigations which have been made to show whether or not Benylin is safe for use demonstrates the safety of the drug as required under § 505(d)(1)–(6) of the Act" (Exception A.8., pp. 30–31, citing ID, p. 9). The Bureau contends that, in the absence of specific findings and reasoning that the drug has been shown safe "by adequate tests by all methods reasonably applicable" (§ 505(d)(1)), there is no basis for the ultimate conclusion that the supplemental NDA should be approved. WL/PD replies that the Initial Decision's conclusion that Benylin is safe is a sufficient finding, based upon the manufacturer's submitted studies (Reply, pp. 23–24).

Although it would have been desirable for the Initial Decision to include findings respecting the various safety studies of Benylin, I reject the exception because I believe that the Initial Decision satifies the requirements of the Administrative Procedure Act. A narrative presentation of findings of fact and conclusions of law, as incorporated in the Initial Decision, is permissible and sufficient under the Administrative Procedure Act (5 U.S.C. 577(d)). *Gilbertsville Trucking Co.* v. *United States,* 196 F. Supp. 351 (D. Mass. 1961); *State Corporation Commission* v. *United States,* 184 F. Supp. 691 (D. Kan. 1959). FDA's regulations governing this proceeding, 21 CFR 12.120, do not establish a mandatory form for the required findings of fact and conclusions of law. Moreover, in this Decision I am making my own findings and conclusions (incorporated in the text of this Decision) with respect to the safety of Benylin.

7. *Benefit-to-Risk Ratio of Benylin.* The Bureau criticizes the Initial Decision's failure to analyze the benefit-to-risk ratio of Benylin as required by 21 CFR 330.10(a)(4)(iii) (Exceptions, pp. 31–32). In its reply, WL/PD disagrees with the exception (Reply, pp. 24–26).

I disagree with the exception. It appears from the Initial Decision that the ALJ did consider the benefit-to-risk ratio of Benylin in reaching his conclusion that the drug had been shown safe and effective (ID, pp. 19–21). He simply came to a conclusion different from that proposed by the Bureau.

C. *General Recognition of Safety and Effectiveness*

1. *Sufficiency of Evidence to Determine General Recognition.* Among other things, the Bureau excepts to the finding that the evidence of record in this proceeding is insufficient to determine whether Benylin is generally recognized as safe and effective (Exception C.2, pp. 62–63, citing ID, p. 21). WL/PD disagrees (Reply, p. 48).

I agree with this exception. As stated in section V.C. of this Decision, above, the record contains substantial evidence that Benylin is not generally recognized as safe and effective.

2. *Standard for General Recognition.* The Bureau also disagrees with the reference to such recognition "in the opinion of the medical community," rather than "among [qualified] experts" as specified in section 201(p) of the act (Exception C.3, pp. 62–63, citing ID, p. 21). WL/PD disagrees (Reply, p. 48).

I agree with the exception. The Initial Decision does not state correctly the statutory standard for general recognition of a drug's safety and effectiveness.

Other exceptions concerning the Initial Decision's findings with respect to general recognition of safety and effectiveness have been addressed by this Decision.

VII. Conclusion

Based on the foregoing findings, conclusions, and discussion, I reverse the Initial Decision and conclude that:

1. WL/PD has not shown that diphenhydramine hydrochloride acts to inhibit activity in the brain's cough center. See section V.A.1.

2. In the absence of a showing that diphenhydramine hydrochloride suppresses activity in the brain's cough center, Benylin's effectiveness as an antitussive drug for use in cough due to colds may be established only by two or more studies in the target population. See section V.A.1.

3. The two studies of Benylin in patients with coughs due to cold (Tebrock study, Protocol 266–17, and Burke study, Protocol 266–9) are not adequate and well-controlled investigations, as defined in section 505(d) of the act (21 U.S.C. 355(d)) and § 314.111(a)(5)(ii) of the regulations (21 CFR 314.111(a)(5)(ii)). Accordingly, there is a lack of "substantial evidence" as that term is defined in section 505(d) of the act that Benylin will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof. See sections V.A.2. through 4 and VI.

4. Because it has not been shown that Benylin is effective, I cannot now find that WL/PD has satisfied the requirements for establishing its safety. See section V.B.

5. Benylin is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof. Accordingly, Benylin is a new drug within the meaning of section 201(p)(1) of the act (21 U.S.C. 321(p)(1)). See section V.C.

The foregoing decision in its entirety constitutes my findings of fact and conclusions of law.

VIII. References

Pursuant to § 12.95 (21 CFR 12.95), I take official notice of the following references, which pertain to matters peculiarly within the general knowledge of FDA as an expert agency, to the extent they are relied upon in factual findings in this Decision that cite these references. If I am taking official notice of a material fact not appearing in the evidence of record, a participant, on submission of a timely petition for reconsideration under § 12.139 (21 CFR 12.139), will be afforded an opportunity to show the contrary.

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 5 p.m., Monday through Friday.

1. Review Panel on New Drug Regulation, DHEW, "Risk, Safety, Efficacy and Benefit," Interim Reports, Vol. II.

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11. Marston, M. V., "Compliance with Medical Regimens: A Review of the Literature," *Nursing Research,* 19(4):312–323, 1970.

12. Boyd, J. R., et al., "Drug defaulting, part 1: determinants of compliance," *American Journal of Hospital Pharmacy,* 31:362–367, 1974.

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16. Mantel, N., and W. Haenszel, "Statistical Aspects of the Analysis of Data From Retrospective Studies of Disease," *Journal of the National Cancer Institute,* 27:719–748, 1959.

Appendix A.—Effectiveness Studies of Benylin

The ALJ's Initial Decision included a summary of certain of the clinical studies intended to show Benylin's effectiveness. That summary is excerpted below:

1. Protocol 266–17 (P9–1 through P9–6) is a large, controlled, double-blind, randomized, multicentered study conducted by Dr. Tebrock involving 566 patients with cough due to cold. Patients were administered either Benylin or the Benylin vehicle (same formula as Benylin but lacks diphenhydramine) in dose of two teaspoons every four hours. Each morning during the study, patients were questioned as to the degree of improvement in their cough. Results were recorded on a questionnaire by the patient on each of the 3 days of treatment. They rated the degree of improvement on a four-point scale of "gone," "better," "same," or "worse." The results demonstrated an improvement of cough for the first day of 32.4 percent for Benylin and 23.1 percent for the Benylin vehicle. Results for day 1 showed a statistical significance of nine percent while the results for days 2 and 3 were not statistically significant.

2. Protocol 266–9 (P7–1 through P7–5) is a double-blind, positive-controlled study conducted by Dr. Burke involving 100 children with coughs due to the common cold. Patients were randomly assigned to receive either Benylin or Benylin combined with 20 mg of codeine for a total of 4 ounces of each preparation to be taken in four daily doses for 3 or 6 days depending upon whether 1 or 2 teaspoon doses were taken. Each child was questioned on symptom improvement, medication taste, and any adverse experiences at least once during the study. An adult closely associated with the child was present during the interview but the

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study did not indicate whether the adult and/or child responded to the questions. Severity and frequency of cough were reduced in 58 percent of the Benylin group and 50 percent of the Benylin plus codeine group.

3. Protocol 266–18 (P6–6 through P6–9) is a randomized, double-blind, crossover study which used the inhalation of citric acid aerosol to induce artificial cough. The subjects were nine healthy, trained volunteers. The antitussive effects of Benylin over a 4-hour period were compared to the Benylin vehicle and to the Benylin vehicle plus 15 mg of codeine phosphate. The frequency and intensity of coughs were recorded by a pneumotachograph-strain gauge system and each hourly test period was compared against the control levels.
* * *

4. Protocol 794–1 (P6–10 through P6–14) is a randomized, double-blind, crossover study which used the inhalation of citric acid aerosol to induce artificial cough. Ten healthy, trained volunteers compared four preparations in an inactive vehicle (1) diphenhydramine, (2) codeine phosphate, (3) diphenhydramine plus codeine phosphate 20 mg and (4) the inactive vehicle alone. The same methodology used in Protocol 266–18 was employed in this study. * * *

5. The 1960 Protocol of Bickerman (P6–3 through P6–5) is a double-blind, randomized, crossover study which used the inhalation of citric acid aerosol to induce artificial cough in nine healthy, trained volunteers. The antitussive activity of diphenhydramine 50 mg (twice the recommended dosage for Benylin) was compared with codeine 15 mg, with Ambodryl Hydrochloride (bromodiphenhydramine) and placebo. The same methodology used in Protocol 266–18 was employed in this study. * * *

Appendix B.—Safety Studies of Benylin

1. Protocol 266–15 (P2–6) was a double-blind, crossover study of 20 prisoner volunteers using 4 psychomotor function tests in which Benylin, containing 12.5 mg and 25 mg of diphenhydramine hydrochloride (diphenhydramine), was compared to the Benylin vehicle. In its narrative statement, WL/PD contends that this study is "of primary significance" among the company's 5 clinical pharmacology studies (others are described in paragraphs 3, 4, and 7 below) because "it was designed to measure objectively the effects of Benylin cough syrup on the psychomotor performance of patients receiving the drug" (P20, pp. 9–10). Subjects received medication four times daily for two days. The four tests used were (1) the digitspan test, a test of short-term memory used to evaluate a subject's ability to comprehend and carry out oral instructions; (2) the choice reaction time test, a measure of the time required to respond to a given stimulus; (3) the pursuit rotor test, a measure of time required to adjust a position of a vehicle to changing conditions on the road; and (4) the tracking time test, a variation of the pursuit rotor test. The results of this study showed no demonstrable impairment of psychomotor function produced by either dose of Benylin, compared to placebo.

The Bureau contends that the tests used in this study are not of sufficient sensitivity to demonstrate performance impairment, that these tests are not adequate to predict Benylin's effects in typical real life situations, that no drug plasma level determinations were made to measure accumulations of repetitive doses, and that the schedule of testing may have been biased against finding drug related effects (G–11, p. 25, G–19, p. 9; G–23, pp. 8–11; G–27, p. 20).

2. The Moskowitz study (G–23A, G–146) was submitted by the Bureau and involved 12 volunteers who were subjected to psychomotor function tests to examine the following aspects of behavior, which the investigator believed to be relevant to safe driving: tracking, perception, division of attention, and information processing rate (G–23, pp. 5–6). The study compared the effect on psychomotor function of diphenhydramine 50 mg (double the recommended antitussive dosage), alcohol, diphenhydramine 50 mg plus alcohol, and placebo. WL/PD disagrees with the statement in the results (G–146, p. 9); that the treatment administration was double-blind (G–146, p. 9); WL/PD disagrees (Brief, p. 12). The three tracking tests used were (1) a compensatory tracking task, in which the subject must maintain a fluctuating bar in a fixed position, (2) a divided attention task, in which the subject must do two tasks at once: locate and respond to the number "2" in a constantly changing, random array of 24 numerals by using a four-way lever to show the quadrant in which the number "2" appears, and operate with the other hand a lever that controls a compensatory tracking test as described in (1); (3) a critical tracking task, in which the subject must keep a horizontal line centered on a display by using a one dimensional control stick, a task that becomes more difficult with each success; and (4) the information processing task, in which the subject views a card containing four letters and must, after a longer interval in which random bits of letters are displayed, record the letters (G–23A, pp. 2–5).

In the compensatory tracking task, subjects taking diphenhydramine alone showed an impairment in performance compared to subjects taking placebo (G–23A, pp. 6–7). Those who consumed alcohol alone showed a greater impairment, and those taking alcohol plus diphenhydramine showed the greatest impairment. All three of these differenced from placebo were statistically significant. However, the mean error in subjects' ability to center the bar-graph display was 17 milliliters (ml) in the placebo group and 18 ml in the diphenhydramine alone group; WL/PD contends that this 1 ml difference is too minor to treat as significant (Brief, p. 13).

In the divided attention task, diphenhydramine alone and alcohol plus diphenhydramine resulted in statistically significant impairments in performance, compared to placebo (G–23A, p. 7). Alcohol alone caused an impairment that was not statistically significant. WL/PD contends that the test device is "devilishly complicated" and inapplicable to the operation of an automobile (Brief, p. 13). The report of the study states, on the other hand, that a divided attention task "is an experimental analogue of the attention-sharing demand[s] of actual driving, where attention must be shared between control of tracking of the vehicle upon the highway and surveying the environment for potential sources of danger" (G–146, p. 5).

In the critical tracking task, subjects taking alcohol alone or alcohol plus diphenhydramine showed statistically significant impairment in performance, compared to the placebo group (G–23A, p. 7). Subjects taking diphenhydramine alone showed a small impairment that was not statistically significant.

In the information processing rate task, the alcohol alone group and the alcohol plus diphenhydramine group showed statistically significant impairment in performance, compared to the placebo group (G–23A, p. 7). Diphenhydramine alone caused a small impairment that was not statistically significant, compared to placebo.

With respect to the latter two tasks, the investigator stated that it is possible that the tests were of too short duration to detect impairment due to diphenhydramine; subjects may have been able to force themselves to overcome drowsiness for such a short time (G–23A, p. 9; G–146, p. 16).

With respect to all tasks, WL/PD points out that no statistically significant difference between alcohol alone and diphenhydramine plus alcohol was observed (Brief, p. 14).

3. Protocol 184–15 (P2–10) was a double-blind, randomized, parallel group design study of 240 prison volunteers who received diphenhydramine hydrochloride 50 mg, diphenhydramine hydrochloride 25 mg, or placebo three times daily for seven days. The primary measurement used in the study was questioning of the subjects regarding any adverse reactions. Subjects were questioned daily during the study about occurrence of drowsiness. Over the seven day period, drowsiness was reported at least once by 41.3 percent of the placebo group, 50 percent of the diphenhydramine 25 mg group, and 53.8 percent of the diphenhydramine 50 mg group. There were no statistically significant differences among the groups.

4. Protocol 184–16 (P3–3) was a double-blind, randomized, placebo-controlled parallel group design study of 200 prison volunteers. The study compared the incidence of side effects of diphenhydramine in doses of 25 mg, 50 mg, or 100 mg with placebo. The drug or control was administered once daily for 28 days. Side effects were elicited at the time of dosing by the use of a general question about how the subject felt. Drowsiness was reported at least once by 34 percent of the placebo group, by 34 percent of the diphenhydramine 25 mg group, by 38 percent of the diphenhydramine 50 mg group, and by 60 percent of the diphenhydramine 100 mg group.

5. Protocol 266–17 (P9–3) was a double-blind, randomized, multicenter trial conducted by Dr. Tebrock involving 566 patients with cough due to cold, who received either Benylin or the Benylin vehicle without diphenydramine. See Appendix A, paragraph 1 above. Patients were asked questions about, among other things, the occurrence of any "unpleasant effects" while taking the medication. Witnesses for each party stated that this question may not have elicited as many reports of drowsiness as would a more probing question; the Bureau's witnesses contended, moreover, that the subjects may not have perceived drowsiness as "unpleasant" (P19–6, p. 9; P19–8, p. 8; G–7, pp. 4–5; G–9, p. 7; G–9, pp. 7–8; g–11, pp. 23–24; G–13, p. 18; G–15, pp. 16–17; G–17, pp. 18–19; G–19. pp. 8–9; G–21, p. 19; G–27, p. 19). Witnesses for WL/PD argued, however, that subjects at work would, indeed, have considered drowsiness "unpleasant" and would have reported it (P19–6, p. 9; P19–9, p. 6). Drowsiness was reported at least once by 4.5 percent of the patients receiving Benylin and by 1.4 percent of the patients receiving the vehicle. There was a statistically significant difference between these percentages.

6. Protocols 184–35 (P9–9), 184–36 (P9–13), and 184–37 (P9–17) were studies conducted under identical protocols in a total of 43 patients with stabilized chronic cough associated with chronic pulmonary disease. After two days of monitoring without medication, patients received either placebo, diphenhydramine 25 mg, or diphenhydramine 50 mg by random assignment. In all of these studies, information on side effects was not elicited and was reported only when volunteered by subjects. Drowsiness was reported by 32.6 percent of the patients receiving diphenhydramine 50 mg, by 20.9 percent of the patients receiving diphenhydramine 25 mg, and by 7 percent of the patients receiving placebo. The differences are statistically significant (G–25, p. 5). WL/PD contends that the drowsiness shown in these studies is due to the antitussive effects of diphenhydramine rather than to its sedative properties: by alleviating their cough, the drug allowed the chronically ill, sleep-deprived patients to sleep. (P19–10, p. 3, P19–13, pp. 3–4; P19–15, p. 3; P19–16, p. 7). The Bureau disagrees (T356–58, 512, 560, 574–75).

7. Protocols 184–40 and 184–41 (P16–1, P17–1) were two double-blind, crossover, randomized studies conducted under identical protocols, in which a total of 154 volunteers received diphenhydramine 25 mg, dextrodiphenhydramine 25 mg, dextromethorphan 20 mg, codeine 20 mg, or placebo. Protocol 184–40 was conducted at Tulane University using 54 volunteers (physicians, medical students, house officers, and adult members of their families). Protocol 184–41 was conducted in the Parke-Davis facility using 100 volunteers (scientists, technicians, and secretarial staff). In the briefing of subjects to obtain informed consent, all were told that drowsiness may be a side effect of the medications administered in the studies. In Protocol 184–40, the incidence of drowsiness was 38 percent in the diphenhydramine group, 10 percent in the placebo group, 6 percent in the dextromethorphan group, and 4 percent in the codeine group (P16–3, p. 4). In Protocol 184–41, the incidence of drowsiness was 34.3 percent in the diphenhydramine group, 10.1 percent in placebo group, 7.1 percent in the dextromethorphan group, and the 5.1 percent in the codeine group (P17–2, p. 4). The results of these studies were statistically significant (G–33, p. 16).

Order

It is hereby ordered that approval of NDA 6–514 S–007, submitted by Warner-Lambert/Parke-Davis & Co. for the drug Benylin, is refused.

Dated: June 29, 1979.

Donald Kennedy,

Commissioner of Food and Drugs.

[FR Doc 79–27010 Filed 8–30–79; 8:45 am]

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Friday
August 31, 1979

Part V

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final notice.

SUMMARY: This notice sets forth an initial schedule of limits on the adjusted skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under the Medicare and Medicaid programs. The limits cover adjusted SNF inpatient routine service costs, and would apply to entire cost reporting periods beginning on or after October 1, 1979.

The limits do not apply to the costs of ancillary services or capital-related costs. This is the first schedule of limits we have established for SNFs. Revised schedules will be published on a periodic basis.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT;
Mr. Carl Slutter, (301) 594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395 (x)(v)(1) authorizes the Secretary to set prospective limits on provider costs reimbursed under Medicare. These limits are based on estimates of the costs necessary in the efficient delivery of needed health services and may be applied to the direct or indirect overall costs incurred for specific items or services furnished by a Medicare provider. Regulations implementing this authority are set forth at 42 CFR 405.460.

Under this authority, proposed limits on SNF inpatient general routine service costs were published in the **Federal Register** on May 18, 1979 (44 FR 29326). The schedule of limits set forth below includes several changes in the methodology contained in the proposed limits.

The schedule of limits provides for:

1. Limits on adjusted SNF inpatient routine service costs. Such costs do not include capital-related costs;

2. A wage index, developed from the hospital industry wages, to adjust the wage portion of the limits to reflect differing wage levels among the areas in which the SNFs are located;

3. A classification system based on whether a SNF is located within a Standard Metropolitan Statistical Area (SMSA) or a non-SMSA area, and on the basis of whether the SNF is hospital-based or free-standing. In the New England area, New England County Metropolitan Areas (NECMA) are used to determine urban location;

4. A market basket index developed from the costs of goods and services purchased by SNFs to account for the impact of changing wage and price levels on SNF costs. This index is used to adjust SNF cost data from the cost reporting periods represented in the data collection to the cost reporting period to which the limits apply. If the actual rate of increase in costs significantly exceeds the market basket estimate, an adjustment will be made;

5. A cost of living adjustment for Alaska and Hawaii, and

6. Limits set at 115% of the average per diem cost of the comparison group.

Discussion of Major Comments

1. *Use of a wage index in calculating cost limits.*—All commenters who addressed the issue favored the use of an index to adjust for geographic wage differentials. Most comments were critical of the use of the service industry as the basis for the wage index. They stated that the service industry classification was not representative of the occupation mix of SNF employees, and that it underestimated wage costs. The development of a wage index based on SNF or hospital costs was recommended.

The development of a SNF wage index was not feasible because data on SNF wages are not available for geographical areas smaller than a State. We believe that hospitals and SNFs generally compete in the same labor pool for employees, a view which was supported by several commenters. Therefore, we have decided to use a hospital wage index to adjust the wage portion of the SNF limits. We believe the use of the hospital index results in an adjustment for wage variations which is much more accurate and fairer to providers.

The hospital wage index, developed from data supplied by the Bureau of Labor Statistics, is used to adjust for area-wage differentials and is applied to the portion of the cost limit attributable to wages, as indicated in our market basket. The source data used are those for the "hospital group", a standard BLS reporting category. The hospital wage index is based on data for the year 1977, which is the latest available data. Data for 1978 will not be available until late in 1979.

The hospital wage index was developed by computing the national SMSA (or NECMA) average wage for the hospital group and dividing this average into the average hospital wage for each SMSA (or NECMA). The result is expressed as an index number, which is used to adjust the wage portion of the group limit. For non-SMSA areas, the index was developed by computing the national non-SMSA average wage for the hospital group and dividing this average into the average hospital wage for all non-SMSA counties in a State. The index then applies to all non-SMSA counties in a State.

Several commenters questioned the use of the market basket labor percentage (62.21%) in the wage adjustment of the limit. They pointed out that a provider whose actual percent of wages in routine cost varied significantly from the market basket figure could be adversely affected by the wage adjustment. We agree with this observation and have made the change in 42 CFR 405.460 (see 44 FR 31082, June 1, 1979). A SNF may, through application to its fiscal intermediary, obtain an adjustment to its limit if it can demonstrate that its actual labor percentage differs significantly from the market basket figure.

Commenters suggested that fringe benefits be included with wages and salaries in the percentage of the limit adjusted by the wage index. This suggestion was not adopted because the Bureau of Labor Statistics data used in developing the wage indexes is based on wages and salaries, and does not include fringe benefits. Further, over half of the fringe benefit costs in the market basket are employer contributions to FICA, a figure which is uniform in all parts of the country. Other comments suggested the use of an index to adjust non-wage costs. We considered this in the development of the proposed limits, and determined that the local area data necessary to develop such an index is not available. In the absence of data of comparable accuracy to that used for the wage index, no equitable adjustment of non-wage costs is possible.

2. *Use of separate limits for hospital-based and freestanding SNFs.*—Comments on this provision of the proposed limits were equally divided between those favoring and those opposing separate limits. Several commenters favoring separate limits submitted studies to support their contention that the hospital-based SNF provides a more intensive, and therefore more costly, level or routine care. These studies, while not covering a sufficient number of SNFs to allow a generalization about all providers, appear to support these provider's claims.

In the notice of proposed limits, we identified the methodology which hospitals use to allocate overhead to the SNF as a source of part of the higher cost of the hospital-based SNF. None of the commenters questioned the potential of the allocation methodology as a source of part of the cost differential between hospital-based and freestanding SNFs.

Most commenters opposed to separate limits pointed out that all SNFs must meet the same standards as a condition for certification and, therefore, suggested there should not be differing cost limits. As we observed in the proposed notice, neither the methodology for allocating hospitals overhead costs to SNF care, nor the alleged provision of more intensive services seems to account for the entire amount of the differential. The data currently available is inadequate to allow us to establish the extent to which these two factors contribute to the higher cost of the hospital-based SNF. As information becomes available, refinements in the methodology will be made. Since this is the first set of SNF limits we have decided to establish separate limits for hospital-based and freestanding SNFs because a portion of the differential appears to be attributable to these two elements which are beyond the control of the hospital-based SNF. We will begin a study in the immediate future to examine the higher costs of hospital-based providers. The two areas which will be initially analyzed are:

1. The allocation methodology for overhead costs; and

2. Variations in intensity of care.

As additional elements which contributes to the cost differential are identified, they will be included in the study.

We anticipate that the results of the study will allow us to make significant refinements in subsequent limits.

We believe that the cost differentials arising from Medicare cost reporting requirements are the most easily quantifiable and will probably be the first adjustments made.

3. *Use of a SNF market basket.*—The proposed notice included the use of a market basket index based on goods and services purchased by hospitals, pending the development of an index based on SNF costs. Commenters on this issue preferred the use of the hospital index over the use of an index based on all long term care facilities. Most of these commenters also favored the development of a SNF Market Basket to more accurately reflect trends in the cost of goods and services used by SNFs.

We have now developed a market basket based on the goods and services used by SNFs. The final limits are based on reported costs adjusted for cost increases projected through the application of this SNF market basket index.

The market basket is comprised of the most commonly used categories of SNF routine service expenses. The categories we are using are primarily based on those which were used by the National Center for Health Statistics in its National Nursing Home Surveys.

The categories of expenses are then weighted according to the estimated proportion of SNF routine service costs attributable to each category. The weights for all major categories of SNF costs are based on the DHEW—National Center for Health Statistics' National Nursing Home Surveys for 1972 and 1976. These are the most current and comprehensive source of national data on the distribution of costs in SNFs. The second column of the table below specifies the weights used for each category.

The next step in developing the market basket index is to obtain historical and projected rates of increase in the resource prices for each category. The market basket index table, in the third and fourth columns, identifies the price variables used in this process and the source of the forecast for calendar years 1979 through 1981. The percentage increases developed from the SNF Market Basket have resulted in an increase in the amounts of the proposed limits published on May 18.

In the proposed notice we requested comments on whether and how to make adjustments to the limits if our forecasts of economic trends prove erroneous. All commenters who addressed this issue favored some method of retroactive adjustment of the limits in the event SNF costs increase at a higher rate than our projection. We agree and have added a provision to the limits to assure this. If the actual rate of increase in costs exceeds our estimate by more than ¼ of one percent, the limits will be adjusted to reflect the actual rate of the increase.

Derivation of "Market Basket" Index for SNF Routine Service Costs

Cost category	Routine[1] weight 1978	Forecaster 1979–81	"Price" variable used
Payroll expenses (wages and salaries).	62.21		A. Internal Historical Proxy. For the period through CY 1978: Average hourly wage, nursing and personal care homes. Source: Bureau of Labor Statistics, Employment and Earnings.
		DHEW	B. Internal Forecasted Proxy. For the period CY 1979 and thereafter: Average hourly wage, nursing and personal care homes. Source: Bureau of Labor Statistics, Employment and Earnings.
Employee benefits	7.94		A. Internal Historical Proxy. For the period through CY 1978: Employee benefits per fulltime equivalent worker employed by community hospitals. Source: 1976–1978, American Hospital Association, National Hospital Panel Survey, see mid-month issues of Hospitals. Prior to 1976, American Hospital Association, Hospital Statistics, Annual Survey, Chicago, Illinois.
		DRI–MM[2]	B. External Forecasted Proxy. For the period CY 1979 and thereafter: Supplements to wages and salaries per worker in nonagricultural establishments. Sources: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business, (monthly) table 7 (1.13). July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings, (monthly) table B–4.
Food: (1) Consumer price index	4.82	DRI–MM	Food and beverages component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 22.
Food: (2) Wholesale price index	4.82	DRI–MM	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 26.
Drugs	1.43	DRI–CFS[3]	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Producer Prices and Price Indexes, (monthly), table 6.
Supplies	3.23	DRI–MM	All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 22.
Health services	1.22	DRI–CFS	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, (monthly), table 23.
Other business service	4.57	DRI–MM	Services component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 23.

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Derivation of "Market Basket" Index for SNF Routine Service Costs—Continued

Cost category	Routine[1] weight 1978	Forecaster 1979–81	"Price" variable used
Fuel and other utilities	1.63	DRI–MM	Implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of consumer price index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, Survey of Current Business, (monthly) table 26(7.111).
Electricity	1.17	DRI–MM	Implicit price deflator—consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis. Unpublished data provided to DRI by the Bureau of Economic Analysis. Historical time-series data are available from the Health Care Financing Administration.
Natural gas	.93	DRI–MM	Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity, above.
Water and sanitary services	.52	DRI–CFS	Water and sewerage maintenance component of Consumer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 23.
Liability insurance premiums	.80	HEW, Health Care Financing Administration.	Hospital malpractice insurance premium data obtained from the American Hospital Association for the period 1967–78.
Miscellaneous	4.71	DRI–MM	All Item Consumer Price Index, All Urban Sources: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, table 23.

[1] Weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for homes certified for participation in the Medicare Program. See Nursing Home Costs 1972, United States: National Nursing Home Survey August 1973–April 1974, DHEW, NCHS; An Overview of Nursing Home Characteristics: Provisional Data from the 1977 National Nursing Home Survey, Advance Notice Number 35, September 6, 1978, DHEW-NCHS.
Weights for some subcategories not available from the NNHS were obtained from other sources.
x Skilled nursing facilities sometimes purchase food at an intermediate stage of distribution. Thus both consumer and producer price indexes are used to approximate changes in the prices paid. The food and beverages component of the consumer price index and the processed foods and feeds component of the producer price index are given equal weight.
x The total weight for utilities was obtained from the NNHS. However, it was assumed that the distribution of weights within each sub-category of utility expense was the same as for hospitals in 1972.
x The total weight for insurance was obtained from the NNHS. The relative weight of liability and other insurance was estimated from a 1976 study of Texas nursing home costs by Texas Department of Human Resources.
[2] DRI-MM refers to Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173.
[3] DRI-CFS refers to Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, D.C. 20006.

4. Use of adjusted SNF routine service costs.—Several commenters questioned the inclusion of the inpatient routine nursing salary differential in costs subject to the limits. It was recommended that the routine cost limit exclude the nursing salary differential. The purpose of the salary differential is to recognize the above-average cost of routine care furnished to aged patients. The amount of the differential is added to routine service costs. The reported costs which were used to establish the limits were the Reimbursable General Inpatient Routine Service Cost. This cost *includes* the inpatient routine nursing salary differential. The limits, therefore, include the differential, and there is no reason to exclude it from costs subject to the limit.

Numerous comments were received concerning the capital-related costs which are not considered in the development of the limits. Several comments expressed a need for an expanded definition of the fixed asset related costs included in depreciation. These commenters felt that the differences in the method of reporting costs between the two official cost report forms implied a different definition of capital-related costs. To clarify, the different methodologies in the two reports are differences in reporting. The definition of allowable costs is contained in 42 CFR 405.402 and in the Provider Reimbursement Manual (HIM–15) and is consistent regardless of the form used for reporting costs.

Briefly, capital-related costs are defined as interest, depreciation, insurance, rent and fixed asset related costs which are normally reported in the depreciation accounts for Medicare reimbursement purposes. When computing its general routine operating costs for comparison with its applicable cost limit a SNF will remove that portion of the capital related cost that is allocated to the routine service cost center, both directly and indirectly.

Other comments on this area concerned the identification of all capital-related costs. In establishing the limits, we removed directly allocated capital-related costs from reported routine service costs. These commenters were of the opinion that both directly and indirectly allocated capital-related costs should be excluded from a provider's routine service costs. We agree and we are presently developing supplemental cost reporting forms which will permit an SNF to compute the total capital-related costs allocated to the general routine service cost center.

5. Establishment of the limits.—Several comments were received which questioned the method used to establish the limits. In developing the limits on SNF routine service costs, we originally considered using a percentile such as has been used for hospitals in prior years and was proposed for use with SNFs in 1976. The major disadvantage of a percentile limit is that it automatically assumes that a certain percentage of providers have excessive costs due to inefficient operation.

With the exclusion of capital-related costs, and the establishment of a classification system which further reduced cost variations between providers, the resultant homogeneity of costs in each of providers presented a strong argument for the use of a measure of central tendency in establishing the limits. We believe the use of a limit based on the average to be superior to a percentile limit. The average is a good measure of the cost incurred in the efficient delivery of services by peer providers. The addition of 15% to the average, which results in limits set at a very liberal level, accommodates those cost variations which occur due to variables not accounted for by the classification system.

The result is a system which encourages providers with high costs to bring their expenditures into line with their more efficient peers. Since these are the first limits we have established for SNFs, the methodology used does not account for every conceivable variable which could affect SNF costs. As we gain information and experience, the methodology will be refined.

6. Cost of Living Adjustments—Alaska and Hawaii. Comments were received that the proposed notice did not contain an adjustment to the schedule of limits for SNFs located in the States of Alaska and Hawaii. All previous schedules of hospital cost limits have contained such a provision. A review of the impact of the limits on these States has convinced us that these limits should accommodate their significantly higher cost. Therefore, this notice provides for adjustments to be applied to the limits for the States of Alaska and Hawaii.

7. Exceptions, Exemptions and Classification Adjustments. As was noted in the proposed notice, the provisions of 42 CFR 405.460 providing that exceptions, exemptions and classification adjustments may be made to the application of the limits, where certain required conditions are present, apply to SNFs as well as to hospitals.

Several commenters expressed a concern that our failure to exclude education costs prior to developing the limits meant that these costs were subject to the limit. A study which we conducted did not identify any significant educational costs in SNFs. Where an SNF has such costs which contribute to its exceeding the cost limits, an exception is available under the provisions of 42 CFR 405.460(f)(4).

Concerns have also been raised about providers whose normal patient load requires significantly greater rehabilitation or other specialized services than other providers in the same group. Some commenters felt that these services, while ostensibly ancillary services, tend to result in increased routine service costs.

SNFs in this category may qualify for an exception to the limits under the provisions of § 405.460(f)(1) *Atypical services.* In applying for an exception under this section, a provider must demonstrate that his excess costs are due to the atypical nature and scope of items or services furnished. Further, these atypical items or services must be furnished because of the special needs of patients, and must be necessary for the *efficient* delivery of needed health care.

Providers are encouraged to familiarize themselves with the provisions of the regulation published at 44 FR 31802, June 1, 1979. Additional information may be obtained from the provider's intermediary.

8. Other Changes. We have made a number of clarifying editorial changes from the proposed notice.

Application of the Limits to State Medicaid Rates

Our regulations, at 42 CFR 447.315(c), require that any limits developed under § 405.460 be applied to payments for long-term care facility services under Medicaid regardless of whether the State uses a prospective or retrospective rate payment mechanism. In applying these limits to SNF and ICF (not ICF/MR) rates, State Medicaid agencies must make some or all of the following adjustments, as necessary:

1. The amount of the limit must be reduced to account for items of medical care and service which are considered part of routine service by Medicare such as drugs, but for which separate payment is made under the State's approved plan;

2. Facility rates must be adjusted to account for:

a. The cost of services covered as routine under the State plan, but not covered by Medicare, such as personal laundry; and

b. The cost of services covered as ancillary by Medicare, but which are considered routine services under the State's plan, such as therapy and laboratory services.

If, after all appropriate adjustments are made, a facility's rate is found to exceed the limit, the State agency must reduce the rate to the amount of the limit.

Methodology for Determining Per Diem Routine Service Cost Limit

1. *Data.* The limits have been determined by using actual SNF inpatient routine service cost data less capital-related costs. These data are obtained from the latest Medicare cost reports available as of January 31, 1979 and were then adjusted by means of the market basket index discussed above to project from the midpoint of the cost report period used in the data collection to the midpoint of the first cost reporting period to which the limits will apply. The percentage increases in the market basket over the previous year used for this projection are:

1976	8.0
1977	7.3
1978	9.2
1979	10.3
1980	8.7
1981	8.5

For future periods the projected rate of increase in the market basket index will be adjusted to the actual rate of increase if the actual rate is more than ¼ of 1 percentage point above the estimated rate. The actual rate of increase will be published in the **Federal Register** and will be used to adjust a SNF's cost limit at time of final settlement.

2. *Group Basic Limit.* A basic limit was calculated for each group established in accordance with SNF's urban/nonurban location and type (hospital-based/free-standing). This limit, which is 115% of the average per diem cost of the comparison group, was obtained by averaging the adjusted routine service costs of all SNFs in the group and determining 115% of the average per diem cost.

3. *Adjusted Limit.* The basic limit is divided into its wage and nonwage components on the basis of the Routine Cost Weight for wages and salaries using the proportion from the Market Basket Index—62.21%. The wage component of the basic limit is adjusted using a wage index developed from wage levels for hospital industry workers in the areas in which the SNFs are located. The adjusted limit which will apply to any SNF will be the sum of the nonwage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit for a Freestanding SNF—Miami, Florida

Limit from schedule	48.39
Labor portion	30.10
Non-labor portion	18.29
SMSA wage index	1.085422

Computation of adjusted limit:
$30.10 × 1.085422 (wage index) = $32.67 adjusted labor portion. $32.67 + 18.29 = $50.96 adjusted limit for the facility type group.

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Table III.

5. Adjustment for Cost Reporting Year. If a SNF has a cost reporting period beginning on or after November 1, 1979, the published limit will be revised upward by a factor for each elapsed month between the midpoint of the period beginning October 1, 1979 (i.e., March 31, 1980) and the midpoint of the SNF's cost reporting period. This factor is derived by dividing the projected increase in the appropriate market basket index by 12 and is used to account for inflation in costs which will occur after the date on which the limits become effective.

If the SNF cost reporting period begins	Then the adjustment factor is
November 1979	1.00725
December 1979	1.01450
January 1980	1.02175
February 1980	1.02900
March 1980	1.03625
April 1980	1.04350
May 1980	1.05075
June 1980	1.05800
July 1980	1.06525
August 1980	1.07233
September 1980	1.07942

Example—SNF A's cost reporting period begins January 1, 1980.

Basic Group Limit—$48.39, plus adjustment for 3 month period (October-December 1979) 1.02175 × $48.39 = $49.44.

The revised basic group limit applicable to SNF A for the cost reporting period beginning January 1, 1980, is $49.44.

This basic group limit will be divided into its labor and nonlabor portions, as provided in Tables I and II, and the labor portion will be adjusted by use of the wage index. The sum of the adjusted labor portion plus the nonlabor portion will be the SNF's adjusted per diem routine operating cost limit.

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Projections are computed from the midpoint of a cost reporting period and the factor is based on an assumed 12 month reporting period. If a SNF uses a cost report period of less than 12 months duration, a special calculation of the adjustment factor must be made. The SNF's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits apply to the adjusted SNF inpatient routine service cost (including the inpatient routine nursing salary differential) for cost reporting periods beginning on and after October 1, 1979. The adjusted limits (using the wage index published in Table III) will be computed by the fiscal intermediaries and each SNF will be notified of its applicable limit.

Table I.—*Group Limits for Hospital-Based SNFs* [1]

Location	Group limit	Labor portion (62.21%)	Nonlabor portion
SMSA	$90.48	$56.29	$34.19
Non-SMSA	$66.48	$41.36	$25.12

Table II.—*Group Limits for Freestanding SNFs* [1]

Location	Group limit	Labor portion (62.21%)	Nonlabor portion
SMSA	$48.39	$30.10	$18.29
Non-SMSA	$39.39	$24.50	$14.89

[1] Limits for SNFs located in States of Alaska and Hawaii will be increased by the following cost-of-living adjustments:

	Percent
Alaska	25
Hawaii (island)	
Oahu	15
Kauai	17.5
Molokai	15
Mau and Lanai	12.5
Hawaii	15

Table III A—*Wage Index for urban areas*

SMSA area	Wage index
Abilene, TX	.7817864
Akron, OH	.9009922
Albany, GA	.8688152
Albany-Schenectady-Troy, NY	.9564136
Albuquerque, NM	1.0024912
Alexandria, LA	.8846018
Allentown-Bethleham-Easton, PA–NJ	.9676766
Altoona, PA	1.0162619
Amarillo, TX	.9160869
Anaheim-Santa Ana-Garden Grove, CA	1.0459060
Anchorage, AK	1.3802678
Anderson, IN	.8253111
Ann Harbor, MI	1.1310564
Anniston, AL	.8573296
Appleton-Oshkosh, WI	.8826942
Asheville, NC	1.0053936
Atlanta, GA	.9610832
Atlantic City, NJ	.8647122
Augusta, GA-SC	.9818104
Austin, TX	.8146060
Bakersfield, CA	.9299136
Baltimore, MD	1.0411706
Baton Rouge, LA	.7507689
Battle Creek, MI	1.1068553
Bay City, MI	.8632990
Beaumont-Port Arthur-Orange, TX	.7751797
Billings, MT	.7925247
Biloxi-Gulfport, MS	1.0729591
Binghamton, NY-PA	.9250013
Birmingham, AL	.9999575
Bloomington, IN	.8545872
Bloomington-Normal, IL	.8614273
Boise City, ID	.9817917
Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	1.0383125
Bradenton, FL	.7840533
Bridgeport-Stamford-Norwalk-Danbury, CT	1.0174962
Brownsville-Harlingen-San Benito, TX	.7766896
Bryan-College Station, TX	.6780472
Buffalo, NY	.8785651
Burlington, NC	.7132341
Canton, OH	.8070206
Cedar Rapids, IA	.7879741
Champaign-Urbana-Rantoul, IL	.8275104
Charleston-North Charleston, SC	.9526042
Charleston, WV	.9967342
Charlotte-Gastonia, NC	.7968266
Chattanooga, TN–GA	.7933366
Chicago, IL	1.0802769
Cincinnati, OH–KY–IN	.9936312
Clarksville-Hopkinsville, TN–KY	.7707538
Cleveland, OH	1.0727585
Colorado Springs, CO	.8010228
Columbia, MO	1.1482990
Columbia, SC	.8929865
Columbus, GA-AL	.7559156
Columbus, OH	.9097972
Corpus Christi, TX	.7713051
Dallas-Fort Worth, TX	.8395097
Davenport-Rock Island-Maine, IA–IL	.7902528
Dayton, OH	1.0188927
Daytona Beach, FL	.9138623
Decatur, IL	.9320051
Denver-Boulder, CO	.9893444
Des Moines, IA	.9549639
Detroit, MI	1.0741969
Dubuque, IA	.7330132
Duluth-Superior, MN–WI	.7808646
Eau Claire, WI	.7479729
El Paso, TX	.8247960
Elmira, NY	.7894086
Erie, PA	.8756995
Eugene-Springfield, OR	.8379397
Evansville, IN–KY	.9039087
Fargo-Moorhead, ND–MN	.9334691
Fayetteville, NC	1.4407862
Fayetteville-Springdale, AR	.9143109
Flint, MI	1.0090565
Florence, AL	.7396290
Fort Collins, CO	.7120910
Fort Lauderdale-Hollywood, FL	1.0729465
Fort Myers-Cape Coral, FL	.8458898
Fort Smith, AR–OK	.7501032
Fort Wayne, IN	.8273668
Fresno, CA	.9922715
Gadsden, AL	.8372010
Gainesville, FL	1.0245569
Galveston-Texas City, TX	.8697117
Gary-Hammond-East Chicago, IN	1.0393875
Grand Forks, ND–MN	.7402307
Grand Rapids, MI	.8200939
Great Falls, MT	.8271435
Greeley, CO	.7550165
Green Bay, WI	.8074495
Greensboro-Winston-Salem-High Point, NC	.7804297
Greenville-Spartanburg, SC	.7774527
Hamilton-Middletown, OH	.9677146
Harrisburg, PA	.8395567
Harford-New Britain-Bristol, CT	1.0293896
Honolulu, HI	1.0521231
Houston, TX	.9066861
Huntington-Ashland, WV–KY–OH	.8121577
Huntsville, AL	.8648394
Indianapolis, IN	.9808246
Jackson, MI	.8855644
Jackson, MS	.8413921
Jacksonville, FL	.8922471
Janesville-Beloit, WI	.7369621
Jersey City, NJ	1.0024191
Johnson City-Kingsport, TN–VA	.8520487
Johnstown, PA	.8906999
Kalamazoo-Portage, MI	.9827004
Kankakee, IL	.9173186
Kansas City, MO–KS	.8746920
Kenosha, WI	.8646885
Killeen-Temple, TX	.9697617
Knoxville, TN	.7458602
Kokomo, IN	.8160744
La Crosse, WI	.7662549
Lafayette, LA	.7299344
Lafayette-West Lafayette, IN	.8036818
Lake Charles, LA	.7122432
Lakeland-Winter Haven, FL	.7291346
Lancaster, PA	.8188873
Lansing-East Lansing, MI	.9398465
Laredo, TX	.6974902
Las Vegas, NV	1.0363196
Lawrence, KS	1.1054001
Lawton, OK	.6814294
Lewiston-Auburn, ME	.7724421
Lexington-Fayette, KY	.9239338
Lima, OH	.8451905
Lincoln, NE	.9063602
Little Rock-North Little Rock, AR	.9937774
Long Branch-Asbury Park, NJ	.9575276
Longview-Marshall, TX	.7113164
Lorain-Elyria, OH	.8584578
Los Angeles-Long Beach, CA	1.1037830
Louisville, KY–IN	.9069019
Lubbock, TX	.7230551
Lynchburg, VA	.7576805
Macon, GA	.8802635
Madison, WI	.9382551
Manchester-Nashua, NH	.7704519
Mansfield, OH	.7670934
McAllen-Pharr-Edinburg, TX	.5906622
Melbourne-Titusville-Cocoa, FL	.8192981
Memphis, TN–AR–MS	.8646840
Miami, FL	1.0654220
Midland, TX	.7111879
Milwaukee, WI	.9199721
Minneapolis-St. Paul, NM–WI	.7570047
Mobile, AL	.7915066
Modesto, CA	.8302491
Monroe, LA	.7499661
Montgomery, AL	.8241726
Muncie, IN	.7878268
Muskegon-North Shores-Muskegon Heights, MI	.8856485
Nashville-Davidson, TN	.9308903
Nassau-Suffolk, NY	1.1435511
New Bedford-Fall River, MA	.8609717
New Brunswick-Perth Amboy-Sayreville, NJ	.9529374
New Haven-Waterbury-Meriden, CT	1.0431054
New London-Norwich, CT	.9580296
New Orleans, LA	.9323589
New York, NY–NJ	1.2636483
Newark, NJ	1.15300674
Newport News-Hampton, VA	.9250905
Norfolk-Virginia Beach-Portsmouth, VA–NC	.8917366
Northeast Pennsylvania	.9871651
Odessa, TX	.6942824
Oklahoma City, OK	.7853505
Omaha, NE–IA	.8506704
Orlando, FL	.7872832
Owensboro, KY	.6712032
Oxnard-Simi Valley-Ventura, CA	1.2991616
Panama City, FL	.7860455
Parkersburg-Mariette, WV–OH	.8482920
Pascagoula-Moss Point, MS	.8144002
Paterson-Clifton-Passaic, NJ	.9871591
Pensacola, FL	.8687345
Peoria, IL	.9803141
Petersburg-Colonial Heights-Hopewell, VA	.8604133
Philadelphia, PA–NJ	1.0427889
Phoenix, AZ	.9367511
Pine Bluff, AR	.6387947
Pittsburgh, PA	1.0037857
Pittsfield, MA	.9315021
Portland, ME	.9732582
Portland, OR–WA	1.0046502
Poughkeepsie, NY	1.0379910
Providence-Warwick-Pawtucket, RI	.9101288
Provo-Orem, UT	.8906648
Pueblo, CO	.9417969
Racine, WI	.8080810
Raleigh-Durham, NC	.9982759
Rapid City, SD	.9912066
Reading, PA	.8929759
Reno, NV	1.1936960
Richland-Kennewick-Pasco, WA	.8333314
Richmond, VA	.8557333
Riverside-San Bernadino-Ontario	.9922397
Roanoke, VA	.9616381
Rochester, NM	.8039937
Rochester, NY	1.0114625
Rockford, IL	.8863163
Sacramento, CA	1.0701363
Saginaw, MI	1.0305533
St. Cloud, MN	.7889363
St. Joseph, MO	.8106216
St. Louis, MO–IL	.8353947
Salem, OR	.9871521
Salinas-Seaside-Monterey, CA	1.0521816
Salt Lake City-Ogden, UT	.8003266

Table III A—*Wage Index for urban areas*—Continued

SMSA area	Wage index
San Angelo, TX	.7280581
San Antonio, TX	1.2015727
San Diego, CA	1.0423081
San Francisco-Oakland, CA	1.2261579
San Jose, CA	1.2318725
Santa Barbara-Santa Maria-Lompoc, CA	.9141919
Santa Cruz, CA	.9390376
Santa Rosa, CA	1.3319986
Sarasota, FL	.7794111
Savannah, GA	.7991026
Seattle-Everett, WA	.9114513
Sherman-Denison, TX	.6840456
Shreveport, LA	.9304503
Sioux City, IA–NE	.8158085
Sioux Falls, SD	.7752901
South Bend, IN	.8039176
Spokane, WA	.9596857
Springfield, IL	.8021688
Springfield, MO	.8428475
Springfield, OH	.8397949
Springfield-Chicopee-Holyoke, MA	.9118872
Steubenville-Weirton, OH–WV	.8587642
Stockton, CA	1.1694052
Syracuse, NY	1.0320677
Tacoma, WA	.9338239
Tallahassee, FL	.7936591
Tampa-St. Petersburg, FL	.9112976
Terre Haute, IN	.8133320
Texarkana, TX-Texarkana, AR	.9651876
Toledo, OH–MI	.9636379
Topeka, KS	1.0191180
Trenton, NJ	1.0181014
Tucson, AZ	.9815322
Tulsa, OK	.8065469
Tuscaloosa, AL	.9434434
Tyler, TX	.7888754
Utica-Rome, NY	.9483622
Vallejo-Fairfield-Napa, CA	1.3675897
Vineland-Millville-Bridgeton, NJ	.8849921
Waco, TX	1.0659982
Washington, DC–MD–VA	1.1430803
Waterloo-Cedar Falls, IA	.7296063
West Palm Beach-Boca Raton, FL	.8588761
Wheeling, WV–OH	.8278128
Wichita, KS	.9081149
Wichita Falls, TX	.7661439
Williamsport, PA	.8408558
Wilmington, DE–NJ–MD	1.0590599
Wilmington, NC	.6793208
Worcester-Fitchburg-Leominster, MA	.8941985
Yakima, WA	.7821286
York, PA	.8702993
Youngstown-Warren, OH	.9486057

Table III B—*Wage Index for rural areas*

Alabama	1.0461294
Alaska	1.6354423
Arizona	1.1122143
Arkansas	.8273242
California	1.2993578
Colorado	1.0080249
Connecticut	1.1747087
Delaware	1.0342322
Florida	.9703395
Georgia	1.0599656
Hawaii	1.1225531
Idaho	.8969254
Illinois	.9286388
Indiana	1.0841407
Iowa	1.0275121
Kansas	.9487575
Kentucky	.8980309
Louisiana	.8812404
Maine	1.0173606
Maryland	1.0658544
Massachusetts	1.2069380
Michigan	1.1016350
Minnesota	.7643302
Mississippi	.8378849
Missouri	.9206227
Montana	.9939387
Nebraska	.8271144
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New Hampshire	1.0166505
New Jersey	1.1075845
New Mexico	.9672105
New York	1.0618680
North Carolina	1.0102951
North Dakota	.8934854
Ohio	.9990494
Oklahoma	.8099723
Oregon	1.0884072
Pennsylvania	1.1423726
Rhode Island	1.0525859
South Caroline	.9095836
South Dakota	.7760311
Tennessee	.8322538
Texas	.9576274
Utah	.7477027
Vermont	1.0353552
Virginia	.9030129
Washington	1.0312944
West Virginia	1.0907991
Wisconsin	.8837830
Wyoming	1.0836848

(Sections 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh).

(Catolog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance.)

Dated: August 20, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved August 27, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-27335 Filed 8-30-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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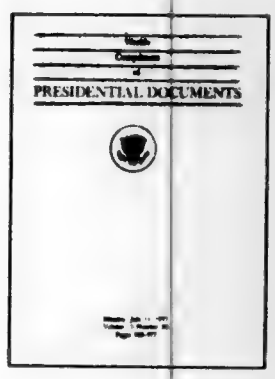
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January–September 1979

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Do	DLAH 5025.6, Index of Forms, January 1979, is a listing of DLA and DoD forms used by DLA.	HQ DLA (DASC–IP), Bldg. 6, Door 26, Cameron Station, Alexandria, Va. 22314. Price: $.47 plus $2.00 handling fee per order. Payable to: Defense Logistics Agency.	HQ DLA, Attn: DLA–XAR, Room 5A119, Cameron Station, Alexandria, Va. 22314
Defense Logistics Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbooks, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, Attention: DGSC–B, Richmond, Va. 23297 Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297
Department of Energy, Bonneville Power Administration.	BPA Manual Index dated March 28, 1979, 33 pages. Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the index, obtain a copy of the index without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Public Information Office, 1002 NE. Holladay St., Portland, Oreg. 97232, or the Washington, D.C. office, Federal Building, Room 3352, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461..	Bonneville Power Administration Offices listed in previous column or BPA Area and District Offices at the following: 919 NE. 19th Ave., Portland, Oreg. 97208; 415 First Ave. N., Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 E. 7th St., Eugene, Oreg. 97401; Highway 2E, Box 758, Kalispell, Mont. 59901; U.S. Federal Bldg., 301 Yakima St., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83401
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual, Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va. 22161. Accession No. NTISUB/D/248 Price Code: A00 ($50.00).	Freedom of Information Staff (HFI–35), Room 12A–12, FDA, 5600 Fishers Lane, Rockville, Md. 20857.
Do	NCTR Manual for Advanced Course for Investigators: Bio–Research Monitoring, Nonclinical Studies (two–week course conducted at the Center for Toxicological Research by FDA staff).	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857 $33.50. Checks payable to Food and Drug Administration..	Do
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $10. Checks payable to Food and Drug Administration.	Do.
Do	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $60.00. Checks payable to Food and Drug Administration.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va., 22161. Accession No. PB 271 176/AS Price Code: E12 ($25.00). For subscription service, order: Accession No. NTISUB/C/154 Price: $100.00.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages. Available from National Technical Information Service, in approximately 3 mos. Accession No. and price code available from NTIS.	Supervisor, Public Records and Documents Center (HFC–18, 5600 Fishers Lane, Rockville, Md. 20857. 10 cents per page. (Suggest before ordering to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and MFX II. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $25. Checks payable to Food and Drug Administration.	Do.
Do	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	....do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. No charge.	Do.
Do	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $131.95 Checks payable to Food and Drug Administration.	Do.
Do	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $25. Checks payable to Food and Drug Administration.	Do.
Do	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $15. Checks payable to Food and Drug Administration.	Do.
Do	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts: (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work: (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $65. Checks payable to Food and Drug Administration.	Do.
Do	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $8.30. Payable to Food and Drug Administration.	Do
Do	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va., 22161. Accession No: NTISUB/C/117 Price: $50.00 To order Volumes separately:Vol. I–NTISUB/C/118 Price: $25.00 Vol. II–NTISUB/C119 Price: $35.00.	Do.
Do	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents, (2) contains information on sampling where special techniques are required.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $25. Checks payable to Food and Drug Administration.	Do.
Do	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $110. Checks payable to Food and Drug Administration.	Do.
Do	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. Vol. I, $60; Vol. II, $60; Vol. III, $85; Vol. IV, $60. Checks payable to Food and Drug Administration.	Do.
Do	Supervisory Investigators Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $10. Checks payable to Food and Drug Administration	Do.
Do	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Freedom of Information Staff (HFI–35), 5600 Fishers Lane, Rockville, Md. 20857. $20. Checks payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for International Health, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for International Health, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: Mine Health Research Advisory Committee, Safety and Occupational Health Study Section, Immunization Practices Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis and Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis and Services Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Final Report of the Drinking Water Disinfection ad hoc Advisory Committee, dated Mar. 1, 1977. Recommendations to the Secretary, Health, Education, and Welfare, the Assistant Secretary for Health, and the Director, Center for Disease Control, on the merits of chlorine and ultraviolet light as a means of disinfecting water in program areas over which the CDC has jurisdiction or technical responsibility.	do	Do.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974 on trade secret information.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8–20, 5600 Fishers Lane, Rockville, Md. 20857. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8–20, 5600 Fishers Lane, Rockville, Md. 20857.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973 regarding reimbursement to an employer for financial loss (production time: pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor, Department of Health, Education, and Welfare, and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1977. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969, NIOSH Publication No. 79–124.	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards. NIOSH Publication No. 78–127.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gohorrhea, CDC recommended treatment schedules, dated 1979.	do	Do.
Do	Commentary on national strategies to control gonorrhea, dated July 1975.	do	Do.
Do	Updated guidelines concerning patients with penicillinase-producing *Neisseria gonorrhoeae* (PPNG), dated August 1977.	do	Do
Do	Guidelines for venereal education, dated June 1978	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, GA 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. N.E., Atlanta, GA 30333
Do	A monitoring system for adverse reactions to vaccinations, dated 1978.	do	Do.
Do	Guidelines for conducting a standard school immunization survey, dated August 1978.	do	Do.
Do	Immunization abstracts and bibliography–1979, Number one.	do	Do.
Do	Summary Report on Influenza Virus Vaccine use, dated Feb. 7, 1977.	do	Do.
Do	Summary Report of Conference on Influenza Vaccine Activity for 1977–78, dated Mar. 21, 1977.	do	Do.
Do	Briefing and discussion on influenza A/USSR/I977 (H1N1)—Summary, dated Dec. 22, I977.	do	Do.
Do	Influenza virus vaccine workshop—Summary report and conclusions, dated Jan. I2, I978.	do	Do.
Do	Conference on influenza A/USSR/I977 (H1N1)—Summary report, dated Jan. 30, I978.	do	Do.
Do	Guidelines for assessing immunity levels, dated August 1978.	do	Do.
Do	Immunization Against Disease, 1972 handbook	do	Do.
Do	Guidelines for application immunization Project Grants, dated December 1977.	do	Do.
Do	Management of contacts to drug–resistant tuberculosis in Alcorn County, Miss.–Report of meeting, July 31–August 1, 1978.	do	Do
	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do	Do.
Do	Preventive therapy of tuberculosis infection dated February 1975.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Do	Guidelines for prevention of TB transmission in hospitals, dated January 1979.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Anticoagulant rodenticide rat resistance studies policies and procedures manual, dated September 1978.	do	Do
Do	Urban rat control project grants interim program guidelines for applicants, dated February 13, 1979.	do	Do.
Do	Procedures for collecting rats for anticoagulant resistance evaluation, Urban Rat Control, dated Mar. 29, 1977.	do	Do.
Do	Guidelines for grant applications. Childhood lead–based paint poisoning prevention, 1979.	do	Do.
Do	Preventing lead poisoning in young children. A statement by the Center for Disease Control, dated April 1978.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control, Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3–335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Office of Director, Management Analysis and Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Director, Management Analysis and Services Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Manual Guide—General Administration No. CDC–57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC–1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC–1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74–9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3–75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.
Do	Administrative issuance. Manual Guide—Printing Management No. CDC–6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3–3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 78–10, dated Sept. 11, 1978. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	do	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Administrative issuance. CDC General Memorandum No. 74–1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC–52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC–18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 72–3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do	Do.
Do	Administrative issuance. Manual Guide—Personal Property Management No. CDC–2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production of exhibits by commercial contractors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC–19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC–2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do	Do.
Do	Administrative issuance. Manual Guide—Safety Management No. CDC–3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do	Do.
Do	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7–2, dated July 5, 1978, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC–5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC–61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do	Do.
Do	Administrative issuances. Manual Guide—General Administration No. CDC–11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do	Do.
Do	Administrative issuance. Manual Guide—Travel CDC–10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and of the conditions of the contracts.	do	Do.
Do	Administrative issuances. Manual Guide—Travel No. CDC–2 dated Jan. 14, 1974 and Correspondence Manual Illustration CDC: 10–4–1, dated June 5, 1978. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Administrative issuance. Manual Guide—General Administration No. CDC–63, Privacy Act, dated Nov. 23, 1976, and Appendix I, dated May 4, 1977, and Appendix II, dated August 1978. This issuance provides to CDC employees guidance on carrying out requirements of the act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75–10. Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75–2, civil defense, dated Apr. 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do	Do.
Do	Administrative issuance. Manual guide—general administration No. CDC–8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, Ch. III, CDC guide 1–2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do	Do.
Do	Administrative issuance. personnel guide for supervisors, ch. III, CDC guide 1–9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do	Do.
Do	Administrative issuance, personnel guide for supervisors, ch. III, CDC guide 1–15, employment of relatives, dated March 24, 1978. This guide outlines CDC's policy concerning employment of relatives.	do	Do.
Do	Administrative issuance, manual guide, Grants Administration, part 1, ch. CDC: 1–64, dated February 1, 1979. This issuance prescribes strandard policies and procedures to be followed by CDC in ranking, approving, and funding grant applications and notifying unsuccessful applicants.	do	Do.
Do	Administrative issuance, CDC general memorandum No. 78–13, dated Dec. 27, 1978. This issuance specifies access restriction to building 7, Clifton Rd.	do	Do.
Do	Administrative issuance, CDC general memorandum No. 79–2, dated March 7, 1979. This issuance directs that all CDC mmetings be made accessible to the handicapped.	do	Do.
Do	Administrative issuance, National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do	Do.
Do	Administrative issuance, National Institute for Occupational Safety and Health Administration issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meeting with representatives of nongovernmental groups.	do	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: general recommendations on immunization, BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune globulins for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles outbreak control, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, pneumococcal polysaccharide vaccine, poliomyelitis prevention, rabies, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, and yellow fever vaccine.	Center for Disease Control, Attention: Public Inquiries, Management Analysis and Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Public Inquiries, Management Analysis and Services Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	HRA index of policy documents as required by Public Law 90–23 (Freedom of Information). July 1, 1973 through July 31, 1979. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10–44, Center Building, 3700 East–West Highway, Hyattsville, Md., 20782. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW–Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10–44, Center Building, 3700 East–West Highway, Hyattsville, Md., 20782 (301)436–8988.
Do			
Department of Health, Education, and Welfare, Public Health Service, Health Services Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index. March 1975 to Sept. 30, 1979. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of Sept. 30, 1979. The respective bureau level indexes are listed as follows:. OA—OFFICE OF THE ADMINISTRATOR OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1979–83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; HSA Circulars; OM/OFS—policy decisions and opinion. BMS—BUREAU OF MEDICAL SERVICES Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda."Emergency Medical Service Systems Program Guidelines". IHS—INDIAN HEALTH SERVICES IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions. BCHS—BUREAU OF COMMUNITY HEALTH SERVICES BCHS administrative guide system; BCHS Operations Manual.	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A–55, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to DHEW/Public Health Service. Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16–36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A–55, 5600 Fishers Lane, Rockville, Md. 20857.
Department of Health, Education, and Welfare, Office of the Secretary, Assistant Secretary for Public Affairs..	Office of the Secretary Index contains those records required by Public Law 90–23 (Freedom of Information Act). The index is a guide to Departmental policies, information, instructions memoranda, administrative staff manuals, Federal regulations, delegations of authority, organization and functional statements, guidelines, final opinions, decisions, appointments and procedures not published in the Federal Register. Contains records originated since January 18, 1977.	Freedom of Information Officer, Office of Assistant Secretary for Public Affairs, 200 Independence Ave., S.W. Washington, D.C. 20201..	HEW Public Reading Room, Room 104G, Hubert H. Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C. 20201. Telephone: (202) 245–8567 or (202) 472–7453
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, App. A. Checks payable to Bureau of Mines.	Directives Management Officer, Columbia Plaza Office Bldg., 2401 E St. NW., Washington, D.C. 20241.
Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges: 1968–78; listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator: 1969–79; listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	....do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do	Cross reference index of current Federal Highway Administration directives. The computerized index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, technical advisories, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown).The index is updated quarterly and is issued generally during the second month following the end of the quarter (ie., May, August, November, February).	do	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington D.C. 20590; Federal Highway Administration Regional Offices (for location see 49 CFR pt.7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF) has determined that publication of the ATF Index of Materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the Index is changing continually and that items listed are of interest to relatively few potential users. The index is entitled, "Index of Materials Required by the Freedom of Information Act, ATF P 1200.3"and covers the period of July 1967–March 1978. The Index consists of the following: Final Opinions of the Director, Statements of Policy and Interpretations Index, and Administrative staff manuals and instructions to staff..	Office of the Assistant to the Director (Disclosure). Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Price $2.00. Make check payable to the Bureau of Alcohol, Tobacco, and Firearms.	Freedom of Information Act Reading Room, Room 1315, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS: North Atlantic Regional Office, 6 World Trade Center, Room 620, New York, N.Y. 10048. Mid-Atlantic Regional Office, Room 310, 2 Penn Center Plaza, Philadelphia, Pa. 19102 Southeast Regional Office, 3835 Northeast Expressway, Room 201, Atlanta, Ga. 30340. Central Regional Office, Federal Office Bldg., Room 6510–A, 550 Main St., Cincinnati, Ohio 45202. Midwest Regional Office, 230 S. Dearborn St., 15th floor, Chicago, Ill. 60604. Southwest Regional Office, Main Tower, 1200 Main St., Room 335, Dallas Tex. 75202. Western Regional Office, 525 Market St., 34th floor, San Francisco, Calif. 94105.
Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to September 1979; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010 Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list: (a) Procurement List 1979 incorporates all additions and deletions through Nov. 13, 1978 (b) Current index Nov. 1978–September 1979..	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. (703) 557–1145
Council on Environmental Quality..	Part I—GUIDELINES/REGULATIONS (i) 1970 Interim Guidelines (ii) 1971 Guidelines (iii) 1972 Recommendations for Improving Agency NEPA Procedures, May 16, 1972 (iv) 1973 Guidelines, August 1, 1973 (v) 1977 Interim Guidance to Federal Agencies on Referrals to the Council of Proposed Federal Actions Found to be Environmentally Unsatisfactory, August 11, 1977 (vi) Regulations for implementation of procedural provisions of the National Environmental Policy Act, Nov. 29, 1978..	Available from the Council on Environmental Quality.	Public Affairs Office, Council on Environmental Quality, Executive Office of the President, 722 Jackson Pl., NW, Washington, D.C. 20006 (202)395–5770.

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	Part VI—GENERAL INFORMATION (i) CEQ publications list (ii) NEPA Hearing questionaire, Aug. 8, 1977 (iii) 20 Questions and Answers explaining the NEPA section 102 environmental impact statement process, 102 Monitor, V. 1, No. 10 (Nov. 1971) (iv) Memorandum of implementation of the agreement between the USA and the USSR on cooperation in the field of environmental protection of May 23, 1972, 102 Monitor, V. 2, No. 9, (Oct. 1972) (v) Environmental programs and employment, 102 Monitor, V. 5, No. 4 (May 1975) (vi) CEQ paper "Pollution Control and Employment", Feb. 1976 (vii) CEQ proposed regulations for implementing procedural provisions of the National Environmental Policy Act (June 9, 1978). (viii) First Progress Report on Agency Implementing Procedures under National Environmental Policy Act, 44 F.R. 26781, May 7, 1979. (ix) Second Progress Report on Agency implementing Procedures under National Environmental Policy Act, 44 F.R.43037, July 23, 1979. (x) Report to the President by the Toxic Substances Strategy Committee. (Draft) Aug. 1979. (xi) Update on the Second NEPA Progress Report, 44 F.R. 51295, Aug. 31, 1979. (xii) Third Progress Report on Agency Implementing Procedures under National Environmental Policy Act, 44 F.R. 55408, Sept. 26, 1979. (xiii) Progress Report on Agency Procedures Implementing E.O. 12114 "Environmental Effects Abroad of Major Federal Actions" (Jan. 4, 1979) 44 F.R. 55410, Sept. 26, 1979.		
Farm Credit Administration	Index of FCA Information Materials; Jan. 1, 1977–September 30, 1979 (1) Publications (those available in supply); (2) news releases issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA Administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Public Affairs Division, Farm Credit Administration, 490 L'Enfant Plaza, East, SW., Washington, D.C. 20578. Payable to: Farm Credit Administration. Single copies free of charge for items 1, 3, 4, 6, 8, and 11. Copies of all others available at 10¢ per page.	Larry H. Bacon, Director of Public Affairs, Farm Credit Administration, Washington, D.C. 20578.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do	Water Bulletins: containing data for 1 yr. covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1977.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3.75 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do	Water Bulletins: Containing data for 1 yr. covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1977.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $3.00 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above).
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Do	Numerical index of NSF important notices in effect as of Mar. 21, 1979. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	do	Do.
Do	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do	Do.
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Do	Publications of the National Science Foundation. An index by topical classification, as of Jan. 1979, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 79–16).	NSF Publications Section, Room 235, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 1242, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) room 531, 1800 G St. NW., Washington, D.C. 20550.
Do	NSF guide to programs. A composite listing of summary information about NSF support programs, as of November, 1978. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 78–45).	NSF Publications Section, Room 235, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038–000–00381–1. Unit price: $2.50.	Do.
Do	NSF Grant Policy Manual. A compendium of basic NSF grant policies and procedures for use by the grantee community and NSF Staff. The Manual implements OMB Circular No. A–110, which is directed toward standardizing and simplifying the various accountability and reporting requirements among Federal granting agencies. (NSF publication 77–47).	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038–000–81001–4. Unit price: $12.00.	NSF Division of Grants and Contracts, Room 201, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, April 4, 1967 through September 30, 1979. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.	Chief, Public Inquiries Section, Room 808–F, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 808–G
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	A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject.		
	This index includes some information formerly published in the Index to Civil Service Commission Information.	Distribution Unit, Room B–431, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Free..	OPM Library or any OPM Office, including regional and area offices.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Sept. 30, 1979; interpretive letters addressing the provisions of title IV of the Employee Retirement Income Security Act—plan termination insurance program.	The Office of Communications, Pension Benefit Guaranty Corp., Room 7100, 2020 K St. NW., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.	The Office of Communications, Attention: Mr. William Fitzgerald, (202) 254–4817, 2020 K St. NW., Washington, D.C. 20006.

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Postal Rate Commission	Postal Rate Commission Index, from 1971 to June 30, 1979; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Selective Service System	1. Index to Selective Service Regulations and Directives, 1948 to 1972. 2. Index to Selective Service Regulations and Registrants Processing Manual, 1972 to present. 3. General Index to Reconciliation Service Manual.. 4. Registrant Information Bank Guide Index 1972 to present.	National Headquarters Selective Service System, 600 E Street NW., Washington, D.C. 20435. Prices: (1) $2; (2) $2; (3) $.10; (4) $.10. Make checks payable to: Selective Service System.	Records Manager, National Headquarters Selective Service System, 600 E Street NW., Washington, D.C. 20435, telephone 202-724-0419.

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This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Ernest J. Galdi, Acting Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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TITLE 7, CHAPTER XI

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

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1207.408 Added 33392
1207.507 (a) amended 25621
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1421.6 (b) corrected 6351
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1421.21 (b)(2) corrected 6351
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1446.39 Added 40054
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1472.1546 Existing text designated as (a); (b) added 21622
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1491 Added 49419
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Chapter XVII—Rural Electrification Administration, Department of Agriculture

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1700.3a Added 39372
1700.5 Revised 39372
1701 Appendix A amended 1367, 10051, 18957, 20629, 25410, 40879, 42669, 44149, 44830
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1800 Removed 18162
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1801 Removed 4431
1801.11 (Subpart B) Redesignated as 1910.51—1910.64 (Subpart B) and revised 4431
1803 Removed 38441
1803.11 (c) amended 6352
1804.3 (f)(1)(ii)(c) amended 1701
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1822.14 (b)(1) amended 38441
1822.15 (b)(4) amended 37904
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1822.63 (a) amended 1701
1822.70 (g) amended 38441
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1822.84 (a)(2)(iv), and (a)(5)(iii) added; (a) (1), (2) and (8) revised 27646
1822.85 (b)(1), (2), and (3) revised; (b)(4), (5), and (6) added 20630
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1822.220 (f) amended 38441
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1823.276 Introductory text amended	6353
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1823.471—1823.477 (Subpart P) Removed	27409
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1861.41—1861.48 (Subpart C) Heading revised	46251
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94.12 (a) amended 26059
94.13 Introductory text amended 26059
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94.9 (a) amended 2568
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113.86 Heading amended; (c)(3) revised 31623
113.87 Heading amended; (c)(3) revised 31623
113.88 Heading amended; (c)(3) revised 31623
113.89 Heading amended; (c)(3) revised 31623
113.161 Heading amended; (d)(1) revised 33051

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317.17 Heading revised; existing text designated as (a); (b) and (c) added 48961
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381.67 Added 22048
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381.147 (f)(3) table amended 45607
381.171 Added 51190
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931 ..... 3230, 16852
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2301 13262

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

1.1 Revised 21624
(a)(1) corrected 23515
1.2 Revised 21624
Amended 40638
1.3 Revised 21624
1.4 Revised 21624
1.13 (d)(6) revised 54042
1.14 (d) added 36172
1.18 (c) revised 16368
(c)(2) corrected 21005
1.26 (b) revised 16368
2.4 Revised 10366
2.8A Added 54042
2.14 (c) revised 10366
2.41 (Subpart D) Redesignated from 3.61 (Subpart G) 40637
2.41 (b) revised 47766
2.51 (Subpart E) Added; regulations transferred from 3.72 (b)(2) and revised 40637
3.2 Amended 40637
3.22 (a) revised 10366
3.38A Added 54043
3.61 (Subpart G) Redesignated as 2.41 (Subpart D) 40637
3.71 Revised 40637
3.72 (b)(2) removed; regulations transferred to 2.51 (Subpart E) and revised; new (b)(2) redesignated from (b)(3) and revised 40637
4.7 (a), (b)(2), (e), and (f) revised 40637
4.9 (b)(11) and (13) revised 40638
13 Amended 3033, 3259, 4465, 4664, 4939, 5391, 5871, 6380, 7124, 7943, 8866, 9378, 11060, 15660, 16894, 16895, 17482, 18006, 19384, 20074, 23820, 24282, 25630, 25631, 26853, 26854, 28304, 28305, 30083, 31949, 32365, 34922, 34923, 36025, 37200, 37201, 38451, 38833, 41777, 43263, 43264, 43465, 43466, 43718, 44151, 44152, 44154, 44840, 47926, 48170, 48657, 48962, 48964, 49650, 52175, 53077–53079, 53158, 54470, 54471, 55331
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14.11 Revised 30322
14.15 Added 47328
17 Revised 11176
18 Added 11177
19 Added 11179
20 Added 11182
21 Added 11183
22 Added 11184
23 Revised 11185
23.5 (c)(1) note corrected 16004
24 Added 11190
24.2 (b)(7)(i) corrected 16004
34 Removed 11176
60 Removed 11176
62 Removed 11176
118 Removed 11176
152 Removed 11176
154 Removed 11176
306 Added 19169
436 Effective date postponed to 10-21-79 31170

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Interpretation 49966
438.1 (c)(1) and (2) interpretation 32207
(c)(1) and (2) interpretation corrected 36172
438.3 (a)(6) correctly added; appendixes E, G, I, K, M, O, Q, and S corrected 32208
456 Interpretations 2569
Determination 22442
456.5 Interpretation 33061
460 Added 50242
600.8 Revised 3260
901 (Subchapter H and Part) Added 21005

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1009.9 Confirmed 40639
1040 Removed 23822
1105 Revised 48622
1118 Added 34929
1205 Added 10024
1209 Revised 39966
1209.31—1209.41 (Subpart B) Added 39991
1302 Heading revised 792
1303 Heading revised 792
1404 Added 40001
1500.18 (a)(9) added 34903
(c) added 55819
1500.83 (a)(6) removed 42678
1501 Added 34903
1630.81 (Subpart D) Added 2169
1700.14 (a)(10)(iii) added 6342
(a)(10)(xiii) added 12991
(a)(10)(viii) added 17156
(a)(10)(v) added 21626
(a)(10)(vi) added 34934
(a)(16) added; eff. 2-27-80 51216
(a)(10)(xiv) added 52178
(a)(10)(xvi) added 55820

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3 53088
13 ..... 899, 2182, 2600, 3989, 4497, 5457, 5677, 7739, 9395, 9398, 9400, 10074, 10515, 10516, 10685, 11560, 13493, 16021, 16441, 18231, 18234, 18983, 18990, 21033, 21035, 21820, 22488, 22491, 22494, 23090, 24080, 24304, 25465, 25653, 27384, 27683, 28671, 29676, 30356, 30359, 30362, 30365, 30369, 30372, 31024, 31200, 31205, 32231, 33097, 33691, 33693, 34511, 36202, 37234, 37957, 39191, 40333, 41209, 41211, 41214, 41218, 43483, 43486, 45181, 47098, 47346, 48976, 50047, 50353, 50612, 50614, 50858, 50862, 51817, 54726
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443 ..... 26127, 27685
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454 ..... 43489, 54730
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1145 28828
1201 ..... 31218, 38857, 55386
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1608 1981
1610 1981
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1632 44175
1700 ..... 6343–6345, 34968, 39195, 51230, 55302, 55310, 55311, 55892

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

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Chapter I Interpretation 50038
1.3 (y) introductory text revised 29450
1.11 Amended 37202
1.13 Revised 37202
1.37 Existing text designated as (a); (b) added 25434
9.12 Added 34936
15.00 (f), (g), (h), and (i) added 33846
15.03 (b) table corrected 32209
17.00 (c) added 25434
(d) added 33846
17.04 Added 25434
18.00 (h) added 33846
18.01 (a), (b), and (c) revised 33846
31.2 Added 55824
140.14 Added 33677
170 Added 20651

Chapter II—Securities and Exchange Commission

200.19b Revised 50834
200.21 (a) revised 50835
200.27 Amended 21566
200.30–3 (d) redesignated as (e); new (d) added 22716
(a)(28) added 26067
(a)(29) added 28318
(a)(30) added 29644
(a)(31) added 30681
(a)(32) added 46793
200.30–4 (a)(6) added 22716
(a)(7) added 50835
200.30–6 (a) through (e) redesignated as (b) through (f); new (a) added 21566
(f) redesignated as (g); new (f) added 22716
200.410 (a) revised 32366
200.550—200.554 (Subpart K) Added 41176
200.735–8 (e) corrected; footnote 10 correctly designated as 11; authority citation correctly added 19186
201.20 (a)(1)(xii) and (xiii) revised; (a)(1)(xiv) added 41177
201.27 Heading revised 35207
201.28 Added 35207
202.3 (a) amended 21567
202.5 (b) revised; (f) added 50835
202.6 (b) revised; (c) added 35208
203.2 Revised 50835
210.3–16 (f)(1) revised 45612
Technical correction 49651
210.4–01 Revised 19386
210.5–02 Amended 45612
210.5–04 (d) amended 45613
210.7–03 Amended 45613
210.7–06 (d) amended 45613
210.7a–03 Amended 45613
210.7a–06 (d) amended 45614
210.9–02 Amended 45614
210.9–05 Amended 45614
210.11–01 Revised 45614
211 Interpretative releases 20075, 33062, 33847, 36156, 40640, 41178, 47537
230.122 Revised 50836
230.134 (a)(3)(iii) amended 52818
230.175 Added 38814
230.255 (a) and (d) revised 33365
230.256 (a) introductory text revised; (i) added 33365
230.424 (a) revised 52818
230.434d Added 52818
230.455 Revised 21567
230.463 (a) amended 21567
231 Interpretative releases 21008, 21567, 26739, 43466
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Policy statement 21629
239.28 Added 21567
239.90 Form 1–A amended 33365
240.0–4 Revised 50836
240.3a40–1 Added 28318
Effective date corrected 36027
240.3b–6 Added 38815
240.12f–7 Removed 19387
240.12g–4 Revised 46448
Effective date confirmed 55168
240.12g3–1 Removed 19387
240.12h–4 Revised 46449
Effective date confirmed 55168
240.13e–3 Added 46741
240.13e–4 Added 49410
240.13e–100 Added 46743
240.13e–101 Added 49412
240.14a–9 Note amended 38815
240.16b–7 (c) amended 19386
240.15c3–1 (a) introductory text, (e), and (f) revised 34885
240.15c3–1b Revised 34886
240.15c3–1d (b)(6)(iii), (7), (8), (10)(ii)(B), and (c)(2), (5), and (7) revised 34887
240.17a–3 (a)(14) revised 31503
240.17f–1 Revised 31503

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240.17f–2(T) Removed 19387
240.17Ac2–1(T) Removed 19387
240.206d–1 Removed 21214
241 Interpretative releases 53159, 53426
249.310 Form 10–K amended 21577
249.323 Form 12g–4 amended 46449
Form 12g–4 effective date confirmed 55168
249.325 Form 13F amended 39387
Form 13F corrected 43264
249.333 Form 15d–6 amended 46449
Form 15d–6 effective date confirmed 55168
249.617 Form X–17A–5 amended 34889
249.1200 Revised 31504
249a.6d–1 Removed 21214
249a.6d–4a2 Removed 21214
250.103A Added 38815
250.104 (c) revised 50836
259.101 Form U–1 amended 41177
260.0–6 Revised 50836
260.0–11 Added 38815
261 Interpretative releases 26739
270.10f–3 Revised 36153
Technical correction 43264
270.14a–3 Added 29646
(a)(2)(ii) corrected 40064
270.17a–6 (a) revised; (b) removed; (c) redesignated as (b) 48658
270.17e–1 Removed 37204
Added 37203
270.19b–1 (c) redesignated as (e); new (c) and (d) added 29647
(c)(1)(i) corrected 40064
270.22c–1 Revised 29647
(b) revised 48660
270.24f–2 (b)(1) revised 19387
271 Interpretative releases 21008, 53426
Policy statement 21629, 25128
274.106 Form N–1Q amended 36154
Technical correction 43264
275.204–2 (a)(15) added 42130
275.206(4)–3 Added 42130
275.206A–1(T) Removed 19387
279.1 Corrected 21008
279.3 Correctly added 21008
300.300—300.307 Undesignated center heading added 21211
300.300 Added 21211
300.301 Added 21211
300.302 Added 21212
300.303 Added 21212
300.304 Added 21212
300.305 Added 21212
300.306 Added 21212
300.307 Added 21213
301 Added 21213

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200—287 (Ch. II) 20354, 52810
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210 ..... 36068, 36070
211 ..... 26702, 28683
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230 ..... 21656, 54258, 55894
231 ..... 38792, 52820
239 ..... 39196, 44552, 54014, 54258
240 ..... 20614, 25470, 26688, 26692, 26702, 28683, 30924, 32616, 36070, 36912, 41832, 44881, 46748, 47953, 48938, 49465, 53430, 54068
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TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy

1.1 (f)(23) added 46451
1.7 (b) amended 46454
(d) amended 46451
1.18 (e) revised 34940
(f) amended 34941
1.30 (c)(1) and (3) amended 34941
1.42 Added; interim 48173
1.43 Added; interim 48174
2.1 (a)(1)(i)(C), (D), (H), and (vii)(F) removed 34941
2.101 Added 51566
Hearing 52178
3.5 (f)(9) added 20077
(f)(1) introductory text and (iv) revised 24829
(f)(1)(iv) revised 30329
(a)(18), (g)(4), (5), and (10) removed; (a)(19) amended 46451

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Heading, (b)(6)(v), (f)(1) introductory text, (i) and (iv), (2) introductory text, (3), (4), (5), (7), and (8), and (g) (3), (11), (12), (14), (20), and (21) revised 46452
(b)(6)(vi) and (7), (f)(1)(vi) through (x), (2) (i), (ii), and (iii), and (10), (g)(22) through (36), (h) and (i) added 46452
35.2 Authority citation corrected 20077
(e) amended 46454
35.3 Authority citation corrected 20077
35.15 Amended 46454
35.19a Revised 53503
35.22 (d) amended 26068
(e)(5) amended 46454
101 Reconsideration extended 34471
104 Reconsideration extended 34471
141 Reconsideration extended 34471
154.38 (d)(5)(iv) amended 26068
(d)(4)(iv)(c) amended 53503
154.67 Revised 53503
154.94 (h)(1), (2)(iii), (8), Appendix A and Exhibit A amended; (h)(2)(i) revised; (h)(4)(iii) added 19389
(h)(8) and (i)(3) amended 26855
(h)(7), (8), and (i) petitions denied 30681
(h)(8) and (i)(3) revised; (j) added 38837
(h)(8), (i)(3), (j)(1)(i), (v), and (vi), (2), (3), (4), and (5)(i) revised 48176
154.102 Revised 53504
157.5—157.22 Undesignated center heading designated as Subpart A and revised 24829
157.7 (b) introductory text and (4) revised 30332
157.23—157.42 Undesignated center heading designated as Subpart B and republished 24829
157.40 (c)(6) redesignated as (c)(1)(v) and amended 19389
(c)(1)(v) redesignated as (c)(1)(v)(A); (c)(1)(v)(B) added 48177
157.48 (b)(1)(i) filing requirements 27980
157.49 (a)(2)(i) and (ii) amended 52183
Technical correction 54294
157.100—157.105 (Subpart E) Added 24829
157.102 (a)(2) corrected 28789
201 Reconsideration extended 34471
204 Reconsideration extended 34471
260 Reconsideration extended 34471
270—277 (Subchapter H) Heading revised 52184
Technical correction 54294
270.101 (e) revised 37496
(c) amended 48661
(e) revised 53505
270.102 (b)(6) revised 34474
(b)(13) added; interim 53493
270.202 (d) filing requirements 27980
270.205 Petitions denied 30681
(c) redesignated as (d); new (c) added 34471
271.101 (a) tables I and II revised 26069
(a) revised 48661
271.102 (c) revised 26069
(c) revised 48664
271.201—271.204 (Subpart B) Revised 48183
271.202 Revised 26070
Revised 48664
271.301—271.305 (Subpart C) Revised 49655
271.302 Revised 26070
Revised 48664
271.305 (c)(2) corrected 53505
271.402 (a) and (c)(4) revised 26070
(c)(3) filing requirements 27980
(a) and (c)(4) revised 48664
271.602 Revised 26070
Revised 48664
271.702 Revised 26070
Revised 48664
271.704 Revised 34475
271.801—271.807 (Subpart H) Revised 49662
271.802 Revised 26070
Revised 48664
271.803 (b) revised 24283
271.902 Revised 26071
Revised 48664
271.1100 (b) removed 51567
Hearing 52178
271.1105 Filing requirements 27980
(b)(2) and (d)(1) introductory text revised; (d)(2) redesignated as (d)(3); (b)(3) and new (d)(2) added 51567
Hearing 52178
271.1106 Filing requirements 27980

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273 Revised 37496
273.104 Petitions denied 30681
273.201 (a)(1) revised 26071
273.202 (c) amended 31171
273.204 (a)(2) and (b) amended 31171
273.302 (e)(1) revised 53505
274.101—274.105 (Subpart A) Revised 48668
274.204 (d)(2) through (4) and (f) revised; (d)(5) added 21009
(d) and (f) effective date corrected 24547
(f) revised 49656
274.206(a)(3) through (5) revised; (a)(6) through (9) redesignated (a)(7) through (10); new (a)(6) added; new (a)(9), (b)(5), (c)(4), and (d)(5) amended 49664
274.207 (c) and (e) filing requirements 27980
274.301—274.304 (Subpart C) Revised 48668
274.401 (Subpart D) Revised 48669
274.501 (Subpart E) Revised 48669
275.201 (d) filing requirements 27980
(b) revised 34477
275.202 (d) filing requirements 27980
(b)(1) and (e) revised 34477
(b)(1) revised 48671
275.203 (a) revised 34477
275.204 Filing requirements 27980
275.205 (b) filing requirements 27980
(d) revised 34477
275.206 (b) filing requirements 27980
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276 Technical correction 33677
277.101 Revised 46455
280—286 (Subchapter I) Heading revised 52184
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281 Petitions denied 37204
Heading revised 52184
Technical correction 54294
281.201—281.215 (Subpart B) Added 26862
281.202 Amended 48184
281.204 (a) redesignated as (a)(1); (a)(2) added 45923
281.211 (b)(1)(ii)(D) clarification 34941, 34970
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(a)(1)(i), (2)(i), (b)(1)(i), (2), and (3) amended 45923
281.212 (b) and (c) amended 37500
(b) and (c) amended 45923
281.213 (c) amended 37500
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284 Heading revised 52184
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284.2 (b) revised 53505
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284.101—284.107 (Subpart B) Revised 52184
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284.103 Nomenclature change 30329
284.104 Nomenclature change 30329
284.105 Nomenclature change 30329
284.106 Nomenclature change 30329
284.141—284.148 (Subpart C) Redesignated as Subpart D; new 284.121—284.128 (Subpart C) added 52184
Technical correction 54294
284.121—284.128 (Subpart C) Added 52186
Technical correction 54294
284.141—284.148 (Subpart D) Redesignated from Subpart C 52184
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284.148 (a)(6) introductory text corrected 20078
284.161—284.165 (Subpart E) Added 52188
Technical correction 54294
284.200—284.208 (Subpart F) Added 30329
284.200 Revised 54476
284.201 (g) revised; (h) through (j) added 54476
284.202 Revised 54477
284.205 (b)(1) and (2) amended 52189
Technical correction 54294
(f) added 54477
284.208 (a), (b), and (d) revised; (e) added 54477
285 Correctly designated as 287 20078
286.102 (a) and (d)(1) filing requirements 27980
287 Correctly designated from 285 20078
287.101 Revised 38839
290 (Subchapter K and Part) Added 33868
Petitions for reconsideration 40064
294 Added; interim 37502
Technical correction 40496
294.101 (b) revised 46456

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300 Redesignated as 1300 30682
301 Redesignated as 1301 30682
302 Redesignated as 1302 30682
303 Redesignated as 1303 30682
304 Redesignated as 1304 30682
304.1 Amended 23066
304.101 Revised 23066
304.102 Revised 23066
304.103 (c) introductory text revised 23066
304.105 (a) revised 23066
305 Redesignated as 1305 30682
306 Redesignated as 1306 30682
308 Added 29648
Redesignated as 1308 30682

Chapter X—Administrator, Emergency Natural Gas Act of 1977

Chapter X removed 36028
1000 Removed 36028

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Chapter XIII redesignated from Chapter II 30682
1300 Redesignated from 300 30682
1301 Redesignated from 301 30682
1302 Redesignated from 302 30682
1303 Redesignated from 303 30682
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1305 Redesignated from 305 30682
1306 Redesignated from 306 30682
1308 Redesignated from 308 30682

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292 ..... 38863, 38872, 44177
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308 20175
501–508 (Ch. IV) 42701
701—706 (Ch. VI) 29916
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TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury

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4.12 Footnote 23 and (a)(5) amended 31955
4.22 Amended 27385
Amended 46794
4.80 (b) through (g) redesignated as (c) through (h); new (b) added 31956
4.80b Added 42178
4.93 (b)(1) and (2) amended 48671
6.7 (h)(5) revised 31956
(h)(5) corrected 35208
6.11 Revised 31956
10.1 (d), (g), and (h) revised 46812
10.8 (g) and (h) amended 31967
10.9 (g) and (h) amended 31967
10.24 (d) amended 31967
10.31 (a) revised 46813
(a)(3)(iii) corrected 51567
10.41 (d) amended 31956
10.62 (f) amended 31967
10.90 (b) amended 31967
10.91 Revised 46813
11.6 Revised 46813
11.13 (d) amended 31967
12.39 Revised; footnote 26 removed 49247
18.7 (c) amended 31967
19.16 (h) amended 31967
19.34 Amended 31968
24.3 (b) revised 46813

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54.6 (c) amended 31968
101.3 Technical correction 19389
(b) table amended 34479, 43468, 48673
104.4 (c) table amended 48674
111.23 (a) amended 31968
111.25 Amended 31968
111.26 Amended 31968
111.30 Heading revised; (d) added 31968
112.29 (a) amended 31968
113.14 (z) revised 49247
123.12 (c) revised 31956
123.14 (d) revised 31956
127.3 Removed 46813
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127.11 Revised 46814
127.12 (a)(2) revised 46814
127.14 (c)(1) revised 46814
132.1 (c) removed; (d) revised 46814
132.3 Revised 46814
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132.11a Added 46814
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132.13 (a) revised; (b) amended 46815
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133.21 (c)(5) and (6) amended; (c)(7) and (d) added 31968
133.23 (b)(3) added 31968
133.23a Added 31968
133.51 (b) introductory text revised 31968
133.52 Revised 31969
134.42 Policy statement 27386
134.54 (a) revised 31969
141.0a Added 46816
141.5 Amended 46816
141.19 (a), (b)(1) and (2) revised 46816
141.20 (a) revised 46816
141.55 Revised 46817
141.56 Added 46817
141.61 Revised 46817
(e)(1)(i) and (f)(2) effective date postponed 55001
141.62 Revised 46818
141.63 Revised 46819
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141.65 Removed 46819
141.67 Revised 46819
141.68 Revised 46819
141.69 Introductory text and (a) revised 46820
141.81 Amended 46820
141.83 (a) amended; (c) and (d) introductory text revised; (d)(3) and (4) removed 46820
141.86 (a) introductory text, (8), and (c) revised; (j) added 46820
141.89 (b)(1) introductory text and (E) revised 46821
141.91 Introductory text, (c) and (d) revised 46821
141.92 (a)(2) and (b)(4) revised 46821
141.101 Introductory text revised; (a) through (d) redesignated as (b) through (e); new (a) added 46821
142 Revised 46821
143.1 Removed 46827
143.2 Removed 46827
143.3 Removed 46827
143.23 (f) revised 46827
144.5 Revised 46827
144.6 Removed 46828
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144.14 Revised 46828
144.36 (d) revised 46828
148.55 Added 31969
(b)(1) corrected 35208
148.81—148.90 (Subpart I) Heading revised 31969
148.90 (d)(3) revised 31969
151.44 (a) amended 31969
151.47 (a) amended 46828
151.63 Heading and text amended 46828
151.64 (a) amended; (b) revised 46828
151.65 Amended 46829
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154.47 (f) table amended 40885
158.2 Heading and text amended 46829
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158.21a Added 46829
158.27 (b) amended 46829
158.43 (c) heading and (d) heading revised; (c) and (d) redesignated as (c)(1) and (d)(1); (c)(2) and (d)(2) added 46829
159.9 (c) revised; (d) added 46829
159.11 Added 46829

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159.47 (f) table amended	21011, 21260, 22053, 23238, 28320, 28658, 28790–28792, 31973, 33064, 38840, 44155, 45924, 55825
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162.31 (a) amended	31956
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162.43 (b) amended	31957
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162.52 Added	31958
162.65 (c) amended; (d) revised	31958
162.70—162.79b (Subpart G) Added	31958
162.70 (a)(2) corrected	35208
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404.402 (d)(2) through (6) redesignated as (d)(4) through (8); (b)(3), new (d)(2) and (3) added	29047
404.408a Added	29047
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404.501 (a)(7) amended	34942
404.502 (c) revised	20653
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404.1101—404.1114 (Subpart L) Removed	34481
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404.1250b (c) and (d) revised; eff. 1–1–81	37607
404.1251 Revised; eff. 1–1–81	37607
404.1252 (a) revised; eff. 1–1–81	37607
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404.1255a (c) revised; (d) removed; eff. 1–1–81	37608
404.1261 (a)(1) and (2) amended; eff. 1–1–81	37608
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404.1282 (b) amended; eff. 1–1–81	37609
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404.1501—404.1539 (Subpart P) Appendix 2 corrected; CFR correction	47766
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416.901—416.985 (Subpart I) Appendixes corrected; CFR correction	47766
416.934 Technical correction	22444
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655.207 (b)(2) revised	55826
675 Added	19995
675.3 Corrected	28654
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675.5–5 Introductory text corrected	28654
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679 Added	20048
679.3–4 Table of contents corrected	28654
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725.308 (b) revised 38840
725.701A (a) revised 38840

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2.125 (e)(6) added 30334
5.69 Added 32212
5.71 (a) and (b) revised 54044
5.80 Revised 54044
5.82 Revised 54044
10 Revised 22323
12 Revised 22339
13 Revised 22348
14 Revised 22351
14.100 (b)(1)(ii) and (iii) removed 28321
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15 Revised 22366
16 Revised 22367
73.1298 (b) revised 28322
(b) effective date confirmed 52189
74.705 (d) revised; eff. 6–26–80 and 7–1–81 37220
(d) effective date amended 45615
74.1705 (c) revised; eff. 6–26–80 and 7–1–81 37220
(c) effective date amended 45615
80.21 (j)(1) corrected 22053
81.1 (b) table amended 48966
(g) amended 51217
81.10 (b) removed 48966
81.25 Revised 48966
81.27 (b) amended 51217
81.32 Revised 48966
101.9 Compliance date extended to 7–1–80 46267
101.22 (c) revised; eff. 7–1–81 37220
102.46 Added 45617
105.3 (d) removed 49665
109.30 Heading (a)(1) through (4), (7), and (b) revised 38340
131.123 Effective date confirmed 28322
131.125 (b), (c), and (e) effective date confirmed 28322
131.127 (c)(2) and (d) effective date confirmed 28322
131.147 Effective date confirmed 28322
131.149 Effective date confirmed 28322
136.165 Removal effective date confirmed 32213
145.180 (a) revised; eff. 7–1–81 40279
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146.152 (b) and (d) revised; eff. 7–1–81 36378
146.154 (b) and (d) revised; eff. 7–1–81 36378
161.173 (a) and (c) effective date stayed 50328
175.105 (c)(5) table amended 20654, 24052, 51217
175.300 (b)(3)(xxxiii) amended 40886
176.170 (a)(5) table amended 20654, 48967, 51218
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176.180 (b)(2) table amended 20654
177.1630 (e)(4)(iii) amended 40886
177.2440 Added 34493
177.2600 (c)(4)(ix) amended 52189
178.2010 (b) table amended 47537, 47538, 51218
178.3400 (c) table amended 42679
182.60 Amended 20656
182.70 Amended 28323
182.1069 Removed 20656
182.7115 Removed 19391
184.1069 Added 20656
182.1091 Removed 20657
184.1091 Added 20657
184.1115 Added 19391
184.1660 (d) revised 52826
186.1551 Added 28323
193.15 Added 23212
193.20 (b) revised 35210
193.25 Revised 40282
193.85 (a) revised 35209
193.145 (a) amended 38842

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193.156 Added 40282
193.370 Revised 38841
193.415 Amended 19187
201.20 Added; eff. 6–26–80 37220
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201.56 Revised; eff. in part 6–26–80 37462
201.57 Added; eff. in part 6–26–80 37462
201.58 Added 37467
201.100 (c)(2) revised 20659
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201.160 Removed 20659
Removed; effective date postponed to 6–26–80 46268
202.1 (e)(6)(ii) and (vii) revised 37467
310.519 Added 36380
312.1 (j)(4) added 54045
314.1 (c)(2) effective date stayed 47043
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314.8 (a)(5)(xi) effective stayed 47043
314.200 (f) revised 33678
369.21 Amended 22053, 55170
429.11 (c) amended 55170
429.12 (a) through (e) amended 55170
429.40 (d)(2), (3), (5), (7), and (g)(1) revised 48968
(g)(1) amended 55170
430.5 (a)(65) and (b)(65) added 20663
430.6 (b)(67) added 20663
430.20 (b)(7) revised 33678
431.53 (b)(1) table amended 20663, 48188
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436.105 (a) and (b) tables amended 20664
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436.106 (a) table amended 22057
436.308 (b) redesignated as (c) and amended; new (b) added 30333
436.321 Added 20660
436.323 Added 20664
436.324 Added 20664
436.325 Added 30334
436.541 Added 48188
440.151 Redesignated as 440.151a and (a)(1) amended; new 440.151 added 22058
440.151a Redesignated from 440.151 and (a)(1) amended 22058
440.151b Added 22058
442.8 Added 20665
442.208 Added 20665
444.81a Added 26072
444.281 Added 26072
446.60 (b)(1) amended 22058
446.81a (a)(1)(i), (3)(ii), and (b)(1) revised 31636
446.120a (a)(1) amended 20667
446.160a (b)(1) amended 22058
446.160b (b)(1) amended 22058
446.160c (b)(1) amended 22058
446.167 (a)(1) amended; (a)(3)(i)(*b*) revised; (b)(3) added 48189
446.181d (a)(1) amended; (a)(3)(i)(*b*) and (b)(3) revised 48189
446.181e (a)(1) amended; (a)(3)(i)(*b*) revised; (b)(4) added 48189
446.260 (b)(1) amended 22058
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446.281d Added 31636
446.581 (a)(2) revised 30333
448.20a (a)(1)(v) and (vi) corrected 22059
449.10 (b)(4)(iv) amended 30333
449.20 (a)(1)(i), (3)(i), and (b)(1) and (6) revised 20660
449.120a (a)(1), (3)(i)(*a*) and (*b*), and (b)(1) revised 20660
449.120b (a)(1), (3)(i)(*a*) and (*b*), and (b)(1) revised 20661
449.120c (a)(1), (3)(i)(*a*) and (*b*), (b)(1) revised 20662
449.120d (a)(1), (3)(i)(*a*) and (*b*), and (b) introductory text and (1) revised 20662
452.110b (a)(1) amended 30333
455.90a (b)(1) revised 30334
455.290 (b)(1) revised 30334
455.390 (b)(1) revised 30335
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460.1 (a), (c)(1)(ii) table, and (2) tables E and F amended 20666
460.6 (c)(3) and (d) tables amended 20667
460.11 Added 20668
505.10 Amended 22053
507 Revised 48598
510.600 (c)(1) and (2) amended 20671, 44156
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520.443 (c)(1) through (4) amended; footnote 1 added	49666
520.863 (c)(1) through (4) amended; footnote 1 added	52190
520.903 (d)(3)(ii) removal effective date corrected	21260
520.970 Added	36381
520.1628 Added	35211
520.1660b (c)(1), (2) and (3) amended; footnote added	44841
520.1962 (a)(5)(i), (ii), and (iii) amended	43268
520.2043 (b)(1) revised	36381
520.2300 (d)(1), (2), and (3) amended; footnote 1 added	43267
520.2560 (d)(1) and (2) amended; footnote added	44842
520.2582 (c)(1) through (4) amended; footnote 1 added	47539
520.2610 (b) revised	28324
(a) and (c)(2) and (3) revised	32214
522.443 (c)(1) through (4) amended; footnote 1 added	49666
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522.820 Added	20671
522.863 (c)(1) through (4) amended; footnote 1 added	52190
522.995 Added	52191
522.1680 (b) amended	40283
522.1962 (d)(1)(i) and (ii), (2), (3), and (4) amended; footnote 1 added	43268
522.2582 (c)(1) through (5) amended; footnote 1 added	47539
524.541 (c)(1), (2), (3) and (4) amended; footnote 1 added	46268
524.1000 (c)(1) and (2) amended; footnote 1 added	43269
524.1484a (c)(6) added	49666
524.1484d (c)(1), (2), and (3) amended; footnote 1 added	48970
524.1484f (c)(1), (2), and (3) amended; footnote 1 added	48970
524.1881a (c)(1) through (4) amended; footnote 1 added	48971
524.1580 (c) amended; footnote 1 added	47540
524.1883 (c)(1), (2), (3), and (4) amended; footnote added	44842
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540.874a (c)(4) added	47044
540.874e (a), (b), and (c)(1) revised	55171
546.110d (a)(1) amended; (a)(5)(ii)(a) revised; (b)(4) added	48190
546.180e (c)(5)(ii)(a), (b), and (c) amended; footnote added	44843
548.110 Removed	22054
548.111 Removed	22054
548.112a (a), (b), and (c)(1) revised	22054
548.112b (a)(1) amended	22055
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548.112d (a)(1) amended	22055
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548.114 (a), (b), and (c)(1) revised	22055
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548.314b (a), (b), and (c)(1) revised	22057
556.190 Removed	39389
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558.25 Removed	40888
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558.78 (e)(3)(iv) removed	39387
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558.95 (b), (d), and (e)(2) revised	50329
558.175 (b)(2) removed	20676
558.185 (b)(1) revised; (d) redesignated as (d)(1), (d)(2) added	54698
558.195 (c)(2) removed; (g)(1) table amended	20676
558.225 Removed	39387
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558.355 (b)(5) and (6) removed	20673
558.366 (e) revised	40887
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558.530 (e)(4) (xix) added	40887
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561.53 Heading and (a) revised	49249
561.98 Revised	35212
561.175 (a) amended	38842
561.253 (d) removed; (f) correctly redesignated as (d)	51219
561.371 Amended	19187
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610.13 Introductory text revised	40289
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650.15 Redesignated as 650.16; new 650.15 added	40289
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73.47 (a) introductory text revised 53735
73.48 Revised 53735
73.50 Heading revised; (c) removed ..... △36036
73.51 (d) revised 53735
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73.63 Revised 53736
73.64 Revised 53736
73.66 Revised 53736
(b)(1) revised ..... △22739
73.67 (c)(6) removed; (d) added 53736
(b) removed; (d) revised ..... △36037
73.68 (a) introductory text and (b)(3) revised; (a)(1) amended; (b)(4) and (5) added ..... △36037
73.70 Revised 45844
73.71 Revised 45844
73.73 Revised 45844
73.74 Revised 45844
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73.80 Revised 45844
73.81 Revised 45844
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73.89 Removed 53736
73.91 Revised 45845
73.92 Revised 45845
73.93 (c), (d), and introductory texts of (e) and (f) revised ..... △1736
73.97 Revised 45845
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73.99 Revised 45845
Heading revised 47507
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73.111 Revised 45845
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73.113 Revised 45845
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73.115 Revised 45845
73.116 Revised 45845
73.123 Revised 45845
73.125 Revised ..... △6727
73.127 Removed ..... △33071
73.142 (j) added 53736
73.153 Revised ..... △36037
73.154 Heading revised ..... △36037
73.183 (a) revised ..... △36037
73.184 Heading revised ..... △36037
73.188 (m) revised ..... △36037
73.189 Heading revised ..... △36038
73.202 (b) table amended 49003, 53742, 54098, 56236, 58091, 58092, 59069, 59070, 59383, 60162
(b) table amended ..... △1737, 3707, 4488, 5137, 6721, 22079, 22741, 22742, 24289, 24556, 25231–25235, 37509, 38848, 42691, 42692, 42696, 43280, 44158–44161, 45395, 45626, 45627, 47092, 47937, 53509, 53511, 53512, 54484
(b) table corrected ..... △53513
73.204 Revised 45845
73.213 (a) introductory text revised ..... △36038
73.220 Added 45845
73.242 (a) removed ..... △36038
73.250 Revised 53736
73.253 (a)(2) revised 53736
73.254 Heading revised; (a) removed; (b) and (c) redesignated as (a) and (b); new (a) introductory text revised 53736
73.255 Revised 53736
73.256 Revised 53736
73.257 Revised 53737
(a)(1) and (d) introductory text revised ..... △22739
73.261 Revised 45845
73.263 Revised 45845
73.264 Revised 45845
73.265 (c) and introductory texts of (d) and (e) revised ..... △1736
73.271 Revised 45845
73.273 Revised 53737
73.274 Revised 53737
(a) revised ..... △22739
73.275 (c) added 53737
(b) removed ..... △36038
73.310 (a) amended ..... △36038
73.276 Revised 45845
73.281 Revised 45845
73.282 Revised 45845

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73.283 Revised 45845
73.284 Revised 45845
73.285 Revised 45845
73.286 Revised 45845
73.293 (a)(2) revised; (b)(3) note removed; (b)(4) and (d) added 53737
73.295 Heading, (a), and (f) introductory text revised 53737
73.297 (a) revised 53738
73.298 Revised 45845
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73.301 Revised ..... △6727
73.310 (a) amended ..... △36038
73.316 (i) revised; (k) and (l) removed 53738
73.317 (a)(1) and (4) revised ..... △36038
73.321 Removed 53738
73.330 Removed 53738
73.332 (b)(2) and (f)(4) revised; (c) removed ..... △36038
73.342 (j) added 53738
73.504 Heading revised 45845
73.508 Existing text designated as (a); (b) and (c) added 53738
73.512 (d) revised ..... △3416
(d) comment time extended ..... △21021
(a)(1) revised ..... △48226
73.513 Revised 53738
73.542 (j) added 53738
73.550 Revised 53738
73.553 (a)(2) revised 53738
73.554 (a) and (b) removed; (c) and (d) redesignated as (a) and (b); new (a) introductory text revised 53738
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73.557 Revised 53739
(a)(1) and (d) introductory text revised ..... △22739
73.561 Amended 45845
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73.563 Revised 45845
73.564 Revised 45845
73.565 (c) and introductory texts of (d) and (f) revised; (e) removed ..... △1737
73.571 Revised 45846
73.572 Revised 53739
73.573 (c) added 53739
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73.584 Revised 45846
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73.586 Revised 45846
73.591 Removed ..... △33071
73.593 (a)(2) revised; (b)(3) note removed; (b)(4) and (d) added 53739
73.595 Heading, (a), and (f) introductory text revised 53740
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73.599 Revised ..... △6727
73.606 (b) table amended 46974, 57604
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73.622 Removed ..... △33071
73.623 Revised 45846
73.637 Revised 53740
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73.639 Revised 53740
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73.640 Revised 53740
73.643 (b) note removed 53742
73.651 Revised 45846
73.653 Added 45846
73.660 Revised 45846
73.665 Revised 45846
73.667 Revised 45846
73.669 Revised 45846
73.670 Revised 45846
73.671 Revised 45846
73.672 Revised 45846
73.673 Revised 45846
73.674 Revised 45846
73.675 Revised 45846
73.676 (a)(10) removed; (c) revised ..... △36038
73.677 (a)(10) removed 53740
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73.678 Revised 45846
73.679 Revised 45846
73.680 Revised ..... △6727
73.681 Amended ..... △36039
73.682 (a)(5) revised ..... △36039
73.683 Revised ..... △36039
73.684 (b) and (c) revised ..... △36039
73.685 (h)(2) revised 53740
(i) removed ..... △22740
73.687 (b)(1) and (4) revised ..... △36040

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73.694	(a) removed; (b) (2) and (3) revised	△36040
73.699	Heading, figure 6 note 6 and figure 7 note 6 revised; figure 6 note 18 added	△36040
73.711	(c) (2) corrected	51790
73.793	Revised	△6727
73.913	(c) added	△38485
73.933	(b) (9) amended	△39181
73.1010	Revised	△38485
73.1030	(b) (2) corrected	51790
73.1202	Revised	△38846
73.1207	Revised	△36040
73.1225	Added	45846
	(c) (2) (iii) and (3) correctly designated	50683
73.1226	Added	45847
	(c) corrected	50683
73.1230	Added	45847
73.1250	Added	45847
73.1550	Added	45848
73.1650	Added	45849
73.1660	Added	53740
73.1665	Added	53741
73.1670	Added	53741
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73.1675	Added	53741
	(b) revised; (c) added	△22740
73.1680	Added	53741
	(b) introductory text revised	△22740
73.1700—73.1800	Undesignated center heading added	45849
73.1700	Added	45849
73.1705	Added	45849
73.1710	Added	45849
73.1715	Added	45849
73.1720	Added	45849
73.1725	Added	45849
73.1730	Added	45850
73.1735	Added	45850
73.1740	Added	45850
73.1745	Added	45850
73.1750	Added	45850
73.1800	Added	45850
73.1810	Added	45851
73.1820	Added	45854
	(a) (2) (i) introductory text revised	△1738
73.1830	Added	45855
73.1840	Added	45856
73.1850	Added	45856
73.1910	Added	45856
73.1920	Added	45856
	(b) revised	△45956
73.1930	Added	45856
73.1940	(g) and (h) added	45856
	(g) (1) (ii) and (iii) revised	55769
73.2080	Added	△6727
73.3500	Added	△38486
73.3511—73.3550	Undesignated center heading added	△38486
73.3511	Added	△38486
73.3512	Added	△38486
73.3513	Added	△38487
73.3514	Added	△38487
73.3516	Added	△38487
73.3517	Added	△38487
73.3518	Added	△38487
73.3519	Added	△38488
73.3520	Added	△38488
73.3522	Added	△38488
	(a) (2) and (b) (2) corrected; Note 1 added	△40311
73.3525	Added	△38488
73.3526	Added	△38489
73.3527	Added	△38492
73.3533	Added	△38494
73.3534	Added	△38495
73.3536	Added	△38495
73.3537	Added	△38495
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73.3561—73.3587	Undesignated center heading added	△38499
73.3561	Added	△38499
73.3562	Added	△38499
73.3564	Added	△38499
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73.3566	Added	△38499
73.3568	Added	△38499
73.3569	Added	△38499
73.3570	Added	△38500
73.3571	Added	△38501
	(a) (3) and (d) removed; (a) introductory text, (1), and (c) corrected	△40311
73.3572	Added	△38502
	(c) corrected	△40311
73.3573	Added	△38503
	(d) corrected	△40312
73.3574	Added	△38504
73.3578	Added	△38504
73.3580	Added	△38504
73.3584	Added	△38506
	(a) corrected	△40890
73.3587	Added	△38507
73.3591—73.3605	Undesignated center heading added	△38507
73.3591	Added	△38507
	(b) corrected	△40312
73.3592	Added	△38507
73.3593	Added	△38508
73.3594	Added	△38508
73.3597	Added	△38509
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73.3599	Added	△38511
73.3601	Added	△38511
73.3603	Added	△38511
73.3605	Added	△38511
73.3610—73.3613	Undesignated center heading added	△38511
73.3610	Added	△38511
73.3611	Added	△38511
73.3612	Added	△38511
73.3613	Added	△38512
73.3615	Added	△38513
73.4000—73.4275	Undesignated heading added	△36387
73.4000	Added	△36387
73.4005	Added	△36388
73.4010	Added	△36388
73.4015	Added	△36388
73.4020	Added	△36388
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73.4250	Added	△36389
73.4255	Added	△36389
73.4260	Added	△36389
73.4265	Added	△36389
73.4270	Added	△36389
73.4275	Added	△36389
74	Technical correction	△34133
74.12	(c) (2) corrected	51790
74.404	Removed	△16401
74.405	Removed	△16401
74.467	(b) revised	△36041
74.482	(d) added	△36041
74.601	(d) revised	△32381
74.602	(a) introductory text and table revised; (h) amended	△32381
74.631	(g) revised; (h) added	△32381
74.632	(e) revised	△32382
74.665	(a), (b) and (c) revised	△36041
74.682	(a) introductory text revised	△36041
74.1203	Technical correction	47975
76.7	(i) removed	49008
76.9	Heading, (a), (b), (c), (f), and Note 2 revised; Note 3 added	△55575
76.10—76.29	(Subpart B) Heading revised	49008
76.10	Removed	49008
76.11	Removed	49008
76.12	Added	49008
76.13	Removed	49008
76.14	Added	49008
76.16	Removed	49008
76.17	Added	49008
76.18	Removed	49008
76.20	Removed	49008
76.25	Removed	49008

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76.27 Removed 49008
76.29 (a) amended; (b)(7) revised 49008
76.57 (c) and (d) amended 49008
76.59 (d)(1) through (4) amended 49009
76.61 (e)(1) through (4) amended 49009
76.65 (a) revised 49009
76.209 (c) revised ..... △45956
76.305 (a)(9) added; (c) amended 49009
(a)(7) and (c) amended 53753
76.311 Revised 53753
76.400 Note amended 49009
76.403 FCC Form 326 amended 51795
78 Technical correction ..... △34133
78.11 (a) revised ..... △32382
78.18 (a), (b), and (d) revised; (m) added ..... △32382
78.19 (e)(2) revised 52246
78.101 (a) revised ..... △32383
81.3 (n) revised ..... △38849
81.24 (h) amended ..... △39181
81.33 Revised ..... △3290
81.35 Revised ..... △31651
81.36 Heading and (a) revised ..... △31651
81.37 Revised ..... △31651
81.42 (b)(2) revised ..... △31651
81.61 Revised 60276
81.62 Removed ..... △55381
81.64 Removed ..... △55381
81.104 (b) and (d) revised ..... △8872
81.132 (a) table amended ..... △8872
81.134 (c)(1) table, (e) and (g) revised ..... △8872
81.190 Heading revised; (a) amended ..... △12195
81.191 (c)(1) revised ..... △8872
81.201—81.225 (Subpart H) Heading revised ..... △12195
81.206 Table amended ..... △45396
81.209 (a) table amended 52246
81.216 Removed ..... △12195
81.217 Removed ..... △12195
81.223 (b) removed ..... △12195
81.224 (b) removed ..... △12195
81.225 Removed ..... △12195
81.303 (b) amended ..... △16402
81.304 (c) revised; (d) removed ..... △8872
(b)(22) amended ..... △16402
(b)(22) table amended ..... △45396
81.356 (a) table amended; (b)(3) added ..... △55881
81.357 (b)(4) added ..... △36043

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81.360 (a)(1)(v) revised ..... △8872
81.706 Added ..... △33071
83.2 (l) revised ..... △3290
83.3 (r) added ..... △3290
(j) revised ..... △38849
83.6 (h) added 45365
83.20—83.74 (Subpart B) Revised ..... △3290
83.24 (c) amended ..... △39181
83.27 (c) amended ..... △39181
83.38 (c) redesignated as (d) and revised; new (c) added ..... △25238
83.39 (c) added ..... △8877
83.48 (a) amended ..... △39181
83.58 Removed ..... △8878
83.59 Removed ..... △8878
83.62—83.75 (Subpart C) Removed ..... △3295
83.104 (i) removed ..... △8872
(a)(4) and footnote 1 added ..... △29078
83.106 (a) revised ..... △8872
(a) revised; eff. 1-1-80 ..... △18506
(b) revised; (c) added ..... △36974
83.132 (a) table amended ..... △8873
(a)(2)(i) revised; eff. 1-1-80 ..... △18506
83.134 (f) revised; footnote 5 added ..... △29078
(i) amended ..... △45396
83.139 (c) introductory text and (3) revised; (c)(4) added; eff. 1-1-80 ..... △18506
83.145 Heading revised ..... △45396
83.155 (d) revised; eff. 1-1-80 ..... △18506
83.156 (b) revised; eff. 1-1-80 ..... △18506
83.186 Introductory text revised ..... △3295
83.201 (b) revised ..... △8873
83.202 (a) revised; eff. 1-1-80 ..... △18506
(a) effective date stayed in part ..... △54058
83.203 (a) revised; eff. 1-1-80 ..... △18507
83.203 (a) effective date stayed in part ..... △54058
83.224 Introductory text and (a) revised ..... △36975
83.233 Table amended 56236
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Table amended ..... △16402
83.242 (b) revised ..... △8873
83.248 (a) revised ..... △8873
83.249 (d) revised ..... △8873
83.301 Removed ..... △3295
83.351 (a) table amended; (b)(64) added 45365
(c)(3)(i) revised; note removed 51791

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(c)(2) revised; (d) added; eff. 1-1-80 ..... △18507
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(a) table, (b)(53), (77), and (78) effective date corrected ..... △32383
(a) table amended ..... △45627
(c)(3)(ii) revised ..... △55381
(a) table amended; (b)(9) added ..... △55881
83.352 Heading revised 56236
83.359 Table amended 45365
(a) introductory text revised; (a) table amended; (b)(6) added ..... △29075
(a) introductory text and table and (b)(6) effective date corrected ..... △32383
(b) introdctory text and (2) revised ..... △45627
Introductory text revised ..... △55381
(a) table amended ..... △55881
83.361 (b)(4) added ..... △36043
83.363 (c) table amended ..... △45396
83.364 (c) revised ..... △3295
83.365 (a)(4) revised ..... △8873
(a)(4) revised; eff. 1-1-80 ..... △18507
83.336 (b)(2) revised ..... △55381
83.405 (b) removed ..... △17182
83.441—83.480 (Subpart R) Heading revised; eff. 1-1-80 ..... △18507
83.442 Revised; eff. 1-1-80 ..... △18507
83.443 Heading, (a), and (b) introductory text revised; (c) added; eff. 1-1-80 ..... △18507
83.445 Added; eff. 1-1-80 ..... △18507
(b) effective date stayed in part ..... △54058
83.484 (a) and (d)(2) revised ..... △8873
(d)(2) revised; eff. 1-1-80 ..... △18508
83.488 (a) revised ..... △8874
83.499 (b)(2) revised; (b)(3) added ..... △45397
83.514 (a)(1) revised ..... △8874
83.517 (a) and (c)(2) revised ..... △8874
(a) and (c)(2) revised; eff. 1-1-80 ..... △18508
(a) and (c)(2) revised; eff. 1-1-80 ..... △29073
83.519 (a) revised ..... △8874
(a) revised; eff. 1-1-80 ..... △29073
83.536 (b) introductory text and (1) amended ..... △45397
83.542 (c)(3) corrected ..... △21022
83.554 (a)(1)(i)(a) and (b) revised 52492

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83.555 (c)(2)(ii) removed ..... △17182
83.556 (c) removed ..... △17182
83.536 Introductory text, (a) and (b) revised ..... △4674
83.539 Revised ..... △4674
83.542 (b) revised ..... △4674
(c) introductory text revised ..... △55381
83.554 (a)(1)(i)(b) amended ..... △45397
83.811 (b)(2) amended ..... △45397
83.835 Added ..... △8877
87.31 (f)(2) revised 52246
(g) amended ..... △39181
87.58 Added 60276
87.67 (b)(2) removed; (b)(1) re designated as (b) ..... △7961
87.181 Amended ..... △4491
87.183 (j)(3) introductory text revised; footnote 1 added ..... △29076
(j)(3) introductory text and footnote 1 effective date corrected ..... △32383
(j)(2) and (3)(ii) revised ..... △45628
87.195 (f) amended; (g) added ..... △4491
87.201 (c) and (d) amended ..... △4492
87.251 (a) revised; (b) through (e) redesignated as (d) through (g); new (b) and (c) added 56899
87.253 (a)(3) and (b) revised 56899
87.257 (d)(5) added 56899
(d)(6) added ..... △18977
87.431 Revised ..... △18977
87.432 Revised ..... △18977
87.433 Revised ..... △18977
87.437 Revised ..... △18977
87.439 Revised ..... △18977
87.501 (h)(1) revised; footnote 1 added ..... △18026
(f) revised ..... △55885
87.506 Added ..... △18026
87.513 (h) and (i) revised ..... △4489
89 Removed and consolidated in new Part 90 54791
90 Added 54791
90.7 Amended ..... △29070
90.17 (b) table corrected; (c)(9) correctly added ..... △32215
(b) corrected ..... △50602
90.19 (d) corrected ..... △50602
90.21 (b) corrected ..... △50602
90.23 (b) corrected ..... △50602
(b) table amended; (c)(14) added ..... △55882
90.25 (b) table corrected ..... △32215, 50602
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1.52 (a) revised ---------- △10064
1.53 Heading and introductory text revised; (a)(6) added ---------- △2395
1.56 (n) added ---------- △47937
1.59 (c)(6) revised ---------- △40641
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5.41—5.59 (Subpart D) Added ---------- △4677
7 Appendix B amended ---------- 48646
25 Appendix A tables revised ---------- △7702, 40643
27 Added ---------- △31468
71.11 Heading revised; existing text designated as (a); (b) added; eff. 4-27-80 ---------- △55576

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107 Effective date corrected ---------- 51020
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107.103 (a) and (c) amended ---------- 48642
107.107 Nomenclature change ---------- 48642
107.109 (a) through (e) amended ---------- 48642
107.111 (a), (c) and (d) amended ---------- 48642
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107.121 Nomenclature change ---------- 48642
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173 Effective date corrected ---------- 51020
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173.26 Heading and (a) revised ---------- 56044
173.32 (e)(1)(ii) amended ---------- 48643
173.33 (d)(5) removed; (d)(1), introductory texts of (12) and (15), (15)(i), and (k) amended ---------- 48643
173.34 (e)(10) amended ---------- △3708
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173.93 (d)(4) amended ---------- 48643
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(b)(3) note 1 amended ---------- △55577
173.122 (b) introductory text amended ---------- 48643
173.123 (a)(5) amended ---------- 48643
173.124 (a)(4) and (5) amended ---------- 48643
173.134 (b) removed ---------- 48643
173.135 (a)(9) revised ---------- △49458
173.145 (a)(1) revised ---------- △14196
173.151 Amended ---------- △31184
173.153 (b)(1) revised ---------- 48643
173.168 (a)(1) amended ---------- 48644
173.182 (a) introductory text amended; (a) Note 1 and (c) removed ---------- 57903
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173.183 (a)(2) amended; eff. 1-1-80 ---------- △20433
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173.202 Heading and (a) introductory text revised; (a)(3) and (4) added ---------- △21796
173.206 (d)(1) added ---------- 48644
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173.222 (a)(2) revised △14196
173.223 (a)(3) revised △14196
173.224 Heading and (a)(4) revised 57893
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173.245b (a)(6) revised △49458
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173.249 (a)(10) amended 48644
173.249a (a) and (b) amended 48644
173.252 (a)(4) revised 57893
173.257 (a)(14) amended 48644
173.262 (a)(1) revised; (a)(5) removed △14196
173.263 (a)(3) removed; (a)(5) and (7) revised △14196
173.264 (a)(9) removed △14196
173.265 (b)(2) removed; (c)(1) revised △14196
173.266 (b)(2) removed; (c)(3) revised △14197
173.267 (a)(4) and (6) revised △14197
173.268 (b)(1) amended; (b)(5) removed 48644
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173.269 (a)(2) revised △14197
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173.272 (i)(15) and (16) revised △14197
173.273 Heading revised; (b) added △21796
173.276 (a)(1) revised △14197
173.277 (a)(2) revised △14197
173.278 (b)(2) revised △14197
173.284 Added 57893
173.291 (a)(1) and (2) revised; (a)(7) removed △14197
173.295 (a)(3) revised △14198
173.300a (b)(1), (c), (d), (e), (g), (h) and (i) amended 48643
173.300b (b)(1) and (c) through (g) amended 48643
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173.333 (a)(2) revised 48644
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173.346 (a)(13) revised △14198
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173.358 (a)(14) revised 57897
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173.364 (a) introductory text amended 48644
173.377 (b)(6) revised △21796
173.386 (a)(3) revised 48644
173.393a (a)(6) amended 48644
173.393b (a)(1) amended 48643
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173.890 (a)(8) added 57897
173.1010 Revised △23228
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173.1080 (a)(5) and (6) revised; (a)(7) added △49458
173.1090 Added 56668
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174.104 (f) amended 48644
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174.201 (b) amended 48644
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174.204 (a) introductory text and (2) amended 48644
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175.10 (a)(6) revised △25238
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(a) table amended △31184
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175.700 (c) amended 48645
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175.710 (a)(2) and (3) amended 48645
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176.11 (a) revised △23228
176.30 (a) introductory text and (5)(ii), (c) and (d) revised; (e) added △23228
(a) introductory text and (c) amended △49458
176.39 (a) revised △23228
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176.83 Tables I and II amended 57903
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176.400—176.419 (Subpart J) Heading revised 57903
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176.400 Heading, and (a) and (b) amended △31185
176.410 Heading and (a)(1) revised; introductory texts of (c), (d), and (e), and (e)(1) amended 57903
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176.415 Heading revised; (a)(2), (c)(1), and (2) amended 57904
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176.905 (a) revised △23229
176.906 Added 56668
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177 Effective date corrected 51020
177.821 (c) amended 48645
177.822 (a) amended 48645
177.824 (a)(2) and (c)(4) amended 48645
177.834 (m)(4) revised 48645
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177.844 Added 56668
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177.848 (a) table amended 57904
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177.870 (d) and (g) amended 48645
178 Nomenclature change 48645
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178.2 Removed △14198
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178.120-2 (a) introductory text and (f) revised △49458
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178.196-7 (a) note 1 amended 48645
178.205-7 (b)(1) amended 48645
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178.337-8 (b) amended 48645
178.337-9 (b)(1) and (2) amended 48645
178.337-11 (a)(2) and (3) amended 48645
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178.340–8 (b) amended 48646
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179.102–2 (a)(5) removed; eff. 1–1–80 ..... △20433
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51554 **Natural Gas** DOE/FERC establishes rule and policy statement regarding recovery of certain production related costs incurred by transporters and shippers of natural gas produced at Prudhoe Bay, Alaska; effective 10–23–79; petitions for hearings 9–24–79

51625 **Food Stamp Workfare Demonstration Project** USDA/FNS announces reopening of opportunity for applications; additional comments by 9–18–79

51726–51778 **Medical Devices** HEW/FDA issues rule regarding provisions applicable to classification of neurological devices; effective 10–4–79 (103 documents) (Part III of this issue)

51687 **Health** HEW/PHS prints notice of availability of draft on national disease prevention objectives; comments by 11–2–79

51567 **U.S./China Banking Transactions** Treasury/FS amends rule deleting China from list of restricted countries; effective 9–1–79

51612 **Natural Gas** DOE/FERC solicits comments by 9–24–79 on proposal to permit transport by interstate pipelines for delivery to other interstate pipelines; public hearing on 9–24–79

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Area Code 202–523–5240

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51780 **Energy** CSA provides final rule on Energy Crisis Assistance Program; effective 10–4–79 (Part IV of this issue)

51683 **Air Quality** EPA gives notice of ambient air monitoring reference method designation

51610 **Major Disaster Areas** SBA proposes procedures conforming with Presidential declarations; comments by 12–3–79

51603 **Passenger Cars** DOT/NHTSA promulgates rule establishing new tire sizes; effective 10–4–79

51691 **Aviation** DOT/FAA solicits recommendations from users of the national airport and airway system in reducing nonessential Federal expenditures; comments by 1–2–80

51696 **Securities** Treasury/Sec'y announces interest on Series C–1984 notes

51696 **Antidumping** Treasury/Sec'y issues notice of intent to revoke dumping finding covering cadmium from Japan; effective 9–4–79; comments by 10–4–79

51696 **Antidumping** Treasury/Sec'y issues notice of intent to revoke dumping finding covering portland cement from Sweden; effective 9–4–79; comments by 10–4–79

51689 **Exports** Office of the Special Representative for Trade Negotiations gives notice of adjusted restraint levels with Taiwan

51636 **Cotton Textile Products from Mexico** CITA provides notice of additional import controls

51608 **Pacific Tuna Fisheries** Commerce/NOAA issues amendatory regulations to implement conservation measures of the Inter-American Tropical Tuna Commission; effective 8–28–79

51716 **Libraries** List of libraries carrying FR and CFR (Part II of this issue)

51713 **Sunshine Act Meetings**

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51716 **Part II, Reader Aids—List of Libraries**
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Rev. 6, Amdt. 23, Correction]

Business Loan Policy; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: The proposed rule published May 7, 1979 (44 FR 26748), contained the instruction to renumber the existing paragraph (10) as (12) and insert the new paragraph (10). The authority paragraph in the final rule published August 20 (44 FR 48653) omitted the instruction to renumber the existing paragraph (10). This notice corrects that omission.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Robert H. Bartlett, Chief, Program Operations Division, Office of Financing, Small Business Administration, telephone (202) 653–6470.

PART 120—BUSINESS LOAN POLICY

The authority paragraph in the August 20 publication of the final rule (44 FR 48653) is amended to read as follows: Pursuant to the authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, § 120.2(d) of Part 120 is revised by renumbering the present subparagraph (10) as (12) and inserting a new subparagraph (10) as follows:

Dated: August 28, 1979.

John C. Reidy, Jr.,

Federal Register Liaison Officer.

[FR Doc. 79-27428 Filed 8-31-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-GL-10-AD; Amdt. 39-3548]

Airworthiness Directives; Detroit Diesel Allison—Model 250-C28

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all 250–C28 series engines by airmail letter dated July 19, 1979. The AD requires removal from service of certain 3rd stage turbine wheels subject to vibratory fatigue failure.

DATES: Effective—September 6, 1979.

Compliance as defined in the body of this Airworthiness Directive.

FOR FURTHER INFORMATION CONTACT: Roland West, Propulsion Section, AGL–214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 308.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on July 19, 1979, and made effective immediately by airmail letter and applicable to all Detroit Diesel Allison 250–C28 series turboshaft engines. This action was prompted by three third stage turbine blade failures which resulted in a power loss below that necessary to maintain flight. Since this condition is likely to exist on other engines of this type design, an AD was issued to require removal from service of the affected part number third stage wheels.

The airmail letter referred to "250–C28 Series". The applicability statement of this AD has been reworded to refer to "250–C28B and 250–C28C" for clarification. There are no other 250–C28 Series engines in existence.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

Detroit Diesel Allison: Applies to all Model 250–C28B and 250–C28C Series engines equipped with third stage turbine wheel P/Ns 6898553 or 6898773 installed in, but not limited to Bell 206L–1 rotorcraft certificated in all categories.

Compliance required as indicated unless previously accomplished.

A. For turbine wheels with less than 300 hours total time in service, compliance is required before reaching 325 hours total time in service.

B. For turbine wheels with more than 300 hours total time in service, compliance is required within 25 hours time in service.

To preclude engine power loss due to possible turbine blade failure, remove above listed third stage turbine wheels from service.

This amendment becomes effective September 6, 1979, as to all persons except those to whom it was made immediately effective by the airmail letter dated July 19, 1979, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Roland West, Engineering and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

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Issued in Des Plaines, Illinois, on August 17, 1979.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 79-27413 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 18422; Amdt. 39-3553]

Airworthiness Directives; Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires replacement of life limited fuselage skin panel buttstraps on Short Brothers Ltd. Model SD3-30 airplanes. The proposed AD is prompted by a report that failure of the affected components could occur if left in service beyond 10,000 flights which could result in structural failure of the fuselage.

DATES: Effective October 4, 1979.

Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager—Spares and Support, Product Support Department, Short Brothers Ltd., P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D.C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513, 38.30, or C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of life limited fuselage skin panel buttstraps on Short Brothers Ltd. Model SD3-30 airplanes was published in the **Federal Register** at 43 FR 49989.

The proposal was prompted by the manufacturer's report of failures of the fuselage skin panel buttstraps on certain serial numbered Short Brothers Ltd. Model SD3-30 airplanes occurring if left in service beyond 10,000 flights. The life limit is established as a result of the discovery that certain early production airplanes had installed buttstraps of a material other than that specified.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without substantive change. Clarifying language has been added concerning the FAA-approved equivalent to the manufacturer's service bulletin.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Short Brothers Ltd. Applies to Model SD3-30 airplanes, S/Nos. SH 3004, 3005, 3006, 3007, and 3008, certificated in all categories.

Compliance is required prior to the accumulation of 10,000 flights, unless already accomplished.

To prevent failure of the fuselage skin panel buttstraps, accomplish the following:

(a) Replace or reinforce the original fuselage skin panel buttstraps in accordance with Section 2, "Accomplishment Instructions" of Short Brothers Ltd. Service Bulletin SD3-53-28, dated May 5, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium.

(b) For purposes of complying with this AD, a flight is defined as one takeoff and one landing.

This amendment becomes effective October 4, 1979.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures, (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Issued in Washington, D.C., on August 23, 1979

James O. Robinson,

Acting Director, Office of Airworthiness.

[FR Doc. 79-27412 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 18425; Amdt. 39-3552]

Airworthiness Directives; Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires replacement of life limited wing flap control rods on Short Brothers Ltd. Model SD3-30 airplanes. The manufacturer's fatigue testing program has established that failure of the control rods could occur if they are left in service beyond 10,000 flights. Failure of the rod could result in loss of aircraft control.

DATES: Effective October 4, 1979.

Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager—Spares and Support, Product Support Department, Short Brothers Ltd., P.O. Box 241—Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513,38.30, or C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of life limited wing flap control rods on Short Brothers Ltd. Model SD3-30 airplanes was published in the **Federal Register** at 43 FR 50444.

The proposal was prompted by the manufacturer's report of failures of the flap control rods, Part Nos. SD3-45-1853 and SD3-45-1855, could occur on early production Short Brothers Ltd. Model SD3-30 airplanes if they are left in service beyond 10,000 flights. The life limit has been established by the manufacturer as a part of its continuing fatigue testing program.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without substantive change. Clarifying language has been added concerning the FAA-approved equivalent to the manufacturer's service bulletin.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

SHORT BROTHERS Ltd. Applies to Model SD3-30 airrplanes, S/Nos. SH 3004, 3005, 3006, 3007, and 3008, certificated in all categories.

Compliance is required prior to the accumulation of 10,000 flights or prior to the accumulation of 25 flights after the effective date of this AD, whichever occurs later, unless already accomplished; and thereafter at intervals not to exceed 10,000 flights.

To prevent fatigue failure of the flap control rods, replace flap control rods, Part Nos. SD3-45-1853 and SD3-45-1855, located immediately aft of wing center section rear spar and part of inner flap mechanism, with new rods of identical part numbers in accordance with Section 2, "Accomplishment Instructions" of Short Brothers Ltd. Service Bulletin SD3-27-14, dated April 28, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. For purposes of complying with this AD, a flight is defined as one takeoff and one landing.

This amendment becomes effective October 4, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Issued in Washington, D.C., on August 23, 1979.

James O. Robinson,

Acting Director, Office of Airworthiness.

[FR Doc. 79-27411 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-2-AD; Amdt. 39-3550]

Airworthiness Directives; AiResearch Model GTCP85 Series APU's

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the incorporation of a heavy wall conical tailpipe assembly in specific series of the AiResearch Model GTCP85 Series Auxiliary Power Unit (APU). This AD is necessary to preclude the possible release of high energy fragments of the turbine assembly which could result from failure of a segment of the turbine rim.

DATE: Effective October 8, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESS: The applicable service information may be obtained from: AiResearch Manufacturing Company of Arizona, P.O. Box 5217, Phoenix, Arizona 85010, telephone: (602) 267-3011.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTAL INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring the incorporation of a heavy wall conical tailpipe assembly in specific series of the AiResearch Model GTCP85 Series APU was published in the **Federal Register** at 44 FR 24571. The proposal was prompted by nine reports of cast turbine wheel separations wherein a segment of the rim became dislodged from the hub. In three cases a blade segment exited the APU and surrounding aircraft shroud and caused damage to the aircraft.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to this notice.

The manufacturer and one operator recommended the inclusion of the heavy wall conical tailpipe assembly which was newly manufactured as Part Number 976987-1 be added to paragraph (a)(2) as a part acceptable for meeting compliance with the AD for APUs in Group B. The FAA agrees with this recommendation and paragraph (a)(2) of the final rule has been revised accordingly.

Several operators commented that the 3,000 operating cycle compliance time would result in an undue economic burden. The average utilization of these operators would require compliance with the AD for many APUs within one year rather than the two to three years it would take if the heavy wall tailpipe were incorporated at the time at which the APUs are currently scheduled for their shop visits. One operator further commented that there would be an additional economic burden imposed as a result of replacing APU parts other than the heavy wall tailpipe which would be inspected during the accomplishment of this AD and would not be found in an acceptable condition for return to operational service. Considering the time which has expired since the manufacturer first notified the operators of the problem of turbine wheel containment and the potential failure which could exist, the FAA does not agree that the 3,000 cycle compliance period causes an undue hardship on the affected operators. Furthermore, this AD requires neither the disassembly nor the inspection of the remainder of the APU which, however, must be maintained in an airworthy condition at all times while operating on certificated aircraft without regard to this AD.

After careful review of all available data, including comments above, the FAA has determined that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule with the relieving changes noted above.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

AiResearch Manufacturing Company of Arizona: Applies to the following groups of Model GTCP85 series Auxiliary Power Units (APUs) which have cast turbine wheel Part Number 968095-1, -3, -5 or 3604804-1 installed:

Note.—These APUs are installed in but not limited to Boeing 727-100/-200, Lockheed L-100, Boeing 707 (conversion), Lockheed 382-Series, Douglas DC-9, Avions Marcel Dassault—Breguet Aviation Mercure and British Aerospace Corporation BAC 1-11, Trident 3B, Trident 1, and Trident 2E aircraft.

Group A: GTCP85-98CK, GTCP85-98CK(A), or GTCP85-98CK(B) with exhaust pipe assembly Part Number 379529 or 976987-1.

Note.—Part Number 976987-1 may be either a new production part or part reworked from Part Number 379529 per AiResearch Service Bulletin 49-1790, Revision 1, dated March 21, 1971, or original issue of this service bulletin.

Group B: GTCP85-98DCK, GTCP85-115CK, GTCP85-115H, GTCP84-139H, or GTCP85-163CK with exhaust pipe assembly Part Number 379529 or 976987-1 reworked from Part Number 379529 per AiResearch Service Bulletin 49-1790, Revision 1, dated March 21, 1971, or original issue of this service bulletin.

Group C: GTCP85-185L with exhaust pipe assembly Part Number 899607-1.

Note.—Operators of airplanes incorporating the APUs affected by this airworthiness directive are advised to examine the applicable sections of AiResearch Alert Service Bulletin GTCP85-49-A5078, Revision 1, dated March 29, 1979, and AiResearch Service Bulletin GTCP85-49-3688, Revision 5, dated February 9, 1979, to identify production configuration of these units as well as the methods of reworking the exhaust pipe assemblies to the approved replacement configuration.

Compliance required as indicated.

To prevent the release of high energy turbine wheel blade fragments, accomplish the following, unless already accomplished:

(a) For APUs with turbine wheels Part Number 968095-1, -3, -5, or 3604604-1 installed, remove the exhaust pipe assemblies listed for Group A, B, and C above and install a strengthened exhaust pipe assembly as defined below at next APU overhaul, or within the next 3,000 operating cycles after the effective date of this AD, whichever occurs first, or in any case, not later than three years from the effective date of this AD.

(1) APUs in Group A are to have a Part Number 3607748-1, 966580-1, or 966580-3 exhaust pipe assembly installed.

(2) APUs in Group B are to have an exhaust pipe assembly Part Number 3607748-1, 966580-3 or an exhaust pipe assembly originally manufactured as Part Number 976987-1 installed.

(3) APUs in Group C are to have a Part Number 3607748-1 exhaust pipe assembly installed.

Note.—For the purposes of this AD, one cycle equals one start/shutdown of the APU. If the operator does not have a record of operating cycles on individual turbine wheels, he may assume two starts have occurred for each recorded APU operating hour of service, or any other cycle per hour ratio approved by the operator's assigned FAA maintenance inspector, provided the request contains substantiating data to justify the alternative ratio. Operators who have not kept a record of APU operating hours of service shall estimate hours of APU operation by equating APU operation to airplane hours time in service using a ratio approved by the operator's assigned FAA maintenance inspector and justified by substantiating data.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of modifications required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective October 8, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on August 22, 1979.

William R. Krieger,

Acting Director, FAA Western Region.

[FR Doc. 79-27410 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-GL-33]

Designation of Federal Airways Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate controlled airspace near St. Clairsville, Ohio to accommodate a new Very High Frequency Omnidirectional Range (VOR) instrument approach into Alderman Field Airport, St. Clairsville, Ohio established on the basis of a request from the Alderman Airport officials to provide that facility with instrument approach capability.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument conditions and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 37629 of the **Federal Register** dated June 28, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at St. Clairsville, Ohio. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective November 29, 1979 as follows:

In § 71.181 (44 FR 442) the following addition should be made:

St. Clairsville, Ohio

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Alderman Field Airport (latitude 40°03'25"N, longitude 80°57'48"W); within 1.5 miles either side of the Bellaire VORTAC 290° radial extending from the 5.5 mile radius to the VORTAC.

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-33, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on August 22, 1979.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 79-27409 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-36]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Atlanta, Ga. Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment alters the Atlanta, Georgia, Terminal Control Area (TCA) by designating additional TCA airspace where required to accommodate long range aircraft departing Runway 8 and turbojet aircraft arriving from the southeast and southwest executing profile descents. The William B. Hartsfield Atlanta International Airport currently averages approximately 1,700 operations per day and during the 12-month period ending April 30, 1978, recorded 18,981,175 enplaned passengers. The amendment represents the minimum amount of airspace required in the interest of safety to contain turbojet operations in the TCA.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford C. Monteau, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7866.

SUPPLEMENTARY INFORMATION:

History

A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, June 21, 1979 (44 FR 36200), which proposed the alteration of the Atlanta, Georgia, Terminal Control Area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. More than two hundred comments were received on the NPRM.

The Airline Pilots Association, Air Transport Association of America, City of Atlanta Department of Aviation, Hill Aircraft and Leasing at Charlie Brown County Airport, Therm-Mech, an Atlanta firm that uses DeKalb-Peachtree Airport, and several other persons concurred in the proposal. The Air Transport Association of America also urged consideration of additional TCA airspace to accommodate departure corridors to the southeast and southwest as noise relief routes for communities currently impacted by noise. The restrictive impact of TCA airspace upon the aviation community rules out speculative designation. The noise problem is a separate issue addressed by FAA policy and procedure aside from those used for airspace designation.

Objections to the proposal were received from the Fairview Civic Club of Ellenwood, Georgia, the Aircraft Owners and Pilots Association, many of its members, and other interested persons. A number of the comments received did not address the proposal but simply endorsed the AOPA position. The Fairview Civic Club objected to Area B with a proposed floor of 2,100 feet north of their community. They proposed that heavy long-range aircraft now operating from Atlanta be required to fly lighter, if necessary, in order to remain within the current TCA having a 2,500-foot base altitude. Terminal Contol Area is designated solely for the purpose of providing a positive control environment for aircraft and restricting the weight of departing aircraft is considered outside the scope of the proposal. The Area B proposal recognized a TCA design deficiency that was aggravated by the increasing number of long-range flights departing Hartsfield Atlanta Airport. On the west side of the airport the surface area extends 7 miles west of the departure end of Runway 26, an adequate distance for heavy turbo-jet aircraft to reach 2,500 feet MSL. However, on the east side of the airport, the surface area extends only 5.25 miles east of the departure end of Runway 8. This distance is not sufficient for aircraft to reach 2,500 feet under all temperature conditions. A small portion of the area adjacent to the surface area east of Runway 8 was lowered to 2,100 feet MSL. This change provides TCA protection for departing aircraft. Another objection received to Area B was that it would force VFR flights 400 feet lower and the alternative of flying around the area would require flight 2 miles further east of Atlanta. Neither alternative imposes a significant burden. The location of the Rex VOR under Area B does not complicate navigation, as other suitable methods exist for VFR circumnavigation of either the surface area or Area B.

The AOPA submitted a counterproposal to the changes proposed in the NPRM. Their "proposal incorporates all the TCA base altitude changes proposed in Airspace Docket No. 79-SO-36 to include the current operation of turbine-powered aircraft departures and profile descent procedures." The AOPA proposed a corridor concept for TCA design that would essentially reduce the ceiling of the TCA within 20 miles of the airport to 8,000 feet, and above that would eliminate the remainder of the TCA except for four corridors extending to 12,500 feet. Depending upon the landing direction, two corridors would be used by arriving aircraft and two for departing. While a TCA having a four-corridor configuration might have merit for application at some locations, it would increase both inbound and outbound delays at Atlanta and increase overall flight mileage as well. The AOPA TCA configuration would require aircraft to remain in a corridor until reaching an altitude of 12,500 feet. Air carrier operations for the Hartsfield Atlanta Airport were 521,920 for a 12-month period ending August 1, 1979. Approximately one-half, or 260,960, of these were departing aircraft. The existing TCA permits departing aircraft destined for a route opposite or 90° to the takeoff direction to be turned on course, or approximately so, upon reaching 5,000 feet. These aircraft, or about one-half of the departing aircraft, would be required to climb in a corridor until reaching 12,500 feet, an extra flight distance of 19 miles for a Boeing 727. Conservatively, the corridor arrangement would add an additional 2,400,000 flight miles annually. The AOPA design would also increase flight mileage for arriving aircraft, although to a lesser extent. On the other hand, the AOPA proposal would substantially increase arrival delays. In the existing Atlanta TCA configuration, four arrival flows (two per runway are used with traffic from two arrival fixes being blended at each of the two base leg turn points. Extensive air traffic control experience gained in the use of profile descent procedures demonstrates that this is the most efficient and effective way to sustain an arrival rate matching runway capacity. Use of only two arrival flows (one per runway) would double the concentration of arriving aircraft over an arrival fix and thereby require additional holding above 12,500 feet. The existing ATC system does not have the precision spacing capability required to extract aircraft from holding patterns and deliver them in a single flow at a sustained rate to match runway capacity. Under most circumstances, runway capacity at the Hartsfield Atlanta Airport is the delaying factor for arriving aircraft.

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Under the two-arrival corridor concept proposed by AOPA, ATC rather than runway capacity would become the principal delaying factor.

The rule

This amendment alters the Atlanta TCA by adding TCA airspace where required for long-range aircraft departing from Runway 8 and aircraft arriving from the southeast and southwest executing profile descents. The original Atlanta TCA became operational on June 25, 1970, and has been revised several times to accommodate different aircraft types, procedures and runway configurations. Since the last revision on October 6, 1977, additional west coast and intercontinental service have been instituted from Atlanta. These aircraft are heavier and climb slower than other types of aircraft operations. The current TCA is inadequate to contain these operations.

The TCA was altered in 1977 to accommodate profile descent procedures. The primary goals of profile descent procedures are increased safety, reduced noise, and fuel conservation. The subsequent annual review of these procedures indicated that they needed refinement to fully meet these goals. If aircraft descended on the prescribed profile, they dropped below the floor of the TCA. This created a safety problem. In order to remain within the TCA, aircraft are now required to descend in a stair-step fashion. Consequently, the goals of noise abatement and fuel conservation are compromised because power must be added to remain within the TCA.

Lowering the floor of the area east of Runway 8 and the areas southeast and southwest of the Atlanta Airport as proposed will assure that aircraft departing Runway 8 will operate at or above the floor of the TCA, and that arrivals from the southeast and southwest will be able to execute an unrestricted profile descent for maximum noise abatement and fuel conservation purposes, and also operate at or above the designated TCA floors.

Adoption of the Amendment

Accordingly, Subpart K, § 71.401 of Part 71 of the Federal Aviation Regulations (14 CFR 71) as republished (44 FR 654), is amended effective 0901 GMT, October 4, 1979, as follows:

The William B. Hartsfield Atlanta International Airport

Latitude 33°38'31" N., Longitude 84°25'34" W.

Area A—That airspace extending upward from the surface to and including 12,500 feet MSL, bounded on the east and west by a seven-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Airport Control Zone.

Area B—That airspace extending upward from 2,100 feet MSL to and including 12,500 feet MSL east of Atlanta Hartsfield Airport between the 7 and 9 nautical mile radius of Atlanta VORTAC, bounded on the south by the Atlanta VORTAC 090 radial and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses.

Area C—That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 12-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Airport Control Zone and that airspace contained in Areas A and B.

Area D—That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 20-mile radius of the Atlanta VORTAC, on the south by a line eight miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line eight miles north of and parallel to the Runway 08/26 localizer courses; excluding that airspace contained in Areas A, B, and C.

Area E—That airspace extending upward from 4,000 feet MSL to and including 12,500 feet MSL south of the Atlanta VORTAC 090 and 270 radials, bounded on the east and west by a 25-mile radius of the Atlanta VORTAC, on the south by a line 12 miles south of and parallel to the Runway 09R/27L localizer courses; excluding that airspace from the Atlanta VORTAC 138 radial clockwise to the Atlanta VORTAC 218 radial and within Areas A, C, and D.

Area F—That airspace extending upward from 5,000 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 25-mile radius of the Atlanta VORTAC, clockwise between a line 12 miles south of and parallel to the Runway 09R/27L localizer courses and the Atlanta VORTAC 138 radial, and clockwise between the Atlanta VORTAC 218 radial and a line 12 miles south of and parallel to the Runway 09R/27L localizer courses; excluding that airspace contained in Areas A, C, D, and E.

Area G—That airspace extending upward from 6,000 feet MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC north of the Atlanta VORTAC 090 and Atlanta 270 radials, and south of Atlanta VORTAC in an area bounded on the north by a line eight miles south of and parallel to the Runway 09R/27L localizer courses, on the east by the Atlanta VORTAC 138 radial, on the south by a line 12 miles south of and parallel to the Runway 09R/27L localizer courses, and on the west by the Atlanta VORTAC 218 radial; excluding that airspace clockwise between the Atlanta VORTAC 323 and 031 radials north of a line 12 miles north of and parallel to the Runway 08/26 localizer courses, and that airspace contained in Areas A, B, C, and D.

Area H—That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 29-mile radius of the Atlanta VORTAC, and within a 35-mile radius of the Atlanta VORTAC clockwise between the Atlanta VORTAC 118 radial and Atlanta 138 radial and clockwise between the Atlanta VORTAC 218 radial and Atlanta 238 radial; excluding that airspace contained within Areas A, B, C, D, E, F and G.

Area I—That airspace extending upward from 10,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta VORTAC, and within a 42-mile radius clockwise between the Atlanta VORTAC 118 radial and Atlanta 138 radial and clockwise between the Atlanta VORTAC 218 radial and Atlanta 238 radial; excluding that airspace contained within Areas A, B, C, D, E, F, G and H.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the evaluation prepared for this action is contained in the Regional Regulatory Docket.

Issued in East Point, Georgia, on August 28, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-27405 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 271

[Docket No. RM 79-19; Order No. 45]

Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported Through the Alaska Natural Gas Transportation System; Statement of Policy

August 24, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Regulations and Statement of Policy.

SUMMARY: The Federal Energy Regulatory Commission (the Commission hereby gives notice of an amendment to Part 271, Subchapter H of its interim regulations promulgated under the Natural Gas Policy Act of 1978 (NGPA). The amendment permits those involved in the first sale of natural gas produced from Prudhoe Bay, Alaska for transportation through the Alaska Natural Gas Transportation System (ANGTS) to apply for an allowance under section 110 of the NGPA for costs incurred in removing carbon dioxide from levels of three percent by volume to levels below three percent by volume and to apply for adjustments pursuant to section 501(c) of the NGPA in the event of special hardship, inequity, or an unfair distribution of burdens. The Commission also gives notice of promulgation of a statement of policy under the Natural Gas Act that there will be a rebuttable presumption that costs incurred by shippers or transporters to condition natural gas produced at Prudhoe Bay, Alaska for transport through the ANGTS are imprudently incurred. This policy would not apply to costs permitted first sellers under Part 271, subpart K of Commission regulations or those incurred to reduce carbon dioxide content from three percent to below three percent by volume. In issuing this rule and policy, the Commission provides that the rule and policy will not be effective for 60 days and for petitions for rehearing to be filed within 30 days of the issuance of the rule and policy. The Commission also provides for the oral presentations of views on the rule issued.

DATES: Effective date October 23, 1979; petitions for rehearing, September 24, 1979; oral presentations, to be announced.

ADDRESSES: All petitions should reference Docket No. RM79-19 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, D.C. 20426 (202) 275-3827.

The Federal Energy Regulatory Commission (Commission) by this rule establishes responsibility for bearing costs of conditioning natural gas produced from the Prudhoe Bay Unit in Alaska for transport through the Alaska Natural Gas Transportation System (ANGTS). The responsibility is apportioned between producers of Prudhoe Bay natural gas and the shippers, transporters and ultimate consumers of that gas. To this end the Commission amends its interim regulations implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA) to permit first sellers of natural gas produced for the ANGTS to make application for recovery of costs incurred in removing carbon dioxide from levels of three percent by volume to levels below three percent by volume. The Commission, coincident with this rule, issues a policy statement addressing the recovery of certain production-related costs incurred by transporters and shippers of natural gas produced at Prudhoe Bay; recovery of such costs will be comparably limited to carbon dioxide removal below three percent by volume.

A. Background

1. *ANGTS and the President's Decision.* In 1968 the largest single discovery of oil and gas ever made on the continent of North America was made at Prudhoe Bay on the North Slope of Alaska. The oil is currently flowing, but the associated gas cannot be marketed until a transporting gas pipeline is built. Virtually every estimate exceeds 26 trillion cubic feet of proven recoverable gas reserves at Prudhoe Bay. This large deposit of natural gas could supply more than two billion cubic feet of natural gas per day (approximately five percent of the nation's current requirements) over a 25-year period.

In recognition of the importance of this domestic energy source, the Congress passed the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. 719 *et seq.* By this Act, the Congress established a procedural framework to expedite a final decision on and implementation of an ANGTS. That framework included a procedure to select a system. It also included specific provisions for the prompt handling of all federal authorizations necessary or related to the construction and initial operation of that system, and limited judicial review of agency action to approve authorizations for that system.[1]

In September of 1977, the President sent to the Congress his finding that the Alcan Pipeline Company, because its proposal was economically and environmentally superior to competing proposals, should be granted the certificate to construct the ANGTS.[2] The Congress, by joint resolution, approved and adopted the President's *Decision* in November of that year. H.J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268 (1977).

The ANGTS, the system approved in the *Decision*, will be 4,800 miles in length, originating on the North Slope of Alaska and passing through Canada to the lower-48 states. At the time of the President's *Decision* the capital costs of this transportation system were estimated at $10.5 to $13.9 billion,[3] which would make the project the largest privately financed project in history.

The *Decision* specifically identified the facilities which would comprise the ANGTS. These facilities constitute the "approved transportation system" within the provisions of section 7(a)(4) of ANGTA, 15 U.S.C. 719e(a)(4). Under the *Decision* the approved transportation system does not include the facilities which will prepare the Prudhoe Bay gas for entry into the pipeline. In Section 2 ("Description of the Nature and Route of the Approved System"), the *Decision* states: "The proposed Alcan pipeline will commence on the discharge side of the gas conditioning plant facilities in the Prudhoe Bay Field."[4] The *Decision* also states that "[t]he facilities which are to be covered are those in the U.S. which * * * are included in the revised Alcan filing submitted to the Federal Power Commission (FPC) in March 8, 1977."[5] That filing assumes facilities which would accept gas conditioned to a certain quality, and compressed and chilled prior to entry.[6]

The *Decision* did not resolve one particular issue which is important to the implementation of the selected system, the establishment of a field price for the gas.

The importance of this gap was described in the *Decision*.

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[1] 15 U.S.C. 719. c. d. e. f. g. and h. The judicial review is limited to questions of agency violation of constitutional or statutory law. *See Midwestern Gas Transmission* v. *FERC*, 589 F. 2d 603, 625-626 (D.C. Cir. 1978).

[2] Executive Office of the President, Energy Policy and Planning, *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (September, 1977) [hereinafter cited as *Decision*]. The present sponsors for the Alaskan segment are the successors to the Alcan Pipeline Company: *see*, "Order Transferring Conditional Certificate of Public Convenience and Necessity from Alcan Pipeline Company to Alaskan Northwest Natural Gas Transportation Company, Reviewing Relevant Portions of Underlying Partnership Agreement and Granting Intervention" (Docket No. CP78-123, *et al.*) (June 30, 1978).

[3] *Decision* at 157.

[4] *Id.* at 6. Additionally, the system description in Section 3 of the *Decision* states that the first compressor station and attendant chilling facility for the ANGTS will be located 75 miles after the point of commencement of the system. *Id.* at 17.

[5] *Id.* at 13.

[6] Alcan Pipeline Project 48" Alternative Proposal, Docket No. RM77-6. The revised Alcan filing describes a system which would transport natural gas processed to the following standards: (1) 1% carbon dioxide by volume; (2) 0.6% nitrogen by volume; (3) 1138 Btu/cu. ft. gross heating value; and (4) a hydrocarbon dew point of −10 degrees F at 1000 psi. (Alcan Pipeline Project 48" Alternative Proposal at § 3, p. 3; Docket No. RM77-6). This revised filing referenced an initial filing in which the following additional specifications were enumerated: (1) a maximum water content of 0.2 pounds per million cubic feet; (2) a sulphide content of no more than 0.25 grains per 100 cubic feet; and (3) a total sulphur content of no more than 10 grains per 100 cubic feet. Alcan Pipeline Co., FPC Gas Tariff, Original Vol. 1, Exhibit No. AP-16, at Original Sheet No. 112 (Docket No. CP75-96, *et al.*).

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Final financing for an Alaskan natural gas transportation project cannot be arranged until the producer-owners of the Prudhoe Bay gas execute sales contracts. Without such contracts, no gas can be transported, and financing consequently would be unobtainable. Producers cannot be expected to negotiate sales contracts until a price has been established with a reasonable degree of certainty. If this project is to proceed expeditiously, the field price of the gas should be established as soon as possible. (*Decision* at 44.)

The Commission, in its comments on the *Decision*, acknowledged its jurisdictional responsibility to determine the appropriate field price.[7]

In addition to tariff and financing issues, a wellhead rate for producer sales must be set either by the Congress through amendment to the Natural Gas Act or, failing that, by FERC. The costs of separating and processing the casing head gas must be identified and allocated. (FERC Comments at 4.)

The Commission went on to discuss the various types of costs involved in producing the gas and preparing it for pipeline entry (FERC Comments at 19–34), but observed that the *Decision* called for enactment of a gas pricing approach for the ANGTS similar to that contained in the Administration's National Energy Plan, then under consideration by the Congress.[8]

The Report which accompanied the *Decision* contained a discussion of the economic viability of the ANGTS.[9] Because of the possibility that the Commission might provide some allowance for costs of gathering, conditioning, and compression, that discussion used a range of 0 to 30 cents per MMBtu (1975 dollars) for a potential add-on for such costs in estimating the "city gate" or wholesale price of the gas.[10] However, the *Decision* left the determination of the amount of any such allowance to the discretion of the Commission.[11]

[7] Federal Energy Regulatory Commission, *Comments on the Decision and Report to Congress on the Alaska Natural Gas Transportation System* (October, 1977) [hereinafter cited as FERC Comments].

[8] *See Decision* at 46.

[9] The Report, following page 84 of the *Decision*, accompanied the *Decision*, and may be regarded as authoritative legislative history. *Midwestern Gas Transmission* v. *FERC* 589 F. 2d 603, 611 n. 23 (D.C. Cir. 1978).

[10] The actual costs of gathering and conditioning were estimated to be about 30 cents per MMBtu (1975 dollars). The range presented was intended to cover the spectrum of possibilities between a Commission determination that no add-on be provided and a determination that all these costs should be passed on to gas consumers.

[11] *See, e.g., Decision* at 95: "When the costs of service price of the Alcan project is added to a well head price of $1.45 to $1.75 per MMBtu (*depending on the amount the FPC will allow producers for their processing costs*), the wholesale or "city gate" price of the gas should be about $2.50 to $2.80 per MMBtu in constant 1975 dollars." (emphasis added). *See also Natural Gas Pipeline from Alaska: Joint Hearing Before the Subcomm. on Energy and Power, Comm. on Interstate and Foreign Commerce, and the Subcomm. on Indian Affairs and Public Lands of the Comm. on Interior and Insular Affairs*, House of Representatives, 95th Cong., 1st Sess., Ser. No. 95–79, at 219, 224–226, 280–81 (1977) (statements of DOE Secretary Schlesinger in discussing the *Decision* before the House).

2. *Natural Gas Policy Act.* On November 9, 1978, the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95–621, 92 Stat. 3353 (1978), was signed into law. The NGPA established a specific statutory ceiling price for Prudhoe Bay gas which applies in lieu of the just and reasonable rate which would have been established under the Natural Gas Act.[12] That price is fixed by section 109(a)(4) of the NGPA, which specifically references natural gas produced at the Prudhoe Bay Unit of Alaska for transport through the ANGTS.[13] In addition, section 110(a)(2) of the NGPA permits, to the extent allowed for by rule or order of the Commission, that the section 109 ceiling price shall not be considered to be exceeded to the extent necessary to recover costs of compressing, gathering, processing, treating, liquefying or transporting such natural gas or other similar costs borne by the seller. Thus, determining the maximum lawful price for the Prudhoe Bay gas requires the Commission to determine what, if any, allowances should be permitted under section 110.

It is clear that the Congress, in drafting the NGPA, was aware of the special circumstances surrounding ANGTS. The peculiar and extraordinary problems which attend the production of natural gas at Prudhoe Bay, and its processing and conditioning to the stringent requirements of the ANGTS, were described on the floor of the Congress.[14] The legislative history of the NGPA contains frequent references to the special problems of the ANGTS,[15] and special sections of the Act were drafted with specific reference to gas sales made for transport through that system. For example, section 109(a)(4) specifies a particular ceiling price for gas produced from the Prudhoe Bay Unit of Alaska and transported through the ANGTS; section 208 requires that the ceiling price specified in section 109 and costs incurred by any interstate pipeline in transporting the gas should be subject to rolled-in pricing; and section 203(a)(8) provides that other costs (*i.e.*, those allowed under section 110) should be incrementally priced. Yet, despite this obvious attention to the ANGTS, the Congress, in setting a price for the first sale of this gas, made no provision for superseding the policies of either ANGTS or the President's *Decision*. These latter two provisions of law, and the policies they stand for, remain in full force and effect under the NGPA; the NGPA must be implemented in such a manner as to be consistent with them.

3. *Commission action.* As described above, Congress has consistently treated the ANGTS, and the gas produced from Alaska for transport through it, in an exceptional manner. Thus, the ANGTS, as well as the Prudhoe Bay gas to be transported in it, are each *sui generis*. ANGTS construction and initial operation are governed by legislation enacted exclusively for that pipeline system. Moreover, the NGPA recognizes the special nature of the ANGTS, choosing in two instances to apply special rules to Prudhoe Bay production and its pricing; the section 109 price applies irrespective of vintage or other production characteristics as would be applicable to other production and special incremental pricing provisions apply for this gas. The ANGTS is the only pipeline so particularly singled out, by name and producing area, for pricing consideration under the NGPA. The exercise of our section 110 discretion with respect to the gas supply for the ANGTS occurs in that unique context, and is limited to this particular situation.

[12] Under the NGPA, all "first sales" of natural gas, including those made for shipment through the ANGTS, are controlled by the statutory ceiling prices specified in title I (sections 102 through 110) of the NGPA. Section 2(21) of the NGPA defines a "first sale" as:

* * * any sale of any volume of natural gas—

(i) To any interstate pipeline or intrastate pipeline;

(ii) To any local distribution company;

(iii) To any person for use by such persons;

(iv) Which precedes any sale described in clauses (i), (ii), or (iii); and

(v) Which precedes or follows any sale described in clauses (i), (ii), (iii) or (iv) and is defined by the [Federal Energy Regulatory] Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

[13] In certain circumstances, the Commission may in its discretion set a first sale price under section 109 higher than the dollar amount set by Congress. Section 109(b)(2).

[14] *See, e.g.*, remarks of Senator Stevens, 124 Cong. Rec. S. 16257 (daily ed. Sept. 27, 1978).

[15] The discussion of section 208 in the Conference Report accompanying the NGPA provides a particularly good example of Congressional concern for prior legislation surrounding the ANGTS:

The conferees agreed to provide rolled in pricing for natural gas transported through the Alaskan Natural Gas Transportation System and for the cost of transportation because they believed that private financing of the pipeline would not be available otherwise. Rolled in pricing is the only Federal Subsidy, of any type, direct or indirect, to be provided for the pipeline.

H.R. Rep. No. 95–1752, 95th Cong., 2d Sess. 103 1978). This is in direct reference to the condition in the President's *Decision* requiring that the ANGTS be privately financed. *Decision* at 36.

Because of the special legal status of the ANGTS, the Commission issued a specific proposal to resolve the issues surrounding the conditioning of the gas.[16] That proposal addressed two questions: (1) Who should be responsible for constructing and operating the required conditioning facilities for Prudhoe Bay gas transported through the ANGTS; and (2) what allowances, if any, should be permitted under section 110 of the NGPA for the conditioning of the gas.

The Commission's Notice expressed the view that the public interest would best be served if the producers were responsible for the conditioning facility. Accordingly, the Commission proposed a policy to apply to its consideration of applications for certificates of public convenience and necessity under the Natural Gas Act, which policy would be to approve only those applications which did not require the applicant to bear the conditioning costs, except those costs specifically approved by the Commission. With respect to possible allowances for such costs, the Commission expressed the view that the costs of delivering "pipeline quality gas" to the ANGTS should be covered by the first sale price ceilings provided by the NGPA. The quality standards which determine "pipeline quality gas" were those contained in the March 8, 1977 filing which was approved by the President and the Congress as part of the *Decision*. Thus, the Commission saw no reason to provide any allowances under section 110 of the NGPA over and above the price established by section 109 of the NGPA.

B. Producer Responsibility for Conditioning

In this proceeding the Commission has considered whether to exercise its section 110 discretion to permit an allowance for production-related costs over and above the maximum lawful price stipulated under section 109 of the NGPA for first sales of natural gas produced at Prudhoe Bay, Alaska for transport through the ANGTS. Stated another way, the Commission must decide which costs of providing pipeline quality gas to the ANGTS should be borne by the seller and which costs should be passed through to the consumer.[17]

[16] "Notice of Proposed Rulemaking and Statement of Policy" (Docket No. RM79–19) (issued Feb. 2, 1979), *as corrected*, Errata Notice (Docket No. RM79–19) (issued Feb. 27, 1979).

[17] Under sections 203 and 208 of the NGPA, allowances granted first sellers of Prudhoe Bay gas under section 110 will be incrementally priced. Furthermore, under section 601 of the NGPA, allowances permitted under section 110 become part of the maximum lawful price and this price must be considered as "just and reasonable" for purposes of rates charged by jurisdictional pipelines.

The natural gas produced at Prudhoe Bay, Alaska, must be conditioned to supply the gas throughput for a specific pipeline, the ANGTS.[18] This situation is complicated by the fact that the gas is associated with oil and that the gas produced prior to the commencement of gas sales is, or will be, field conditioned and reinjected to enhance the oil recovery. The situation is further complicated by the stringent operating conditions which exist in the producing area and which materially impact the transport of the gas from that area.[19] The Commission has considered each of these factors and has determined that, on balance, the production-related costs for the processing and conditioning should fall upon the producers or other "first sellers" who perform the functions necessary to render the gas transportable through the ANGTS.

The consideration which compels the conclusion that the producers [20] should be responsible for the costs of conditioning gas which will be transported through the ANGTS is the distribution of benefits and burdens which must be associated with the construction and operation of the ANGTS. This includes the benefits and burdens of conditioning the gas and the financial responsibility for the necessary conditioning facilities.

Producers will enjoy significant benefits on the sale of Prudhoe Bay natural gas, and construction of the ANGTS will enable them to market that gas. (*Decision* at 117–118.) The President's *Decision* contemplates that the burdens of undertaking a project to bring needed natural gas from Alaska to markets in the lower-48 states would be borne by the producers, the project sponsors, the private financing community, and the gas-consuming public. (*Decision* at 36–56, 104–127.) We must read the *Decision* as apportioning these burdens to best ensure that the ANGTS will be built and, as built, provide a positive net national economic benefit. Explicit in the *Decision* is the concept that producers should share in the burdens of making the ANGTS a reality. (*See Decision* at 117–118.) For example, while the *Decision* would bar (for antitrust reasons) producer ownership in the ANGTS (*Decision* at 38), it does suggest that the producers should help guarantee the debt necessary to build the ANGTS. (*Decision* at 118.)

In addition, there is the burden which attaches to the financing of the conditioning facilities which will be necessary to prepare the gas for pipeline entry. While the *Decision* did not settle the issue as to who should bear this burden, its intent was evident. First, the transportation system described in the President's *Decision* specifically excludes conditioning facilities. Second, the *Decision's* discussion of financing the ANGTS did not consider the impact of the rather sizeable cost (estimated at $2 billion) such facilities would have on the financing of the system. Finally, the *Decision*, in addressing the issue of apportioning conditioning costs, leaves the matter open for decision by this Commission. (*Decision* at 95.) Placing ANGTS sponsors in the position of having to undertake even a part of such a financial burden could adversely affect their ability to finance the ANGTS itself. Likewise, the financing of conditioning facilities by shippers may have detrimental effects on the ANGTS.[21] The Commission believes that any financial resources of the gas transmission industry which are made available to this project should go directly towards support of the ANGTS rather than to conditioning facilities.

Thus, to have producers bear the costs necessary to condition the gas for pipeline entry is to place upon them a

[18] In response to the Notice of Proposed Rulemaking, the Exxon Corporation observed that the Commission used the terms "processing" and "conditioning" interchangeably and that these terms have different meanings. The Exxon comments pointed out that gas "processing" is usually done to remove liquefiable hydrocarbons which have a higher value as separate liquids than as a vapor in the gas stream, while "conditioning", on the other hand, involves operations to remove non-hydrocarbon gases or other impurities from the stream. Yet "conditioning" usually precedes "processing." For example, the gas is usually "scrubbed" and dehydrated (i.e., cleaned to remove water droplets, hydrocarbon liquids, and solid impurities) before certain liquefiable hydrocarbons are extracted. This serves a dual function: the gas is prepared for processing and for transportation.

For clarity, the Commission will use the term "conditioning" to apply to all functions necessary for preparing the natural gas to the quality specifications required by the ANGTS. The intent of the Notice was to propose a rule whereby responsibility for all functions performed to prepare the gas for transportation through the ANGTS would be fixed. These functions would include the removal of condensable hydrocarbons to acceptable levels required for efficient gas transportation under the operational and environmental constraints imposed on the ANGTS (*e.g.*, to attain the hydrocarbon dew point quality specification) as well as the removal of non-hydrocarbon gases. The functions would also include chilling, additional water removal, and additional compression, if any, to the pressure necessary for entry into the ANGTS.

[19] *See* pages 4–5 *supra*.

[20] While we speak of "producers" performing conditioning, we should be taken to mean any first seller of this gas.

[21] The exception to this generalization is the State of Alaska, in the event it decides to be a shipper of part or all of its royalty gas.

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burden which we believe is commensurate with the benefits they would receive through the sale of the gas—benefits made possible by the ANGTS and its transport of the gas. Moreover, to have the producers assume responsibility for the capital investment necessary to condition the gas will relieve project sponsors and shippers of an important financial burden.

Producer responsibility for the conditioning facilities provides a useful means whereby producers can aid in the movement of Alaskan gas to lower-48 markets. The *Decision* bars producers from participating in the ANGTS equity ownership. (*Decision* at 38.) Since the processing facilities are not part of the ANGTS,[22] producer responsibility for these facilities provides a way for producers to materially assist in project implementation, and thereby assume a portion of the burden considered by the *Decision* as properly applicable to them.

We conclude that producer responsibility for the costs of conditioning provides benefits to ANGTS implementation and protection for consumers' interests, and comports with the apportionment of burdens manifest in the President's *Decision*. Therefore, the Commission believes that the public interest and the expressions of Presidential and Congressional intent contained in the *Decision* are better served by promoting producer responsibility for conditioning costs, and the Commission intends to exercise its jurisdiction in a manner which would discourage interstate shippers and transporters and, in turn, the natural gas consumers from assuming responsibility for these costs.

C. Exercising Section 110 Discretion For Alaska Production

1. *Section 110 Discretion.* Section 110(a)(2) permits broad discretion as to the method ("by rule or order") which the Commission is to employ in allowing increases to ceiling prices for production-related costs. Moreover, the words of that section ("any costs * * * borne by the seller and allowed for * * * by the Commission") do not contain limiting language such as that found elsewhere in the NGPA when the Congress intended to circumscribe the Commission's authority.[23] On its face,[24] section 110(a)(2) indicates a Congressional concern for flexibility to weigh necessary factors and determine appropriate allowances. The Commission interprets its authority under section 110 as permitting it discretion to allow all, some, or no production-related costs. This discretion, of course, must be exercised in a reasonable manner.

The legislative history of section 110(a)(2) highlights its discretionary nature. The Conference Report which accompanied the NGPA provides that the Commission "may" allow such costs,[25] and the statement made by the House floor manager of the Conference Report describes the section as being discretionary.[26] In addition, the floor debates which attended the adoption of the NGPA clearly show that section 110(a)(2) was viewed as being discretionary. For example, in response to the questions of Senator Stevens as to the application of section 110(a)(2) to the particular circumstances of Alaska-produced natural gas, Senator Jackson, Senate floor manager of the Act, stated:

> Section 110 of the Act gives FERC authority to increase the maximum lawful price of any natural gas including Alaskan gas, to compensate the seller for costs that they [sic] may incur in the gathering and processing of natural gas. The special circumstances described by my colleague [the difficulties attending Prudhoe Bay production] would be presented to the Commission. The Commission may allow for an adjustment in the maximum lawful price if it determines it is appropriate to do so.

124 Cong. Rec. S16257 (daily ed. Sept. 27, 1978).[27]

While the Conference Report which accompanied the NGPA cites past Commission practices allowing for production-related costs in the setting of just and reasonable rates under the Natural Gas Act, this is its only explicit reference to the Natural Gas Act in the implementation of section 110(a)(2).[28] The Commission does not interpret this reference as constricting or defining the commission's section 110 discretion in terms of the Commission's past practices under the Natural Gas Act.[29] Instead, the Commission interprets it as a reference to the setting of maximum lawful prices by reference to just and reasonable rates in existence at the time the NGPA was passed (e.g., section 104 prices). By this paragraph, the Conferees recognized the fact that just and reasonable rates were set inclusive of some production-related costs and that the Commission, in considering ceiling prices referenced by such just and reasonable rates need not, because of section 110, attempt the administratively burdensome task of stripping the old allowances from established rates merely to consider them again under section 110.

The clearest expression of limits to section 110 discretion is found in the statement of Congressman Dingell (on presenting the NGPA to the House):

> With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the conferees did not intend to authorize a refusal to grant appropriate allowance where such refusal would be an abuse of discretion. Thus, if the function performed is not usually performed by the producer without provision being made for compensation over and above the amounts paid for the gas, prevailing industry practice may guide FERC to approve ceiling price adjustments which the Commission determines appropriate and consistent with the purposes of the legislation. For example, if the producer undertakes to compress the gas to pipeline pressure, and if an allowance is customarily made by the pipeline for such compression, the conferees anticipated that FERC would consider approval of an appropriate allowance under section 110. However administrative flexibility was deemed important. Therefore, it was also intended that FERC could selectively focus on the areas which appear appropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.

124 Cong. Rec. H13118 (daily ed. Oct. 11, 1978).

Congressman Dingell's example of a pipeline customarily making payment to a producer for a particular production-related service merely anticipates that the Commission may consider such an allowance. While "prevailing industry practice" and contracting custom are to be carefully considered by the Commission, neither are viewed as requiring an allowance. For reasons of administrative flexibility, the Commission has discretion broad enough to "selectively focus on the areas which appear appropriate for approval of adjustments under section 110."[30]

We believe that the flexibility to administer section 110 includes the ability to consider exceptional circumstances such as the Prudhoe Bay Unit. That section 110, on its face, makes no distinction for particular categories of natural gas sales or producing areas does not mean that the Commission cannot and should not treat individual producing areas differently. When good reason exists to provide for the treatment of production-related costs for particular producing areas, the Commission should exercise its discretion in a manner consistent with that reason. The exceptional nature of the Prudhoe Bay producing area provides such a reason.

2. *Exercising discretion for Alaska production.* Subpart K, Part 271 of the Commission's Interim Regulations under the NGPA implementation section 110. Those regulations prescribe rules by which a first seller of natural gas may collect more than the applicable maximum lawful price to recover State severance taxes and certain production-related costs borne by the seller. Section 271.1100(b) of that subpart provides that regulations permitting the recovery of any allowances, other than State severance taxes, will not apply to first sales of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the ANGTS. This exclusion rested upon the Commission's belief that, because of the special circumstances surrounding the production of this gas, it was necessary to promulgate a separate rule to take into consideration the provisions of the ANGTA and the President's *Decision* as well as the NGPA.

In February of this year, the Commission issued a notice proposing a rule barring any section 110 allowances for this gas production.[31] That proposal rested upon the Commission's view of section 110 discretion, and the concern that it be properly exercised in light of the constraints imposed by the President's *Decision*. As noticed, the Commission proposed: (1) That producers be responsible for conditioning the gas transported through the ANGTS; (2) that they receive no allowance under section 110 for the costs to condition the gas; and (3) to ensure that these costs would not be shifted to consumers, a policy statement under the Natural Gas Act which would bar transporters or shippers from passing through costs the Commission viewed as properly resting upon producers. The rationale for the notice rested in part upon the presumed consequences of having consumers bear production-related costs and the resulting impact this would have on marketing the gas and financing the pipeline. It also rested, in part, upon what we perceived as the rationale of the *Decision*, that producers bear the responsibility for financing the conditioning facilities necessary to make the gas transportable.

Several comments argued that the proposed rule would be inconsistent with both the letter and the intent of the NGPA.[32] These comments can be summarized as follows: first, that section 110 provides a right of compensation for production-related costs for any of that section's enumerated functions performed by a first seller; and second, that to the extent the Commission failed to provide an allowance above the section 109 price for a seller who undertook the production-related functions, the failure worked an unlawful reduction in the section 109 price.

Legislative history was cited for the proposition that the section 109 price must apply to a wellhead sale and that producers must therefore be left free to negotiate the apportionment of production-related costs. That citation was to a colloquy between Senators Gravel and Jackson:

> *Senator Gravel:* Senator, I infer that the permissive nature of the Commission's power [under section 110] to provide, by rule or order, an allowance in excess of the maximum lawful price for any costs of gas borne by the seller does not preclude a purchaser from acquiring natural gas at the wellhead, paying the maximum lawful price at that point.
>
> *Senator Jackson:* The Senator is correct.[33]

This colloquy should be read in its proper context. Clearly, Commission discretion does not, under NGPA, reach to barring a wellhead first sale at the maximum lawful price. The comments of Senator Gravel only go to underscore what is evident on the face of section 110—the discretion of that section cannot be exercised to reduce a ceiling price; it can only be used to increase that price. Second, the colloquy should be read as saying *if* raw, unconditioned gas was sold then it *may* be sold at the section 109 price. It should not be read as mandating a greater price to compensate for any conditioning which must attend such a sale;[34] such a reading would be in clear derogation of the discretion specifically given the Commission under section 110. Finally, Senator Gravel does not address the issue of what other power the Commission may have, separate from that of the NGPA, which it may use to apportion production-related costs; he

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[22] *See* discussion at pages 4–5 *supra*.

[23] For example, section 110(a)(1), which provides for state severance taxes borne by sellers, is clearly non-discretionary.

[24] Section 110(a) states, with reservations not relevant here, that:

> * * * a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas * * * if such first sale price exceeds the maximum lawful price to the extent necessary to recover * * * any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

[25] "All ceiling prices under this Act are exclusive of state severance taxes borne by the seller and *any adjustment which may be allowed* by the Commission for specified production-related costs." H.R. Rep. No. 95–1752, 95th Cong., 2d Sess. 90 (1978) (emphasis added).

[26] "With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the Conferees did not intend to authorize a refusal to grant appropriate allowances where such refusal would be an abuse of discretion." 124 Cong. Rec. H13118 (daily ed. Oct. 11, 1978) (remarks of the Hon. John Dingell).

[27] *See also* the colloquy between Senators Gravel and Jackson wherein Senator Gravel speaks of the "permissive nature of the Commission's power to provide, by rule or order, an allowance in excess of the maximum lawful price * * *." 124 Cong. Rec. S16257 (daily ed. Sept. 27, 1978).

[28] "The conferees recognize that, in certain cases, the just and reasonable rates under the Natural Gas Act include an allowance for production related costs. The conference agreement [respecting section 110(a)(2)] is not intended to alter or change that practice." *Conference Report* at 91.

[29] In its initial comments to this rulemaking, Exxon argued that the Congressional intent of section 110 was to "permit the Commission to do that which it had the authority to do under the Natural Gas Act, i.e., to permit producers to recover such costs as they might incur beyond the wellhead for transportation functions." Exxon goes on to argue that (1) the services enumerated under section 110 are transportation-related and have been considered as such by the Commission under national rate orders; (2) that the practices of these orders (to leave the apportioning of such costs to contracting parties) was considered by Congress; and (3) therefore, Congress must have meant that our discretion under section 110 was limited to our prior considerations under the Natural Gas Act. Comments of Exxon Corporation at 9–12 (Docket No. RM79–19) (filed March 19, 1979). Reply comments of the Commission Staff addressed the weakness of Exxon's premise that action under such opinions as Opinion No. 749 or 770–A did not consider processing and conditioning costs. The response showed the history that the opinions did consider such costs. Reply comments of the Federal Energy Regulatory Commission Staff at 2–3 (Docket No. RM79–19) (filed April 19, 1979). More importantly, however, there are the clear words of the statute; the various functions listed under section 110 are listed as "production-related" and they are set in the context of costs borne by first sellers.

[30] 124 Cong. Rec. H 13118 (daily ed. Oct. 11, 1978) (statement of Congressman Dingell).

[31] "Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaskan Natural Gas Transportation System", Notice of Proposed Rulemaking and Statement of Policy (Docket No. RM79–19) (issued Feb. 2, 1979), *as corrected*, Errata Notice (Docket No. RM79–19) (issued Feb. 27, 1979).

[32] These included the comments filed by Panhandle Eastern, Exxon, Mobil, Atlantic Richfield, Sohio, and the State of Alaska.

[33] 124 Cong. Rec. S16257 (daily ed. Sept. 27, 1978).

[34] That Senator Gravel did not consider such an outcome may be seen in the colloquy placed immediately after the one just cited. Again engaged in questioning Senator Jackson (this time on the interplay of sections 203 and 206 of the NGPA respecting the incremental pricing of Alaskan gas), Senator Gravel queries:

> Does the distinguished Senator from Washington agree that the combined effect of section 206 and section 203 of the conference report mandate rolled-in pricing for all acquisition costs of gas produced from the Prudhoe Bay unit and transported through the Alaska Natural Gas Transportation System? Rolled-in pricing would include the wellhead price and processing, gathering, conditioning, and compression costs borne by the producers of such gas, which, in the aggregate, are less than $1.45 per MMBtu's [the section 109 price], as adjusted for inflation, plus all costs associated with the transportation of such gas to markets in the lower 48 States.

124 Cong. Rec. S16257 (daily ed. Sept. 27, 1978). Clearly, the section 109 price was viewed as including at least some production-related costs.

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speaks only with reference to section 110.

Arguments that the section 109 price contains no provision for production-related costs are in error for they are premised upon the mistaken notion that the section 109 ceiling price applies only to first sales of raw, unconditioned gas made at the "wellhead". That this is not true can be seen by examining section 2(21) of the NGPA. That section defines a "first sale" in terms of *to whom* the sale is made, and not in terms of *where* in the production and transportation flow the sale occurs. Moreover, such reading of the NGPA would be inconsistent with our discretion under section 110 of that Act.

Comments also raised the point that to bar first sellers of Prudhoe Bay gas from the allowance provisions of section 110 of the NGPA worked an unlawful discrimination against such sellers. This argument is premised on the erroneous view that section 110 requires both a uniform treatment of all domestic gas and a uniform result. We are of the opinion that the Commission's authority under section 110 is, of necessity, broad enough to consider special provisions for particular regions if a good reason to do so exists. The practice of recognizing special conditions for the quality of gas produced in different areas (well established under the area-rate proceedings) is necessary for the proper exercise of the discretion of section 110. The recognition of area differences means that uniform results are not required.

Comments argued that the Commission does not have an adequate factual record to support a special rule for section 110 allowances for Alaska. It was argued that any action taken to reject, in advance, an application under section 110 is an action taken without the circumstances of Prudhoe Bay gas production being fairly presented to the Commission, and therefore, no basis exists for a prior rejection of section 110 applications. These comments maintained that any determination for allowances should be made only after the Commission receives gas purchase contracts and considers the factual circumstances relating to the conditioning of the gas for the ANGTS.

The charge that the Commission lacked a record in support of its proposal went principally to the Commission's presumption that granting allowances under section 110 would have a detrimental impact in the marketability of the gas transported through the ANGTS. In refutation of this presumption, Exxon presented a study as to the marketability of the gas presuming costs of conditioning of up to 60 cents per thousand cubic feet of gas. In addition, comments cited to earlier studies to the same effect. In light of the comments, we agree that the presumption, and its attendant rationale of granting (or not granting) section 110 allowances, lacks a sufficient record to form the basis for exercising Commission discretion under section 110. It is still too early to determine either the precise costs of preparing the gas for transport or the impact such costs would have on the city-gate price and, consequently, the marketability of the gas. In addition, based on the data now available to the Commission in this rulemaking, marketability of the gas should not be a serious concern. This Order is not premised on marketability.

The charge that the Commission lacked a factual record sufficient to take the type of actions noticed for this rulemaking also went to the circumstances surrounding the production and conditioning of the gas for pipeline entry. Apart from the factors presented to us by comments to this rulemaking, the information available to the Commission on Prudhoe Bay production includes the record before the Federal Power Commission in the *El Paso Alaska Company* (Docket No. CP75–96 *et al.*) and the Congressional consideration of the President's *Decision* and the NGPA. We believe, therefore, that we possess an adequate knowledge of the factors necessary to consider the issue of exercising section 110 discretion for sales of this gas. These factors include the fact that the gas was specially considered under the NGPA, that the gas must be conditioned to permit its transport from the producing area, and the operative policies of the President's *Decision* from which we can determine who should bear the cost of that conditioning.

3. *Considerations in exercising discretion.* Alaskan gas is useful to a purchaser only if transported to the marketplace of the lower-48 States—i.e. only if it is conditioned to render it transportable by the pipeline. Any further conditioning would increase the efficiency of the transportation; the costs which attend these functions should be allowed under section 110. In our opinion, however, no allowance should be made for the costs of conditioning the gas to render it transportable.[35]

In determining the application of section 110 for the lower-48 States we started with the presumption that industry practice determines what functions are normally performed by producers. We were persuaded that the common quality standards reflected in interstate producer sales contracts on file with the Commission served as a useful indication of the prevailing practice as to which functions were assumed by producers and to what standards.[36] However, to use Prudhoe Bay producer contracts to establish which costs are "normally" borne by Alaskan producers to tender transportable gas is inappropriate to Alaskan first sales.

The contracts which yielded the prevailing practices of the lower-48 were contracts established over time and prior to the NGPA. The contracts which have been (or will be) negotiated for the sale of Prudhoe Bay gas do not (and will not) share these characteristics.[37] To use Alaskan contracts as an indicator of prevailing industry practice for Alaska would permit the first contracting parties to establish a "practice", which in turn would dictate the scope of Commission discretion under section 110. To permit this circularity would be an abrogation of the Commission's lawful responsibility.[38]

The ANGTS is a pipeline requiring special standards to make the gas transportable; therefore, the average standards of the lower-48 as reflected in § 271.1105 of the Commission's Regulations are inapplicable. Gas produced at Prudhoe Bay for transport through the ANGTS must meet particular pipeline quality standards to be transported at all.[39] These standards

[35] *See* Section B, *Supra*.

[36] *See Preamble* to the Commission's Interim Regulations under the Natural Gas Policy Act of 1978 at 79 (Docket No. RM 79–3) (issued Dec. 1, 1978), 43 *Fed. Reg.* 56490 (Dec. 1, 1978).

[37] The Commission is aware of but two contracts for this gas; the first between Exxon Corporation and Northern Natural Gas Company, dated April 30, 1979 (May 25, 1979, letter of Mr. David B. Ward to Mr. Kenneth F. Plumb, Secretary to the Commission); the second between Exxon Corporation and Pacific Gas and Electric Company, dated March 27, 1979 (May 24, 1979, letter of Mr. Gilbert L. Harrick to Mr. Kenneth F. Plumb). In addition, the contracts for the sale of this Alaskan gas are made contingent upon the outcome of this rulemaking.

[38] The use of producer sales contracts for Alaska is particularly difficult given that these contracts will not be subject to the same regulatory review as was permitted prior to the NGPA. With respect to the "letters of intent" entered into for the sale of Prudhoe Bay gas, the same objections hold against their use as an indicator of prevailing practice.

[39] That the *Decision* considers the standards of the initial sponsor, ALCAN, see notes 4 to 6 *supra*, and accompanying text. *Pro forma* tariffs submitted under Docket No. RM78–12 reflect similar standards. *See* Alaskan Northwest Natural Gas Transportation Company, FERC Gas Tariff, Original Volume No. 1, Original Sheet Nos. 216–217 (filed March 12, 1979); Northern Border Pipeline Company, Pro Forma FERC Gas Tariff, Original Volume No. 1, Original Sheet Nos. 215–216 (filed March 12, 1979). Under Docket No. RM78–12 the Commission accepted all of the standards submitted on the *pro forma* tariffs except those dealing with carbon dioxide. Order No. 31 at 213–215 (Docket No. RM78–12) (issued June 8, 1979). In comments filed on May 4, 1979, in Docket No. RM78–12, Sohio contended that the quality standards for water content and

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indicate the functions which must be performed to condition the gas for producer processing and pipeline entry. Thus, the gas must be chilled; it must be free of excessive water, liquid hydrocarbons, sulfur and hydrogen sulfide, carbon dioxide, oxygen and impurities; and it must be compressed. Those are all functions which, on the basis of applicable benefits and burdens, we believe should be borne by the producers.

Comments in this proceeding stressed that a proper application of the Commission's discretion under section 110 requires that allowances be made for those processing and conditioning functions which are solely tied to transporting the gas, and that, at the very least, allowances should be made for certain production-related costs not ordinarily borne by producers. We reject this approach because almost all of the functions traditionally performed by producers are, to some extent, transportation-related—their performance enables the gas to enter the transporting pipeline. However, one function impresses the Commission as requiring special consideration—the removal of carbon dioxide below the point required for reliable pipeline operation. In our opinion, that entails exceptional costs that go beyond making the gas transportable. An allowance for this particular cost should therefore be made.

The pipeline quality requirements proposed for the ANGTS include carbon dioxide content of not more than one percent by volume.[40] The rationale for this low carbon dioxide content rests upon two factors: (1) Some carbon dioxide removal is required to prevent corrosive chemical reactions in the pipeline which would jeopardize operating reliability of the system, and (2) a low carbon dioxide content, by permitting the transportation of a greater volume of gas, would enhance the transportation efficiency of the system.

A three percent by volume carbon dioxide content is a common standard in industry practice. Thus, although the Commission may find that the public convenience and necessity requires that natural gas delivered for transportation through the ANGTS should be conditioned to a standard more stringent than three percent,[41] gas conditioned to that more stringent standard is not required for the entry of the gas stream into the pipeline. On the other hand, it seems clear that the gas must be conditioned to at least the three percent standard to avoid the risk of corrosion of the pipeline.[42] The Commission believes that the cost of removing carbon dioxide to the three percent standard is a function commonly undertaken by producers in order to make the gas transportable to the marketplace, and therefore does not warrant an allowance under section 110. The cost of additional carbon dioxide removal (which the Commission might require) however, is not necessary for providing a commodity capable of pipeline entry; additional removal would be based on considerations of economic efficiency. Therefore, such cost, if incurred, should be considered for an allowance under section 110.

The Commission by this rule does not decide what allowances should be granted or what costs are involved. Such decisions must rest upon the facts of particular cases presented pursuant to the application procedures set forth in § 271.1105.[43] The Commission only decides herein that allowances should be made for the carbon dioxide removal function defined above.

4. *Result.* By amending the interim regulations, the Commission has established a rule which permits producers or other first sellers of Prudhoe Bay gas an application process under section 110 to recover only those production-related costs incurred for the removal of carbon dioxide to levels below three percent by volume. To this end, the Commission has deleted the exception provisions of § 271.1100(b) of its interim regulations, and has added a new clause to § 271.1105.

In addition, the Commission, by deleting the exception of § 271.1100(b), intends to permit producers or other first sellers of Prudhoe Bay gas to avail themselves of the procedures of § 271.1106 of the interim regulations to petition for relief under section 502(c) of the NGPA. The grounds for such relief would be those stipulated by section 502(c).

Thus, a first seller who performs production-related functions may apply under section 502(c) for relief or waiver of the Commission's regulations.

D. Policy Under the Natural Gas Act

The regulations just discussed do not address the situation of a purchase of Alaskan gas, at a maximum lawful price, when the gas has not been conditioned to permit its transportation. The Commission has a responsibility under the Natural Gas Act to consider the impact on the ultimate consumer of a sale in which the buyer purchases unconditioned gas when the buyer is purchasing the gas for a sale for resale in interstate commerce.[44] The

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sulfur (hydrogen sulfide, mercaptan sulfur and total sulfur) are too stringent, and are not justified by considerations of avoiding jeopardy to the pipeline. Order No. 31 noted that "[t]he exact quality standards required for gas to be transported through ANGTS will, of course, depend upon the final design of the system," and that "the water and sulfur standards proposed by the transporters will be permitted to be included in the tariffs subject to any revisions that may be required to comport with the final pipeline system design." (Order No. 31, pp. 214–215.) The final pipeline system design will be determined in hearings in Docket No. CP78–123 *et al.* Sohio, and any other interested party, can and should raise in those hearings any questions they may have as to excessive stringency of the water and sulfur standards in the tariffs in light of the final pipeline system design, and all parties should have an opportunity in those hearings to present factual evidence pertinent to those standards. It is our intention that the water and sulfur standards ultimately confirmed in the tariffs should be sufficiently stringent to protect the pipeline, but that the producers (or other first sellers) should not have to bear the cost of removing water or sulfur beyond the level necessary to ensure safe operation of the pipeline.

[40] The 1 percent carbon dioxide figure was first proposed in the initial Alcan filing. Most recently it was proposed in *pro forma* tariffs submitted to this Commission in proceedings under Docket No. RM78–12.

[41] The precise carbon dioxide standard for the ANGTS was one of the issues left unresolved by the Commission in Order 31. That issue will not be resolved herein, but will be the subject of a Commission order in Docket No. RM78–12. *See* Section E, 1 *supra*.

[42] Of the four alternative proposals for an ANGTS considered by the FPC (two of those proposals were from the current project sponsor's predecessor), the most lenient carbon dioxide content standard was 3% by volume, in the Arctic Gas proposal. Thus, the Commission concludes that adequate system reliability for the design conditions expected for ANGTS operations would likely require carbon dioxide removal to a maximum of 3%.

Under the provisions of Section 9 of the Agreement on principles between the U.S. and Canada (pages 47–83 of the *Decision*), this matter has been discussed with representatives of Canada's National Energy Board.

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[43] For example, an important factor in determining whether an allowance should be granted for costs incurred in lowering a carbon dioxide content from 3% to 2%, and the amount of such an allowance, should be who would receive the benefits associated with the more extensive removal of natural gas liquids that such reduction would bring about.

[44] 15 U.S.C. 717(b). The Commission would not be concerned if a purchaser who bought the gas for its own use rather than for a sale for resale agreed to bear the costs of conditioning the gas. Nor would the Commission be concerned if the State of Alaska sold its royalty share of the gas to consumers within Alaska and paid for the costs of conditioning the gas. Neither situation involves the Commission's jurisdiction under the Natural Gas Act over sales of gas for resale in interstate commerce.

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Commission has the authority under the Natural Gas Act to approve or disapprove the rates charged by pipelines engaged in interstate commerce that might assume the costs of conditioning the gas in addition to the costs of purchasing and transporting the gas. This authority is exercised when pipeline companies file tariffs with the Commission. If the Commission were to approve tariff provisions that included conditioning costs, then interstate pipelines could agree to purchase gas which had not been conditioned, condition it themselves (or pay a third party to do it) and then recover the costs of conditioning the gas (in addition to the cost of purchasing the gas) in the price they charge on resale. In this manner the very considerations upon which it was determined that producers should bear the burdens of conditioning gas for ANGTS transport, and upon which allowances were denied under section 110, would be jeopardized.

For the reasons set forth at length in the preceding sections of this Order, the Commission has determined that its discretion under section 110 of the NGPA ought not to be exercised in such a manner as to grant allowances for conditioning costs (except for carbon dioxide removal below 3 percent). That determination was based on our analysis of the comparative benefits and burdens borne by producers, transporters, shippers, and consumers of the Prudhoe Bay gas. As discussed above, in light of the benefits received by the producers through the availability of the ANGTS, enabling the producers to market the gas, as well as the sizeable burdens already imposed on transporters and consumers as a consequence of the enormous cost of the ANGTS, we have determined that neither the transporters nor the consumers should have to bear the additional burden of paying for the conditioning costs. By this Order, the transporters and shippers have now been put on notice of those Commission determinations. Accordingly, those determinations give rise to a rebuttable presumption that it would be imprudent for any transporter or shipper to incur such conditioning costs. Transporters and shippers are now on notice that the Commission's policy is to exercise its responsibilities under the Natural Gas Act in such a manner as to prevent the pass through to consumers of such presumptively imprudent costs.[46]

Therefore, in any action involving the acceptance and approval of tariffs filed with the Commission, or consideration of applications to construct or acquire facilities (whether they are submitted in conjunction with applications for certificates of public convenience and necessity for the construction and operation of the ANGTS, or whether they are for the sale or transport of gas through that system), it will be the policy of the Commission, to presume that costs incurred by transporters or shippers to condition natural gas for transportation through the ANGTS are costs not prudently incurred. Absent rebuttal of that presumption, the Commission would not accept or approve tariff filings which permit the transporter or the shipper-purchaser to include the costs of conditioning gas in the rates or charges as an addition to the cost of purchasing the gas at the maximum lawful price. Additionally, absent rebuttal of the presumption, the Commission will deny any applications by any jurisdictional companies for authority to construct, acquire or operate facilities to perform such conditioning unless such facilities are financed by the producers, or by someone other than transporters or shippers of the gas.

The policy does not apply to such costs as are allowed pursuant to Commission action taken under Part 271, Subpart K of its regulations.[46] Also, the policy would not apply to costs incurred in reducing the carbon dioxide content of the gas from 3 percent of its volume to below 3 percent of its volume, should the transporter or shipper purchase gas whose carbon dioxide content has not been reduced from 3 percent to below 3 percent.

When such tariffs are filed, the Commission will consider whether the provisions thereof are consistent with this policy statement. It will also be the practice of the Commission to consider whether any proposed revisions in tariffs involving the transportation of gas through the ANGTS, filed under section 4 of the Natural Gas Act, contain provisions which are not consistent with the policy set forth herein.

The Commission received a number of comments on the policy statement proposed in its initial notice of this rulemaking. As proposed, the policy was directed toward granting certificates of public convenience and necessity. After considering the comments, the Commission has revised the proposed policy so that it applies to the approval of tariffs filed with the Commission as well as to applications for certification.

Several of the comments to this rulemaking contended that the policy statement, as proposed, is a contravention of the NGPA, a violation of clear Congressional intent respecting the NGPA, and a violation of the Natural Gas Act. Both Sohio and ARCO argued that the proposed policy would unlawfully reduce the statutory ceiling price established under the NGPA for a sale of Prudhoe Bay Gas by forcing the producers to bear all of the gathering and conditioning costs.[47] They contended that the NGPA allows producers the right to sell their gas at the wellhead for the maximum lawful price and leaves them free to negotiate the allocation of conditioning costs between the seller and the purchaser. In support of this argument they cited statements taken from the floor debate on the NGPA between Senators Gravel and Jackson wherein Senator Gravel stated:

> * * * that the permissive nature of the Commission's power to provide, by rule or order, an allowance in excess of the maximum lawful price for any costs of gas conditioning borne by the seller does not preclude a purchaser from acquiring natural gas at the wellhead, paying the maximum lawful price at that point.[48]

The Commission's policy does not unlawfully reduce the maximum lawful price or prevent the apportioning of conditioning costs by producers and purchasers through contract negotiation. The policy does not preclude a purchaser from acquiring natural gas at the wellhead at any lawful price, including the maximum lawful price. What the policy proscribes is the pass-through of costs imprudently borne by the purchaser which attends the purchase of raw, untreated gas.

In its comments, Exxon claims that adopting the policy violates section 601(c) of the NGPA.[49] Exxon argues that

[46] This conclusion is based on the premise that the producers will contract with purchasers for the sale of Prudhoe Bay gas at no less than the maximum lawful price set by section 109 of the NGPA. If the parties agreed to a sales price lower than the section 109 (NGPA) ceiling with the pipeline paying for some conditioning costs, the Commission would not necessarily oppose such an outcome provided the total price paid for pipeline quality gas did not exceed the applicable section 109 (NGPA) price.

[47] ARCO Comments at 3; Sohio Comments at 12.

[48] 124 Cong. Rec. S16237 (Sept. 27, 1978).

[49] Comments of Exxon Corp., at 33 (filed March 19, 1979). Section 601(c) prohibits the Commission from denying or conditioning the grant of a certificate based upon the amount paid for the gas, if such amount is deemed just and reasonable under section 601(b) of the NGPA. Section 601(b)(1)(A)(i)

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producers are authorized to sell gas at the maximum lawful price under section 109 of the NGPA and that, accordingly, the purchasers are entitled to flow through the ceiling price under Section 601(c)(2). The Commission's policy does not violate section 601 of the NGPA. Section 601 applies only to first sales prices. Amounts not paid in a first sale are not covered under Section 601. The maximum lawful price for sales of gas produced in the Prudhoe Bay Unit, Alaska for transportation through the ANGTS is established by section 109 of the NGPA. Unless and until the Commission permits an addition to this price under section 110 of the NGPA, the ceiling price of section 109 is the maximum lawful price. The Commission's policy prevents only the flow-through of costs which are 110-type but not approved under section 110, and does not prevent the flowthrough of the price established by section 109. Thus, the Commission's policy conforms with section 601.

Panhandle Eastern Pipeline Company contended in its comments that the policy statement summarily forecloses the opportunity to present, under the Natural Gas Act, and to be heard thereon, any proposal at variance with the policy.[50] This misconceives the effect of a statement of policy. In *Pacific Gas and Electric Company* v. *Federal Power Commission*, 506 F.2d 33 (D. C. Cir. 1974), the Court of Appeals described the effect of a general statement of policy:

> A general statement of policy is not finally determinative of the issues or rights to which it is addressed. The agency cannot apply or rely upon a general statement of policy as law because a general statement of policy only announces what the agency seeks to establish as policy. A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation it must be prepared to support the policy just as if the policy statement had never been issued. (506 F.2d at 38.)

The Commission's policy statement does not complete the regulatory process with regard to the proper assignment of production-related costs. When gas purchase contracts are executed, and tariffs and applications for certificates are filed with the Commission, such tariffs and applications will be subject to the review and approval requirements of the Natural Gas Act.

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of the NGPA provides that any amount paid in any first sale of the natural gas shall be deemed to be just and reasonable for purposes of sections 4 and 5 of the Natural Gas Act if such amount does not exceed the applicable maximum lawful price under title I of the NGPA.

[50] Comments of Panhandle Eastern Pipe Line Company at 7 (filed March 17, 1979).

E. Other Issues

The comments have raised several other important issues. These include the relationship of this proceeding to ANGTA, arguments raised by the Department of Justice that producer ownership of the processing or conditioning facilities involves antitrust problems, consideration of the appropriate carbon dioxide standard for the ANGTS, and arguments raised against the procedures used in this rulemaking.

1. *Commission action under ANGTA.* Section 9 of the ANGTA directs federal agencies responsible for the grant of any authorization "necessary or related to the construction and initial operation" of the ANGTS to issue such authorizations "at the earliest practicable date." 15 U.S.C. 719g. The regulations and the policy statement issued under this Order are necessary and related to the construction and initial operation of the ANGTS. These actions are required to establish the regulatory framework in which the gas sales contracting process can proceed. Also, investors will not agree to finance the ANGTS until cost allocations are established. This contracting process is an essential predicate for virtually all future government and private actions to build the ANGTS.

The policy statement adopted by this Order is intended to foster the objectives of the regulations, and is thus related to the construction and initial operation of the ANGTS. Because the phrase "necessary *or* related" in section 9 of the ANGTA is a disjunctive phrase, the "related" nature of these actions would in itself bring them within the ambit of ANGTA jurisdiction. These actions are also, in our view, necessary to the implementation of the project.

In its reply comments, Exxon contended that the Commission's actions in this rulemaking are based upon the NGPA and not the ANGTA, and that the ANGTA, being addressed only to matters involving the selection of a pipeline for transportation of gas from Alaska, contains no provisions relating to the pricing of Alaska gas.[51] The Commission disagrees. Section 9 of ANGTA, 15 U.S.C. 719g, implements the legislative purpose of the Act, "to expedite * * * construction and * * * operation" of the system approved under the Act. The substantive authority exercised by the Commission under the NGPA and the Natural Gas Act, to the extent applicable to actions "necessary or related" to the construction and initial operation of the ANGTS, must then be exercised in accordance with the requirements of section 9 of the ANGTA.

Some comments suggested that section 9 of the ANGTA only applies when an application is made for one of the authorizations specified in section 9(a) of the ANGTA, and that the Commission is not deciding the merits of any such application in this proceeding.[52] We find this argument unpersuasive. A policy regarding the approval of tariffs related to the construction and operation of the ANGTS should receive the same expedited consideration as a certificate to construct. This is consistent with the purpose of the ANGTA. Second, with regard to the amendments to the interim regulations under the NGPA, section 9(a) of the ANGTA applies to "a certificate, right-of-way * * * or other authorizations to be issued or granted by the federal officer or agency * * *." The term *"authorization"* is, in our view, broad enough to include the decision whether to permit sellers of gas produced in the Prudhoe Bay Unit, Alaska an adjustment to the maximum lawful price established by the NGPA.[53]

2. *Antitrust issues.* The Department of Justice in its comments expressed concern with the anticompetitive impact that might result from producer ownership of the gas conditioning plant. That concern was based in large part upon the premise that all gas developed on the North Slope would be handled by the gas conditioning plant at the

[51] Reply comments of Exxon Corporation at 16.

[52] *See*, Reply comments of Exxon, at 19; Reply comments of Atlantic Richfield Company, at 4–8. Section 9(a) reads, in pertinent part, as follows:

> (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but (2) without regard to any provision of law which is waived pursuant to section 719f(g) of this title issue or grant such certificates, permits, rights-of-way, leases, and other authorizations at the earliest practicable date.

[53] Exxon and Sohio make several arguments in their comments relating to the applicability of the limited judicial review provisions contained in section 10 of the ANGTA. Thus, Sohio argues that judicial review of Commission action taken under the substantive law of NGPA must be a review pursuant to the provisions of section 506 of that Act, because, as a subsequently enacted law, the NGPA must supercede the provisions of section 10 of ANGTA. Reply Comments of Sohio Natural Resources Co. (Docket No. RM79–19) (filed April 3, 1979). Determination of the nature and scope of judicial review applicable to this rulemaking rests with the courts, not the Commission.

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Prudhoe Bay field; the assumption that this plant would be characterized by economies of scale so great that it would constitute a competitive "bottleneck," and thereby restrain or entirely eliminate the opportunity for future competition in the relevant market from other facilities; and that the tariffs of the gas conditioning plant will not be regulated by the Commission. To eliminate any monopoly potential, the Department of Justice proposed that the Commission promulgate special rules for the gas conditioning plant.[54]

The Commission shares the Justice Department's concern about creating a situation that could lead to the development of unchecked monopoly power. However the Commission believes that the issues raised by the Justice Department do not need to be resolved in this Order, and should be deferred for resolution in a later proceeding, if then necessary and appropriate.

The Commission's February 2, 1979 Notice contemplated the adoption of a policy requiring, *inter alia*, that the conditioning facilities would be "owned" by the producers. Several of the comments questioned the Commission's jurisdiction to prescribe who could or could not "own" those facilities. In response to those comments, the Commission has recast its policy by deleting references to "ownership" of the facilities, focusing the policy instead on the "financial responsibility" for the conditioning facilities in the sense of which parties ought to bear the burdens of certain conditioning costs. As so recast, the Commission's policy is not necessarily premised on "ownership" of those facilities by any particular parties or entities, or by any combination thereof.

Accordingly, it would be premature to attempt to resolve at this time what "conditions" should be imposed in connection with "ownership" of the conditioning facilities, or even who might or might not have jurisdicition to impose such conditions. Those issues ought to be deferred until such time as more facts are available as to the contemplated nature and ownership of the facilities.

[54] These rules may be summarized as follows:

(1) The facility must provide nondiscriminatory access to all producers of natural gas;

(2) Any owner providing capital can unilaterally obtain expansion of the gas conditioning facility;

(3) An ownership share must be made available to all parties wishing to use the facilities, and this rule for ownership should be promulgated prior to construction; and

(4) Ownership must be revised on a regular basis according to use.

See Comments of the United States Department of Justice (Docket No. RM79-19) (filed March 19, 1979).

3. *Carbon Dioxide Standards.* In response to certain comments regarding the Commission's April 6, 1979, Notice of Proposed Rulemaking in Docket No. RM78-12,[55] the Commission ordered [56] the submission of further information and comments regarding the appropriate carbon dioxide content standard for natural gas entering the ANGTS, along with information regarding the impact of such standard on the distribution of costs between the conditioning and transportation functions. However, the Commission specifically reserved any "* * * determination of whether such studies are relevant and material to the issues to be resolved in Docket No. RM79-19." (May 16, 1979 Order at 4.) Based on the comments received, we believe that a determination of the appropriate carbon dioxide standard is not required for our consideration of Docket No. RM79-19. The resolution of that issue is left to further order under Docket No. RM78-12.

4. *Procedural Due Process.* This rulemaking was first noticed for comment on February 2, 1979. By that notice, comments were required to be filed by March 5, 1979, and reply comments were to be filed by March 19, 1979. Upon consideration of a motion by Sohio Natural Resources Company, the Commission extended the deadlines for filing initial and reply comments to March 19, 1979, and April 2, 1979, respectively.

After the close of the last filing date, the Commission issued two additional requests for comments and data. The first, soliciting information as to the proper carbon dioxide standard for the ANGTS and entitled "Order Requesting Further Submission of Data, Views, and Comments," was issued May 16, 1979. Initial data was to be submitted by June 1, 1979, and comments on the data were to be filed by June 15, 1979. By Notice issued June 14, 1979, the latter comment period was extended to June 25, 1979. This extension, granted in response to a motion filed by the State of Alaska, was made applicable only to that party. The second additional request for comments, a "Notice Inviting Comments" on a recently received special study reviewing Alaska Natural Gas Transportation System issues, and on two producer contracts for the sale of Prudhoe Bay gas that had been recently filed with the Commission, was issued May 31, 1979. Comments on these three items were to be filed by June 15, 1979. Upon consideration of motions filed by Exxon and Sohio, that comment period was extended to June 22, 1979.

Throughout the course of the proceeding, the Commission received several motions for extension of time to file comments or reply comments. Not all were granted, and those that were granted were for less than the requested times. The Commission is of the opinion that it proceeded properly, given the dual legal mandates of providing adequate time for reasoned comments [57] while acting as expeditiously as possible with respect to action touching upon the ANGTS, 15 U.S.C. 719g(a).

In all, 16 comments and 7 reply comments were received in response to the initial notice.[58] Besides the report on carbon dioxide submitted by Atlantic Richfield,[59] the Commission received a total of 10 comments in response to its notice inviting comment on carbon dioxide standards.[60] Finally, a total of 7 comments were received in response to the Commission's issuance of the special study and producer contracts.[61] This response supports our opinion that, while necessarily brief, the comment periods set for this docket were adequate to assure meaningful and reasoned responses.

[55] Determination of Incentive Rate of Return, Tariff and Related Issues for the Alaska Natural Gas Transportation System, Docket No. RM78-12, "Initial Comments of the State of Alaska" at 6-7 (May 4, 1979), and "Comments of Sohio Natural Resources Company on Notice of Proposed Rulemaking Issued April 6, 1979" at 2 (May 4, 1979).

[56] Docket No. RM78-12, and this proceeding, "Order Requesting Further Submission of Data, Views, and Comments" (May 16, 1979).

[57] *See, e.g.*, Portland Cement Assoc. v. Ruckelshaus, 486 F.2d 375, 392-393 (D.C. Cir. 1973).

[58] Sixteen initial comments were received: Comments of the Public Service Commission of the State of New York (Docket No. RM79-19) (filed March 8, 1979); Comments of Columbia Gas System Service Corporation, (Docket No. RM79-19) (filed March 15, 1979); Initial Comments of the People of the State of California and the Public Utilities Commission of the State of California, (Docket No. RM79-19) (filed March 16, 1979); Comments of Mobil Oil Corporation on the Proposed Rulemaking and Statement of Policy Concerning Production-Related Costs for Prudhoe Gas issued by the Federal Energy Regulatory Commission on February 2, 1979, (Docket No. RM79-19) (filed March 19, 1979); Comments of Panhandle Eastern Pipe Line Company, (Docket No. RM79-19) (filed March 19, 1979); Comments of SOHIO Natural Resources Company Concerning Proposed Rulemaking and Statement of Policy (Docket No. RM79-19) (filed March 20, 1979); Comments of Texaco, Inc. (Docket No. RM79-19) (filed March 19, 1979); Comments of Exxon Corporation (Docket No. RM79-19) (filed March 19, 1979); Comments of the State of Alaska (Docket No. RM79-19) (filed March 19, 1979); Comments of United States the Department of Justice (Docket No. RM79-19) (filed March 19, 1979); Comments of Foothills Pipe Lines (Yukon) Ltd. on Notice of Proposed Rulemaking and Statement of Policy (Docket No. RM79-19) (filed March 19, 1979); Initial Comments of the Federal Energy Regulatory Commission Staff (Docket No. RM79-19) (filed March 19, 1979); Comments of Atlantic Richfield Company on the Proposed Rulemaking and Statement of Policy concerning Production-Related Costs for Prudhoe Gas issued by the Federal Energy Regulatory Commission on February 2, 1979, (Docket No. RM79-19) (filed March 19, 1979); Letter to Mr. Plumb, Secretary to the Commission, from Earth Resources Company of Alaska (Docket No. RM79-19) (dated February 28, 1979); Comments of Northwest Pipeline Corporation (Docket No. RM79-19) (filed March 19, 1979); Comments of Pacific Interstate Transmission Company (Docket No. RM79-19) (filed March 10, 1979). Seven reply comments were filed as well: Reply Comments of the State of Alaska (Docket No. RM79-19) (filed Apr. 3, 1979); Reply Comments of Atlantic Richfield Corporation on the Proposed Rulemaking and Statement of Policy Concerning Production-Related Costs for Prudhoe Gas Issued By the Federal Energy Regulatory Commission on February 2, 1979 (Docket No. RM79-19) (filed Apr. 2, 1979); Reply Comments of Exxon Corporation (Docket No. RM79-19) (filed

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Apr. —, 1979); Reply Comments of the Federal Energy Regulatory Commission Staff (Docket No. RM79-19) (filed Apr. 3, 1979); Reply Comments of Northwest Pipeline Corporation (Docket No. RM79-19) (filed Apr. 2, 1979); Reply Comments of Sohio Natural Resources Company (Docket No. RM79-19) (filed Apr. 3, 1979); Reply Comments of Texaco, Inc. (Docket No. RM 79-19) (filed Apr. 4, 1979).

[59] Ralph M. Parsons Co., *February 1979 Supplementary Report CO_2 Specifications Study; Sales Gas Conditioning Facilities Prudhoe Bay, Alaska*, (1979) (submitted by Atlantic Richfield Company in Docket Nos. RM78-12, RM79-19, June 8, 1979).

[60] Comments of Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company (Docket Nos. RM78-12, RM79-19) (filed June 1, 1979); Comments of Atlantic Richfield Company in reponse to the Order Requesting Further Submission of Data, Views and Comments issued May 16, 1979 (Docket Nos. RM78-12, RM79-19) (filed June 1, 1979); Comments of Sohio Natural Resources Company on Order Requesting Further Submission of Data, Views, and Comments issued May 16, 1979 (Docket Nos. RM78-12, RM79-19) (filed June 1, 1979); Letter of June 15, 1979 by Northwest Alaskan Pipeline Company to Kenneth Plumb, Secretary to the Commission (Docket Nos. RM78-12, RM79-19) (filed June 15, 1979); Reply Comments of Atlantic Richfield Company (Docket Nos. RM78-12, RM79-19) (filed June 15, 1979); and Reply Comments of Exxon Corporation (Docket Nos. RM78-12, RM79-19) (filed June 15, 1979). In addition four other comments were submitted and reviewed after the June 15th date. These included the comments of Alaska, submitted under the Commission's action to permit late filing. Reply Comments of the State of Alaska (Docket Nos. RM78-12, RM79-19) (filed June 25, 1979); Reply Comments of SOHIO Natural Resources Company (Docket Nos. RM78-12, RM79-19) (received June 22, 1979); comments of Natural Gas Pipeline Company of America (Docket Nos. RM78-12, RM79-19) (received July 3, 1979); additional comments of the Federal Energy Regulatory Staff (Docket Nos. RM78-12, RM79-19) (received June 26, 1979).

[61] Further Comments on the State of Alaska (Docket No. RM79-19) (filed June 22, 1979); Comments of Atlantic Richfield Company Concerning Staff Study Entitled "A Review of Alaska Natural Gas Transportation System Issues" (Docket No. RM79-19) (filed June 22, 1979); Comments of Columbia Gas Transmission Corporation (Docket No. RM79-19) (filed June 22, 1979); Limited Comments of Exxon Corporation Regarding the ICF Study on Alaska Natural Gas Transportation System Issues and Prudhoe Bay Gas Sales and Purchase Agreements (Docket No. RM79-19) (filed June 22, 1977); Comments of the People of the State of California and the Public Utilities Commission of the State of California (Docket No. RM79-19) (filed June 22, 1979); Comments of SOHIO Natural Resources Company concerning May 1979 Report by ICE (sic) Incorporated and Gas Sale and Purchase Agreements (Docket No. RM79-19) (filed June 22, 1979); Additional Comments of the Federal Energy Regulatory Commission Staff (Docket Nos. RM78-12, RM79-19) (received June 26, 1979).

It is with respect to the last request for comments, the Notice which circulated for comment the special study on ANGTS issues and the producer contracts, that questions have been raised concerning due process.[62] The gravamen of these allegations was that the Commission provided inadequate time to comment. This lack of adequate time was attributed in part to the short comment period, but particularly to the late release of a large amount of background information on the study, in response to information requests by certain parties.[63] The Commission is of the opinion that these objections are groundless. First, while it is incumbent upon the Commission to provide an adequate time to respond by comments, this requirement is tempered by the ANGTA's mandate for expedition. Second, while mildly relevant, neither the report nor the two contracts were materially relied upon by the Commission in promulgating this rule. Moreover, neither the study nor the contracts had to be noticed; the Commission could merely have made them a part of the public record in this proceeding.

Thus, the Commission believes that the procedures it has followed fully and properly comply with the notice and comment process. Nevertheless, in an abundance of caution, and to eliminate any lingering doubts, the Commission will afford the parties an additional opportunity to comment on the study and the background materials circulated in response to the information requests. In issuing this rule, the Commission has provided for an opportunity to petition for rehearing. Parties who wish to submit additional comments on the study and its background material may do so in conjunction with any petition for rehearing.

Finally, we note that on July 12, 1979, the Commission circulated to all parties in Docket No. RM79-19, copies of documents voluntarily supplied to counsel for the State of Alaska in response to a Freedom of Information Act request that has become the subject of litigation.[64] The Commission has not relied on that material in any way in the preparation of this Order. Nevertheless, inasmuch as those documents were circulated subsequent to the close of the comment period (as extended), and inasmuch as the Commission is permitting limited additional comment in conjunction with petitions for review, the Commission will also permit all parties to include in those comments any additional comments they may wish to make with respect to the material circulated in response to Alaska's Freedom of Information Act request.

[62] *See, e.g.*, Comments of Atlantic Richfield Company Concerning Staff Study Entitled "A Review of Alaska Natural Gas Transportation System Issues" at 2, n.2 (Docket of Exxon Corporation Regarding the ICF Study on Alaska No. RM79-19) (filed June 22, 1979); "Limited Comments Natural Gas Transportation System Issues and Prudhoe Bay Gas Sale and Purchase Agreements" at 2-4 (Docket No. RM79-19) (filed June 22, 1979).

[63] On June 8, 1979 and again on June 11, 1979, attorneys for the Exxon Corporation petitioned the Commission under § 3.102 and 1.36 of its regulations for the release of certain information concerning the study issued for comment. June 6, 1979 letter of Michael J. Manning and Patrick J. Keeley to John Adger, Director of the Commission's Alaska Project Office (Docket No. RM79-19) (filed June 7, 1979); June 11, 1979 letter of Michael J. Manning to and Patrick J. Keeley to John Adger Director (Docket No. RM79-19) (filed June 12, 1979). Responses to these requests were made on June 8, 15, 18 and 20, 1979, with copies served on all parties of record in Docket No. RM79-19.

Further Proceedings

The Commission is making this rule effective 60 days from the date of its issuance. The Commission will permit petitions for rehearing to be filed within 30 days of the date of issuance. Such petitions may include certain additional comments, as described above.

Pursuant to the mandate of section 502(b) of the Natural Gas Policy Act, the Commission will provide an opportunity for oral presentations prior to the effective date of this Order. That opportunity will occur subsequent to the date by which petitions for rehearing must be filed and prior to the Commission's resolution of such petitions. An appropriate notice will be issued, advising all interested persons of the time and place of the oral presentations.

Because this rule is issued *inter alia* pursuant to ANGTA, the Commission believes that it has an important responsibility to resolve all issues attendant to the rule as promptly as possible. Final agency action to permit prompt judicial review should occur as soon as reasonably practicable. Likewise, agency action implementing the rule should also proceed as promptly as possible. Therefore, we are structuring the petition procedure so as to permit judicial review (if any) on the rule to commence within 60 days of the issuance of this Order, while simultaneously inaugurating proceedings under the Order.

Accordingly, any party that wishes to file an application for review under § 271.1106 of the Commission's regulations, and that also wishes to file a petition for rehearing of this Order,

[64] The request was made by attorneys on behalf of the State of Alaska, March 5, 1979, letter of Mr. Robert H. Loeffler to the Commission's Director of Public Information. The case is State of Alaska V. FERC, No. 79-1329 (D.C.D.C. filed May 15, 1979).

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may cast its petition for rehearing, in the alternative, as an application for an adjustment under section 502(c) of the NGPA. In the event that such petition for rehearing is denied, the Commission, on its own motion, will then immediately proceed to consider the section 502(c) application. Such alternative applications accompanying petitions (or the petitions themselves) should be written in conformity with the Commission's regulations governing such applications, § 1.41 of the Commission's rules of practice and procedure. Should a denial of a petition for rehearing require such consideration, the Commission will review the application under the same rules as govern all such applications except that the 150-day determination period for staff review (§ 1.41(i)(3)) shall, for purposes of this order only, be shortened to 60 days. The Commission waives that provision of its regulations in order to review and decide such applications as quickly as possible.

Findings

For the reasons set forth above, the Commission finds:

(1) That the granting of an allowance under section 110 of the NGPA to the first sellers of natural gas produced at Prudhoe Bay, Alaska for transport through the ANGTS is an action related to the construction and initial operation of the ANGTS.

(2) That such allowances should not be granted except for costs incurred in the removal of carbon dioxide from a level of three percent by volume to a level of less than three percent by volume.

(3) That allowance for any production-related cost may, on future consideration, be necessary to prevent or alleviate special hardship, inequity, or an unfair distribution of burdens, and that provision should be made for such allowances pursuant to the procedures of section 502(c) of the NGPA.

(4) That there is a rebuttable presumption that costs incurred by transporters or shippers to condition natural gas (except for carbon dioxide removal below three percent) for transportation through the ANGTS are costs that were not prudently incurred.

(5) That the actions taken under this Order are in the public interest, and are necessary and appropriate for the proper adminstration of the Natural Gas Policy Act, the Natural Gas Act, the Alaska Natural Gas Transportation Act, and the President's *Decision* as adopted by the Congress.

Orders

Upon these findings and for the reasons set forth above, the Commission orders:

(1) That the regulations of the Commission be amended as set forth below, such amendments to become effective 60 days from the date of issuance of this Order.

(2) That parties to Docket No. RM79–19 may file petitions for rehearing of this rule within 30 days of the date of issuance of this order, pursuant to the procedure set forth in § 1.34 of the Commission's rules of practice and procedure. Such petitions may include views, data and comment with respect to the background materials that were circulated to the parties in response to information requests submitted by Exxon, and in response to the Freedom of Information Act request submitted by the State of Alaska, which materials were circulated to the parties shortly prior to, or subsequent to, the close of the comment period.

(3) That petitions for rehearing may be accompanied by, or drafted in the alternative as, an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act and § 271.1106 of the regulations. Such applications under § 271.1106 are to be made in conformance with the requirements of § 1.41 of the Commission's rules of practice and procedure.

(4) That in the event of a denial of any petition for rehearing under this Order which is drafted in the alternative as, or accompanied by, an application for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act, the Commission will, on its own motion, immediately proceed with consideration of such application. In considering such application, the Commission will be bound by the procedures of § 1.41 of its regulations except that the applicable "determination period" for staff review shall be 60 days commencing from the date that the petition for rehearing is denied.

(5) The Commission will provide an opportunity for oral presentations, subsequent to the date for filing petitions for rehearing and prior to the resolution of such petitions. A notice will be issued in sufficient time to provide interested parties knowledge of the time and place for such presentation and the procedures to be followed. (Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565, E.O. 12009, 42 FR 46267 (Sept. 15, 1977); Natural Gas Act, *as amended*, 15 U.S.C. §§ 717, *et seq.*; Alaska Natural Gas Transportation Act, 15 U.S.C. § 719(g); President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, H.J. Res. 621, Pub. L. No. 95–158, 91 Stat. 1268 (1977); Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3300 (1978).

In consideration of the foregoing, Part I, Subchapter A, Chapter I of Title 18 and Part 271, Subpart K of Title 18 are amended as set forth below, effective 60 days from the date of issuance.

By the Commission. Commissioner Sheldon, dissenting, filed a separate statement appended hereto.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

Part 2, Subchapter A of Chapter I, Title 18 Code of Federal Regulations is amended by adding new § 2.101 to read as follows:

§ 2.101 Policy respecting consideration of certain tariffs applied for pursuant to the Natural Gas Act and involving gas to be transported through the Alaska Natural Gas Transportation System.

(a) In any proceeding involving the acceptance and the approval of tariffs filed with the Commission, or consideration of applications to construct or acquire facilities (whether they are submitted in conjunction with applications for certificates of public convenience and necessity for the construction and operation of the Alaska Natural Gas Transportation System, or whether they are for the purchase or transport of gas through that system), it will be the general policy of the Commission that there is a rebuttable presumption that costs incurred by transporters or shippers to condition natural gas for transportation through the Alaska Natural Gas Transportation System are costs that were not prudently incurred. Therefore, it will be the general policy of the Commission, absent rebuttal of the presumption, not to accept and approve tariff filings which permit the transporter or the shipper-purchaser to include the costs of conditioning gas as an addition to the costs of purchasing gas at the maximum lawful price.

(b) Additionally, absent rebuttal of the presumption, the Commission will deny any applications by any jurisdictional companies for authority to construct, acquire or operate facilities to perform such conditioning unless such facilities are financed by the producers, or by someone other than transporters or shippers of the gas.

(c) The policy of this section does not apply to such production-related costs as are allowed pursuant to Commission action taken under Part 271, Subject K of its regulations. The policy will not apply to the costs of reducing the carbon dioxide content of the gas from three percent of its volume to below three percent of its volume, should the transporter or shipper purchase gas which carbon dioxide content has not been reduced from three percent to below three percent of its volume.

PART 271—CEILING PRICES

§ 271.1100 [Amended]

(2) Section 271.1100 of Subpart K, Part 271 of the Subchapter H of Chapter I, Title 18 Code of Federal Regulations is amended by deleting paragraph (b) in its entirety.

(3) Section 271.1105 is amended in paragraph (b) by revising paragraph (b)(2) and adding a new paragraph numbered (b)(3) to read as follows:

§ 271.1105 Production-related costs.

* * * * * *

(b) *Exclusion of certain natural gas.*

* * *

(2) Is subject to an existing intrastate contract, an intrastate contract or a successor to an existing intrastate contract; or

(3) Was produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976 saving only such applications as are submitted pursuant to § 271.1105(d)(3).

(4) Section 271.1105 is further amended in paragraph (d) by amending the introduction of paragraph (d)(1) by designating paragraph (d)(2) as (d)(3) and by adding a new paragraph numbered (d)(2) to read as follows:

§ 271.1105 Production-related costs.

* * * * * *

(d) *Other production-related costs.* (1) Except as provided in paragraph (b) of this section and in subparagraphs (2) and (3) of this paragraph,

* * * * * *

(2) With respect to first sales of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976, the Commission will entertain applications for costs necessary to lower the carbon dioxide content from a level of 3 percent by volume to a level of less than 3 percent by volume.

(3) Subject to paragraph (b) of this section, the Commission will entertain applications for costs necessary to meet or exceed the standards in subparagraph (1) of this paragraph with respect to first sales of natural gas to any person for use by such person.

Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported Through the Alaska Natural Gas Transportation System

[Docket No. RM79–19]

Sheldon, Commissioner, dissenting:

Reviewing the President's Decision of September 1977 and its relationship to the numerous statutes concerning the Alaska Natural Gas Pipeline, I would reach a different conclusion than that of my colleagues. But at this time I believe it is premature to fully articulate my concerns.

The majority's statement of policy leaves many issues to be resolved at a later date. The unresolved issues are:

(A) The carbon dioxide standard is left to the further order in Docket No. RM78–12.

(B) Additional time has been allowed for further comments on the ANGTS issue and the producer contracts.

(C) The Commission will permit the parties to file additional comments with respect to the material circulated in response to the State of Alaska's Freedom of Information Act request.

(D) Pursuant to the mandate of Section 502(b) of the Natural Gas Policy Act, the Commission will allow the oral presentation of views prior to the *effective* date of this order.

Participants in this proceeding will obviously wish to file additional comments, rehearing and orally present their views to the Commission. These additional proceedings will have a substantial impact upon the majority's final resolution of this issue.

Georgiana H. Sheldon,

Commissioner.

[FR Doc. 79–27437 Filed 8–31–79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 79–221]

Customs Regulations Relating to the Entry of Merchandise, Liquidation of Entries, Warehousing Periods, and Marking of Bulk Containers of Alcoholic Beverages, Amended

Correction

In FR Doc. 79–24494 appearing at page 46794 in the issue of Thursday, August 9, 1979, in the first column of page 46813, in § 10.31(a)(3)(iii), in the third line, "* * * are imported * * *" should have read "* * * are not imported * * *".

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Fiscal Service

31 CFR Part 211

Amendment Deleting China From the List of Restricted Countries

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Final rule.

SUMMARY: The Secretary of the Treasury has assurances that checks or warrants drawn against funds of the United States and sent to China will be received by the payees and given full value. Therefore, the Department of the Treasury amends its regulations at 31 CFR Part 211 (Treasury Department Circular 655) to delete China from the list of restricted areas. The effect of this amendment is to allow payees in China to receive checks and warrants drawn against funds of the United States. The lifting of the restrictions on the delivery of checks to China does not affect the blocking restrictions under the Department of the Treasury's Foreign Assets Control Regulations at 31 CFR Part 500. Those checks and warrants which are blocked pursuant to 31 CFR Part 500 still cannot be sent to China.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Melissa Allen, Government Accounting Systems Staff, Room 412, Annex No. 1, Department of the Treasury, Washington, D.C. 20226, (202–566–8374).

SUPPLEMENTARY INFORMATION: On the basis of information available to the Secretary of the Treasury, including advice from the Department of State concerning normalization of relations with China, the Secretary has determined that postal, transportation and banking facilities in general, and local conditions in China are such that there is now a reasonable assurance that the payee of a check or warrant drawn against funds of the United States, or any agency or instrumentality thereof, will actually receive such a check or warrant and be able to negotiate it for full value. The Department of the Treasury, therefore, removes China from the list of restricted areas enumerated in Circular 655.

While the amendment of Circular 655 to delete China has the effect of removing the overall prohibitions on sending United States Government

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checks to China, the amendment does not revoke the blocking restrictions contained in the Foreign Assets Control Regulations. In the absence of a Treasury license, United States Government remittances to China or any national thereof may not involve any payment from a blocked account. An account is blocked under the Foreign Assets Control Regulations if there was a Chinese interest therein on or after December 16, 1950. With certain exceptions, current transactions with China were authorized as of May 6, 1971. It is anticipated that the United States will unblock Chinese assets on or about October 1, 1979.

The immediate effect of lifting the restrictions on China is to permit the delivery of United States Government checks and warrants which are not blocked by Foreign Assets Control Regulations. The Department of the Treasury believes the preponderance of these checks and warrants are Chinese claims, accruing after May 6, 1971, for United States Government benefits, e.g. Social Security payments, Veterans Administration payments, and Civil Service retirement benefits. Individual Federal agencies may delay payments on unblocked accounts until entitlement has been clearly established in accordance with special criteria prescribed by statutes or their regulations.

The Department of the Treasury finds, in accordance with 5 U.S.C. 553, that notice and public procedure are not required since the amendment pertains to a foreign affairs function of the United States and relates to benefits or contracts with private entities. Furthermore, the Department of the Treasury finds that notice and public procedure are not necessary since the amendment removes a burden which had previously been imposed by Circular 655.

(31 U.S.C. 126 and 5 U.S.C. 301)

Accordingly, 31 CFR Part 211.1(a) is amended by deleting "the People's Republic of China" from the list of restricted areas, and reads as follows:

§ 211.1 Withholding delivery of checks.

(a) It is hereby determined that postal, transportation or banking facilities in general, or local conditions in the People's Republic of Albania, the Republic of Cuba, Democratic Kampuchea, North Korea, the Socialist Republic of Viet-Nam, the German Democratic Republic, and the Soviet Sector of Berlin, Germany, are such that there is not a reasonable assurance that a payee in those areas will actually receive checks or warrants drawn against funds of the United States, or agencies or instrumentalities thereof, and be able to negotiate the same for full value.

* * * * *

Dated: August 29, 1979.

P. H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-27402 Filed 8-31-79; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 100

[DoD Directive 1215.13] [1]

Unsatisfactory Performance of Ready Reserve Obligation

AGENCY: Office of the Secretary of Defense.

ACTION: Revision of final rule.

SUMMARY: This part updates the Department of Defense's policy on actions to be taken regarding members of the Ready Reserve whose performance of duty or whose participation in Reserve training is unsatisfactory. This modification of Department of Defense policy provides greater flexibility to the Secretaries of the Military Departments when they deal with unsatisfactory performance.

EFFECTIVE DATE: June 30, 1979.

FOR FURTHER INFORMATION CONTACT: LTC J. L. Gould, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Washington, D.C. 20301, Telephone 202-697-4334.

SUPPLEMENTARY INFORMATION: In FR Doc. 67-2536, appearing in the **Federal Register** (32 FR 3829) on March 9, 1967, the Office of the Secretary of Defense published Part 100 to establish DoD policy regarding members of reserve components who enlist or who have enlisted into Ready Reserve units but who do not participate satisfactorily in such Reserve units after enlistment. On July 9, 1969, the Department of Defense revised Part 100 and published the revisions in FR Doc. 69-7998, appearing in the **Federal Register** (34 FR 11356). The thrust of this revision was a clarification of the term "unsatisfactory participation;" the specification of the mobilization status of Reserve personnel as a result of Government action; and the incorporation of new policy with regard to reservists who change residences and who are not relocatable. In FR Doc. 71-18194, appearing in the **Federal Register** on December 11, 1971 (36 FR 23627), and in FR Doc. 73-1969, appearing in the **Federal Register** on February 1, 1973 (38 FR 3043), Part 100 was revised and updated to reflect current Department of Defense policy concerning the actions to take in regard to members of the Ready Reserve whose performance of duty or whose participation in reserve training is unsatisfactory.

This revision further modifies DoD policy regarding unsatisfactory performance of Ready Reserve members of the Armed Forces of the United States. Accordingly, 32 CFR Chapter I is amended by revising Part 100, reading as follows:

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 301.

PART 100—UNSATISFACTORY PERFORMANCE OF READY RESERVE OBLIGATION

Sec.

100.1 Reissuance and purpose.
100.2 Applicability.
100.3 Policy.
100.4 Responsibility.
100.5 Procedures.
100.6 Definitions.

Enclosure—Suggested Format, Affidavit of Service by Mail.

Authority.—Title 10, U.S.C. 510, 511, 593, 597, or 651, and Title 32 U.S.C. 302.

§ 100.1 Reissuance and purpose.

This part is reissued to update DoD policy on actions to be taken in regard to members of the Ready Reserve whose performance of duty or participation in Reserve training is unsatisfactory; and provides greater flexibility to the Military Departments when dealing with unsatisfactory performance.

§ 100.2 Applicability.

The provisions of this part apply to the Office of the Secretary of Defense and the Military Departments.

§ 100.3 Policy.

Persons who are enlisted or appointed in, or transferred to a Reserve component of the Armed Forces of the United States, under the provisions of 10 U.S.C. 510, 511, 593, 597, or 651 and 32 U.S.C. 302 are expected to participate and perform satisfactorily as members of the Ready Reserve to fulfill their obligation or service agreement. This policy is also in accordance with the standards prescribed by 32 CFR Parts 102 and 101 and the Military Departments concerned.

§ 100.4 Responsibility.

The Secretaries of the Military Departments shall ensure that:

(a) Ready Reserve applicants understand their obligations for satisfactory participation in the Ready Reserve before their enlistment or appointment.

(b) Members of the Ready Reserve continue to understand their obligations for satisfactory participation in the Ready Reserve after their enlistment or appointment in accordance with 32 CFR Part 44.

§ 100.5 Procedures.

(a) *Unsatisfactory participation in the Ready Reserve.* (1) Members of the Selected Reserve who have not fulfilled their statutory military service obligation under 10 U.S.C. 651 and whose participation has not been satisfactory *may* be:

(i) Ordered to active duty, *if they have not served on active duty or active duty for training for a total period of 24 months,* for such period of time as may be deemed necessary by the Secretary of the Military Department concerned under the provisions of 10 U.S.C. 673a (such individuals may be required to serve on active duty until their total service on active duty or active duty for training equals 24 months); or

(ii) Ordered to active duty for training, *regardless of the length of prior active duty or active duty for training,* for a period of not more than 45 days under provisions of 10 U.S.C. 270; or

(iii) Transferred to the Individual Ready Reserve (IRR) for the balance of their statutory military service obligation with a tentative characterization of service, normally under other than honorable conditions, when the Military Department concerned has determined that the individuals still possesses the potential for useful service under conditions of full mobilization; or

(iv) Discharged for unsatisfactory participation under the provisions of 32 CFR Part 41, when the Military Department concerned has determined that the individual has *no* potential for useful service under conditions of full mobilization.

(2) Members of the Selected Reserve who have fulfilled their statutory military service obligation under 10 U.S.C. 651 or who did not incur such obligation,[2] and whose participation has not been satisfactory *may* be:

(i) Transferred to the IRR for the balance of their current enlistment contract or service agreement with a tentative characterization of service, normally under other than honorable conditions, when the Military Department concerned has determined that the individual still has a potential for useful service under conditions of full mobilization; or

(ii) Discharged for unsatisfactory performance under 32 CFR Part 41 when the Military Department concerned has determined that the individual has no further potential for useful service under conditions of full mobilization.

(3) When a member of the Selected Reserve is identified as an unsatisfactory participant and considered a possible candidate for involuntary transfer to the IRR or for discharge, a board of officers shall be convened, as required by 10 U.S.C. 1163 to consider the circumstances and recommend appropriate action.

(4) When an individual is transferred to the IRR as a result of an approved board recommendation, no further board action shall be required before discharge if the individual fails to take affirmative action in an effort to upgrade the tentative characterization of service.

(5) Members of the IRR who have not fulfilled their statutory military service obligation under 10 U.S.C. 651 were enlisted or appointed under any program that provided that the obligation could be fulfilled by service in the IRR only, and whose participation in such a program has not been satisfactory *may* be:

(i) Retained in the IRR for the duration of their statutory military service obligation with a tentative characterization of service, normally under other than honorable conditions, when the Military Department concerned has determined that the individual still possesses the potential for useful service under conditions of full mobilization; or

(ii) Discharged for unsatisfactory performance under 32 CFR Part 41, when the Military Department concerned has determined that the individual has no potential for useful service under conditions of full mobilization.

(6) When a member of the IRR, whose enlistment or appointment provided that the service concerned could be performed entirely in the IRR (as opposed to the Selected Reserve), is identified as an unsatisfactory participant, a board of officers shall be convened as required by 10 U.S.C. 1163 to consider the circumstances and recommend appropriate action. When an individual is retained as a result of an approved board action, no further board action shall be required before discharge if the individual fails to take affirmative action in an effort to upgrade the tentative characterization of service.

(7) Individuals assigned to the Selected Reserve who are ordered to active duty under 10 U.S.C. 673a or to active duty for training under the provisions of 10 U.S.C. 270 may be returned to their previous unit of assignment or transferred to the IRR upon the completion of the active duty or active duty for training. When necessary, the individual's term of enlistment or service agreement may be extended to permit completion of the designated period of active duty or active duty for training in accordance with 10 U.S.C. 270(b) and 673(b).

(8) Individuals who are transferred or assigned to the IRR who have a tentative characterization of service of less than honorable because of unsatisfactory participation in the Ready Reserve shall be discharged at the end of their statutory military service obligation or their period of enlistment or service agreement, whichever is later with such characterization *unless* the individuals have taken affirmative action to upgrade the tentative characterization of service. Affirmative actions may include, but are not limited to, rejoining a unit of the Selected Reserve and participating satisfactorily for a period of 12 months, or volunteering for and completing a tour of active duty for training of not less than 45 days. When necessary, the individual's term of enlistment or service agreement may be extended to complete the affirmative action and qualify for a more favorable characterization of service.

(9) When members of the Selected Reserve are ordered to active duty, active duty for training, or transferred to the IRR because of unsatisfactory participation, copies of their orders should be furnished to the individuals through personal contact by a member of the command and a written acknowledgement of receipt obtained. When such efforts are unsuccessful, the orders shall be mailed to the individual.

(i) Orders mailed to such members shall be sent by Certified Mail (Return Receipt Requested), and a Receipt for Certified Mail (PS Form 3800) obtained. In addition, the individual who mails the orders shall prepare a Sworn Affidavit of Service by Mail (format at enclosure) that shall be inserted, together with the PS Form 3800, in the member's personnel file.

(ii) Notification shall be made through the mailing of orders to the member's most recent mailing address.

(iii) Provided the orders were properly mailed to the most recent address furnished by the member, absence of proof of delivery does not change the fact that the member was properly

[2] This includes women whose current enlistment or appointment was effected before February 1, 1978.

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ordered to report for active duty, active duty for training, or transferred to the IRR, as appropriate.

(iv) Individuals ordered to active duty who fail to report shall have their names entered into the National Crime Information Center of the Federal Bureau of Investigation within 30 days following their reporting date and appropriate screening by the Deserter Information Point concerned.

(10) Orders affecting members of the IRR that involve active duty for training required by the terms of their enlistment or service agreement may be handled by mail in the manner prescribed in § 100.5(a)(9)(i).

(11) Each member of the IRR must keep the organization of assignment informed of (i) his/her accurate and current mailing address; (ii) any change of address, marital status, number of dependents, and civilian employment; and (iii) any change in physical condition that would prevent the member from meeting the physical or mental standards prescribed by 10 U.S.C. 652 and 32 CFR Part 44.

(12) Individuals involuntarily ordered to active duty or active duty for training under provisions of this Part may be delayed as prescribed by the Secretary of the Military Department concerned.

(13) Individuals whose involuntary order to active duty would result in extreme community or personal hardship may, upon their request, be transferred to the Standby Reserve, the Retired Reserve, or discharged, as appropriate, in accordance with 10 U.S.C. 673a(c) and 32 CFR Part 44.

(b) *Exceptions.* As exceptions to the criteria in § 100.5(a), members of the Ready Reserve who do not or are unable to participate for any of the following reasons shall be processed as indicated:

(1) Members of the Selected Reserve who are unable to participate in a unit of the Selected Reserve by reason of an action taken by the Military Department concerned, such as unit inactivation or relocation, to the effect that they now reside beyond a reasonable commuting distance (as defined in § 100.6(e)) of a Reserve unit, shall be assigned to the IRR until they are able to join or be assigned to another unit, or complete their statutory military service obligation.

(2) Members of the Selected Reserve who change their residence:

(i) May lose their unit position. However, they will be transferred to another paid-drill unit with the same Reserve component if possible or be given 90 days after departing from their original unit to locate and join another unit. At the new unit, they will fill an existing vacancy or be assigned as a temporary overstrength within the congressionally authorized standard-years (defined in § 100.6(f)) or funds under § 100.5(b)(2)(iii) (A) and (B) below.

(ii) May locate position vacancies that require different specialties than the ones they now possess. Therefore, the Secretary of the Military Department concerned may provide for the retaining of these individuals (with their consent) by ordering them to active duty for training to acquire the necessary specialties.

(iii) Must be accepted in a Reserve unit by their parent Military Department regardless of vacancies, subject to the following conditions:

(A) The losing unit certifies that the reservist's performance of service has been satisfactory.

(B) The reservist's specialty is usable in the unit, the member can be retrained by on-the-job training, or the member is willing to be retrained as outlined in § 100.5(b)(2)(ii).

(iv) Are authorized to transfer to another Reserve component under the provisions of DoD Directive 1205.51, "Transfer of Persons Between Reserve Components of the Armed Forces," June 25, 1959, when the conditions outlined in § 100.5(b)(2)(iii) apply.

(3) If members of the Selected Reserve who change their residents fail to join another unit within a period of 90 days, and at least 1 unit of their component is within a reasonable commuting distance, as such distance is defined in § 100.6(e) they shall be processed in accordance with § 100.5(a) unless they are considered eligible to be handled as "exceptions" under policies outlined in § 100.5(b) (5) through (8) below.

(4) If members of the Selected Reserve who change their residences locate in an area where they reside beyond a reasonable commuting distance, as such distance is defined in § 100.6(e) of a paid-drill unit of the same Reserve component, they shall be assigned to the IRR of their service until they are able to transfer to a paid-drill unit of another Reserve component; or complete their statutory military service obligation.

(5) Members of the Ready Reserve who are preparing for, or are engaged in, critical civilian occupations will be screened in accordance with 32 CFR Part 44.

(6) Individuals who are preparing for the ministry in a recognized theological or divinity school may participate voluntarily in the Ready Reserve. However, under 10 U.S.C. 685, such individuals may not be required to do so. Members who do not wish to participate shall be transferred to the Standby Reserve. If such training is terminated before graduation, the member may be transferred back to the Ready Reserve. A member eligible for assignment to the Standby Reserve under the provisions of 10 U.S.C. 268(b), 270, 510, 511, 593, 597, 651, 652, 672, 673, 673a, 673b, 685, and 1163 who voluntarily remains assigned to the Selected Reserve and participates in the training required, waives any right to request delay to exemption from any later mobilization on the basis of preparation for the ministry.

(7) Individuals who are enrolled in a course of graduate study in one of the health professions shall be screened in accordance with DoD Directive 1200.141, "Reservists Who Are Engaged in Graduate Study or Training in Certain Health Progressions," July 30, 1969.

(8) Individuals who incur a bona fide, temporary nonmilitary obligation requiring overseas residency outside the United States, or religious missionary obligation shall be processed in accordance with 32 CFR Part 103.

(9) Nothing in this part shall be construed as limiting the right of the individual to voluntarily request transfer to the Standby Reserve or to the Retired Reserve, or discharge from the Reserve components when such action is authorized by regulations of the Military Department concerned.

(10) Nothing in this part shall be construed as precluding action against a member of the Ready Reserve, either by court-martial or review by a board of officers convened by an authority designated by the Secretary of the Military Department concerned, when such action might otherwise be warranted under 10 U.S.C. 268(b), 270, 510, 511, 593, 597, 651, 652, 672, 673, 673a, 673b, 685, and 1163 and the regulations of the Military Department concerned.

§ 100.6 Definitions.

(a) *Ready Reserve.* Consists of the Selected Reserve and the Individual Ready Reserve. Members of both are subject to active duty as outlined in 10 U.S.C. 672 and 673.

(b) *Selected Reserve.* Members of the Ready Reserve in training/pay categories A, B, C, F, M and P. These reservists are either members of units who participate regularly in drills and annual active duty for training, in annual field training in the case of the National Guard, or are on initial active duty for training; or they are individuals who participate in regular drills and annual active duty on the same basis as members of Reserve component units. *Excluded* from the Selected Reserve are Reserve component members who are:

(1) Participating in annual active duty for training and not paid for attendance at regular drills (pay categories D and E), or awaiting, in a nonpay status, their initial active duty for training (pay category L).

(2) Enrolled in officer training program (pay category J) members of the Individual Ready Reserve pool (pay category H), and reservists on extended active duty. (See 10 U.S.C. 268(b) 32 CFR Part 102.)

(3) Members of the Inactive Army National Guard.

(c) *Individual Ready Reserve (IRR).* Members of the Ready Reserve not assigned to the Selected Reserve and not on active duty.

(d) *Unsatisfactory Participation.* A member of the Ready Reserve who fails to fulfill his/her obligation or agreement as a member of a unit of the Ready Reserve described in 10 U.S.C. 268(b), 270, 510, 511, 593, 597, 651, 652, 672, 673, 673a, 673b, 685, and 1163. Or a member who fails to meet the standards as prescribed by the Military Departments concerned for attendance at training drills, attendance at active duty for training, training advancement, or performance of duty.

(e) *Reasonable Commuting Distance.* The maximum distance a member of a Reserve component may travel involuntarily between residence and drill training site, in accordance with § 100.5(b)(1). This distance may be within:

(1) A 100-mile radius of the drill site that does not exceed a distance that can be traveled by automobile under average conditions of traffic, weather, and roads within 3 hours. This applies only to those units that normally conduct four drills on 2 consecutive days during the training year, if Government meals and quarters are provided at the base where the unit drills. (The provisions of this paragraph shall apply only to those individuals enlisting, reenlisting, or extending their enlistments after November 1, 1972.)

(2) A 50-mile radius of the drill site that does not exceed a distance that can be traveled by automobile under average conditions of traffic, weather, and roads within a period of 1½ hours.

(f) *Standard-Year.* Personnel authorizations that describe the amount of work expected of one individual during a calendar or fiscal year.

(g) *Tentative Characterization of Service.* An interim description of the quality of performance during a period which is less than the time required to earn an administrative discharge. The quality of performance shall be described as honorable, under honorable conditions, or under other than honorable conditions. If the quality is described as under honorable conditions or under other than honorable conditions, only a General Discharge may be awarded upon completion of the necessary period of service.

Enclosure

Suggested Format

Affidavit of Service by Mail

State of ————
County of ————

———— (Name of individuals who mailed orders), being duly sworn, deposes and says:

I am the ———— (Job Title, e.g., Personnel Officer) of ———— (Unit) on the ——— day of ———— 19—, I mailed the original orders, a true copy of which is attached hereto, by Certified Mail (Return Receipt Requested) to ———— (Name and address of member of orders) that being the last known address given to ———— (Unit) as the one at which official mail would be received by or forwarded to the Reserve component member by depositing same in an official depository of the U.S. Postal Service at ———— (Location of Postal Facility) in a securely wrapped and sealed U.S. Government official postal envelope with a Return Receipt Card (PS Form 3811) attached and the envelope addressed to the member at the address provided. A Receipt for Certified Mail (PS Form 3800) attesting to such action is attached.

———— (Signature and Rank of Affiant)
Sworn and subscribed before me this ——— day of ———— 19—.
———— (Signature and Rank of Officer Administering Oath)

H. E. Lofdahl,

Director, Correspondence & Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-27404 Filed 8-31-79; 8:45 am]

BILLING CODE 3810-70-M

32 CFR Part 205

[DoD Directive 5040.1] [1]

Defense Audiovisual Agency

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes the Defense Audiovisual Agency (DAVA) and the Defense Audiovisual Steering Committee (DAVSC). The DAVA, which is established as a separate agency of the Department of Defense under the authority and direction of the Assistant Secretary of Defense (Public Affairs) (ASD(PA)), shall provide centrally managed production, acquisition, distribution, and depository support and services for selected audiovisual products to DoD Components. The DAVSC, an audiovisual policy committee that reports to the ASD(PA), is tasked with providing advice and assistance to the ASD(PA) on DoD audiovisual activities.

EFFECTIVE DATE: June 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Howard G. Becker, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-695-4281.

Accordingly, 32 CFR Chapter 1 is amended by adding a new Part 205, reading as follows:

PART 205—DEFENSE AUDIOVISUAL AGENCY

Sec.
205.1 Purpose.
205.2 Applicability and scope.
205.3 Mission.
205.4 Organization and management.
205.5 Responsibilities and functions.
205.6 Relationships.
205.7 Authority.
205.8 Administration.
205.9 Definitions.
205.10 Delegations of authority.

Authority: Title 10, U.S.C.

§ 205.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, this Part establishes (a) the Defense Audiovisual Agency (DAVA); and (b) the Defense Audiovisual Steering Committee (DAVSC) with responsibilities, functions, authorities, and relationships as outlined below.

§ 205.2 Applicability and scope.

The provisions of this Part apply to the Office of the Secretary of Defense and its field activities, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereinafter referred to as "DoD Components").

§ 205.3 Mission.

(a) The DAVA shall provide centrally-managed production, acquisition, distribution, and depository support and services for selected audiovisual products to all DoD Components.

(b) The DAVSC shall provide advice and assistance to the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) on matters relating to DoD audiovisual activities.

§ 205.4 Organization and Management.

(a) The DAVA is established as a separate agency of the Department of Defense under the authority, direction, and control of the ASD(PA). It shall

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120, Attention: Code 301.

consist of a Director and subordinate organizational elements that are established by the Director within resources assigned by the Secretary of Defense.

(b) The DAVSC is established as an audiovisual policy committee reporting to the ASD(PA). It shall consist of the following:

(1) A Chair, who shall be designated by the ASD(PA).

(2) One representative from each of the Military Departments and the DAVA.

(3) An Executive Secretary, who shall be designated by the ASD(PA).

§ 205.5 Responsibilities and Functions.

(a) The Director, DAVA, shall: (1) Organize, direct, and manage the DAVA and all resources assigned to the DAVA.

(2) Perform production, acquisition, and reproduction of all motion picture films, video and audio tapes and discs, still photographs, multimedia and other audiovisual media

(i) That meet any one of the following: (A) Are intended for use by more than one DoD Component;

(B) Are intended for public exhibition;

(C) Are commercial or contract productions (except when audiovisual products are only part of a larger information or technical package).

(D) Are adoptions from other Federal agencies.

(E) Involve production or acquisition costs in excess of $50,000.

(F) Are required by DoD Components which have not been authorized their own audiovisual production or acquisition capabilities.

(ii) But that exclude: (A) Audiovisual documentation integral to the performance of reconnaissance, surveillance, intelligence, criminal and legal investigative, medical diagnostic, or RDT&E functions; or to the operation of a weapon system or command and control center.

(B) Reprographic, cartographic, microfilm, or microfiche products.

(C) Acquisition and distribution of commercial entertainment programs distributed by the American Forces Radio and Television Service.

(3) Manage and operate a system for the distribution of DAVA audiovisual products and such other audiovisual products as the ASD(PA) may, for reasons of economy and efficiency, assign to this system.

(4) Manage and operate depositories for the archival storage of Department of Defense audiovisual products.

(5) Test and evaluate off-the-shelf commercial audiovisual equipment and report findings and make certifications to Defense Audiovisual Standardization Panel of the Defense Materiel Specifications and Standards Board.

(6) Develop and maintain an audiovisual data base as required by the ASD(PA) and in accordance with DoD Directive 5000.19[1], "Policies for the Management and Control of Information Requirements," March 12, 1976, and DoD Directive 5000.11[1], "Data Elements and Data Codes Standardization Procedures," April 27, 1965, for the management of the DoD Audiovisual Program, to include the preparation of departmental reports required by Office of Management and Budget Circular A-114, "Management of Federal Audiovisual Activities," April 13, 1978.

(7) Perform such other related functions as are assigned by the ASD(PA).

(b) The DAVSC shall meet periodically to: (1) Consider questions of policy with respect to DoD Audiovisual activities.

(2) Facilitate exchange of information among the ASD(PA), the audiovisual representatives of the Military Departments, and the Director, DAVA.

(3) Provide advice and recommend policy to the ASD(PA).

(c) The ASD(PA) shall: (1) Recommend to the Secretary of Defense policies for the administration of DoD Audiovisual activities.

(2) Monitor, evaluate, and provide guidance regarding the implementation of DoD Audiovisual policies, procedures, and technical standards by DoD Components.

(3) provide policy and operational direction to the Director, DAVA.

§ 205.6 Relationships.

(a) For the performance of assigned functions, the Director DAVA, shall: (1) Coordinate actions, as appropriate, with other DoD Components having collateral or related functions in the field of assigned responsibility.

(2) Maintain appropriate liaison with other DoD Components, as well as other governmental and non-governmental agencies, for the exchange of information and advice on programs in the field of assigned responsibility.

(3) Make use of established facilities and services in the Department of Defense and other Government agencies wherever practical to avoid duplication and achieve maximum efficiency and economy.

(b) heads of DoD Components will coordinate with the Director, DAVA, on all matters related to the mission, responsibilities and functions of DAVA.

§ 205.7 Authority.

The Director, DAVA, is specifically authorized to: (a) Obtain such information, advice, and assistance from other DoD Components, consistent with the policies and criteria of DoD Directive 5000.19[1], as necessary to carry out effectively DAVA programs and activities.

(b) Communicate directly with appropriate personnel in the Military Departments and other DoD Components on matters related to DAVA programs and activities.

(c) Exercise the administrative authorities contained in § 205.10 of this Part.

§ 205.8 Administration.

(a) The Director, DAVA, shall be appointed by the Secretary of Defense.

(b) DAVA shall be authorized personnel, facilities, funds, and other administrative support that the Secretary of Defense considers necessary.

(c) The Secretaries of the Military Departments or designees shall assign military personnel to DAVA in accordance with approved authorizations and established procedures for assignment to joint duty.

(d) Other DoD Components shall provide administrative support required for DAVA through interservice support agreements.

§ 205.9 Definitions.

(a) *Acquisition.* The process through which audiovisual products are obtained from commercial sources.

(b) *Audiovisual (AV).* The use of sound or visual imagery for the purpose of communicating information.

(c) *AV Activities.* Organizations or functions relating to the management of AV resources or the provision of AV services and products. (Includes equipment, facilities, products, personnel, supplies, accessories, maintenance, and support.)

(d) *AV Depository.* An archive established to preserve AV materials and records.

(e) *AV Documentation.* Audiovisual recording of events as they occur, i.e., not generally controlled by the recording crew. The two general types are *operational documentation* (sometimes referred to as "combat documentation"), which includes photojournalism, and *technical documentation,* which includes medical documentation, optical instrumentation, and gun- and strike-camera imagery.

(f) *AV Equipment* includes (1) items of a durable nature used for recording, producing, reproducing, processing, and exhibiting AV products that are capable of continuing or repetitive use; and (2) items that perform an AV function as an integral part of a non-AV systems or devices and that, when permanently removed, can be identified as end-items of equipment.

(g) *AV Facilities.* Physical plants in which AV activities are housed.

(h) *AV Products.* Material containing sound or visual imagery that conveys information. (Includes slides and other forms of still projection, still photographs, graphics, film strips, motion pictures, videotapes and videodiscs, and audio recordings on tape or disc.) AV production is also a form of AV product, but is usually addressed separately.

(i) *AV Production.* The process and the result of combining or arranging separate or combined audio or visual products in continuity according to a plan or script.

(j) *AV Services.* Those functions that: result in obtaining or preparing an AV product; support existing AV products (e.g., distribution and depository operations); or use existing AV products, equipment, or activities to support other functions (e.g., projection services, other presentation systems, or operation of conference facilities).

§ 205.10 Delegations of authority.

(a) Pursuant to the authority vested in the Secretary of Defense, and subject to his direction, authority and control, and in accordance with DoD policies, directives and instructions, the Director, DAVA, or, in the absence of the Director, the person acting for him, is hereby delegated authority, as required in the administration and operation of DAVA, to:

(1) Perform the following functions in accordance with the provisions of 5 U.S.C. 7532 (1976); Executive Order 10450, as amended, 3 C.F.R. 936 (1949-1953 Compilation), reprinted at 5 U.S.C. 7311 (1976); and 32 CFR 156.

(i) Designate any position in DAVA as a "sensitive" position;

(ii) Authorize, in case of an emergency, the appointment of a person to a sensitive position in DAVA for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Security Check, has not been completed; and

(iii) Authorize the suspension, but not including termination of the services of an employee in the interest of national security in positions within DAVA.

(2) Authorize and approve overtime work for DAVA civilian employees in accordance with the provisions of the Federal Personnel Manual Supplement 990-1, section 550.111 (5 CFR 550.111 (1978)).

(3) Develop, establish and maintain an active and continuing Records Management Program, pursuant to 44 U.S.C.A. 3102 (1969 & Supp. 1978).

(4) Authorize the publication of advertisements, notices, or proposals in public periodicals, as required for the effective administration of DAVA pursuant to 44 U.S.C. 3702 (1970).

(5) Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5025.11, "Department of Defense Directives System," November 18, 1977.

(6) In coordination with the DASD (Administration), enter into support and services agreements with the Military Departments, other DoD Components or other Government agencies, as required for the effective and efficient performance of responsibilities and functions assigned to DAVA.

(7) Enter into and administer contracts directly or through a Military Department, a DoD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment and services required to accomplish the mission of DAVA. To the extent that any law or executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

(b) The Director, DAVA, may redelegate these authorities, as appropriate and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

(c) This delegation of authorities is effective immediately.

August 29, 1979

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-27403 Filed 8-31-79; 8:45 am]

BILLING CODE 3810-70-M

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS

32 CFR Part 2400

Security Information Regulations; Implementation of Executive Order 12065

AGENCY: Office for Micronesian Status Negotiations.

ACTION: Final rule.

SUMMARY: These regulations establish security information regulations for the Office for Micronesian Status Negotiations in conformity with E.O. 12065, 43 FR 28949, July 3, 1978, entitled National Security Information and the Information Security Oversight Office Directive No. 1, 43 FR 46280, October 5, 1978, relating to classification, downgrading, declassification and safeguarding of national security information. The Order increases openness in Government by limiting the classification of documents and by accelerating the declassification of other documents, while providing improved protection against unauthorized disclosure of information which requires protection in the interest of national security.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: LTC Albert V. Short, Security Officer, Office for Micronesian Status Negotiations, Suite 3356, Interior Department Building, Washington, D.C. 20240, telephone 202-343-9143. CDR A. John Armstrong, Legal Counsel, Office for Micronesian Status Negotiations, Suite 3356, Interior Department Building, Washington, D.C. 20240, telephone 202-343-9143. Mr. Keith Guthrie, Status Liaison Officer, Trust Territory Headquarters, Saipan, Mariana Islands 96950, telephone 9727.

SUPPLEMENTARY INFORMATION: The Office for Micronesian Status Negotiations considers all regulations, or amendments to existing regulations, published in the **Federal Register** and codified in the Code of Federal Regulations to be significant regulations, unless specifically determined and expressly justified to be otherwise. In this regard, it has been determined that this final rule is not subject to the notice and public procedure requirements of Executive Order 12044, March 24, 1978, "Improving Government Regulations," and the Department's regulations implementing that Order, 43 FR 52120, November 8, 1978, because the regulations are "required to implement a statute, an international agreement, a court decision, or a regulatory action of another agency, bureau, or office, and no substantial element of discretion is afforded the rulemaker," and because the regulations are "essentially procedural." Additionally, as these regulations are "rules of agency organization, procedure or practice," notice and public procedure respecting these regulations are not deemed necessary or appropriate under 5 U.S.C. 553(b)(A). Regulations dealing with internal procedures will be promulgated separately. Copies of these regulations

are available upon written request to OMSN. Attn: Director, Suite 3356, Interior Department Building, Washington, D.C. 20240.

Dated: August 23, 1979

Peter R. Rosenblatt,

Ambassador, President's Personal Representative for Micronesian Status Negotiations.

Part 2400 is added to Title 32, CFR and is to read as set forth below.

PART 2400—SECURITY INFORMATION REGULATIONS

Subpart A—Introduction

Sec.
2400.1 References.
2400.2 Purpose.
2400.3 Applicability.

Subpart B—Original Classification

2400.11 Basic Policy.
2400.12 Criteria for and level of original classification.
2400.13 Duration of original classification.
2400.14 Challenges to classification.

Subpart C—Derivative Classification

2400.21 Definition and application.
2400.22 Classification guides.

Subpart D—Declassification and Downgrading

2400.31 Declassification authority.
2400.32 Declassification general.
2400.33 Mandatory review for declassification.
2400.34 Downgrading authority.

Subpart E—Safeguarding

2400.41 General restrictions on access.
2400.42 Responsibility for safeguarding classified information.
2400.43 Reproduction controls.
2400.44 Administrative sanctions.

Subpart F—Implementation and Review

2400.51 Information Security Oversight Committee.
2400.52 Classification Review Committee.

Authority: E.O. 12065, National Security Regulation of June 28, 1978 (43 FR 28949, July 31, 1978); Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978).

Subpart A—Introduction

§ 2400.1 References.

(a) Executive Order 12065, "National Security Information," June 28, 1978, (hereinafter E.O. 12065).

(b) Information Security Oversight Office, Directive No. 1, "National Security Information," October 2, 1978, (hereinafter ISOO Directive No. 1).

§ 2400.2 Purpose.

The purpose of this Regulation is to ensure, consistent with the authorities listed in § 2400.1, that national security information originated and/or held by the Office for Micronesian Status Negotiations (OMSN), which includes the Status Liaison Office, Saipan, Northern Mariana Islands (SLNO), is protected. To ensure that such information is protected, but only to the extent and for such period as is necessary, this regulation identifies the information to be protected and prescribes certain classification, declassification and safeguarding procedures to be followed.

§ 2400.3 Applicability.

This Regulation supplements E.O. 12065 within OMSN with regard to National Security Information. In consonance with the authorities listed in § 2400.1, it establishes general policies and certain procedures for the classification, declassification and safeguarding of information which is owned by, is produced for or by, or is under the control of OMSN.

Subpart B—Original Classification

§ 2400.11 Basic Policy.

(a) *General.* It is the policy of OMSN to make available to the public as much information concerning its activities as is possible, consistent with its responsibility to protect the national security.

(b) *Safeguarding national security information.* Within the Federal Government there is some information which because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our nation.

(c) *Balancing test.* To balance the public's interest in access to government information with the need to protect certain national security information from disclosure, these regulations indentify the information to be protected, prescribe classification, downgrading, declassification, and safeguarding procedures to be followed, and establish education, monitoring and sanctioning systems to insure their effectiveness. When questions arise as whether the need to protect information may be outweighed by the public interest in disclosure of the information, they shall be referred to OMSN pursuant to § 2400.32(b) for a determination whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure.

§ 2400.12 Criteria for and level of original classification.

(a) *General Policy.* Documents or other material are to be classified only when protecting the national security requires that the information they contain be withheld from public disclosure. Information may not be classified to conceal violations of law, inefficiency, or administrative error, or to prevent embarrassment to a person, organization or agency, or to restrain competition. No material may be classified to limit dissemination, or to prevent or delay public release, unless its classification is consistent with E.O. 12065.

(b) *Criteria.* To be eligible for classification, information must meet two requirements:

(1) First, it must deal with one of the criteria set forth in Section 1–301 of E.O. 12065;

(2) Second, the President's Personal Representative for Micronesian Status Negotiations or his delegate who has original classification authority must determine that unauthorized disclosure of the information or material can reasonably be expected to cause at least identifiable harm to the national security.

(c) *Classification designations.* Only three designations of classification are authorized—"Top Secret," "Secret," "Confidential." No other classification designation is authorized or shall have force.

(d) Unnecessary classification, and classification at a level higher than is necessary, shall be avoided. If there is reasonable doubt as to which designation in section 1–1 of E.O. 12065 is appropriate, or whether information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

§ 2400.13 Duration of original classification.

(a) Information or material which is classified after December 1, 1978, shall be marked at the time of classification with the date or event for declassification or a date for review for declassification. This date or event shall be as early as national security permits and shall be no more than six years after original classification except as provided in paragraph (b) of this section.

(b) Only the President's Personal Representative for Micronesian Status Negotiations may authorize a classification period exceeding six years. Originally classified information that is so designated shall be identified with the authority and reason for extension. This authority shall be used sparingly. In those cases where extension of classification is warranted, a declassification date or event, or a date for review shall be set. This date or event shall be early as national security permits and shall be no more than twenty years after original classification except that for foreign information the date or event may be up to thirty years after original classification.

§ 2400.14 Challenges to classification.

If holders of classified information believe the information is improperly or unnecessarily classified, or that original classification has been extended for too long a period, they should discuss the matter with their immediate superiors or the classifier of the information. If these discussions do not satisfy the concerns of the challenger, the matter should be brough to the attention of the chairman of the OMSN Information Security Oversight Committee, established pursuant to § 2400.51. Action on such challenges shall be taken within 30 days from date of receipt and the challenger shall be notified of the results. When requested, anonymity of the challenger shall be preserved.

Subpart C—Derivative Classification

§ 2400.21 Definition and application.

Derivative classification is the act of assigning a level of classification to information which is determined to be the same in substance as information which is currently classified. Thus, derivative classification may be accomplished by any person cleared for access to that level of information, regardless of whether the person has original classification authority at that level.

§ 2400.22 Classification guides.

OMSN shall issue classification guides pursuant to Section 2–2 of E.O. 12065. These guides, which shall be used to direct derivative classification, shall identify the information to be protected in specific and uniform terms so that the information involved can be readily identified. The classification guides shall be approved in writing by the President's Personal Representative for Micronesian Status Negotiations. Such approval constitutes an original classification decision. The classification guides shall be kept current and shall be reviewed at least every two years.

Subpart D—Declassification and Downgrading

§ 2400.31 Declassification authority.

The Director, OMSN, is authorized to declassify OMSN originated documents after consultation with the appropriate OMSN staff members.

§ 2400.32 Declassification general.

Declassification of classified information shall be given emphasis comparable to that accorded to classification. The determination to declassify information shall not be made on the basis of the level of classification assigned, but on the loss of the sensitivity of the information with the passage of time, and with due regard for the public interest in access to official information. At the time of review, any determination not to declassify shall be based on a determination that despite the passage of time since classification, release of information reasonably could still be expected to cause at least identifiable damage to the national security.

§ 2400.33 Mandatory review for declassification.

(a) *General.* All information classified under the Order or prior orders, except as provided for in Section 3–503 of E.O. 12065 shall be subject to review for declassification upon request of a member of the public, a government employee, or an agency.

(b) *Receipt.* (1) Requests for mandatory review for declassification under Section 3–501 of E.O. 12065 must be in writing and should be addressed to: Office for Micronesian Status Negotiations, ATTN: Security Officer (Mandatory Review Request), Room 3356, Department of the Interior, Washington, D.C. 20240.

(2) The requestor shall be informed of the date of receipt of the request at OMSN. This date will be the basis for the time limits specified in paragraph (c) of this section.

(3) If the request does not reasonably describe the information sought, the requestor shall be notified that, unless additional information is provided or the request is made more specific, no further action will be taken.

(4) Subject to paragraph (b)(7) of this section, if the information requested is in the custody of and under the exclusive declassification authority of OMSN, OMSN shall determine whether the information or any reasonably segregable portion of it no longer requires protection. If so, OMSN shall promptly make such information available to the requester, unless withholding it is otherwise warranted under applicable law. If the information may not be released, in whole or in part, OMSN shall give the requester a brief statement of the reasons, a notice of the right to appeal the determination to the agency review committee, and notice that such an appeal must be filed with the review committee within 60 days.

(5) When OMSN receives a request for information in a document which is in its custody, but which was classified by another agency, it shall refer the request to the appropriate agency for review, together with a copy of the document containing the information requested, where practicable. OMSN shall also notify the requester of the referral, unless the association of the reviewing agency with the information requires protection. The reviewing agency shall review a document in coordination with any other agency involved with the classification or having a direct interest in the subject matter. The reviewing agency shall respond directly to the requester in accordance with the pertinent procedures described above and, if requested, shall notify OMSN of its determination.

(6) Requests for declassification of classified documents originated by OMSN or another agency but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C 2107 or 2107 Note, shall be referred by the Archivist to the agency of origin for processing and for direct response to the requests. The Archivist will inform requesters of such referrals.

(7) In the case of requests for documents containing foreign government information, OMSN, if it is also the agency which initially received the foreign government information, shall determine whether the foreign government information in the document may be declassified and released in accordance with agency policies or guidelines, consulting with other agencies of subject matter interest as necessary. If OMSN is not the agency which received the foreign government information, it shall refer the request to the latter agency, which shall take action on the request. In those cases where available agency policies or guidelines do not apply, consultation with the foreign originator through appropriate channels may be advisable prior to final action on the request.

(8) If any agency makes a request on behalf of a member of the public, the request shall be considered as a request by that member of the public and handled accordingly.

(c) *Review.* (1) Within sixty days from its receipt, OMSN shall inform the requestor of the determination of the mandatory review for declassification.

(2) If the determination is to withhold some or all of the material requested, the requestor may appeal the determination. The requestor shall be informed that an appeal must be made in writing within sixty days of receipt of

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the denial and should be addressed to the chairperson of the OMSN Classification Review Committee established pursuant to § 2400.52.

(3) No agency in possession of a classified document may, in response to a request for the document made under the Freedom of Information Act (5 U.S.C. 552) or under Section 3–5 of E.O. 12065, refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable.

(4) The requestor shall be informed of the appellate determination within thirty days of receipt of the appeal.

(5) In considering requests for mandatory review, OMSN may decline to review again any request for material which has been recently reviewed and denied, except insofar as the request constitutes an appeal under paragraph (f) of this section.

(d) *Processing of Requests.* The processing of requests by OMSN shall be as follows:

(1) The Security Officer or his designee shall record the request, and arrange for search and review of the documents. The documents will be reviewed for declassification in accordance with these regulations or any applicable guidelines. If the documents remain classified and are not to be released, in whole or in part, the reviewing office will also prepare a letter informing the requester as described in paragraph (b)(4) of this section. The letter to the requester shall be signed by the President's Personal Representative for Micronesian Status Negotiations, his Deputy or the Status Liaison Officer. The Security Officer or his designee shall record disposition of the case and forward the letter of denial to the requester.

(2) If any request requires obtaining the views of other agencies, the receiving office shall arrange coordination of review with such other agencies.

(3) When all documents involved in the request are declassified and released, the receiving office will send a release statement, to the requester, and shall inform the requester of any fees due before releasing documents.

(4) In the case of documents of agency origin requested by a Presidential Library on behalf of a member of the public, if there is a partial denial, the letter will advise the requester as described in paragraph (b)(4) of this section, but the requester will be referred to the Archivist for copies of the released document, with portions excised. The receiving office will transmit such documents, with portions marked to be excised, to Archives which will transmit them with portions excised to the Presidential Library for its records and for use in the case of further similar requests.

(5) The Security Officer or his designee shall also coordinate requests from other agencies seeking the views of OMSN as to declassification of documents originated by such other agencies but involving information of primary subject matter interest to OMSN. The Security Officer or his designee will transmit the documents to the reviewing individual for a determination as to declassification and will coordinate the reply of OMSN to the requesting agency.

(e) *Appeals.* (1) The President's Personal Representative for Micronesian Status Negotiations shall receive appeals for denial of documents by OMSN. Such appeals shall be addressed to President's Personal Representative for Micronesian Status Negotiations, Suite 3356, Interior Department Building, Washington, D.C. 20240. The appeal must be received in OMSN within 60 days of the date of the original denial letter or the final release of documents, whichever is later.

(2) Appeals shall be decided within 30 days of their receipt.

(f) *Fees.* (1) Fees for the location and reproduction of information which is the subject of a mandatory review request shall be assessed according to the following schedule:

(i) Search for records: $5.00 per hour when the search is conducted by a clerical employee; $8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

(ii) Reproduction of documents: Documents will be reproduced at a rate of $.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents which are three pages or less, or for the first three pages of longer documents.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requestor has not indicated in advance a willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25.00, an advance deposit may be required. Dispatch of such a notice or request shall suspend the running of the period for response by OMSN until a reply is received from the requestor.

(3) Remittance shall be in the form either of a personal check or bank draft on a bank in the United States, or a postal money order. Remittance shall be made payable to Treasurer of the United States and mailed to the address noted in paragraph (b)(1) of this section.

(4) A receipt for fees paid will be provided only upon request. Refund of fees for services actually rendered will not be made.

(5) OMSN may waive all or part of any fee provided for in this section when it is deemed to be in either the interest of OMSN or of the general public.

§ 2400.34 Downgrading authority.

The Secrutiy Officer, OMSN is authorized to downgrade OMSN originated documents after consultation with the staff member who is charged with functional responsibility for the subject matter under question.

Subpart E—Safeguarding

§ 2400.41 General restrictions on access.

(a) *Determination of need-to-know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in Section 4–3 of E.O. 12065, that access is essential to the accomplishment of official Government duties or contractual obligations.

(b) *Determination of Trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by the President's Personal Representative for Micronesian Status Negotiations based upon appropriate investigations in accordance with applicable standards and criteria.

§ 2400.42 Responsibility for safeguarding classified information.

(a) *General Policy.* The specific responsibility for the maintenance of the security of classified information rest with each person having knowledge or physical custody therof, no matter how obtained. The ultimate responsibility for safeguarding classified information rests on each supervisor to the same degree that supervisor is charged with functional responsibility.

(b) *Security and Top Secret Control Officers.* The Director, OMSN, and the Status Liaison Officer, Saipan, are assigned specific security responsibilities as Security Officer and Top Secret Control Officer.

(c) *Handling.* All documents bearing the terms "Top Secret," "Secret" and "Confidential" shall be delivered to the Top Secret Control Officer or his designee immediately upon receipt. All potential recipients of such documents shall be advised of the names of such designees and updated information as necessary. In the event that the Top Secret Control Officer or his designees are not available to receive such documents, they shall be turned over to the office supervisor and secured, unopened, in a designated combination safe located in OMSN or SLNO, as appropriate until the Top Secret Control Officer is available. All materials not immediately deliverable to the Top Secret Control Officer shall be delivered at the earliest opportunity. Under no circumstances shall classified material that cannot be delivered to the Top Secret Control Officer be stored other than in the designated safe.

(d) *Storage.* All classified documents shall be stored in the designated combination safe or safes located in OMSN or SLNO as appropriate. The combination shall be changed as required by ISOO Directive No. 1, Section IV F (5) (a). The combinations shall be known only to the Security Officer and his designees with the appropriate security clearance.

(e) *Security Education Program.* The Security Officer shall establish a program of briefings to familiarize personnel with the provisions of E.O. 12065 and implementing directives. Such briefings shall be held once per year, or more frequently. Before any new or newly assigned employee enters on duty, he shall be given instruction in sufficient detail in security procedures and practices to inform him of his responsibilities arising from his access to classified data.

(f) *Access by Historical Researchers and Former Presidential Appointees.* In keeping with provisions 4–301 and 4–302 of E.O. 12065, the President's Personal Representative for Micronesian Status Negotiations shall designate appropriate officials to determine, prior to granting access to classified information, the propriety of such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know.

§ 2400.43 Reproduction controls.

OMSN and SLNO shall maintain records to show the number and distribution of all OMSN originated classified documents. Reproduction of classified material shall take place only in accordance with Section 4–4 of E.O. 12065 and any limitations imposed by the originator. Should copies be made, they are subject to the same controls as the original document. Records showing the number of distribution of copies shall be maintained by the Office Supervisor and the log stored with the original documents. These measures shall not restrict reproduction for the purposes of mandatory review.

§ 2400.44 Administrative sanctions.

Officers and employees of the United States Government assigned to OMSN shall be subject to appropriate administrative sanctions if they knowingly and willingly commit a violation under Section 5–5 of E.O. 12065. These sanctions may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law or the applicable regulations of the agency from which they are assigned to OMSN.

Subpart F—Implementation and Review

§ 2400.51 Information Security Oversight Committee.

The OMSN Information Security Oversight Committee shall be chaired by the Security Officer, OMSN. The Committee shall be responsible for acting on all suggestions and complaints concerning the administration of the OMSN information security program. The chairperson shall also be responsible for conducting an active oversight program to ensure effective implementation of E.O. 12065.

§ 2400.52 Classified Review Committee.

The OMSN Classification Review Committee shall be chaired by the President's Personal Representative for Micronesian Status Negotiations. The Committee shall decide appeals from denials of declassification requests submitted pursuant to Section 3–5 of E.O. 12065. The Committee shall consist of the President's Personal Representative, Department of Defense/Legal Advisor and Political/Economic Advisor.

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OFFICE OF SCIENCE AND TECHNOLOGY POLICY

32 CFR Part 2400

Regulations To Implement E.O. 12065—Office of Science and Technology Information Security Program

AGENCY: Office of Science and Technology Policy.

ACTION: Final rule.

SUMMARY: This Office of Science and Technology Policy regulation is issued to govern the OSTP Information Security Program. It is issued under the authority of, and pursuant to, Executive Order 12065 and Information Security Oversight Office Directive No. 1. It is intended that this regulation will assist the OSTP in classifying, downgrading, declassifying, and safeguarding national security information and will assist the public in obtaining information that may be declassified.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Montgomery, Executive Officer, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500, (202–395–4692).

SUPPLEMENTARY INFORMATION: These regulations have been submitted to the Information Security Oversight Office in accordance with section 5–401 of Executive Order 12065. These regulations involve national security information and are exempt from the procedures of 5 U.S.C. 553

William J. Montgomery,
Executive Officer.

32 CFR Chapter XXIV is amended by adding a new Part 2400 reading as follows:

PART 2400—REGULATIONS TO IMPLEMENT E.O. 12065; OFFICE OF SCIENCE AND TECHNOLOGY POLICY INFORMATION SECURITY PROGRAM

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Subpart E—Identification and Marking

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Authority.—E.O. 12065 and Information Security Oversight Office Directive No. 1.

Subpart A—General Provisions

§ 2400.1 References.

(a) Executive Order 12065 "National Security Information," dated June 28, 1978

(b) Information Security Oversight Office, Directive No. 1, "National Security Information," dated October 2, 1978

§ 2400.2 Purpose.

The purpose of this regulation is to ensure, consistent with the authorities of § 2400.1 that information of the Office of Science and Technology Policy (OSTP) relating to national security is protected from unauthorized disclosure, but only the extent and for such period as is necessary to safeguard the national security.

§ 2400.3 Applicability.

This Regulation governs the Office of Science and Technology Policy Information Security Program. In accordance with the provisions of references (a) and (b) above, it establishes, for uniform application throughout the Office of Science and Technology Policy, the policies and procedures for the security classification, downgrading, declassification and safeguarding of information that is owned by, produced for or by, or under the control of the Office of Science and Technology Policy.

§ 2400.4 Atomic Energy Material.

Nothing in this Regulation supersedes any requirement made by or under the Atomic Energy Act of 1954, as amended. "Restricted Data" and information designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Department of Energy.

Subpart B—Original Classification

§ 2400.5 Basic Policy.

Except as provided in the Atomic Energy Act of 1954, as amended, Executive Order 12065, as implemented by reference (b) and this Regulation, provides the only basis for classifying information. The policy of the Office of Science and Technology Policy is to make available to the public as much information concerning its activities as is possible, consistent with its responsibility to protect the national security. Accordingly, security classification shall be applied only to protect the national security.

§ 2400.6 Level of Original Classification.

Unnecessary classification, and classification at a level higher than is necessary shall be scrupulously avoided. If there is reasonable doubt which designation of security classification in section 1-1 of Executive Order 12065 is appropriate, or whether information or material should be classified at all, the less restrictive designation should be used, or the information should not be classified.

§ 2400.7 Original Classification Authority

Authority for original classification of information as Top Secret shall be exercised within OSTP only by the Director and by such principal subordinate officials having frequent need to exercise such authority as the Director shall designate in writing. The Associate Director for National Security and International Affairs is delegated Top Secret Authority.

§ 2400.8 Limitations on Delegation of Classification Authority.

(a) Delegations of classification authority shall be held to an absolute minimum.

(b) Original classification authority shall not be delegated to OSTP personnel who only quote, restate, extract or paraphrase, or summarize classified information or who only apply classification markings derived from source material or as directed by a classification guide.

(c) Classification authority may not be redelegated.

§ 2400.9 Classification Requirements

Information may be classified *only* if it concerns one or more of the categories cited in Executive Order 12065, as subcategorized below, *and* an official having original classification authority determines that its unauthorized disclosure is presumed, or reasonably could be expected, to cause at least identifiable damage to the national security.

(a) Military plans, weapons or operations;

(b) Foreign government information;

(c) Intelligence activities, sources or methods;

(d) Foreign relations or foreign activities of the United States;

(e) Scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safe-guarding nuclear materials or facilities; or

(g) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the Director, Office of Science and Technology Policy. Each such determination shall be reported promptly to the Director of the Information Security Oversight Office.

§ 2400.10 Presumption of Damage.

Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

§ 2400.11 Classification Prohibitions.

(a) Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified until and unless the government acquires a proprietary

interest in the product. This prohibition does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181-188).

(d) References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

(e) Classification may not be used to limit dissemination of information that is not classifiable under the provisions of Executive Order 12065 and this Regulation or to prevent or delay the public release of such information.

(f) No document originated on or after December 1, 1978 may be classified after receipt of a request for the document under the Freedom of Information Act or the Mandatory Review Provisions of this regulation unless such classification is consistent with this Regulation and is authorized by the Director, Office of Science and Technology Policy. Documents originated before December 1, 1978 and subject to such a request may not be classified unless such classification is consistent with this Regulation and is authorized by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally and on a document-by-document basis.

(g) Classification may not be restored to documents containing information declassified and released to the public under this or prior Regulations.

§ 2400.12 Duration of Classification.

(a) Information shall remain classified only as long as its unauthorized disclosure would result in at least identifiable damage to the national security. Any willful extension beyond that period is a violation of this Regulation. At the time information is classified, it shall be marked with the date or event on which automatic declassification or review for declassification should occur. *Except* as provided in paragraph (c) of this section, this date or event for automatic declassification, or review for declassification, shall be no more than six years from the date of original classification.

(b) Only the Director, OSTP or other Office officials having Top Secret original classification authority may prolong classification for more than six years. Originally classified information that is so designated shall be identified with the authority and reason for the extended classification, as provided in paragraph (c) of this section. In no case shall the date or event for automatic declassification or for review for declassification be set at more than 20 years, except that foreign government information may be classified for up to 30 years prior to declassification or review. Earlier dates for declassification or review shall be set whenever possible.

(c) Classification may be prolonged for more than six years only by officials designated as original Top Secret classification authorities. This authority shall be used only when such officials determine that the two conditions specified in § 2400.9 for original classification will continue throughout the entire period the classification will be in effect and only for the following reasons:

(1) The information is "foreign government information" as defined in references (a) and (b);

(2) The continuing protection of the information is specifically required by statute;

(3) The continuing protection of the information is essential to the national security because it reveals intelligence sources or methods which if lost cannot be regained or replaced promptly;

(4) The continuing protection of the information is essential to the national security because it pertains to communications security;

(5) The information reveals vulnerability or capability data the unauthorized disclosure of which can reasonably be expected to result in nullifying the effectiveness of a system, installation or project important to the national security;

(6) The information concerns plans important to national security the unauthorized disclosure of which can reasonably be expected to result in nullifying the effectiveness of the plan itself or impeding its orderly implementation;

(7) The information concerns specific foreign relations matters the continued protection of which is essential to the national security; or

(8) Disclosure of the information would place a person in immediate jeopardy.

§ 2400.13 Effect of Open Publication.

Appearance in the public domain of information currently classified or being considered for classification does not preclude initial or continued classification; however, such disclosures require immediate reevaluation of the information to determine whether the publication has so compromised the information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs, projects or items incorporating or pertaining to the compromised items of information. In these cases, if the release is shown to have been made or authorized by an official of the Executive Branch authorized to declassify and release such information. In these cases, if the release is shown to have been made or authorized by an official of the Executive Branch authorized to declassify and release such information, classification of clearly identified items shall no longer be continued. However, holders should continue classsification until advised to the contrary by a competent Government authority. Questions on the propriety or continued classification of information which has appeared in open publication should be referred to the Executive Officer, Office of Science and Technology Policy for further referral to the Agency having primary responsibility over the subject matter.

§ 2400.14 Challenges to Classification.

(a) Holders of classified information are encouraged to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly or for an inappropriate period of time. They should discuss the matter with their immediate superiors or the classifier of the information. If these discussions do not satisfy the concerns of the challenger, the matter should be brought to the attention of the Executive Officer who shall, within 30 days, resolve the question of classification with the original classification authority and provide notification to the challenger of the results. When requested anonimity of the challenger shall be preserved.

(b) The fact that an employee of the Office of Science and Technology Policy has issued a challenge to classification shall not in any way result in or serve as a basis for adverse personnel action.

Subpart C—Derivative Classification

§ 2400.15 Definition and application.

Derivative classification is the act of assigning a level of classification to information that is determined to be the same in substance as information that is currently classified. Derivative application of classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form, information which is already classified or those who apply markings in accordance with guidance from an original classification authority. Persons who apply derivative classifications should take care to determine whether their paraphrasing, restating, or summarizing of classified information has removed all or part of the basis for classification. Thus,

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derivative classification may be accomplished by any person cleared for access to that level of information regardless of whether the person has original classification authority at that level. Persons who apply such derivative classification markings shall:

(a) Respect original classification decisions;

(b) Verify the information's current level of classification so far as practicable before applying the markings; and

(c) Carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings. Where checks with originators or other appropriate inquiries show that no classification or a lower classification than originally assigned is appropriate, the information shall be marked accordingly.

§ 2400.16 Classification guides.

(a) OSTP shall issue and maintain classification guides to facilitate the proper and uniform classification of information. These guides shall be used to direct derivative classification.

(b) The classification guides shall be approved, in writing, by the Director or by officials having Top Secret original classification authority. Such approval constitutes an original classification decision.

(c) Each classification guide shall specify the information subject to classification in sufficient detail to permit its ready and uniform identification and shall set forth the classification level and duration in each instance as well as, where applicable, justification for any extension beyond six years.

(d) The classification guides shall be kept current and shall be fully reviewed at least every two years.

§ 2400.17 Distribution of classification guides.

The Executive Officer, Office of Science and Technology Policy shall receive and maintain the record copy of all approved classification guides and changes thereto. He will assist the originator in determining the required distribution.

Subpart D—Declassification and Downgrading

§ 2400.18 Policy.

Declassification of information shall be given emphasis comparable to that accorded classification. Information classified pursuant to Executive Order 12065 and prior orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of sensitivity of the information with the passage of time or on the occurance of an event which permits declassification. When information is reviewed for declassification pursuant to this regulation, that information shall be declassified unless the designated declassification authority determines that the information continues to meet the classification requirements prescribed in § 2400.9 despite the passage of time.

§ 2400.19 Declassification and downgrading authority.

Authority to declassify and downgrade information classified under the provisions of references (a) and (b) shall be exercised by officials designated to exercise original classification. Further, the Director, Office of Science and Technology Policy shall designate additional officials at the lowest practicable echelons of supervision to exercise declassification and downgrading authority over classified information in their functional areas of interest.

§ 2400.20 Exceptional cases.

It is presumed that information that continues to meet the classification requirements of Subpart B requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of that information and in such cases the information should be declassified. When such questions arise concerning Office of Science and Technology Policy information, they shall be referred to the Director, Office of Science and Technology Policy, the Executive Officer of Science and Technology Policy acting as the official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under § 2400.24, an official with Top Secret classification authority, or in cases of classified Presidential information the Archivist of the United States. That Official, after consultation with other agenices having interest, shall determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure and, if so, declassify the information.

§ 2400.21 Declassification by the Director of the Information Security Oversight Office.

If the Director of the Information Security Oversight Office (ISOO) determines that information is classified in violation of Executive Order 12065, the Director, ISOO may require the activity that originally classified the information to declassify it. Any such decision by the Director, ISOO may be appealed through the Director, Office of Science and Technology Policy to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the determination by the Director, ISOO whichever comes first.

§ 2400.22 Systematic review for declassification.

The Director, Office of Science and Technology Policy shall designate experienced personnel to assist the Archivist of the United States in the systematic review of twenty-year old U.S. originated information and thirty-year old foreign government information accessioned into the National Archives of the United States, and conduct systematic declassification review of twenty-year old classified information in the possession and control of the Office of Science and Technology Policy. Such personnel shall:

(a) Provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification;

(b) Submit to the Director, Office of Science and Technology Policy recommendations for, (1) continued classification that identify documents or specific categories of information so separated, and, (2) referrals to other agencies having classification jurisdiction over the information or material for resolution.

§ 2400.23 Systematic review guidelines and procedures.

(a) The Executive Officer, Office of Science and Technology Policy shall develop, in coordination with Office of Science and Technology Policy original classification authorities, guidelines for the systematic review for declassification of information under Office of Science and Technology Policy jurisdiction that has been classified twenty years or more (thirty years for foreign government information). The Director, Office of Science and Technology Policy, after consultation with the Archivist of the United States, shall promulgate these guidelines providing copies to the Information Security Oversight Office.

(b) All Office of Science and Technology Policy classified information transferred to the General Services Administration for accession into the Archives of the United States that is

permanently valuable and more than twenty years old will be systematically reviewed for declassification by the Archivist of the United States with the assistance of the Office of Science and Technology Policy personnel designated for the purpose pursuant to § 2400.22. Such information shall be downgraded or declassified by the Archivist of the United States in accordance with Executive Order 12065, the directives of the Information Security Oversight Office, and Office of Science and Technology Policy guidelines.

(c) All twenty-year old Office of Science and Technology Policy classified permanent records that are in the possession or control of Office of Science and Technology Policy shall be systematically reviewed for declassification by personnel designated pursuant to § 2400.22. Classified nonpermanent records that are scheduled to be retained for more than twenty years need not be systematically reviewed but shall be reviewed for declassification upon request.

(d) The Director, Office of Science and Technology Policy shall determine personally and in writing which category(ies) of information shall remain classified and the date for automatic declassification or subsequent review. The Archivist of the United States shall be notified in writing of this decision.

(e) Classified information over which Office of Science and Technology Policy does not exercise exclusive or final original classification authority may be declassified only in accordance with the systematic review guidelines, promulgated pursuant to reference (b), of the agency responsible for the classification. If such guidelines are not available or authorized for use by Office of Science and Technology Policy personnel, the information shall be referred to the responsible agency.

§ 2400.24 Mandatory review for declassification.

(a) A mandatory review for declassification under Section 3–501 of Executive Order 12065 shall be initiated upon receipt of a request by a member of the public or a government employee or agency to declassify and release information. Requests shall be in writing and reasonably describe the information sought to enable the Office of Science and Technology Policy to identify documents containing that information. Requests should be addressed to:

Executive Officer,
Office of Science and Technology Policy,
Executive Office of the President,
Washington, D.C. 20500.

(b) The Executive Officer, Office of Science and Technology Policy shall inform the requestor of the date and receipt of the request. This date will be the basis for the time limits specified in paragraph (d) of this section.

(c) If the request does not reasonably describe the information sought to allow identification of documents containing such information, the requestor shall be notified that unless additional information is provided or the request is made more specific, no further action will be taken.

(d) The requestor shall be informed of the Office of Science and Technology Policy determination within sixty days of receipt of the original request (or within sixty days of the receipt of the required amplifying information in accordance with paragraph (c) of this section).

(e) If the information may not be released in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, and notice of the right to appeal the determination in writing within sixty days to the chairperson of the Office of Science and Technology Policy Review Committee. If appealed, the requestor shall be informed of the appellate determination within thirty days of receipt of the appeal.

(f) When a request is received for information classified by another agency, the Executive Officer, Office of Science and Technology Policy shall:

(1) Forward the request to such agency for review together with a copy of the document containing the information requested, where practicable, and where appropriate, with the Office of Science and Technology Policy recommendation to withhold or declassify and release any of the information;

(2) Notify the requestor of the referral unless the agency to which the request is referred objects to such notice on grounds that its association with the information requires protection; and

(3) Request, when appropriate that the agency notify the Office of Science and Technology Policy of its determination.

(g) If the request requires the rendering of services for which fees may be charged under Title 5 of the Independent Offices Appropriation Act, 31 U.S.C. 483a the Executive Officer, Office of Science and Technology Policy may calculate the anticipated amount of fees to be charged.

(1) Fees for the location and reproduction of information that is the subject of a mandatory review request shall be assessed according to the following schedule:

(i) Search for records. $5.00 per hour when the search is conducted by a clerical employee; $8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

(ii) Reproduction of documents. Documents will be reproduced at a rate of $.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents that are three pages or less, or for the first three pages of longer documents.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requestor has not indicated in advance a willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. Dispatch of such a notice or request shall suspend the running of the period for response by OSTP until a reply is received from the requestor.

(3) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Treasury of the United States and mailed to the Executive Officer, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500.

(4) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(5) If a requestor fails to pay within thirty days for services rendered, further action on any other requests submitted by that requestor shall be suspended.

(6) The Executive Officer, Office of Science and Technology Policy may waive all or part of any fee provided for in this section when it is deemed to be in either the interest of the OSTP or the general public.

§ 2400.25 Prohibition.

In response to a request under the Feeedom of Information Act or this Section, the Office of Science and Technology Policy, if in possession of a document, shall not refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classified under this Regulation.

§ 2400.26 Downgrading.

(a) When it will serve a useful purpose, original classification authorities may, at the time of original classification, specify that downgrading

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of the assigned classification will occur on a specified date or upon the occurrence of a stated event.

(b) Classified information marked for automatic downgrading is downgraded accordingly without notification to holders.

(c) Classified information not marked for automatic downgrading may be assigned a lower classification designation by the originator or by an official authorized to declassify the same information. Prompt notice of such downgrading shall be provided to known holders of the information.

Subpart E—Identification and Marking

§ 2400.27 Designation.

Subject to the exception in § 2400.28, information determined to require classification protection under the provisions of this Regulation shall be so designated. Designation by physical marking, notation, or other means serves to warn the holder about the classification of the information involved; to indicate the degree of protection that is required; and to facilitate downgrading and declassification actions.

§ 2400.28 Exception.

No article which has appeared, in whole or in part, in newspapers, magazines or elsewhere in the public domain, or any copy thereof, that is being reviewed and evaluated to compare its content with classified information that is being safeguarded in the Office of Science and Technology Policy by security classification, may be marked with any security classification, control or other kind of restrictive marking. The results of the review and evaluation, if classified, shall be separate from the article in question.

§ 2400.29 Identification and marking.

(a) At the time of classification, the following shall be shown on the face of originally or derivatively classified documents:

(1) the identity of the original classification authority, or a source document or classification guide. If classification is derived from more than one source, the phrase "multiple sources" will be shown and the identification of each source will be maintained with the file or record copy of the document;

(2) The office of origin;

(3) The date of classification;

(4) The overall classification of the document;

(5) The date or event for automatic declassification or for review for declassification;

(6) Documents classified for more than six years shall also be marked with the identity by title of the TOP SECRET classification authority who authorized prolonged classification, unless that official also is the signer or approver, and annotated with the reasons the classification is expected to remain necessary despite the passage of time; and

(7) Any downgrading action to be taken and the date thereof.

(b) The overall classification of a document, whether or not permantly bound, or any copy or reproduction thereof, shall be conspicuously marked, stamped or affixed permanently at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page shall be marked top and bottom according to its content. Alternatively, the overall classification of the document may be conspicuously marked or stamped at the top and bottom of each interior page when such marking is necessary to achieve production efficiency and particular information to which classification is assigned is otherwise sufficiently identified consistent with the intent of § 2400.29(c). In any case, the classification marking of a page shall not supersede the classification marking of portions (§ 2400.29(c)) of the page marked with lower levels of classification.

(c) Each section, part, paragraph, subparagraph, or similar portion of a classified document shall be marked to show the level of classification of the information contained in or revealed by it, or that it is unclassified. Portions of documents shall be marked in a manner that eliminates doubt as to which of its portions contains or reveals classified information.

Supart F—Safeguarding

§ 2400.30 Access

(a) No person may have access to classified information unless that person has been determined to be trustworthy and unless access is necessary for the performance of official duties. A personnel security clearance is an indication that the trustworthiness decision has been made. Procedures shall be established by the head of each office to prevent unnecessary access to classified information. There shall be a demonstrable need for access to classified information before a request for a personnel security clearance can be initiated. The number of people cleared and granted access to classified information shall be maintained at the minimum number that is consistent with operational requirements and needs. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determining whether an individual's official duties require possession of or access to any element or item of classified information, and whether the individual has been granted the appropriate security clearance by proper authority, rests upon the individual who has authorized possession, knowledge, or control of the information and not upon the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, other Federal Agencies, contractors, foreign governments, and others.

(b) When access to a specific classification category is no longer required for the performance of an individual's assigned duties, the security clearance will be administratively adjusted, without prejudice to the individual, to the classification category, if any, required.

§ 2400.31 Access by historical researchers and former Presidential appointees.

Classified information may be made available to historical researchers and former Presidential appointees. The Director, Office of Science and Technology Policy shall determine, prior to the release of classified information, the propriety of such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know. Access will be limited to specific categories of information over which the Office of Science and Technology Policy has classification jurisdiction. OSTP shall maintain custody of classified information and obtain the recipient's written agreement to safeguard the information and to authorize a review of any notes and manuscript for determination that no classified information is contained therein.

§ 2400.32 Storage of classified information.

Whenever classified information is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container approved for the storage and protection of the appropriate level of classified information.

§ 2400.33 Dissemination of classified information.

Heads of OSTP offices shall establish procedures consistent with this Regulation for the dissemination of classified material. The originating official may prescribe specific restrictions on dissemination of classified information when necessary.

§ 2400.34 Accountability and control.

(a) Each item of Top Secret and Secret information is subject to control and accountability requirements. Confidential information normally is not formally controlled in OSTP, however, it still must be properly safeguarded. Confidential information may be controlled when, in the judgment of the originator or recipient, it requires stringent access or accountability controls. Department of State material designated "LIMITED OFFICIAL USE" will be handled as Confidential information.

(b) The Security Officer will serve as Top Secret Control Officer (TSCO) for the Office of Science and Technology Policy and will be responsible for the supervision of the Top Secret control program. He will be assisted by an Assistant Top Secret Control Officer to effect the Controls prescribed herein for all Top Secret material.

(c) Records shall be maintained to show the number and distribution of reproduced copies of all Top Secret documents, of all classified documents covered by special access programs, and of all Secret and Confidential documents which are marked with special dissemination and reproduction limitations.

(d) Top Secrets Documents and material will be accounted for by a continuous chain of receipts.

(e) The Security Officer will develop procedures for the accountability and control of Secret information.

§ 2400.35 Reproduction of classified information.

Documents or portions of documents and materials that contain Top Secret information shall not be reproduced without the consent of the originator or higher authority. Any stated prohibition against reproduction shall be strictly observed. Copying of documents containing classified information at any level shall be minimized. Specific reproduction equipment shall be designated for the reproduction of classified information and rules for reproduction of classified information shall be posted on or near the designated equipment. Notices prohibiting reproduction of classified information shall be posted on equipment used only for the reproduction of unclassified information. All copies of classified documents reproduced for any purpose including those incorporated in a working paper are subject to the same controls prescribed for the document from which the reproduction is made.

Subpart G—Foreign Government Information

§ 2400.36 Classification.

(a) Foreign government information classified by a foreign government or international organization of governments shall retain its original classification designation or be assigned a United States classification designation that will ensure a degree of protection equivalent to that required by the government or organization that furnished the information. Original classification authority is not required for this purpose.

(b) Foreign government information that was not classified by a foreign entity but was provided with the expectation, expressed or implied, that it be held in confidence must be classified because Executive Order 12065 (reference (a)) states a presumption of a least identifiable damage to the national security in the event of unauthrorized disclosure of such information.

§ 2400.37 Duration of Classification.

(a) Foreign government information is exempt from the automatic declassification and twenty year systematic review requirements of Subpart D.

(b) Foreign government information shall not be assigned a date or event for automatic declassification unless specified or agreed to by the foreign entity.

(c) Foreign government information classified on or after December 1, 1978 shall be assigned a date for review for declassification at thrity years from the time the information was originated by the foreign entity, or acquired or classified by the Office of Science and Technology Policy, whichever is earlier.

§ 2400.38 Declassification.

In weighing the need to protect information against the possible public interest in disclosure as prescribed in § 2400.20, officials shall respect the intent of this Regulation to protect foreign government information and confidential foreign sources.

§ 2400.39 Mandatory Review.

Requests for mandatory review for declassification of foreign government information shall be processed and acted upon in accordance with the provisions of Subpart D of this part, except that foreign government information will be declassified only in accordance with the guidelines developed for such purpose and after necessary consultation with other government agencies with subject matter interest. In cases where these guidelines cannot be applied to the foreign government information requested, or in the absence of such guidelines, consultation with the foreign originator through appropriate channels normally should be effected prior to final action on the request. When the responsible OSTP official is knowlegeable of the foreign originator's view toward declassification or continued classification of the types of information requested, consultation with the foreign originator may not be necessary.

§ 2400.40 Protection of Foreign Government Information.

Classified foreign government information shall be protected as is prescribed by this Regulation for United States classified information of a comparable level.

Subpart H—Security Education

§ 2400.41 Responsibility and Objectives.

The OSTP Security Officer shall establish a security education program for OSTP personnel. The program shall stress the objectives of classifying less information, declassifying more, and improving protection of information that requires it while maintaining the interest of the Government in protecting the national security.

Subpart I—Office of Science and Technology Policy Information Security Program Management

§ 2400.42 Responsibility.

The Director, OSTP is the senior OSTP official having authority and responsibility to ensure effective and uniform compliance with and implementation of Executive Order 12065 and its implementing Directive (references (a) and (b)). As such, the Director, OSTP shall have primary responsibility for providing guidance, oversight and approval of policy and procedures governing the OSTP Information Security Program. The Director, OSTP may approve waivers or exceptions to the provisions of this Regulation to the extent such action is consistent with references (a) and (b).

§ 2400.43 Office Review Committee.

The Office of Science and Technology Policy Review Committee (hereinafter referred to as the Office Review Committee) is hereby established and will be responsible for the continuing review of the administration of this Regulation with respect to the

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classification and declassification of information or material originated or held by the Office of Science and Technology Policy. The Office Review Committee shall be composed of the Associate Director, National Security and International Affairs who shall serve as Chairperson, the Associate Director, National Resources and Commercial Sciences, and the Security Officer.

§ 2400.44 Security Officer.

Under the general direction of the Director, the Executive Officer will serve as the Security Officer and will supervise the administration of this Regulation. He will develop programs, in particular a Security Education Program, to insure effective compliance with and implementation of the Information Security Program. Specifically he also shall:

(a) Maintain a current listing by title and name of all persons who have been designated in writing to have original Top Secret, Secret, and Confidential Classification authority. Listings will be reviewed by the Director on an annual basis.

(b) Maintain the record copy of all approved OSTP classification guides.

(c) Maintain a current listing of OSTP officials designated in writing to have declassification and downgrading authority.

(d) Develop and maintain systematic review guidelines.

§ 2400.45 Heads of Offices.

The Associate Director of each unit is responsible for the administration of this Regulation within his area. These responsibilities include:

(a) Insuring the national security information is properly classified and protected;

(b) Exercising a continuing review to downgrade and declassify information;

(c) Issuing appropriate internal security instructions and maintaining the prescribed control and accountability records on classified information under their jurisdiction.

§ 2400.46 Custodians.

Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1 and 109

[CGD 79-096]

Anchorage Grounds, Special Anchorages and Drawbridges; Delegation of Authority

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Under procedures that are presently in effect, the Coast Guard issues a number of routine, non-significant regulations governing anchorages and drawbridges through the Office of the Commandant. As these are matters of local concern that may be processed more effectively and expeditiously at the district level, this rulemaking delegates authority for their issuance to the commanders of each of the twelve Coast Guard districts.

EFFECTIVE DATE: This amendment is effective October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems (G-WLE/83), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1934.

SUPPLEMENTARY INFORMATION: Sections 471, 180, 258, and 322 of Title 33, United States Code authorize the Secretary of Transportation to issue regulations establishing anchorage grounds and special anchorage areas. Section 499 of the same Title confers similar authority upon the Secretary for the operation of drawbridges. In § 1.46(c) of Title 49, Code of Federal Regulations, the authority contained in all of these statutory provisions has been delegated to the Commandant of the Coast Guard. Section 1.45(b) of Title 49, Code of Federal Regulations enables the Commandant to redelegate this authority within the Coast Guard.

In the past, requests for the issuance of anchorage and drawbridge regulations, accompanied by factual and statistical information, have been submitted by the Coast Guard districts to Coast Guard Headquarters, where proposed and final rulemaking documents have been prepared. Occasionally information submitted must be clarified for Headquarters personnel, creating some delay in the issuance of regulations. As anchorages and drawbridges are essentially matters of local import, the Coast Guard feels that most regulations concerning them should be issued by district officials, who are better able to respond to the needs of the public in the areas where they serve.

Despite this delegation of authority, not every anchorage and drawbridge regulation may be issued at the district level. The Commandant remains obligated to issue any of these which are deemed "significant" under the Department of Transporation's Regulatory Policies and Procedures published in the **Federal Register** on February 26, 1979 (44 FR 11034). A drawbridge or anchorage regulation may conceivably be found significant under that document if it: (1) concerned a matter on which there is substantial public interest or controversy; (2) had a major impact on another Administration, Department, or Agency of the Federal government; (3) had a substantial effect on State and local governments; or (4) had a substantial impact on a major transportation safety problem. Given the magnitude of these criteria, very few anchorage and drawbridge regulations are likely to be found significant.

In addition, the Commandant has reserved the authority to issue any anchorage or drawbridge regulations that have been shown to raise substantial issues concerning the reasonable needs of navigation. The Coast Guard has found that inquiries and complaints from members of Congress and the public are frequently addressed to Coast Guard Headquarters over matters of this nature. A concomitant need often arises to coordinate these matters with local authorities. The Coast Guard feels that it will be in a better position to accommodate the concerns of these diverse interest groups by retaining issuing authority for these regulations at the Headquarters level.

The Commandant has also reserved the authority to issue any anchorage or drawbridge regulations which have been shown to generate controversy on a matter of importance to a particular locality. This has been undertaken in order that decision-making authority may be vested in a position that is suitably removed from the actual point of controversy. The Coast Guard feels that this will allow all necessary determinations to be made with the greatest degree of objectivity.

Drafting Information

The principal persons involved in the drafting of this delegation are: Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems, and Mr. Coleman Sachs, Project Attorney, Office of Chief Counsel.

Discussion

Three of the general provisions pertaining to anchorages in 33 CFR Part 109 have been revised to reflect this delegation of authority.

This rulemaking has been reviewed under the Department of Transportation's Regulatory Policies and Procedures of February 26, 1979 (44 FR 11034) and is considered to be non-significant. It has been further determined that the expected economic impact is so minimal that it does not warrant the preparation of a full economic evaluation.

As this action is solely concerned with agency practice and procedure, it is exempted from the provisions of 5 U.S.C. 553. Notice and the opportunity for public participation in this rulemaking have therefore not been provided.

In consideration of the foregoing, Parts 1 and 109 of Title 33 of the Code of Federal Regulations are amended as follows:

1. By revising paragraph (c) and by adding new paragraphs (g) and (h) to § 1.05-1 in Part 1 to read as follows:

§ 1.05-1 General.

* * * * *

(c) The Commandant redelegates to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, with the reservation that this authority shall not be further redelegated, the authority to:

(1) Grant exemptions from provisions of the Vessel Bridge-to-Bridge Radiotelephone Act and Part 26 of this chapter.

* * * * *

(g) Except for those matters specified in paragraph (h) of this section, the Commandant redelegates to each Coast Guard District Commander, with the reservation that this authority shall not be further redelegated, the authority to issue rules and regulations pertaining to the following:

(1) The establishment and disestablishment of anchorage grounds and special anchorage areas.

(2) Changes to the anchorage regulations.

(3) The operation of drawbridges.

(h) The Commandant reserves authority to issue any rules and regulations specified in paragraph (g) of this section which:

(1) Are determined to be significant in accordance with the Department of Transportation's Regulatory Policies and Procedures, as published in the **Federal Register** on February 26, 1979, (44 FR 11034);

(2) Have been shown to raise substantial issues concerning the reasonable needs of navigation; or

(3) Have been shown to generate controversy on an issue of importance to a particular locality.

2. By revising paragraph (b) of § 109.01 in Part 109 to read as follows:

§ 109.01 Purpose.

* * * * *

(b) There were transferred to and vested in the Secretary of Transportation by subsection 6(g) of the Department of Transportation Act (sec. 6(g), 80 Stat. 941, 49 U.S.C. 1655) all functions, powers, and duties of the Secretary of the Army under specified laws. The Secretary of Transportation by Department of Transportation Order 1100.1 (49 CFR 1.4(a)(3)), with specified limitations, delegated to the Commandant, U.S. Coast Guard, authority to exercise the functions, powers, and duties of the Secretary with respect to anchorages, as further described in § 110.1 of this subchapter. The Commandant redelegated this authority to each Coast Guard District Commander with specified limitations, as set forth in § 1.05-1(g) of this Title.

3. By revising paragraphs (a) and (b) of § 109.05 in Part 109 to read as follows:

§ 109.05 Anchorage grounds.

(a) Section 7 of the River and Harbor Act of March 4, 1915 (33 U.S.C. 471), authorizes the establishment of anchorage grounds for vessels in navigable waters of the United States whenever it is apparent that these are required by the maritime or commercial interests of the United States for safe navigation. The statute also authorizes the adoption of suitable rules and regulations regarding the establishment of anchorage grounds, which are enforced by the Coast Guard. The authority conferred by this statute was transferred to and vested in the Secretary of Transportation by sections 6(g)(1)(A) of the Department of Transportation Act (80 Stat. 931) and delegated to the Commandant of the U.S. Coast Guard in section 1.46 of Title 49, Code of Federal Regulations, and redelegated, with specified limitations, by the Commandant to each Coast Guard District Commander in § 1.05-1(g) of this Title.

(b) District Commanders will, whenever matters relating to the anchorage of vessels are under consideration, ascertain the view of the District and Division Engineer, Corps of Engineers, U.S. Army, and the proper representatives of other departments likely to be interested, including the Commandant of the Naval District concerned and the medical officer in charge of the quarantine station at localities where quarantine anchorages are involved, in order that they may arrange for suitable representation at such hearings. The views of the medical officer in charge of the quarantine station relating to the proposed location and boundaries of the quarantine anchorage will be accepted insofar as practicable and consistent with the establishment of other anchorage areas. (An Act of Congress approved July 1, 1944, as amended (42 U.S.C. 267), authorizes the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare, to designate the boundaries of the quarantine grounds and quarantine anchorages for vessels which are reserved for use at each United States quarantine station.) A notice of public hearing concerning changes to the Anchorage Regulations will be issued by the District Commander and will be mailed to all known interested parties. After providing an opportunity for public participation, the District Commander will, if circumstances so warrant, issue changes to the Anchorage Regulations, or in appropriate cases forward recommendations for such changes to the Commandant.

4. By revising § 109.10 in Part 109 to read as follows:

§ 109.10 Special anchorage areas.

An Act of Congress of April 22, 1940, provides for the designation of special anchorage areas wherein vessels not more than sixty-five feet in length, when at anchor, will not be required to carry or exhibit anchorage lights. Such designation is to be made after investigation, by rule, regulation, or order, the procedure for which will be similar to that followed for anchorage grounds under section 7 of the River and Harbor Act of March 4, 1915, as referred to in § 109.05. The areas so designated should be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels. The authority to designate special anchorage areas was transferred to and vested in the Secretary of Transportation by sections 6(g)(1)(D) of the Department of Transportation Act (80 Stat. 931) and delegated to the Commandant of the U.S. Coast Guard in Title 49, Code of Federal Regulations and redelegated, with specified limitations, by the Commandant to each Coast Guard District Commander in § 1.05-1(g) of this Title.

V 4 4 / 1 7 2 S E 4 7 9

(33 U.S.C. 471, 180, 258, 322, and 499; 49 CFR 1.46(c) and 1.45(b))

Dated: August 10, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard Acting Commandant.

[FR Doc. 79-27446 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD9-79-01R]

Safety Zone—Vicinity of Crisp Point Light (Great Lakes Light List # 1666)

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Sefety Zone Regulations establishes the area in the vicinity of CRISP POINT LIGHT, EASTERN LAKE SUPERIOR, as a safety zone. This safety zone is established to safeguard the U.S. Army Corps of Engineers Derrick COLEMAN and to allow salvage operations to take place.

DATES: This amendment is effective on July 26, 1979 and remains effective until the completion of the operation on or about August 20, 1979.

FOR FURTHER INFORMATION CONTACT: LT. D. P. FORTUNE, c/o Commanding Officer, U.S. Coast Guard Captain of the Port, 337 Water St., Sault Ste. Marie, MI 49783 Tel: (906) 635-5495.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication because public procedures on this amendment are impractical.

DRAFTING INFORMATION: The principal person involved in the drafting of the rulemaking is LT. D. P. FORTUNE, COTP Officer, U.S. Coast Guard, Captain of the Port, 337 Water Street, Sault Ste. Marie, MI 49783.

In consideration of the above, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding § 165.949 to read as follows:

§ 165.949 Vicinity, Crisp Point Light (Great Lakes Light List Number 1666), Eastern Lake Superior.

The area enclosed by the following boundary is a safety zone—a 1000 foot radius around U.S. Army Corps of Engineers Derrick COLEMAN in a four point mooring at a position 46 49' N latitude 85 17' E longitude, 8200 yards 359 degrees true from Crisp Point Light.

(92 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4)).

Dated: July 24, 1979.

Joseph H. Wubbold,

Captain, U.S. Coast Guard Captain of the Port Sault Ste. Marie, MI.

[FR Doc. 79-27447 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 209

Shipping Safety Fairways and Anchorages, Gulf of Mexico

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is hereby amending the regulations which establish the Galveston Entrance Fairway and Anchorage Areas in the Gulf of Mexico. The purpose of the amendment is to facilitate the production and movement of oil and gas from wells located within the anchorage areas and surrounding area by permitting pipeline construction.

DATE: Effective on 15 September 1979.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard (202) 693-5070.

SUPPLEMENTAL INFORMATION: Shipping safety fairways and anchorages have been established by the Department of the Army to control the erection of structures in shipping approaches to major coastal ports. Department of the Army permits are required for the construction of any structure in or over any navigable water of the United States pursuant to Section 10 of the River and Harbor Act of 1899 and for artificial islands and fixed structures located on the outer continental shelf in accordance with Section 4(e) of the Outer Continental Shelf Lands Act Amendments of 1953. The Corps in effect established the fairways and anchorages by denying permits for the erection of structures within certain designated areas. The Galveston Fairway and Anchorage Areas were established in 33 CFR 209.135 on 18 December 1968.

The Galveston District Engineer has received an application for a permit to construct a pipeline extending from the Galveston Anchorage Area across the Galveston Fairway and East Anchorage Area. Inasmuch as the District Engineer has an established policy that prohibits crossing anchorage areas with pipelines, the Corps is deleting a small portion of the anchorages at the southerly boundaries to facilitate the pipelines. The seaward boundary of the triangular easterly anchorage area is relocated landward about 5 nautical miles, truncating the anchorage area to a more practical quadrangular shape. The seaward boundary of the westerly anchorage is relocated landward approximately 0.5 nautical mile. The pipelines are required to accommodate the production and transmission of vitally needed oil and natural gas. The Corps will continue to restrict the erection of platforms and other structures within the two areas deleted from the anchorage areas.

This amendment was published in the Notice of Proposed Rulemaking Section of the Federal Register on 15 June 1979 (44 FR 34519) with the comment period expiring on 16 July 1979. The U.S. Coast Guard has expressed no objection to the proposed amendment provided the Corps maintains the restriction on structures within the areas deleted. Comments were received from the following:

Supporters

Exxon Company, U.S.A.
United Gas Pipeline Company
Kerr-McGee Corporation
Tennessee Gas Pipeline Company
Mitchell Energy Corporation
Columbia Gulf Transmission Company
Mr. Roy Butler
Northern Natural Gas Company
Texas Gas Transmission Corporation
Texas Eastern Transmission Corporation
Transcontinental Gas Pipeline Corporation
Natural Gas Pipeline Corporation of America
Interstate Natural Gas Association of America
Trunkline Gas Company
Offshore Operators Committee
Texaco, Inc.
Southern Gas Association
Gulf Oil Exploration and Production Company
Shell Oil, Inc.
Southern Natural Gas Company

Objectors

New Orleans Steamship Association
American Institute of Merchant Shipping
West Gulf Maritime Association
Council of American Flag Ship Operators
American Pilots Association
Sea-Land Services, Inc.

Summary of Objections

Opposition has been expressed to any change which would predetermine the findings of the U.S. Coast Guard in that Agency's ongoing studies required by the Ports and Waterways Safety Act of 1978 (P.L. 95-474). The Corps has coordinated this action with the Coast Guard and by continuing the prohibition on surface structures has eliminated this concern.

Several objectors expressed concern about the holding quality of the bottom in the anchorage area and feel the area presently is inadequate to accommodate the 50 to 60 ships which are at times using the area. The Corps has concluded that reducing the anchorage area by approximately 9.0 square nautical miles or six percent will not have a significant or critical effect on the capacity of the anchorage area.

Accordingly, the Department of the Army is hereby amending the regulations in 33 CFR 209.135 by revising (d)(11) only as set forth below:

209.135 Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico

* * * * *

(d) The areas.

* * * * *

(11) Galveston Entrance Anchorage Areas. The areas inclosed by rhumb lines joining points at:

Latitude	*Longitude*
29°18'10"	94°39'16"
29°08'04"	94°28'12"
29°03'13"	94°36'48"
29°14'48"	94°45'12"
29°18'10"	94°39'16"

and rhumb lines joining points at:

29°19'23"	94°37'08"
29°12'18"	94°32'00"
29°14'23"	94°25'53"
29°13'24"	94°27'33"
29°19'23"	94°37'08"

* * * * *

Authority.—30 Stat. 1151, 33 U.S.C. 503 and 43 U.S.C. 1333(e). The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 28, 1979.

Edward Lee Rogers,

Acting Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-27356 Filed 8-31-79; 8:45 am]

BILLING CODE 3710-92-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 922

Planning and Design Objectives, Controls, and Standards on the Western Half of Square 457.

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Interim Rule; request for comment.

SUMMARY: The Pennsylvania Avenue Development Corporation proposes regulations relating to controls and standards for the western half of Square 457, an area in the District of Columbia which is scheduled for development and rejuvenation under The Pennsylvania Avenue Plan—1974. The regulations address such areas as height, development massing, pedestrian features and related subjects. The controls and standards are intended to implement The Pennsylvania Avenue Plan—1974, as amended. Public comment is invited on the substance of this Interim Rule as well as the readability and clarity of presentation.

DATES: Effective date: September 4, 1979. comments must be received on or before October 4, 1979.

ADDRESS: Send comments to Mr. Al Milin, Square 457 Coordinator, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Ms. Mary M. Schneider, Attorney (202) 566-1078, or Mr. Yong-Duk Chyun, Architect (202) 566-1218, Pennsylvania Avenue Development Corporation.

SUPPLEMENTARY INFORMATION: The Pennsylvania Avenue Development Corporation (the Corporation) is a wholly owned government corporation of the United States with authority to develop and rejuvenate 21 blocks along the north side of Pennsylvania Avenue, NW., Washington, D.C. The Corporation has prepared a development plan, The Pennsylvania Avenue Plan—1974, which has been adopted by Congress. In order to facilitate development in accordance with the Plan, the Corporation will be preparing Controls and Standards for many of the blocks under its jurisdiction.

This interim rule sets forth the Controls and Standards for both required and recommended features applicable to development of the western half of Square 457, an area on Square 457, a block in the District of Columbia, as recorded by the Surveyor of the District of Columbia. The Controls and Standards will be distributed to affected property owners and potential developers, and will become the basis on which development proposals and related actions will be reviewed and approved by the Corporation.

The Controls and Standards set forth required controls and standards for height, development massing, land uses, pedestrian amenities, land parcelization, historic preservation, off-street parking and loading and related subjects. The document also sets forth recommended controls and standards in such areas as uses, energy conservation, off-street loading and parking, historic preservation, and related subjects.

36 CFR Chapter IX, Subchapter B, is amended by adding a new Part 922 to read as follows:

PART 922—WESTERN HALF OF SQUARE 457

Subpart A—General

Sec.
922.1 Definitions.

Subpart B—Required Planning and Design Controls and Standards

922.20 Required controls and standards: Development parcels.
922.21 Required controls and standards: Integration of development parcels.
922.22 Required controls and standards: Development control zones.
922.23 Required controls and standards: Bulk.
922.24 Required controls and standards: Build-to line.
922.25 Required controls and standards: Height of development.
922.26 Required controls and standards: Mandatory court.
922.27 Required controls and standards: Pedestrian features.
922.28 Required controls and standards: Uses.
922.29 Required controls and standards: Rooftop uses.
922.30 Required controls and standards: Curb-cuts.
922.31 Required controls and standards: Off-street parking.
922.32 Required controls and standards: Off-street loading.
922.33 Required controls and standards: Provisions for the handicapped.
922.34 Required controls and standards: Historic preservation.
922.35 Required controls and standards: Streetfront design.
922.36 Required controls and standards: Storefront design.
922.37 Required controls and standards: Fire and life safety.

Subpart C—Recommended Planning and Design Controls and Standards

922.50 Recommended controls and standards: Development parcels.
922.51 Recommended controls and standards: Uses.
922.52 Recommended controls and standards: Court.
922.53 Recommended controls and standards: Energy conservation.
922.54 Recommended controls and standards: Access for offstreet parking and loading.
922.55 Recommended controls and standards: Historic preservation.
922.56 Recommended controls and standards: Fire and life safety.

Authority: Sec. 6(8) Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 875(8)).

UMI

Subpart A—General

§ 922.1 Definitions.

In addition to the words and phrases defined in this section, the words and phrases as defined in section 1202 of the Zoning Regulations of the District of Columbia, as amended, are applicable to this part. Where a conflict arises in terminology or interpretation between this section and section 1202 of the Zoning Regulations, this section shall control.

Build-to line means a line with which the exterior wall of a building in a *development* is required to coincide, except that architectural features such as recesses, niches, entrances, or other articulations of the facade are permitted, unless otherwise prohibited by these Controls and Standards or the District of Columbia's codes and regulations.

Development means a structure, including a building, planned unit development, or project resulting from the process of planning, land acquisition, demolition, construction, or *rehabilitation* consistent with the objectives and goals of *The Plan*.

Development parcel means an area of land established by the Corporation to be a minimum site on which a *development* may occur under *The Plan* and any applicable Planning and Design Objectives, Controls, and Standards adopted by the Corporation.

Height of development means the vertical distance measured from a specified point at the curb level of a street to the highest point of the roof or parapet of the *development* inclusive of all structures on the roof not otherwise specifically excluded in this part.

The Plan means The Pennsylvania Avenue Plan—1974, as amended, and prepared pursuant to Pub. L. 92–578, 86 Stat. 1266 (40 U.S.C. 871), and the document which sets forth the *development* concepts upon which these controls and standards are based.

Rehabilitation means the process of adapting improvements on real property to make possible an efficient contemporary use achieved by means of a combination of construction, repair, or alteration, as well as *restoration* and *replication* of those portions and features of the property that are significant to its historic, architectural, and cultural values, consistent with the goals and objectives of The Plan.

Replication means the process of using modern methods and materials to reproduce the exact form and details of a vanished building, structure, object, or portion thereof, as it appeared at a particular period of time, and consistent with the objectives and goals of *The Plan*.

Restoration means the process of accurately recovering the form and details of a property as they appeared at a particular period of time by means of removal of later work and the replacement of missing original work, consistent with the objectives and goals of *The Plan*.

Storefront means the street level frontage relating to a single store.

Structural Bay means the distance or span from one vertical structural member fronting on a street to the immediately adjacent vertical structural member fronting on the same street.

Subpart B—Required Planning and Design Controls and Standards

§ 922.20 Required controls and standards: Development parcels.

(a) The western half of Square 457 is the area bounded by 7th, D, and E Streets, NW., Washington, D.C., and the north-south public alley bisecting Square 457 as shown on Diagram 1. The north-south public alley shall be:

(1) The existing north-south public alley between E Street, NW., and D Street, NW.; plus

(2) An area extending southward from the E Street right of way line for a distance of 217 feet and measured westward 5 feet from the west line of the existing north-south public alley.

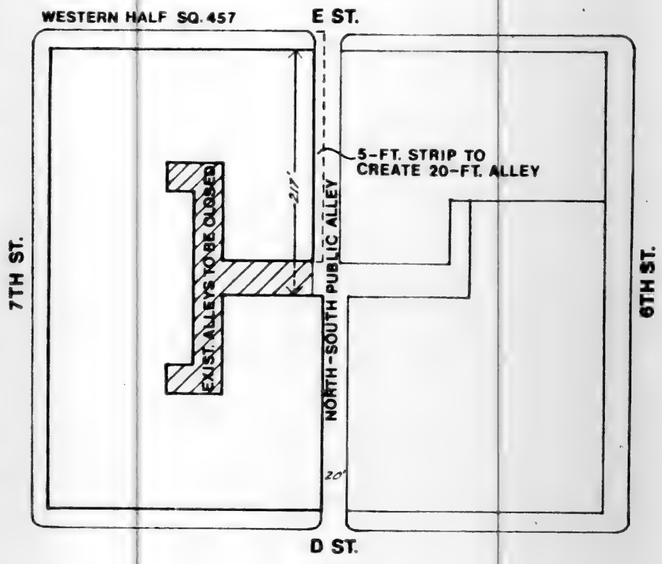


Diagram 1

Western Half of Square 457

(b) The western half of Square 457 shall be developed in no more than four *development parcels* as specified in this § 922.20 and shown on Diagram 2b.

(1) Parcel A is a *development parcel* that fronts on 7th and D Streets, NW., and incorporates all of Lots 815, 848, 853, 818, and portions of Lots 819 and 820 measured eastward from the 7th Street right-of-way line for a distance of approximately 60 feet. Parcel A is approximately 9,070 square feet in area.

(2) Parcel B is a *development parcel* that fronts on 7th and E Streets, NW., and incorporates Lot 826 in its entirety and portions of Lots 823, 824, and 825 measured eastward from the 7th Street right-of-way line for a distance of 60 feet. Parcel B is approximately 9,795 square feet in area.

(3) Parcel C is a *development parcel* and is the remainder of the western half of Square 457. Parcel C is approximately 74,240 square feet in area. (See Diagram 2a.)

(4) The Mayer Building (419–423 7th Street, NW.), located within Parcel C on Lot 36, may be created as a separate *development parcel*, Parcel D (see Diagram 2b): *Provided*, That:

(i) The Mayer Building is *rehabilitated* and integrated with other *developments* as specified in § 922.20;

(ii) The Mayer Building is devoted to a use specified in § 922.27(b); and

(iii) The development process occurs prior to *development* of the remainder of Parcel C; or

(iv) The development process is undertaken by a separate developer contemporaneous with *development* on the remainder of Parcel C.

Parcel D is approximately 9,251 square feet in area, and the remainder of Parcel C is approximately 64,990 square feet in area.

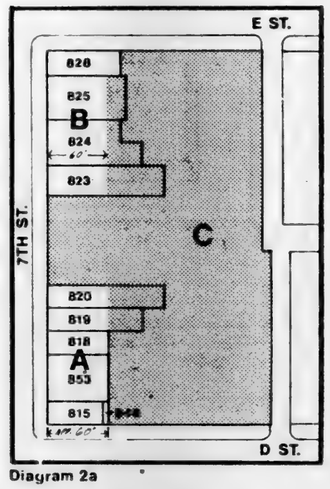


Diagram 2a

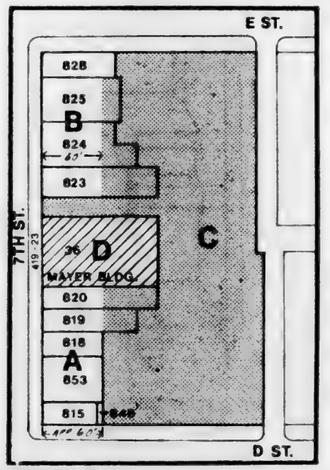


Diagram 2b

Development Parcels

§ 922.21 Required controls and standards: Integration of development parcels.

(a) Each *development* shall be planned and designed so that upon completion of the western half of the Square all *developments* can be integrated with regard to:

(1) Off-street loading facilities, and

(2) Ground floor pedestrian features, where such features are provided.

(b) The Corporation may require that any and all *development parcels* be recorded as a lot of record with the Surveyor's Office of the District of Columbia should such recordation be required to achieve the integrated and comprehensive *development* contemplated for the western half of the square. It is the Corporation's intention that no lot of record shall be created that will adversely impact any *development* on a specified *development parcel* described in § 922.20.

(c) In order to facilitate integration of the western half of Square 457, the Corporation shall require that certain areas, spaces, and facilities within designated Parcel C be made useable by and accessible from Parcels A, B, and D.

(d) Parcels, A, B, and D shall have rights to access and use on those portions of Parcel C described as a court in § 922.26(a) and such rights shall be in accordance with the provisions of § 922.26 (b) through (h); Parcels A, B, and D shall also have rights to subsurface access and off-street loading facilities located within Parcel C.

§ 922.22 Required controls and standards: Development control zones.

The western half of Square 457 shall be divided into three development control zones as specified in this § 922.22 and shown on Diagram 3:

(a) Zone I is bounded on the west by the right-of-way line of 7th Street, NW; on the south by the right-of-way line of D Street, NW; on the north by the right-of-way line of E Street, NW; and on the east by a line measured 60 feet from the 7th Street right-of-way, except that Lot 826 shall be included in its entirety.

(b) Zone II is bounded on the west by Zone I, on the north by the right-of-way line of E Street, NW., on the south by the right-of-way line of D Street, NW., and on the east by a line measured 90 feet east from the right-of-way line of 7th Street, NW.

(c) Zone III shall be the remaining portion of the western half of Square 457.

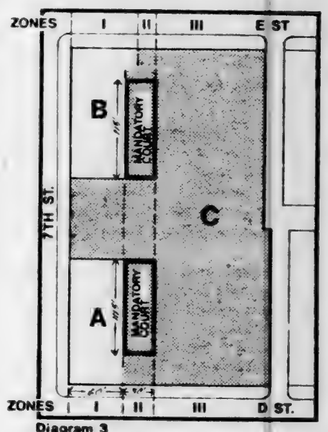


Diagram 3

Development Control Zones

§ 922.23 Required controls and standards: Bulk.

The western half of Square 457 shall be limited to a maximum floor area ratio of 8.5.

§ 922.24 Required controls and standards: Build-to line.

A *build-to line* for a *development* in Zone I is established at the right-of-way line of 7th Street, N.W., for the entire length of the street between D and E Streets, N.W.

§ 922.25 Required controls and standards: Height of development.

(a) The *height of development* in Zone I shall not exceed ninety (90) feet.

(b) The *height of development* in Zone II shall not exceed one hundred ten (110) feet.

(c) The *height of development* in Zone III shall not exceed one hundred thirty (130) feet.

(d) In Zone I and Zone II roof structures are not permitted on roof areas.

(e) *Development* within Zone III is limited to a *height of development* of one hundred ten (110) feet, exclusive of roof structures.

(f) The *height of development* in Zones II and III shall be measured at a point on the curb at the intersection of the curb line of 7th Street, N.W., and the right-of-way line of E Street, N.W. (See "A" in Diagram 4.)

(d) A court shall be landscaped and architecturally treated in an attractive manner and shall not be penetrated, receive exhaust, or otherwise be intruded into by ventilation grates or fans, stairways to subsurface parking and loading, mechanical equipment related to operation of a *development*, or the like; except that restricted access from subsurface space is permitted where (1) the access point occupies only a minimal portion of the court area, (2) the access point is designed in a manner complementary to and compatible with

level, and not less than 350 dwelling units shall be provided.

(b) It is not intended that Parcels A and B be primarily devoted to residential use, but residential use is permitted on Parcels A and B.

(c) In the event the Mayer Building (Parcel D) is *rehabilitated*, it shall be devoted to residential use, or activity generating uses such as theatre, exhibits, retail, or a mixture thereof, but office use shall be prohibited.

(d) The ground floor of the western half of Square 457 shall be primarily devoted to a mix of retail

(d) The maximum number of parking spaces for a *development* shall not exceed the aggregate of the number of parking spaces allowed for each use within the *development*, except that the number of parking spaces allocated to one *development parcel* may be increased by transferring the unused allocation of parking spaces from another *development parcel* on the western half of Square 457. If such allocation is transferred, the parking facility shall be designed to provide access to the parking facility from the

§ 922.23 Required controls and standards: Bulk.

The western half of Square 457 shall be limited to a maximum floor area ratio of 8.5.

§ 922.24 Required controls and standards: Build-to line.

A *build-to line* for a *development* in Zone I is established at the right-of-way line of 7th Street, N.W., for the entire length of the street between D and E Streets, N.W.

§ 922.25 Required controls and standards: Height of development.

(See Diagram 4.)

(a) Within Zone I, no *development* or a portion thereof shall exceed a *height of development* of four stories if the *development* has a flat roof, or three stories if any other roof configuration is provided, except

(1) Where the Mayer Building is rehabilitated, the *height of development* on Parcel D shall be limited to the roof line of the Mayer Building;

(2) Where *development* occurs in conjunction with an existing building or facade, or a relocated building or facade, the *height of development* shall be limited to the height of that building or facade.

For the purpose of this section, any mezzanine provided at any level above the first story shall be considered a story, and any basement area shall not be considered a story.

(b) In Zone I, except on the Mayer Building, Parcel D, the *height of development* specified in § 922.25(a) may be exceeded by two stories if:

(1) The additional stories are added on a flat roof configuration;

(2) The additional stories are devoted to residential use;

(3) The additional stories are set back on a horizontal plane not less than 20 feet from any adjacent street right-of-way and,

(4) The additional stories, where they front on a court are set back one inch for every two inches of height above the *height of development* for Zone I specified in § 922.25(b).

(c) *Development* or a portion thereof within Zone II is limited to a *height of development* of eighty (80) feet, except that the *height of development* on Parcel D shall not exceed the height of the roof line of the Mayer Building.

(d) In Zone I and Zone II roof structures are not permitted on roof areas.

(e) *Development* within Zone III is limited to a *height of development* of one hundred ten (110) feet, exclusive of roof structures.

(f) The *height of development* in Zones II and III shall be measured at a point on the curb at the intersection of the curb line of 7th Street, N.W., and the right-of-way line of E Street, N.W. (See "A" in Diagram 4.)

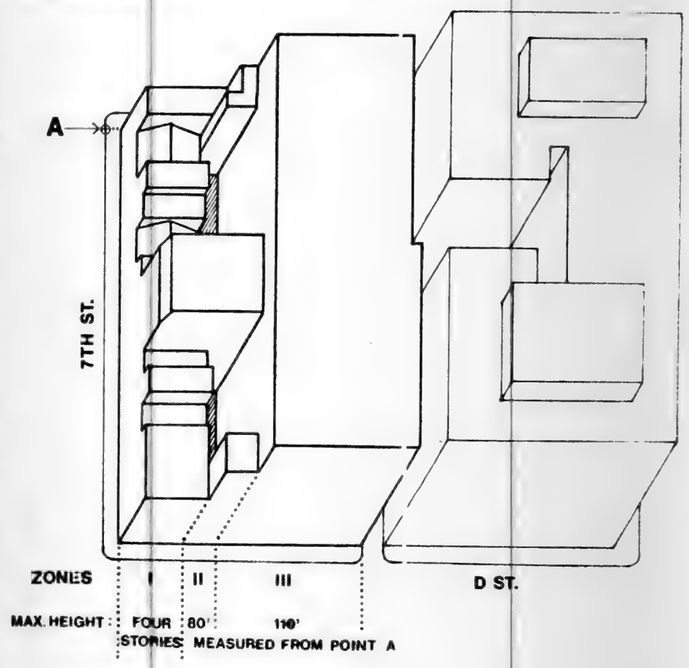


Diagram 4

Height of Development

§ 922.26 Required controls and standards: Mandatory court.

(a) *Development* on Parcel C is required to provide two courts within Zone II of the following minimum dimensions (see Diagram 3) and the requirements described in paragraphs (b) through (f) of this section apply to these mandatory courts.

(1) A court, adjacent to Parcel A, shall extend southward not less than 111.5 feet from the southern lot line of Lot 36, and shall be at least 30 feet wide.

(2) A court, adjacent to Parcel B, shall extend northward not less than 115 feet from the northern lot line of Lot 822, and shall be at least 30 feet wide.

(b) A court shall be open to the sky providing light and air for *development* on adjacent *development parcels*.

(c) The level within a court located in Zone II shall be within the range of specific topographic elevations set forth below, based on Vertical Datum of the District of Columbia Department of Transportation Datum:

(1) The court adjoining Parcel A—elevation 22 feet and elevation 27 feet;

(2) The court adjoining Parcel B—elevation 30 feet and elevation 40 feet.

(d) A court shall be landscaped and architecturally treated in an attractive manner and shall not be penetrated, receive exhaust, or otherwise be intruded into by ventilation grates or fans, stairways to subsurface parking and loading, mechanical equipment related to operation of a *development*, or the like; except that restricted access from subsurface space is permitted where (1) the access point occupies only a minimal portion of the court area, (2) the access point is designed in a manner complementary to and compatible with the landscaping and architectural treatment of the court, and (3) access through this point is for a special purpose which cannot be satisfied by other access points to the subsurface space within a *development*.

(e) Any *development* on Parcels A, B, or D shall have access to the mandatory court adjacent to that *development*, and shall have a right to use that court or a portion thereof under the terms of an agreement negotiated with the developer of Parcel C. The developer of Parcel C may not unreasonably withhold consent to use of the mandatory courts by adjacent *development parcels*, or otherwise impair negotiation of an agreement for use of the mandatory courts. The mandatory court shall be used for day and evening activities which are compatible with the uses in each *development* adjoining that court.

(f) The court adjacent to Parcel A shall have a direct connection to D Street, NW, and the court adjacent to Parcel B shall have a direct connection to E Street, NW.

(g) Upon completion of all *developments* on the western half of the Square, vehicular use is prohibited in every court.

(h) All surfaces fronting on any court shall be of a high quality design in order to create an attractive and pleasant court area, and to provide light and air to interior spaces of any adjoining *development*.

§ 922.27 Required controls and standards: Pedestrian features.

(a) All retail spaces on the ground level fronting on a street shall be made directly accessible from the adjacent sidewalk.

(b) When ground floor pedestrian features are provided in more than one *development*, such features shall be designed to allow free flowing pedestrian movement between *developments*.

§ 922.28 Required controls and standards: Uses.

(a) Parcel C shall be primarily devoted to residential use above the ground level, and not less than 350 dwelling units shall be provided.

(b) It is not intended that Parcels A and B be primarily devoted to residential use, but residential use is permitted on Parcels A and B.

(c) In the event the Mayer Building (Parcel D) is *rehabilitated*, it shall be devoted to residential use, or activity generating uses such as theatre, exhibits, retail, or a mixture thereof, but office use shall be prohibited.

(d) The ground floor of the western half of Square 457 shall be primarily devoted to a mix of retail, entertainment, restaurant, and exhibition uses that will encourage lively activities at the street level throughout the day, evening, and weekend. The ground floor of that portion of *development* in Zones II and III may also be devoted to uses that provide services related to residential use, such as nursery, grocery store, drug store, dry cleaner, etc.

§ 922.29 Required controls and standards: Rooftop uses.

(a) In Zone I, rooftop uses are prohibited except that, when residential uses are provided in any *development* in Zone I, rooftop uses are permitted, but such uses are limited to those which satisfy the requirement for "residential recreation space" specified in subsection 5302.2 of the District of Columbia Zoning Regulations.

(b) In Zones II and III, cafes, restaurants, and recreational uses including gardens and playgrounds are permitted on roof areas.

§ 922.30 Required controls and standards: Curb-cuts.

(a) No curb-cut shall be permitted along any portion of 7th, D, or E Streets, NW., adjoining Zones I or II.

(b) In Zone III, a single curb cut is permitted on D Street, N.W., and a single curb cut is permitted on E Street, N.W.

§ 922.31 Required controls and standards: Off-street parking.

(a) Off-street parking as a principal use is prohibited. Off-street parking as an accessory use in a *development* is permitted.

(b) All parking spaces shall be located below grade level.

(c) When an off-street parking facility is provided as part of a *development*, it shall be designed and constructed so as to permit its consolidation with off-street parking facilities of other *developments* on the western half of the Square. Upon completion of all *developments* on the western half of Square 457, all ingress and egress to parking facilities shall be on Parcel C.

(d) The maximum number of parking spaces for a *development* shall not exceed the aggregate of the number of parking spaces allowed for each use within the *development*, except that the number of parking spaces allocated to one *development parcel* may be increased by transferring the unused allocation of parking spaces from another *development parcel* on the western half of Square 457. If such allocation is transferred, the parking facility shall be designed to provide access to the parking facility from the *development* that transferred the unused parking allocation. The schedule of limitations for parking spaces is as follows:

(1) Hotel: one parking space for each four sleeping rooms or suites;

(2) Places of public assemblage other than hotels (i.e., arena, armory, theater, auditorium, community center, convention center, concert hall, etc.): One parking space for each ten seats of occupancy capacity for the first 10,000 seats, plus one for each 20 seats above 10,000; *Provided*, That where seats are not fixed, each seven square feet of gross floor area usable for seating shall be considered one seat;

(3) Retail, trade, and service establishments: one parking space for each 750 square feet of gross floor area;

(4) Residential: One parking space for each 1.2 units;

(5) Offices: One parking space for each 1,800 square feet of gross floor area.

§ 922.32 Required controls and standards: Off-street loading.

(a) Any off-street loading facility shall comply with Article 73 of the Zoning Regulations of the District of Columbia.

(b) A consolidated off-street loading facility located on Parcel C shall service all *development parcels* on the western half of Square 457.

(c) The off-street loading and servicing for Parcels A, B, and D shall be below grade and shall be designed and constructed for final integration with the off-street loading/servicing facility in Parcel C. *Development* on Parcel C shall be designed and constructed to accommodate off-street loading and servicing for Parcels A, B, and D.

(d) All ingress and egress for off-street loading facilities shall be from the north-south public alley.

(e) No off-street loading shall abut any sidewalk.

(f) Until a *development* takes place on Parcel C, loading access for Parcels A, B, and D shall be from existing alleys at grade level.

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§ 922.33 Required controls and standards: Provisions for the handicapped.

Each *development* shall be designed and constructed to incorporate features that will make the *development* readily accessible by the physically handicapped. The specifications published by the American National Standards Institute, Inc. (ANSI A117.1 Revised 1971) titled "Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped" should be used as guidelines.

§ 922.34 Required controls and standards: Historic preservation.

(a) The historic preservation aspects of the *development* shall be implemented in accordance with the Historic Preservation Plan of the Pennsylvania Avenue Development Corporation. The streetfronts in Zone I in Square 457 will become part of a larger "Historic Preservation Zone" consisting of existing buildings and facades relocated and *replicated* building facades, and new building designs. The Historical Preservation Zone will recreate the visual quality and character of the typical 19th Century commercial street in areas along Pennsylvania Avenue and 7th Street. However, the overall effect desired is not that of a museum, but an eclectic street frontage which expresses the growth and change of the city.

(b) The following buildings and/or their facades located in the western half of Square 457 shall be preserved as part of Program II of the Historic Preservation Plan (see Diagram 5):

(1) Program IIA: Preservation in Place

401–407 7th Street, NW. (Crandell Building), Lots 815, 846, and 853; 417 7th Street, NW., Lot 820; and 443 7th Street, NW., Lot 826

(2) Program IIB: Building Facade Relocations

Note.—These buildings may be considered for relocation within any area of the Historical Preservation Zone.

629 D Street, NW. (Central Armature Works), Lot 864 and

415 7th Street, NW. (Union Clothing & Furniture), Lot 819

(3) Program IIC: Salvage and Re-Use of Architectural Elements

626 E Street, NW., Lot 827

(c) Buildings and/or their facades or elements may be relocated to the western half of Square 457 from other sites in the development area as specified in Program IIB and IIC of the Historic Preservation Plan.

(d) Because of the scale and character of the historic buildings on and near Square 457, it is especially important to apply sensitive treatment to massing and facade design for all *rehabilitation* projects and new *developments*.

(e) *Restoration, rehabilitation,* and *replication* shall be carried out in consultation with the Pennsylvania Avenue Development Corporation, and on the basis of the "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" issued by the Technical Preservation Services Division, Heritage Conservation and Recreation Service, U.S. Department of Interior.

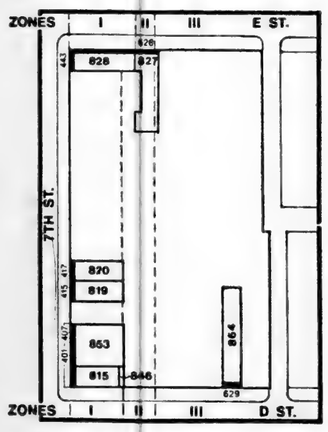


Diagram 5
Historic Preservation

§ 922.35 Required controls and standards: Streetfront design.

In order to create the Historical Preservation Zone described in the Historic Preservation Plan, the street frontage along 7th Street, NW., on the western half of Square 457 shall consist of a combination of the following building elements and facades to be approved by the Corporation:

(a) Buildings or facades to be preserved in place;

(b) Relocated buildings or facades not exceeding four stories;

(c) *Replicated* facades which previously existed or now exist in the development area using a combination of new materials and/or salvaged architectural elements;

(d) Contemporary building designs which consider the following design elements of the adjacent historic buildings:

(1) Height;
(2) Scale;
(3) Proportion of building;
(4) Rhythm of solids and voids in fenestration;
(5) Vertical and horizontal articulation of the facade composition;
(6) Rhythm of entrances, recesses, and show windows of the street frontage;
(7) Materials;
(8) Textures;
(9) Color;
(10) Architectural Detail; and
(11) Signs.

§ 922.36 Required controls and standards: Storefront design.

(a) Any *storefront* located in Zones I and II shall be no more than the width of one *structural bay*. Except in the Mayer Building where a storefront will be limited to no more than two structural bays.

(b) *Storefront* designs can be either *replications* of period *storefronts*, new designs which reflect some of the historic qualities of the upper floors, or contemporary designs which juxtapose the new with the old in a complementary manner.

§ 922.37 Required controls and standards: Fire and life safety.

Any *development* on the western half of Square 457 shall be so designed as to provide fire and life safety egress only to adjoining streets or to the north-south public alley bisecting the Square.

Subpart C—Recommended Planning and Design Controls and Standards

§ 922.50 Recommended controls and standards: Development parcels.

If the Mayer Building is *rehabilitated*, it is recommended that Parcel D not be developed independently, but that Parcel C and Parcel D be developed together in order to appropriately integrate the two *development parcels*.

§ 922.51 Recommended controls and standards: Uses.

(a) Along the ground level frontages of 7th Street, NW., uses which generate a low level of activities or engage in business for a limited period of time during the day such as banks, airline ticket offices, travel bureaus, etc., are discouraged.

(b) It is highly recommended that there be residential use on Parcels A, B, and D.

(c) It is highly recommended that al *developments* on the western half of Square 457 provide, in the aggregate, 400 dwelling units.

§ 922.52 Recommended controls and standards: Court.

(a) It is recommended that the mandatory courts in Zone II be larger than the minimum dimensions prescribed in § 922.26(a).

(b) It is recommended that there be well designed pedestrian connections between the mandatory courts and D and E Streets.

§ 922.53 Recommended controls and standards: Energy conservation.

All new buildings should be designed to be economical in energy consumption. The conservation standards of ASHRAE 90–75 should be used as guidelines.

§ 922.54 Recommended controls and standards: Access for off-street parking and loading.

(a) It is highly recommended that ingress and egress for consolidated off-street parking on the western half of Square 457, be through the north-south public alley bisecting Square 457.

(b) It is recommended that points of ingress and egress for consolidated off-street parking facilities be provided directly adjacent to the north-south public alley, in case such access cannot be provided through the alley as recommended in paragraph (a) of this section.

§ 922.55 Recommended controls and standards: Historic preservation.

(a) It is recommended that streetfronts in Zone II in Square 457 become part of a larger "Historical Preservation Zone" consisting of existing buildings and facades, relocated building facades, and complementary new building designs.

(b) Buildings and/or their facades may be relocated to the western half of Square 457 from sites outside the development area with the approval of the Corporation.

(c) Along 7th Street, NW, existing buildings or facades not specified herein may be considered for preservation in place. If a building or facade not specified herein is approved for preservation in place, it shall be *restored, rehabilitated,* or *replicated* in accordance with the provisions of § 922.34(e).

§ 922.56 Recommended controls and standards: Fire and life safety.

It is highly recommended that all buildings in the western half of Square 457 meet the NFPA Code for fire safety and that all buildings of six or more stories be equipped with a sprinkler system.

Issued in Washington, D.C.
Dated: August 28, 1979.

Joseph B. Danzansky,
Chairman.

[FR Doc. 79-27234 Filed 8-31-79; 8:45 am]

BILLING CODE 7630-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1311-5; OPP-260033A]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Editorial Amendments; Correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared on Editorial Amendments at page 37918 in the **Federal Register** of Friday, June 29, 1979 (FR Doc. 79–20095). The document is corrected by deleting extraneous pesticide chemicals from the Alphabetical Listing of Pesticide Chemicals and including pesticide chemicals that were omitted from the Alphabetical Listing of Pesticide Chemicals.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION, CONTACT: Mr. Edward Gross, Office of Toxic Substances (TS–793), EPA, 401 M Street, S.W., Washington, D.C. 20460 (202/426–1800).

SUPPLEMENTARY INFORMATION: In FR Doc. 79–20095 appearing at page 37918 in the issue of June 29, 1979, the following corrections are made in item 12, which begins at the bottom of the middle column on page 37919:

1. In item 12a. in the table, "2,4-Bis(isopropylamino)-methylthio-S-triazine * * *" is deleted from the Alphabetical Listing of Pesticide Chemicals.

2. In item 12b. in the table, "2-(Sec-butylamino-4-ethylamino-6-methoxy-S-triazine * * *" and "2-Tert-butylamino-4-ethylamino-6-methoxy-S-triazine * * *" are deleted from the Alphabetical Listing of Pesticide Chemicals.

3. Item 12c. is corrected to read as follows:

12. * * * * *

c. The 15 pesticide chemicals after the pesticide chemical Chlordimeform are alphabetically relisted to read as follows:

Alphabetical Listing of Pesticide Chemicals

Name	Section No.
* * * * *	
2-Chloroallyl Diethyldithiocarbamate	180.247
2-Chloro-N,N-Diallylacetamide	180.282
2-Chloro-1-(2,4-Dichlorophenyl) Vinyl Diethyl Phosphate	180.322
2-((4-Chloro-6-Ethylamino)-S-Triazin-2-YL) Amino-2-Methylpropionitrile	180.307
2-Chloro-N-Isopropylacetanilide	180.211
Chloroneb	180.257
1-Chloro-2-Nitropropene	180.286
P-Chlorophenoxyacetic Acid	180.202
2-(M-Chlorophenoxy) Propionic Acid	180.325
P-Chlorophenyl-2,4,5-Trichlorophenyl Sulfide	180.256
6-Chloropicolinic Acid	180.350
Chloropropylate	180.218
Chlorosulfamic Acid	180.201
2-Chloro-1-(2,4,5-Trichlorophenyl) Vinyl Dimethyl Phosphate	180.252
Chlorothalonil	180.275
* * * * *	

4. In item 12g., the 11 pesticide chemicals in the table after the pesticide chemical Ethoprop are alphabetically relisted to read as follows:

Alphabetical Listing of Pesticide chemicals

Name	Section No.
* * * * *	
2-Ethoxy-2,3-Dihydro-3,3-Dimethyl-5-Benzofuranyl Methanesulfonate	180.345
Ethoxyquin	180.178
5-Ethoxy-3-Trichloromethyl-1,2,4-Thiadiazole	180.370
S-Ethyl Cyclohexylethylthiocarbamate	180.212
Ethyl 4,4'-Dichlorobenziliate	180.109
S-Ethyl Diisobutylthiocarbamate	180.232
S-Ethyl Dipropylthiocarbamate	180.117
Ethylene Oxide	180.151
S-Ethyl Hexahydro-1H-Azepine-1-Carbothioate	180.228
Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate	180.349
O-Ethyl S-Phenyl Ethylphosphonodithioate	180.221
* * * * *	

Dated: August 28, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-27445 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-65

[ADM 7900.7 CHGE 2]

Membership on State Historical Records Advisory Boards

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This change to the General Services Administration Property Management Regulations deletes the requirement that the National Historical Publications and Records Commission approve the membership of State Historical Records Advisory Boards. It also modifies the qualifications for

membership to include experience in administration of archives instead of the present factor—experience in a field of research using historical records. This change will simplify the appointment of Board members and more effectively provide the professional knowledge and technical expertise necessary for the Boards to carry out their responsibilities.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Frank G. Burke, Executive Director, National Historical Publications and Records Commission (202–724–1083).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

PART 105–65—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Subpart 105–65.2—National Historical Records Program

Section 105–65.203–2(a) is revised to read as follows:

§ 105–65.203–2 State Historical Records Advisory Board.

(a) The Governor of each State desiring to participate in the program shall appoint a State Historical Records Advisory Board (Board) consisting of at least seven members, including the State Historical Records Coordinator, who chairs the Board. A majority of the members shall have recognized experience in administration of historical records or archives. The Board shall be as broadly representative as possible of the public and private archival and research institutions and organizations in the State. Board members receive no Federal compensation for their service on the Board. They are appointed for 3 years with the possibility of renewal; terms are staggered so that one-third of the Board is newly appointed or reappointed each year.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: August 23, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79–27414 Filed 8–31–79; 8:45 am]

BILLING CODE 6820–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FI 5690]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Iowa	Jackson	Unincorporated areas	190879–A	Aug. 17, 1979, emergency.	May 24, 1977.
Missouri	Pike	Annada, village of	290267	do	Feb. 7, 1975.
Do	Cape Girardeau	Jackson, city of	290790–B	do	Aug. 1, 1978 and Feb. 13, 1979.
Pennsylvania	Pike	Porter, township of	422500–A	do	Feb. 18, 1977.
Iowa	Jackson	Baldwin, city of	190428	Aug. 21, 1979, emergency.	June 25, 1976.
Florida	Union	Unincorporated areas	120422	Aug. 22, 1979, emergency.	Dec. 2, 1977.
Georgia	Douglas	Douglasville, city of	130305	do	Apr. 25, 1975.
Texas	Hamson	Uncertain, town of	481559—New	Aug. 21, 1979, emergency, Aug. 21, 1979, regular.	

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Alameda	Newark, city of	060009	Apr. 22, 1974, emergency, Dec. 1, 1978, regular, Jan. 17, 1979, suspended, Aug. 21, 1979, reinstated.	Feb. 22, 1975 and Jan. 16, 1976.
Colorado	Garfield	Glenwood Springs, city of	080071	Oct. 23, 1974, emergency, July 16, 1979, regular, July 16, 1979, suspended, Aug. 24, 1979, reinstated.	Mar. 1, 1974.
Pennsylvania	Wyoming	Northmoreland, township of	422204	Aug. 27, 1979, emergency.	Nov. 15, 1974.
Do	do	Washington, township of	422207	do	Dec. 6, 1974.
Texas	Somervell	Glen Rose, city of	480574–A	do	Aug. 23, 1974 and Feb. 6, 1976.
Pennsylvania	Northumberland	Kulpmont, borough of	420736–B	Feb. 1, 1974, emergency, May 1, 1978, regular, May 1, 1978, suspended, Aug. 23, 1979, reinstated.	May 31, 1974 and June 4, 1974.
Do	Dauphin	Middle Paxton, township of	420387–B	Mar. 2, 1973, emergency, Aug. 15, 1979, regular, Aug. 15, 1979, suspended, Aug. 23, 1979, reinstated.	Nov. 28, 1973 and June 3, 1977.
Do	Allegheny	Moon, township of	421082–B	Dec. 10, 1974, emergency, Aug. 15, 1979, regular, Aug. 15, 1979, suspended, Aug. 23, 1979, reinstated.	Sept. 6, 1974 and June 4, 1976.
West Virginia	Tucker	Parsons, town of	540194–B	Apr. 17, 1975, emergency, Aug. 15, 1979, regular, Aug. 15, 1979, suspended, Aug. 23, 1979, reinstated.	Feb. 8, 1974 and Apr. 9, 1976.
Alaska		Kodiak, city of	020017	June 20, 1975, emergency, Aug. 15, 1979, withdrawn.	
Connecticut	New Haven	Naugutuck, borough of	090137–B	Aug. 15, 1979, suspension withdrawn.	June 28, 1974 and Feb. 18, 1977.
Do	Hartford	Suffield, town of	090038–C	do	Oct. 18, 1977 and Mar. 16, 1978.
Idaho	Bingham	Aberdeen, town of	160158–A	do	June 27, 1975.
Illinois	Kane	Montgomery, village of	170328–B	do	Oct. 26, 1973 and May 28, 1976.
Iowa	Audubon	Audubon, city of	19011–B	do	May 3, 1974 and May 21, 1976.
Massachusetts	Hampden	Holyoke, city of	250142–B	do	Apr. 12, 1974 and July 12, 1977.
Do	Franklin	Montague, town of	250122–B	do	Mar. 22, 1974 and Nov. 5, 1976.
Do	Hampshire	South Hadley, town of	250170–A	do	Mar. 22, 1974.
Michigan	Oakland	Pontiac, city of	260177–B	do	Feb. 1, 1974 and Aug. 20, 1976.
Minnesota	Mower	Adams, city of	270308–A	do	July 30, 1976
Nebraska	Merrick	Central City, city of	310148–B	do	May 10, 1974 and Feb. 27, 1976.
Do	Douglas	Elkhorn, city of	310075–B	do	Mar. 22, 1974 and Apr. 16, 1976.
Do	Dakota	South Sioux City, city of	310054–B	do	Dec. 7, 1973 and Jan. 23, 1976.
New York	Erie	Wales, town of	360261–B	do	May 10, 1974 and July 23, 1976.
Oregon	Marion	Unincorporated area,	410154–B	do	Jan. 24, 1975 and Jan. 24, 1978.
Pennsylvania	Potter	Cloudersport, borough of	420761–B	do	July 19, 1974 and May 21, 1976.
Do	Lebanon	East Hanover, township of	421012–B	do	Aug. 31, 1973 and Nov. 19, 1976.
Do	Perry	Liverpool, borough of	420750–B	do	May 10, 1974 and May 7, 1975.
Do	Lancaster	Manheim, township of	420556–B	do	Dec. 28, 1973 and Jan. 28, 1977
Do	Columbia	Mifflin, township of	421167–B	do	Nov. 1, 1974 and June 11, 1976
Do	Perry	Newport, borough of	420754–B	do	June 1, 1973 and June 4, 1976.
Do	do	Oliver, township of	421022–B	do	Feb. 22, 1974 and Apr. 1, 1977.
Do	do	Rye, township of	421028–B	do	June 28, 1974 and June 25, 1976.
Do	Northumberland	Turbot, township of	420744–B	do	June 15, 1973 and June 4, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania	Perry	Watts, township of	420756-B	Aug. 15, 1979, suspension withdrawn.	Oct. 26, 1973 and Dec. 24, 1976.
Rhode Island	Providence	Glocester, town of	440034-B	do	Oct. 18, 1974 and Apr. 8, 1977.
Washington	Kitsap	Bremerton, city of	530093-A	do	Nov. 8, 1974.
Do	Benton	Kennewick, city of	530011-C	do	June 7, 1974, Oct. 29, 1976, and Aug. 23, 1977.
Do	Whitman	Tekoa, city of	530215-B	do	Aug. 30, 1974 and Mar. 12, 1976.
Wisconsin	Lafayette	Argyle, village of	550224-B	do	Nov. 30, 1973 and June 4, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27281 Filed 8-31-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5691]

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FIA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii Call Toll Free (800) 424–9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	Peoria County (Docket No. FI-3399).	Illinois River	Downstream County Boundary	*455
			City of Kingston Mines	*457
			Chicago and Northwestern Railway (M151.2)	*458
			Peoria Lock and Dam	*459
			Upstream County Boundary	*461
		Kickapoo Creek	Downstream of Adams Street	*460
			Adams Street	*464
			Illinois Highway 116	*478
			Farmington Road	*484
			Johnson Road	*486
			Main Street (extended)	*490
			Confluence of Big Hollow Creek	*493
			U.S. Interstate 474	*494
			Koerner Road (extended)	*495
			Confluence of Deer Lick	*505
			New County Road 18	*507
			Illinois Highway 8	*510
			Confluence of Warsaw Run	*513
			Confluence of Rupp Run	*516
			Kramm Road	*519
			Confluence of Nixon Run	*520
			Confluence of West Fork Kickapoo Creek	*528
			U.S. Interstate 74	*531
			U.S. Interstate 150	*535

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
			Confluence of Jubilee Creek	*546
			County Road No. 5	*546
			Confluence of Fargo Run	*546
			County Road No. 21	*560
		Spoon River	Downstream County Boundary	*606
			County Road No. 6	*610
			White Road	*614
			Illinois Highway 78	*618
			Laura Road	*621
			Maher Road	*625
			Upstream County Boundary	*626
Maps are available at the County Courthouse, on the bulletin board, 300 Main Street, Peoria, Illinois.				
New Jersey	Westampton (Township), Burlington County (Docket No FI-4470).	Rancocas Creek	Bridge Street—50 feet upstream from centerline	*11
			New Jersey Turnpike—50 feet upstream from centerline	*11
		North Branch Rancocas Creek	Mount Holly Bypass—100 feet downstream from centerline	*11
		Mill Creek	Rancocas-Springside Road—100 feet upstream from centerline	*32
			Interstate 295—80 feet downstream from centerline	*37
		Tributary to Mill Creek	300 feet upstream of confluence with Mill Creek	*28
			Woodlane Road—100 feet downstream from centerline	*49
		Tributary to Assiscunk Creek	Oxmead Road—20 feet upstream from centerline	*42
Maps available at Township Hall, Mount Holly-Rancocas Road, Mount Holly, New Jersey.				
Pennsylvania	Hamburg, Borough, Berks County (Docket No. FI-2815).	Kaercher Creek	Upstream Corporate Limits	*406
			Upstream side of Pine Street	*388
			Upstream side of South 4th Street	*371
			Peach Alley	*366
			Upstream side of CONRAIL	*360
			Upstream side of PA Route 61	*348
		Mill Creek	Upstream Corporate Limits	*416
			Franklin Street	*394
			State Street	*380
			South 3rd Street	*368
			Conrail	*362
			Front Street	*357
		Schuylkill River	Upstream Corporate Limits	*399
			Mountain Avenue (extended)	*395
			Route 22	*392
			Island Street (extended)	*389
			State Street	*367
			Pa. Route 61	*366
			Confluence with Mill Creek	*352
			Downstream Corporate Limits	*341
			South 4th Street	*360
		Unnamed Tributary of the Schuylkill River.	Conrail	*348
Maps are available at the Borough Office, 31 North Third Street, Hamburg, Pennsylvania.				
Pennsylvania	Northampton Township, Bucks County (Docket No. FI-3131).	Neshaminy Creek	Downstream Corporate Limits	*66
			Bridgetown Pike	*73
			Buck Road (Upstream Side)	*80
			Park Bridge Dam	*105
			Second Street Pike (Upstream Side)	*128
			Conrail	*136
		Tributary to Neshaminy Creek	Stony Ford Road	*81
			400' downstream of Buck Road	*110
		Little Neshaminy Creek	Sacketts Ford Road	*136
			Grenoble Road	*153
			Upstream Corporate Limits	*167
		Mill Creek	Bridgetown Pike	*66
			Dam (Downstream Side)	*69
			Dam (Upstream Side)	*88
			Upstream Corporate Limits	*99
		Pine Run	Bridgetown Pike (Upstream Side)	*66
			Wooden Bridge Road (Upstream Side)	*107
			Dam	*121
			40' downstream of Conrail	*139
		Ironworks Creek	50' upstream of Chinquapin Road	*89
			Chinquapin Road (Downstream Side)	*94
			Churchville Dam (Upstream Side)	*136
			Elm Avenue (Upstream Side)	*138
			Lower Holland Pike (Downstream Side)	*170
			Lower Holland Pike (Upstream Side)	*176
			Willow Road (Upstream Side)	*178
			Second Street Pike (Downstream Side)	*211
			Second Street Pike (Upstream Side)	*216
			Almshouse Road	*260

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Ironworks Creek	Brook Drive (Upstream Side)	*143
			Aqua Drive (Upstream Side)	*155
			Cameron Drive (Downstream Side)	*159

Maps are available at the Northampton Township Building, 55 Township Road, Richboro, Pennsylvania.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: August 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27279 Filed 8-31-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5692]

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program. (202) 755–5581 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free (800) 424–9080), Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Irvine (City), Orange County (Docket No. FI-5148).	Bonita Creek	New McArthur Boulevard at centerline	*36
			Coyote Canyon Road—50 feet downstream from centerline	*164
			Coyote Canyon Road—20 feet upstream from centerline	*173
		Coyote Canyon Wash	Coyote Canyon Road—40 feet upstream from centerline	*181
		Laguna Road Wash	San Diego Freeway Culvert—50 feet upstream from centerline	*184
			Laguna Freeway—at centerline	*222
		Sand Canyon Wash	University Drive—100 feet upstream from centerline	*24
			Ridgeline Drive—50 feet upstream from centerline	*58
			At Sand Canyon Reservoir	*187
		San Diego Creek	Sand Canyon Avenue—at centerline	*145
			Laguna Freeway (State Route 133)—at centerline	*171
			Interstate Highway 5 (San Diego Freeway)—100 feet upstream from centerline.	*255
		San Diego Creek Tributary 1	At confluence with San Diego Creek	*220
		Serrano Creek	Interstate Highway 5—at centerline	*251
			Atchison, Topeka and Santa Fe Railway—100 feet downstream from centerline.	*303
			Atchison, Topeka and Santa Fe Railway—50 feet upstream from centerline.	*310
		Valencia Storm Channel	Culver Drive—50 feet upstream from centerline	*68
		Peters Canyon Wash	North of intersection of Harvard Avenue and Atchison, Topeka and Santa Fe Railway.	*58
	Maps available at City Hall, 17200 Jamboree Road, Irvine, California.			
California	La Habra (City), Orange County (Docket No. FI-4742).	Coyote Creek Channel	Imperial Highway and Beach Boulevard—40 feet upstream from centerline.	*211
			Idaho Street—50 feet upstream from centerline	*231
			Lambert Road—50 feet upstream from centerline	*238
			La Habra Boulevard—20 feet upstream from centerline	*377
			Hodson Avenue—20 feet upstream from centerline	*385

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		La Mirada Creek	Walling Avenue—20 feet upstream from centerline	*400
			Intersection of Oakland Drive and Dexford Drive	#1
			Between Rigsby Street and Dexford Drive	#1
			Intersection of Whittier Boulevard and Chantry Drive	#1
	Maps available at Civic Center, La Habra, California.			
California	Palo Alto (City), Santa Clara County (Docket No. FI-5163).	San Francisco Bay	At Palo Alto Municipal Airport	*7
			At intersection of Fabian Way and Charleston Road	*7
		Matadero Creek	At intersection of Park Boulevard and Lambert Avenue	*30
		San Francisquito Creek	At intersection of Byron Street and Everett Avenue	#1
			At intersection of Channing Avenue and Greer Road	#2
		Adobe Creek	At intersection of Park Boulevard and Whitclem Drive	#2
	Maps available at City Hall, 250 Hamilton, Palo Alto, California.			
California	Petaluma (City), Sonoma County (Docket No. FI-5164).	Petaluma River	East Washington Street—200 feet upstream from centerline	*12
			Confluence with Capri Creek	*18
			Old U.S. Highway 101 (Redwood Highway)—10 feet upstream from centerline.	*32
		Willow Brook	U.S. Highway 101—50 feet upstream from centerline	*36
		Thompson Creek	At intersection of G Street and 8th Street	#2
		Kelly Creek	At intersection of F Street and 8th Street	#1
	Maps available at City Hall, Petaluma, California.			
California	Placentia (City), Orange County (Docket No. FI-4832).	Carbon Creek Channel	Orange Freeway—200 feet downstream from centerline	*196
			Orange Freeway—150 feet upstream from centerline	*205
		Carbon Canyon Channel	Chapman Avenue—50 feet downstream from centerline	*240
			Chapman Avenue—120 feet upstream from centerline	*245
			Palm Drive—40 feet upstream from centerline	*281
		Atwood Channel	Atchison, Topeka and Santa Fe Railway—100 feet upstream from centerline.	*244
			Lakeview Avenue—10 feet upstream from centerline	*256
			Lee Ana Street—at centerline	#1
	Maps available at Civic Center, 401 East Chapman Avenue, Placentia, California.			
Connecticut	Granby, Town, Hartford County (Docket No. FI-5445).	Salmon Brook	Downstream Corporate Limits	*166
			Confluence of East and West Branches of Salmon Brook	*167
		East Branch Salmon Brook	Upstream of State Route 20	*184
			Upstream of U.S. Route 202 and State Route 10	*187
			Upstream Mechanicsville Road Bridge	*195
			Upstream Wells Road Bridge	*219
			Upstream of East Street Bridge	*277
		West Branch Salmon Brook	Downstream U.S. Route 202 and State Route 10	*176
			Upstream of Simsbury Road	*266
			Downstream of Broad Hill Road	*359
	Maps are available at the Town Hall, 15 North Granby Road, Granby, Connecticut.			
Maine	Sabattus, Androscoggin County (Docket No. FI-5385).	Sabattus River	Approximately 4090 feet downstream of Crowley Road at southern corporate limts.	*188
			Just upstream of Crowley Road	*201
			Just upstream of Interstate 95	*202
			Just upstream of Old Lisbon Road	*204
			Just upstream of State Route 126	*207
			Just downstream of Sabattus River Dam	*209
			Just upstream of Sabattus River Dam	*219
			Just upstream of Main Street	*222
			Approximately 200 feet downstream of Greene Street	*226
			Just downstream of Greene Street	*230
			Just upstream of Greene Street	*237
			Approximately 200 feet upstream of Green Street	*241
			Just downstream of Sabattus Pond Dam	*243
			Just upstream of Sabattus Pond Dam	*248
		Sabattus Pond Maxwell Brook	Shoreline Areas	*248
			Confluence with Sabattus River	*202
			Just upstream of Interstate 95	*203
			Just upstream of Centre Road	*210
			Just upstream of Furbush Road	*212
			Just upstream of Bowdoin Road	*217
	Maps available at Town Office, Main Street, Sabattus, Maine 04280.			
New Jersey	Bellmawr (Borough), Camden County (Docket No. FI-5084).	Big Timber Creek	Intersection of Buchanan Avenue and Creek Road	*10
			Crossing of Interstate Highway 295 at Big Timber Creek	*10
	Maps available at Borough Hall, 21 East Browning Road, Bellmawr, New Jersey.			
New Jersey	Montville (Township), Morris County (Docket No. FI-5178).	Passaic River	Most downstream Corporate Limits—at centerline	*173
			Horseneck Road—80 feet upstream from centerline	*173
			Interstate Highway 80—100 feet upstream from centerline	*173
			Bloomfield Avenue—100 feet upstream from centerline	*173
			Confluence with Rockaway River—at centerline	*173
		Rockaway River	Riverside Drive—60 feet upstream from centerline	*174
			Interstate Highway 80—100 feet upstream from centerline	*178
			Vail Road—60 feet upstream from centerline	*178
			Hiawatha Boulevard—100 feet upstream from centerline	*178

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Knoll Road—100 feet downstream from centerline	*180
			Knoll Road—200 feet upstream from centerline	*182
		Hatfield Creek	Change Bridge Road—50 feet upstream from centerline	*177
			Gathering Road—20 feet upstream from centerline	*178
			Charlemagne Place—50 feet upstream from centerline	*184
			Brittany Road—100 feet downstream from centerline	*192
			Brittany Road—60 feet upstream from centerline	*194
		Crooked Brook	River Road—60 feet downstream from centerline	*180
			River Road—40 feet upstream from centerline	*182
			Church Lane—40 feet upstream from centerline	*192
			Miller Lane—60 feet upstream from centerline	*196
			U.S. Route 202—20 feet upstream from centerline	*210
			Nowak Lane—40 feet upstream from centerline	*217
			Valhalla Road—30 feet upstream from centerline	*243
			Dam upstream of Valhalla Road—30 feet downstream from centerline	*258
			Dam upstream of Valhalla Road—20 feet upstream from centerline	*266
			Conrail upstream of Valhalla Road—70 feet downstream from centerline.	*280
			Conrail upstream of Valhalla Road—90 feet upstream from centerline.	*285
			Second Conrail upstream of Valhalla Road—30 feet upstream from centerline.	*290
			Vista Road—80 feet upstream from centerline	*376
		Crooked Brook Tributary	Interstate Highway 287—100 feet upstream from centerline	*211
			River Road—50 feet upstream from centerline	*241
			Dam upstream of River Road—20 feet downstream from centerline	*280
			Dam upstream of River Road—30 feet upstream from centerline	*297
			Taylortown Road—30 feet upstream from centerline	*304
		Beaver Brook	Jacksonville Road—100 feet upstream from centerline	*193
		Stony Brook	Confluence with Taylortown Reservoir Branch	*587
Maps available at Municipal Building, 86 River Road, Montville, New Jersey.				
New Jersey	Verona (Borough), Essex County (Docket No. FI-5066).	Peckman River	Ozone Avenue—10 feet upstream from centerline	*306
			Linden Avenue—80 feet upstream from centerline	*329
			Bloomfield Avenue—30 feet upstream from centerline	*338
			At upstream corporate limits	*352
Maps available at Borough Hall, 600 Bloomfield Avenue, Verona, New Jersey.				
New York	Alfred (Village) Allegany County (Docket No. FI-5071).	Canacadea Creek	Corporate limits—at centerline	*1,650
			Footbridge—40 feet upstream from centerline	*1,704
			Pine Street—80 feet upstream from centerline	*1,722
			Terrace Street—50 feet downstream from centerline	*1,796
			Terrace Street—40 feet upstream from centerline	*1,802
			South Main Street (1st crossing)—50 feet upstream from centerline	*1,851
		Tributary 15	North Main Street—40 feet upstream from centerline	*1,684
			New York State Route 244—55 feet upstream from centerline	*1,717
		Tributary 16	North Main Street—50 feet upstream from centerline	*1,707
			Hillcrest Drive—80 feet upstream from centerline	*1,737
		Tributary 17	North Main Street—40 feet upstream from centerline	*1,726
			Elm Street—60 feet upstream from centerline	*1,756
			Dam—40 feet upstream from centerline	*1,769
			West University Street (1st crossing)—60 feet upstream from centerline.	*1,812
			West University Street (2nd crossing)—40 feet downstream from centerline.	*1,850
			West University Street (2nd crossing)—60 feet upstream from centerline.	*1,856
		Tributary 18	Confluence with Canacadea Creek—at centerline	*1,908
			Corporate limits—at centerline	*1,929
Maps available at Village Hall, 7 West University Street, Alfred, New York.				
New York	Almond (Village), Allegany County (Docket No. FI-5073).	Canacadea Creek	Depot Road—10 feet upstream from centerline	*1,327
			Canacadea Street—30 feet upstream from centerline	*1,330
			Upstream corporate limits	*1,354
		Karr Valley Creek	Main Street (State Route 21)—50 feet downstream from centerline	*1,336
			Main Street (State Route 21)—25 feet upstream from centerline	*1,341
Maps available at Municipal Building, Almond, New York.				
New York	North Harmony, Town, Chautauqua County (Docket No. FI-5345).	Ball Creek	New York Route 394 (Upstream)	*1,319
			Old Route 394 (Upstream)	*1,316
			Footbridge 1,672 feet downstream from Old Route 394 (Upstream)	*1,313
			Watson Road (Upstream)	*1,310
			Confluence with Chautauqua Lake	*1,310

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Goose Creek	County Road No. 37 Bridge (Upstream)	*1,324
			County Road No. 66 Bridge (Upstream)	*1,321
			North Harmony Corporate Limits 1,650 feet upstream from Route 394 Bridge.	*1,317
			Route 394 Bridge (Upstream)	*1,315
			Downstream Corporate Limits	*1,312
		Goose Creek Tributary	Upstream Corporate Limits	*1,336
			County Road Number 37 (Upstream)	*1,334
			Hunt Road (Upstream)	*1,328
			County Road No. 37, 90 feet upstream from Cedar Road (Upstream)	*1,324
			Stewar Road (Upstream)	*1,321
Maps are available at the North Harmony Town Hall, Stow, New York.				
North Dakota	Bathgate (City), Pembina County (Docket No. FI-5075).	Tongue River	5th Street—at centerline	*819
			1st Street—at centerline	*821
Maps available at Fire Department, Bathgate, North Dakota.				
Ohio	Conneaut, Ashtabula County (Docket No FI-5469).	Conneaut Creek	Mouth at Lake Erie	*577
			1600 Feet downstream of Conrail	*577
			Approximately 300 feet downstream of Conrail	*581
			Just upstream of Conrail	*588
			Approximately 900 feet downstream of State Route 7	*594
			Just downstream of State Route 7	*596
		Lake Erie	Entire shoreline in Conneaut	*577
Maps available at Town Office, Conneaut, Ohio 44030.				
Oregon	Oregon City (City) Clackamas County (Docket No. FI-5111).	Willamette River	Interstate 205 Bridge—70 feet upstream from centerline	*45
			Oregon City-West Linn Bridge—70 feet upstream from centerline	*46
		Clackamas River	McLoughlin Boulevard—50 feet upstream from centerline	*44
			Portland Traction Company Railroad—50 feet downstream from centerline.	*44
		Abernethy Creek	South Pacific Railroad Trestle—30 feet upstream from centerline	*45
			Washington Street—40 feet upstream from centerline	*45
Maps available at City Hall, 7th and John Adams, Oregon City, Oregon.				
Pennsylvania	Collegeville, Borough, Montgomery County (Docket No. FI-5350).	Perkiomen Creek	Downstream Corporate Limits	*117
			Upstream side of U.S. Route 422	*120
			Upstream Corporate Limits	*123
		Donny Brook Run	Downstream Corporate Limits	*128
			Downstream side of Clayhon Road	*142
			Downstream side of Private Road below dam	*153
			Downstream side of West Fifth Avenue	*157
			Upstream side of West Fifth Avenue	*166
			Upstream side of Sixth Avenue	*167
			Downstream side of Eighth Avenue	*171
			Downstream side of Eleventh Avenue	*182
			Upstream Corporate Limits	*188
Maps are available at the Collegeville Borough Office, by appointment.				
Pennsylvania	Goldsboro, Borough, York County (Docket No. FI-5487).	Susquehanna River	Downstream Corporate Limits	*297
			Upstream Corporate Limits	*298
		Fishing Creek	Confluence with Susquehanna River	*297
			York Street	*297
			Weir 500 feet downstream of Pines Road	*310
			Pines Road	*313
Maps are available at the residence of the Borough Secretary, Goldsboro, Pennsylvania.				
Pennsylvania	Hallam, Borough, York County (Docket No. FI-5435).	Kreutz Creek	Southeastern Corporate Limit	*328
			1,000 feet west of Southeastern Corporate Limits	*338
			Upstream of confluence of Tributary D	*343
			Upstream of confluence of Tributary E	*347
		Tributary D	Covered Bridge over Dirt Road	*347
			East Forry Street	*366
			Cherry Avenue	*379
			Corporate Limit	*381
		Tributary E	Corporate Limit	*352
Maps are available at the residence of Mr. William Linneman, 123 South Prospect Street, Hellam, Pennsylvania.				
Pennsylvania	Kennedy, Township, Allegheny County (Docket No. FI-5436).	Ohio River Back Channel	Downstream Corporate Limits	*720
			Downstream side of Emsworth Back Channel Dam	*720
			Upstream side of Emsworth Back Channel Dam	*721
			Upstream Corporate Limits	*721
		Chartier's Creek	Downstream Corporate Limits	*734
			Upstream side of Round House Bridge	*735
			Upstream Corporate Limits	*736
Maps are available at the Kennedy Township Municipal Building.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Lower Chanceford, Township York County (Docket No. FI-5437).	Susquehanna River	Upstream Township Limits	*189
			Upstream side of Holtwood Dam	*183
			Downstream side of Holtwood Dam	*155
			Downstream Township Limits	*117
Maps are available at the Lower Chanceford Township Building.				
Pennsylvania	Meshoppen, Township, Wyoming County (Docket No. FI-5365).	Susquehanna River	Downstream Corporate Limits	*838
			Upstream Corporate Limits	*650
		Meshoppen Creek	Downstream Corporate boundary between Meshoppen Borough and Meshoppen Township.	*663
			Approximately 1 mile upstream of downstream Corporate Limit	*702
			L. R. 65037 Bridge	*760
			Upstream Corporate Limits	*773
		Little Meshoppen Creek	Downstream Corporate Limits	*670
			Confluence of Tributary #1	*713
			Downstream side of Pa. 267 Bridge	*786
			Upstream side of dam	*796
			Upstream Corporate Limits	*800
Maps are available at the residence of Mr. William Vancheski, Meshoppen, Pennsylvania, by appointment.				
Pennsylvania	North Strabane, Township, Washington County (Docket No. FI-5439).	Chartiers Creek	Morganza Road	922
			Curry Avenue	*925
			Enclid Avenue	*928
			Central Avenue	*934
			Jefferson Avenue	*936
			Strabane Avenue	*948
			Main Street	*953
			8,550 feet upstream of Johnson Road to limit of Detailed Study	*973
		Little Chartiers Creek	Route 19	*923
			Galley Road	*928
			Confluence with Tributary No. 8	*942
			Confluence with Tributary No. 7	*951
			Linden Road	*960
			Sportsman Club Private Road	*963
			Route 519	*973
			Gristy Road	*984
			Route 136	*992
Maps are available at the North Strabane Township Building, Route 519 South, South Canonsburg, Pennsylvania.				
Pennsylvania	North Versailles, Township, Allegheny County (Docket No. FI-5400).	Monogahela River	Upstream Corporate Limits	*743
			Port Perry Bridge	*741
		Turtle Creek	Wallborough Bridge (Upstream side)	*750
			Greensburg Pike (Upstream side)	*735
		Crooked Run	Private Drive (Upstream side) 1,600' upstream of Arcannia Street	*854
			Arcannia Street (Upstream side)	*830
			Downstream Corporate Limits	*816
		Thompson Run	Upstream Corporate Limits	*732
			Confluence with Turtle Creek	732*
Maps are available at the Township Building, 1401 Greensburg, North Versailles, Pennsylvania.				
Pennsylvania	Ridgeway, Borough, Elk County (Docket No. FI-5401).	Clairon River	Downstream side of Main Street	*1,375
			Downstream side of Dam	*1,379
			Upstream side of Dam	*1,383
		Elk Creek	Confluence with Clarion River	*1,376
			Upstream side of North Broad Street	*1,377
			200 feet upstream of Depot Street	*1,380
			Downstream side of Conrail	*1,398
			900 feet upstream of Conrail	*1,400
		Gallagher Run	Confluence with Elk Creek	*1,376
			9,350 feet upstream of North Broad Street at Driveway	*1,384
			Upstream side of Depot Street	*1,394
			Downstream side of Main Street	*1,400
			4,550 feet upstream of Main Street at Driveway	*1,410
			8,550 feet upstream of Main Street	*1,421
			13,700 feet upstream of Main Street at Footbridge	*1,432
Maps are available at the Municipal Building, 108 Main Street, Ridgway, Pennsylvania.				
Pennsylvania	Stowe, Township, Allegheny County (Docket No. FI-5441).	Ohio River	Upstream Corporate Limits	*725
			Downstream Corporate Limits	*721
Maps are available at the Stowe Township Building, 1301 Island Avenue, McKees Rocks, Pennsylvania.				
Pennsylvania	Upper Allen, Township, Cumberland County (Docket No. FI-5406).	Yellow Breeches Creek	Lisburn Road	*376
			Wharf Road	*380
			Macadam Road	*395
			Pa. Route 114	*399
			Bishop Road	*404

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Gilbert Road	*413
			Macadam Drive	*416
			Conrail	*419
			Grantham Road	*419
		Trout Run	College Avenue	*413
			Conrail	*413
			Grantham Road	*413
			Mill Road	*413
			U.S. Route 15	*427
			Gettysburg Pike	*430
			Dirt Lane	*430
			Lisburn Road	*436
			Corporate Limits	*447
Maps are available at the Upper Allen Township Office.				
Pennsylvania	West Mifflin, Borough, Allegheny County (Docket No. FI-5468).	Monongahela River	Downstream side of Lock and Dam #2	*740
			Upstream side of Lock and Dam #2	*741
			Corporate Limits (0.28 mile upstream of dam)	*741
			3.04 miles upstream of Lock and Dam #2	*743
			4.54 miles upstream of Lock and Dam #2	*745
			6.84 miles upstream of Lock and Dam #2	*746
Maps are available at the Borough Building, West Mifflin, Pennsylvania.				
Washington	Lake Forest Park (City), King County (Docket No. FI-5025).	Lyon Creek	Bothel Way—100 feet upstream from centerline	*29
			40th Avenue NE—80 feet upstream from centerline	*80
			Ballinger Road—40 feet upstream from centerline	*120
		McAleer Creek	Northeast 170th Street—20 feet upstream from centerline	*29
			Northeast 178th Street—10 feet upstream from centerline	*60
Maps are available at City Hall, 17711 Ballinger Way, Northeast, Seattle, Washington.				
Wisconsin	Kewaunee, Kewaunee County (Docket No. FI-5412).	Kewaunee River	Mouth at Lake Michigan	*584
			5,460 feet downstream of County Highway E	*584
			Just upstream of County Highway E	*585
			4,830 feet upstream of County Highway E	*586
		Lake Michigan	General Shoreline	*584
Maps are available at City Hall, City Clerk's Office, 413 Milwaukee, Kewaunee, Wisconsin 54216.				
Wyoming	Lincoln County, Unincorporated Areas (Docket No. FI-5082).	Hams Fork	Frontier Highway Bridge—100 feet upstream from centerline	*6,917
Maps are available at Lincoln County Courthouse, Kemmerer, Wyoming.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: August 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27280 Filed 8-31-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 79-01; Notice 3]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: Pursuant to petitions by the Rubber Manufacturers Association (RMA), and Dunlop Tire and Rubber Corporation (Dunlop), this notice amends Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding certain tire size designations to Appendix A of that standard. This amendment permits the introduction into interstate commerce of the new tire sizes.

EFFECTIVE DATE: October 4, 1979 if objections are not received before that date.

ADDRESS: Comments should refer to Docket No. 79-01 and be submitted to Docket Section, Room 5108, 400 Seventh Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: According to agency practice, the National Highway Traffic Safety Administration (NHTSA) responds to petitions for adding new tire sizes to Table I of Appendix A of Standard No. 109 by quarterly issuing final rules under an abbreviated rulemaking procedure for expediting such routine amendments. Guidelines for this procedure were published at 33 FR 14964, October 5, 1968, and amended at 36 FR 8298, May 4, 1971; 36 FR 13601, July 22, 1971; and 39 FR 28980, August 13, 1974. These guidelines provide that these final rules become effective 30 days after their date

of publication if no comments objecting to them are received by NHTSA during this 30-day period. If objections are received, regular rulemaking procedures for issuing and amending motor vehicle safety standards are initiated.

On March 22, 1979, RMA petitioned for the addition of a new tire size to an existing table within Table I of Appendix A of Standard No. 109. RMA also petitioned on March 28, June 4, June 19, and June 28, 1979, for the addition of five other tire sizes to existing tables in Table I. Dunlop petitioned on April 6, 1979, for the addition of a new table to Table I, and for a new tire size to be included in that table. The bases for accepting or denying requests to add new tire size designations are set forth in the introductory guidelines to Appendix A. Briefly, the tests are the appropriateness of the information submitted for inclusion in the tire tables, and the appropriateness of the requested location within the tables of the requested tire sizes. The seven new tire size designations requested to be added to Standard No. 109 appear to meet these criteria. Accordingly, the Dunlop and RMA, petitions are granted, and seven new tire sizes are added to Table I of Appendix A of the standard pursuant to the abbreviated rulemaking procedure.

In consideration of the foregoing, 49 CFR 571.109 is amended as specified below, subject to the 30-day comment period outlined above:

§ 571.109 New Pneumatic Tires—Passenger Cars [Appendix amended]

1. In Tables I–S, I–JJ, I–KK, I–LL, and I–VV, the following new tire size designations and corresponding values are added:

BILLING CODE 4910-59-M

TABLE I - S

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "[illegible] SERIES" RADIAL PLY TIRES

Tire [illegible] 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Maximum section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
[illegible]	[illegible]	[illegible]	[illegible]	1430	1510	1590	1670	1750	1825	1875	1930	1980	2030	7	3.[illegible]	[illegible]

1/ The letter "H", "S" or "V" may be included in any tire size designation adjacent to the "R".

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent

TABLE I - [illegible]

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/[illegible]' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P185/70R14	385	415	445	470	495	520	545	565	590	5	787	18[illegible]
P215/70R15	500	565	600	640	675	705	735	765	795	6	883	2[illegible]6

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - [illegible]

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/[illegible]' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P[illegible]/[illegible]R13	375	405	435	460	485	510	535	[illegible]	575	[illegible]	786	[illegible]3
P225/60R14	465	505	535	570	600	630	660	685	710	6	834	223

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - LL

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR T-TYPE SERIES 60 psi TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)	Test rim width (inches)	Minimum size factor (inches)	Section 2/ width (inches)
	60 psi			
T145/80D16	2260 pounds	4	30.39	4.57

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - VV

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/60' SERIES ISO TYPE TIRES all millimetric DL or DK rims

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
205/60R390	425	400	490	530	565	595	625	655	685	150	830	205

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

2. A new table, Table I-UU, is added to Table I of Appendix A to read as set forth below:

TABLE I - UU

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/75' SERIES ISO TYPE TIRES FOR DL MILLIMETRIC RIMS

Tire size 2/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa) 1/									Test rim width (inches)	Minimum size factor (mm)	Section 3/ width (mm)
	120	140	160	180	200	220	240	260	280			
195/75R370	465	500	535	565	595	625	655					

1/ The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.

2/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

3/ Actual section width and overall width shall not exceed the specified section width by more than the amount specified in Sec. 4.2.2.2.

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

BILLING CODE 4910-59-C

Interested persons are invited to submit comments on these additions. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

Note.—The agency has reviewed the impacts of this rule and determined that they are minimal and that this is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this rule are John Diehl and Stephen Kratzke, respectively.

(Secs. 103, 119, 201 and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421 and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8))

Issued on August 28, 1979.

A. C. Malliaris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 79-27436 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Rev. S. O. 1317-A]

Car Service: Brandon Corp. Authorized To Operate Over Tracks Formerly Operated by South Omaha Terminal Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1317-A.

SUMMARY: Since an emergency no longer exists, Revised Service Order No. 1317 is vacated effective 11:59 p.m., August 27, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided August 27, 1979.

Upon further consideration of Revised Service Order No. 1317 (43 FR 35718 and 44 FR 12041), and good cause appearing therefore:

It is ordered: § *1033.1317 Revised Service Order No. 1317* Brandon Corporation authorized to operate over tracks formerly operated by South Omaha Terminal Railway Company is vacated effective 11:59 p.m., August 27, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington, not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27418 Filed 8-31-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1336-A]

Car Service; Missouri-Kansas-Texas Railroad Co. Authorized To Operate Over Tracks of St. Louis-San Francisco Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1336-A.

SUMMARY: Since an emergency no longer exists, Service Order No. 1336 is vacated effective 11:59 p.m., August 27, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: August 27, 1979.

Upon further consideration of Service Order No. 1336 (43 FR 40020; 44 FR 3713 and 42698), and good cause appearing therefore:

It is ordered: § *1033.1336 Service Order No. 1336-A* Missouri-Kansas-Texas Railroad Company authorized to operate over tracks of St. Louis-San Francisco Railway Company is vacated effective 11:59 p.m., August 27, 1979.

(49 U.S.C. (10304-10305 and 11121-11126))

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Robert S. Turkington, not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27417 Filed 8-31-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1395]

Car Service; Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Authorize to Operate Over Tracks of Indiana Harbor Belt Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1395.

SUMMARY: Service Order No. 1395 authorizes the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over tracks of Indiana Harbor Belt Railroad Company between North Harvey, Illinois, and Gibson, Indiana.

EFFECTIVE DATE: 12:01 a.m., September 1, 1979, until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided: August 27, 1979.

The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is authorized by Service Order No. 1390 to operate over Consolidated Rail Corporation (CR) tracks between Gibson, Indiana, and Terre Haute, Indiana. MILW has been authorized to operate between North Harvey, Illinois, and Gibson, Indiana, over Indiana Harbor Belt Railroad Company (IHB) tracks under trackage rights granted by the Commission. Since MILW has not used all of these trackage rights, there is a question as to the present status of these rights.

MILW needs to operate over IHB tracks between North Harvey and Gibson in order to gain access to CR tracks at Gibson. Use of these IHB tracks by MILW will permit MILW to perform operations authorized by Service Order No. 1390.

MILW will enter into a new trackage rights agreement with IHB between North Harvey and Gibson. IHB has agreed to use of these tracks by MILW. The MILW will use these trackage rights only as bridge rights except that MILW is permitted to pick up and set out Truck-Rail-Truck traffic at Gibson Yard on tracks specified by IHB. MILW will file an application with the Commission for permanent operating authority over these tracks.

It is the opinion of the Commission that an emergency exists requiring

operation of MILW trains over these tracks of IHB in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1395 Service Order No. 1395.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Indiana Harbor Belt Railroad Company.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is authorized to operate over tracks of Indiana Harbor Belt Railroad Company (IHB) between North Harvey, Illinois, IHB milepost 13.7, and Gibson, Indiana, Consolidated Rail Corporation milepost 4.3, a distance of approximately 11.7 miles.

MILW will be permitted to use these trackage rights as bridge rights only except MILW is permitted to pick up and set out Truck-Rail-Truck traffic at Gibson Yard on tracks specified by IHB.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by MILW over tracks operated by IHB is due to MILW's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW until tariffs naming rates and routes specifically applicable via trackage rights authorized by this service order become effective.

(d) In transporting traffic over these lines MILW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Nothing herein shall be considered as a prejudgment of the application of MILW seeking authority to operate over these tracks.

(f) *Effective date.* This order shall become effective at 12:01 a.m., September 1, 1979.

(g) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27416 Filed 8-31-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 280

Pacific Tuna Fisheries; Miscellaneous Amendments

SUMMARY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Final regulations.

SUMMARY: This document extends the 1978 regulations for the 1979 fishing season and changes landing percentages for long trips of small seiners. Certain dates are also changed in order to conform to the 1979 fishing season. These regulations are published by the National Oceanic and Atmospheric Administration to implement conservation measures of the Inter-American Tropical Tuna Commission.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: J. Gary Smith, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, Telephone: (213) 548–2518.

SUPPLEMENTARY INFORMATION: The proposed rulemaking of July 30, 1979 (44 FR 44577), noted that the Commission's Resolution for 1979 proposed no changes in the conservation program for the 1979 fishing season. In considering the Commission's Resolution, the National Marine Fisheries Service proposed only to change dates in order to conform to the 1979 fishing season.

A public hearing was held at the Southwest Regional Office, National Marine Fisheries Service, Terminal Island, California, on July 25, 1979, to discuss the proposed final regulations.

It was proposed by the National Marine Fisheries Service that the dates "1977" and "1978" be removed and the dates "1978" and "1979" be substituted as appropriate wherever those dates appear in Sections 280.6 and 280.10(c). These technical and conforming changes were unopposed and are adopted for 1979.

In addition, one spokesman suggested that it would be less confusing if the amount of tuna that could be landed from extended trips be made identical for vessels of 300 short tons carrying capacity and for vessels of 301–400 short tons carrying capacity. This will have no impact on the management of the small boat allotment and the suggestion is adopted for 1979. Therefore, any vessel of 301–400 short tons carrying capacity that is on a fishing voyage longer than 70 days and any vessel of 300 short tons carrying capacity or less that is on a fishing voyage longer than 50 days may land 25 percent yellowfin tuna by round weight of its short ton carrying capacity.

These amendments are issued under the authority contained in subsection (c) of Section 6 of the Tuna Conventions Act of 1950, as amended 16 USC 995(c), as modified by Reorganization Plan No. 4 effective October 3, 1970 (35 FR 15627).

The Assistant Administrator, National Oceanic and Atmospheric Administration finds that because (1) fishing resulting in incidental catch of yellowfin tuna has begun, and (2) fishermen are familiar with the contents of these regulations, there is good cause to make these regulations effective immediately.

Signed at Washington, D.C. this 22nd day of August, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 951–961)

Title 50 is amended by revising Part 280 to read as follows:

§§ 280.6, 280.10 [Amended]

1. Strike "1977" and "1978" and substitute "1978" and "1979" as appropriate wherever those dates appear in §§ 280.6 and 280.10(c).

2. Section 280.7 is amended by revising paragraphs (a)(2)(ii) and (iii)

§ 280.7 Provisions for fishing inside CYRA on closed season trips.

(a) * * *

(1) * * *

(2) * * *

(ii) Any vessel of 301–400 short tons carrying capacity shall not be permitted

to land yellowfin tuna in excess of 50 percent by round weight of its total catch; except, that any such vessel which is on a fishing voyage longer than 70 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity.

(iii) Any purse seiner of 300 short tons carrying capacity or less shall not be permitted to land yellowfin in excess of 70 percent by round weight of its total catch; except, that any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity.

* * * * *

[FR Doc. 79-27452 Filed 8-31-79; 8:45 am]

BILLING CODE 3510-22-M

V 4 4 / 1 7 2 S E 4 7 9 UMI

V 44 / 172 SEP 79 UMI

Proposed Rules

Federal Register
Vol. 44, No. 172
Tuesday, September 4, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 123]

[Amdt. 16]

Conforming to Presidential Declarations in Areas Declared Major Disaster Areas

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA publishes a declaration of disaster areas in which loans are available to eligible disaster victims. If the same area is declared or has been declared a major disaster area by the President, SBA will adopt all provisions of the Presidential declaration and amendments thereto which are within the parameters of SBA's legislative authority. SBA will also use the same incident date as is contained in the Presidential declaration except when the SBA incident date is prior to that of the Presidential declaration.

DATES: Comments on this proposed rule are invited and should be submitted on or before November 5, 1979.

ADDRESS: Peter F. McNeish, Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Room 800, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John E. Moore, Director, Office of Disaster Loans, Small Business Administration, 1441 L Street N.W., 8th Floor, Washington, D.C. 20416 (653–6879)

SUPPLEMENTARY INFORMATION: This proposed regulation would formalize current policy and procedures developed between the Federal Emergency Management Agency and the Small Business Administration and is published primarily as a statement of such agreement. It confirms the policy that SBA declarations will contain all provisions of a Presidential disaster declaration which are within the parameters of SBA's Legislative authority. If SBA has published its declaration first, it will be amended if necessary to conform to the Presidential declaration and any subsequent amendments to such Presidential declaration. An exception to such amendment procedure by SBA will be made in the event that the SBA incident date is prior to the date of the Presidential declaration. This could happen because of the greater damage required for a Presidential declaration which might not have occurred before the SBA declaration was made. SBA would, in such case, retain the earlier date since assistance might already have been made available for damage dating from the earlier date.

AUTHORITY: Pursuant to the authority of sections 5(b)(6) (15 USC 634(b)) and 7(b)(1) (15 USC 636(b)) of the Small Business Act, as amended, it is proposed to amend Part 123 of Chapter I, Title 13 of the Code of Federal Regulations by adding to § 123.1(a) a new paragraph (a)(5) as follows:

§ 123.1 General

(a) *Disaster loan authority.* * * *

(5) When the President has declared that a major disaster has occurred, the SBA disaster declaration will contain all provisions of the Presidential declaration and subsequent amendments which are within the parameters of SBA's Legislative authority. An exception will be made if SBA has published its declaration first and its incident date is prior to the date of the Presidential declaration; however, should an amendment to the Presidential declaration establish an incident date prior to the SBA incident date, the SBA declaration will be amended to include the earlier incident date. The SBA declaration will also list the political subdivisions in which disaster victims are eligible to apply for SBA Loans.

(Catalog of Federal Domestic Assistance 59.008, Physical Disaster Loans.)

Dated: August 9, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79–27357 Filed 8–31–79; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 79–SW–28]

Designation of Alternate Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate alternate airway V–13W between Palacios, Tex., and Humble, Tex., and alternate airway V–198S between Eagle Lake, Tex., and Sabine Pass, Tex. These new airways would improve air traffic flow by providing charted routes in areas where traffic is normally radar vectored.

DATES: Comments must be received on or before October 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 79–SW–28, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 3, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy fo this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons intersted in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate alternate vector V–13W from Palacios, Tex., to Humble, Tex., and alternate airway V–198S from Eagle Lake, Tex., to Sabine Pass, Tex. Presently aircraft proceeding to these terminal areas are enrouted via radials, or vectored in order to conform to arrival/departure routes. These alternate airways would provide charted routes that conform to the traffic flow thereby aiding flight planning and reducing controller workload. Subpart C or Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V–13

"Humble, Tex., Lufkin, Tex.," is deleted and "Humble, Tex., included a west alternate via INT Palacios 016° and Humble 240° Humble; Lufkin, Tex.;" is substituted therefor.

Under V–198

"Sabine Pass; White Lake, La.;" is deleted and "Sabine Pass including a south alternate from Eagle Lake via INT Eagle Lake 115° and Scholes 272°, Scholes thence via Scholes 066° and Sabine Pass 247° radials; Sabine Pass; White Lake, La.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 28, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–27401 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Part 75]

[Airspace Docket No. 79–WA–8]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Jet Route No. 524 by eliminating the segment more than 55 miles south of Montreal, Canada. This 48-mile segment south of the BUGSY intersection is not used and can no longer be justified as an assignment of airspace.

DATES: Comments must be received on or before October 3, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 79–WA–8, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before October 3, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would alter J–524 to extend from Montreal via the Montreal 188°T(203°M) radial to the intersection of the Albany, N.Y., 353°T(006°M) rather than to the Albany 343°T(356°M) radial. This action would eliminate an unused segment of J–524 which can no longer be justified as an assignment of airspace. Chart clutter would also be reduced in this area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

Under Jet Route No. 524 "Albany, N.Y., 343°" is deleted and "[Albany, N.Y., 353°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on August 27, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-27408 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Chap. I]

Informal Airspace Meeting

AGENCY: Federal Aviation Administration/DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: The Federal Aviation Administration (FAA) will hold an Informal Airspace Meeting in Louisville, Kentucky, for the purpose of discussing a plan by the FAA to establish a Group II Terminal Control Area (TCA) for the Standiford Field Airport.

DATE: October 25, 1979, 7:00 p.m. (local time).

ADDRESS: Jefferson Community College, Downtown Campus, Room LV-301, Corner of Chestnut and 2nd Streets, Louisville, Kentucky.

FOR FURTHER INFORMATION CALL: Mr. Clifford C. Monteau, FAA Southern Region, telephone (A/C 404) 763-7866 or Mr. Wilburn T. Mowdy, Standiford ATC Tower, telephone (A/C 502) 368-1611.

SUPPLEMENTARY INFORMATION: The purpose of this Informal Airspace Meeting is to offer all persons likely to be affected by the proposed TCA the opportunity to present their views, and to assist the FAA in the preparation of an airspace docket that will accomplish the improved safety objectives with the least possible impact on the airspace users.

No formal minutes or transcripts will be taken; however, anyone may submit written comments before or during the meeting which will be made a matter of record if they so desire. This action will not prevent interested persons from submitting comments later in response to a Notice of Proposed Rulemaking (NPRM) in the event the item is formally proposed.

Issued in Atlanta, Georgia, on August 22, 1979.

Dorsey A. Adle,

Acting Chief, Air Traffic Division, Southern Region.

[FR Doc. 79-27407 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 284]

[Docket No. RM79-74]

Interstate Pipeline Transportation on Behalf of Other Interstate Pipelines; Proposed Rulemaking and Public Hearing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (FERC) gives notice of a proposed rule which would permit interstate pipelines to transport natural gas for delivery to other interstate pipelines. A blanket certificate procedure would authorize such transportation without prior FERC approval of each individual transaction.

DATES: Request to participate at public hearing due by September 18, 1979. Public hearing on September 24, 1979. Written comments by September 24, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426 (Reference Docket No. RM79-74).

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of the General Counsel, 825 North Capitol Street, Northeast, Washington, D.C. 20426 (202) 357-8450.

I. Background

Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3371(a)(1), enables the Commission to authorize transportation by an interstate pipeline on behalf of any intrastate pipeline or local distribution company. However, transportation by an interstate pipeline on behalf of a second interstate pipeline is beyond the scope of Section 311 of the NGPA. Such transportation arrangements require certificates of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act.

This gap in the Commission's section 311 authority has placed interstate pipelines at a competitive disadvantage in attaching short-term supplies. Unlike Section 311 authorizations which can be implemented on a self-executing basis (See 18 CFR 284.100 *et. seq*), certificates under Section 7(c) of the Natural Gas Act are issued only after a case by case review. Hence, under Section 311 an intrastate pipeline or local distribution company seeking to attach short term supplies through interstate pipeline transportation may implement such a transaction without prior Commission approval. However, if an interstate pipeline sought the same supply for its customers, the transaction would require the Commission to issue at least a temporary certificate before a second interstate pipeline could transport the natural gas to the purchasing interstate pipeline.

Similarly, when attaching long term supplies, and intrastate pipeline or a local distribution company may use Subpart B of Part 284 to commence service while an application for long term authorization is pending before the Commission. The lack of a blanket certificate procedure places interstate pipelines at a competitive disadvantage in attaching such long term supplies as well. In view of the Commission's desire to increase system supplies available to interstate pipelines as well as to reduce the regulatory burden on the transporting interstate pipelines, the Commission has determined that case-by-case review of such transportation arrangements is inconsistent with the public interest at this time.

In place of individual applications directed to a single transportation arrangement, the proposed rule would allow the transporting interstate pipeline to apply for a one time blanket certificate which would authorize all transportation services on behalf of other interstate pipelines for periods of up to two years. Although such transportation would remain subject to the Commission's Natural Gas Act jurisdiction, the terms and conditions attached to the certificate would be identical to those imposed by Subpart B of Part 284.

The construction of facilities incidental to transactions authorized under blanket certificates is authorized by § 157.7(b)(4) of this chapter.

II. Public Convenience and Necessity

The Commission proposes to find that the transportation authorized by these blanket certificates is required by the present or future public convenience and necessity.[1] Several factors underlie this finding. First, the natural gas will enter the general system supplies of an interstate pipeline, rather than benefiting specific end-users. Second, the natural gas will be subject to end-use allocation under Commission approved curtailment plans. Third, individual transactions under the blanket certificate are short-term (of two years or less) and would not result in a disruption of markets upon which interstate pipelines have traditionally relied. Fourth, permitting these transactions on a self-implementing basis will eliminate a competitive disadvantage which interstate pipelines face when attempting to attach short-term supplies.

[1] Similar blanket transportation certificates have been issued in the past, High Island Offshore System and U-T Offshore System, Docket Nos. CP75-104 and CP76-116, order issued June 12, 1978.

III. Section by Section Analysis

Proposed paragraph (a) clarifies the relationship between the blanket certificate and the self-executing authorizations in Subpart B of Part 284, *i.e.* the blanket certificate covers only natural gas transported by interstate pipelines for the system supplies of other interstate pipelines. Neither long term transportation arrangements nor the transportation of the interstate pipeline's own natural gas are covered by the blanket certificate.

Proposed paragraph (b) indicates the limited nature of the blanket certificate. Although the certificate is of indefinite duration, individual transactions authorized under it are limited to two years under § 284.102, subject to extension under § 284.105.

Proposed paragraph (c) prescribes an abbreviated application procedure. Because data on individual transactions will be filed within thirty days of the commencement of each transaction, detailed data is not required for the blanket certificate application.

Proposed paragraph (d) incorporates the conditions set forth in Subpart B of Part 284 by reference as amended from time to time.

Proposed paragraph (e) frees the holder of the blanket certificate from any service obligation after each underlying transportation contract expires. This pregranted abandonment places the holder of the blanket certificate in an equivalent position to a transporter authorized under Section 311(a)(1) of the NGPA.

Proposed paragraph (f) makes clear that interstate pipelines which elect to not obtain a blanket certificate may still obtain Section 7(c) authorization on a case-by-case basis.

IV. Written Comment Procedure

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to 4:30 p.m., EDT., September 24, 1979, will be considered by the Commission prior to the promulgation of final regulations. All written submissions will be placed in the Commission's public file and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, NW., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM79-74.

V. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on September 24, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., E.S.T., on September 18, 1979.

Request to participate in the hearing should include a reference to Docket No. RM79-74 as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on September 21, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 100 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement.

Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Act, 15 U.S.C. 717 *et seq*; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission proposes to add a new Subpart G to Part 284, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. The table of sections for Part 284 is amended by the addition of a new Subpart G, to consist of §§ 282.220 and 282.221:

Subpart G—Blanket Certificates Authorizing Transactions in Accordance With Subparts B Through D.

Sec.
284.220 [Reserved]
284.221 Transportation on behalf of interstate pipelines.

2. Part 284 is amended by the addition of new sections 284.220 and 284.221, to read as follows:

§ 284.220 [Reserved]

§ 284.221 Transportation on behalf of interstate pipelines.

(a) *Applicability.* This section applies to the transportation of natural gas by an interstate pipeline on behalf of any other interstate pipeline. Transportation of natural gas on behalf of an intrastate pipeline or a local distribution company is authorized by Subparts B, C, and F of this part.

(b) *Blanket certificate.* Upon application therefor, the Commission will conduct a hearing pursuant to section 7(c) of the Natural Gas Act and § 157.11 of this chapter to determine whether the proposed service is required by public convenience and necessity. The Commission will issue to an interstate pipeline to which this section is applicable, a blanket certificate authorizing such pipeline company to transport natural gas for the system supply of any other interstate pipeline, to the same extent and in the same manner as transportation on behalf of intrastate pipelines is authorized by Subpart B of this part.

(c) *Application procedure.* Applications for blanket certificates shall state:

(1) The name of the applicant, and

(2) A statement that the applicant will comply with the conditions in paragraph (d) of this section.

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(d) *General conditions.* (1) Any transaction authorized under a blanket certificate shall be subject to the same terms and conditions that would apply if the transaction were authorized by Subpart B of this part (as such may be amended from time to time).

(2) Any filings made with the Commission reporting individual transactions shall reference the docket number of the proceeding in which the blanket certificate was granted.

(e) *Pregrant abandonment.* Abandonment of transportation services pursuant to section 7(b) of the Natural Gas Act is authorized upon the expiration of the contractual term of each individual transportation arrangement.

(f) *Interstate pipelines without blanket certificates.* An interstate pipeline which does not obtain a blanket certificate may apply for a separate certificate of public convenience and necessity for each transportation service provided to any other interstate pipeline.

[FR Doc. 79-27439 Filed 8-31-79; 8:45 am]
BILLING CODE 6450-01-M

Coast Guard

[33 CFR Part 110]

[CGD 77-227]

Anchorage Grounds, Los Angeles and Long Beach Harbors, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to revise the Anchorage Regulations for Los Angeles and Long Beach Harbors, California. Changes proposed for the existing regulations were so numerous that an in-depth study revealed a total revision was necessary. The present Anchorage Grounds can not accomodate the size, type, and volume of vessels common to the two harbors. The use designations for certain types of operations conducted in the various anchorages (i.e. bunkering, lightering, extended anchoring) are either nonexistent or inadequate. It is anticipated that the number and size of vessels using the harbors will further increase thereby increasing the probability of a major accident that could result in complete closure of either of the harbors. This proposal is intended to reduce the possibility of accidents occuring by providing for additional anchorage space and safer vessel operations in the area.

DATES: Comments must be received on or before October 15, 1979.

ADDRESSES: Comments should be submitted to and are available for examination at Commander (m), (CGD 77-227), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Ziegfeld, Office of Marine Environment and Systems (GWLE/73), United States Coast Guard, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, Phone Number (202) 426-1934.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify this notice (CGD 77-227), and give the reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped self-addressed post card or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Mr. Daniel W. Ziegfeld, Project Manager, Office of Marine Envrionment and Systems and Lt. J. W. Salter, Project Counsel, Office of Chief Counsel.

Discussion of the Proposal Regulation

Although there have been very few major accidents in the anchorage grounds of Los Angeles and Long Beach Harbors, it has become evident that the current anchorages do not meet present needs. Increases in the size and number of vessels utilizing the harbors has resulted in overcrowding of existing anchorages. This problem is compounded by the enormous growth of vessels arriving solely for the purpose of bunkering and/or lightering operations which are often conducted at anchorage. Additionally, as a result of the overcrowded anchorages, numerous vessels have anchored outside of the federal breakwater. However, this practice has created a potential for obstruction of the entrances to the harbors. It is anticipated that the size and number of vessels utilizing the harbors will further increase, thereby increasing the possiblity of accidents. This poses a threat to the safety of the harbors and the environment.

In view of the overcrowded anchorages and related problems the Coast Guard has determined a total reorganization of the current regulations is needed. Restructuring the anchorages and revising the regulations governing them would provide safer vessel operations in the area.

The proposed revision would reorganize the area available for anchoring vessels. It would create more anchorage space, designate use or preferred use for each anchorage, incorporate areas where anchoring formerly was restricted, organize long term anchoring for vessels so as to allow for minimal encounters with marine traffic, and ensure safe access corridors between Traffic Separation Schemes and harbor entrances. New regulations are proposed which prescribe changed or new time limits on anchoring, requirements for anchoring, and other operational considerations.

Several new anchorages are proposed by this revision, two of which are outside of the breakwater. Although these two are somewhat irregular in shape, this allows clear access corridors between internationally adopted Traffic Separation Schemes and harbor entrances. While vessels presently may anchor in unregulated areas, under this proposal, a vessel will either be in a maintained channel or an anchorage. This would insure control over abandoned or derlict vessels which create navigation and pollution hazards. The Corps of Engineers has the authority to remove obstructions in maintained channels and the Captain of the Port will supervise anchoring practices within anchorages.

Two of the present anchorages will be expanded to include areas previously used for other purposes. One would incorporate an area previously designated a "Restricted Area" under 33 CFR 207.616. The "Restricted Area" was established for a U.S. Navy degaussing range, that has recently been disestablished. The other anchorage would incorporate an old (previously disestablished) Quarantine Anchorage. These areas constitute valuable anchorage space and are currently used extensively.

The proposed anchorages all have a primary use designation such as commercial, naval, general, etc.; however this does not prohibit use of the anchorage by other types of vessels. The designations are intended to notify mariners as to the type of vessels that will predominately use these areas.

A number of the proposed anchorages also carry restrictions on bunkering operations and lightering operations. For the purpose of these regulations, bunkering is taking on fuel for a vessel's operaton while lightering is the transfer of fuel to storage or bulk transport. The restrictions are proposed to ensure these operations will be conducted in areas where a minimum threat is posed to the environment. Lightering carries an inherent hazard because volumes of flammable and explosive vapor can accumulate. During both bunkering and lightering operations the possibility of an oil discharge is subtantially increased. Records indicate oil spills occur most frequently during these transfer operations. Under this proposal lightering will be kept as far away from population centers as possible and bunkering will be allowed where a spill would pose the least threat of environmental damage.

The current general regulation allowing vessels to anchor for 10 days without obtaining specific permission from the Captain of the Port has been supplemented by placing shorter time limits on some areas where bunkering and lightering operations are allowed. This will allow more efficient use of the areas while still providing sufficient time to complete these operations.

Presently the U.S. Navy does not require as large an anchorage area as previously designated for their use only. The size of the current naval anchorage will be reduced and a new small naval anchorage will be established close to the U.S. Navy Shipyard to meet their requirements. Naval Vessels may still use other anchorages.

Because of the limited present day usage, one of the two explosive anchorages would be disestablished. The other, originally designed to accomodate two vessels, will be expanded and configured to handle one. The regulations governing the area will prohibit anchoring by other vessels when explosives are being handled. These changes reflect new Navy safety standards and should significantly reduce the hazard to anchored vessels during explosive transfer operations. The Navy estimates that explosives will be handled in the anchorage approximately forty days per year.

To further efforts towards efficient use of anchorages, the proposal designates preferential use of certain portions of the anchorages for deep draft vessels. Water that can accomodate these vessels is very limited and it is inefficient to allow draft vessels to occupy deep water anchorages.

The regulations governing general use of the anchorages would also be expanded and revised to include the following concepts and rules as well as those spelled out in the present regulation:

(a) Proper amounts of anchor chain,

(b) Anchoring away from fixed structures,

(c) Use of tug assistance for anchoring of certain large vessels (to add to safety factor for large vessel operations),

(d) Requiring notification to the Captain of the Port when a vessel anchors, weighs anchor, or is unable to get under way promptly,

(e) Establishment of new anchorage outside the breakwater,

(f) Prohibiting all anchoring not within the anchorages, and

(g) Requiring notification to the Captain of the Port when lightering and bunkering operations are conducted.

Prior to drafting this revision, many groups were consulted. These included both harbor authorities, pilots from both harbors, environmental groups, the U.S. Navy, and several professional shipping organizations and individuals as well as state and local governments.

The Coast Guard defines and establishes an anchorage ground under the authority of the Anchorage Grounds Act (33 U.S.C. 471). This statute contains authority for adopting and enforcing regulations dealing with the use of anchorages as well. However, existing regulations also contain provisions for regulating certain anchorages under the Ports and Waterways Safety Act of 1972 (PWSA 1972) (33 U.S.C. 1221 et. seq.). The purpose of the PWSA 1972 was to prevent damage to vessels and structures and damage to the environment resulting from vessel or structure damage. To accomplish this purpose the PWSA 1972 authorized (among other things) control over vessel movement and entry into congested areas, restrictions on vessel operation during hazardous conditions, and direction of anchoring, mooring or movement of vessels to prevent damage. In certain areas the volume of vessel traffic, the number of vessels using an anchorage and the navigational problems on the waters in question create a situation where the risk of vessel or structure damage is greatly increased. In such a situation the Coast Guard regulated the anchorage under the PWSA 1972 because the $10,000 penalty for violations was a more effective deterrent against hazardous violations than the $100 penalty of the Anchorage Grounds Act. This gave the Coast Guard a more effective enforcement tool in areas where the risk was greater and allowed the Coast Guard to fulfill its responsibilities under both Acts. The Coast Guard considered adding the anchorages described in 33 CFR 110.214 Los Angeles and Long Beach Harbors, California to the list of anchorages regulated under the authority of the PWSA 1972.

Section 2 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474) superseded the Ports and Waterways Safety Act of 1972 and revised the title of the Ports and Waterways Safety Act (PWSA). Section 4(b) of the PWSA allows (among other things) an order to be issued to any vessel in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States to operate or anchor as directed, if certain conditions exist. One of the conditions listed is that if there is reasonable cause to believe that a vessel does not comply with regulations issued under the Act or other applicable laws and treaties. Failure to comply with anchorage regulations could be the basis of an order to operate or anchor as directed, so as to comply with the applicable anchorage regulation. The more effective penalty provisions of the PWSA, which were increased to $25,000, would be directly applicable to a vessel which failed to comply with the order. Thus, there is now no need to regulate the Los Angeles and Long Beach Anchorages under the PWSA, since any anchorage regulation may be enforced by appropriate orders issued under the PWSA.

A detailed description follows which indicates how all the above proposed changes would be reflected in the regulations and the purpose for each change.

Detailed Description

The following changes, additions, and/or deletions are proposed to the Anchorage Regulations for the Los Angeles and Long Beach Harbors.

1. The Anchorage Grounds (§ 110.214(a))

(a) Paragraph (a)(1)—*Commercial Anchorage A*—The area has been restructured to include an "old" quarantine anchorage which was disestablished. The entire area is presently being utilized as an anchorage ground. Commercial Anchorage A has been primarily designated for bunkering operations. This is its predominate use at the present time as it is the most sheltered area within the harbor. A twenty-four hour time limitation (paragraph (a)(1) (iii)) has been proposed to ensure the maximum use of this prime bunkering area. Most bunkering operations can be completed within this time frame, and the Captain of the Port may grant extensions if necessary. Lightering will be prohibited since such operations are inherently more dangerous than bunkering. It is considered unwise to allow such

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operations in close proximity to populated areas. The present paragraph (a)(1)(ii) will be eliminated as the Captain of the Port will designate an appropriate area for use by quarantine, customs, or immigration authorities as the need arises. Any anchorage ground in the entire harbor may be so designated depending on the circumstances. The present paragraph (a)(1)(iii) will be eliminated as it is considered unnecessary. Other regulations (Corps of Engineers and U.S. Coast Guard) are applicable to the placement of moorings. The present paragraph (a)(1)(iv) will be eliminated as the U.S. Navy has no significant requirement for anchorage areas within the harbor at the present time.

(b) The present paragraph (a)(2) is reserved. Proposed regulations for *Commercial Anchorage B* will be contained in paragraph (a)(2). The area encompassed by proposed Anchorage B is the northern portion of present Anchorage C, the Navy Restricted Area which was disestablished, and the previously unregulated area between Reservation Point and Fish Harbor Channel. Regulations controlling the use of this anchorage ground are proposed as follows:

(i) The area is designated for use by commercial vessels and bunkering may be conducted.

(ii) Lightering will be prohibited as the area is considered unsafe for lightering operations due to its close proximity to populated areas and the U.S. Navy Base and Ship Yard.

(iii) The area may be utilized by vessels anchoring for an extended period when authorized by the Captain of the Port.

(iv) This paragraph ensures that navigation to and from Fish Harbor Channel is not impaired.

(c) Paragraph (a)(3) *Commercial Anchorage C* will be realigned. the northern portion becomes part of Commercial Anchorage B and the northeastern portion becomes Navy Anchorage J. Commercial use will have priority. Bunkering and lightering will be permitted. The eastern portion of the anchorage area encompassed by the 18m. (59 ft.) depth curve will be reserved for the anchoring of deep draft vessels with a forty-eight hour time limit imposed. These two requirements are proposed to insure that this area, the deepest in the harbor, is utilized to the maximum extent possible by vessels requiring deep water. Present paragraph (a)(3)(ii) will be eliminated as it is considered unnecessary. Other regulations (Corps of Engineers and U.S. Coast Guard) are applicable to the placement of moorings. The present paragraph (a)(3)(ii) will be eliminated as the U.S. Navy has no significant requirement for anchorage areas within the harbor at the present time. The present paragraph (a)(3)(iv) will be eliminated as explosive anchorage No. 1 will be disestablished and eliminated from the regulations as it is no longer required by the U.S. Navy or commercial users.

(d) Paragraph (a)(4) *Commercial Anchorage D* will be realigned to include the southwestern portion of the present Naval Anchorage E. The U.S. Navy no longer needs the entire area encompassed by the present Naval Anchorage E. In Commercial Anchorage D, requirements of ships 244m. (approximately 800 ft.) in length and 12m. (approximately 39 ft.) in draft or greater shall predominate. Bunkering and lightering will be permitted. Present paragraph (a)(4)(ii) will be eliminated as it is considered unnecessary. Other regulations (Corps of Engineers and U.S. Coast Guard) are applicable to the placement of moorings. The present paragraph (a)(4)(iii) will be eliminated as the U.S. Navy has no significant requirement for anchorage areas within the harbor at the present time.

(e) Paragraph (a)(5) *Commercial Anchorage E.* A portion of the present Naval Anchorage E (paragraph (a)(5)) will be redesignated Commercial Anchorage E. Commercial vessels will have priority in this area. Bunkering and lightering operations are prohibited due to the anchorages close proximity to shore.

(f) Paragraph (a)(6) *Commercial Anchorage F* is a proposed new anchorage ground. This area would be designated an anchorage to provide an area outside the breakwater where anchoring will be permitted in an organized manner. The lack of present regulations outside the breakwater allows the random anchoring of vessels. Therefore, an arriving vessel can expect to, and often will, encounter vessels anchored in the approaches to Los Angeles or Long Beach Harbors. In all areas outside the breakwaters encompassed by the internationally approved Los Angeles-Long Beach Precautionary Area, within three miles, with the exception of newly designated Anchorages F and G, anchoring will be prohibited. Bunkering and lightering operations are prohibited for safety and environmental reasons. Also, this area will be primarily designated for use by vessels 244m. (approximately 800 ft.) or greater in length or with drafts of 12m. (approximately 39 ft.) or more.

(g) Paragraph (a)(7) *Commercial Anchorage G* is a proposed new anchorage ground. The same comments noted in paragraph (f) just above apply except that commercial vessels of any size may anchor in the area.

(h) Paragraph (a)(8) *Naval Anchorage I* is a proposed new naval anchorage ground designated for Long Beach Naval Shipyard use. this will accommodate naval requirements for a small anchorage ground as close to the shipyard as possible. This area is presently utilized for this purpose but current regulations do not give priority to naval anchoring. The area is used to perform work on naval vessels during periods when dockside space is unavailable in the shipyard.

(i) Paragraph (a)(9) *Naval Anchorage K.* A portion of the present Naval Anchorage E (paragraph (a)(5)) will be redesignated "K". This will meet the reduced requirements of the U.S. Navy. The present paragraph (a)(5)(ii) will be eliminated as it is considered unnecessary. Other regulations, (Corps of Engineers and U.S. Coast Guard) are applicable to the placement of moorings.

(j) Paragraph (a)(10) *General Anchorage N.* The present Nonanchorage Area H (paragraph (a)(8)) will be designated General Anchorage N to provide continuity in the anchorage lettering system. No appreciable changes will be made to its geographic description. The regulations have been changed to permit anchoring.

(k) Paragraph (a)(11) *General Anchorage O.* this is a proposed new anchorage ground. This area will be designated as an anchorage ground which may be used with COTP permission. It will also be used for storage of vessels under the custody of the United States.

(l) Paragraph (a)(12) *General Anchorage P.* The present Nonanchorage Area F (paragraph (a)(6) will be designated General Anchorage P to provide continuity in the anchorage lettering system. Its geographic description will be changed slightly to reflect the harbor improvements, mainly the Queen Mary mooring facilities, which have occurred in the vicinity since the description was last updated. The regulations have been changed to permit anchoring.

(m) Paragraph (a)(13) *General Anchorage Q.* This is a proposed new anchorage ground. This area will be designated as an anchorage ground to accommodate the growing need for anchorage space.

(n) Paragraph (a)(14) *Nonanchorage U.* The present Nonanchorage Area G (paragraph (a)(7)) will be redesignated "U" to provide continuity in the anchorage lettering system. No appreciable changes will be made to its geographic description or in the regulations presently found in § 110.214(a)(7).

(o) Paragraph (a)(15) *Nonanchorage W.* The present Nonanchorage Area I (paragraph (a)(13)) will be redesignated "W" to provide continuity in the anchoring lettering system. No changes will be made to its geographic description and no appreciable changes will be made to the regulations as presently found in § 110.214(a)(13) with the exception of eliminating the present paragraph (a)(13)(ii). This portion is considered unnecessary and redundant as the Captain of the Port has enforcement authority over all anchorage regulations unless otherwise delegated.

(p) Paragraph (a)(16) *Explosives Anchorage.* Existing § 110.214(a) (9), (10), (11), and (12) will be eliminated. A new § 110.214(a)(16) will define the only area in which vessels carrying explosives may anchor. The maximum amount of explosives which may be aboard a vessel anchored within this anchorage has been limited to 680 metric tons (approximately 749 tons) to ensure the safety of the property and personnel on oil islands Freeman and Chaffee. Each vessel which utilizes the Explosives Anchorage will be required to demonstrate its status by displaying a red flag. While the anchorage is occupied by vessels carrying explosives no other vessel may anchor within 1,745m. (approximately 5,725 ft.) of the center of the anchorage. This area will include all of Anchorage K and portions of Anchorages D, E, F, and Q. Vessels anchored within this area will be required to relocate when the Explosives Anchorage is activated.

2. *Regulations [§ 110.214(b)].* (a) Section 110.214(b)(1) combines pertinent parts of present § 110.214(b) (1) and (3). Other portions were eliminated or included in subsequent regulations as appropriate.

(b) Section 110.214(b)(2) is a new regulation which requires certain large vessels in port to anchor with an adequate amount of chain. This eliminates the necessity for the Captain of the Port having to impose requirements on vessels on an individual basis.

(c) Section 110.214(b)(3) which is presently part of § 110.214(b)(5) has not been changed.

(d) Section 110.214(b)(4) is a new regulation that requires vessels unable to get underway within 4 hours to inform the Captain of the Port and take suitable precautions to ensure the safety of structures and other vessels in the area. This will ensure the Captain of the Port is aware of vessels that are unable to move promptly during adverse weather or when the explosives anchorage is to be activated.

(e) Section 110.214(b)(5) and (b)(6) are new regulations requiring all vessels to notify the Captain of the Port upon anchoring and upon departure to facilitate efficient use of the anchorage grounds.

(f) Section 110.214(b)(7) is a new regulations requiring large vessels to use tug assistance when anchoring inside the breakwater to ensure their reaching a safe anchorage. The size of these vessels and their poor maneuvering characteristics, the possibility of equipment failure, and the geography of the harbors demand that these vessels use tug assistance. This practice is being followed at the present time.

(g) Section 110.214(b)(8) which is presently § 110.214(b)(13) has not been changed.

(h) Section 110.214(b)(9) which is presently included in § 110.214(b)(4) has not been changed.

(i) Section 110.214(b)(10) is a new regulation which will prevent anchoring anywhere in the Precautionary Area except in Anchorages F and G. This requirement is considered necessary to ensure vessels do not hazard navigation by obstructing the entrances to the harbor or hinder vessels traversing the area.

(j) Section 110.214(b)(11) has undergone minor changes to clarify the fact that the 10 day requirement for anchorages does not apply to Commercial Anchorages F and G (outside the breakwaters), and notes additional restrictions for Commercial Anchorages A and C.

(k) Section 110.214(b)(12) which is presently § 110.214(b)(7) has undergone minor editorial changes.

(l) Section 110.214(b)(13) is a new regulation added to ensure compliance with dictates of prudent seamanship.

(m) Section 110.214(b)(14) is a new regulation added to ensure no vessel hazards itself or the port by anchoring too close to the oil islands, breakwaters, shorelines, or other fixed objects.

(n) Section 110.214(b)(15) which is presently § 110.214(b)(2) has undergone minor editorial changes. This regulation is not intended to prohibit a vessel from anchoring in a position from which the vessel may swing across the boundaries between Commercial Anchorage B and C, Commercial Anchorage D and E, Commercial Anchorage D and E and Naval Anchorage K, and Commercial Anchorage B and C and Naval Anchorage J.

(o) Section 110.214b(16) which is presently § 110.214(b)(12) has undergone minor changes for clarification.

(p) Section 110.214(b)(17) is a new regulation requiring that the Captain of the Port is kept informed when lightering operations are being conducted. This will provide the COTP with information for preplanning for discharge response and efficient scheduling and utilization of manpower and equipment.

(q) Section 110.214(b)(18) is a new regulation requiring that the Captain of the Port is kept informed when bunkering operations are being conducted. The same comments noted in paragraph (p) apply.

(r) Section 110.214(b)(19) which is presently § 110.214(b)(15) has undergone minor wording changes to include additional dangerous cargoes other than "explosives" which the Captain of the Port must be cognizant of. In order to fulfill his responsibilities as Captain of the Port, the COTP must be aware of operations conducted within the Anchorage that are potentially hazardous.

(s) Section 110.214(b)(20) which is presently § 110.214(b) (6) and (10) has undergone minor wording changes to allow one paragraph to encompass both of the present paragraphs of the regulations.

An Environmental Assessment was completed in April 1978 which resulted in a negative declaration indicating no forseeable significant impact on the quality of the human environment.

The Coast Guard has determined that, in accordance with DOT "Regulatory Policies and Procedures," (44 FR 11034) these amendments are not significant. A draft evaluation has been prepared and is available for public inspection at the Commander, Eleventh Coast Guard District address indicated above.

In consideration of the foregoing, it is proposed to amend Part 110 of Title 33, Code of Federal Regulations as follows:

(1) By revising § 110.214 to read as follows:

§ 110.214 Los Angeles and Long Beach Harbors, California.

(a) *The anchorage grounds*—(1) *Commercial Anchorage A (Los Angeles Harbor).* An area north of the San Pedro Breakwater; west of a line bearing 302° from Los Angeles Light, latitude 33°42'30.8" N., longitude 118°15'02.3" W.; south of the southern edge of the Deep Channel Fairway, which edge is described as follows:

Latitude	Longitude
33°42'50.2" N	118°15'40.0" W
33°42'45.0" N	118°16'03.2" W
33°42'37.5" N	118°16'08.0" W
33°42'45.0" N	118°16'25.2" W
33°42'35.5" N	118°16'18.8" W
33°42'37.8" N	118°16'23.0" W
33°42'50.8" N	118°16'35.8" W
33°42'48.6" N	118°16'38.4" W

thence along a line bearing 163° which is the eastern boundary of General Anchorage N to the San Pedro Breakwater at latitude 33°42'26.8" N., longitude 118°16'30.9" W.; thence southeasterly and easterly along the San Pedro Breakwater to the beginning point.

(i) In this anchorage the requirements of commercial ships conducting bunkering operations shall predominate.

(ii) Lightering operations are prohibited in this anchorage.

(iii) No vessel may anchor in this anchorage for longer than 24 hours without permission from the Captain of the Port.

(2) *Commercial Anchorage B (Los Angeles and Long Beach Harbors).* Beginning at the Southwestern corner of Reservation Point at latitude 33°43'18.0" N., longitude 118°16'00.2" W.; thence east southeasterly to latitude 33°43'13.8" N., longitude 118°15'51.4" W.; thence northeasterly to latitude 33°44'01.0" N., longitude 118°13'11.2" W.; thence northwesterly to the southern edge of the eastern extension of the NAVAL BASE MOLE at latitude 33°44'32.3" N., longitude 118°13'24.3" W.; thence southwesterly along the NAVAL BASE MOLE to NAVAL BASE MOLE light 2 at latitude 33°44'25.5" N., longitude 118°13'49.0" W.; thence southwesterly to latitude 33°43'50.7" N., longitude 118°15'41.7" W.; thence west southwesterly to Fish Harbor Channel Light 3 at latitude 33°43'48.8" N., longitude 118°15'52.7" W.; thence west southwesterly along the southern edge of Fish Harbor west jetty until it intersects Reservation Point; thence along the eastern and southern shoreline of Reservation Point to the beginning point.

(i) In this anchorage the requirements of commercial vessels shall predominate.

(ii) Bunkering operations are permitted in this anchorage.

(iii) Lightering operations are prohibited in this anchorage.

(iv) Anchorage B may be used by any vessel granted an extended anchorage permit in accordance with paragraph (b)(11) of this section.

(v) Each vessel in this anchorage shall be anchored in such a position as not to interfere with the free navigation of the Fish Harbor Channel.

(3) *Commercial Anchorage C (Los Angeles and Long Beach Harbors).* Beginning at Los Angeles Main channel Light 2, latitude 33°42'38.8" N., longitude 118°14'37.5" W.; thence northwesterly to the southernmost point of Commercial Anchorage B, latitude 33°43'13.8" N., longitude 118°15'51.4" W.; thence northeasterly to latitude 33°44'12.1" N., longitude 118°12'32.3" W.; thence southeasterly to Long Beach Channel Entrance Light, latitude 33°43'23.5" N., longitude 118°11'09.4" W.; thence westerly along the Middle Breakwater to the beginning point.

(i) In this anchorage the requirements of commercial vessels shall predominate. In the eastern portion of this anchorage, within the area defined by the 18m (approximately 59 ft.) depth curve, the requirements of vessels over 244m (approximately 800 ft.) in length overall or having a draft over 12m (approximately 39 ft.) shall predominate. Each lesser draft vessel shall anchor away from this deeper portion of the anchorage so as not to interfere with the anchoring of vessels having a draft over 12m (approximately 39 ft.)

(ii) Bunkering and lightering operations are permitted in this anchorage.

(iii) In the eastern portion of this anchorage, within the area defined by the 18m (approximately 59 ft.) depth curve, no vessel may anchor for longer than 48 hours without permission from the Captain of the Port.

(4) *Commercial Anchorage D (Long Beach Harbor).* Beginning at Long Beach Channel Entrance Light 2 at latitude 33°43'23.5" N., longitude 118°10'46.9" W.; thence northwesterly to the southwestern point of Pier J at latitude 33°44'18.9" N., longitude 118°12'11.8" W.; thence easterly to the Southwest Lighted Marker on Island Freeman; thence southerly to the Long Beach Breakwater at latitude 33°43'23.5" N., longitude 118°09'46.4" W.; thence westerly to the beginning point.

(i) In this anchorage the requirements of commercial ships over 244m (approximately 800 ft.) shall predominate.

(ii) Bunkering and lightering operations are permitted in this anchorage.

Note.—A portion of this anchorage is within the Explosive Anchorage Area when the explosive anchorage is activated by the Captain of the Port. See § 110.214 (a)(16).

(5) *Commercial Anchorage E (Long Beach Harbor).* Beginning at the southwestern point of Pier J at latitude 33°44'18.9" N., longitude 118°12'11.8" W.; thence easterly and northerly along the edge of Pier J to the breakwater off the stern of the Queen Mary; thence along the breakwater off the stern of the Queen Mary to the northeast corner of the breakwater at latitude 33°45'10.0" N., longitude 118°11'12.0" W.; thence northerly to latitude 33°45'22.0" N., longitude 118°11'12.0 W.; thence northerly to latitude 33°45'34.1" N., longitude 118°10'39.5" W.; thence easterly along a line 460m (1,509.186 ft.) from and parallel to the Long Beach shoreline to latitude 33°44'56.1" N., longitude 118°08'10.1" W.; thence southerly to latitude 33°44'19.0" N., longitude 118°08'10.1" W.; thence westerly to the Southwest Lighted Marker on Island Chaffee; thence westerly to the Southeast Lighted Marker on Island Freeman; thence along the south shore to the Southwest Lighted Marker on Island Freeman; thence westerly to the beginning point.

(i) In this anchorage the requirements of commercial ships shall predominate.

(ii) Bunkering and lightering operations are prohibited in this anchorage.

Note.—A portion of this Anchorage is within the Explosive Anchorage Area when the explosive anchorage is activated by the Captain of the Port. See § 110.214(a)(16).

(6) *Commercial Anchorage F (Outside of Long Beach Breakwater).* The area southeast of the breakwater beginning at latitude 33°43'05.1" N., longitude 118°07'56.2" W.; thence westerly to latitude 33°43'05.1" N., longitude 118°10'33.5" W.; thence southeasterly to latitude 33°40'23.3" N., longitude 118°08'32.5" W.; thence easterly to latitude 33°40'23.3" N., longitude 118°06'00.0" W.; thence to the beginning point.

(i) In this anchorage the requirements of commercial ships over 244m (approximately 800 ft.) in length overall or having a draft over 12 meters (approximately 39 ft.) shall predominate.

(ii) Bunkering and lightering operations are prohibited in this anchorage.

Note.—A portion of this anchorage is within the Explosive Anchorage Area when the explosive anchorage is activated by the Captain of the Port. See § 110.214(a)(16).

(7) *Commercial Anchorage G (Outside of Los Angeles Long Beach Middle Breakwater).* The area south of the breakwater beginning at latitude 33°43'05.3" N., longitude 118°11'15.3" W.; thence westerly to latitude 33°43'05.3" N., longitude 118°12'15.7" W.; thence southwesterly parallel to the breakwater to latitude 33°42'25.9" N., longitude 118°14'16.0" W.; thence southeasterly to latitude 33°41'40.5" N., longitude 118°13'02.0" W.; thence northeasterly to latitude 33°42'08.6" N., longitude 118°11'33.8" W.; thence to the beginning point.

(i) In this anchorage the requirements of commercial ships shall predominate.

(ii) Bunkering and lightering operations are prohibited in this anchorage.

(iii) No vessel may enter this anchorage ground unless it is destined for an assigned berth in this anchorage ground.

(8) *Naval Anchorage J (Long Beach Harbor).* Beginning at *NAVAL BASE MOLE* Light 5, latitude, 33°44'40.0" N., longitude, 118°12'59.8" W.; thence west southwest along the southerly edge of the *NAVAL BASE MOLE* to latitude 33°44'32.3" N., longitude 118°13'24.3" W.; thence southeasterly along a line perpendicular to the *NAVAL BASE MOLE* which is the eastern boundary of Commercial Anchorage B to the northern boundary of Commercial Anchorage C; thence northeasterly along the northern boundary of Commercial Anchorage C, until that line intersects the western edge of the Long Beach Channel; thence northwesterly along the western edge of the Long Beach Channel to the beginning point.

(i) In this anchorage the requirements of the U.S. Navy shall predominate.

(ii) No recreational or commercial vessel may anchor in this anchorage without first obtaining permission from the Captain of the Port.

(iii) Bunkering and lightering operations are prohibited in this anchorage.

(9) *Naval Anchorage K (Long Beach Harbor).* Beginning at Long Beach Breakwater East End Light, latitude 33°43'23.5" N., longitude 118°08'10.0" W.; thence northerly to latitude 33°44'19.0" N., longitude 118°08'10.1" W.; thence westerly to the Southwest Lighted Marker on Island Chaffee; thence westerly to the Southeast Lighted Marker on Island Freeman; thence along the southern shore to the Southwest Lighted Marker on Island Freeman; thence southerly to the Long Beach Breakwater at latitude 33°43'23.5" N.; longitude 118°09'46.4" W.; thence easterly to the beginning point.

(i) In this anchorage the requirements of U.S. Navy shall predominate.

(ii) No recreational or commercial vessel may anchor in this anchorage without first obtaining permission from the Captain of the Port. The requirements of vessels over 244m (approximately 800 ft.) in length overall shall predominate.

(iii) Bunkering operations are permitted in this anchorage.

(iv) Lightering operations are prohibited in this anchorage.

(v) This anchorage may be designated an explosive anchorage. See § 110.214(a)(16).

(10) *General Anchorage N (Los Angeles Harbor).* An area known as Cabrillo Beach, west of a line beginning at latitude 33°43'04.0" N.; longitude 118°16'44.4" W.; thence to the San Pedro Breakwater at latitude 33°42'26.8" N., longitude 118°16'30.9" W.; thence along the shoreline to the beginning point.

(i) In this anchorage the requirements of recreational and other small craft shall predominate.

(ii) Achoring, mooring, and recreational boating activities conforming to applicable City of Los Angeles ordinances and regulations adopted pursuant thereto are allowed in this anchorage.

(11) *General Anchorage O (Los Angeles and Long Beach Harbor).* Beginning at the NAVAL BASE MOLE Light 2, latitude 33°44'25.5" N., longitude 118°13'49. O" W.; southwesterly along the northern boundary of Commercial Anchorage B to latitude 33°43'50.7" N., longitude 118°15'41.7" W.; thence along the shore line to the beginning point.

(i) No recreational or commercial vessel may anchor in this anchorage without first obtaining permission from the Captain of the Port.

(ii) Bunkering and lightering operations are prohibited in this anchorage.

(iii) When necessary, this anchorage shall be reserved for vessels under the custody of the United States.

Note.—Nonanchorage U in § 110.214(a)(14) is within the boundaries of this anchorage.

(12) *General Anchorage P (Long Beach Harbor).* Mouth of the Los Angeles River. The water area extending westward and northward to the head of navigaton from a line drawn northward to the shore from the northeasterly corner of Pier J at latitude 33°45'10.1" N., longitude 118°11'12.0" W.

(i) In this anchorage the requirements of recreations and other small craft shall predominate.

(ii) Anchoring, moorings, and recreational boating activities conforming to applicable City of Long Beach ordinances and regulations adopted pursuant thereto are allowed in this anchorage.

(iii) A 140m (approximately 495 ft.) fairway channel from the easterly boundary of this anchorage to the Navy and Marina shall be maintained free of moorings and other obstructions at all times.

The boundaries of the fairway are as follows:

Latitude	Longitude
33°45'10.0" N	118°11'12.0" W
33°45'15.9" N	118°11'12.0" W
33°45'40.8" N	118°11'54.6" W
33°45'47.2" N	118°12'08.0" W

(13) *General Anchorage Q (Long Beach Harbor/Alamitos Bay/Anaheim Bay).* Beginning at Long Beach Breakwater East End Light, latitude 33°43'23.5" N., longitude 118°08'10.1" W; thence northerly to the northeastern corner of Commercial Anchorage E at latitude 33°44'56.1" N., longitude 118°10'10.1" W.; thence southeasterly to a point, latitude 33°44'20.6" N., longitude 118°07'28.5" W., which is the northwestern corner of Nonanchorage W; thence along the northern boundary of Nonanchorage W to Alamitos Bay East Jetty Light, 2, at latitude 33°44'11.3" N., longitude 118°07'09.8" W.; thence northeasterly along the eastern edge of the Alamitos Bay East Jetty 460m (1,509.186 ft.) to latitude 33°44'23.9" N., longitude 118°07'01.1" W.; thence easterly to the southern most point of the east bank of the San Gabriel River at latitude 33°44'22.8" N., longitude 118°06'53.7" W.; thence along the southern shoreline of Seal Beach until the shoreline intersects the Anaheim Bay West Jetty; thence along the western edge of the Anaheim Bay West Jetty to the Anaheim Bay Light 5 at latitude 33°43'39.1" N., longitude 118°06'03.3" W.; thence westerly to the beginning point.

(1) Bunkering and lightering operations are prohibited in this anchorage.

Note:—(1) Nonanchorage W in § 110.214(a)(15) is within the boundaries of this anchorage.

(2) A portion of this anchorage is within the Explosive Anchorage Area when the explosive anchorage is activated by the Captain of the Port. See § 110.214(a)(16).

(14) *Nonanchorage U (Los Angeles Harbor.)* An area extending 580m (approximately 1,903 ft.) south from the shoreline and 90m (approximately 295 ft.) each side of Ferry Street centerline extended.

(i) No vessel may anchor or moor in this area.

(ii) Dragging, seining, fishing operations, and other activities which might foul underwater installations within this area are prohibited.

Note.—This nonanchorage is established protection of the submerged outfall of a sewer pipeline.

(15) *Nonanchorage W (Mouth of Entrance Channel to Alamitos Bay).* Nonanchorage Area W is a semicircle with a 460m (1,509 ft.) radius that is centered at midchannel on a line between Alamitos Bay West Jetty Light 1 and Alamitos Bay Jetty Light 2 and which extends seaward from that line.

(i) No vessel may anchor or moor in this area.

(16) *Explosives Anchorage (Long Beach Harbor).* A circular area with its center at latitude 33°43'37.0" N., longitude 118°09'02.5" W., and a radius of 1.745m (approximately 5,725 ft.)

(i) No vessel containing more than 680 metric tons (approximately 749 tons) of explosives may anchor in this anchorage.

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(ii) Each anchored vessel loading, unloading, or laden with explosives, must display a red flag at least 1.2 square meters (approximately 16 square feet) in size by day, and by night the same red flag illuminated by spotlight.

(iii) When a vessel displaying the signal required by § 110.214(a)(16)(ii) occupies the Explosives Anchorage, no other vessel may anchor within the Explosives Anchorage.

Note.—When the Explosives Anchorage is activated Anchorage K and portions of Anchorage D, E, F, and Q are encompassed by the Explosives Anchorage.

(b) *General Regulations.* (1) Within Los Angeles and Long Beach Harbors, anchoring is prohibited outside established anchorages except in cases of emergency. If it becomes necessary, in an emergency, to anchor a vessel outside of the anchorages, the vessel shall anchor so that it does not interfere with or endanger any facility or other vessel. The vessel shall notify the Captain of the Port of the location of and reason for emergency anchoring by the most expeditious means and shall move clear as soon as the emergency is over.

Note.—The Captain of the Port guards VHF–FM Channel 16 (156.8 MHz).

(2) Each vessel 1600 gross tons or over shall use a minimum of four shots of chain (360 feet) at the water's edge in all Commercial and Naval anchorages; except that within Anchorage A, a minimum of three shots of chain (270 feet) may be used.

(3) The Captain of the Port may require a vessel in an anchorage to moor with two or more anchors.

(4) Each anchored vessel unable to get under way within 4 hours shall:

(i) Notify the Captain of the Port by the most expeditious means, and

(ii) Have a second anchor backed out and ready for use.

(5) Each vessel upon anchoring shall notify the Captain of the Port of its location by the most expeditious means.

(6) Each vessel shall notify the Captain of the Port when it departs from an anchorage.

(7) Each vessel over 244m (approximately 800 ft.) in length overall or having a draft over 12m (approximately 39 ft.) shall use tug assistance when anchoring inside of the breakwater.

(8) The Captain of the Port may require a vessel in an anchorage to have a watchman aboard at all times.

(9) The maneuvering of a vessel by means of a dragged anchor, except within an established anchorage, or in stress of weather, or to avoid collision or grounding, is prohibited.

(10) Commercial Anchorages F and G are the only portions of the navigable waters of the United States within the Los Angeles-Long Beach Precautionary Area in which any vessel may anchor, except when unforeseen circumstances create conditions of imminent peril or when specific permission is obtained from the Captain of the Port.

(11) Except as otherwise prescribed in this section, no vessel may occupy an anchorage inside of the breakwater for more than 10 consecutive days unless an extended anchorage permit is granted by the Captain of the Port.

Note.—Commercial Anchorages A and C have additional time restrictions. See § 110.214(a)(1)(iii) and § 110.214(a)(3)(iii).

(12) The Captain of the Port may permit vessels to anchor in channels. Permission is not necessary for vessels engaged on works of river and harbor improvement under the supervision of the District Engineer, Corps of Engineers, if the District Engineer has notified the Captain of the Port in advance of all such proposed work.

(13) No vessel may anchor in any anchorage in such a manner as to interfere with the use of an authorized mooring buoy.

(14) No vessel may anchor so that it will swing within 60m (approximately 197 ft.) of any permanent improvements except when unforeseen circumstances create conditions of imminent peril.

(15) No anchor may be placed outside the anchorages, nor may any vessel be so anchored that any portion of its hull or rigging extends outside the boundaries of the anchorages.

(16) No vessel being dismantled or undergoing major alterations may anchor in an anchorage without permission from the Captain of the Port.

(17) Each vessel to be lightered shall notify the Captain of the Port when the lightering vessel arrives alongside and again when the lightering vessel departs.

(18) Each vessel to be bunkered shall notify the Captain of the Port when the supply vessel arrives alongside and again when the supply vessel departs.

(19) No vessel while carrying, loading, or unloading explosives, under 46 CFR 146.29–13 or 49 CFR 176.100, oxidizers or blasting agents requiring a special permit under 49 CFR 176.415, or cargoes of particular hazard as listed in § 124.14(b) of this chapter, may anchor in an anchorage without permission from the Captain of the Port.

Note.—In granting such permission, the Captain of the Port will be guided by the current and future activities in the harbor and safety problems relating to such anchorage. Captain of the Port will advise Port of Long Beach and the Port of Los Angeles of any such anchorage assignments under the following conditions:

(i) Explosives, Class "A" (as defined in 49 CFR 173.53), any amount.

(ii) Explosives, Class "B" (as defined in 49 CFR 173.88), in excess of 1 net ton at any one time.

(iii) Explosives, Class "C" (as defined in 49 CFR 173.100), in excess of 10 net tons at any one time.

(iv) Military explosives (as defined in 46 CFR 146.29–11), any amount.

(v) Oxidizers requiring a special permit (as defined in 49 CFR 176.415), any amount.

(vi) Cargoes of particular hazard, in amounts specified by § 124.14(b)(1) of this chapter.

(20) Nothing in this section may be construed as relieving any vessel from the penalties of law for obstructing navigation or for not complying with the navigation laws or any other laws or regulations.

(Sec. 7, 38 Stat 1053, as amended, (33 USC 471); Sec. 6(g)(1)(A), 80 Stat. 937, (49 USC 1655(g)(1)(A)); 49 CFR 1.46(c)(1)).

Dated: August 22, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79–27449 Filed 9–31–79; 8:45 am]

BILLING CODE 4910–14–M

[33 CFR Part 164]

[CGD 77–183]

Amendments to Navigation Safety Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the Navigation Safety Regulations as they apply to vessels navigating on the Great Lakes. The proposal would ease some testing requirements and eliminate the depth finder recorder requirement. Experience with the rules has shown that certain requirements for testing could result in unsafe practices under some circumstances existing on the Great Lakes, and that a depth finder recorder is being required in areas where it is not needed. This proposal would correct these problems.

DATES: Comments must be received on or before: October 17, 1979.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/81) (CGD 77–183), U.S. Coast Guard, Washington, DC 20590. Comments will be available for examination at the Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy E. Foley, Rules of the Road Branch, Office of Marine Environment and Systems, Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590. (202) 426–4958.

SUPPLEMENTAL INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 77–183), identify the specific section of the proposal to which each comment applies, and give the reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principle persons involved in drafting this proposal are: Mr. Timothy E. Foley, Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Counsel, Office of the Chief Counsel.

Discussion of Proposed Regulations

The Navigation Safety Regulations (33 CFR Part 164) became effective on June 1, 1977. Experience with the rules since then has shown that some of these requirements are impractical or unnecessary in certain circumstances. These amendments are necessary to prevent accidental vessel collisions and groundings which may result from testing of critical navigational equipment in confined waters and to provide relief to vessels navigating on the Great Lakes from the unnecessary requirement to be equipped with a continuous depth sounding recorder. The impact of these requirements on vessels navigating on the Great Lakes was not considered at the time of promulgation of the original regulations. Adoption of these amendments will result in increased safety of vessel traffic in the St. Lawrence River and eliminate unnecessary expense to the Great Lakes shipping industry while preserving the economic and environmental benefits intended by the original Navigation Safety regulations.

Section 164.25 requires vessels to perform equipment tests of the primary and secondary steering as well as ahead and astern propulsion not more than 12 hours before entering or getting underway on the Navigable waters of the United States. Strict compliance with this requirement is unrealistic for vessels navigating on the Great Lakes because frequent crossing of the international boundary during most voyages would require repeated testing when the intention was that only an initial test be conducted. Vessels entering the Great Lakes via the St. Lawrence Seaway commonly perform certain equipment tests before transiting the Seaway. Transit time to the Great Lakes is usually more than 12 hours and strict compliance would require a retest 12 hours prior to entering the Great Lakes. The resultant duplication of these tests is not considered necessary. Additionally, imposition of test requirements during passage of the Seaway could create am immecessaru hazard to the vessel in those confined waters. Testing of a ships steering system involves moving the rudder from one side to the other within its design limits. This test causes a departure from the vessels intended course and could cause loss of control and grounding. Testing of astern propulsion similarly causes a temporary diminishing of rudder control and may result in a deviation from the vessels intended course. The purpose of the required tests is to detect any system failures which may exist. By operationally testing equipment in confined waters, the vessel is exposed to an increased risk if failure of an essential system occurs at a time when its proper functioning is particularly critical for safe navigation.

Therefore, the Coast Guard is proposing to amend this section to allow vessels navigating on the Great Lakes to satisfy the equipment test requirements at the beginning of the voyage without additional re-testing during the voyage. Vessels entering the Great Lakes from the St. Lawrence Seaway will not be required to re-test equipment that has been tested preparatory to entering the Seaway and will be allowed to complete the remaining equipment tests upon entering the relatively open waters of Lake Ontario.

Section 164.35 requires vessels navigating on the Great Lakes to have a device that can continuously record the depth readings of the vessel's echo depth sounding device. The requirement for a continuous depth sounding recorder was included in the original regulations to insure that the device would be available as a valuable navigational aid. Navigational charts of the Great Lakes however, do not exhibit depth contours for depths greater than thirty (30) feet. The absence of charted depth contours considerably reduces the effectiveness of the equipment in question for position fixing purposes. Also, since vessels subject to these regulations are required to employ a licensed pilot familiar with the route when underway on the Great Lakes the need for such a device is further reduced.

The Coast Guard therefore is proposing to amend this section by deleting the requirement that vessels operating on the Great Lakes have on board a device that can continuously record the depth readings of the vessel's echo depth sounding device.

In recognition of the problems which the current regulations pose for vessels on the Great Lakes, the Coast Guard has temporarily waived the requirements discussed above, pending the outcome of this rulemaking action.

The Coast Guard has evaluated this proposal under the Department of Transportation policies for Improving Government Regulations published on February 26, 1979 (44 FR 11034). It has been determined that the expected impact of this proposal is so minimal that a full Regulatory Evaluation is not warranted. This is because it merely provides relief from minor aspects of the Navigation Safety rules, which are either unnecessary or unreasonable on the Great Lakes.

In consideration of the foregoing, it is proposed that Chapter I of Title 33, Code of Federal Regulations, be amended to read as follows:

1. Section 164.25 would be amended to read as follows:

§ 164.25 Tests before entering or getting underway.

(a) Except as provided in paragraphs (b) and (c) of this section no person may cause a vessel to enter into or get underway on the navigable waters of the United States unless no more than 12 hours before entering or getting underway, the following equipment has been tested:

(1) Primary and secondary steering gear.

(2) All internal vessel control communications and vessel control alarms.

(3) Standby or emergency generator, for as long as necessary to show proper functioning, including steady state temperature and pressure readings.

(4) Storage batteries for emergency lighting and power systems in vessel control and propulsion machinery spaces.

(5) Main propulsion machinery, ahead and astern.

(b) Vessels navigating on the Great Lakes and their connecting and tributary

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waters, having once completed the test requirements of this sub-part, are considered to remain in compliance until arriving at the next port of call on the Great Lakes.

(c) Vessels entering the Great Lakes from the St. Lawrence Seaway are considered to be in compliance with this sub-part if the required tests are conducted preparatory to or during the passage of the St. Lawrence Seaway or within one hour of passing Wolfe Island.

2. Section 164.35(i) would be amended to read as follows:

§ 164.35 Equipment: All vessels.

Each vessel must have the following:

* * * * *

(i) A device that can continuously record the depth readings of the vessel's echo depth sounding device, except when operating on the Great Lakes and their connecting and tributary waters.

* * * * *

(92 Stat. 1471 (33 U.S.C. 1221 et. seq.); 49 CFR 1.46(n)(4)).

Dated: August 14, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-27448 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 164]

[CGD 76-051]

Minimum Net Bottom Clearance

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Coast Guard has decided to discontinue its attempt to arrive at a national standard for minimum bottom clearance and to redirect its efforts to the development of local standards where required. Any future rulemaking actions on this subject will be locally initiated and published for comment in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 426-4958.

SUPPLEMENTARY INFORMATION: The Coast Guard, on May 6, 1976, published in the **Federal Register** an advance notice of proposed rulemaking concerning Minimum Net Bottom Clearance (41 FR 18771). The proposal (CGD 76-051) drew 75 letters of comment, only 3 of which were supportive. In almost every case, the proposal was challenged on the basis of cost vs. benefit. Depending on the degree of restriction, commenters contended that costs of lighterage and demurrage or loss of cargo capacity appeared to outweigh any potential benefits.

While cost vs. benefit is not the only consideration in issuing regulations, particularly those concerned with safety, the number and substance of the comments caused the Coast Guard to reexamine its approach. Studies of shallow water maneuvering characteristics of vessels were performed. Various ports were examined and pilots and other mariners interviewed.

Some investigations are still in progress, but even now it is apparent that bottom clearance regulation is better handled on an individual port basis. This permits more precise consideration of local variables, such as bottom type, tidal range, wave action and surge, channel configuration, port geography and traffic mix. Therefore, the Coast Guard has decided to continue its evaluation of minimum net bottom clearance requirements on a port-to-port instead of a national basis.

In consideration of the foregoing, the proposal published in the **Federal Register** (41 FR 18771) on May 6, 1976, entitled "Minimum Net Bottom Clearance" (CGD 76-051) is hereby withdrawn.

Drafting Information

The principal persons involved in drafting this document are: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

August 27, 1979.

[FR Doc. 79-27450 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-14-M

[33 CFR Part 164]

[CGD 76-025]

Tug Assistance in Confined Waters

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is withdrawing the advance notice of proposed rulemaking concerning Tug Assistance in Confined Waters published on May 6, 1976 (41 FR 18770). Letters of comment and subsequent investigations, some still in progress, indicate that a single regulation would not be sufficiently flexible to ensure vessel safety and that locally initiated directives, tailored to the geography, climate and traffic in specific port areas, would better serve the mariner and the public. Future actions are being considered to address specific problems in limited areas. Should rulemaking follow, comments will be solicited.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, 400 Seventh Street S.W., Washington, D.C. 20590. Telephone (202) 426-4958.

SUPPLEMENTARY INFORMATION: The May 6, 1976 advance notice of proposed rulemaking concerning Tug Assistance in Confined Waters (41 FR 18770) drew 64 responses. Thirty commenters remarked that only experienced personnel on-scene can integrate adequately all of the factors concerning the need for tug assistance. Twenty-five stated that no table or combination of tables could account for all of the variables without being so cumbersome as to be unusable. Seventeen other commenters offered various additional objections to the proposal. There were no favorable comments.

Faced with this negative response, the Coast Guard reevaluated its approach. Studies and inquiries were undertaken and pilots and other mariners in various ports were interviewed. Investigations are still in progress, but it is already evident that the concept envisioned in the advance notice requires modification. That notice proposed a "Factor Table" that would rate a vessel numerically and a "Tug Assistance Requirement Table" that would convert the vessel rating to a minimum tug requirement. Although the two tables provide an excellent theoretical approach and ultimately may prove to have value, they have not yet reached a useable form.

The Coast Guard does not reject the concept of mandatory tug escort or assistance where it can be useful. It is shelving instead the "blanket regulation" approach in favor of locally initiated rules, designed to respond to the needs of a particular port area. Several areas are being examined with this in mind and rulemaking action may be initiated and comments solicited when that level of development is reached.

In consideration of the foregoing, the proposal published in the **Federal Register** (41 FR 18770) on May 6, 1976, entitled "Tug Assistance in Confined Waters" (CGD 76-025) is hereby withdrawn.

Drafting Information

The principal persons involved in drafting this document are: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

August 27, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-27451 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 79-16; Notice 1]

Federal Motor Vehicle Safety Standards; Child Safety and Motor Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public meeting and invitation for application for financial assistance in preparation of comments.

SUMMARY: This notice is issued in an effort to broaden the agency's knowledge of the hazards vehicles pose to children and to determine possible regulatory and other means of reducing those hazards. NHTSA will hold a meeting on December 12, 1979, so that the public can present its ideas and views on ways of improving protection for children involved in vehicle collisions either as occupants or pedestrians or cyclists.

DATES: The public meeting will be held on December 12, 1979, and run from 1:00 p.m. to about 6:00 p.m. Persons and organizations wishing to speak at the meeting must submit a copy of their presentations to NHTSA not later than December 1, 1979. Persons and organizations who wish to supplement their oral presentations at the meeting and those who wish to comment but cannot attend the meeting may submit written comments. These comments must be received no later than January 10, 1980. Application for financial assistance should be submitted in writing by September 24, 1979.

ADDRESSES: The public meeting will be held in the Sheraton Park Hotel, 2660 Woodley Road, N.W., Washington, D.C.

Copies of oral presentations to be delivered at the meeting and written comments should refer to the docket number set forth above and be addressed to: Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Applications for financial assistance and questions concerning the meeting should be submitted to: Ms. Ann Mitchell, Public Participation and Consumer Affairs, NHTSA, 400 Seventh Street, S.W., Room 5232, Washington, D.C. 20590 (202-426-0870).

SUPPLEMENTARY INFORMATION:

Background

About one fourth of the total U.S. population, approximately 52.5 million people, are children under 15-years-old. Each year approximately 4,200 of these children are killed and several hundred thousand are seriously injured in motor vehicle accidents. Motor vehicle accidents are now the number one killer of 1-14 year old children in this country.

Data on children who die in motor vehicle accidents show that 50 percent of the children are killed as occupants of automobiles, 38 percent as pedestrians and 12 percent as cyclists. The death of an unrestrained child in a motor vehicle typically occurs when he or she becomes a missile during a crash, and is either hurled against the vehicle's interior or is ejected from the vehicle. One of the typical ways in which child pedestrians or cyclists can be killed or permanently disfigured is through being hit by a vehicle with sharp frontal or side protrusions.

Currently, effective restraints are available for protection of children under the age of 5-years-old. Last year, NHTSA proposed to upgrade its safety standard on child restraints by making it applicable to all types of child restraint devices and by requiring that they be dynamically tested in conditions approximating real world accidents (43 FR 21470; May 18, 1978). This standard will be published this fall. There is ample evidence in the form of accident data, studies and laboratory tests that indicate that child restraints which comply with the Federal standard and which are used properly, provide excellent protection for children under 5 years of age traveling in motor vehicles.

The 28 million children in the age bracket from 5-12 years are usually too big to fit into child restraints and many may be too small to use adult shoulder restraints effectively. While the use of a lap belt provides these children substantial protection, there may be even better ways of protecting these children from crash injuries.

Another serious problem is that available restraints are very infrequently used. For example, the latest surveys indicate that about 86 percent of front seat occupants, both children and adults, do not use safety belts and between 93 and 96 percent of the children riding in motor vehicles are not in child restraints. Consequently, a large segment of the child population is being transported unrestrained in motor vehicles.

As noted above, a leading cause of death and injury to unrestrained or improperly restrained children in a collision is contact with the vehicle's interior during a sudden stop or collision. Objects such as the backs of seats, steering wheels, instrument panels, and other portions of the vehicle can become lethal weapons when a child is hurled against them in even a moderate speed crash. Knowing this, the agency is interested in improving the protection provided in a vehicle's interior by eliminating or modifying those unyielding aggressive surfaces and protrusions that cause injury. One survey indicates that the surfaces most often contacted by children in a crash are the lower instrument panel, and the lower rear surface of the front seatback.

Pedestrian safety represents another area where additional work is needed to reduce the number of children killed and injured. Child fatalities and injuries account for 20 percent of the total U.S. pedestrian deaths and injuries. The head-neck-face areas receive approximately one half of the injuries occurring to children in pedestrian/vehicle crashes. Approximately one half of those injuries are caused by contacts with the vehicle's grill and hood edges, while the remaining injuries are due to contacts with the ground.

During the last several years, the NHTSA has conducted a number of experimental programs aimed toward developing softer, more energy absorbant materials to use on vehicle front ends to reduce pedestrian injuries. The most successful approach involved the elimination of sharp protrusions and use of a soft, deep form material covering the bumper and front of the vehicle. The performance of a modified vehicle using this approach has proved to be promising in comparison with an unmodified vehicle. Through tests in which instrumented test dummies simulating pedestrians were struck at 25 mph by modified and unmodified vehicles, the modified vehicles were shown to reduce substantially the forces to which the dummies were subjected.

Information Sought

To aid the agency in determining whether to commence rulemaking, NHTSA is seeking the public's views, data, and information on ways to reduce death and injuries among children in accidents involving passenger cars, vans, trucks and other motor vehicles.

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The agency is particularly, but not exclusively, seeking comments on ways of reducing deaths and injuries caused by impacts against the vehicle's interior and caused by impacts with pedestrians and cyclists by the front ends and sides of motor vehicles. (In view of the recent opportunity to comment on the child restraint notice of proposed rulemaking, the agency is not seeking comment on issues relating to that subject unless commenters have previously unsubmitted data or arguments to offer.)

Regarding protection for children riding in motor vehicles, information is sought on the following items:

1. Data collected by medical, safety and other organizations on the portions of the vehicle's interior most often impacted and objects, protrusions, and surfaces causing the most serious injury.

2. The desirability and benefits of using energy-absorbing materials on the lower surface of the instrument panel and limiting protrusions on all parts of the instrument panel.

3. The desirability and benefits of using energy-absorbing materials on the entire rear seatback area, and limiting protrusions in that area.

4. The desirability and benefits of countermeasures to protect children who are transported in the rear of station wagons and hatchbacks.

5. Recommendations are also solicited on other means of improving the safety of the vehicle's interior.

Regarding child pedestrian and cyclist/vehicle impacts, information is sought on the following items:

1. Data collected by medical, safety or other organizations on the portions or components of motor vehicles most often impacting pedestrian children and most often causing serious injuries and fatalities.

2. The desriability and benefits of using energy-absorbing materials on bumpers, grills, and hood edges in order to reduce pedestrain fatalities and injuries.

3. The desirability and benefits of eliminating other protrusions on motor vehicles to reduce pedestrain fatalities and injuries.

4. Recommendations are also solicited on other means of improving the safety of the vehicle's exterior.

Oral and Written Public Comments

Individuals and organizations are invited to testify at the meeting. Presentations made at the meeting and written comments should attempt to include a discussion of the potential regulatory and other solutions for the problems mentioned above, identify other possible solutions and provide information on the benefits, costs and other impacts of the possible solutions.

The amount of time available to each speaker will depend largely on the number of participants. The agency anticipates that not more than 10 minutes will be available for each speaker. Interested persons unable to attend the meeting should note that they can participate by submitting written comments.

Agenda of Speakers

After the requests to speak are received by NHTSA, a list of the order of appearance of speakers at the public meeting on December 12, 1979, will be made available in NHTSA's Office of Public Affairs and Consumer Participation. The list will be available about December 5, 1979.

Applications for Financial Assistance

The NHTSA invites all qualified individuals, organizations and other parties financially unable to participate in the proceeding to apply for financial assistance. The agency is particularly interested in applications that will innovatively address the problems of improving children survival in automobile accidents either as passengers of automobiles or as pedestrians or cyclists being hit by motor vehicles. All applications submitted before the deadline specified at the board, composed of NHTSA and other Department of Transportation officials, to determine whether each applicant is eligible to receive funding. Consideration of late application is at the discretion of the evaluation board.

In general, an applicant is eligible if its participation would contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the novelty, complexity, and significance of the ideas advanced and the ability of the applicant to represent the interests it espouses competently. Additionally, it must be demonstrated that the applicant does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this program.

If more than one applicant representing the same or similar interest is deemed eligible, the board will either select the applicant which can make the strongest presentation or select more than one applicant if justified. Compensation is to the extent the agency's budget for this purpose will permit. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim, but not later than 60 days after a completed claim is submitted.

Each applicant should specify in its application which rulemaking actions and issues it proposes to address if its application for funding is approved, and the nature of its proposed work product. Applicants must submit as part of their application all information required by § 5.49 of the recently revised DOT regulations governing this financial assistance program (44 FR 4675; January 23, 1979). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

Availability of Comments

All comments, presentations and a transcript of the public meeting will be available for public viewing at: Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegatons of authority at 49 CFR 1.50 and 501.8)

Issued on August 30, 1979.

A. C. Malliaris,

Acting Associate Administator for Rulemaking.

[FR Doc. 79-27563 Filed 8-30-79; 3:57 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 44, No. 172
Tuesday, September 4, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Frederick Training Facility, Frederick, Md.; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the consolidation of two Plant Protection and Quarantine training staffs from Battle Creek, Michigan, and Hyattsville, Maryland, to a new facility located in the Amber Meadows Business Park on the north side of Frederick, Maryland. The environmental assessment of this action indicates that the existing facilities have not caused significant adverse local, regional, or national impacts on the environment in the past. There are no adverse environmental impacts anticipated in the future for this new facility. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

ADDRESSES: Requests for copies of the environmental assessment should be addressed to the Energy and Environmental Staff, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION: Contact Kenneth J. Dunn, Energy and Environmental Staff, (301) 436-8237.

SUPPLEMENTARY INFORMATION: Animal and Plant Health Inspection Service is responsible for operating plant import stations and quarantine facilities that inspect imported plants which may be diseased or carry insect vectors. The proposed Frederick, Maryland, facility will train about 150-200 new and experienced plant inspectors and/or quarantine personnel per year to ensure that they have the technical competencies necessary to accomplish program objectives. The new one story facility of 10,600 square feet will contain classrooms, a training laboratory, a library, office spaces and other related rooms.

No administrative action will be taken until 15 days after date of this publication.

This notice has been reviewed under the U.S. Department of Agriculture criteria established to implement the EO 12044, Improving Government Regulations. A determination has been made that this notice should not be classified significant under those criteria. The environmental assessment referred to in the notice meets the requirements of EO 12044 and Secretary's Memorandum 1955 for an impact analysis statement. The environmental assessment is available from the Energy and Environmental Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Done at Washington, D.C., this 29th day of August 1979.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79-27489 Filed 8-31-79; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

Food Stamp Workfare Demonstration Project; Reopening of Opportunity for Applications

AGENCY: Food and Nutrition Service, USDA.

ACTION: Reopening of Opportunity for Applications.

SUMMARY: On November 28, 1978, 43 FR 55334, the Department published in the **Federal Register** final rulemaking and a Notice of Intent for the Food Stamp Workfare Demonstration Project (originally published in the **Federal Register** Docket Number 78-33376) which is mandated by Subsection 17(b)(2) of the Food Stamp Act of 1977. Under this project, food stamp work registrants will be required to perform work in a public service capacity in exchange for the coupon allotment to which their household is otherwise normally entitled. The Notice of Intent announced the intention of the Departments of Agriculture and Labor to jointly conduct the project and sought proposals for project operation from eligible political subdivision or groupings thereof wishing to take part in the project. We are hereby reopening the opportunity to reconsider applications on file and those received in response to this Notice for a period of 10 working days from the date of publication of this Notice in the **Federal Register**. This action has been judged to be necessary by the Departments in order to provide further opportunity for interested jurisdictions, especially urban sites as defined in the Notice of Intent, to participate in this demonstration project. Interested jurisdictions should forward a letter of intent no later than September 18, 1979 to Ms. Alberta Frost, Acting Deputy Administrator, Food and Nutrition Service, Food Stamp Program, USDA, Washington, D.C. 20250.

DATE: The due date for letters of intent is reopened for a period of 10 working days from the publication date of this Notice in the **Federal Register** or no later than September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Claire Lipsman, Director, Program Development Division, U.S. Department of Agriculture, Room 658, 500 12th St. S.W., Washington, D.C. 20250 telephone (202) 447-8325.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

Ernest G. Green,

Assistant Secretary for Employment and Training Administration.

August 27, 1979.

[FR Doc. 79-27440 Filed 8-31-79; 8:45 am]

BILLING CODE 3410-30-M

Food Safety and Quality Service

Organization, Functions, and Delegation of Authority

Pursuant to the authority of the Administrator, Food Safety and Quality

Service, appearing at 7 CFR 2.7, and 2.92, the following Statement of Organization, Functions, and Delegations of Authority of Food Safety and Quality Service is made:

Organization and Functions

Section 1. *General.* Food Safety and Quality Service, hereinafter referred to as FSQS was created by the Secretary of Agriculture on March 14, 1977 (42 FR 20165: April 18, 1977).

Section 2. *Central Office.* The central office of FSQS is located at Washington, D.C., and consists of the Office of the Administrator, Associate Administrator, and five Deputy Administrators as follows:

Office of the Administrator

Information and Legislative Affairs.
Policy Studies and Public Participation.
Equal Employment Opportunity.

Associate Administrator

Deputy Administrator, Commodity Services.
Deputy Administrator, Science.
Deputy Administrator, Meat and Poultry Inspection.
Deputy Administrator, Compliance.
Deputy Administrator, Administrative Management.

Section 3. *Field Organization.* The location of principal field offices is as follows for each major program:

Meat and Poultry Inspection

Regions

North Central: Room 419, United States Courthouse Building, East 1st and Walnut Streets, Des Moines, IA 50309.
Northeastern: 7th Floor, 1421 Cherry Street, Philadelphia, PA 19102.
Southeastern: Room 216, 1718 Peachtree Street, NW., Atlanta, GA 30309.
Southwestern: Room 5–F41, 1100 Commerce Street, Dallas, TX 75242.
Western: Room 102, Building 2–C, 620 Central Avenue, Alameda, CA 94501.

Science

Multidisciplinary Laboratories

Western: U.S. Appraisers Building, 630 Sansome Street (Mail: P.O. Box 2433), San Francisco, CA 94126.
Midwestern: Room 704, Federal Building, 405 South 12th Street, St. Louis, MO 63102.
Eastern: Russel Research Station Road (Mail: P.O. Box 6085), Athens, GA 30604.

Midwestern Associated Laboratories

National Residue: 1815 N. University Street, Peoria, IL 61604.
Kansas City: 417 Federal Building, Kansas City, KS 66101.

Staff Laboratories

Special Projects, Room 612, Agriculture Annex Building, 12th and C Streets, SW., Washington, DC 20250.
Agricultural Research Center, Beltsville, MD 20705; Methods Development, Building 318, Compounds, Building 306, Microbiology, Building 319, Pathology, Building 318, Epidemiology, Building 318C.

Commodity Services

Regions

Fresh Fruit and Vegetable Operations

Central: Room 1012, 610 South Canal Street, Chicago, IL 60607.
Eastern: Room 2052, South Building, 14th and Independence Avenue, SW., Washington, DC 20250.
Western: Room 739, Appraisers Building, 630 Sansome Street, San Francisco, CA 94111.

Processed Fruit and Vegetable Operations

Central: Room 1014, U.S. Custom House, 610 South Canal Street, Chicago, IL 60607.
Southeast: Federal Building, 3rd Street and Avenue A., SW (For Mail: P.O. Box 860), Winter Haven, FL 33880.
Western: Suite 416, 111 West St. John Street, San Jose, CA 95113.

Dairy Operations

Room 754, Appraisers Building, 630 Sansome Street, San Francisco, CA 94111.
Room 803, 610 South Canal Street, Chicago, IL 60607.
Room 242, Federal Building, 110 South 4th Street, Minneapolis, MN 55401.
Room 1205, U.S. Courthouse and Federal Building, 100 South Clinton Street, Syracuse, NY 13260.

Poultry Operations

Eastern: 469 Hospital Drive, Gastonia, NC 28052.
East Midwest: No. 1 Natural Resources Drive, Room 1109, Little Rock, AR 72205.
West Midwest: Room 777, 210 Walnut Street, Des Moines, IA 50309.
Western: Room 219, Federal Building, 401 North San Joaquin Street, Stockton, CA 95202.

Laboratories

Poultry Laboratory, 469 Hospital Drive, Gastonia, NC 28052.
Dairy Grading Laboratory, Room 666, 610 South Canal Street, Chicago, IL 60607.

Main Stations

Meat Grading Operations

Building 7, Section A, 4747 Eastern Avenue, Bell, CA 90201.
Post Office Building, 815 Court Street, Martinez, CA 94553.
206 Livestock Exchange Building, 47th and Lafayette, Denver, CO 80216.
Room 204, 1718 Peachtree Street, NW., Atlanta, GA 30309.
Room 203, 4101 South Halsted Street, Chicage, IL 60609.
Room 225, Livestock Exchange Building, 800 South Chambers Street, Sioux City IA 51107.
Post Office Building (For Mail: P.O. Box 27), South St. Paul, MN 55075.
Room 760, Livestock Exchange Building, Kansas City, MO 64102.
Room 723, Livestock Exchange Building, Omaha, NE 68107.
1101 State Road, Building E., Princeton, NJ 08540.
Amarillo Livestock Exchange, Auction Building, 101 Manhattan Street (For Mail: P.O. Box 30217), Amarillo, TX 79120.

Compliance

Evaluation and Enforcement Division, Review Activities

804 West 24th Street, Lawrence, KS 66044.

Enforcement Activities

North Central: 965 Federal Building, 210 Walnut Street, Des Moines, IA 50309.
Southwestern: Room 5–F–33, 1100 Commerce Street, Dallas, TX 75242.
Northeastern: Blazon II Building, 505 South Lenola Road, Moorestown, NJ 08057.
Southeastern: Room 431, 1720 Peachtree Street, NW., North Tower, Atlanta, GA 30309.
Western: Room 111, Building 2-F, 620 Central Avenue, Alameda, CA 94501.

Administrative Management

Field Office Branches

Program Services Branch.
Personnel Operations Branch.
The above field offices are located at 123 E. Grant Street, Minneapolis, MN 55403.

Section 4. *The Office of the Administrator.*

(a) *The Administrator.* The Administrator of FSQS, under the direction of the Assistant Secretary for Food and Consumer Services, formulates, directs, and supervises the execution of FSQS policies, programs, and activities. The Administrator is authorized to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order, or instruction, required by or authorized by law and deemed by the Administrator to be necessary and proper to the discharge of the functions assigned to FSQS, and to delegate and provide for redelegation of authority to appropriate officers and employees consistent with, and with due regard to the continuing responsibility for the proper discharge of delegations made by the Administrator. Delegations and provisions for redelegation are stated in Sections 13, 14, 15, 16, 17, 18, and 19.

(b) *The Associate Administrator.* The Associate Administrator shares overall responsibility with the Administrator for the general direction and supervision of the programs and activities assigned to FSQS, and is authorized to act for the Administrator in performing all functions for which the Administrator is responsible.

(c) *Deputy Administrator, Commodity Services.* The Deputy Administrator, Commodity Services, is responsible for:

(1) Participating with the Administrator and other Agency officials in the planning, formulation, and review of all policies, programs, procedures, and activities of FSQS.

(2) Planning, providing leadership, formulating and coordinating policies, developing regulations pursuant to laws, and directing the administration of Commodity Services programs and activities. These programs and activities include the standardization and quality inspection and grading of dairy products, fresh and processed fruits and vegetables, meat, poultry, poultry products, shell eggs, egg products, rabbits, and miscellaneous commodities, under the Agricultural Marketing Act of 1946 and other laws. Also included are the administration of the Egg Products Inspection Act, the Government-wide Quality Assurance Program, the commodities purchase services under Section 6 of the National School Lunch Act of 1946, Section 32 of the Act of August 24, 1935, and other authorities. In conjunction with Compliance, recommendations are made to withdraw services, and prosecute or take other enforcement actions where indicated.

(3) Providing leadership, guidance, expertise, assistance and coordination in the implementation of the Equal Employment Opportunity Program.

These activities are carried out by three commodity and one functional units: the Fruit and Vegetable Quality Division, the Meat Quality Division, the Poultry and Dairy Quality Division, and the Food Quality Assurance Division.

(d) *Deputy Administrator, Science.* The Deputy Administrator, Science, is responsible for:

(1) Participating with the Administrator and other Agency officials in the planning, formulation, and review of all policies, programs, procedures, and activities of FSQS.

(2) Planning, providing leadership, formulating and coordinating policies, assisting in the development of regulations pursuant to laws, and directing the administration of Science programs and activities. These programs and activities include developing and maintaining a food-borne hazard reporting system, and a residue monitoring and surveillance program for meat and poultry products. Also included is the establishment of Agency nutritional policies (including the use of food additives in meat and poultry), and the operation of regulatory field service laboratories. In addition to maintaining liaison with national and international laboratories, the program identifies, recommends, and coordinates the initiation and conduct of appropriate scientific projects, to support Meat and Poultry Inpsection, Compliance, and Commodity Services, wherever appropriate.

(3) Providing leadership, guidance, expertise, assistance, and coordination in the implementation of the Equal Employment Opportunity Program.

These activities are carried out by seven functional units: the Chemistry Division, the Field Service Laboratories Division, the Food Ingredient Assessment Division, the Mathematics and Statistics Division, the Microbiology Division, the Pathology and Epidemiology Division, and the Residue Evaluation and Surveillance Division.

(e) *Deputy Administrator, Meat and Poultry Inspection.* The Deputy Administrator, Meat and Poultry Inspection, is responsible for:

(1) Participating with the Administrator and other Agency officials in the planning, formulation, and review of all policies, programs, procedures, and activities of FSQS.

(2) Planning, providing leadership, formulating and coordinating policies, developing and implementing regulations pursuant to laws, and directing the administration of Meat and Poultry Inspection programs and activities to assure that meat, poultry, and their products, which move in foreign and interstate commerce, are wholesome, properly labeled, and not adulterated. These programs and activities include the development of methods and the conduct of ante-mortem and post-mortem inspection, and the monitoring of State inspection programs approved as equal to Federal inspection. The program determines acceptable methods for humane slaughter of animals, and provides a check on compliance with these methods. In conjunction with Compliance, plants, facilities, and individuals are monitored; recommendations are made for the withdrawal of services, prosecution, or other enforcement actions where indicated.

(3) Establishing operating requirements and criteria for facilities, equipment, sanitation, environmental, employee safety conditions; approves the physical plant and equipment for meat and poultry plants subject to regulatory control. The program coordinates the establishment of regulatory criteria for disposition of meat, poultry, and their carcasses, and develops procedures to maintain product security and control of condemned and inedible materials. Foreign inspection systems and plants exporting to the United States are evaluated, and surveillance is maintained for compliance with an approved inspection plan.

(4) Providing leadership, guidance, expertise, assistance, and coordination in the implementation of the Equal Employment Opportunity Program.

These activities are carried out by the functional units of Technical Services and Field Operations.

(f) *Deputy Administrator, Compliance.* The Deputy Administrator, Compliance, is responsible for:

(1) Participating with the Administrator and other Agency officials in the planning, formulation, and review of all policies, programs, procedures, and activities of FSQS.

(2) Planning, providing leadership, formulating and coordinating policies, developing regulations pursuant to laws, and directing the administration of Compliance programs and activities. These programs and activities assure that actions necessary for legal and regulatory compliance are effective, fair, and applied uniformly. An audit program is conducted to measure results of these efforts and to recommend corrections for existing or potential problems. The development of meat and poultry product standards and FSQS regulations is coordinated, and liaison is maintained with the departmental Office of the Inspector General and the General Accounting Office. Using compliance, surveillance, and enforcement programs, Agency actions are coordinated to withdraw grading and inspection service, to prosecute, or to take other enforcement actions where indicated.

(3) Developing, implementing, and reviewing labeling policy and food packaging systems to eliminate fraudulent practices.

(4) Preparing subpoenas for issuance by the Administrator in matters relating to the efficient administration and enforcement of the Federal Meat Inspection Act, as amended, the Poultry Products Inspection Act, as amended, and the Egg Products Inspection Act, pursuant to 15 U.S.C. 49 as authorized by 21 U.S.C. 677 and 21 U.S.C. 467d, and the Agricultural Marketing Act of 1946.

(5) Providing leadership, guidance, expertise, assistance, and coordination in the implementation of the Equal Employment Opportunity Program.

These activities are carried out by four functional units: the Evaluation and Enforcement Division, the Planning and Analysis Division, the Meat and Poultry Standards and Labeling Division, and the Regulations Coordination Division.

(g) *Deputy Administrator, Administrative Management.* The Deputy Administrator, Administrative Management, is responsible for:

(1) Participating with the Administrator and other Agency officials in the planning, formulation, and review of all policies, programs, procedures, and activities of FSQS.

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(2) Planning, providing leadership, formulating and coordinating policies, and directing the administration of Administrative Management services to be provided for all organizational segments of FSQS. These services include budget formulation, presentation, and execution, financial analysis, personnel administration, and resources management. Also included are the management of material procurement, real and personal property, and office services. Management improvement initiatives are undertaken, and control of Agency information access is maintained.

(3) Coordinating the development of cooperative and service agreements, master Memoranda of Understanding and all agreements between FSQS and other agencies.

(4) Providing leadership, guidance, expertise, assistance, and coordination in the implementation of the Equal Employment Opportunity Program.

These activities are carried out by six functional units: the Executive Secretariat, Administrative Services Division, Budget, Planning and Evaluation Division, Finance Division, Management Improvement Division, and Personnel Division.

Section 5. *Information and Legislative Affairs.* Information and Legislative Affairs, under the direction and supervision of the Administrator, is responsible for:

(1) Developing and disseminating information to apprise and educate the public regarding the services provided by FSQS and the means by which the public may obtain these services. Additionally, information on food safety, nutrition, labeling, and quality, will be provided to assist consumers in obtaining maximum food value.

(2) Advising and assisting the Administrator and other Agency officials on all matters relating to legislative bills, proposals, and correspondence. Liaison will be maintained with the Office of Governmental and Public Affairs and with the appropriate congressional committees.

Section 6. *Policy Studies and Public Participation.* Policy Studies and Public Participation, under the direction and supervision of the Administrator, is responsible for:

(1) Developing, recommending, and advising on policy options relating to overall FSQS programs. In addition, an assessment of economic and program ramifications of alternative strategies and possible courses of action will be made.

(2) Actively pursuing and obtaining public participation in the rulemaking process. The establishment of advisory committees for ideas, comments, review, and recommendations will be based on balanced representation from all potentially interested groups.

(3) Coordinating the handling of citizen complaints and working with the Office of Governmental and Public Affairs to identify problems which impact the public.

Section 7. *Equal Employment Opportunity Staff.* Equal Employment Opportunity Staff, under the direction and supervision of the Administrator, is responsible for:

(1) Developing and implementing the Agency's EEO Program by reviewing proposed changes in Agency policies which impact on the employment of minorities and women, preparing directives and regulations on EEO, and developing projects for special emphasis in selected EEO areas.

(2) Informing the Administrator and top Agency officials about EEO progress and problems after evaluation of subordinate organizational levels (i.e., regions, States, offices, divisions). This staff will coordinate matters of EEO policy with the Department's Office of Equal Employment Opportunity.

(3) Implementing the Agency Upward Mobility Programs by developing formal career opportunities and disseminating relevant information to all eligible employees.

(4) Assuring that officials designated to receive or take action on formal EEO complaints do so within the required time limits.

Section 8. *Commodity Services.* The Food Quality Assurance; Fruit and Vegetable Quality; Meat Quality; and the Poultry and Dairy Quality Divisions, under direction of the Deputy Administrator for Commodity Services are responsible as follows:

(a) *Food Quality Assurance Division.* The Food Quality Assurance Division is responsible for:

(1) Coordinating the development of specifications for meat, poultry, dairy, fruits and vegetables, and approving all specifications used in Federal procurement programs.

(2) Coordinating research in food specifications, monitoring amendments to the commodity specifications portion of food purchase contracts, and serving as Federal liaison on food specifications matters.

(b) *Fruit and Vegetable Quality Division.* The Fruit and Vegetable Quality Division is responsible for:

(1) Development, establishment, and revision of U.S. Grade Standards, and the voluntary quality inspection programs for fresh and processed fruits and vegetables, edible nuts, and miscellaneous assigned commodities authorized by the Agricultural Marketing Act of 1946.

(2) Diversion, purchase, and export programs authorized by Section 32 of the Act of August 24, 1935; Section 6 of the National School Lunch Act and other authorities, as they pertain to fruits and vegetables.

(3) Representing the Agency and the Department with U.S. Interagency and State groups or agencies and other national and international organizations relative to fruit and vegetable quality program matters.

(4) Recommending the withdrawal of commodity services or other enforcement actions where indicated.

(c) *Meat Quality Division.* The Meat Quality Division is responsible for:

(1) Development, establishment, and revision of U.S. Grade standards and the grading, examination, and certification service on meat and meat products in accordance with Federal grade and class standards, and applicable specifications.

(2) Diversion, purchase, and export programs authorized by Section 32 of the Act of August 24, 1935; Section 6 of the National School Lunch Act and other authorities for meat and meat products.

(3) Representing the Agency and the Department with U.S. Interagency and State groups or agencies and other national and international organizations relative to meat and meat products quality program matters.

(4) Recommending the withdrawal of commodity services or other enforcement actions where indicated.

(d) *Poultry and Dairy Quality Division.* The Poultry and Dairy Quality Division is responsible for:

(1) Development, establishment, and revision of U.S. Grade standards, and the voluntary inspection of egg products, the voluntary grading of dairy, poultry, rabbits, shell eggs and related products authorized by the Agricultural Marketing Act of 1946, and the Processed and Renovated Butter Act.

(2) Mandatory continuous inspection of egg products and the surveillance inspection of shell egg handlers and hatcheries authorized by the Egg Products Inspection Act of 1970.

(3) Diversion, purchase, and export programs authorized by Section 32 of the Act of August 24, 1935; Section 6 of the National School Lunch Act and other authorities for poultry and poultry products.

(4) Representing the Agency and the Department with U.S. Interagency and State groups or agencies and other national and international organizations relative to poultry and dairy products quality program matters.

(5) Recommending the withdrawal of commodity services or other enforcement activities where indicated.

Section 9. *Science.* The Chemistry; Mathematics and Statistics; Microbiology; Pathology and Epidemiology; Field Service Laboratories; Residue Evaluation and Surveillance; and Food Ingredient Assessment Divisions, under direction of the Deputy Administrator for Science, are responsible as follows:

(a) *Chemistry Division.* The Chemistry Division is responsible for:

(1) Conducting applied research and special studies to meet Agency needs and to develop analytic methods suitable for the regulatory programs.

(2) Maintaining a quality assurance program and carrying out interlaboratory collaborative studies to ensure valid chemical data throughout the Agency.

(3) Developing and managing the certified and recognized laboratory programs with non-Federal government laboratories for analyses of official Agency samples.

(b) *Mathematics and Statistics Division.* The Mathematics and Statistics Division is responsible for:

(1) Design of acceptance sampling systems.

(2) Design of studies, analysis, and specification of the limits of warranted inference for data of interest to the Agency.

(3) Design and analysis of studies from which standards and specifications are developed or revised.

(4) Assisting in the development of residue monitoring and surveillance systems.

(5) Development and implementation, in cooperation with other staffs, of statistical training for Agency personnel.

(6) Statistical evaluation of proposed plant quality control systems.

(7) Scientific computer support necessary to carry out the responsibilities of Science.

(c) *Microbiology Division.* The Microbiology Division is responsible for:

(1) Conducting a general food microbiology program to analyze canned products under the regulatory responsibility of the Agency; identifying pathogens, toxins, extraneous material and species of animal tissues found in food processed under the Agency's control, and operating an antibiotic residue identification program.

(2) Conducting field investigations of sanitation to develop microbiological criteria for wholesome food.

(3) Developing guidelines and policies concerning thermal processing of food products.

(d) *Pathology and Epidemiology Division.* The Pathology and Epidemiology Division is responsible for:

(1) Contributing to the development of criteria for ante-mortem and post-mortem inspection of animals and poultry.

(2) Investigating emerging conditions involving human or animal health; operating a foodborne hazard control center; and maintaining liaison with State and Federal health agencies.

(3) Operating a national diagnostic pathology program; assisting in developing and presenting training programs in pathology and epidemiology for field personnel; conducting studies of infectious agents associated with food.

(4) Developing serological testing systems for detecting infectious and toxic agents in foods.

(e) *Field Service Laboratories Division.* The Field Service Laboratories Division is responsible for:

(1) Operating a laboratory program which provides services in the disciplines of chemistry, microbiology, and pathology to conduct analyses for economic fraud, food additives, and nutrition; to diagnose diseases, parasites, and similar pathogens in animal tissues; and to determine levels of drug, pesticide, and chemical residues in meat and poultry.

(2) Assuring the quality and integrity of nongovernment laboratories endorsed by the Agency to perform similar analyses on a commercial basis.

(f) *Residue Evaluation and Surveillance Division.* The Residue Evaluation and Surveillance Division is responsible for:

(1) Planning and evaluating a residue program to detect and determine the extent of antibiotic, drug, or chemical residues in food products under Agency jurisdiction, and to prevent residue adulterated food products from entering commerce.

(2) Assisting in the evaluation of industry quality assurance programs related to residue program.

(3) Conducting toxicological studies and evaluation of substances in food of potential adverse significance to human health.

(g) *Food Ingredient Assessment Division.* The Food Ingredient Assessment Division is responsible for:

(1) Coordinating the establishment of Agency nutritional policies and developing recommendations for documents needed to implement nutritional standards.

(2) Evaluating and recommending research on the methods used to assess nutrient levels for meat and poultry products; evaluating profiles of fabricated foods to determine if expected nutrient levels are present in proportions usual to meat and poultry products.

(3) Developing guidelines and policies for the use of fortified nonmeat and nonpoultry ingredients (such as vegetable protein) in preparing finished meat and poultry products.

(4) Evaluating, approving, disapproving the safety and use of food additives in meat and poultry products.

(5) Determining the safety of compounds and packages used by industry during the processing of food products.

Section 10. *Meat and Poultry Inspection.* Technical Services and Field Operations, under direction of the Deputy Administrator for Meat and Poultry Inspection are responsible as follows:

(a) *Technical Services.* Technical Services is responsible for:

(1) Assessing the food safety and public health implications of emerging agricultural practices and technology.

(2) Determining acceptable methods for humane slaughter, and developing procedures for inspecting livestock, poultry, and their processed products.

(3) Developing procedures for maintaining product security and the control of condemned and inedible materials; coordinating the establishment of regulatory criteria for the wholesomeness of processed product, and the disposition of livestock, poultry, and their carcasses.

(4) Coordinating and developing facility, equipment, sanitation, and operating requirements for meat and poultry regulatory programs.

(5) Preparing environmental considerations; approving new construction, plant modifications, and equipment in plants subject to regulatory control.

(6) Developing and modifying inspection work standards, and conducting technical training for inspection personnel.

(b) *Field Operations.* Field Operations is responsible for:

(1) Conducting ante-mortem and post-mortem inspection of meat animals, meat products, poultry, and poultry products intended for human consumption, including compliance with the Humane Slaughter Act, and monitoring the accuracy of product labels.

(2) Monitoring plants, other facilities, and individuals for compliance with legal orders and monitoring equal-to inspection programs of States.

(3) Administering the requirements of Section 20 of the Federal Meat Inspection Act and Section 17 of the

Poultry Products Inspection Act with respect to imported meat and poultry; conducting activities for import inspection, and the inspection and certification of meat and poultry proposed for export; providing guidance to regional and area offices concerning import and export activities.

(4) Coordinating with the State Department and the Foreign Agricultural Service regarding the impact of program actions on foreign trade interests.

(5) Receiving and referring to Compliance recommendations to withdraw inspection services.

(6) Directing regional offices as follows:

(i) Planning, providing leadership, and coordinating Field Operations programs and activities within the region for all activities related to inspection of meat, poultry, and related products.

(ii) Granting, refusing, suspending, and recommending withdrawal of inspection services to meat and poultry establishments in accordance with applicable regulations.

(iii) Providing voluntary inspection services relating to wholesomeness of meat and poultry products used as food for dogs, cats, and other carnivora.

(iv) Directing, coordinating, and integrating the activities of subordinate area offices.

Section 11. *Compliance.* The Evaluation and Enforcement, Planning and Analysis, Regulations Coordination, and the Meat and Poultry Standards and Labeling Divisions, under direction of the Deputy Administrator for Compliance are responsible as follows:

(a) *Evaluation and Enforcement Division.* The Evaluation and Enforcement Division is responsible for:

(1) Providing systematic nationwide monitoring of the effectiveness of inspection and grading programs through periodic reviews and special studies.

(2) Providing systematic nationwide monitoring of businesses engaged in interstate food marketing and distribution; detecting and documenting statutory violations; assuring that appropriate remedies or sanctions are effected.

(3) Controlling violative products through detentions, civil seizures, and voluntary recalls.

(4) Cooperating with States in the development of compliance programs for intrastate products and businesses; monitoring State compliance programs to assure they meet Federal specifications.

(5) Issuing letters of warning; referring reports and recommendations to the Office of the General Counsel, Justice Department, or other appropriate officials for criminal/civil/administrative action.

(6) Developing and maintaining contacts with appropriate enforcement groups.

(b) *Planning and Analysis Division.* The Planning and Analysis Division is responsible for:

(1) Planning and implementing compliance policy and programs to promote the effectiveness, fairness, and uniformity of compliance actions.

(2) Providing information systems to support evaluation, enforcement, regulations, standards and labeling functions.

(3) Identifying and providing advice on regulatory, legal, and administrative compliance problems.

(4) Developing and maintaining liaison with the Office of Inspector General, the General Accounting Office, and other groups with enforcement, evaluation, and related responsibilities.

(c) *Regulaitons Coordination Division.* The Regulations Coordination Division is responsible for:

(1) Coordinating, clearance, and developing as appropriate all FSQS proposed and final regulations and issuances, and coordinating the review of all existing FSQS regulations and issuances.

(2) Coordinating and maintaining the Administrative Record for all FSQS regulations.

(3) Maintaining clearance and publication systems for regulations, bulletins, notices, and instructions.

(d) *Meat and Poultry Standards and Labeling Division.* The Meat and Poultry Standards and Labeling Division is responsible for:

(1) Developing meat and poultry product standards.

(2) Developing labeling policy for meat, poultry, and their processed products; reviewing all labels for approval or disapproval.

(3) Reviewing food packaging systems to eliminate fraudulent practices.

Section 12. *Administrative Management.* The Executive Secretariat; Administrative Services; Budget, Planning and Evaluation; Finance; Management Improvement; and Personnel Divisions, under direction of the Deputy Administrator for Administrative Management, are responsible as follows:

(a) *Executive Secretariat.* The Executive Secretariat is responsible for:

(1) Coordinating the review and clearances of all proposed FSQS issuances including directives, Federal Register dockets, and cooperative agreements for conformance to administrative procedure.

(2) Developing policy and procedures for handling the disposition of requests made under the Freedom of Information Act and Privacy Act and maintaining proper identification and safeguards of files coming within the scope of the Privacy Act.

(3) Tracking and reporting the status of all priority items and assignments for FSQS.

(4) Managing and operating the FSQS Information Processing Center and preparing recurring Agency reports of program goals and accomplishments.

(5) Developing correspondence control procedures for the Office of the Administrator.

(b) *Budget, Planning and Evaluation Division.* The Budget, Planning and Evaluation Division is responsible for:

(1) Coordinating the formulation of the overall budget and assisting in establishing program goals, milestones, and annual budget targets.

(2) Coordinating the development of annual Agency work plans, travel and other operational plans.

(3) Tracking and reporting on program progress to identify trends and problems.

(c) *Finance Division.* The Finance Division is responsible for:

(1) Administering fiscal and related management programs.

(2) Developing the accounting and related financial systems and procedures.

(d) *Administrative Services Division.* The Administrative Services Division is responsible for providing staff leadership and operatng administrative services and assistance to FSQS managers in the area of:

(1) Real and personal property.

(2) Procurement of supplies and equipment.

(3) Forms and reports.

(4) Records management and disposition.

(5) Design and construction of FSQS facilities.

(6) Printing and distribution services.

(7) Contract agreement.

(e) *Management Improvement Division.* The Management Improvement Division is responsible for:

(1) Planning, providing staff leadership, and operating administrative services assistance to service managers and program leaders in the areas of management system design and improvement, and automated data processing systems.

(2) Reviewing and recommending approval (or disapproval) of the acquisition of all electronic data processing equipment or word processing equipment proposed for use within FSQS prior to purchase or lease.

(f) *Personnel Division.* The Personnel Division is responsible for:

(1) Providing staff leadership and coordination for the development and evaluation of programs and systems for implementing and executing an overall personnel program.

(2) Planning, providing staff leadership, and operating personnel management services and assistance to FSQS managers and program leaders in the areas of:

(i) position management;

(ii) position classification;

(iii) salary and wage administration;

(iv) employee development, training, and related activities;

(v) recruitment and placement;

(vi) safety;

(vii) employee relations; and

(viii) labor management relations.

Delegations of Authority

Section 13. *Associate Administrator.* The Associate Administrator is hereby delegated the authority to perform all the duties and to exercise all the functions and powers which are now, or which many hereafter be vested in the Administrator, including the power of redelegation, except when prohibited, and including authority reserved to the Administrator outlined in Section 22 below. He is also authorized to act for the Administrator in his absence or from time to time when the Administrator is not available.

Section 14. *Authority to Serve as Acting Administrator.* (a) When the Administrator and Associate Administrator plan to be absent or unable to perform the duties of the Administrator, the Administrator will make a specific designation in writing, of an Acting Administrator.

(b) When the Administrator and Associate Administrator are absent or unable to perform the duties of the Administrator and a specific designation has not been made, the Deputy Administrators, in the order named, are designated to serve as Acting Administrator:

(1) Deputy Administrator, Compliance.

(2) Deputy Administrator, Meat and Poultry Inspection.

(3) Deputy Administrator, Commodity Services.

(4) Deputy Administrator, Science.

(5) Deputy Administrator, Administrative Management.

(c) In the event of extreme emergency that prevents the Administrator, Associate, and the Deputy Administrators from assuming the duties of the Administrator, Assistant Deputy Administrators are designated to serve as Acting Administrator, in the same order as Deputy Administrators named above, until such time as the Administrator or one of the above-designated alernates is capable of serving as Administrator.

Section 15. *Deputy Administrators.* The Deputy Administrator, Commodity Services; the Deputy Administrator, Science; the Deputy Administrator, Meat and Poultry Inspection; the Deputy Administrator, Compliance; the Deputy Administrator, Administrative Management; and the officers they designate—with prior specific approval of the Administrator—to act for them, are hereby delegated the authority, severally, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is reserved to the Administrator or as provided in Section 4(f)(4). Each Deputy Administrator shall be primarily responsible for the programs and activities of the Food Safety and Quality Service herein or hereafter assigned to him/her.

Section 16. *Director, Information and Legislative Affairs.* The Director, Information and Legislative Affairs is hereby delegated authority in connection with the respective functions herein assigned to him/her, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is reserved to the Administrator.

Section 17. *Director, Policy Studies and Public Participation.* The Director, Policy Studies and Public Participation, is hereby delegated authority in connection with the respective functions herein assigned to him/her to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is reserved to the Administrator.

Section 18. *Director, Equal Employment Opportunity.* The Director, Equal Employment Opportunity, is hereby delegated authority in connection with the respective functions herein assigned to him/her to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is reserved to the Administrator.

Section 19. *Division and Staff Directors, Commodity Services, Science, Meat and Poultry Inspection, Compliance, and Administrative Management,* are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator, except the authorities reserved to the Administrator and Deputy Administrators.

Section 20. *Concurrent Authority and Responsibility to the Administrator.* No delegation or authorization prescribed herein shall preclude the Administrator, or each Deputy Administrator, from exercising any of the powers or functions, or from performing any of the duties conferred upon them herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator, and in their respective fields, by each Deputy Administrator.

Section 21. *Prior Authorizations and Delegations.* All prior delegations and redelegations of authority relating to any functions, program, or activity covered by the Statement of Organization, Functions, and Delegations of Authority, shall remain in effect, except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

Reservation of Authority

Section 22. *Reservation of Authority.* There is hereby reserved to the Administrator, or to the individual designated to act in his/her stead, the following:

(a) The initiation, change, or discontinuance of major program activities.

(b) The issuance of regulations pursuant to law.

(c) The transfer of functions between Deputy Administrators.

(d) The reprogramming of the use of appropriated funds among Deputy Administrators.

(e) The transfer of funds between work projects within each Deputy Administrator's area, except those not exceeding 10 percent of base funds, or $50,000 in either work project, whichever is less.

(f) The approval of any change in the formal organization, including a section, its equivalent, or higher level.

(g) The making of recommendations to the Department concerning establishment, consolidation, change in

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location, or abolishment of (1) regional, State, area, and other field headquarters offices, and (2) any region or other program area that involves two or more States, or that crosses State lines, except inspection and grading circuits which are adjusted by the respective Deputy Administrators.

(h) Authority to establish, consolidate, or change a location, or abolish any field office, or change program area boundaries not included in (g) above.

(i) Approval of all appointments, promotions, and reassignments in GS–14 and above.

(j) Approval of all appointments, promotions, and reassignments of employees to foreign countries.

(k) Approval of budget estimates for submission to the office of the Secretary, Office of Management and Budget, and the Congress.

Section 23. *Availability of Information and Records.* Any person desiring information or to make submittals or requests with respect to programs and functions of the Agency should address his request to the appropriate Deputy Administrator, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Note.—This notice has been reviewed under the USDA criteria to implement Executive order 12044, and has not been designated "significant." Further, this delegation of authority is for Agency management purposes only and does not require preparation of an impact analysis under the aforementioned criteria.

Accordingly, this notice is effective September 4, 1979.

Done at Washington, D.C., this 28th day of August 1979.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-27426 Filed 8-31-79; 8:45 am]

BILLING CODE 3410-37-M

Rural Electrification Administration Intent To Prepare a Draft Environmental Impact Statement and Notice of Time and Place for a Public Scoping Meeting

Notice is hereby given that the Rural Electrification Administration (REA) as lead agency intends to prepare a Draft Environmental Impact Statement in order to fulfill its requirements under the National Environmental Policy Act of 1969 in connection with a possible loan guarantee commitment to the Central Iowa Power Cooperative (CIPCO) of Cedar Rapids, Iowa 52406, for its planned 150 MW ownership share in the construction of a 650 MW coal-fired electric generation power plant and related transmission facilities. Three other utilities, namely, Iowa Electric Light and Power Company, Interstate Power Company, and Iowa Power and Light Company, having respective ownership share interests of 250 MW, 150 MW, and 100 MW, plan to participate in this project.

The utilities tentatively propose that the generating facilities be located in Guthrie County, Iowa, after investigating 15 other potential sites in Iowa, of which Harrison and Mills Counties were proposed as prime alternatives to the Guthrie County site.

Alternatives to be considered by REA and the borrower are described in REA Bulletin 20–21:320–21 and may include (a) no project, (b) conservation measures, (c) purchase power from other utilities, (d) alternative sites for the generating plant and transmission lines, (e) alternative fuels, and (f) alternative methods of generation.

Accordingly, notice is given that a meeting is hereby scheduled for 7:00 p.m., CDT, Tuesday, October 2, 1979, at Veterans Auditorium, 115 West Main Street, Panora, Iowa.

All agencies, groups and individuals having an interest are invited to attend this meeting and to participate in the scoping process to be conducted by REA. Interested parties are invited to submit written comments to REA prior to, at the scoping meeting, or within 30 days of the scoping meeting. Time will be made available at the scoping meeting of interested parties to make brief presentations.

For additional information on this notice, all inquiries should be addressed to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Any REA loan guarantee commitment to CIPCO for participation in this project will be subject to, and release of funds thereunder will be contingent upon, REA's arriving at satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental impact statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 27th day of August 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-27393 Filed 8-31-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 33363]

Former Large Irregular Air Service Investigation; Continuance of Hearing

The hearing on the application of JFC Enterprises, Inc., d.b.a. Concord International Airlines, heretofore set for 14 September 1979 (44 FR 47970, 16 August 1979) has been cancelled and is continued to 29 October 1979 at the time and place previously set.

Dated at Washington, D.C. 27 August 1979.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-27424 Filed 8-31-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission originally scheduled for August 7, 1979, has been changed, (FR Doc. 79–25846) on page 49003.

The meeting now will be held on September 7, 1979, beginning at 3:00 p.m. and will end at 6:00 p.m. at the United Bank Alaska, 645 G Street, Anchorage, Alaska.

Dated at Washington, D.C., September 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27398 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

Delaware Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12 noon and will end at 4:00 pm, on September 25, 1979, at 820 North French Street, Wilmington, Delaware 19801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for a discussion of national, state and local civil rights issues affecting Delaware or its localities.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 28, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27395 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 10:00 p.m., on September 24, 1979, at the Indianapolis Hilton, 31 West Ohio Street, Indianapolis, Indiana 46204.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is for a report of the Employment Sub-Committee, report of the Housing Sub-Committee and election of Vice-Chairperson and Secretary for the State Advisory Committee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27399 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

Montana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 noon, on September 19, 1979, at the Boys Club of Billings, 20 South Broadway, Billings, Montana 59102.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is for a discussion of study of legal profession in Montana, plan for next project and release of edited papers from energy consultation.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27397 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

New York and New Jersey Advisory Committees; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the New York and New Jersey Advisory Committees (SAC) of the Commission will convene at 4:00 pm and will end at 10:00 pm on September 28, 1979 and will convene at 9:00 am and will end at 2:00 pm on September 29, 1979, at 10960 Tappan Towne House, Overlook Road and Mountainview Avenue, Nyack, New York.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is for program planning for FY 80–81.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27400 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on September 29, 1979, at the Neil House Hotel, 41 South, High Street, Columbus, Ohio 43215.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review and assess the Cincinnati Police Open Meeting and discuss the projects for fiscal year 1980 and fiscal year 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 28, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27396 Filed 8-31-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

President's Export Council Subcommittee on GATT and Multilateral Trade Agreements; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Subcommittee on GATT and Multilateral Trade Agreements of the President's Export Council will be held on Monday, September 17, at 10:00 a.m. in Room 4830 in the Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including implementation of the President's National Export Policy.

The Subcommittee has been formed to give information and recommendations to the Council regarding matters relating to the General Agreement on Tariffs and Trade and implementation of the Multilateral Trade Negotiations. It is composed solely of members from the Council.

The agenda for the meeting will be as follows:

1. Opening remarks by the Chairman.
2. Reorganization of the Federal Government's trade functions.
3. Implementation of the results of the Multilateral Trade Negotiations (MTN).
4. MTN topics still under discussion.
5. Emerging trade policy issues.
6. Organization of the Subcommittee's future work.

A limited number of seats at the meeting will be available to the public

on a first-come basis. The public may file written statements with the Subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made available on written request, addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230, telephone (202) 377–5719.

Dated: August 28, 1979.

Abraham Katz,

Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc. 79–27390 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–25–M

Subcommittee on Export Expansion of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Expansion of the President's Export Council will be held on Monday, September 17, 1979, at 2:00 p.m. in Room 4830, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The President's Export Council (PEC) was established by Executive Order 11753 of December 20, 1973, extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976 and Executive Order 12110 of December 28, 1978. The PEC was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Subcommittee has been formed to make recommendations to the PEC on matters related to U.S. policies, practices and procedures which assist or inhibit the expansion of U.S. exports in the areas of finance, taxation, disincentives, transportation and documentation, as well as broader economic policies affecting the competitiveness of U.S. exports. The Subcommittee is composed solely of members of the Council.

The Subcommittee meeting agenda is as follows:

1. Opening remarks of the Chairman.

2. Determination of priority export tax, finance and other issues to be included in the Subcommittee's work program.

3. Organization of Working Groups to carry out the program, if necessary.

The meeting is open to the public at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

For further information, contact Mr. Brant W. Free, PEC Subcommittee on Export Expansion, Room 4312, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3575.

Dated: August 28, 1979.

Abraham Katz,

Deputy Assistant Secretary for International Economic Policy and Research, Department of Commerce.

[FR Doc. 79–27391 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–25–M

Subcommittee on East-West Trade of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Subcommittee on East-West Trade of the President's Export Council will be held on Wednesday, September 19, at 4:00 p.m. in Room 4830 of the U.S. Department of Commerce, Fourteenth Street and Constitution Avenue, NW., Washington, D.C. 20230. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Subcommittee on East-West Trade has been formed to analyze trade relations with the Soviet Union, the People's Republic of China and other communist countries, and to make recommendations on any aspect of East-West trade policy it deems important.

The agenda for the meeting is as follows:

Introductory remarks by Subcommittee chairman.

Results of solicitation of views from bilateral business councils and District Export Councils.

Discussion of subcommittee position on "critical" issues.

Subcommittee approval of issue position paper.

Status report on trade agreements with China and the Soviet Union.

Other organizational business; plans for next meeting.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Subcommittee on East-West Trade may be obtained from Ms. Wendy Haimes, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–5719.

Dated: August 28, 1979.

Kempton B. Jenkins,

Deputy Assistant Secretary for East-West Trade.

[FR Doc. 79–27392 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council was established by Secton 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established the Scientific and Statistical Committee which will meet to review and evaluate the documents produced by the Northeast Fishery Management Task Force and to discuss the Scientific and Statistical Committee's role in Council operations.

DATES: The meeting will convene on Wednesday, September 19, 1979, at approximately 9 a.m., and will adjourn on Thursday, September 20, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: (617) 535–5450.

Dated: August 28, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–27454 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–22–M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Louis Scarpuzzi Enterprises, Inc.

b. Address: 339 Riverside Drive, Fort Myers, Florida 33905.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*), 3.

4. Type of Take: To capture and maintain permanently in a facility.

5. Location of Activity: West Coast of Florida.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 4, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 28, 1979.

R. B. Brumsted,

Acting Director, Office of Marine Mammals/ Endangered Species, National Marine Fisheries Service.

[FR Doc. 79–27455 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) will meet to discuss status update on the Snapper-Grouper Fishery Management Plan (FMP); progress report on Calico Scallop FMP; update on development of description of Swordfish FMP; tentative review of foreign fishing permits, if any, and discuss other management business.

DATES: The meeting will convene on Tuesday, September 25, 1979, at 1:30 p.m., and continue to approximately 5 p.m.; on Wednesday, September 26, 1979, reconvene at 8:30 a.m., and continue to approximately 5 p.m.; and on Thursday, September 27, 1979, reconvene at 8:30 a.m., and adjourn at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sea Palms, Frederica Road, St. Simons Island, Georgia.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: August 28, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–27453 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending Import Restraint Levels for Certain Cotton Textile Products from Pakistan; Correction

August 29, 1979.

On August 17, 1979, there was published in the **Federal Register** (44 FR 48314) a letter dated August 14, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint for certain specified categories of cotton textile products, including Category 369, produced or manufactured in Pakistan and exported to the United States during the twelve month period which began on January 1, 1979 and extends through December 31, 1979. The level of restraint designated for cotton textile products in Category 369 should have included the following qualifying footnote, as footnote 2:

[2] In Category 369, all T.S.U.S.A. numbers except 366.1855.

The letter published below corrects the directive of August 14, 1979 to the Commissioner of Customs.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 29, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, it would be appreciated if you would correct the level of restraint established for Category 369 in paragraph 1, page 2 of the directive of August 14, 1979, to include the following qualifying footnote, as footnote 2:

[2] In Category 369, all T.S.U.S.A. numbers except 366.1855.

This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79–27366 Filed 8–31–79; 8:45 am]

BILLING CODE 3510–25–M

Announcing Additional Import Controls on Certain Cotton Textile Products from Mexico

August 29, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling other cotton apparel in Category 359, such as coveralls and other items at the level of 543,478 pounds during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, between the Governments of the United States and Mexico, the United States Government has decided to control imports of cotton textile products in Category 359 produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated. (See 44 FR 20240).

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, international Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On April 4, 1979, there was published in the **Federal Register** (44 FR 20240) a letter dated March 29, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Mexico, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 359, produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on January 1, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on September 4, 1979, to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton textile products in Category 359, produced or manufactured in Mexico and exported to the United States on and after January 1, 1979.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 29, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 29, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Mexico.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Agreement of February 26, 1979, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 4, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 359, produced or manufactured in Mexico and exported on and after January 1, 1979, in excess of 543,478 pounds. [1]

Cotton textile products in Category 359 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Cotton textile products in Category 359 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448 (b) or 1484 (a) (1) (A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-27365 Filed 8-31-79; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1978. Imports during the period, January thru June 1979, amounted to 233,665 pounds.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

National Waterways Study; Environmental Aspects; Open Meeting

The U.S. Army Corps of Engineers, Institute for Water Resources, will conduct a public meeting on the National Waterways Study (NWS). The meeting's purpose is to provide an overview of the NWS and obtain input from interested persons regarding environmental factors that may be considered during the course of the study.

The meeting will be from 9 a.m. to 12 a.m., September 19, 1979 in the Board of Engineers for Rivers and Harbors Hearing Room, Kingman Building (Telegraph and Leaf Roads) Fort Belvoir, Virginia 22060.

Written statements, to be made part of the minutes, may be submitted prior to, or up to 7 days following, the meeting.

Persons planning to attend or desiring further information should contact Ms. Arlene L. Dietz, Study Manager, Institute for Water Resources, Kingman Building, Fort Belvoir, Virginia 22020, telephone number (202) 325-7141.

By authority of the secretary of the army:

Dated: August 29, 1979.

George A. Bailey,

Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-27361 Filed 8-31-79; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 11, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Openings remarks.
2. Base Period Final Consumption (BFPC)—seasonality—demand change, etc. effects on trigger.
3. Seasonality in reallocation of oil in an emergency.
4. IEA and European Economic Community (EEC) emergency sharing interface.
5. Lessons to be learned from present supply crisis.
6. Consumer stocks.
7. Questionnaires A and B:
A. Quality of data.
B. Need for ongoing submission.
C. Range of oil and oil products covered by Questionnaire A and B.
8. Preparation for the third allocation systems test (AST-3).
9. Emergency reserves—outstanding points for 1980 and role of Subcommittee B.
10. Standard format for voluntary offers.
11. Simplified sharing mechanism short of formal 7 percent trigger.

II. A meeting of Subcommittee C of the Industry Advisory Board to the International Energy Agency (IEA) will be held on September 12, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Openings remarks.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Dispute Settlement Center.
5. Legal Clearances:
A. Survey of IEA countries.
B. U.S. Voluntary Agreement.
C. EEC Commission and interface with IEA.
6. Future work program.

III. A meeting of the Industry Advisory Board to the International Energy Agency (IEA) will be held on September 13, 1979, at the offices of Texaco, Incorporated, 2000 Westchester Drive, White Plains, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Openings remarks.
2. Communications to and from IEA and Reporting Companies.
3. Matters arising from record note of IAB meeting of June 25, 1979.
4. Report on Standing Group on Emergency Questions (SEQ) meeting of June 25, 1979 and joint meeting of SEQ and the Standing Group on the Oil Market (SOM) on June 26, 1979.
5. Report by IEA on worldwide supply outlook and current situation in IEA member countries.
6. Implications of Tokyo summit for IEA and IAB.
7. Report by IEA on refining flexibility study.
8. Subcommittee C Report.
A. Disputes Settlement Center.
B. Legal Clearances.
1. Survey of IEA countries
2. U.S. Voluntary Agreement extension and Plan of Action
3. EEC Commission and interface with IEA.
9. Subcommittee A Report.
A. Base period final consumption—seasonality, demand change, etc., effects on trigger.
B. Review; of IEA study on seasonalization and proposed change to Emergency Management Manual (EMM).
C. Quality of Questionnaire A and B data and need for ongoing submission.
D. Consumer stock survey by IEA and future action.
E. Review of IEA study of lessons learned from current supply crisis, including summary of major issues and possible changes to the IEA emergency system.
F. Technical aspects of IEA and EEC interface.
G. Timing and work plan for third allocation systems test.
H. Automatic voluntary offer submission system.
I. Future work program.
10. Industry Supply Advisory Group (ISAG) Manager's Report.
A. ISAG staffing and assignments.
B. ISAG Secretariat Operations Manual (ISOM) status.
11. Future work program.
12. Dates, venues and plans of future meetings of the IAB, its subcommittees, SEQ and SEQ/SOM.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., August 24, 1979.

Robert C. Goodwin, Jr.,

Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 79-27373 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of June 29, 1979 through July 6, 1979

Notice is hereby given that during the week of June 6, 1979 through July 6, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

List of Cases Received by the Office of Hearings and Appeals

[Week of June 29, 1979 through July 6, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 29, 1979	Arizona Fuels Corporation, Salt Lake City, Utah	DEE-6984	Exception to the entitlements program. If Granted: Arizona Fuels Corporation would receive an exception to the provisions of 10 CFR 211.67 regarding its entitlements purchase obligations.
June 29, 1979	Champlin Petroleum Company, Fort Worth, Texas	DEX-0185	Supplemental Order. If granted: Champlin Petroleum Company would be permitted to implement the relief found to be appropriate in a Decision and Order (Case Number FXA-1313) issued to the firm on December 8, 1978 permitting the sale of a portion of crude oil produced from the Wilmington Field, Long Beach, California at upper tier ceiling prices.
June 29, 1979	Consumers Union of United States, Inc., Washington, D.C.	DEX-0187	Supplemental Order. If granted: Consumers Union of United States, Inc. would receive reimbursement of expenses and reasonable attorneys' fees in connection with the proceedings of the Decision and Order issued on March 17, 1977 (Case Number FEX-0129).

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of June 29, 1979 through July 6, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 29, 1979	Port Petroleum Incorporated, Shreveport, Louisiana.	DEE-6994; DEN-6994.	Applications for Temporary Exception and Exception to the Buy/Sell Program. If granted: Port Petroleum Incorporated would receive an exception from the provisions of 10 CFR 211.65 with respect to its obligations under the Buy/Sell Program.
June 29, 1979	Texaco Incorporated, Houston, Texas	DXE-6974	Request for extension of exception relief. If granted: Texaco Inc. would be permitted to continue to sell the crude oil produced at the V.F. Semiak "C" Lease located in Crook County, Wyoming, at upper tier ceiling prices.
July 2, 1979	Albert Grasso Chevron Service, Orange, California	DRW-0019	Interim Remedial Order for Immediate Compliance. If granted: An Interim Remedial Order for Immediate Compliance issued to Albert Grasso Chevron Service on March 23, 1979, would be issued as a Final Remedial Order for Immediate Compliance.
July 2, 1979	BP Oil, Inc., Cleveland, Ohio	DEA-0488	Appeal of ERA Regional Assignment Order. If granted: The Assignment Order issued March 31, 1979 by the Economic Regulatory Administration Region II regarding BP Oil, Inc.'s supply obligations to Petroleum Combestion International, Inc. would be modified.
July 2, 1979	Brock Exploration Corporation, New Orleans, Louisiana.	DFA-0486	Appeal of Information Request Denial. If granted: The June 1, 1979 Information Request Denial issued by the DOE Office of FOI and Privacy Acts Activities would be rescinded and Brock Exploration Corporation would receive access to certain DOE documents.
July 2, 1979	Burk Royalty Co., Wichita Falls, Texas	DEE-7074	Exception from Energy Information Administration reporting requirements. If granted: Burk Royalty Co. would receive an extension for filing Form EIA-23, Part II "Annual Survey of Domestic Crude Oil and Gas Reserves."
July 2, 1979	The Coleman Company, Inc., Wichita, Kansas	DEE-6485	Exception to Energy Conservation Program for Consumer Appliances. If granted: The Coleman Company, Inc. would receive an exception to the provisions of 10 CFR 430, Appendix N permitting the firm to modify the energy efficiency test procedures applicable to the sealed combustion gas furnaces which it manufactures.
July 2, 1979	Demetriou, Del Guercio & Lovejoy, Los Angeles, California.	DFA-0485	Appeal of Information Request Denial. If granted: The April 2, 1979 Information Request Denial issued by the DOE Office of FOI and Privacy Acts Activities to Demetriou, Del Guercio & Lovejoy would be rescinded, and the firm would be granted access to certain DOE documents.
July 2, 1979	General Motors Corporation, Washington, D.C.	DEA-0490	Appeal of ERA Assignment Order. If granted: The June 1, 1979 synthetic natural gas feedstock Assignment Order issued to Northern Illinois Gas Company by the Economic Regulatory Administration would be rescinded.
July 2, 1979	H. R. Stasney & Sons Co., Albany, Texas	DEE-7075	Exception from Energy Information Administration reporting requirements. If granted: H. R. Stasney & Sons Co. would receive an extension for filing Form EIA-23, Part II "Annual Survey of Domestic Oil and Gas Reserves."
July 2, 1979	Marathon Oil Company, Findlay, Ohio	DEA-0492; DES-0492, DST-0492.	Appeal of ERA Assignment Orders, Request for Stay, and Request for Temporary Stay. If granted: The four Assignment Orders issued by Region IV of the Economic Regulatory Administration on May 18, 1979 which require Marathon Oil Company to supply branded jobbers of American Petrofina would be rescinded.
July 2, 1979	N. C. Gunther, Houston, Texas	DEE-6968	Exception from Energy Information Administration reporting requirements. If granted: N. C. Gunther would receive an extension for filing Form EIA-23, Part II "Annual Survey of Domestic Oil and Gas Reserves."
July 2, 1979	Petro-Lewis Corp., Denver, Colorado	DEE-7073	Extension to Energy Information Administration reporting requirements. If granted: Petro-Lewis Corporation would receive an extension for filing Form EIA-23, Part II "Annual Survey of Domestic Oil and Gas Reserves."
July 3, 1979	City and County of Honolulu, Honolulu, Hawaii	DEE-7067	Price Exception (Section 212.93). If granted: Jobbers in the City and County of Honolulu would be permitted to include local fuel tax increases in the distributor's selling price of liquid fuel.
July 3, 1979	Dunaway, McCarthy & Dye, P. C., Washington, D.C.	DFA-0487	Appeal of Information Request Denial. If granted: The May 16, 1979 Information Request Denial issued by the DOE Office of FOI and Privacy Acts Activities would be rescinded and Dunaway, McCarthy & Dye, P. C. would receive access to certain DOE documents.
July 3, 1979	F. L. Roberts & Company, Inc., Springfield, Massachusetts.	DEA-0491, DST-0491	Appeal and Request for Temporary Stay. If granted: F. L. Roberts and Company, Inc. would be assigned a temporary supplier of eight retail stations pending determination of its Request for Assignment filed with Region I of the Economic Regulatory Administration.
July 3, 1979	Texaco, Inc., Los Angeles, California	DEX-0184	Supplemental Order. If granted: Texaco, Inc. would be permitted to include certain expenditures that it incurs in performing an emergency well workover as an operating expense in calculating the level of exception relief under the *Great Southern* standard.
July 5, 1979	Amoco Oil Company, Kansas City, Missouri	DED-2179	Motion for Discovery. If granted: Discovery would be granted to Amoco Oil Co. in regard to its Statement of Objections to the Proposed Decision and Order (Case Number DEE-2179) issued May 9, 1979 to American Agri-Fuels Corporation.
July 5, 1979	Derby Refining Company, Wichita, Kansas	DEN-0002, DES-0225, DST-0225	Request for Interim Order, Request for Stay, and Request for Temporary Stay. If granted: Derby Refining Company would receive exception relief from the provisions of 10 CFR 212 to permit Derby Refining Company to recover its costs of blending gasohol in its sales of gasohol.
July 5, 1979	Fields Field Company, Houston, Texas	DEN-0003	Request for Interim Order. If granted: Interim exception relief would be granted to Fields Field Company permitting the firm to use shrinkage costs in calculating natural gas liquids prices pending a final determination on its Application for Exception (Case No. DEE-3706).
July 5, 1979	Husky Oil Company, Denver, Colorado	DEA-0489	Appeal of Assignment Order. If granted: The May 24, 1979, Assignment Order issued by Region VIII of the Economic Regulatory Administration with respect to Husky Oil Company's supply obligations to Waite Oil Company would be rescinded.
July 5, 1979	Kansas City Star, Kansas City, Missouri	DFA-0484	Appeal of Information Request Denial. If Granted: The Information Request Denial issued by DOE Region VII would be rescinded, and the Kansas City Star would be granted access to certain DOE documents.
July 5, 1979	Petrochemical Energy Group, Washington, D.C.	DEA-0520	Appeal of ERA Assignment Order. If granted: The June 1, 1979, synthetic natural gas feedstock Assignment Order issued by the Economic Regulatory Administration to Northern Illinois Gas Company would be rescinded.
July 5, 1979	St. Louis County Police Department, St. Louis, Missouri.	DEX-0183	Supplemental Order. If granted: A supplier would be named to provide motor gasoline in bulk volume to the St. Louis County Police Department to replace gasoline which the Departent had previously purchased on a retail basis.
July 5, 1979	Southern Colorado Agri-Fuel Company, Pueblo, Colorado.	DEE-7079	Allocation Exception. If granted: Southern Colorado Agri-Fuel Company would be assigned a supplier of unleaded gasoline for the purpose of blending gasohol.
July 5, 1979	Southwestern Refining Company, Inc., Washington, D.C..	DES-0224	Request for Stay. If granted: Southwestern Refining Company, Inc. would receive a Stay of the provisions of 10 CFR 211.67, with respect to its entitlements purchase obligation.
July 5, 1979	Texaco, Inc., Houston, Texas	DES-0223	Request for Stay. If granted: Texaco, Inc. would be granted a Stay of the Redirection Order issued by Region IV of the Economic Regulatory Administration on May 30, 1979 regarding Texaco's supply obligation to Hardy Brothers, Oil Company, Inc.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of June 29, 1979 through July 6, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 5, 1979	Tyson Oil Co., Savannah, Georgia	DEE-7082	Allocation Exception (Section 211.103). If granted: Tyson Oil Company would receive an exception permitting the firm to receive increased allocations of unleaded gasoline for the purpose of blending gasohol.
July 6, 1979	Citadel Corporation, Washington, D.C.	DRS-0258, DRS-0260; DRT-0258, DRT-0260.	Requests for Stay and Requests for Temporary Stay of Interim Remedial Orders. If granted: Citadel Corporation would receive a Stay and Temporary Stay of the three (3) Interim Remedial Orders for Immediate Compliance issued to Citadel Corporation by the Economic Regulatory Administration on June 29, 1979 regarding reduction of Citadel's motor gasoline prices.
July 6, 1979	Crown Central Petroleum Corporation, Baltimore Maryland.	DEA-0493	Appeal of ERA Temporary Assignment Order. If granted: The Temporary Assignment Order issued by Region II of the Economic Regulatory Administration on May 31, 1979 to Crown Central Petroleum Corporation regarding Crown's supply obligations to Petroleum Combustion International, Inc. would be modified.
July 6, 1979	Koch Industries, Inc., Dallas, Texas	DRT-0060	Request for Temporary Stay. If granted: Koch Industries, Inc. would receive a Temporary Stay of the Interim Remedial Order for Immediate Compliance issued on July 3, 1979, regarding the firm's supply obligation to Petroleum Company, Inc.
July 6, 1979	National Association of Texaco Wholesalers, Inc., Atlanta, Georgia.	DEN-0004	Request for Temporary Exception. If granted: The National Association of Texaco Wholesalers, Inc., would receive a temporary exception from the provisions of 10 CFR 211, permitting Texaco wholesalers the option of using adjusted 1972 volumes as a base period, pending a decision in an Application for Exception filed by the Association on June 7, 1979 (Case No. DEE-6543).
July 6, 1979	Sun Oil Company, Philadelphia, Pennsylvania	DST-0226; DES-0226.	Request for Stay and Request for Temporary Stay. If granted: The Sun Oil Company would receive a Stay and Temporary Stay of the Temporary Assignment Order issued by the Economic Regulatory Administration Region V on June 21, 1979 regarding Sun Oil Company supply obligations to Landmark, Inc.

Notices of Objection Received

Date	Name and location of applicant	Case No.
June 29, 1979	Edgington Oil Company, Washington, D.C.	DXE-3442
June 29, 1979	Southland Oil Co., Washington, D.C	DXE-3449
July 3, 1979	Amati's Service Station, Monongahela, Pennsylvania	DED-0255
July 2, 1979	J. D. Street and Company, Washington, D.C.	DEE-3255
July 2, 1979	Lunday-Thagard Oil Co., Washington, D.C.	DXE-3717
July 2, 1979	Young Refining Corp., Houston, Texas	DXE-3445
July 3, 1979	Kern County Refinery, Inc., Jacksonville, Florida	DXE-3448
July 3, 1979	Propane Gas and Appliance Co., New Brockton, Alabama	DEE-1080
July 5, 1979	Ferguson Service, Ferguson, Missouri	DEE-2511
July 5, 1979	Mohawk Petroleum Corp., Inc., Los Angeles, California	DEE-2105
July 5, 1979	Tosco Corp., Washington, D.C.	DEX-0054

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 29 through July 7, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

Antietam Exxon	DEE-7013	06/29/79	Maryland
Bobby's Ashley Plaza Amoco	DEE-6981	06/29/79	South Carolina
Camacho Aerial Service	DEE-6982	06/29/79	California
Community Fuel	DEE-6979	06/29/79	New York
Fred's Service Center	DEE-6975	06/29/79	Maryland
Huss, John	DEE-6978	06/29/79	North Carolina
Jerry Menefee Shell Station	DEE-6977	06/29/79	Texas
Kingston Hill Store	DEE-7015	06/29/79	Rhode Island
Russ's Mobil	DEE-6971	06/29/79	California
San Fernando Valley Academy	DEE-6980	06/29/79	California
Summer Ave. 66 Service	DEE-6976	06/29/79	Tennessee
Texaco Service Station	DEE-6973	06/29/79	Texas
U.S. Post Office (Alvin, Tx.)	DEE-6983	06/29/79	Texas
Webster, John	DEE-7036	06/29/79	Mississippi
A. Abart Enterprises Inc.	DEE-6991	07/02/79	Virginia
Ashmont Hill Service Station	DEE-7023	07/02/79	Massachusetts
Atherton, Libby F.	DEE-6995	07/02/79	Michigan
Bartkus Oil Co.	DEE-7120	07/02/79	Colorado
Batson Grocery & Hardware	DEE-7002	07/02/79	Texas
Bergeron Gulf Station & Resturant	DEE-7007	07/02/79	Texas
Besto Gulf	DEE-6998	07/02/79	Texas
Bridge Street Gulf Station	DEE-7022	07/02/79	Maine
Budget Rent-A-Car	DEE-7033	07/02/79	Colorado
Budget Rent-A-Car of Louisville	DEE-6992	07/02/79	Kentucky
Buelow's Conoco Station	DEE-7031	07/02/79	Texas
Channell's Gulf Service	DEE-7012	07/02/79	Georgia
County Line Grocery	DEE-7001	07/02/79	Texas
Crossroads Shell	DEE-7006	07/02/79	Virginia
Cube Park Serv. Station & U-Haul	DEE-7016	07/02/79	Illinois
Dale Gpaybell Texaco	DEE-7029	07/02/79	Connecticut
Dave Hawley Distributors, Inc.	DEE-7008	07/02/79	Michigan
Duane's Chevron	DEE-7011	07/02/79	Mississippi
Duncan Thompson Petroleum, Inc.	DEE-7208	07/02/79	Texas
Faircloth, F. W.	DEE-6999	07/02/79	Texas
Farm Fresh Mini Market	DEE-6996	07/02/79	Pennsylvania
Feeley, Neil R.	DEE-7021	07/02/79	Massachusetts

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G. & K. General Store	DEE-7000	07/02/79	Texas
Gary Keating's Village Texaco	DEE-7024	07/02/79	Missouri
Gene's Amoco	DEE-6972	07/02/79	Virginia
Glenn & Alan Gmmn Farms	DEE-6988	07/02/79	Indiana
Hill's Service Station	DEE-7167	07/02/79	Kentucky
Huth, Robert	DEE-7042	07/02/79	California
Jerry Lantzy Standard	DEE-7040	07/02/79	Michigan
Jerry's Exxon & Car Wash	DEE-6987	07/02/79	California
Jerry's Gulf	DEE-7030	07/02/79	New York
Juliano, Anthony	DEE-7034	07/02/79	Connecticut
Kinney's Gulf Service	DEE-7020	07/02/79	Massachusetts
Lamburn, Robert F	DEE-7018	07/02/79	Massachusetts
Marlboro Sunoco	DEE-7035	07/02/79	Maryland
Marshfield Auto Body	DEE-7019	07/02/79	Massachusetts
Mathews Oil Co	DEE-7026	07/02/79	Louisiana
Murray Petroleum Inc	DEE-6993	07/02/79	California
Natal's Air Conditioning, Inc	DEE-7004	07/02/79	Louisiana
Northville Industries Corp	DEE-7009	07/02/79	New York
Reynolds Electrical & Engineering	DEE-6989	07/02/79	Nevada
Sage Creek Refining Company	DEE-7025	07/02/79	Wyoming
Sav'n Sam's Fernley Exxon	DEE-7032	07/02/79	Nevada
St. Joseph Motor Lines	DEE-7005	07/02/79	Georgia
Tisue's General Store	DEE-7028	07/02/79	Iowa
Tonopah Test Range	DEE-6990	07/02/79	Nevada
Town of Bristol, RI	DEE-7041	07/02/79	Rhode Island
V. & P. Truck Rental Service	DEE-7027	07/02/79	Massachusetts
Vic's Texaco	DEE-7014	07/02/79	Maryland
White's Service Station	DEE-6997	07/02/79	Texas
Winner's Lug-A-Jug	DEE-7010	07/03/79	Texas
Akron/Canton	DEE-7052	07/03/79	Ohio
All South Rentals Inc	DEE-7064	07/03/79	Louisiana
Brian's Auto Service	DEE-7049	07/03/79	Massachusetts
Carlson's Sunoco	DEE-7066	07/03/79	Virginia
Cascade Car Wash	DEE-7053	07/03/79	Colorado
Chas. F. Manahan & Son, Inc	DEE-7057	07/03/79	Maryland
Dick's Hilltop Arco	DEE-7069	07/03/79	Washington
Dunastors Enterprises of Manha	DEE-7047	07/03/79	New York
Farm Fuel Products Corp	DEE-7059	07/03/79	Iowa
Jim's Water Service, Inc	DEE-7062	07/03/79	Wyoming
Kenny's Pioneer Trading Post	DEE-7046	07/03/79	Tennessee
Ledford's Amoco	DEE-7043	07/03/79	North Carolina
Mount Pleasant Arco	DEE-7070	07/03/79	Rhode Island
Ogden Food Service Corp	DEE-7056	07/03/79	Maryland
Owens Exxon	DEE-7377	07/03/79	Virginia
Pacific Galvanizing	DEE-7055	07/03/79	California
Ray May's Arco Service	DEE-7068	07/03/79	Nevada
Savory Corporation	DEE-7050	07/03/79	California
Schuyler County Office of Civi	DEE-7061	07/03/79	New York
Soon Exxon Service	DEE-7048	07/03/79	Colorado
Strong's Texaco & Wrecker Service	DEE-7071	07/03/79	Louisiana
Vantage Petroleum Corp	DEE-7132	07/03/79	New York
Walt's Sunoco Service	DEE-7065	07/03/79	New Jersey
Waterlick Mini-Mart	DEE-7044	07/03/79	Virginia
Waterlick Texaco	DEE-7045	07/03/79	Virginia
4 Wheel Brake	DEE-7051	07/03/79	California
Alamo Expressway Service Stat	DXE-7135	07/05/79	Texas
Ball Oil Company	DEE-7102	07/05/79	Oklahoma
Bob's Standard Service	DEE-7136	07/05/79	Minnesota
Boeing Company	DEE-7076	07/05/79	Washington
Breeland, Jabus W	DEE-7077	07/05/79	Louisiana
Brooklyn Amoco Gas & Co	DEE-7054	07/05/79	Maryland
D & S Sheet Metal Works Inc	DEE-7100	07/05/79	Louisiana
Horr, Vernon H	DEE-7058	07/05/79	Missouri
Husky Travel Center	DEE-7084	07/05/79	Montana
Kermeen, Don H	DEE-7063	07/05/79	Minnesota
L. W. Green Co	DEE-7081	07/05/79	Kansas
Larry Mills Exxon	DEE-7105	07/05/79	California
Lima Texaco	DEE-7160	07/05/79	Pennsylvania
McDowell Oil Co	DEE-7080	07/05/79	North Carolina
Mr. Grocer Corporation	DEE-7130	07/05/79	Florida
Ralph's Service Station	DEE-7103	07/05/79	Pennsylvania
Schapeler Oil Co	DEE-7086	07/05/79	Missouri
Selbyville Arco Service Station	DEE-7211	07/05/79	Delaware
Shaffer's Sunoco Service	DEE-7078	07/05/79	Pennssylvania
Shoreline Texaco	DEE-7037	07/05/79	California
Swer Oil Company	DEE-7085	07/05/79	Indiana
Staggers oil Co	DEE-7104	07/05/79	Texas
Stone's Store	DEE-7083	07/05/79	North Carolina
Swindle Bros. Oil Co	DEE-7060	07/05/79	Arkansas
Thigpen, J. A	DEE-7101	07/05/79	Mississippi
American Packaging Corporation	DEE-7279	07/06/79	New Jersey
Archer Oil Company	DEE-7386	07/06/79	Texas
B & B Gasland	DEE-7115	07/06/79	Rhode Island
Barnacle II	DEE-7112	07/06/79	Maine
Branford Repair & Service	DEE-7097	07/06/79	Connecticut
Buddy's Mascot	DEE-7129	07/06/79	West Virginia
Clarksburg Grocery	DEE-7119	07/06/79	Maryland

Coleman Oil Co., Inc	DEE-7089	07/06/79	New Hamphire
D J Trucking Co., Inc	DEE-7123	07/06/79	Texas
Ernie's Texaco/E. Booth	DEE-7090	07/06/79	Massachusetts
Fluor Corporation	DEE-7117	07/06/79	California
Frank Decarlo Auto Service	DEE-7096	07/06/79	Massachusetts
Frank's Auto Service	DEE-7093	07/06/79	Massachusetts
Garrett Freight Lines, Inc	DEE-7387	07/06/79	Idaho
Gary's Auto Service	DEE-7087	07/06/79	Massachusetts
Goodhall's West	DEE-7121	07/06/79	Massachusetts
Henry's Citgo	DEE-7099	07/06/79	Massachusetts
Hull Grocery, Inc	DEE-7127	07/06/79	Georgia
In and Out Car Wash	DEE-7126	07/06/79	South Carolina
Johnston's Gulf Service, Inc	DEE-7125	07/06/79	Michigan
Jones Oil Co., Inc	DEE-7133	07/06/79	Nebraska
Kay's Korner	DEE-7134	07/06/79	Kansas
Macek—Silvia	DEE-7091	07/06/79	Massachusetts
Nargiso, Lou	DEE-7095	07/06/79	Connecticut
Northtown Skelly	DEE-7388	07/06/79	Missouri
O. O. Corsaut, Inc	DEE-7128	07/06/79	Michigan
Paul's Quik Pik No. 2	DEE-7110	07/06/79	Maine
Pete & Frank's 66 Service, Inc	DEE-7124	07/06/79	Florida
Pete's Sunoco	DEE-7094	07/06/79	New Hampshire
Quintana, Nick	DEE-7122	07/06/79	Florida
Regan's Service, Inc	DEE-7111	07/06/79	Massachusetts
Round's Service Station	DEE-7098	07/06/79	Rhode Island
Shahbazin, Elisa	DEE-7092	07/06/79	Massachusetts
Smitty's Amoco	DEE-7109	07/06/79	Connecticut
Standard Tractor Sales Co	DEE-7108	07/06/79	California
Stinson Tire Co	DEE-7138	07/06/79	Virginia
Texaco, Inc	DEE-7113	07/06/79	Massachusetts
Town Line Service	DEE-7116	07/06/79	Massachusetts
Ventura, Thomas F	DEE-7088	07/06/79	Massachusetts
Whelchel, Robert L	DEE-7106	07/06/79	Louisiana
Wickford Auto Station, Inc	DEE-7114	07/06/79	Rhode Island

Items Retrieved 157

[FR Doc. 79-27370 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of June 15, 1979 Through June 22, 1979

Notice is hereby given that during the week of June 15, 1979 through June 22, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

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Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

Date	Name and location of applicant	Case No.	Type of submission
June 15, 1979	Heller, Glenn Martin, Boston, Massachusetts	DRX-0180	Supplemental Order. If granted: Discovery would be granted to Glenn Martin Heller in connection with his Statement of Objections to a Proposed Remedial Order (Case Nos. DRO-0184 and DRD-0184).
June 15, 1979	Highlander Center, Rocky Mount, Virginia	DEE-6560	Change of Supplier Exception. If granted: Highlander Center would be granted a new supplier of motor gasoline to replace its present supplier, Webb's Oil Corporation.
June 15, 1979	Lunday-Thagard Oil Company, Washington, D. C.	DFA-0458	Appeal of Information Request Denial. If granted: The DOE's May 31, 1979 Information Request Denial would be rescinded and Lunday-Thagard Oil Company would receive access to certain DOE data.
June 18, 1979	Amoco Oil Company, Chicago, Illinois	DES-0218	Request for Stay. If granted: Amoco Oil Company would receive a Stay of an ERA Region V Order requiring it to supply U.S. Oil Company with motor gasoline.
June 18, 1979	Amoco Oil Company, Chicago, Illinois	DEA-0462	Appeal of Emergency Allocation Under Crude Oil Buy/Sell Program. If granted: ERA's Decision and Order regarding Amoco Oil Company's crude oil supply obligations to CRA, Inc.'s Coffeyville, Kansas refinery would be modified.
June 18, 1979	Quad Refining Corporation, Los Angeles, California	DEA-0461	Appeal of ERA Decision and Order. If granted: The ERA's May 17, 1979 Decision and Order would be rescinded and Quad Refining Corporation would be permitted to participate in the Crude Oil Buy/Sell Program.
June 18, 1979	Shell Company (Puerto Rico), Washington, D. C.	DEH-2245 and DED-2245.	Motion for Discovery; Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted in connection with the Statement of Objections submitted by Shell Company (Puerto Rico) to a Proposed Decision and Order (Case No. DEE-2245) issued to Commonwealth Oil Refining Company.
June 18, 1979	Total Petroleum, Inc., Alma, Michigan	DEA-0457 and DST-0457.	Appeal of Temporary Assignment Order; Request for Temporary Stay. If granted: ERA's June 6, 1979 Temporary Assignment Order regarding Total Petroleum, Inc.'s motor gasoline supply obligations to U. S. Oil Company would be modified.
June 18, 1979	Wall, Earl E., New Orleans, Louisiana	DRH-0188	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with Earl E. Wall's Statement of Objections to a Proposed Remedial Order (Case No. 640C00295) issued to Wall on March 19, 1979.
June 19, 1979	Amerada Hess Corporation, New York, New York	DEA-0463, DES-0463 and DST-0463.	Appeal of Temporary Assignment Order; Request for Stay; Request for Temporary Stay. If granted: The ERA's May 31, 1979 Temporary Assignment Order regarding Amerada Hess Corporation's motor gasoline supply obligations to Petroleum Combustion International, Inc. would be rescinded. Amerada Hess Corporation would receive a temporary stay and stay of the Order pending a determination on the Appeal.
June 19, 1979	Ashland Oil Company, Ashland, Kentucky	DRA-0465 and DRS-0465.	Appeal of Ancillary Order; Request for Stay. If granted: The Ancillary Order which the ERA issued to Ashland Oil Company on May 31, 1979, in connection with a Consent Order signed by Meason Operating Company, would be rescinded. The Ancillary Order would be stayed pending a determination on the Appeal.
June 19, 1979	O'Connor & Hannan, Washington, D.C.	DFA-0464	Appeal of Information Request Denial. If granted: The DOE's June 7, 1979 Information Request Denial would be rescinded and O'Connor and Hannan would be granted access to certain DOE data.

Date	Name and location of applicant	Case No.	Type of submission
June 19, 1979	Uni Refining, Inc., Houston, Texas	DEE-6664 and DES-6664.	Request for Stay; Exception to Buy/Sell Program. If granted: Uni Refining, Inc. would receive exception relief from the provisions of the Crude Oil Buy/Sell Program. Uni Refining, Inc. would receive a stay pending a final determination on its Application for Exception.
June 20, 1979	Marathon Oil Company, Findlay, Ohio	DMR-0057	Request for Rescission. If granted: The Decision and Order (Case No. DES-3174) issued to U.S. Oil Company would be rescinded.
June 20, 1979	MacMillan Ring-Free Oil Company, Inc., New York, New York.	DRS-0221	Request for Stay. If granted: MacMillan Ring-Free Oil Company, Inc. would be granted a stay of the Remedial Order (Case No. RTN F00401) which the ERA issued to Tenneco Oil Company on May 24, 1979.
June 20, 1979	Murphy Oil Corporation, El Dorado, Arkansas	DMR-0058	Request for Rescission. If granted: The Decision and Order (Case No. DES-3174) issued to U.S. Oil Company would be rescinded.
June 20, 1979	National Distillers and Chemical Corporation, Washington, D.C..	DFA-0467	Appeal of Information Request Denial. If granted: The DOE's May 10, 1979 Information Request Denial would be rescinded and National Distillers and Chemical Corporation would receive access to certain DOE documents.
June 20, 1979	Vinson & Elkins, Washington, D.C.	DFA-0468	Appeal of Information Request Denial. If granted: The DOE's May 18, 1979 Information Request Denial would be rescinded and Vinson & Elkins would receive access to certain DOE data.
June 21, 1979	American Natural Gas Production Company, Washington, D.C..	DEE-6730	Price Exception. If granted: American Natural Gas Production Company would be permitted to purchase and resell propane and butane in accordance with Subpart F rather than Subpart K of the DOE Mandatory Petroleum Price Regulations.
June 21, 1979	Cooper, Hal D., Cleveland, Ohio	DFA-0470	Appeal of Information Request Denial. If granted: The DOE's Information Request Denial dated June 13, 1979 would be rescinded and Hal D. Cooper would receive access to certain DOE documents.
June 21, 1979	Great Southern Oil and Gas Co., Inc. Saint Martin Parish, La..	DXE-6729	Extension of Relief granted in *Great Southern Oil and Gas Company, Inc.*, 3 DOE par. —— (April 23, 1979. If granted: Great Southern Oil and Gas Company, Inc. would continue to receive price exception relief for crude oil produced from its St. Martin Bank and Trust Company No. 1 Well located in St. Martin Parish, Louisiana.
June 21, 1979	Marathon Oil Company, Murphy Oil Corporation, Washington, D.C.	DEA-0478, DEA-0479, DES-0478, DES-0479, DST-0478 and DST-0479.	Request for Stay; Request for Temporary Stay; Appeal of ERA's Temporary Assignment Order. If granted: The ERA's June 6, 1979 Temporary Assignment Order regarding Marathon Oil Company's and Murphy Oil Corporation's supply obligations to U.S. Oil Company would be rescinded. Marathon Oil Company and Murphy Oil Corporation would receive a temporary stay and stay of the Temporary Assignment Order pending a final determination of the Appeals.
June 21, 1979	Marathon Oil Company (Lawrence & Sons Oil Co., et al.), Atlanta, Georgia.	DES-0474 thru 0477 DEA-0474 thru 0477 DST-0474 thru 0477.	Request for Stay; Request for Temporary Stay; Appeal of ERA Assignment Orders. If granted: Four ERA Assignment Orders which were issued on May 18, 1979 and which pertain to Marathon Oil Company's supply obligations to Lawrence & Sons Oil Co., Roberts Oil Co., Tri-Country Oil Co. and Teague Oil Co. would be modified. Marathon Oil Company would receive a temporary stay and stay of the four Assignment Orders pending a determination on its Appeal.
June 21, 1979	Robert E. Brain and Cooper and Brain, Inc., Washington, D.C..	DSG-0056	Petition for Special Redress. If granted: Robert E. Brain and Cooper and Brain would be reimbursed for fees charged by the DOE in connection with a Freedom of Information request submitted by Brain and Cooper & Brain.
June 21, 1979	Texaco, Inc., Moffat County, Colorado	DXE-6727 and DXE-6728.	Request for Extension of Relief Granted in *Texaco, Inc.*, 3 DOE Par. —— (February 22, 1979). If granted: Texaco, Inc. would be permitted to continue to sell the crude oil produced from the Wyoming "G" Lease located in Johnson County, Wyoming and the J. Sweeney Lease located in Moffat County, Wyoming at upper tier ceiling prices.
June 22, 1979	Chevron U.S.A., Inc., Santa Barbara County, California.	DEN-1953	Request for Interim Order. If granted: Chevron U.S.A., Inc. (Case No. DEE-1953) would be granted price exception relief on an interim basis for crude oil produced from the Tognazzini Lease located in Santa Barbara County, California.

Notices of Objection Received

Date	Name and location of applicant	Case No.
June 18, 1979	Publix Oil Company, Morristown, Tennessee	DEE-5462
June 19, 1979	Rozema's Standard, Hudsonville, Michigan	DEE-3733
June 20, 1979	H. L. Mills Petroleum Products, Hagerstown, Maryland	DEE-2997
June 21, 1979	Chevron U.S.A., Inc., San Francisco, California	DEE-1953

List of Cases involving the Standby Petroleum Product Allocation Regulations for motor gasoline

Week of June 15 through June 22, 1979

If granted: The following firms would recieve an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

Abraham, Robert S	DEE-6574	06/15/79	Texas
Applewood Exxon Service	DEE-6567	06/15/79	Colorado
Brown Ferns, Inc	DEE-6571	06/15/79	Louisiana
Brusly Exxon	DEE-6561	06/15/79	Louisiana
Chalmette Shell	DEE-6568	06/15/79	Louisiana
County of Louisa	DEE-6558	06/15/79	Virginia
Digi-Data Corporation	DEE-6562	06/15/79	Maryland
Fontana Car Wash	DEE-6564	06/15/79	California

Lester's "66"	DEE-6573	06/15/79	Oklahoma
Martinez Exxon Service	DEE-6563	06/15/79	Florida
Perris Vallet Service	DEE-6565	06/15/79	California
Rockside & 21 Shell	DEE-6559	06/15/79	Ohio
Stephan Oil Co	DEE-6546	06/15/79	Kansas
Stuckey's, Inc	DEE-6570	06/15/79	District of Columbia
Surry Lane Service Station	DEE-6566	06/15/79	New York
A & A Mini Mart	DEE-6600	06/18/79	New York
Arceneaux's I-G	DEE-6604	06/18/79	Louisiana
Atkins Gulf Service	DEE-6590	06/18/79	Kentucky
Bob & Al Service Center Inc	DEE-6623	06/18/79	Florida
Bob Linke, Inc	DEE-6595	06/18/79	Pennsylvania
Bob Webb's Arco Service Station	DEE-6686	06/18/79	California
Camino Car Wash	DEE-6592	06/18/79	California
City of Dallas, Texas	DEE-6588	06/18/79	Texas
Coronado Heights Mobil	DEE-6615	06/18/79	Oklahoma
Denton, Norman Glenn	DEE-6591	06/18/79	Texas
Don's Gulf Service Station	DEE-6599	06/18/79	Texas
Duncan Oil Company	DXE-6624	06/18/79	Ohio
Farmer	DEE-6620	06/18/79	Texas
Farris Pasadena Freeway Shell	DEE-6577	06/18/79	Texas
Flood, June	DEE-6606	06/18/79	Illinois
Giardina Shell Service Station	DEE-6602	06/18/79	Louisiana
Gordon's Chevron	DEE-6596	06/18/79	California
Green Acres Texaco	DEE-6618	06/18/79	Louisiana
James Cotton & Grain, Inc	DEE-6582	06/18/79	Arkansas
Jerry English Mobil	DEE-6583	06/18/79	Texas
Johnson Oil Company of Gaylord	DXE-6580	06/18/79	Michigan
Johnson, Rory	DEE-6607	06/18/79	Tennessee
Jones Exxon Service Station	DEE-6619	06/18/79	Texas
Lavaughn's Mobil	DEE-6584	06/18/79	California
Les Gordon Texaco	DEE-6586	06/18/79	Maryland
Lone Star Way Station	DEE-6608	06/18/79	Louisiana
Mannford Dx	DEE-6593	06/18/79	Oklahoma
Max's Vernon Truck Center	DEE-6621	06/18/79	California
Meem, J. L	DEE-6589	06/18/79	Virginia
Murry, R. W	DEE-6594	06/18/79	Arkansas
National Car Rental System	DEE-6576	06/18/79	Hawaii
Navy Exchange Service Station	DEE-6578	06/18/79	Pennsylvania
Neal, Warren	DEE-6572	06/18/79	Kentucky
Patterson Oil Co., Inc	DEE-6581	06/18/79	Missouri
Pete's Exxon Service	DEE-6601	06/18/79	Colorado
Pinebrook Exxon	DEE-6587	06/18/79	North Carolina
Polans Plating, Inc	DEE-6622	06/18/79	New Jersey
Powell, Roy W	DEE-6603	06/18/79	Virginia
Ragusa, Pete	DEE-6616	06/18/79	Texas
Ray Welch Texaco	DEE-6802	06/18/79	Virginia
Riggs, Carl	DEE-6579	06/18/79	Ohio
Rolling Road Mobil	DEE-6609	06/18/79	Virginia
Russell's Gulf Service	DEE-6614	06/18/79	Mississippi
Sam's Exxon	DEE-6596	06/18/79	California
Vantage Petroleum Corp	DEE-6605	06/18/79	New York
Wolf's Wool & Mohair	DEE-6597	06/18/79	Texas
Ace Pest Control	DEE-6629	06/19/79	California
Beach Gulf Service	DEE-6638	06/19/79	Florida
Bi-Rite Petroleum, Ltd	DEE-6675	06/19/79	Missouri
Bill Chun Texaco	DEE-6643	06/19/79	California
Boardwalk Regency (Texaco)	DEE-6679	06/19/79	New Jersey
Body Beautiful Car Wash	DEE-6650	06/19/79	California
Bruton Petroleum Co., Inc	DEE-6661	06/19/79	Colorado
Budget Rent-A-Car of Oakland	DEE-6666	06/19/79	California
Builders Floor Service Inc	DEE-6632	06/19/79	Virginia
Carriage Square Mobil Service	DEE-6647	06/19/79	California
Cedar Bluff Gulf	DEE-6634	06/19/79	Virginia
Charles Hasting Oil Co., Inc	DEE-6668	06/19/79	Tennessee
City of Prescott	DEE-6633	06/19/79	Arizona
Colorado County Oil Co., Inc	DEE-6656	06/19/79	Texas
Columbia Warehouse Associates	DEE-6671	06/19/79	South Carolina
Cooper Ltd	DEE-6672	06/19/79	Connecticut
Crenshaw Oil Co	DEE-6635	06/19/79	South Carolina
D & D Service	DEE-6667	06/19/79	Maryland
Deshong & Flick, Inc	DEE-6648	06/19/79	Pennsylvania
Don's Dodge Street Car Wash	DEE-6642	06/19/79	Nebraska
Ed's Service Center, Inc	DEE-6665	06/19/79	Wisconsin
F. Catlett Retail Outlet & Mini-M	DEE-6641	06/19/79	Oklahoma
Fawcett's Corner	DEE-6679	06/19/79	Montana
Fememas Shell	DEE-6662	06/19/79	Florida
Herb Alper's Clean-A-Car	DEE-6677	06/19/79	Maryland
Homestead Plaza Exxon	DEE-6654	06/19/79	Florida
J. A. L. Oil Co., Inc. et. al	DEE-6680	06/19/79	New York
Jacobsen Texaco Service Center	DEE-6676	06/19/79	Texas
Ken's Mobil	DEE-6636	06/19/79	California

Laveen Country Store	DEE-6660	06/19/79	Arizona
Lemoine, I. B.	DEE-6663	06/19/79	Louisiana
Lucas Auto Sales	DEE-6644	06/19/79	Ohio
Mac's Service Station	DEE-6626	06/19/79	Kentucky
Manglitz Automotive	DEE-6645	06/19/79	Maryland
Mandr 66	DEE-6664	06/19/79	Maryland
McCracken Texaco	DEE-6637	06/19/79	Florida
Metz Gulf Service	DEE-6646	06/19/79	Arkansas
Mt. Ice Water Co	DEE-6627	06/19/79	California
Naquin's Super Conoco	DEE-6640	06/19/79	Louisiana
Norco Delivery Service	DEE-6628	06/19/79	California
O. K. Petroleum Products Corp	DEE-6685	06/19/79	New York
Palds Verdes Standard	DEE-6653	06/19/79	Colorado
Plunkett's Exxon Servicenter	DEE-6652	06/19/79	Pennsylvania
Ratcliffe Stadium Shell	DEE-6639	06/19/79	California
Regency Car Wash	DEE-6674	06/19/79	Texas
Rhodes Oil Co	DEE-6649	06/19/79	Arkansas
Ridgewood Shell	DEE-6670	06/19/79	Texas
Smith's Exxon Servicenter	DEE-6655	06/19/79	Tennessee
St. Louis County Police Dept	DEE-6617	06/19/79	Missouri
The W. Gordon Smith Co	DEE-6658	06/19/79	Minnesota
V & V Auto Service Center	DEE-6651	06/19/79	New York
Web Service Company, Inc.	DEE-6631	06/19/79	California
West Point Exxon	DEE-6669	06/19/79	California
Williams Grocery	DEE-6630	06/19/79	Mississippi
Asamera Oil (U.S.) Inc	DEE-6714	06/20/79	Colorado
Bill's Automotive	DEE-6710	06/20/79	California
Bonner's Arco Mini Mart	DEE-6700	06/20/79	Pennsylvania
Brown & Marlar Auto Serv Mobil	DEE-6707	06/20/79	California
Canepa's Car Wash	DEE-6694	06/20/79	California
Castle Hills Texaco	DEE-6699	06/20/79	Texas
Chaney's Service Station	DEE-6708	06/20/79	Virginia
D & M Exxon	DEE-6703	06/20/79	Florida
Deloach's Texaco	DEE-6695	06/20/79	Texas
Ed Wade's Texaco	DEE-6704	06/20/79	Pennsylvania
Fasco, Inc.	DXE-6697	06/20/79	Pennsylvania
Gando Gulf, Inc.	DEE-6690	06/20/79	Maryland
Holloway's Texaco Servicenter	DEE-6702	06/20/79	New Jersey
Kanim Safris Arco	DEE-6709	06/20/79	California
Laytonsville 66 Inc.	DEE-6711	06/20/79	Maryland
Maryland Messenger Service	DEE-6693	06/20/79	Maryland
McCart Gulf Tire Store	DEE-6712	06/20/79	Texas
Ozymy Texaco	DEE-6696	06/20/79	Texas
Pat's Amoco	DEE-6698	06/20/79	Pennsylvania
Payless Car Rental System	DEE-6691	06/20/79	Washington
R. P. & J. L. Overstreet	DEE-6701	06/20/79	Virginia
Stanco Auto Repair Inc.	DEE-6706	06/20/79	New York
Summit Texaco	DEE-6705	06/20/79	New Jersey
"F" Street Mobil	DEE-6668	06/21/79	Pennsylvania
Advance Petroleum Distributing	DEE-6726	06/21/79	Texas
Ally's Sunoco	DEE-6717	06/21/79	Maryland
Ally's Texaco	DEE-6716	06/21/79	Maryland
Arie's Arco	DEE-6804	06/21/79	Pennsylvania
Auth Road Texaco	DEE-6725	06/21/79	Maryland
Barone, Anthony R	DEE-6721	06/21/79	Pennsylvania
Drake Shell Service	DEE-6689	06/21/79	Florida
East High Sixty Six	DEE-6803	06/21/79	Colorado
Manny's Standard Service	DEE-6720	06/21/79	Wisconsin
Milne Bros. Automobile Center	DEE-6719	06/21/79	California
Pic-Em & Pac-Em	DEE-6723	06/21/79	Louisiana
Sharon Motors	DEE-6724	06/21/79	New York
Somerset District	DEE-6715	06/21/79	California
Steve's Service Center	DEE-6801	06/21/79	New Jersey
Super Truck Rental Corp	DEE-6800	06/21/79	New York
Ulysses J. Papini Arco	DEE-6722	06/21/79	California
Ward Oil Co	DEE-6345	06/22/79	New Jersey
Amaral, Richard	DEE-6744	06/22/79	Massachusetts
Avery's Service Station	DEE-6815	06/22/79	Pennsylvania
Beabout's Sunoco	DEE-6807	06/22/79	Pennsylvania
Bellafiore, Frank S	DEE-6756	06/22/79	Massachusetts
Berry's Garage	DEE-6819	06/22/79	Massachusetts
Blue Springs R-Iv School Dist	DEE-7039	06/22/79	Missouri
Bobby Taylor Oil Co., Inc. #2	DEE-6742	06/22/79	North Carolina
Brooks, Inc	DEE-6784	06/22/79	Massachusetts
Buddy W. Runnels Exxon Station	DEE-6811	06/22/79	Texas
C. N. Brown Co (Laconia)	DEE-6779	06/22/79	Maine
C. N. Brown Co (Tilton)	DEE-6778	06/22/79	New Hampshire
Carl Sunoco	DEE-6780	06/22/79	Massachusetts
Caron's Gulf	DEE-6774	06/22/79	New Hampshire
Chris #2	DEE-6827	06/22/79	Massachusetts

Colonial Oil Company	DEE-6865	06/22/79	Virginia
D. & H. Car Wash Inc	DEE-6763	06/22/79	Rhode Island
Dave's Alignment Service	DEE-6768	06/22/79	Massachusetts
Davis & Tripp, Inc	DEE-6825	06/22/79	Massachusetts
Dennisport Car Care, Inc	DEE-6824	06/22/79	Massachusetts
Dick's Exxon	DEE-6769	06/22/79	Maine
Don's Gulf Service, Inc	DEE-6775	06/22/79	Massachusetts
Doug's Exxon	DEE-6764	06/22/79	Massachusetts
EA-ZEE Shop	DEE-6743	06/22/79	Kansas
Edison, Con	DEE-6311	06/22/79	New York
Elson & Winland Sunoco	DEE-6805	06/22/79	Ohio
Empire Oil Co., Inc	DEE-6750	06/22/79	Massachusetts
Ernst, Richard H. & Eunice	DEE-6735	06/22/79	California
Expressway Arco	DEE-6826	06/22/79	Massachusetts
Fleuette's Automotive	DEE-6823	06/22/79	Massachusetts
Fred's Exxon	DEE-6752	06/22/79	Massachusetts
Freeman, Keith	DEE-6812	06/22/79	North Carolina
Fuller Automotive Service, Inc	DEE-6749	06/22/79	Massachusetts
Gordon Court	DEE-6748	06/22/79	Massachusetts
Greenwich Oil Co., Inc	DEE-6783	06/22/79	Connecticut
Groveland Exxon	DEE-6781	06/22/79	Massachusetts
Hampshire Oil Co., Inc	DEE-6753	06/22/79	New Hampshire
Haw Knob, Inc	DEE-6733	06/22/79	North Carolina
High Street Exxon	DEE-6762	06/22/79	Massachusetts
Hollywood Foreign Auto Repair	DEE-6734	06/22/79	California
Ivy H. Smith Company	DEE-6731	06/22/79	Virginia
J & R Service Center	DEE-6808	06/22/79	New York
J. P. Bellamy Oil Co	DEE-6809	06/22/79	North Carolina
Joe's Gulf Service	DEE-6773	06/22/79	Massachusetts
Ken's Exxon Servicecenter	DEE-6758	06/22/79	New Hampshire
L & B Car Wash	DEE-6817	06/22/79	Connecticut
L. L. Potter, Inc	DEE-6760	06/22/79	Massachusetts
M.D.L. Auto Truck Center, Inc	DEE-6732	06/22/79	Maryland
Main Street Automotive	DEE-6828	06/22/79	Massachusetts
Marcy Brothers, Inc	DEE-6782	06/22/79	Vermont
Mayor of Montgomery, Alabama	DEE-6789	06/22/79	Alabama
Medfield Gulf	DEE-6678	06/22/79	Massachusetts
Melnike, Malcolm	DEE-6737	06/22/79	California
Mickey's Exxon Service	DEE-6754	06/22/79	Massachusetts
Mid City American	DEE-6741	06/22/79	Maryland
Murdocks Service Station	DEE-6745	06/22/79	Connecticut
Murphy's Gulf Station	DEE-6613	06/22/79	Maine
Nodyes Sunoco	DEE-6813	06/22/79	Ohio
Oak Hill Shell Auto Service	DEE-6799	06/22/79	Ohio
Odyssey Enterprises Inc	DEE-6771	06/22/79	Maine
Orlandi's Gulf	DEE-6821	06/22/79	Rhode Island
Osceloa Service Station	DEE-7191	06/22/79	Michigan
Pacific Outdoor Advertising	DEE-6736	06/22/79	California
Partridge, Richard	DEE-6772	06/22/79	Massachusetts
Perley's Gulf Service	DEE-6822	06/22/79	Maine
Powners, Morris	DEE-6757	06/22/79	Massachusetts
Prada, Madeline	DEE-6767	06/22/79	Massachusetts
Q-T-S Oil Company	DEE-6747	06/22/79	New York
Quellette's Market	DEE-6777	06/22/79	Maine
R & W Motor Sales	DEE-6770	06/22/79	Massachusetts
Ratt, Donald G	DEE-6746	06/22/79	New Hampshire
Reed Oil Company	DEE-6866	06/22/79	Tennessee
Rogerson & Manzone	DEE-6755	06/22/79	Massachusetts
Sam Mazza's Grocery	DEE-6761	06/22/79	Vermont
Seekonk Mobil	DEE-6820	06/22/79	Massachusetts
Senignan's Gulf Service	DEE-6814	06/22/79	Louisiana
Stockbridge Motors	DEE-6765	06/22/79	Massachusetts
Sun Valley Gas., Inc. (N. Holly)	DEE-6738	06/22/79	California
Sun Valley Gas., Inc. (Sun Valley)	DEE-6740	06/22/79	California
TJ's Servicecenter	DEE-6816	06/22/79	New York
Tarpy's Inc	DEE-6818	06/22/79	Rhode Island
The George J. Switzer Co	DEE-6687	06/22/79	Connecticut
Thurber, Doulgas	DEE-6751	06/22/79	Massachusetts
Vinnie's Texaco	DEE-6776	06/22/79	Massachusetts
Vito, Inc	DEE-6759	06/22/79	Massachusetts
Willey's Express, Inc	DEE-6766	06/22/79	New Hampshire
Windsor Park Chevron	DEE-6810	06/22/79	Georgia

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[FR Doc. 79-27371 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of June 22, 1979 through June 29, 1979

Notice is hereby given that during the week of June 22, 1979 through June 29, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 27, 1979.

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Date	Name and location of applicant	Case No.	Type of submission
June 22, 1979	Marathon Oil Company, Findlay, Ohio	DEA-0471, DES-0471 and DST-0471.	Appeal of Temporary Assignment Order; Requests for Stay and Temporary Stay. If granted: The ERA's May 24, 1979 Temporary Assignment Order would be modified concerning Marathon Oil Company's supply obligations to Lucky Stores. Marathon Oil Company would receive a stay and temporary stay of the Temporary Assignment Order pending a final determination on its Appeal.
June 22, 1979	Nevada Refining Company, Tonopah, Nevada	DSG-0057	Petition for Special Redress. If granted: The DOE would authorize the sale of federal royalty oil to Nevada Refining Company on an interim basis.
June 22, 1979	Office of Enforcement (Forgotson), Louisiana	DFF-0005	Petition for Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V, in connection with a Proposed Remedial Order which the DOE issued to James M. Forgotson.
June 25, 1979	James Baller, Washington, D.C.	DFA-0472	Appeal of Information Request Denial. If granted: The DOE's May 25, 1979 Information Request Denial would be rescinded and James Baller would receive access to certain DOE data.
June 25, 1979	Marathon Oil Company, Findlay, Ohio	DEA-0473, DES-0473 and DST-0473	Appeal or Order; Requests for Stay and Temporary Stay. If granted: DOE Region IV's May 25, 1979 Order concerning Marathon Oil Company's supply obligations to Cone Oil Company, Inc. would be modified. Marathon Oil Company would receive a stay and temporary stay of the Order pending a determination on its Appeal.
June 26, 1979	Amalgamated Bonanza Petroleum Ltd., Houston, Texas.	DEE-6806	Exception from Reporting Requirements. If granted: Amalgamated Bonanza Petroleum Ltd. would be granted an extension of time to file DOE Form EIA-23.
June 26, 1979	Robert L. Blattenberger, Chambersburg, Pennsylvania.	DRW-0016	Interim Remedial Order for Immediate Compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to Robert L. Blattenberger on June 1, 1979 would be issued as a final Remedial Order for Immediate Compliance.
June 26, 1979	Burke's Mobil Service Center, West Chester, Pennsylvania.	DRW-0015	Interim Remedial Order for Immediate Compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to Burke's Mobil Service Center on May 2, 1979 would be issued as a final Remedial Order for Immediate Compliance.
June 26, 1979	Diamond Shamrock Corporation, Amarillo, Texas	DEA-0469	Appeal of Assignment Order. If granted: ERA Region VIII's Assignment Order regarding Diamond Shamrock Corporation's supply obligations to Royal Petroleum would be modified.
June 26, 1979	Eaton's Gulf Service, Parkersbug, West Virginia	DRW-0017	Interim Remedial Order for Immediate Compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to Eaton's Gulf Service on May 31, 1979 would be issued as a final Remedial Order for Immediate Compliance.
June 26, 1979	Highway Oil, Inc., Topeka, Kansas	DEE-6872	Allocation Exception. If granted: Highway Oil, Inc. would receive an exception from various provisions of 10 C.F.R., Part 211 in order to facilitate gasohol production and distribution.
June 26, 1979	IU International Corporation, Washington, D.C.	DEE-6871	Exception from Reporting Requirements. If granted: IU International Corporation would be granted an extension of time to file Form EIA-23.
June 26, 1979	Land O'Lakes, Washington, D.C.	DEX-0182	Supplemental Order. If granted: Land O'Lakes would be granted a protective order regarding confidential information contained in the firm's Applications for Stay, Temporary Stay, and Exception (Case Nos. DEE, DES, DST-5972).
June 26, 1979	Marathon Oil Company, Findlay, Ohio	DEA-0481, DES-0481 and DST-0481	Appeal of Assignment Order; Request for Stay; Request for Temporary Stay. If granted: DOE Region IV's Assignment Order regarding Marathon Oil Company's supply obligations to McGregor Oil Company would be modified. A temporary stay and stay of the Assignment Order would be granted pending a determination on the Appeal.
June 26, 1979	Navajo Refining Company, Dallas, Texas	DMR-0060	Request for Modification. If granted: The DOE's May 16, 1979 Decision and Order granting entitlements exception relief to Navajo Refining Company would be modified.
June 26, 1979	S & S Arco, Philadelphia, Pennsylvania	DRW-0014	Interim Remedial Order for Immediate Compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to S & S Arco on May 30, 1979 would be issued as a final Remedial Order for Immediate Compliance.
June 26, 1979	Ted's Exxon, Bradley, West Virginia	DRW-0018	Interim Remedial Order for Immediate Compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to Ted's Exxon on May 31, 1979 would be issued as a final Remedial Order for Immediate Compliance.
June 27, 1979	Crown Central Petroleum Corporation, Baltimore, Maryland.	DMR-0059	Request for Modification. If granted: The Assignment Order which the ERA issued to Certified Transport, Inc. on April 19, 1979 would be modified.
June 27, 1979	Hartford Electric Light Company, Hartford, Connecticut.	DED-0446	Motion for Discovery. If granted: The Hartford Electric Light Company would receive access to documents relating to the DOE's rescission of ESECA Prohibition Orders.
June 27, 1979	Fairman Drilling Company, Dubois, Pennsylvania	DEE-6874	Exception from Reporting Requirements. If granted: Fairman Drilling Company would be granted an extension of time to file Form EIA-23.
June 27, 1979	Mallard Resources, Midland, Texas	DEE-6873	Exception from Reporting Requirement. If granted: Mallard Resources would be granted an extension of time to file Form EIA-23, Part II.
June 27, 1979	Vickers Petroleum Corporation, Washington, D.C.	DEA-0480, DST-0480 and DES-0480	Request for Stay; Request for Temporary Stay; Appeal of Redirection Order. If granted: The ERA's June 18, 1979 Redirection Order regarding Vickers Petroleum Corporation's supply obligations to Gibble Oil Company would be modified.
June 28, 1979	Kansas-Nebraska Natural Gas Company, Inc., Hastings, Nebraska.	DEE-6970	Price Exception (212.165). If granted: Kansas-Nebraska Natural Gas Company, Inc would receive price relief from the provisions of 10 C.F.R., Part 212, Subpart K.
June 28, 1979	Texaco, Inc., White Plains, New York	DEN-6985 and DEE-6985	Request for Interim Order. If granted: Texaco, Inc. would be granted a supply of motor gasoline for its van pool vehicles on an interim basis pending a final determination on its Application for Exception.

Notices of Objection Received

[Week of June 22, 1979 to June 29, 1979]

Date	Name and location of applicant	Case No.
June 25, 1979	Phillips Petroleum Oklahoma, Bartlesville, Oklahoma	DXE-2171
June 26, 1979	Lutwyche's Shell and Triangle Shell, Towson, Maryland	DEO-0244 and DEO-0245
June 27, 1979	Auto Row Texaco, San Jose, California	DEE-4290
June 27, 1979	Fannon Petroleum Services, Inc., Houston, Texas	DEE-3884
June 26, 1979	Union Oil Company of California, Houston, Texas	DEE-2022
June 27, 1979	Triangle J Oil Company, Denver, Colorado	DEE-3141
June 27, 1979	Mohawk Petroleum Corp., Inc., Los Angeles, California	DEE-2105
June 28, 1979	Belle Haven Sunoco, Lanham, Maryland	DEO-0246 and DEO-0248
June 28, 1979	Fairlington Sunoco, Lanham, Maryland	DEO-0249

List of Cases Involving The Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of June 22 through June 29, 1979

If granted, the following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline

Amaral, Richard	DEE-6744	06/22/79	Massachusetts
Avery's Service Station	DEE-6815	06/22/79	Pennsylvania
Beabout's Sunoco	DEE-6807	06/22/79	Pennsylvania
Bellafiore, Frank S.	DEE-6756	06/22/79	Massachusetts
Berry's Garage	DEE-6819	06/22/79	Massachusetts
Blue Springs R-IV School District	DEE-7039	06/22/79	Missouri
Bobby Taylor Oil Co., Inc. #2	DEE-6742	06/22/79	North Carolina
Brooks, Inc.	DEE-6784	06/22/79	Massachusetts
Buddy W. Runnels Exxon Station	DEE-6811	06/22/79	Texas
C.N. Brown Co. (Laconia)	DEE-6778	06/22/79	Maine
C.N. Brown Co. (Tilton)	DEE-6779	06/22/79	New Hampshire
Carl Sunoco	DEE-6760	06/22/79	Massachusetts
Caron's Gulf	DEE-6774	06/22/79	New Hampshire
Chris #2	DEE-6827	06/22/79	Massachusetts
Colonial Oil Company	DEE-6865	06/22/79	Virginia
D. & H. Car Wash Inc	DEE-6763	06/22/79	Rhode Island
Dave's Alignment Service	DEE-6768	06/22/79	Massachusetts
Davis & Tripp, Inc.	DEE-6825	06/22/79	Massachusetts
Dennisport Car Care Inc	DEE-6824	06/22/79	Massachusetts
Dick's Exxon	DEE-6769	06/22/79	Maine
Don's Gulf Service Inc	DEE-6775	06/22/79	Massachusetts
Doug's Exxon	DEE-6764	06/22/79	Massachusetts
EA-ZEE Shop	DEE-6743	06/22/79	Kansas
Edison, Con	DEE-6311	06/22/79	New York
Elson & Winland Sunoco	DEE-6805	06/22/79	Ohio
Empire Oil Co. Inc	DEE-6750	06/22/79	Massachusetts
Ernst, Richard H. & Eunice	DEE-6735	06/22/79	California
Expressway Arco	DEE-6826	06/22/79	Massachusetts
Fleuette's Automotive	DEE-6823	06/22/79	Massachusetts
Fred's Exxon	DEE-6752	06/22/79	Massachusetts
Freeman, Keith	DEE-6812	06/22/79	North Carolina
Fuller Automotive Service Inc	DEE-6749	06/22/79	Massachusetts
Gordon Court	DEE-6748	06/22/79	Massachusetts
Greenwich Oil Co., Inc.	DEE-6783	06/22/79	Connecticut
Groveland Exxon	DEE-6781	06/22/79	Massachusetts
Hampshire Oil Co., Inc.	DEE-6753	06/22/79	New Hampshire
Haw Knob Inc	DEE-6733	06/22/79	North Carolina
High Street Exxon	DEE-6762	06/22/79	Massachusetts
Hollywood Foreign Auto Repair	DEE-6734	06/22/79	California
Ivy H. Smith Company	DEE-6731	06/22/79	Virginia
J & R Service Center	DEE-6808	06/22/79	New York
J. P. Bellamy Oil Co	DEE-6809	06/22/79	North Carolina
Joe's Gulf Service	DEE-6773	06/22/79	Massachusetts
Ken's Exxon Servicenter	DEE-6758	06/22/79	New Hampshire
L & B Car Wash	DEE-6817	06/22/79	Connecticut
L.L. Potter, Inc.	DEE-6760	06/22/79	Massachusetts
M.D.L. Auto Truck Center, Inc	DEE-6732	06/22/79	Maryland
Main Street Automotive	DEE-6828	06/22/79	Massachusetts
Marcy Brothers, Inc.	DEE-6782	06/22/79	Vermont
Mayor of Montgomery, Alabama	DEE-6789	06/22/79	Alabama
Medfield Gulf	DEE-6678	06/22/79	Massachusetts
Melnike, Malcolm	DEE-6737	06/22/79	California
Mickey's Exxon Service	DEE-6754	06/22/79	Massachusetts
Mid City American	DEE-6741	06/22/79	Maryland
Murdocks Service Station	DEE-6745	06/22/79	Connecticut
Murphy's Gulf Station	DEE-6613	06/22/79	Maine
Noyes Sunoco	DEE-6813	06/22/79	Ohio
Oak Hill Shell Auto Service	DEE-6799	06/22/79	Ohio.

Odyssey Enterprises Inc	DEE-6771	06/22/79	Maine
Orlandi's Gulf	DEE-6821	06/22/79	Rhode Island
Osceloa Service Station	DEE-7191	06/22/79	Michigan
Pacific Outdoor Advertising	DEE-6736	06/22/79	California
Partridge, Richard	DEE-6772	06/22/79	Massachusetts
Perley's Gulf Service	DEE-6822	06/22/79	Maine
Powers, Morris	DEE-6757	06/22/79	Massachusetts
Prada, Madeline	DEE-6767	06/22/79	Massachusetts
Q-T-S Oil Company	DEE-6747	06/22/79	New York
Quellette's Market	DEE-6777	06/22/79	Maine
R & W Motor Sales	DEE-6770	06/22/79	Massachusetts
Ratt, Donald G	DEE-6746	06/22/79	New Hampshire
Reed Oil Company	DEE-6866	06/22/79	Tennessee
Rogerson & Manzone	DEE-6755	06/22/79	Massachusetts
Sam Mazza's Grocery	DEE-6761	06/22/79	Vermont
Seekonk Mobil	DEE-6820	06/22/79	Massachusetts
Sengnan's Gulf Service	DEE-6814	06/22/79	Louisiana
Stockbridge Motors	DEE-6765	06/22/79	Massachusetts
Sun Valley Gas, Inc (N. Hollywood)	DEE-6738	06/22/79	California
Sun Valley Gas, Inc (Sun Valley)	DEE-6740	06/22/79	California
T J's Servicenter	DEE-6816	06/22/79	New York
Tarpy's Inc	DEE-6818	06/22/79	Rhode Island
The George J. Switzer Co	DEE-6687	06/22/79	Connecticut
Thurber, Douglas	DEE-6751	06/22/79	Massachusetts
Vinnie's Texaco	DEE-6776	06/22/79	Massachusetts
Vito, Inc	DEE-6759	06/22/79	Massachusetts
Willey's Express Inc	DEE-6766	06/22/79	New Hampshire
Windsor Park Chevron	DEE-6810	06/22/79	Georgia
Ace Oil Company	DEE-6844	06/25/79	Maine
Adamson Amoco	DEE-6836	06/25/79	Massachusetts
Appleby's Service, Inc	DEE-6900	06/25/79	Wisconsin
B & B Service Center	DEE-6870	06/25/79	Virginia
Bartel Oil Company	DEE-6858	06/25/79	Oklahoma
Bogalusa Material	DEE-6787	06/25/79	Louisiana
Bonnett, W. R	DEE-6792	06/25/79	Maryland
C & J's Self-Serv	DEE-6788	06/25/79	Texas
Calaveras Transit Co	DEE-6797	06/25/79	California
D & W Sanitation	DEE-6796	06/25/79	California
Dale's Minimarket	DEE-6830	06/25/79	Pennsylvania
Dart Drug Corporation	DEE-6850	06/25/79	Maryland
Dedham Ave. Texaco Service	DEE-6841	06/25/79	Massachusetts
Denny's Exxon	DEE-6857	06/25/79	Arizona
Dick's Gulf Station	DEE-6847	06/25/79	Massachusetts
Drayton Standard	DEE-6831	06/25/79	North Dakota
Eugene Wonnenberg Standard	DEE-6798	06/25/79	North Dakota
Expressway Arco Service	DEE-6842	06/25/79	Massachusetts
Exxon Service Station	DEE-6944	06/25/79	Texas
General Rental Company	DEE-6846	06/25/79	Rhode Island
Georgetown Gulf	DEE-6860	06/25/79	District of Columbia
H. A. Wallace (Meredith)	DEE-6840	06/25/79	New Hampshire
H. A. Wallace (Plymouth)	DEE-6845	06/25/79	New Hmpshire
Jim's Elm Street Gulf	DEE-6848	06/25/79	Massachusetts
Joe's Super Service	DEE-6843	06/25/79	Connecticut
Jones 66 Service Station	DEE-6864	06/25/79	Tennessee
Ken's Lakeside Gulf	DEE-6833	06/25/79	New Hampshire
Lamdureux, Gerard P	DEE-6838	06/25/79	New Hampshire
Linn Enterprises, Inc	DEE-6854	06/25/79	Minnesota
N-59 Pontiac Lake Shell	DEE-6863	06/25/79	Michigan
Maxwell Oil Co., Inc	DEE-6859	06/25/79	Washington
Mildred Strickland Serv. Station	DEE-6856	06/25/79	Mississippi
Miley's Texaco Service	DEE-6791	06/25/79	Oklahoma
Murphy's Exxon	DEE-6851	06/25/79	Tennessee
Oak Manor Standard	DEE-6853	06/25/79	North Dakota
Palmers Texaco	DEE-6862	06/25/79	Colorado
Parkway Taxi Company	DEE-6861	06/25/79	Ohio
Peary's Gulf	DEE-6835	06/25/79	Maine
Plymouth Gulf Services	DEE-6837	06/25/79	Massachusetts
Ripperdan Market	DEE-6875	06/25/79	California
Robert Duncan Gulf Station	DEE-6852	06/25/79	Missouri
San Martin Texaco	DEE-6794	06/25/79	California
Sea View Exxon	DEE-6834	06/25/79	Maine
Shannon Motors Inc	DEE-6849	06/25/79	Rhode Island
Smallwood, S. E	DEE-6793	06/25/79	Maryland
Southern Stations Inc	DEE-6832	06/25/79	Alabama
Southern Oil Company	DEE-6786	06/25/79	Mississippi
Trail Amoco	DEE-6855	06/25/79	Florida
Webb's Garage & Mobil	DEE-6790	06/25/79	Texas
Yoerg's Garage	DEE-6839	06/25/79	Massachusetts
Avis Leasing Corp	DEE-6914	06/26/79	Pennsylvania
B & D Oil Co., Inc	DEE-6903	06/26/79	Missouri
Blue Ridge Oil	DEE-6946	06/26/79	North Carolina
Burns Brothers Truck Plaza Inc	DEE-6889	06/26/79	Kentucky
Caparo's Texaco	DEE-6909	06/26/79	Pennsylvania
Charley's Exxon	DEE-6915	06/26/79	California

Collum, Paul	DEE-6904	06/26/79	Texas
Colony Oil Service	DEE-6945	06/26/79	Virginia
Fulton Industrial Shell	DEE-6876	06/26/79	Georgia
Garland, Patrick	DEE-6925	06/26/79	Kentucky
Greenhorne & O'Mara, Inc	DEE-6901	06/26/79	Maryland
Groveland Community Services	DEE-6902	06/26/79	California
Guyer's Auto Service	DEE-6912	06/26/79	Pennsylvania
Hermans Chevron	DEE-6917	06/26/79	New Mexico
High-Eighty Exxon	DEE-6913	06/26/79	Texas
Hodskins Sunoco Service	DEE-6926	06/26/79	Kentucky
J. T. McKinney Co., Inc	DEE-6920	06/26/79	California
Johnnie Jones Roofing	DEE-6919	06/26/79	California
Johnson, John	DEE-6908	06/26/79	Michigan
Jordan Oil Co	DEE-6908	06/26/79	Virginia
Kraemer, F. E	DEE-6795	06/26/79	Maryland
L & J Sunoco	DEE-6928	06/26/79	Kentucky
Laroche Chevron	DEE-6940	06/26/79	Florida
Lee Arco Service	DEE-6829	06/26/79	Massachusetts
Macomb County Road Commission	DEE-6916	06/26/79	Michigan
Mernam Lincoln Mercury	DEE-6930	06/26/79	Connecticut
Midway Gas and Oil	DEE-6921	06/26/79	Wisconsin
Montana City Store	DEE-6931	06/26/79	Montana
Pete's Drive In Grocery	DEE-6910	06/26/79	Texas
R & R Sunoco	DEE-6927	06/26/79	Kentucky
Robert's Gulf Tire Service	DEE-6922	06/26/79	Pennsylvania
Seatac Mini Mart	DEE-6924	06/26/79	Washington
Servis-Likens Truck Co., Inc	DEE-6911	06/26/79	California
Sierra Glen Store	DEE-6907	06/26/79	California
Southern Truck Terminal	DEE-6891	06/26/79	South Carolina
State of Connecticut	DEE-6918	06/26/79	Connecticut
Sweeny Police Department	DEE-6954	06/26/79	Texas
Walton Oil Company	DEE-6905	06/26/79	Nebraska
Weigant, Norman	DEE-6923	06/26/79	California
Western Avenue Arco	DEE-6941	06/26/79	New York
Zandwic's Sunoco	DEE-6929	06/26/79	New Jersey
A. C. Gas Co	DEE-6887	06/27/79	Kentucky
Al's Fina	DEE-6939	06/27/79	Texas
Baker's Gulf	DEE-6879	06/27/79	Texas
Bale Tire Store	DEE-6890	06/27/79	Kentucky
Bartkus Oil Corporation	DEE-6898	06/27/79	Colorado
Braxton's Amoco	DEE-6936	06/27/79	Virginia
Brown's Gas & Grocery	DEE-6937	06/27/79	Texas
C. B. Ragland Co	DEE-6888	06/27/79	Tennessee
Cave Springs Chevron No. 8044	DEE-6878	06/27/79	California
Dick	DEE-6897	06/27/79	California
Duncan Oil Company	DEE-7118	06/27/79	South Carolina
Ebbetts Pass Gas Service	DEE-6935	06/27/79	California
Hartwell Industries, Inc	DEE-6893	06/27/79	South Carolina
Hillcrest Mobil Service Station	DEE-6943	06/27/79	Texas
Homes Oil Co., Inc	DEE-6894	06/27/79	District of Columbia
Howard Cook-General Contractor	DEE-6895	06/27/79	Florida
James Oil Company	DEE-7209	06/27/79	Texas
John's Auto Service	DEE-6934	06/27/79	Louisiana
Kern's Thrift	DEE-6886	06/27/79	Kentucky
Marlborough Sinclair Service	DEE-6877	06/27/79	Missouri
Mike Craig Arco Station	DEE-6932	06/27/79	Pennsylvania
North River Gulf	DEE-7196	06/27/79	Georgia
Pete Loupe Mobil Service	DEE-6899	06/27/79	Louisiana
Senn Texaco Station	DEE-6881	06/27/79	Texas
Stemmons Freeway Mobil Station	DEE-6880	06/27/79	Texas
Thompson Oil Co. of Tulsa, Inc	DEE-6896	06/27/79	Oklahoma
Transportation Testing Inc. of	DEE-6938	06/27/79	Texas
Travelers Petroleum Inc	DEE-6959	06/27/79	South Carolina
W & J Supply	DEE-6892	06/27/79	California
Barbara's Texaco	DEE-6948	06/28/79	Texas
Belvidere Car Wash	DEE-6951	06/28/79	Massachusetts
Bescar Industries	DEE-6942	06/28/79	Delaware
Bob's Standard	DEE-6965	06/28/79	Minnesota
C. T. Decinces Construction Corp	DEE-6952	06/28/79	California
Courtesy Tow Service	DEE-6950	06/28/79	California
Crest International Petroleum	DEE-6953	06/28/79	Virginia
Crounse Corporation	DEE-6958	06/28/79	Kentucky
Dry Gulch Buggy Wash., Inc	DEE-6933	06/28/79	Texas
Easy Shop-Canton, OK	DEE-6962	06/28/79	Oklahoma
Easy Shop-Hydro, OK	DEE-6963	06/28/79	Oklahoma
Easy Shop-Thomas, OK	DEE-6961	06/28/79	Oklahoma

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Fletcher Oil Company	DEE-6869	06/28/79	Arkansas
Frank's N. 52 Service	DEE-6947	06/28/79	Minnesota
G & H Shell, Inc.	DEE-6960	06/28/79	Pennsylvania
Johnson's Grocery	DEE-6955	06/28/79	Virginia
Lane, Lee Roy	DEE-6956	06/28/79	Georgia
Parkview Texaco	DEE-6949	06/28/79	Louisiana
Rulon, John C	DEE-6967	06/28/79	California
Smitty's Amoco	DEE-6964	06/28/79	Connecticut
Truckstops Corporation of Am	DEE-6966	06/28/79	Arkansas
Ware Oil Company Incorporated	DEE-6969	06/28/79	Virginia
Antietam Exxon	DEE-7013	06/29/79	Maryland
Bobby's Ashley Plaza Amoco	DEE-6981	06/29/79	South Carolina
Camacho Aenal Service	DEE-6982	06/29/79	California
Community Fuel	DEE-6979	06/29/79	New York
Fred's Service Center	DEE-6975	06/29/79	Maryland
Huss, John	DEE-6978	06/29/79	North Carolina
Jerry Menefee Shell Station	DEE-6977	06/29/79	Texas
Kingston Hill Store	DEE-7015	06/29/79	Rhode Island
Russ's Mobil	DEE-6971	06/29/79	California
San Fernando Valley Academy	DEE-6980	06/29/79	California
Summer Ave. 66 Service	DEE-6976	06/29/79	Tennessee
Texaco Service Station	DEE-6973	06/29/79	Texas
U.S. Post Office (Alvin, TX.)	DEE-6983	06/29/79	Texas
Webster, John	DEE-7036	06/29/79	Mississippi

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[FR Doc. 79-27372 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 2913, 2918]

Alabama Electric Cooperative Inc. and Municipal Electric Authority of Georgia; Applications for Preliminary Permit

August 23, 1979.

Take notice that Alabama Electric Cooperative, Incorporated (AEC) and the Municipal Electric Authority of Georgia (MEAG), filed on March 7, 1979, and March 16, 1979, respectively, competing applications [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–§ 825(r) (1976)] for preliminary permits for proposed hydroelectric power projects, each to be known as the George W. Andrews Lock and Dam Project (FERC Project Nos. 2913 and 2918, respectively), located on the Chattahoochee River. Project No. 2913 would be located in Early County, Georgia and Houston County, Alabama.[1] Project No. 2918 would be located in Early County, Georgia. The proposed projects would be located on a navigable waterway of the United States; occupy in whole, or in part, lands of the United States; and use the water power from the Corps of Engineers' George W. Andrews dam.

Correspondence with Alabama Electric Cooperative, Incorporated should be directed to: Mr. Charles Lowman, General Manager, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420.

Correspondence with the Municipal Electric Authority of Georgia should be directed to: Mr. Donald L. Stokely, General Manager, Municipal Electric Authority of Georgia, 800 Peachtree Center—South Tower, 225 Peachtree Street, Atlanta, Georgia 30303 and Mr. L. Clifford Adams, Jr., General Counsel, 66 Luckie Street, N.W.—Suite 520, Atlanta, Georgia 30303.

Project Description—AEC's proposed project would consist of: (1) a powerhouse constructed as an integral part of the spillway section of the U.S. dam; (2) a single horizontal-axis turbine-generator with an estimated (preliminary) installed capacity of 10,000 kW at a rated head of 16 feet; and (3) appurtenant facilities. The estimated annual output of the proposed project is 60,000,000 kWh. The project would be operated in coordination with the Corps of Engineers' Walter F. George Powerplant, which is located 28 miles upstream, to reregulate the erratic inflows caused by peaking power operations of the Walter F. George powerhouse.

MEAG's proposed project would consist of: (1) a powerhouse constructed as an integral part of the U.S. dam and adjacent to the navigation lock; (2) hydroelectric generating units (number, size and type to be determined in the course of the study) with a total estimated (preliminary) installed capacity of 30,000 kW, operating at an average head of 24 feet; (3) step-up transformers; (4) approximately one mile of double-circuit 115-kV transmission line to connect with the existing electric distribution system; and (5) appurtenant facilities. The estimated annual output of the proposed project is 86,724,000 kWh.

Purpose Of Project—Project energy will be utilized in meeting power requirements of the customers for whose power supply the Applicants are responsible.

Proposed Scope And Cost Of Studies Under Permit—AEC and MEAG each seek the issuance of a preliminary permit for a period of 36 months, during which time the Applicants propose to study the feasibility of installing hydroelectric generating units at the existing George W. Andrews Lock and Dam of the U.S. Army Corps of Engineers. AEC estimates the cost of studies under the permit would be $95,000. MEAG estimates the cost of studies under the permit would be $58,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, Applicants each seek a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (A copy of the applications may be obtained directly from the respective Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have to comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about either application

[1] Maps filed as part of the original document.

should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 29, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27377 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-430]

Natural Gas Pipeline Company of America; Application

August 24, 1979

Take notice that on August 6, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-430 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a change prior to November 1, 1979, in the time period that Natural's presently effective Rate Schedule AOR-1 (Authorized Over-Run) Service is offered to Natural's present jurisdictional purchasers from the current seven-month period (April through October) to a twelve-month period, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural pursuant to its FERC Gas Rate Schedule AOR-1, has offered natural gas volumes available (over-run gas) on its system that in Natural's judgment are not required to meet its current entitlements and company requirements to its nine presently curtailed participating customers.[1] These over-run gas deliveries would be subject to curtailment or interruption at any time when in Natural's sole judgment such over-run gas is not available for delivery. Natural seeks authorization to have the ability to offer this service at any time during the year as opposed to only during the April through October period.

Natural requests that the Commission issue the authorization requested herein prior to November 1, 1979, so that it would be able to continue to offer the AOR-1 Service for the ensuing winter period and for twelve month periods thereafter.

Natural's charge for gas delivered under Rate Schedule AOR-1 is based on the commodity rate component level of its Rate Schedule DMQ-1. The effective rate for Rate Schedule AOR-1 is 163.10 cents per Mcf and is effective subject to refund pending the outcome of Natural's rate increase filing pending in Docket No. RP78-78.

Natural states that by extending its AOR-1 service to a full twelve-month period Natural would acquire greater flexibility in matching its available gas supply with its customers' requirements. No new or additional facilities would be required to effectuate the proposal herein requested as this service is subject to the availability of gas supply to Natural and Natural's ability to transport and deliver available AOR-1 gas to participating customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed with the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27380 filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Rate Schedule AOR-1 is available to any of Natural's DMQ-1 or G-1 customers. However, said rate schedule also provides that during any month when Natural is curtailing its customers, Natural is required to offer this over-run service first to its curtailed customers to the extent of such curtailment. Natural does not foresee offering any over-run gas volumes in excess of its curtailment in any month, and only its nine curtailed customers have participated in this service to date.

[Docket No. CP79-432]

Northern Natural Gas Co.; Application

August 22, 1979

Take notice that on August 7, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-432 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon and remove two 1,080 horsepower compressor units from its Redfield, Iowa, Storage Field and further, for a certificate of public convenience and necessity authorizing the construction and operation of certain interconnecting and compression facilities located in Calcasieu Parish, Louisiana, and in Pecos County, Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Northern requests authorization to construct and operate a pipeline interconnection and compressor station between the facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Texas Eastern Transmission Corporation (Texas Eastern) to be located near Starks, Calcasieu Parish, Louisiana, and to construct and operate a pipeline interconnection and compressor station between the facilities of Oasis Pipe Line Company (Oasis) and Northern near Fort Stockton, Pecos County, Texas.

Northern states that it has obtained a commitment of reserves from twelve producers having interest in 7 blocks in the High Island area, offshore Texas, and the West Cameron area, offshore Louisiana.

In July 1979, the application indicates, an estimated 85,000 Mcf per day would

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be available to Northern from certain of the blocks and it is anticipated that in November 1979 the deliverability from the gas reserves attributable to Northern's interest in the blocks would be 130,000 Mcf per day. Such gas would be transported from various points in the High Island and West Cameron areas to a point in West Cameron Block 167, offshore Louisiana, by High Island Offshore System (HIOS), pursuant to a transportation agreement dated February 15, 1978 as amended, between HIOS and Northern. At the northern terminus of the HIOS system in West Cameron Block 167, U–T Offshore System (U–TOS) would take delivery of Northern's gas and would transport such gas to a point of interconnection onshore with the existing facilities of Transco near Johnson's Bayou, Cameron Parish, Louisiana, pursuant to a transportation agreement dated May 1, 1978, as amended, between U–TOS and Northern.

Pursuant to a gas transportation agreement between Transco and Northern dated June 14, 1979, Transco would transport up to 150,000 Mcf per day of Northern's offshore gas received at the terminus of the U–TOS system north through its pipeline system to the point of interconnection, near Starks. The gas would then be compressed and delivered into an existing 30-inch pipeline owned by Texas Eastern. The transportation of gas by Transco for Northern's account would be on a best efforts basis until certain facilities are installed on Transco's Southwest Louisiana Gathering System and the facilities proposed are installed and operating. The agreement also provides for the transportation and delivery on a best efforts basis, of up to 150,000 Mcf per day for Northern's account to an existing interconnection between the pipeline facilities of Transco and Texas Eastern near Ragley, Louisiana.

By agreement dated June 7, 1979, between Texas Eastern and Northern, Texas Eastern would transport up to 100,000 Mcf per day on a firm basis and 50,000 Mcf per day on a best efforts basis of Northern's offshore gas received at the Starks Interconnection and deliver such to Houston Pipe Line Company (Houston) and the Mont Belvieu Interconnection between Texas Eastern and Houston located in Chambers County, Texas and/or at an interconnection located near Mauriceville, Orange County, Texas. Pending completion of Transco's facilities and the Starks Interconnection, Texas Eastern would take delivery of gas from Transco, for Northern's account at the Ragley Interconnection for further transportation and delivery to Houston.

Northern proposes to construct and operate the following facilities:

(1) An interconnection and compressor station between the pipeline facilities of transco and Texas Eastern near Starks, Calcasieu Parish, Louisiana. The facilities would consist of three 3,100 horsepower turbine driven compressor units (Starks Compressor Station), approximately 0.8 mile of 16-inch pipeline extending from the discharge of the proposed compressor station to Texas Eastern's existing 30-inch pipeline and measurement facilities (Starks Interconnection). One of the units installed at the proposed Starks Compressor Station would serve as a standby unit. Texas Eastern would operate the proposed pipeline and measurement facilities, as agent for Northern.

(2) Minor facilities to reconnect an existing emergency interconnection between the facilities of Oasis and Northern located in, Pecos County, Texas (Oasis Delivery Point).

(3) Two 1,080 horsepower turbine drive compressor units (Gomez #2 Compressor Station) at the oasis Delivery Point located in Pecos County, Texas.

The compressor facilities which Northern requests authorization to construct and operate are necessary to effectuate the delivery of gas to Texas Eastern at the Starks Interconnection and the receipt of such gas volumes from Oasis in Pecos County, Texas, it is asserted.

The estimated cost of the proposed facilities is $10,633,500, and would be financed from cash on hand.

Northern presently has six compressor units with a total of 9,160 compressor horsepower installed at its Redfield, Iowa, Storage Field. It has been determined that as a result of operating changes at Redfield, two 1,080 horsepower turbine drive compressor units are no longer required at the Redfield Storage Field.

Northern can maintain the desired injection and withdrawal volumes with less horsepower than is presently installed. Under present and proposed operating conditions, Northern has 2,160 horsepower in excess of the 7,000 horsepower required to compress the volumes to be injected into and withdrawn from the Redfield Storage Field.

Northern plans to utilize the surplus Redfield Storage Field units at the proposed Gomez #2 Compressor Station. The estimated cost of removing the Redfield units is $60,000 which would be financed from cash on hand.

Therefore, Northern requests permission and approval to abandon and remove two 1,080 horsepower turbine driven compressor units from its Redfield, Iowa, Storage Field.

The proposed facilities would materially assist Northern in meeting its customer's requirements during the 1979–80 heating season by enabling it to deliver new gas supplies to Texas Eastern and to ultimately receive back such volumes on a reliable basis from Oasis.

Northern plans to commence construction of the proposed Starks Interconnection in September 1979 with a projected completion date of December 15, 1979, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1979, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment and a grant of the certificate are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27376 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79–456; ER79–458]

Ohio Power Co., et al.; Order Accepting Termination of Rate Schedules for Filing, Suspending Termination, Consolidating Dockets and Establishing Procedures

Issued August 24, 1979.

On June 25, 1979, Ohio Power Company (Ohio) and The Dayton Power and Light Company (Dayton) jointly tendered for filing a Notice of Termination of Supplement No. 1 to Supplement No. 16 to Ohio's Rate Schedule FERC No. 36, and Supplement No. 1 to Supplement No. 3 to Dayton's Rate schedule FERC No. 31—Service Schedule I—Fuel Conservation Power and Energy. Ohio and Dayton state that under the Schedule no service is to be provided after December 31, 1974. Therefore, they request the Commission to order that the notice of termination become effective at any time after December 31, 1974 as provided in § 35.15 of the Commission's Rules of Practice and Procedure. Ohio and Dayton have not filed a superseding fuel conservation service rate schedule.

Notice of the filing was issued on July 3, 1979 with comments, protests or petitions to intervene due on or before July 23, 1979. No comments, protests or petitions to intervene were filed.

On June 25, 1979, Indiana & Michigan Electric Company (I&M) and Central Illinois Public Service Company (CIPSCO) jointly tendered for filing a Notice of Termination of I&M's Rate Schedule FERC No. 67 and CIPSCO's Rate Schedule FERC No. 76—Service Schedule H—Fuel Conservation Power and Energy. I&M and CIPSCO state that under the schedule no service is to be provided after December 31, 1974. Therefore, they request the Commission to order that the notice of termination become effective at any time after December 31, 1974 as provided in Section 35.15 of the Commission's Rules of Practice and Procedure. I&M and CIPSCO have not filed a superseding fuel conservation service rate schedule.

Notice of the filing was issued on July 3, 1979 with comments, protests or petitions to intervene due on or before July 24, 1979. No comments, protests and petitions to intervene were filed.

In a recent order, we consolidated proceedings in a number of dockets, all regarding conservation energy rates, for the purpose of establishing "comprehensible and comprehensive interchange arrangements under which crisis-related transactions should take place." [1] Our concern that rates used during emergency situations be just and reasonable prompted our investigation into such transactions occurring during the coal strike of 1977–1978.[2] We also are considering this subject in rulemakings regarding emergency interchange energy rates [3] and percentage adders on energy rates.[4]

Taking seriously the possibility of fuel emergencies in the future similar to the oil embargo of 1973 and to the coal strike of 1977–1978, we believe it desirable that appropriate rates be on file for fuel conservation service. We are troubled that the two proposed termination described above are not filed with superseding fuel conservation service rate schedules. In particular, we note that the proposed cancellations, if granted, might leave the parties without an appropriate rate schedule to employ in certain kinds of emergencies. Yet it is not clear from the filings that the utilities involved would not intend to provide such service if an emergency arose. Therefore, our review of the filings indicates that the proposed terminations have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful.[5] Accordingly, we shall accept the proposed terminations for filing and suspend them for five months, to become effective January 25, 1980, subject to refund, pending the outcome of a decision thereon. We shall convene a hearing to decide the justness and reasonableness of the proposed cancellations and to fix, just and reasonable conservation service rates for the parties if it is first determined that the proposed cancellations are not just and reasonable. Since common issues of law and fact exist in the two filings, we shall consolidate the two dockets.

The Commission orders: (A) Due to the existence of common issues of law and fact in the proposed terminations, Docket Nos. ER79–456 and ER79–458 are hereby consolidated.

(B) The proposed joint termination of Ohio's Rate Schedule FERC No. 36 and Dayton's Service Schedule I are accepted for filing and suspended for five months to become effective January 25, 1980, subject to refund.

(C) The proposed joint termination of I&M's Rate Schedule FERC N0. 67 and CIPSCO's Service Schedule H are accepted for filing and suspended for five months to become effective January 25, 1980, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, as amended, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held under sections 205 and 206 of the Federal Power Act concerning the justness and reasonableness of the services changes proposed by the four companies who are the parties in this proceeding and, if necessary, to set a just and reasonable rate for conservation service between the parties.

(E) An Administrative Law Judge shall be designated by the Chief Administrative Law Judge for purposes of convening a conference in this proceeding. Such conference shall be held within 30 days of issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. The Presiding Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27384 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

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[1] Order Consolidating Proceedings and Providing for Prehearing Conference, *Indiana and Michigan Electric Company, et al.*, Docket Nos. ER78–229, *et al.*, issued May 14, 1979 (at page 3).

[2] *See*, Order Instituting Investigation Under the Federal Power Act, Docket No. ER78–367 issued May 10, 1978; *see also* Report of Designated Officer, issued March 19, 1979.

[3] *See*, Notice of Proposed Rulemaking Governing Interchange Energy Rates During Section 202(c) Emergencies, Docket No. RM79–28, issued April 4, 1979.

[4] *See*, Notice of Proposed Rulemaking Limiting Percentage Adders in Electric Rates, Docket No. RM79–29, issued April 4, 1979.

[5] Compare, "Order Suspending Cancellation of Schedule, Denying Waiver of Notice and Establishing Procedures," *Public Service Company of Indiana*, Docket No. ER79–324, issued June 29, 1979.

[Docket No. ID-1879]

John B. Randazza; Filing

August 24, 1979

Take notice that on August 16, 1979, John B. Randazza (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Position, Name of Corporation and *Classification*

Vice Pres., Central Maine Power Co., Public Utility.
Director, Connecticut Yankee Atomic Power Co., Public Utility.
Director, Main Yankee Atomic Power Co., Public Utility.
Vice Pres., Main Yankee Atomic Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27381 Filed 8-31-79, 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EF79-3051]

Southeastern Power Administration; Order Approving Extension of Short-Term Rates

Issued August 24, 1979.

The Assistant Secretary for Resource Appplications (RA) of the Department of Energy, on behalf of the Southeastern Power Administration (SEPA) on March 5, 1979, tendered for filing, for the Commission's confirmation and approval on a final basis, an extension of short-term rates for the sale of hydroelectric power from the Corps of Engineers' Laurel project to East Kentucky Power Cooperative, Inc. (East Kentucky) for the period April 1 through June 30, 1979.[1]

The Laurel project began operation as a hydroelectirc generating facility on October 25, 1977. SEPA originally intended to sell one half of the project's output to East Kentucky and to sell the other half to eight municipal customers in Kentucky (municipals). The power proposed for sale to the municipals was to be transmitted over the transmission facilities of East Kentucky and the Kentucky Utilities Company (KU) SEPA and KU, however, failed prior to the initial operation of Laurel project to agree on a wheeling contract for power allocated to the municipals. While negotiations for a wheeling contract continued, SEPA entered into a temporary contract for sale of the entire project output to East Kentucky. SEPA and KU still have not completed a wheeling agreement.

SEPA has been selling power to East Kentucky under short-term rates that went into effect on November 1, 1977, and after several extensions, are effective until March 31, 1979.[2] In this docket, RA requests further extensions of these short-term rates through June 30, 1979. Subsequent to filing this request for extension, RA has filed long-term rates with the Commission to take effect on June 1, 1979.[3]

Public notice of this filing was published in the **Federal Register** on May 4, 1979. Protests and petitions to intervene were due on or before May 16, 1979.

A petition to intervene was filed jointly on May 16, 1979 by the Cities of Barbourville, Corbin, Falmouth and the Electric and Water Plant Board of the City of Frankfort, Kentucky (Cities), all municipal customers of SEPA. In their petition to intervene, the Cities do not protest the level of SEPA's proposed short-term rates, but they do request that terms and conditions be attached to these rates in order to protect their rights to their share of the Laurel project output. The Cities allege that KU "unlawfully and unreasonably refuses to agree" on provisions of a wheeling agreement with SEPA because the Laurel project power that SEPA originally intended to sell the Cities would replace power the Cities presently buy from KU. To encourage KU to complete a wheeling contract with SEPA, the Cities request that the proposed short-term rate schedule incorporate a banking provision that will reserve Cities' allocated share from the Laurel project (dating back to October, 1977, and continuing until satisfactory transmission agreements are completed between KU and SEPA) to be deliyered to Cities at a later date.

We find that the level of the proposed short-term rates meets the statutory requirements. The Cities' request to attach terms and conditions to the proposed rates raises the issue of whether the Commission has authority to grant the relief requested. The Commission shares jurisdiction over power sales by Federal power producers, such as SEPA, with the Department of Energy under Section 5 of the Flood Control Act of 1944; under Section 302 of the Department of Energy Organization Act, and under Section 2 of the Secretarial Delegation Order No. 0204-33, as follows:

Section 5, Flood Control Act of 1944

Electric power and energy generated at reservoir projects under the control of the War Department and in the opinion of the Secretary of War not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years * * *

Section 302(a)(1), Department of Energy Organization Act

There are hereby transferred to, and invested in, the Secretary all functions of the Secretary of the Interior under Section 5 of the Flood Control Act of 1944 * * *

Section 2 of Secretarial Delegation Order 0204-33

2. There is hereby delegated and assigned to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis, or to disapprove, rates developed by the Assistant Secretary under Section 1 * * *

All seen above, the law provides that authority over the allocation of power generated at SEPA's Laurel project lies with the Secretary of DOE. The FERC has final authority over the rate level of power sold by SEPA. Even if the Commission has authority to reject the rate filing on the condition that the requested banking arrangement be inserted in the proposed rate schedule, such authority should not be exercised in that the rate level is not contested and the most appropriate forum for the controversy is before the Assistant Secretary for Resource Applications or SEPA, the entities responsible for the allocation of the power.

The Commission orders: (A) The extension of the short-term rates developed by the Assistant Secretary for Resource Applications of the Department of Energy for the Laurel project, as described above, is hereby confirmed and approved.

(B) The Cities' are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of these intervenors shall be limited to matters set forth in their petition to intervene; and *Provided, further* That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) The Cities' request to restrict and condition our approval and extension of the Laurel project short-term rates is hereby denied.

(D) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27382 Filed 8-31-79, 8:45 am]
BILLING CODE 6450-01-M

[1] The filing was made pursuant to the provision of Section 5 of the Flood Control Act of 1944, the Energy Organization Act, PL 95-91, and the Department of Energy Secretarial Delegation Order No. 0204-33.

[2] The short-term rate are as follows: $56,000 per declared calendar month for capacity plus 10 mills per KWH declared and made available.

[3] Docket No. EF79-3052 filed April 17, 1979.

[Docket No. RP73-64 (PGA79-2) (DCA79-2)]

Southern Natural Gas Co.; Order Granting Rehearing for Purpose of Further Consideration

Issued August 24, 1979.

The Commission has before it an application for rehearing of a June 29, 1979 order in the above-captioned docket. The application was filed by Southern Natural Gas Company and requests rehearing of that portion of the order that makes the effectiveness of Southern's PGA filing subject to the condition that pipeline affiliate producer costs be collected subject to refund and subject to Commission action on that issue in final Natural Gas Policy Act regulations (on rehearing).

The Commission has not yet concluded its deliberations on the issue raised in the application for rehearing. It is therefore appropriate in the administration of both the Natural Gas Act and the Natural Gas Policy Act and in the public interest to grant rehearing of the June 29, 1979 order to afford time for additional consideration of this issue.

The Commission Orders: The application for rehearing filed by Southern Natural Gas Company on July 27, 1979, is hereby granted for the limited purpose of further consideration. As provided by Section 1.34(d) of the Commission's Regulations, no answers to the application will be entertained by the Commission since this order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27383 Filed 8-31-79, 8:45 am]
BILLING CODE 6450-01-M

Southern Natural Gas Co., et al.; Notice of Determinations By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 24, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Alabama Oil and Gas Board

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16136/6-8-795 PD
2. 01-057-20122
3. 102
4. Grace Petroleum Corporation
5. C Atkinson 17-1
6. Bluff
7. Fayette, AL
8. 124.0 million cubic feet
9. August 13, 1979
10. Southern Natural Gas Co

1. 79-16137/8-3-791 PD
2. 01-057-20145
3. 102
4. Warrior Drilling & Eng Co Inc
5. King-Watt 4-15 #1
6. McCracken Mountain
7. Fayette, AL
8. 25.0 million cubic feet
9. August 13, 1979
10. Warrior Drlg & Engr-P/L Div

1. 79-16138/8-3-792 PD
2. 01-075-20204
3. 102
4. Warrior Drilling & Eng Co Inc
5. Airline Manufacturing Co 23-3
6. Blowhorn Creek
7. Lamar, AL
8. 69.0 million cubic feet
9. August 13, 1979
10.

Illinois Department of Mines and Minerals, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16115
2. 12-191-00000
3. 103
4. Louis A Pessina Oil & Gas Exploration
5. Katherina Goff No 3
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 6, 1979
10. Crystal Oil Company

1. 79-16116
2. 12-191-00000
3. 103
4. Louis A Pessina Oil & Gas Exploration
5. Katherina Goff No 4
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 6, 1979
10. Crystal Oil Company

1. 79-16117
2. 12-191-00000
3. 103
4. Louis A. Pessina Oil & Gas Exploration
5. Katherina Goff No 5
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 6, 1979
10. Crystal Oil Company

1. 79-16118
2. 12-191-28865
3. 103
4. Texaco Inc
5. W W Thomas NCT-3 No 2
6. Johnsonville
7. Wayne, IL
8. 12.0 million cubic feet
9. August 6, 1979
10. Crystal Oil Company

1. 79-16119
2. 12-191-00000
3. 103
4. Texaco Inc
5. W W Thomas NCT-3 No 3
6. Johnsonville
7. Wayne, IL
8. 3.0 million cubic feet
9. August 6, 1979
10. Crystal Oil Company

Louisiana Office of Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16197/79–1740
2. 17–109–21605
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #4—147952
6. Lake Hatch
7. Terrebonne LA
8. 365.0 million cubic feet
9. August 13, 1979
10.

1. 79–16198/79–1741
2. 17–109–21654
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #5—148745
6. Lake Hatch
7. Terrebonne LA
8. 146.0 million cubic feet
9. August 13, 1979
10.

1. 79–16199/79–1742
2. 17–109–21654
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #5-D—151610
6. Lake Hatch
7. Terrebonne LA
8. 365.0 million cubic feet
9. August 13, 1979
10.

1. 79–16200/79–1739
2. 17–109–21535
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #3—146618
6. Lake Hatch
7. Terrebonne LA
8. 365.0 million cubic feet
9. August 13, 1979
10.

1. 79–16201/79–1688
2. 17–109–22017
3. 102
4. The Louisiana Land & Exploration Co
5. S/L 188 Caillou Is #684—158637
6. Caillou Island
7. Terrebonne LA
8. 241.0 million cubic feet
9. August 13, 1979
10. Texas Eastern Transmission Corp

1. 79–16202/79–1689
2. 17–075–21985
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #1—148405
6. Lake Washington
7. Plaquemines LA
8. 141.0 million cubic feet
9. August 13, 1979
10. Mid-Louisiana Gas Company

1. 79–16203/79–1690
2. 17–075–21997
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #4—148532
6. Lake Washington
7. Plaquemines LA
8. 201.0 million cubic feet
9. August 13, 1979
10. Mid-Louisiana Gas Company

1. 79–16204/79–1691
2. 17–075–22066
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #5—150199
6. Lake Washington
7. Plaquemines LA
8. 183.0 million cubic feet
9. August 13, 1979
10. Mid-Louisiana Gas Company

1. 79–16205/79–19
2. 17–109–21986
3. 102
4. Pennzoil Producing Company
5. Continental Land & Fur Co D #1
6. Kent Bayou
7. Terrebonne LA
8. 35.0 million cubic feet
9. August 13, 1979
10. United Gas Pipe Line Company

1. 79–16206/79–219
2. 17–109–22043
3. 102
4. Pennzoil Producing Company
5. Continental Land & Fur Co C #2
6. Kent Bayou
7. Terrebonne LA
8. 35.0 million cubic feet
9. August 13, 1979
10. United Gas Pipe Line Company

1. 79–16207/79–220
2. 17–109–22008
3. 102
4. Pennzoil Producing Company
5. Continental Land & Fur Co D #1
6. Kent Bayou
7. Terrebonne LA
8. 35.0 million cubic feet
9. August 13, 1979
10. United Gas Pipe Line Company

1. 79–16208/79–1673
2. 17–717–20143
3. 102
4. Chevron USA Inc
5. SL 1486 #21
6. Bay Marchand Block 2
7. Lafourche LA
8. 30.6 million cubic feet
9. August 13, 1979
10. Tennessee Gas Pipe Line Company

1. 79–16209/79–1681
2. 17–101–20999
3. 102
4. Texaco Inc
5. SL 340 Atchafalaya Bay #36
6. Belle Isle
7. Saint Mary LA
8. 6205.6 million cubic feet
9. August 13, 1979
10. United Gas Pipe Line Company

1. 79–16210/79–1683
2. 17–707–20073
3. 102
4. Texaco Inc
5. Lighthouse Point #19
6. Lighthouse Point
7. Vermilion and/or Ibela
8. 292.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipe Line Company

1. 79–16211/79–1632
2. 17–101–21076
3. 102
4. Texaco Inc
5. Belle Isle No. 38
6. Belle Isle
7. Saint Mary LA
8. 3650.0 million cubic feet
9. August 13, 1979
10. United Gas Pipe Line Company

Michigan Department of Natural Resources

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16134
2. 21–035–00000
3. 102
4. Dart Oil & Gas Corporation
5. EGTS #7–29 (32477)
6. Lucas FM (Richfield)
7. Clare MI
8. 20.0 million cubic feet
9. August 8, 1979
10. Consumers Power Company

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16128/3–79–4
2. 25–101–21595
3. 108
4. Croft Petroleum Co
5. R J Christiaens No 1
6. Willow Ridge Gas Field
7. Toole County MT
8. 10.8 million cubic feet
9. August 13, 1979
10. The Montana Power Co

1. 79–16129A/4–79–192A
2. 25–095–21019
3. 108
4. Concept Resources Inc
5. State 4–16
6. Rapelje
7. Stillwater MT
8. 10.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16129B/4–79–192B
2. 25–095–21022
3. 108
4. Concept Resources Inc
5. State 4A–16
6. Rapelje
7. Stillwater MT
8. 10.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16130A/4–79–191A
2. 25–095–21027
3. 108
4. Concept Resources Inc
5. Gorr 3–10
6. Rapelje
7. Stillwater MT
8. 14.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16130B/4–79–191A
2. 25–095–21027
3. 108
4. Concept Resources Inc
5. Gorr 3–10
6. Rapelje
7. Stillwater MT
8. 14.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16131/4–79–188
2. 25–095–21079
3. 108
4. Concept Resources Inc
5. Miller 1A–9
6. Rapelje
7. Stillwater MT
8. 12.0 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16132/4–79–155
2. 25–083–21155
3. 102
4. Farmers Union Central Exchange Inc
5. Unit 5–30
6. Mon Dak West
7. Richland MT
8. 25.0 million cubic feet
9. August 13, 1979
10. Shell Oil Company

1. 79–16133/3–79–113
2. 25–005–21348
3. 108
4. Energetics Inc
5. Energetics State #21×–21
6. Sawtooth Mountain
7. Blaine MT
8. 11.3 million cubic feet
9. August 13, 1979
10. Montana Power Company

New Mexico Department of Energy and Minerals; Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16143
2. 30–015–22447
3. 102
4. Mesa Petroleum Co
5. Lincoln State Com #1
6. Undesignated Morrow
7. Eddy, NM
8. 150.0 million cubic feet
9. August 13, 1979
10. Northern Natural Gas Company

1. 79–16144
2. 30–015–22517
3. 102
4. Mesa Petroleum Co
5. Penasco State Com #1
6. Undesignated (Penn)
7. Eddy, NM
8. 100.0 million cubic feet
9. August 13, 1979
10. Northern Natural Gas Company

1. 79–16145
2. 30–015–25570
3. 103, denied
4. Arco Oil and Gas Company
5. State T No 9
6. Denton Devonian
7. Lea, NM
8. 72.0 million cubic feet
9. August 13, 1979
10. Tipperary Land and Exploration Corp

1. 79–16146
2. 30–025–25497
3. 103, denied
4. Arco Oil and Gas Company
5. Flying M State #2
6. Flying M San Andres
7. Lea, NM
8. 13.0 million cubic feet
9. August 13, 1979
10.

1. 79–16147
2. 30–025–10744
3. 108
4. Millard Deck
5. Kelly State #2
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 2.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16148
2. 30–025–25380
3. 108
4. Millard Deck
5. L W White A #1
6. Eumont Yates Seven Rivers Queen
7. Lea, NM
8. 7.0 million cubic feet
9. August 13, 1979
10. Phillips Petroleum

1. 79–16149
2. 30–025–00000
3. 108
4. Albert Gackle (operator) et al
5. H E Esmond A #2
6. Jalmat-Tansill-Yates-Seven-Rivers P
7. Lea, NM
8. 2.4 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16150
2. 30–025–10743
3. 108
4. Millard Deck
5. Kelly State #1
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 2.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16151
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Lovington Paddock Unit #74
6. Lovington Paddock
7. Lea, NM
8. 2.0 million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16152
2. 30–025–10742
3. 108
4. Millard Deck
5. Kelly State #3
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 9.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16153
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Lovington Paddock Unit #35
6. Lovington Paddock
7. Lea, NM
8. 1.0 million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16154
2. 30–025–00000
3. 108
4. Warren Petroleum Co/Div of Gulf Oil
5. Harry Leonard (NCT–F) Well #11
6. Blinebry
7. Lea, NM
8. 5.4 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16155
2. 30–025–00000
3. 108
4. Gulf Oil Corporation
5. E A Stitcher Well No 2
6. Drinkard
7. Lea, NM
8. 2.5 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16156
2. 30–025–00000
3. 108
4. Warren Petroleum Co/Div of Gulf Oil
5. Harry Leonard (NCT–F) Well #14
6. Blinebry
7. Lea, NM
8. 4.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16157
2. 30–025–00000
3. 108
4. Warren Petroleum Co/Div of Gulf Oil
5. Harry Leonard (NCT–F) Well #16
6. Blinebry
7. Lea, NM
8. 3.5 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16158
2. 30–025–00000
3. 108
4. Gulf Oil Corporation
5. D W Hardin Well #8
6. Hobbs Grayburg San Andres
7. Lea, NM
8. .9 million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16159
2. 30–025–00000
3. 108
4. Warren Petroleum Co/Div of Gulf Oil
5. Harry Leonard (NCF–F) Well #12
6. Blinebry

7. Lea, NM
8. 4.5 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16160
2. 30–045–23096
3. 103
4. Amoco Production Company
5. MCEWEN Com C #1
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 107.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16161
2. 30–045–23015
3. 103
4. Manana Gas Inc
5. Clarence #1
6. Bloomfield-Farmington
7. San Juan, NM
8. .0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16162
2. 30–015–22694
3. 103
4. Texas Oil & Gas Corp
5. Indian Hills State Com #1
6. Undesignated cemetery (Morrow)
7. Eddy NM
8. .0 million cubic feet
9. August 13, 1979
10. National Gas P/L Co of America

1. 79–16163
2. 30–025–25653
3. 103
4. S & D Partnership
5. Drinkard Homestead No 1
6. Wantz (Granite Wash)
7. Lea NM
8. 55.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Co

1. 79–16164
2. 30–045–23204
3. 103
4. Amoco Production Company
5. Lopez Gas Com #1
6. Basin Dakota
7. San Juan NM
8. 49.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16165
2. 30–025–00000
3. 108
4. Sohio Natural Resources Company
5. Pruitt #2 Well
6. Eumont Yates 7 Rivers Queen
7. Lea NM
8. .0 million cubic feet
9. August 13, 1979
10. Getty Oil Company

1. 79–16166
2. 30–005–60461
3. 103
4. Amoco Production Company
5. State/Et/No 1
6. Penn-Und Buffalo Valley Atoka
7. Chaves NM
8. 78.0 million cubic feet
9. August 13, 1979
10. Transwestern Pipeline Co

1. 79–16167
2. 30–025–25962
3. 103
4. Sun Oil Company (Delaware)
5. Boren & Greer Gas Unit Well #2
6. Jalmat Transil Yates 7
7. Lea NM
8. 63.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16168
2. 30–025–26243
3. 103
4. John Yuronka
5. Harrison A #1
6. Langlie Mattix
7. Lea NM
8. 11.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16169
2. 30–015–22843
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–395
6. Empire ABO
7. Eddy NM
8. 33.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16170
2. 30–015–22822
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–324
6. Empire ABO
7. Eddy NM
8. 18.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16171
2. 30–015–22895
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–343
6. Empire ABO
7. Eddy NM
8. 41.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16172
2. 30–015–22776
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–382
6. Empire ABO
7. Eddy NM
8. 47.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16173
2. 30–015–22743
3. 103
4. Continental Oil Company
5. State 19 Comm No 1
6. Empire
7. Eddy NM
8. 650.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16174
2. 30–015–22845
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–314
6. Empire ABO
7. Eddy NM
8. 58.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16175
2. 30–015–22865
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–353
6. Empire ABO
7. Eddy NM
8. 91.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16176
2. 30–015–22864
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–291
6. Empire ABO
7. Eddy NM
8. 39.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16177
2. 30–015–22819
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–393
6. Empire ABO
7. Eddy NM
8. 56.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–16178
2. 30–025–25927
3. 103
4. Texas Pacific Oil Company Inc
5. J W Cooper No 7
6. Jalmat/Seven Rivers
7. Lea NM
8. 3.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16179
2. 30–025–00000
3. 108
4. Getty Oil Company
5. E L Steeler #5
6. Langlie-Mattix
7. Lea NM
8. 1.0 million cubic feet
9. August 13, 1979
10. Getty Oil Co Natural Gas Plant

1. 79–16180
2. 30–015–22896
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit K–143
6. Empire ABO
7. Eddy, NM
8. 91.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16181
2. 30–015–22821

3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–315
6. Empire ABO
7. Eddy, NM
8. 51.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16182
2. 30–015–22885
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L–155
6. Empire ABO
7. Eddy, NM
8. 227.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16183
2. 30–015–22787
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–334
6. Empire ABO
7. Eddy, NM
8. 37.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16184
2. 30–015–22846
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–352
6. Empire ABO
7. Eddy, NM
8. 91.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16185
2. 30–015–22817
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–362
6. Empire ABO
7. Eddy, NM
8. 67.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16186
2. 30–015–22808
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L–156
6. Empire ABO
7. Eddy, NM
8. 97.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16187
2. 30–015–22805
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–373
6. Empire ABO
7. Eddy, NM
8. 56.0 million cubic feet
9. August 13, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79–16188
2. 30–025–25632
3. 103
4. Arco Oil and Gas Company
5. Flying M State #3
6. Flying M-San Andres
7. Lea, NM
8. 4.0 million cubic feet
9. August 13, 1979
10.

1. 79–16189
2. 30–025–00000
3. 103 Denied
4. Warren Petroleum Corp/Div of Gulf O
5. Eaves Well No 3
6. Undesignated Wantz Granite Wash
7. Lea, NM
8. 48.5 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas

1. 79–16190
2. 30–025–25845
3. 103
4. Union Texas Petroleum
5. State A–32 No 4
6. Jalmat
7. Lea, NM
8. 135.0 million cubic feet
9. August 13, 1979
10. Northern Natural Gas Company

1. 79–16191
2. 30–025–00000
3. 108
4. Getty Oil Company
5. E L Steeler No 4
6. Langlite-Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. August 13, 1979
10. Getty Oil Co Natural Gas Plant

1. 79–16192
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No 114
6. Langlie Mattix
7. Lea, NM
8. 2.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16193
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No 158
6. Langlie Mattix
7. Lea, NM
8. 1.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16194
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No 226
6. Langlie Mattix
7. Lea, NM
8. 2.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

1. 79–16195
2. 30–025–25443
3. 108
4. Union Oil Company of Calif.
5. Northern Natural State #1
6. Rock Lake Morrow Gas
7. Lea, NM
8. 18.0 million cubic feet
9. August 13, 1979
10. Northern Natural Gas Co

1. 79–16196
2. 30–025–00000
3. 108
4. Getty Oil Company
5. Myers Langlie-Mattix No 180
6. Langlie Mattix
7. Lea, NM
8. 3.0 million cubic feet
9. August 13, 1979
10. El Paso Natural Gas Company

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16139/127–NGPA
2. 33–023–00161
3. 102
4. Mosbacher Production Co
5. George C. Anderson No. 1
6. Daneville (Red River)
7. Divide, ND
8. 115.0 million cubic feet
9. August 13, 1979
10.

1. 79–16140/128–NGPA
2. 33–053–00797
3. 102
4. Mosbacher Production Co
5. Federal Land Bank of St Paul 1–26
6. Indian Hill (Red River)
7. McKenzie, ND
8. 182.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16141/129–NGPA
2. 33–053–00797
3. 103
4. Mosbacher Production Co
5. Federal Land Bank of St Paul 1–26
6. Indian Hill (Red River)
7. McKenzie, ND
8. 182.5 million cubic feet
9. August 13, 1979
10. Montana-Dakota Utilities Co

1. 79–16142/130–NGPA
2. 33–023–00161
3. 103
4. Mosbacher Production Co
5. George C Anderson No 1
6. Daneville (Red River)
7. Divide, ND
8. 115.0 million cubic feet
9. August 13, 1979
10.

Ohio Department of Natural Resources, Divisions of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator

5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16135/03755
2. 34–019–20223–0014
3. 108
4. Belden & Blake Oil Production
5. Curtis Seeman =2–432
6.
7. Carroll, ND
8. 3.1 million cubic feet
9. August 13, 1979
10. Belden & Blake Corporation

Utah Division of Oil, Gas and Mining

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16126/K–110–11(1)
2. 43–047–30532
3. 103
4. Gas Producing Enterprises Inc
5. Natural Butts Cige 58–16–10–21
6. Bitter Creek
7. Uintah, UT
8. 32.0 million cubic feet
9. August 13, 1979
10. Colorado Interstate Gas Co

1. 79–16127/K–110–11(2)
2. 43–047–30512
3. 103
4. Gas Producing Enterprises Inc
5. Natural Butts Cige 55–1–10–21
6. Bitter Creek
7. Uintah, UT
8. 184.0 million cubic feet
9. August 13, 1979
10. Colorado Interstate Gas Co

Osage Agency, Bureau of Indian Affairs, Osage County, Okla.

1. Control number (FERC /State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16120
2. 35–113–23581–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch #15
6. Dog Creek South
7. Osage OK
8. 1.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16121
2. 35–113–23840–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch =18
6. Dog Creek South
7. Osage OK
8. 28.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16122
2. 35–113–23582–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch =13
6. Dog Creek South
7. Osage OK
8. 1.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16123
2. 35–113–23583–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch =14
6. Dog Creek South
7. Osage OK
8. 19.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16124
2. 35–113–23841–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch =16
6. Dog Creek South
7. Osage OK
8. 1.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

1. 79–16125
2. 35–113–23842–0000–0
3. 103
4. Sun Oil Company (Delaware)
5. Chapman-Barnard Ranch =17
6. Dog Creek South
7. Osage, OK
8. 25.0 Million cubic feet
9. August 13, 1979
10. Phillips Petroleum Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at The Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20326.

Persons objecting to any of these final determinations may in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 19, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–27386 Filed 8–31–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. E–9565]

Town of Massena, New York v. Niagara Mohawk Power Corporation and The Power Authority of the State of New York; Order Denying Request for Emergency Relief

Issued August 23, 1979.

On August 6, 1979, the Town of Massena (Massena) filed a "Motion For Immediate Clarification of Order Granting Request For Summary Disposition In Part, Denying Request For Summary Disposition In Part And Establishing Expedited Hearing Procedures And For Other Emergency Relief." In this motion, Massena does not, in fact, request "clarification" of the Commission's August 1, 1979 Order but rather requests the Commission to (a) order Niagara Mohawk Power Corporation (Niagara Mohawk) to provide emergency transmission service to Massena under the terms and conditions of Niagara Contract NS–1 between Niagara Mohawk and the Power Authority of the State of New York (PASNY) and (b) order PASNY to commence delivery of power and energy to Massena pursuant to PASNY's October 17, 1978 contract with Messena. We have determined that the Commission lacks the authority to grant the relief requested. Accordingly, Massena's request for immediate interim relief pending completion of the expedited hearing procedures in this docket is denied.

Background

The procedural history and facts surrounding this docket have been described in our August 1, 1979 order. In this motion, Massena offers no facts which were not before the Commission on August 1, 1979.

In support of its motion, Massena relies, in large part, on the following recent developments in its anti-trust proceeding against Niagara Mohawk in the Federal District Court for the Northern District of New York.[1] On July 6, 1979 that Court denied Massena's motion for a preliminary injunction requiring Niagara Mohawk to transmit PASNY power to Massena. Massena has since renewed that motion. On July 30, 1979, the Court entered a temporary restraining order enjoining Massena from taking physical possession of the condemned distribution system and operating the system pending a hearing upon Niagara Mohawk's motion for preliminary injunction. The temporary restraining order was extended for ten days on August 9, 1979. Niagara Mohawk filed an answer on August 8, 1979, contending that this Commission lacked the authority under 202(c) to order emergency transmission and, alternatively, that there was no emergency.

[1] *Town of Massena, New York* v. *Niagara Mohawk Power Corporation*, 79 CV 163.

Discussion

In support of the requested relief, Massena asserts that if the District Court denies the motions of both Massena and Niagara Mohawk for preliminary injunction and allows the temporary restraining order to lapse, Massena "will take physical possession of the condemned facilities and commence operating the system as of that time unless some other complication develops in the interim." (Motion at 4). Given Niagara Mohawk's continued refusal to provide transmission service to the town, Massena claims that its possession of the distribution system under the circumstances described above will constitute an emergency which entitles it to emergency transmission relief under Section 202(c) of the Federal Power Act. Without commenting on the merits of Massena's application for emergency transmission relief, we find that the Commission lacks the authority to grant such relief.

Pursuant to section 402 of the Department of Energy Organization Act,[2] 42 U.S.C. § 7172, certain functions of the Federal Power Commission were transferred to this Commission including:

> The establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress, under part II of the Federal Power Act, and the interconnection, under Section 202(b) of such Act, of facilities for the generation, transmission, and sale of electric energy (*other than emergency interconnection*) (*Emphasis supplied*).

While the language of the statute refers only to the Commission's lack of authority with respect to "emergency interconnection," we feel that the statute was intended to vest in the Secretary emergency management authority not only under section 202(c) of the Federal Power Act but also under the Natural Gas Act[3] and the Emergency Petroleum Allocation Act of 1973.[4] Thus, the Secretary has authority with respect to the ordering of emergency temporary interconnection of facilities *and* also "such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest," pursuant to section 202(c).[5] To permit the Commission to retain the authority to order emergency transmission service while transferring the authority to order emergency interconnection to another agency would frustrate the purposes of the emergency relief provision of the Federal Power Act and seriously compromise the ability of the Secretary to deal with fuel shortages such as those which occurred in the natural gas shortage of the winter of 1976–1977, the coal strike in 1978 and the petroleum product shortage in 1979. A reading of the statute which divides between two administrative bodies the section 202(c) authority to order emergency interconnection, transmission and sale of electric energy would make it difficult, if not impossible, for prompt, efficient and complete regulatory relief in the kind of emergencies described in section 202(c).

The Commission's view of the division of authority under the DOE Act is reinforced by the provisions of the Department of Energy Delegation Order No. 0204–4, effective October 1, 1977, which delegates to the Administrator of the Economic Regulatory Administration (ERA) the authority to order *all* emergency relief contemplated in section 202(c). The order states that "there is hereby delegated to the Administrator of the ERA the authority to adopt rules, issue orders, licenses, and allocations, collect fees, and take such other action as may be necessary and appropriate to administer the following function:

To order the temporary connections of facilities, during times of war or national emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Administrator's judgment will best meet the emergency and serve the public interest, pursuant to the provisions of section 202(c) of the Federal Power Act.

Our finding that we lack jurisdiction to act on Massena's request for emergency transmission service under section 202(c) is also consistent with our treatment of such applications in the past. See *Illinois Power Company*, Docket No. EL78–6 (issued February 1, 1978).

Of course, when and if the ERA exercises its authority under section 202(c) to order emergency interconnection, sales and wheeling, this Commission would set the rates and charges for such sales and service in accordance with this section of the Act. The DOE Act specifically gave the Commission authority to establish all "rates and charges . . . under Part II of the Federal Power Act."[6] We therefore do not read the DOE Act, *Illinois Power, supra*, or Delegation Order No. 0204–4 as limiting in any way the Commission's general ratemaking authority under part II, including the authority to set rates under section 202(c).[7]

Massena has also requested the Commission to order PASNY to commence delivery of power to Massena as of August 9, 1979, in fulfillment of PASNY's pre-existing contractual obligations.

To the extent that Massena is requesting this Commission to require PASNY to *sell* power to Massena, such a request is premature. Massena's current motion and earlier pleadings filed in this docket give no indication that PASNY will not comply with its contractual and license obligations with respect to sales of Niagara Project power to Massena. To the extent that Massena is requesting an order requiring PASNY to fulfill its statutory and license obligation to provide transmission service to Massena, the Commission has, in its August 1, 1979 order, recognized that such an obligation exists. We indicated however that the determination as to the most efficient and economic method of meeting that obligation must await further development of the factual record in this docket. This request for relief, therefore, must await the resolution of factual

[2] Pub. L. No. 95–91 Stat. 565 (1977), 42 U.S.C. 7101 et seq.

[3] Section 402(a)(1)(E).

[4] Section 402(c)(2).

[5] Apparently recognizing this Commission's lack of authority to order relief under section 202(c), on August 7, 1979 Massena filed an application for emergency relief under section 202(c) with the Economic Regulatory Administration. (Docket EC 79–1). On August 15, 1979, the application was denied.

[6] See "Notice of Proposed Rulemaking Governing Interchange Energy Rates During Section 202(c) Emergencies," Docket No. RM79–28, issued April 4, 1979.

[7] The Commission's retention of the ratemaking authority under 202(c) is not inconsistent with the vesting on ERA of authority to order emergency interconnection and wheeling. As specified in the Federal Power Act, the rates and terms of 202(c) emergency service may be prescribed *after* such emergency relief has been ordered. ERA has all necessary authority to provide prompt and adequate relief in an emergency, leaving to subsequent proceedings before the Commission any auxiliary decisions as to compensation or reimbursement.

issues in the expedited hearing in this docket.

The Commission orders:

(A) The Town of Massena's "Motion For Immediate Clarification Of Order Granting Request For Summary Disposition In Part, Denying Request For Summary Disposition In Part And Establishing Expedited Hearing Procedures And For Other Emergency Relief" is denied in its entirety.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-27378 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP71-29 and RP71-120 (Phase II)]

United Gas Pipeline Co.; Motion Denying Motion To Shorten Date for Responses

August 23, 1979.

On August 17, 1979, United Gas Pipeline Company filed a motion to establish procedures for consideration of settlement proposal, petition for waiver of rules and to shorten the time to file responses to the motion. The motion for shortened time states that the 15-day established time period set forth in § 1.12(c) of the Rules of Practice and Procedure (18 CFR 1.12) for responding to motions interferes with the timely expedition of the settlement proceeding. The motion raises a number of issues which will require careful deliberation by the Commission and the participants in this case.

Upon consideration, notice is hereby given that the motion to shorten dates for responses in the above-referenced proceeding is denied. Responses are due on September 4, 1979, pursuant to § 1.12(c) of the Commission's Rules of Practice and Procedure.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27379 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

United Gas Pipe Line Co., et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 24, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Arkansas Oil and Gas Commission

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, state or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-15971
2. 03-027-10545
3. 103
4. Art Machin & Associates Inc
5. Bodcaw No. 1 Well
6. Red Rock
7. Columbia, AR
8. 4.0 million cubic feet
9. August 2, 1979
10. United Gas Pipe Line Company

1. 79-15972
2. 03-027-00000
3. 103
4. Art Machin & Associates Inc
5. Bodcaw No 2 Well
6. Red Rock
7. Columbia, AR
8. 4.0 million cubic feet
9. August 2, 1979
10. United Gas Pipe Line Co

1. 79-15973
2. 03-027-10603
3. 103
4. Art Machin & Associates Inc
5. T S Grayson No 1
6. Red Rock
7. Columbia, AR
8. 7.0 million cubic feet
9. August 2, 1979
10. United Gas Pipe Line Co

1. 79-15974
2. 03-027-10651
3. 103
4. Art Machin & Associates Inc
5. T S Grayson No 2
6. Red Rock
7. Columbia, AR
8. 7.0 million cubic feet
9. August 2, 1979
10. United Gas Pipe Line Co

1. 79-15975
2. 03-027-00000
3. 103
4. Art Machin & Associates Inc
5. Reeves Land & Timber Co No 1
6. Red Rock
7. Columbia, AR
8. 3.0 million cubic feet
9. August 2, 1979
10. United Gas Pipe Line Co

1. 79-15976
2. 03-143-10034
3. 103
4. Bi-State Energy Inc
5. E G Bradberry #2
6. Brentwood
7. Washington, AR
8. 30.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15977
2. 03-143-10033
3. 103
4. Bi-State Energy Inc
5. E G Bradberry #1
6. Brentwood Field
7. Washington, AR
8. 20.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15978
2. 03-143-10035
3. 103
4. Bi-State Energy Inc
5. E G Bradberry #3
6. Brentwood Field
7. Washington, AR
8. 30.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-015979
2. 03-143-10008
3. 103
4. Bi-State Energy Inc
5. Fred Brown #1
6. Brentwood Field
7. Washington, AR
8. 60.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15980
2. 03-143-10015
3. 103
4. Bi-State Energy Inc
5. Fred Brown #2
6. Brentwood Field
7. Washington, AR
8. 36.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15981
2. 03-143-10016
3. 103
4. Bi-State Energy Inc
5. Robert Cole #1
6. Brentwood Field
7. Washington, AR
8. 40.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15982
2. 03-143-10021-103
3. 103
4. Bi-State Energy Inc
5. C R Haley #1
6. Brentwood Field
7. Washington, AR
8. 15.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15983
2. 03-143-10025
3. 103
4. Bi-State Energy Inc
5. Arlin Hughes #1
6. Brentwood Field
7. Washington, AR
8. 25.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15984
2. 03-143-10031
3. 103
4. Bi-State Energy Inc
5. Darrell Hughes #1
6. Brentwood Field
7. Washington, AR
8. 15.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15985
2. 03-143-10001
3. 103
4. Bi-State Energy Inc
5. Joseph Mayo #1
6. Brentwood Field
7. Washington, AR
8. 12.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15986
2. 03-143-10013
3. 103
4. Bi-State Energy Inc
5. Joseph Mayo #2
6. Brentwood Field
7. Washington, AR
8. 15.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15987
2. 03-143-10012
3. 103
4. Bi-State Energy Inc
5. Walter Moeller #1
6. Brentwood Field
7. Washington, AR
8. 30.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15988
2. 03-143-10019
3. 103
4. Bi-State Energy Inc
5. Marion Ramey #1
6. Brentwood Field
7. Washington, AR
8. 25.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15989
2. 03-143-10011
3. 103
4. Bi-State Energy Inc
5. P M Ramey #1
6. Brentwood Field
7. Washington, AR
8. 28.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15990
2. 03-143-10014
3. 103
4. Bi-State Energy Inc
5. P M Ramey #2
6. Brentwood Field
7. Washington, AR
8. 25.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15991
2. 03-143-10017
3. 103
4. Bi-State Energy Inc
5. Robin Rhodes #1
6. Brentwood Field
7. Washington, AR
8. 50.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15992
2. 03-143-10004
3. 103
4. Bi-State Energy Inc
5. J F Starr #1
6. Brentwood Field
7. Washington, AR
8. 25.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15993
2. 03-143-10007
3. 103
4. Bi-State Energy Inc
5. J F Starr #2
6. Brentwood Field
7. Washington, AR
8. 15.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15994
2. 03-143-10009
3. 103
4. Bi-State Energy Inc
5. Earl Underhill #1
6. Brentwood Field
7. Washington, AR
8. 45.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15995
2. 03-143-10010
3. 103
4. Bi-State Energy Inc
5. Earl Underhill #2
6. Brentwood Field
7. Washington, AR
8. 40.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15996
2. 03-143-10023
3. 103
4. Bi-State Energy Inc
5. Millard Watkins #1
6. Brentwood Field
7. Washington, AR
8. 68.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15997
2. 03-143-10028
3. 108
4. Wytex Production Corporation
5. Grover A Goad #1
6. Brentwood Field
7. Washington County, AR
8. 10.8 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

1. 79-15998
2. 03-143-10029
3. 103
4. Wytex Production Corporation
5. Elmer G Griffith #1
6. Brentwood Field
7. Washington County, AR
8. 36.0 million cubic feet
9. August 2, 1979
10. Arkansas Louisiana Gas Co

Colorado Oil and Gas Conservation Commission

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-15999/78202
2. 05-039-06310
3. 103
4. Champlin Petroleum Company
5. #1 CB Miller 41-5
6. Dead Eye
7. Elbert Co
8. 82.0 million cubic feet
9. August 10, 1979
10.

1. 79-16000/78-210
2. 05-123-09552
3. 103
4. Champlin Petroleum Company
5. #1 Rural Land 41-31
6. Hambert
7. Weld Co
8. 81.0 Million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipeline Co

1. 79-16001/78-233
2. 05-123-09305
3. 103
4. Energy Minerals Corporation
5. Koshio #2
6. Spincle Field
7. Weld County Co
8. 16.0 Million cubic feet
9. August 10, 1979
10. Thomas G Vessels

1. 79-15999/78268
2. 05-123-00000
3. 108
4. Energy Minerals Corporation
5. Shoe #1
6. Roggen Field
7. Weld Co
8. 19.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company

1. 79-16003/78-263
2. 05-123-08831
3. 108
4. Energy Minerals Corporation
5. Klien #1
6. Lost Creek Field
7. Weld Co
8. 13.0 Million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc

1. 79-16004/78-264
2. 05-123-08377
3. 108
4. Energy Minerals Corporation
5. Bixby 42-2
6. Roggen Field
7. Weld County Co
8. 15.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company

1. 79-16005/78-184
2. 05-087-07454
3. 103
4. Crystal Oil Company
5. Holbeck 33-9
6. Mosley
7. Morgan Co
8. 63.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Co

1. 79-16006/78-185

2. 05–123–09177
3. 103
4. Crystal Oil Company
5. Kulver Moore 31–14
6. Roggen
7. Weld Co
8. 29.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Co
1. 79–16007/78–183
2. 05–087–07405
3. 103
4. Crystal Oil Company
5. Muir Carlson 1-A
6. Mosley
7. Morgan Co
8. 46.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Co
1. 79–16008/78–187
2. 05–123–09402
3. 103
4. Crystal Oil Company
5. Oevern State 45–30
6. Roggen
7. Weld Co
8. 144.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Co
1. 79–16009/78–103
2. 05–123–09323
3. 103
4. Vessels Oil & Gas Company
5. Burkbardt #2
6. Spindle
7. Weld Co
8. .0 Million cubic feet
9. August 10, 1979
10. Vessels Gas processing Ltd
1. 79–16010/78–102
2. 05–123–09500
3. 103
4. Vessels Oil & Gas Company
5. Anderson Trust #1
6. Spindle
7. Weld Co
8. 25.6 Million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16011/78–251
2. 05–123–09561
3. 103
4. Energy Minerals Corporation
5. Nick #1
6. Roggen Field
7. Weld Co
8. 70.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16012/78–248
2. 05–123–00000
3. 103 Denied
4. Energy Minerals Corporation
5. Ivan #1
6. Roggen Field
7. Weld County Co
8. 30.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16013/78–257
2. 05–123–05034
3. 103 Denied
4. Energy Minerals Corporation
5. State 36–1
6. Roggen Field
7. Weld County Co
8. 33.0 Million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16014/78–227
2. 05–123–09188
3. 103
4. Energy Minerals Corporation
5. Cleveland #6
6. Spindle Field
7. Weld Co
8. 37.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16015/78–226
2. 05–123–09203
3. 103
4. Energy Minerals Corporation
5. Cleveland #5
6. Spindle Field
7. Weld County Co
8. 36.0 Million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16016/78–242
2. 05–123–09562
3. 103
4. Energy Minerals Corporation
5. Beth #1
6. Roggen Field
7. Weld County Co
8. 30.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16017/78–255
2. 05–123–09477
3. 103
4. Energy Minerals Corporation
5. Saya #1
6. Roggen Field
7. Weld County Co
8. 73.0 Million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16018/78–186
2. 05–123–09462
3. 103
4. Crystal Oil Company
5. Cuykendall 34–13
6. Roggen
7. Weld Co
8. 12.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Co
1. 79–16019/78–209
2. 05–123–09435
3. 103
4. Champlin Petroleum Company
5. #2 Ranchero 41–33
6. Spindle
7. Weld Co
8. 178.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipeline Co
1. 79–16020/78–101
2. 05–123–09564
3. 103
4. Vessels Oil & Gas Company
5. ACNO #2
6. Spindle
7. Weld Co
8. .0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Co
1. 79–16021/78–95
2. 05–001–06131
3. 108
4. Vessels Oil & Gas Company
5. Kreitzer No 1
6. Wattenberg
7. Adams Co
8. 10.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16022/78–105
2. 05–123–09547
3. 103
4. Vessels Oil & Gas Company
5. Harkis #1
6. Wattenberg
7. Weld Co
8. 275.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16023/78–114
2. 05–123–09548
3. 103
4. Vessels Oil & Gas Company
5. L F Ranches #2–A
6. Wattenberg
7. Weld Co
8. 55.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16024/78–116
2. 05–123–09239
3. 103
4. Vessels Oil & Gas Company
5. Rasmussen #4–A
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16025/78–107
2. 05–123–091628
3. 103
4. Vessels Oil & Gas Company
5. Nelson No 2
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16026/78–229
2. 05–123–09180
3. 103
4. Energy Minerals Corporation
5. Cleveland #8
6. Spindle Field
7. Weld County Co
8. 38.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16027/78–216
2. 05–045–06141
3. 103
4. Palmer Oil & Gas Company
5. Young #15–2
6. South Canyon
7. Garfield Co
8. 255.0 million cubic feet
9. August 10, 1979
10. Western Slope Gas Company
1. 79–16028/78–237
2. 05–123–09392
3. 103
4. Energy Minerals Corporation
5. Vollmar #2
6. Spindle Field

7. Weld County Co
8. 52.3 million cubic feet
9. August 10, 1979
10. Thomas G. Vessels
1. 79–16029/78–235
2. 05–123–09556
3. 103
4. Energy Minerals Corporation
5. Stanley #7
6. Spindle Field
7. Weld County Co
8. 22.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16030/78–254
2. 05–123–07050
3. 103 Denied
4. Energy Minerals Corporatin
5. Ray #1
6. Roggen Field
7. Weld County Co
8. 42.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16031/78–238
2. 05–123–09218
3. 103
4. Energy Minerals Corporation
5. Vonasek #5
6. Spindle Field
7. Weld County Co
8. 22.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16032/78–225
2. 05–123–09557
3. 103
4. Energy Minerals Corporation
5. Brett #3
6. Spindle
7. Weld County Co
8. 34.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16033/78–244
2. 05–123–09246
3. 103
4. Energy Minerals Corporation
5. Cooper #1
6. Roggen Field
7. Weld County Co
8. 39.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16034/78–245
2. 05–123–09141
3. 103
4. Energy Minerals Corporation
5. Erker #1
6. Roggen Field
7. Weld County Co
8. 56.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16035/78–247
2. 05–123–09454
3. 103
4. Energy Minerals Corporation
5. Harold #2
6. Roggen Field
7. Weld County Co
8. 28.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16036/78–213
2. 05–067–06201
3. 103
4. Rincon Operating Co
5. Berry Gas Unit #1
6. Ignacio Blanco
7. La Plata Co
8. 350.0 million cubic feet
9. August 10, 1979
10. Southwest Gas Corporation, El Paso Natural Gas Co
1. 79–16037/78–222
2. 05–087–07256
3. 108
4. Patrick A. Doheny
5. #1 Peters-Federal Land Bank
6. Tom-Tom
7. Morgan County Co
8. 5.8 million cubic feet
9. August 10, 1979
10. Kansas Nebraska Natural Gas Co Inc
1. 79–16038/78–265
2. 05–123–09293
3. 108
4. Energy Minerals Corporation
5. Cord #1
6. Roggen Field
7. Weld County Co
8. 20.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16039/78–271
2. 05–123–00000
3. 108
4. Energy Minerals Corporation
5. Zimbleman #1–B
6. Roggen Field
7. Weld County Co
8. 5.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16040/78–266
2. 05–123–09320
3. 108
4. Energy Minerals Corporation
5. Mart #1
6. Roggen Field
7. Weld County Co
8. 17.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16041/78–270
2. 05–123–09297
3. 108
4. Energy Minerals Corporation
5. Tora #1
6. Roggen Field
7. Weld County Co
8. 13.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16042/78–262
2. 05–123–08671
3. 108
4. Energy Minerals Corporation
5. Wahl #1
6. Kiowa Creek Field
7. Weld County Co
8. 20.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16043/78–96
2. 05–001–06751
3. 108
4. Vessels Oil & Gas Company
5. Morris-Letterly No. 1
6. Wattenberg
7. Adams Co
8. .0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16044/78–198
2. 05–103–08099
3. 103
4. Walter S. Fees, Jr
5. Kirby-Eidson #3–33
6. Blue Cloud
7. Rio Blanco Co
8. 75.0 million cubic feet
9. August 10, 1979
10. Northwest Pipeline Corporation
1. 79–16045/78–219
2. 05–123–09298
3. 103
4. Calvin Petroleum Corporation
5. #5 Schneider
6. Spindle
7. Weld Co
8. 18.3 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipeline Company, Thomas G. Vessels
1. 79–16046/78–220
2. 09589
3. 103
4. Calvin Petroleum Corporation
5. #2 Watkins
6. Spindle
7. Weld Co
8. 25.6 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipeline Company, Thomas G. Vessels
1. 79–16047/78–104
2. 09558
3. 103
4. Vessels Oil & Gas Company
5. Hankins #1
6. Spindle
7. Weld Co
8. 109.5 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16048/78–106
2. 05–123–094549
3. 103
4. Vessels Oil & Gas Company
5. Johnson-James #1
6. Spindle
7. Weld Co
8. 146.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16049/78–109
2. 05–123–09364
3. 103
4. Vessels Oil & Gas Company
5. Nelson #4
6. Spindle
7. Weld Co
8. 21.9 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16050/78–108
2. 05–123–09361
3. 103
4. Vessels Oil & Gas Company
5. Nelson #3
6. Spindle
7. Weld Co
8. 11.0 million cubic feet

9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16051/78–110
2. 05–123–09105
3. 103
4. Vessels Oil & Gas Company
5. Oskarson #2
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16052/78–111
2. 05–123–09195
3. 103
4. Vessels Oil & Gas Company
5. Oskarson #3
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16053/78–112
2. 05–123–09287
3. 103
4. Vessels Oil & Gas Company
5. Oskarson #4
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16054/78–113
2. 05–123–09532
3. 103
4. Vessels Oil & Gas Company
5. L F Ranches #1–A
6. Wattenberg
7. Weld Co
8. 55.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16055/78–115
2. 05–123–09238
3. 103
4. Vessels Oil & Gas Company
5. Rasmussen #3
6. Spindle
7. Weld Co
8. 14.6 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16056/78–118
2. 05–001–07245
3. 103
4. Vessels Oil & Gas Company
5. Walters No 1–2
6. Sun
7. Adams Co
8. 274.0 million cubic feet
9. August 10, 1979
10. Koch Oil Company
1. 79–16057/78–100
2. 05–123–08041
3. 108
4. Vessels Oil & Gas Company
5. Moser #1
6. Wattemberg
7. Weld Co
8. 18.3 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16058/78–117
2. 05–123–09244
3. 103
4. Vessels Oil & Gas Company
5. Seltzer No 2–A
6. Spindle
7. Weld, CO
8. 18.3 million cubic feet
9. August 10, 1979
10. Vessels Gas Processing Ltd
1. 79–16059/78–223
2. 05–121–00000
3. 108
4. Patrick A Doheny
5. #3 Fassler
6. Ranchero Field
7. Washington County, CO
8. 12.3 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79–16060/78–261
2. 05–123–08730
3. 108
4. Energy Minerals Corporation
5. Jones #1
6. Kiowa Creek Field
7. Weld County, CO
8. 8.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16061/78–236
2. 05–123–09559
3. 103
4. Energy Minerals Corporation
5. Tang #1
6. Spindle Field
7. Weld County, CO
8. 17.0 million cubic feet
9. August 10, 1979
10. Thomas G Vessels
1. 79–16062/78–214
2. 05–067–06156
3. 103
4. Rincon Operating Co
5. Clary Gas Unit #1
6. Ignacio Blanco-Mesaverde
7. La Plata, CO
8. 255.0 million cubic feet
9. August 10, 1979
10. Southwest Gas Corporation
1. 79–16063/78–212
2. 05–067–06155
3. 103
4. Rincon Operating Co
5. Rea Gas Unit #1
6. Ignacio Blanco
7. La Plata CO
8. 365.0 million cubic feet
9. August 10, 1979
10. Southwest Gas Corporation
1. 79–16064/78–218
2. 05–123–09622
3. 103
4. Calvin Petroleum Corporation
5. Ditirro #1–A
6. Spindle
7. Weld, CO
8. 21.9 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16065/78–208
2. 05–123–09434
3. 103
4. Champlin Petroleum Company
5. #1 Ranchero 31–33
6. Spindle
7. Weld, CO
8. 8.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Co
1. 79–16066/78–232
2. 05–123–09137
3. 103
4. Energy Minerals Corporation
5. Koshio #1
6. Spindle Field
7. Weld County, CO
8. 17.0 million cubic feet
9. August 10, 1979
10. Thomas G Vessels
1. 79–16067/78–231
2. 05–123–09316
3. 103
4. Energy Minerals Corporation
5. Dechant-State #6
6. Spindle Field
7. Weld County, CO
8. 24.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16068/78–230
2. 05–123–09129
3. 103
4. Energy Minerals Corporation
5. Dechant-State #5
6. Spindle Field
7. Weld County, CO
8. 37.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16069/78–226
2. 05–123–09179
3. 103
4. Energy Minerals Corporation
5. Cleveland #7
6. Spindle Field
7. Weld County, CO
8. 38.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16070/78–260
2. 05–123–09245
3. 103
4. Energy Minerals Corporation
5. Weld #1
6.
7. Weld, CO
8. 71.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16071/79–258
2. 05–123–09442
3. 103
4. Energy Minerals Corporation
5. State 36–3
6. Roggen Field
7. Weld County, CO
8. 52.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16072/78–259
2. 05–123–09265
3. 103
4. Energy Minerals Corporation
5. Vic #1
6. Roggen Field
7. Weld County, CO
8. 26.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16073/78–256

2. 05–123–09322
3. 103
4. Energy Minerals Corporation
5. Sigg #1
6. Roggen Field
7. Weld County, CO
8. 173.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16074/78–253
2. 05–123–0945
3. 103
4. Energy Minerals Corporation
5. Prospect #1
6. Roggen Field
7. Weld County, CO
8. 38.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16075/78–250
2. 05–123–09385
3. 103
4. Energy Minerals Corporation
5. Joe #1
6. Roggen Field
7. Weld County, CO
8. 24.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16076/78–252
2. 05–123–09384
3. 103
4. Energy Minerals Corporation
5. Paul #1
6. Roggen Field
7. Weld County, CO
8. 45.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16077/78–240
2. 05–123–09229
3. 103
4. Energy Minerals Corporation
5. Vonasek #7
6. Spindle Field
7. Weld County, CO
8. 22.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16078/78–239
2. 05–123–09219
3. 103
4. Energy Minerals Corporation
5. Vonasek #6
6. Spindle Field
7. Weld County, CO
8. 19.0 million cubic feet
9. August 10, 1979
10. Amoco
1. 79–16079/78–241
2. 05–123–09233
3. 103
4. Energy Minerals Corporation
5. Vonasek #8
6. Spindle Field
7. Weld County, CO
8. 22.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company
1. 79–16080/78–249
2. 05–123–09413
3. 103
4. Energy Minerals Corporation
5. Jerry #1
6. Roggen Field
7. Weld County, CO
8. 50.0 million cubic feet
9. August 10, 1979
10. Phillips Petroleum Company
1. 79–16081/78–246
2. 05–123–09412
3. 103
4. Energy Minerals Corporation
5. Harold #1
6. Roggen Field
7. Weld County, CO
8. 88.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipeline Company
Crystal Gas Resources Inc
1. 79–16082/78–267
2. 05–123–09138
3. 108
4. Energy Minerals Corporation
5. Sarchet #1
6. Spindle Field
7. Weld County, CO
8. 15.0 million cubic feet
9. August 10, 1979
10. Thomas G. Vessels
1. 79–16083/78–215
2. 05–067–06154
3. 103
4. Rincon Operating Co
5. Maestas Gas Unit #1
6. Ignatio Blanco
7. La Plata, CO
8. 365.0 million cubic feet
9. August 10, 1979
10. Southwest Gas Corporation
1. 79–16084/78–224
2. 05–121–08801
3. 108
4. Patrick A. Doheny
5. #1A Shook
6. Warpaint
7. Washington County, CO
8. 14.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79–16085/78–221
2. 05–087–07048
3. 108
4. Patrick A. Doheny
5. #1 Christensen
6. Tom-Tom
7. Morgan County, CO
8. 14.4 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79–16086/78–199
2. 05–067–06097
3. 108
4. Kimbark Operating Co
5. Penrose #1
6. Ignacio-Blanco
7. La Plata, CO
8. 10.0 million cubic feet
9. August 10, 1979
10. Southwest Gas Corporation
1. 79–16087/78–175
2. 05–001–06424
3. 108
4. Arthur M. Guida
5. Monaghan No. 1
6. Third Creek Field
7. Adams, CO
8. 12.0 million cubic feet
9. August 10, 1979
10. Koch Oil Company
1. 79–16088/78–243
2. 05–123–09495
3. 103
4. Energy Minerals Corporation
5. Clem #1
6. Roggen Field
7. Weld County, CO
8. 55.0 million cubic feet
9. August 10, 1979
10. Crystal Gas Resources Inc
1. 79–16089/78–217
2. 05–075–08687
3. 102
4. Burlington Northern Inc
5. 33–32 State
6. Stampede
7. Logan, CO
8. 120.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79–16090/79–203
2. 05–039–06275
3. 103
4. Champlin Petroleum Company
5. #1 Neira 31–23
6. Comanche Creek
7. Elbert, CO
8. 56.0 million cubic feet
9. August 10, 1979
10. Sun Oil Company
1. 79–16091/78–201
2. 05–039–06286
3. 103
4. Champlin Petroleum Company
5. #1A Gordon 13–19
6. Comanche Creek
7. Elbert, CO
8. 91.0 million cubic feet
9. August 10, 1979
10. Sun Oil Company
1. 79–16092/78–206
2. 05–039–06283
3. 103
4. Champlin Petroleum Company
5. #5 Whitehead 31–17
6. Comanche Creek
7. Elbert, CO
8. 18.0 million cubic feet
9. August 10, 1979
10. Sun Oil Company
1. 79–16093/78–234
2. 05–123–09317
3. 103
4. Energy Minerals Corporation
5. Stanley #5
6. Spindle Field
7. Weld County, CO
8. 22.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16094/78–99
2. 05–123–07258
3. 108
4. Vessels Oil & Gas Company
5. Melbon Ranch No. 1
6. Wattenberg
7. Weld, CO
8. 11.0 million cubic feet
9. August 10, 1979
10. Panhandle Eastern Pipe Line Company
1. 79–16095/78–204
2. 05–039–06288
3. 103
4. Champlin Petroleum Company
5. #2 Neira 42–23

6. Comanche Creek
7. Elbert, CO
8. 19.0 million cubic feet
9. August 10, 1979
10. Sun Oil Company
1. 79–16096/78–200
2. 05–005–06791
3. 103
4. Champlin Petroleum Company
5. #1 Miller 31–31
6. Chinook
7. Arapahoe, CO
8. 133.0 million cubic feet
9. August 10, 1979
10. Sun Oil Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–15925
2. 30–015–22605
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–312
6. Empire-ABO pool
7. Eddy County, NM
8. 58.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15926
2. 30–015–22750
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–251
6. Empire-ABO pool
7. Eddy County, NM
8. 100.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15927
2. 30–015–22226
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–333
6. Empire-ABO pool
7. Eddy County, NM
8. 73.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15928
2. 30–015–22767
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–335
6. Empire ABO
7. Eddy, NM
8. 38.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15929
2. 30–015–22765
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–383
6. Empire ABO
7. Eddy, NM
8. 89.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15930
2. 30–015–22138
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–381
6. Empire-ABO pool
7. Eddy, NM
8. 33.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15931
2. 30–015–22697
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–261
6. Empire-ABO pool
7. Eddy County, NM
8. 16.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15932
2. 30–015–22526
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–272
6. Empire-ABO pool
7. Eddy County, NM
8. 45.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15933
2. 30–015–22633
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–295
6. Empire-ABO pool
7. Eddy County, NM
8. 70.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15934
2. 30–015–22632
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–294
6. Empire-ABO pool
7. Eddy County, NM
8. 56.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15935
2. 30–015–22768
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–374
6. Empire ABO
7. Eddy, NM
8. 79.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15936
2. 30–015–22417
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–321
6. Empire-ABO pool
7. Eddy County, NM
8. 971.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15937
2. 30–015–22415
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–323
6. Empire-ABO pool
7. Eddy County, NM
8. 96.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15938
2. 30–015–22523
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–351
6. Empire-ABO pool
7. Eddy County, NM
8. 197.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15939
2. 30–015–22416
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–332
6. Empire-ABO pool
7. Eddy County, NM
8. 217.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79–15940
2. 30–015–22123
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–351
6. Empire-ABO Pool
7. Eddy County NM
8. 77.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15941
2. 30–015–22487
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–361
6. Empire-ABO Pool
7. Eddy County NM NM
8. 47.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15942
2. 30–015–22124
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–311
6. Empire-ABO Pool
7. Eddy County NM
8. 146.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79–15943
2. 30–015–22524
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–321
6. Empire-ABO Pool
7. Eddy County NM
8. 93.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15944
2. 30–015–22604
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–302
6. Empire-ABO Pool
7. Eddy County NM
8. 22.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15945
2. 30–015–22631
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit G–333
6. Empire-ABO Pool
7. Eddy County NM
8. 33.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15946
2. 30–015–22011
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–281
6. Empire-ABO Pool
7. Eddy County NM
8. 43.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15947
2. 30–015–22488
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–273
6. Empire-ABO Pool
7. Eddy County NM
8. 31.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15948
2. 30–015–22490
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit J–233
6. Empire-ABO Pool
7. Eddy County NM
8. 561.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15949
2. 30–015–22491
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit K–231
6. Empire-ABO Pool
7. Eddy County NM
8. 440.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15950
2. 30–015–22606
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–283
6. Empire-ABO Pool
7. Eddy County NM
8. 29.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15951
2. 30–015–22489
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–282
6. Empire-ABO Pool
7. Eddy County NM
8. 33.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15952
2. 30–015–22609
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L–143
6. Empire-ABO Pool
7. Eddy County NM
8. 59.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15953
2. 30–015–22629
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–353
6. Empire-ABO Pool
7. Eddy County NM
8. 40.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15954
2. 30–015–22607
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit I–291
6. Empire-ABO Pool
7. Eddy County NM
8. 73.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15955
2. 30–025–21651
3. 108 Denied
4. Phillips Petroleum Company
5. Ev Gesa Un 0524 No 112
6. Vacuum Grayburg/San Andres
7. Lea NM
8. .4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co
1. 79–15956
2. 30–025–25088
3. 108
4. Phillips Petroleum Company
5. Woolworth CD No 18
6. Jalmat Yates/Seven Rivers
7. Lea NM
8. 20.4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co
1. 79–15957
2. 30–015–22051
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit K–141
6. Empire-ABO Pool
7. Eddy County NM
8. 88.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15958
2. 30–015–22594
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–322
6. Empire-ABO Pool
7. Eddy County MN
8. 1052.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15959
2. 30–015–22015
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L–153
6. Empire-ABO Pool
7. Eddy County MN
8. 700.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15960
2. 30–015–22137
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–372
6. Empire-ABO Pool
7. Eddy County MN
8. 39.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15961
2. 30–015–22669
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L–154
6. Empire-ABO Pool
7. Eddy County MN
8. 108.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15962
2. 30–015–22464
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–301
6. Empire-ABO Pool
7. Eddy County MN
8. 183.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15963
2. 30–015–22010
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–293
6. Empire-ABO Pool
7. Eddy County MN

8. 542.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15964
2. 30–015–22050
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H–292
6. Empire-ABO Pool
7. Eddy County MN
8. 37.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15965
2. 30–015–22593
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit J–234
6. Empire-ABO Pool
7. Eddy County MN
8. 30.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15966
2. 30–015–22462
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–373
6. Empire-ABO Pool
7. Eddy County MN
8. 120.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15967
2. 30–015–22203
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–372
6. Empire-ABO Pool
7. Eddy County MN
8. 107.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15968
2. 30–015–22486
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E–341
6. Empire-ABO Pool
7. Eddy County MN
8. 448.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15969
2. 30–015–22227
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–341
6. Empire-ABO Pool
7. Eddy County MN
8. 61.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–15970
2. 30–015–22628
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F–352
6. Empire-ABO Pool
7. Eddy County MN
8. 44.0 million cubic feet
9. August 9, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79–00592 Revised
2. 30–025–25956–0000–0
3. 102 103
4. Coquina Oil Corporation
5. Alexander #1
6. Antelope Ridge
7. Lea, NM
8. 730.0 million cubic feet
9. March 2, 1979
10. El Paso Natural Gas Co

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–15700/01446
2. 34–005–20006–0014
3. 108
4. Petro-Lewis Corporation
5. Windsor Ford #4
6.
7. Geauga, OH
8. 3.5 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15701/01447
2. 34–055–20067–0014
3. 108
4. Petro-Lewis Corporation
5. Windsor Ford #3
6.
7. Geauga, OH
8. 3.5 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15702/01600
2. 34–115–20081–0014
3. 108
4. Joseph J. Mihelic
5. Boileau #1
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15703/01601
2. 34–115–00654–0014
3. 108
4. Joseph J. Mihelic
5. Smith #4
6.
7. Morgan, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15704/01602
2. 34–009–21128–0014
3. 108
4. Joseph J. Mihelic
5. Bryson #2
6.
7. Athens, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15705/01603
2. 34–115–00648–0014
3. 108
4. Joseph J. Mihelic
5. Boileau #2
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15706/01604
2. 34–115–20807–0014
3. 108
4. Joseph J. Mihelic
5. Glass #2
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15707/01605
2. 34–115–006530014–
3. 108
4. Joseph J. Mihelic
5. Smith #3
6.
7. Morgan, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15708/01607
2. 34–115–00652–0014
3. 108
4. Joseph J. Mihelic
5. Smith #3
6.
7. Morgan, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15709/01608
2. 34–009–20226–0014
3. 108
4. Joseph J. Mihelic
5. Bryson #1
6.
7. Athens, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15710/01609
2. 34–115–00651–0014
3. 108
4. Joseph J. Mihelic
5. Smith #1
6.
7. Morgan, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15711/01612
2. 34–115–20819–0014
3. 108
4. Joseph J. Mihelic
5. Glass #1
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15712/01613

2. 34–009–21180–0014
3. 108
4. Joseph J. Mihelic
5. Linscott #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15713/01614
2. 34–115–00646–0014
3. 108
4. Joseph J. Mihelic
5. Embree #2
6.
7. Morgan, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15714/01615
2. 34–009–20280–0014
3. 108
4. Joseph J. Mihelic
5. Howard #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15715/01616
2. 34–115–20209–0014
3. 108
4. Joseph J. Mihelic
5. Dale #1
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15716/01617
2. 34–009–21081–0014
3. 108
4. Joseph J. Mihelic
5. Edgar Keirns #2
6.
7. Athens, OH
8. 1.3 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15717/01618
2. 34–009–20397–0014
3. 108
4. Joseph J. Mihelic
5. Howard #2
6.
7. Athens, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15718/01619
2. 34–115–00665–0014
3. 108
4. Joseph J. Mihelic
5. J Janes #2
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Tran Corp
1. 79–15719/01621
2. 34–009–20717–0014
3. 108
4. Joseph J. Mihelic
5. Phillips #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15720/01622
2. 34–009–00455–0014
3. 108
4. Joseph J. Mihelic
5. Phillips #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15721/01623
2. 34–115–00669–0014
3. 108
4. Joseph J. Mihelic
5. McDaniel #3
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15722/01624
2. 34–115–00667–0014
3. 108
4. Joseph J. Mihelic
5. McDaniel #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15723/01625
2. 34–115–00461–0014
3. 108
4. Joseph J. Mihelic
5. George Janes #2
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15724/01626
2. 34–115–00664–0014
3. 108
4. Joseph J. Mihelic
5. George Janes #4
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15725/01627
2. 34–115–00663–0014
3. 108
4. Joseph J. Mihelic
5. George Janes #3
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15726/01628
2. 34–115–00641–0014
3. 108
4. Joseph J. Mihelic
5. Kennard #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15727/01629
2. 34–115–00642–0014
3. 108
4. Joseph J. Mihelic
5. Kennard #2
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15728/01630
2. 34–115–00671–0014
3. 108
4. Joseph J. Mihelic
5. Harper #2
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15729/01631
2. 34–115–20685–0014
3. 108
4. Joseph J. Mihelic
5. Mosier-Grimes #1
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15730/01632
2. 34–115–20682–0014
3. 108
4. Joseph J. Mihelic
5. Mosier-Grimes #2
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15731/01633
2. 34–115–00657–0014
3. 108
4. Joseph J. Mihelic
5. Devore #1
6.
7. Morgan, OH
8. .3 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15732/01633
2. 34–115–00658–0014
3. 108
4. Joseph J. Mihelic
5. Devore #2
6.
7. Morgan, OH
8. .3 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15733/01634
2. 34–115–00655–0014
3. 108
4. Joseph J. Mihelic
5. Clare Strode #1
6.
7. Morgan, OH
8. 1.7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15734/01635
2. 34–115–00458–0014
3. 108
4. Joseph J. Mihelic
5. Dawson #2
6.

7. Morgan, OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15735/01636
2. 34–115–00656–0014
3. 108
4. Joseph J. Mihelic
5. Clare Strode #2
6.
7. Morgan, OH
8. 1.7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15736/01637
2. 34–115–20102–0014
3. 108
4. Joseph J. Mihelic
5. Dougan #1
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15737/01638
2. 34–009–20142–0014
3. 108
4. Joseph J. Mihelic
5. Loeffler #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15738/01638
2. 34–009–20188–0014
3. 108
4. Joseph J. Mihelic
5. Keirns #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans Corp
1. 79–15739/01640
2. 34–009–20202–0014
3. 108
4. Joseph J. Mihelic
5. Linscott #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15740/01645
2. 34–009–00784–0014
3. 108
4. Joseph J. Mihelic
5. Dean—#1
6.
7. Athens, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15741/01647
2. 34–009–00788–0014
3. 108
4. Joseph J. Mihelic
5. Green—#1
6.
7. Athens, OH
8. .3 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15742/01648
2. 34–009–00789–0014
3. 108
4. Joseph J. Mihelic
5. Green—#2
6.
7. Athens, OH
8. .3 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15743/01649
2. 34–115–20690–0014
3. 108
4. Joseph J. Mihelic
5. Mosier—Grimes #4
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15744/01650
2. 34–009–00795–0014
3. 108
4. Joseph J. Mihelic
5. Calhoun—#2
6.
7. Athens, OH
8. .6 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15745/01655
2. 34–115–00668–0014
3. 108
4. Joseph J. Mihelic
5. McDaniel #2
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15746/01656
2. 34–115–00666–0014
3. 108
4. Joseph J. Mihelic
5. J. Janes #3
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15747/01657
2. 34–009–21318–0014
3. 108
4. Joseph J. Mihelic
5. Kasler #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15748/01658
2. 34–115–00670–0014
3. 108
4. Joseph J. Mihelic
5. Harper #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15749/01659
2. 34–115–00647–0014
3. 108
4. Joseph J. Mihelic
5. Embree #3
6.
7. Morgan, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15750/01660
2. 34–009–20452–0014
3. 108
4. Joseph J. Mihelic
5. Sugar Creek #2
6.
7. Athens, OH
8. .7 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15751/01661
2. 34–009–21320–0014
3. 108
4. Joseph J. Mihelic
5. Edgar Keirns—#3
6.
7. Athens, OH
8. 1.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Trans. Corp.
1. 79–15752/01714
2. 34–103–21430–0014
3. 108
4. Royalton Gas and Oil Co.
5. Gavlak #1
6.
7. Medina, OH
8. .8 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15753/01715
2. 34–103–21270–0014
3. 108
4. Royalton Gas and Oil Co.
5. Quintus #2
6.
7. Medina, OH
8. 1.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15754/01716
2. 34–103–20653–0014
3. 108
4. Royalton Gas and Oil Co.
5. Quintus #1
6.
7. Medina, OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15755/01717
2. 34–103–21404–0014
3. 108
4. Royalton Gas and Oil Co.
5. Neumeyer #2
6.
7. Medina, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15756/01723
2. 34–103–21424–0014
3. 108
4. Royalton Gas and Oil Co.
5. Mayer #1
6.
7. Medina, OH
8. 1.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15757/01725

2. 34–103–21366–0014
3. 108
4. Royalton Gas and Oil Co.
5. Royalton Gas and Oil Co. #1
6.
7. Medina, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15758/01724
2. 34–103–21515–0014
3. 108
4. Royalton Gas and Oil Co.
5. Royalton Gas and Oil Co. #2
6.
7. Medina, OH
8. .2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp.
1. 79–15759/01726
2. 34–103–21413–0014
3. 108
4. Royalton Gas and Oil Co
5. Kerwin #2
6.
7. Medina OH
8. .8 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15760/01727
2. 34–103–21321–0014
3. 108
4. Royalton Gas and Oil Co
5. Kerwin #1
6.
7. Medina OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15761/01728
2. 34–103–21505–0014
3. 108
4. Royalton Gas and Oil Co
5. Lockwood #2
6.
7. Medina OH
8. 1.7 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15762/01729
2. 34–103–21315–0014
3. 108
4. Royalton Gas and Oil Co
5. Lockwood #1
6.
7. Medina OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15763/01730
2. 34–103–21376–0014
3. 108
4. Royalton Gas and Oil Co
5. Neumeyer #1
6.
7. Medina OH
8. .3 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15764/01802
2. 34–093–00003–0014
3. 108
4. Royalton Gas and Oil Co
5. Pryce #1
6.
7. Lorain OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15765/01803
2. 34–103–21303–0014
3. 108
4. Royalton Gas and Oil Co
5. Cieslik #1
6.
7. Medina OH
8. 1.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15766/02078
2. 34–055–20065–0014
3. 108
4. Petro-Lewis Corporation
5. Adams-Miller #1
6.
7. Geauga OH
8. 2.4 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15767/02079
2. 34–055–20077–0014
3. 108
4. Petro-Lewis Corporation
5. Bender #1
6.
7. Geauga OH
8. 1.1 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15768/02080
2. 34–055–20076–0014
3. 108
4. Petro-Lewis Corportation
5. Bontrager #1
6.
7. Geauga OH
8. 2.1 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15769/02081
2. 34–055–20063–0014
3. 108
4. Petro-Lewis Corporation
5. Windsor Ford #1
6.
7. Geauga OH
8. 8.4 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15770/02085
2. 34–055–20064–0014
3. 108
4. Petro-Lewis Corporation
5. Windsor Ford #2
6.
7. Geauga OH
8. 8.4 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15771/02086
2. 34–055–20059–0014
3. 108
4. Petro/Lewis Corporation
5. V Gingerich unit #1
6.
7. Geauga OH
8. 4.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15772/02159
2. 34–055–20107–0014
3. 108
4. Petro-Lewis Corporation
5. Windsor Ford #7
6.
7. Geauga OH
8. 7.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15773/02163
2. 34–055–20061–0014
3. 108
4. Petro-Lewis Corporation
5. Mast #1 E J
6.
7. Geauga OH
8. 4.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15774/02165
2. 34–055–20051–0014
3. 108
4. Petro/Lewis Corporation
5. Rosengreen #1
6.
7. Geauga OH
8. 5.1 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15775/02652
2. 34–055–20062–0014
3. 108
4. Petro-Lewis Corporation
5.Yoder #1 Dan
6.
7. Geauga OH
8. 6.1 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1.79–15776/04145
2. 34–157–21913–0014
3. 108
4. The Mutual Oil & Gas Company
5. M Page #1
6.
7. Tuscarawas OH
8. 14.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15777/04146
2. 34–157–21822–0014
3. 108
4. The Mutual Oil & Gas Company
5. Arthur Page #3
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15778/04147
2. 34–157–22008–0014
3. 108
4. The Mutual Oil & Gas Company
5. W Parker #2
6.
7. Tuscarawas OH
8. 11.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15779/04148
2. 34–157–22007–0014
3. 108
4. The Mutual Oil & Gas Company
5. W Parker #1
6.

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7. Tuscarawas, OH
8. 11.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15780/04149
2. 34–157–21800–0014
3. 108
4. The Mutual Oil & Gas Company
5. Arthur R Page #2
6.
7. Tuscarawas, OH
8. 15.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15781/04150
2. 34–157–20986–0014
3. 108
4. The Mutual Oil & Gas Company
5. Penrod Community #2
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15782/04152
2. 34–157–21953–0014
3. 108
4. The Mutual Oil & Gas Company
5. Willard Liggett #4
6
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15783/04153
2. 34–157–21954–0014
3. 108
4. The Mutual Oil & Gas Company
5. Willard Liggett #3
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15784/04154
2. 34–157–21952–0014
3. 108
4. The Mutual Oil & Gas Company
5. Willard Liggett #2
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15785/04155
2. 34–157–21950–0014
3. 108
4. The Mutual Oil & Gas Company
5. James McCullough #2
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15786/04156
2. 34–157–21233–0014
3. 108
4. The Mutual Oil & Gas Company
5. Arthur Monte #1
6.
7. Tuscarawas, OH
8. 10.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15787/04157
2. 34–157–22443–0014
3. 108
4. The Mutual Oil & Gas Company
5. Alpha & Vida Moreland #B–1
6.
7. Tuscarawas, OH
8. 1.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15788/04160
2. 34–157–22130–0014
3. 108
4. The Mutual Oil & Gas Company
5. Meissner-Bond Unit #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15789/04161
2. 34–157–21918–0014
3. 108
4. The Mutual Oil & Gas Company
5. G Meissner #1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15790/04162
2. 34–157–22033–0014
3. 108
4. The Mutual Oil & Gas Company
5. J Masten #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15791/04163
2. 34–157–21716–0014
3. 108
4. The Mutual Oil & Gas Company
5. Oscar A Lint #1
6.
7. Tuscarawas, OH
8. 16.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15792/04164
2. 34–157–21844–0014
3. 108
4. The Mutual Oil & Gas Company
5. O Lint #2
6.
7. Tuscarawas, OH
8. 15.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15793/04165
2. 34–157–20976–0014
3. 108
4. The Mutual Oil & Gas Company
5. Edward T Metzger #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15794/04166
2. 34–157–21314–0014
3. 108
4. The Mutual Oil & Gas Company
5. K Myers #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15795/04167
2. 34–157–21327–0014
3. 108
4. The Mutual Oil & Gas Company
5. K Myers #2
6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15796/04168
2. 34–157–21687–0014
3. 108
4. The Mutual Oil & Gas Company
5. I. B Rasi #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15797/04345
2. 34–157–21608–0014
3. 108
4. The Mutual Oil & Gas Company
5. Robt H Williamson #1
6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15798/04346
2. 34–157–21109–0014
3. 108
4. The Mutual Oil & Gas Company
5. M Tschudy #1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15799/04347
2. 34–157–21112–0014
3. 108
4. The Mutual Oil & Gas Company
5. F Reichman #1
6.
7. Tuscarawas OH
8. 9.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15800–/04348
2. 34–157–21951–0014
3. 108
4. The Mutual Oil & Gas Company
5. Robert Stocker #1
6.
7. Tuscarawas OH
8. 16.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15801/04349
2. 34–157–21819–0014
3. 108
4. The Mutual Oil & Gas Company
5. Ry Barczyk #1
6.
7. Tuscarawas OH
8. 8.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15802/04847

2. 34–155–20773–0014
3. 102
4. Ohio Oil and Gas
5. Craver #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15803/04849
2. 34–155–21099–0014
3. 102
4. Ohio Oil and Gas
5. Hall #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15804/05191
2. 34–155–21131–0014
3. 102
4. Ohio Oil and Gas
5. Schwartz #
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15805/05192
2. 34–155–21102–0014
3. 102
4. Ohio Oil and Gas
5. Schwartz #2
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15806/05194
2. 34–155–21127–0014
3. 102
4. Ohio Oil and Gas
5. Rausch #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79–15807/05398
2. 34–133–20055–0014
3. 108
4. Bert Fields Jr
5. J W Arnette No 1
6. Ravenna (Clinton Sands)
7. Portage OH
8. .7 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79–15808/05399
2. 34–167–22634–0014
3. 108
4. Phillip H Brown Jr
5. Jack Camp/Charles Allen #1
6.
7. Washington OH
8. 2.2 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79–15809/05865
2. 34–119–24596–0014
3. 103
4. Williston Oil & Development Corp
5. Barnhouse #3
6.
7. Muskingum OH
8. .0 million cubic feet
9. August 8, 1979
10.
1. 79–15810/05868
2. 34–119–24474–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #14
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15811/05869
2. 34–119–24469–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #19
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15812/05870
2. 34–119–24470–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #18
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15813/05871
2. 34–119–24471–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #17
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15814/05872
2. 34–119–24467–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #21
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15815/05873
2. 34–119–24517–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #40
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15816/05874
2. 34–119–24468–0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #20
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15817/05875
2. 34–119–24303–0014
3. 103
4. Williston Oil & Development Corp
5. Frame-Sutton #20
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15818/05876
2. 34–119–24394–0014
3. 103
4. Williston Oil & Development Corp
5. Frame Mitchell #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15819/05877
2. 34–119–23040–0014
3. 103
4. Williston Oil & Development Corp
5. Walter Sutton Lease #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15820/05878
2. 34–119–24483–0014
3. 103
4. Williston Oil & Development Corp
5. Mitchell #4
6.
7. Muskingum OH
8. .0 million cubic feet
9. August 8, 1979
10.
1. 79–15821/05879
2. 34–119–24373–0014
3. 103
4. Williston Oil & Development Corp
5. Ren Lyons #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15822/05880
2. 34–119–24634–0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #7
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15823/05881
2. 34–119–24631–0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #5
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.
1. 79–15824/05882
2. 34–119–24393–0014
3. 103
4. Williston Oil & Development Corp
5. R J Mitchell #5
6.

7. Muskingum OH
8. .0 million cubic feet
9. August 8, 1979
10.

1. 79-15825/05883
2. 34-119-24630-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #6
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15826/05884
2. 34-119-24644-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #8
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15827/05885
2. 34-119-24643-0014
3. 103
4. Williston Oil & Development Corp
5. Betz #2
6.
7. Muskingum OH
8. .0 million cubic feet
9. August 8, 1979
10.

1. 79-15828/05886
2. 34-119-24636-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #49
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15829/05887
2. 34-119-24639-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #50
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15830/05888
2. 34-119-24418-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15831/05889
2. 34-119-24431-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #7
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15832/05890
2. 34-119-24439-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #8
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15833/05891
2. 34-119-24440-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #6
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15834/05892
2. 34-119-24635-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #48
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15835/05893
2. 34-119-24584-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15836/05894
2. 34-119-24578-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15837/05895
2. 34-119-24374-0014
3. 103
4. Williston Oil & Development Corp
5. Ren Lyons #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15838/05896
2. 34-119-24536-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #42
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15839/05897
2. 34-119-24515-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #43
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15840/05898
2. 34-119-24532-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #44
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15841/05899
2. 34-119-24531-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #45
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15842/05900
2. 34-119-24641-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #46
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15843/05901
2. 34-119-24576-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #3
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15844/05902
2. 34-119-24580-0014
3. 103
4. Williston Oil & Development Corp
5. Moore et al #4
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15845/05903
2. 34-119-24491-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #22
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15846/05904
2. 34-119-24492-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #23
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15847/05905

2. 34-119-24493-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #25
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15848/05906
2. 34-119-24494-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #24
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15849/05907
2. 34-119-24495-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #27
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15850/05908
2. 34-119-24498-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #26
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15851/05909
2. 34-119-24504-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #28
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15852/05910
2. 34-119-24524-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #29
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15853/05911
2. 34-119-24525-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #32
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15854/05912
2. 34-119-24472-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #16
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15855/05913
2. 34-119-24526-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #31
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15856/05914
2. 34-119-24527-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #30
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15857/05915
2. 34-119-24441-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #9
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15858/05916
2. 34-119-24372-0014
3.
4. Williston Oil & Development Corp
5. Ren Lyons #4
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. August 8, 1979.
10.

1. 79-15859/05917
2. 34-119-24391-0014
3. 103
4. Williston Oil & Development Corp
5. Ren Lyons #5
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15860/05918
2. 34-119-24392-0014
3. 103
4. Williston Oil & Development Corp
5. Ren Lyons #2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15861/05919
2. 34-119-24463-0014
3. 103
4. Williston Oil & Development Corp
5. R C Mitchell #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 8, 1979
10.

1. 79-15862/05920
2. 34-119-24699-0014
3. 103
4. Willision Oil & Development Corp
5. Betz #6
6.
7. Muskingum, OH
8. .0 million cubic feet
9. August 8, 1979
10.

Texas Railroad Commission Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date recieved at FERC
10. Purchaser(s)

1. 79-16114/03671
2. 42-295-30482
3. 103
4. Gulf Oil Corporation
5. Henry J Meier #2
6. Bradford
7. Lipcomb
8. 476.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co

1. 79-03672 Revised
2. 42-247-30822
3. 102 103
4. Exxon Corporation
5. Nicefaro Pena Well No. 9-F
6. Kelsey Deep (Zone 20-A SW III)
7. Jim Hogg, TX
8. 50.0 million cubic feet
9. May 2, 1979
10. Trunkline Gas Co.

1. 79-03673 Revised
2. 420-247-30806
3. 102 103
4. Exxon Corporation
5. Mrs. A.M.K. Bass #35-C
6. Kelsey Deep (Zone 18-A, W)
7. Jim Hogg, TX
8. 300.0 million cubic feet
9. May 2, 1979
10. Trunkline Gas Co.

1. 79-03699 Revised
2. 42-261-30233
3. 102 103
4. Exxon Corporation
5. Mrs S. K. East #86-F
6. Rita (8-A, II)
7. Kenedy, TX
8. 146.0 million cubic feet
9. May 2, 1979
10. Natural Gas Pipeline Co.

1. 79-04962 Revised
2. 42-261-30233
3. 102 103
4. Exxon Corporation
5. Mrs S. K. East #86-D
6. Rita (7-E, II)
7. Kenedy, TX
8. 183.0 million cubic feet
9. May 2, 1979
10. Natural Gas Pipeline Co.

1. Contorl Number (FERC/State)
2. API well number
3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date recieved at FERC
10. Purchaser(s)

1. 79–16113
2. 47–083–00189
3. 108
4. Allegheny Land & Mineral Co
5. A–649
6. Roaring Creek
7. Randolph
8. 14.7 million cubic feet
9. July 30, 1979
10. Columbia Gas Transmission Corp

United States Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–15905/COA–1857–79
2. 05–067–05310–0000–0
3. 108
4. E L Fundingsland
5. Sunical 7–D
6. Ignacio Blanco Dakota
7. La Plata CO
8. 12.0 million cubic feet
9. August 9, 1979
10. Northwest Pipeline Corp

1. 79–15863/NM 1504–79
2. 30–039–05801–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 67 #10
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 9.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15864/NM 1503–79
2. 30–039–05831–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla B #8
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 6.6 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15865/NM 1475–79
2. 30–039–06368–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J #7
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 12.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 79–15866/NM 1474–79
2. 30–039–05613–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #7
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 1.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 79–15867/NM 1473–79
2. 30–045–20918–0000–0
3. 108
4. El Paso Natural Gas Company
5. Hardie E 7
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 13.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15868/NM 1472–79
2. 30–045–20888–0000–0
3. 108
4. El Paso Natural Gas Company
5. Case 14
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 8.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15869/NM 1470–79
2. 30–039–06284–0000–0
3. 108
4. El Paso Natural Gas Company
5. Saunders 1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.1 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15870/NM 1471–79
2. 30–039–60045–0000–0
3. 108
4. El Paso Natural Gas Company
5. Foster 2
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 5.5 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15871/NM 1469–79
2. 30–039–20733–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–4 Unit #61
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 14.2 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15872/NM 1467–79
2. 30–039–05605–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #60
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 5.1 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15873/NM 1465–79
2. 30–039–06430–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J #2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.7 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 79–15874/NM 1466–79
2. 30–039–20878–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28–5 Unit #95
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.3 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15875/NM 1463–79
2. 30–045–06028–0000–0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #56
6. Kutz West-Pictured Cliffs Gas
7. San Juan NM
8. 4.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15876/NM 1461–79
2. 30–039–05888–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla C #5
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 12.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15877/NM 1462–79
2. 30–039–06035–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla E #14
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15878/NM 1459–79
2. 30–045–06397–0000–0
3. 108
4. El Paso Natural Gas Company
5. Schwerdtfeger A 16
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 10.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15879/NM 1460–79
2. 30–039–05585–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #9
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba County NM
8. 1.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 79–15880/NM 1458–79
2. 30–045–07439–0000–0
3. 108
4. El Paso Natural Gas Company
5. McCulley 4
6. Basin-Dakota Gas
7. San Juan NM
8. 1.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15881/NM 1457–79

2. 30–045–10792–0000–0
3. 108
4. El Paso Natural Gas Company
5. Mudge 19
6. Basin-Dakota Gas
7. San Juan, NM
8. 3.7 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15882/NM 1446–79
2. 30–039–07186–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–4 Unit #24
6. Blanco-Mesaverde Gas
7. Rio Aribba, NM
8. 15.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15883/NM 1447–79
2. 30–039–20097–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28–7 Unit #146
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 21.5 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15884/NM 1449–79
2. 30–039–05673–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #87
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15885/NM 1427–79
2. 30–045–21447–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lackey A 7
6. Bloomfield-Chacra Gas
7. San Juan, NM
8. 11.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15886/NM 1426–79
2. 30–039–20793–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit NP 238
6. Gonzales-Mesaverde Gas
7. Rio Arriba, NM
8. 14.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15887/NM 1422–79
2. 30–045–11843–0000–0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit NP #172
6. Basin-Dakota Gas
7. San Juan, NM
8. 9.1 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15888/NM 1421–79
2. 30–045–11750–0000–0
3. 108
4. El Paso Natural Gas Company
5. Hughes #16
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 9.5 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15889/NM 1420–79
2. 30–039–60109–0000–0
3. 108
4. El Paso Natural Gas Company
5. Foster 1
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 6.6 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15890/NM 1407–79
2. 30–039–05662–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #4
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp

1. 79–15891/NM 1079–79
2. 30–039–05497–0000–0
3. 108
4. Gulf Oil Corporation
5. Apache Federal Well No 5
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 1.9 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15892/NM 1080–79
2. 30–039–05555–0000–0
3. 108
4. Gulf Oil Corporation
5. Apache Federal Well No 4
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15893/NM 470–79
2. 30–045–11901–0000–0
3. 108
4. Tenneco Oil Company
5. Newberry Com 1
6. Basin Dakota
7. San Juan, NM
8. 11.0 million cubic feet
9. August 9, 1979
10. Northwest Pipeline Co

1. 79–15894/NM 431–79
2. 30–045–11730–0000–0
3. 108
4. Tenneco Oil Company
5. Bolack B #1
6. Basin Dakota
7. San Juan, NM
8. 2.0 million cubic feet
9. August 9, 1979
10. Northwest Pipeline Corp

1. 79–15895/NM–339–79
2. 30–039–20169–0000–0
3. 108
4. Mobile Oil Corporation
5. Jicarilla G #9
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. August 9, 1979
10. Northwest Pipeline Corporation

1. 79–15896/NM 381–79
2. 30–005–60417–0000–0
3. 102
4. C E LaRue and B N Muncy Jr
5. Barnhill #1
6. Sams Ranch Grayburg
7. Chaves, NM
8. .0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15897/NM–413–78
2. 30–045–07190–0000–0
3. 108
4. Energy Reserves Group Inc
5. Gallegos Canyon Unit P C #128
6. W Kutz P C
7. San Juan, NM
8. 15.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15898/NM 397–78
2. 30–045–06728–0000–0
3. 108
4. Energy Reserves Group Inc
5. Sarah E Lily B
6. W Kutz P C
7. San Juan, NM
8. 10.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15899/NM–391–78
2. 30–045–00000–0000–0
3. 108
4. Energy Reserves Group Inc
5. Gallegos Canyon Unit P C #11
6. W Kutz P C
7. San Juan, NM
8. 14.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15900/NM 389–78
2. 30–045–05240–0000–0
3. 108
4. Energy Reserves Group Inc
5. Brannon Federal #2
6. Basin Dakota
7. San Juan, NM
8. 16.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15901/NM–384–78
2. 30–045–00000–0000–0
3. 108
4. Energy Reserves Group Inc
5. Gallegos Canyon Unit P C #22
6. W Kutz P C
7. San Juan, NM
8. 11.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15902/NM 265–78
2. 30–039–05065–0000–0
3. 108
4. Lionel R Levinson
5. Pubco Apache #2
6. South Blanco PC
7. Rio Arriba, NM
8. 22.2 million cubic feet
9. August 9, 1979
10. El Paso Gas Company

1. 79–15903/NM14–78
2. 30–045–20961–0000–0
3. 108
4. W M Gallaway
5. Delo #4

V 44 / 172 SEP 79

6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 20.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15904/NM–1918–79
2. 30–025–00000–0000–0
3. 108
4. Continental Oil Company
5. Lynn B–1 #7
6. New Mexico Federal Unit
7. Lea, NM
8. 7.4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas (C–4037)

1. 79–15906/NM–1850–79
2. 30–039–82320–0000–0
3. 108
4. E L Fundingsland
5. Sunico Federal #3
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15907/NM–1851–79
2. 30–039–82333–0000–0
3. 108
4. E L Fundingsland
5. Sunico Federal #7
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15908/NM 1852–79
2. 30–039–05809–0000–0
3. 108
4. E L Fundingsland
5. Sunico Federal #8
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15909/NM–1853–79
2. 30–039–05912–0000–0
3. 108
4. E L Fundingsland
5. Sunico Federal #11
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 6.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15910/NM–1854–79
2. 30–039–05374–0000–0
3. 108
4. E L Fundingsland
5. Sunico Federal #17
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15911/NM 1855–79
2. 30–0039–05296–0000–0
3. 108
4. E L Fundingslan
5. Sunico Federal #19
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 2.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15912/NM–1856–79
2. 30–039–06422–0000–0
3. 108
4. E L Fundingsland
5. Sunical Federal D–1
6. Basin Dakota
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Co

1. 79–15913/NM 1524–79
2. 30–039–07030–0000–0
3. 108
4. El Paso Natural Company
5. San Juan 27–5 Unit #94
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp

1. 79–15914/NM 1517–79
2. 30–039–60050–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #66
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 2.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15915/NM 1518–79
2. 30–039–05449–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #15
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.1 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15916/NM 1519–79
2. 30–039–05964–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 67 #3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15917/NM 1523–79
2. 30–045–05975–0000–0
3. 108
4. El Paso Natural Company
5. Huerfano Unit #70
6. Kutz West-Pictured Cliffs Gas
7. San Juan, NM
8. 4.4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15918/NM 1514–79
2. 30–045–21411–0000–0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit 259
6. Basin-Dakota Gas
7. San Juan, NM
8. 10.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp, Southern Union Gathering Co

1. 79–15919/NM 1515–79
2. 30–045–20470–0000–0
3. 108
4. El Paso Natural Gas Company
5. Pierce 8
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 11.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15920/NM 1516–79
2. 30–039–05752–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla B #4
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba MN
8. 9.9 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15921/NM 1512–79
2. 30–045–05840–0000–0
3. 108
4. El Paso Natural Gas Company
5. Ballard 14
6. Basin-Dakota Gas
7. San Juan MN
8. 20.8 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15922/NM 1513–79
2. 30–039–20091–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #70
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba MN
8. 12.4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15923/NM 1508–79
2. 30–045–06907–0000–0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #6
6. Blanco South-Pictured Cliffs Gas
7. San Juan MN
8. 12.0 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

1. 79–15924/NM 1505–79
2. 30–039–05899–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 67 #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba MN
8. 16.4 million cubic feet
9. August 9, 1979
10. El Paso Natural Gas Company

United States Geological Survey, Casper, Wyo.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or Ocs area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16104/CC 655–9
2. 05–103–07908–0000–0
3. 108
4. Twin Arrow Inc
5. Continental 1–8
6. Cathedral
7. Rio Blanco CO
8. 11.5 million cubic feet
9. August 10, 1979
10. IGC Production Company

1. 79–16111/CC 953–9
2. 05–121–09314–0000–0
3. 103
4. Burlington Northern Inc
5. 32–28 Theurer-Federal
6. Pinto
7. Washington CO
8. 90.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–16112/UC 957–9
2. 05–045–06171–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 1–35 (C–12701)
6. West Salt Creek
7. Garfield CO
8. 90.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company

1. 79–16099/M 236–9
2. 25–071–21315–0000–0
3. 108
4. Midlands Gas Corporation
5. 2580 #1 Federal
6. Bowdoin
7. Phillips MT
8. 15.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–16100/M 240–9
2. 25–071–21058–0000–0
3. 108
4. Midlands Gas Corporation
5. 3521 #1 Federal 987
6. Bowdoin
7. Phillips MT
8. 8.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–16103/M 432–9
2. 25–071–21651–0000–0
3. 102
4. Joseph J C Paine and Associates
5. Montana Power Federal #1–1962
6. Unnamed
7. Phillips MT
8. 225.0 million cubic feet
9. August 10, 1979
10. Kansas-Nebraska Natural Gas Co

1. 79–16105/M 692–9
2. 25–015–21082–0000–0
3. 108
4. Tricentrol United States Inc
5. Federal 10–29–26–17
6. Sherard
7. Chouteau MT
8. 11.0 million cubic feet
9. August 10, 1979
10. Northern Natural Gas Company

1. 79–16108/M 929–9
2. 25–071–21672–0000–0
3. 103
4. Southland Royalty Company
5. Bowdoin Federal #1–28 33E
6. Bowdoin
7. Phillips MT
8. 45.0 million cubic feet
9. August 10, 1979
10. Kansas Nebraska Gas Company

1. 79–16106/UC 722–9
2. 43–047–30341–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 237
6. Red Wash
7. Uintah UT
8. 18.0 million cubic feet
9. August 10, 1979
10. Northwest Pipeline Corp

1. 79–16107/UC 785–9
2. 43–013–30419–0000–0
3. 103
4. Santa Fe Energy Company
5. Burton/Hawks Tribal I–35
6. Cedar Rim Wasatch
7. Duchesne UT
8. 10.0 million cubic feet
9. August 10, 1979
10. Koch Oil Company

1. 79–16109/UC934–9
2. 43–047–15062–0000–0
3. 108
4. Belco Petroleum Corporation
5. CWU–17 15062
6. Chapita Wells
7. Uintah UT
8. 1.0 million cubic feet
9. August 10, 1979
10. Mountain Fuel Supply Co

1. 79–16110/UC936–9
2. 43–047–15052–0000–0
3. 108
4. Belco Petroleum Corporation
5. CWU 6 15052
6. Chapita Wells
7. Uintah UT
8. 2.0 million cubic feet
9. August 10, 1979
10. Mountain Fuel Supply Co

1. 79–16097/W 21–9
2. 49–007–20383–0000–0
3. 102
4. Intergrity Oil & Gas Company
5. Federal 2–32
6. Bunker Hill
7. Carbon WY
8. 471.0 million cubic feet
9. August 10, 1979
10. Natural Gas Pipeline Co of America

1. 79–16098/W159–9
2. 49–009–21302–0000–0
3. 103
4. Champlin Petroleum Company
5. #2 Federal 41–14
6. Dry Fork Area
7. Converse WY
8. 42.0 million cubic feet
9. August 10, 1979
10. McCulloch Int Gas Corp

1. 79–16101/W 350–9
2. 49–037–21130–0000–0
3. 103
4. Marathon Oil Company
5. Wamsutter Unit A #8
6. Wamsutter Unit
7. Sweetwater WY
8. 865.0 million cubic feet
9. August 10, 1979
10. Colorado Interstate Gas Company

1. 79–16102/W416–9A
2. 49–037–06345–0000–0
3. 108
4. Mountain Fuel Supply Co.
5. Pioneer Unit #8
6. Pioneer-Kinney
7. Sweetwater, WY
8. 12.0 million cubic feet
9. August 10, 1979
10. Mountain Fuel Supply Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 19, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–27385 Filed 8–31–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RM78–12; Order No. 31A]

Determination of Incentive Rate of Return, Tariff and Related Issues; Order Regarding Tariff Provisions Related to Costs of Conditioning Prudhoe Bay Gas to Pipeline Quality Standards

Issued August 24, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order rejecting portion of *pro forma* tariff.

SUMMARY: Under Docket No. RM78–12, *pro forma* tariffs were submitted to the Federal Energy Regulatory Commission (the Commission). Among the provisions of these tariffs were sections dealing with responsibility as to conditioning natural gas for transport through the Alaska Natural Gas Transportation System. These provisions were not addressed in Order 31 issued June 8, 1979 under Docket No. RM78–12. Given the Issuance this date of Order No. 45 in Docket No. RM79–19, the Commission now acts on the reserved question of conditioning costs raised by the *pro forma* tariffs of Docket No. RM78–12 and rejects the same to the extent they contravene the policy issued under Order No. 45.

DATES: Effective date October 23, 1979; petitions for rehearing September 24, 1979.

ADDRESSES: All petitions should reference Docket No. RM78–12, Order No. 31A and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–3827.

The Commission, in Order No. 31,[1] stated that a supplemental order would be issued regarding those portions of the *pro forma* tariffs tendered in Docket No. RM78–12 [2] that affect the issue of cost responsibility for conditioning Prudhoe Bay gas to pipeline quality standards. As explained on page 152 of Order No. 31, the Notice of Proposed Rulemaking in Docket No. RM79–19 [3] specified that the cost responsibility issue would be decided in that proceeding, and that, accordingly, a Commission decision on the affected portions of the *pro forma* tariffs tendered in Docket No. RM78–12 would have to await resolution of the cost responsibility issue in Docket No. RM79–19. Commission resolution of the cost responsibility issue has been achieved by the issuance this same day of Order No. 45 in Docket No. RM79–19. Consistent with the policy set forth in that Order, and Section 2.101 of the Commission's regulations, the Commission will not approve any tariff provisions which would permit the imposition by the transporters of any gas conditioning costs other than those costs explicitly provided for by Order No. 45.

Under the Commission policy set forth in Order No. 45, the Commission will not approve any provision in a transporter's tariff which would permit the transporter to impose upon any shipper which is an interstate gas pipeline company any costs associated with conditioning gas to be transported through the Alaska Natural Gas Transportation System (ANGTS), except those costs attributable to removing carbon dioxide from a level of three percent by volume of gas to a level of less than three percent, absent rebuttal of a presumption that such costs were imprudently incurred. The rationale for this policy is fully explained in Order No. 45.

Of particular relevance to this Order is Section 5.3 of the General Terms and Conditions of the *pro forma* tariffs tendered under Docket No. RM78–12 by Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company. This section of each tariff states:

§ 5.3 *Failure to conform.*

If gas delivered by Shipper does not comply with quality specifications set out in subsection 5.1 hereof, Company shall have the right, in addition to all other remedies available to it by law, to refuse to accept any such gas. Company may, at its option and upon notice to Shipper, accept receipt of gas not complying with the quality specifications set out in Subsection 5.1 hereof provided Company, at the expense of such Shipper, makes all changes necessary to bring such gas into compliance with such a specification. Any change in the gross heating value of gas treated by Company pursuant to this Subsection 5.3 shall, for purposes of Section 13 hereof, be appropriately reflected in the total Btu content of gas received by Company from Shipper whose gas is so treated.[4]

In accordance with the Commission policy regarding conditioning costs for Prudhoe Bay gas as set forth in Order No. 45, the transporters are hereby notified that to the extent the above proposed tariff provision (or any other tariff provision) is intended to permit the transporters to include any costs of conditioning the gas, in their charges to shippers who are interstate gas pipeline companies, beyond those costs which are allowed pursuant to the policy statement in Order No. 45, there is a rebutable presumption that such costs would be imprudently incurred, and that such a tariff provision is inconsistent with Commission policy and must be rejected. The substantive determination of the cost responsibility issue was based upon the record in Docket No. RM79–19.

In order to facilitate synchronization of this Order with Order No. 45 in Docket No. RM79–19 for purposes of administrative review and, if necessary, judicial review, the Commission will afford all parties an opportunity to file petitions for rehearing within 30 days of the date of issuance of this Order and will stay the effective date of this Order for 60 days from its date of issuance.

The Commission Finds

(1) For the reasons set forth above, it is necessary and appropriate and in the public interest, in administering the Natural Gas Act, the Natural Gas Policy Act, and the Alaska Natural Gas Transportation Act, to require that the tariffs of Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company conform to the policy regarding cost responsibility for conditioning Prudhoe Bay gas as set forth in Order No. 45, issued August 24, 1979, in Docket No. RM79–19.

(2) To the extent that Section 5.3, or any other provision, of the *pro forma* tariffs tendered by Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company is intended to permit the inclusion, in charges to shippers which are interstate gas pipeline companies, any costs for conditioning Prudhoe Bay gas other than those costs explicitly provided for in Order No. 45, issued August 24, 1979, in Docket No. RM79–19, there is a rebuttable presumption that such a provision is inconsistent with Commission policy and must be rejected.

The Commission Orders

(A) Any tariffs tendered by Alaskan Northwest Natural Gas Transportation Company and Northern Border Pipeline Company shall conform with the requirements set forth in this Order, and comply with the policy set forth in Order No. 45, issued this same day in Docket No. RM79–19 and incorporated into Section 2.101 of the Commission's regulations.

(B) This order shall become effective 60 days after the date of its issuance. Parties to Docket No. RM78–12 may file petitions for rehearing of this Order within 30 days of the date of its issuance, pursuant to the procedures set forth in § 1.34 of the Commission's rules of practice and procedure.

By the Commission. Commissioner Sheldon was present and not voting.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27438 Filed 8-31-79; 8:45 am]

BILLING CODE 6450-01-M

[1] "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures and Determining Applicable Tariff Provisions" (Docket No. RM78–12) (issued June 8, 1979).

[2] The tariffs under Commission review were those filed by Alaskan Northwest Natural Gas Transportation Company and the Northern Border Pipeline Company.

[3] "Treatment of Certain Production-Related Costs for Natural Gas to be sold and Transported Through the Alaska Natural Gas Transportation System: Notice of Proposed Rulemaking and Statement of Policy" (Docket No. RM79–19) (Issued Feb. 2, 1979).

[4] Pro Forma FERC Gas Tariff, Original Volume No. 1, Alaskan Northwest Natural Gas Transportation Company, Original Sheet Nos. 217–218; Pro Forma FERC Gas Tariff, Original Volume No. 1, Northern Border Pipeline Company, Original Sheet Nos. 216–217.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1310–5]

Ambient Air Monitoring Reference Method Designation; Philips Model PW9762/02 NO/NO_2/NO_x Analyzer

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11252, 41 FR 52694), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which uses the gas phase chemiluminescence measurement principle specified for NO_2 reference methods in Appendix F of 40 CFR Part 50 (as amended on December 1, 1976—41 FR 52688). The method is described as:

RFNA–0879–040, "Philips Model PW9762/02 NO/NO_2/NO_x Analyzer," consisting of the following components:
PW9762/02 Basic Analyzer
PW 9729/00 Converter Cartridge
PQ9731/00 Sampler or PW9731/20 Dust Filter and operated on a range of 0–0.5 ppm, with or without any of the following accessories:
PW9752/00 Air Sample (Manifold)

W9732/00 Sample Line Heater
PW9011/00 Remote Control Set

This method is available from Philips Electronic Instruments, Inc., 85 McKee Drive, Mahwah, New Jersey 07430.

A notice of receipt of application for this method appeared in the **Federal Register,** Volume 44, February 7, 1979, page 7806.

A test analyzer representative of this method has been tested by the applicant in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method.

The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be operated in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B–1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and must indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method designation for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above.

Stephen J. Gage,

Assistant Administrator for Research and Development.

August 8, 1979.

[FR Doc. 79-27459 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1310–4]

Environment and Conservation in Non-Nuclear Energy Research and Development; Public Hearing

The Environmental Protection Agency (EPA) announces a Public Hearing on Environment and Conservation in the Federal Non nuclear Energy Research and Development Program to be held at the Office of Personnel Management Auditorium, 1900 E Street, NW, Washington, DC, from 9:00 am to 5:00 pm, October 3–5, 1979. The public is invited to attend.

Section 11 of the Federal Non nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577), directs the responsible agency (formerly the Council on Environmental Quality, currently EPA) to carry out a continuing analysis of the Federal non nuclear energy research and development program to evaluate the adequacy of attention to (1) energy conservation methods and environmental protection and (2) environmental consequences of the application of non nuclear energy technologies. The 1979 hearing will focus on the adequacy of attention to environmental profection and energy conservation measures within the Department of Energy (DOE) research, development and demonstration management system.

Aspects of that system to be discussed include:

- Use of technical and scientific information in decision-making,
- Communication of the rationale for technology development decisions.
- Integration of technology development and environmental research planning systems.

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The October public hearings have been preceded by a series of Section 11 regional workshops held during July in Atlanta, Denver, San Francisco, and Pittsburgh. These workshops provided an opportunity for public evaluation of the DOE management system at the regional level and its effect on projects which are being developed locally.

A Report to Congress to be available in January, 1980 will summarize the 1979 Section 11 program. The results of the October hearing will be a principal part of the Report. The Report will also include results of four regional workshops already completed, and additional detailed analysis.

Further information about this hearing may be obtained by phoning Paul Schwengels (202)–426–2683 or Francine Jacoff (202)–755–0324.

Individuals or organizations wishing to testify should submit, by September 15, 1979, a brief summary of their intended testimony to: Section 11 Coordinator (RD–681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be reserved for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the October hearing will be available to the public.

Steven R. Reznek,

Deputy Assistant Administrator for Environmental Engineering and Technology, U.S. Environmental Protection Agency.

August 29, 1979.

[FR Doc. 79–27458 Filed 8–31–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1311–3; OPP–00103]

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m. daily on Thursday, and Friday, September 20 and 21, 1979. The meeting will be held in Salon F. Crystal, City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade, Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS–766), EPA, Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 20460, Telephone: 703/557–7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact of regulatory actions under sections 6(b) and 25(a) on health and the environment prior to implementation. The agenda for this meeting will include the following topics:

1. Review of the Agency's proposed regulatory action to conclude the Rebuttable Presumption against Registration (RPRA) of trifluralin (Treflan);

2. Conclusion of unfinished business from the meeting held on August 15–16, 1979; and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents may be obtained by contacting Ms. Marcia Williams, Director, Special Pesticide Review Division (TS–791), Room: 724, Crystal Mall, Building No. 2, at the address given above, Telephone: 703/557–7438.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to conform that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than September 10, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies of submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is October 9–10, 1979.

(Section 25(d) of FIFRA, amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770).).

Dated: August 28, 1979.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–27462 Filed 8–31–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1311–7; OPP–180355]

Florida Department of Agriculture and Consumer Services; Issuance of Specific Exemption To Use Permethrin To Control Vegetable Leafminer on Celery

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use permethrin for control of the vegetable leafminer on 11,000 acres of celery in four counties in Florida. The specific exemption expires on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Leafminers have periodically plagued Florida celery since the late 1940's. Although normally present in moderate numbers, epidemic population levels have been reached in the late 1940's, early 1960's, and early 1970's. During the 1977–1978 growing season, populations of the pest were not controlled by applications of the registered pesticides. Effective control was achieved, however, with a permethrin control program which was authorized by a specific exemption similar to the one described here, according to the Applicant.

Leafminer damage to the celery results in reduced quality and leaf death; ultimately, the plant branches die. This damage necessitates stripping, trimming, and culling which drastically reduce yield and quality. According to the Applicant, complete fields may be lost or marketed only as a salvage operation.

The following insecticides are registered for leafminer control: Cygon, Dibron, Diazinon, Orthene, and Vydate. According to the Applicant, the registered alternatives are ineffective to the extent necessary to control the insect due to the leafminer's developed resistance to these pesticides. Pest management programs not requiring chemical controls are under study, but as yet are not sufficiently effective to handle the current emergency. Therefore, the Applicant claimed, chemical control is the only effective means available to control the leafminer. The Applicant estimates that without the use of an effective pesticide, losses of up to $15 million could be incurred by the Florida celery industry.

The Applicant proposed to use permethrin, manufactured by ICI Americas, Inc. as Ambush, and by FMC Corp. as Pounce, at a rate of 0.05 to 0.20 pound active ingredient (a.i.) per acre. Applications will be made by qualified growers or State-certified commercial applicators using ground or air equipment in the following areas: Zellwood in Orange County; Belle Glade, Pahokee, and South Bay in Palm Beach County; Sanford and Oviedo in Seminole County; and Sarasota in Sarasota County.

Residues of permethrin in or on celery are not expected to exceed 5 parts per million (ppm) as a result of this program. This residue level has been judged by EPA to be adequate to protect the public health.

Environmental problems associated with permethrin's extreme toxicity to aquatic organisms should be reduced by the restrictions imposed by EPA. These restrictions should also minimize danger to two endangered species, the Everglade Kite and Southern Bald Eagle, both of which feed on aquatic organisms. The proposed use is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of leafminers on celery has occurred; (b) there is no pesticide presently registered and available for use which gives effective control of this pest in Florida; (c) there is no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the leafminers are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above to the extent and in the manner set forth in the application until June 30, 1980. The specific exemption is also subject to the following conditions:

1. The products Ambush (EPA Reg. No. 10182–3) and Pounce 3.2 EC (EPA Reg. No. 2791–3014) are authorized;

2. Applications may be made to celery fields in the areas named above;

3. Total acreage treated may not exceed 11,000 acres;

4. Permethrin will be applied at a rate of 0.05 to 0.20 pound a.i. per acre per application. A maximum of 3 pounds a.i. per acre will be applied;

5. Applications may be made at five- to fourteen-day intervals. There is no preharvest interval;

6. A maximum of 33,000 pounds a.i. may be applied;

7. Applications of permethrin may be made by ground or air equipment;

8. Permethrin spray mixture volumes of 40 to 50 gallons of water per acre will be made by ground application, and 3 to 8 gallons of water per acre will be made by aerial application;

9. All applications will be made by qualified growers or by State-certified commercial applicators. A 60-day crop rotation restriction is imposed;

10. Permethrin should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method	Aerial			Ground		
Application height	10 feet			2 feet		
Application rate (lbs. A.I.)	.05	0.1	0.2	0.005	0.1	0.2
Fresh water (distance in feet)	585	990	1,600	117	198	320
Salt water (distance in feet)	1,847	2,779	3,950	369	556	790

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills;

11. Precautions must be taken to avoid or minimize spray drift to non-target areas;

12. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It must not be applied, or allowed to drift to weeds in bloom on which an economically significant number of bees is actively foraging. Protective information may be obtained from the State Cooperative Agriculture Extension Service;

13. Permethrin is extremely toxic to fish and aquatic invertebrates. Care must be taken to prevent contamination of lakes, streams, ponds, tidal marshes and estuaries by cleaning equipment or disposing waste;

14. Celery treated according to the above provisions is not expected to have residues of permethrin in excess of 5.0 ppm. Celery with residues not exceeding this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

15. All applicable directions, restrictions, and precautions on the product label must be followed;

16. Two endangered species, the Florida Everglade Kite and the Southern Bald Eagle, are endemic to regions in the treatment area. Application of the pesticide according to the above instructions and directions is expected to minimize the risk to these animals. Permethrin should not be applied in areas where spray drift could possibly impact aquatic ecosystems containing endangered or threatened species. Liaison should be established between the Applicant and the Florida Fresh Water Fish and Game Commission in order to protect fish and wildlife;

17. The EPA shall be informed immediately of any adverse effects resulting from this use of permethrin; and

18. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by September 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).).

Dated: August 28, 1979.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–27457 Filed 8–31–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1311–6; OTS–410001A]

Fourth Report of the Interagency Testing Committee; Receipt of the Report and Requests for Comments; Correction

In FR Doc. 79–16820 appearing at page 31866 in the issue of Friday, June 1, 1979,

the Interagency Testing Committee's recommendation that epidemiological studies of the possible adverse health effects of hexachlorocyclopentadiene be undertaken was inadvertently omitted. The list under the heading RECOMMENDED STUDIES in the second column on page 31882 is corrected to include epidemiological studies. Epidemiological studies of this chemical are correctly included in Table II of the report on page 31869.

Dated: August 28, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-27456 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1310-7]

Region VII; Approval of PSD Permit to Iowa-Illinois Gas & Electric Co.

Notice is hereby given that on August 7, 1979, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Iowa-Illinois Gas and Electric Company for approval to construct a new 650-megawatt coal-fired steam electric generating station in Louisa County, Iowa. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Eighth Circuit Court of Appeals. A petition for review must be filed on or before November 5, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Auditor's Office, County Court House, Third and Walnut Streets, Muscatine, Iowa.
Iowa Department of Environmental Quality, Air and Land Quality Division, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.
U. S. Environmental Protection Agency, Air and Hazardous Materials Division, 324 East 11th Street, Kansas City, Missouri.

Dated: August 24, 1979.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 79-27460 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1310-8]

Science Advisory Board Environmental Health Committee; Postponement of Meeting

Under Pub. L. 92-463, notice is hereby given that the meeting of the Environmental Health Committee of the Science Advisory Board scheduled for 9:00 a.m. on September 12, 1979 in Room 3906-08, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D. C. will not be held. The meeting referred to was announced in the **Federal Register** on August 22, 1979 (44 FR 49303). The meeting will be rescheduled and appropriately announced in the **Federal Register**.

Any member of the public wishing further information regarding this postponement should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460. Please ask for Mr. Kenneth B. Goggin. The telephone number is (202) 472-9444.

Ernst Linde,

Acting Staff Director, Science Advisory Board.

[FR Doc. 79-27461 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 24, 1979 (NRC), and August 27, 1979 (ICC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC and NRC requests are invited from all interested persons, organizations public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 24, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of a new single-time survey concerning the Development of Radiological Transportation Emergency Response Guidance to be completed on a voluntary basis by all 50 States and Puerto Rico. The NRC Office of Standards Development, Transportation and Products Standards Branch, is currently involved in a program directed toward providing guidance for transportation related emergency response. The goal of the program is to increase the expertise of the State and local governments in managing transportation related nuclear incidents and to decrease their dependence on Federal assistance in this area. The program has 3 phases: (1) to conduct a survey of current State response capabilities; (2) to develop a model State radiological emergency response program to provide the maximum effective emergency response in all areas of transportation; and (3) to recommend an optimum emergency response program to the States based on a task force evaluation of (1) and (2) and a cost-benefit analysis.

The survey is broken down into two questionnaires. The first questionnaire addresses those questions not likely to be found in existing State plans. The second questionnaire contains those questions which can most likely be answered by reference to existing State plans. The questions in the second questionnaire will be asked of State and local officials only if the information is not available in existing State plans. The NRC will send copies of the questionnaires to approximately three officials in each State and Puerto Rico and then will conduct a telephone interview with each official to obtain answers to the questionnaires. The NRC estimates that burden will average 16 hours for each State.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report, Form MP-2, required to be filed by approximately 1,100 Class II and III motor carriers of passengers having annual operating revenues of less than $3 million pursuant to order of the Interstate Commerce Commission, 49 CFR 1249.6. Data collected by Form MP-2 are used for economic regulatory purposes. Reports are mandatory and available for use by the public. The ICC estimates reporting burden for carriers will average 2½ hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-27425 Filed 8-31-79; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 98; Case Nos. ER-80-48 and ER-80-49]

Kansas City Power and Light Co., Public Utility Commissions of Missouri and Kansas; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utility Commissions of Missouri and Kansas concerning the application of the Kansas City Power and Light Company for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before October 4, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4)))

Dated: August 23, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-27415 Filed 8-31-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Preventing Disease, Promoting Health: Objectives for the Nation; Announcement of Availability of Draft National Prevention Objectives for Review and Comment

The Department of Health, Education, and Welfare convened a conference June 13 and 14, 1979, in Atlanta, Georgia, in a joint effort of the Center for Disease Control and the Health Resources Administration, in coordination with the Office of Disease Prevention and Health Promotion of the Office of the Assistant Secretary for Health. Participants in the conference workgroups discussed a series of specific and measurable objectives in disease prevention and health promotion and produced a draft set of national prevention objectives to be achieved by 1990 in key prevention areas.

The Department invites review and public comment on the draft national prevention objectives. Copies of the draft objectives will be available September 4, 1979. The closing date for comments will be November 2, 1979.

For individual copies of the draft national prevention objectives contact: J. Michael McGinnis, M.D. Acting Deputy Assistant Secretary for Health, Disease Prevention and Health Promotion, P.O. Box 15002, Atlanta, Georgia 30333; Telephone: FTS 236-3631 Commercial: 404/329-3631.

Dated: July 13, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-26740 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-85-M

Social Security Administration

Changes in the Rate of Federal Participation and the Ceiling Limitations on Federal Funds for Guam, Puerto Rico, and the Virgin Islands

AGENCY: Social Security Administration, HEW.

ACTION: Notice.

SUMMARY: This notice reflects amendments to the Social Security Act made by section 802 of Pub. L. 95-600.

For fiscal year 1979, the dollar ceilings for Puerto Rico, Guam, and the Virgin Islands under section 1108(a) of the Social Security Act are as follows:

Puerto Rico	$72,000,000
Guam	3,300,000
Virgin Islands	2,400,000

These ceilings are the maximum amounts of Federal funds available for the programs under Titles I, IV-A, X, XIV, and XVI (AABD) of the Social Security Act. They apply both to assistance and administrative costs under these programs.

In addition, the Federal Medical Assistance Percentage (FMAP) for Puerto Rico, Guam, and the Virgin Islands under section 1118 of the Social Security Act is 75 percent for fiscal year 1979. Section 1118 permits a State that has an approved Title XIX plan in effect to elect to use the FMAP rate in lieu of the matching rate under Titles I, IV-A, X, XIV, and XVI (AABD). In the event that Puerto Rico, Guam, or the Virgin Islands makes this election, Federal matching at 75 percent is available in assistance payments to individuals (subject to the dollar ceilings).

DATES: These changes will be effective only for fiscal year 1979 beginning October 1, 1978, and ending September 30, 1979.

FOR FURTHER INFORMATION CONTACT: C. George LeBoff, Director, Employability and Fiscal Policy Division, Office of Policy, Office of Family Assistance, Social Security Administration, Washington, D.C. 20201, (202) 245-0500.

(Catalog of Federal Domestic Assistance Program No. 13.808—Assistance Payments—Maintenance Assistance (State Aid))

Dated: August 29, 1979.

Robert P. Bynum,

Acting Commissioner of Social Security.

[FR Doc. 79-27420 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-07-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361A and 50-362A]

Southern California Edison Co., et al; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Southern California Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the City of Riverside and the City of Anaheim, for the San Onofre Nuclear Generating Station, Units 2 and 3. The current holders of the construction permits are Southern California Edison Company and San Diego Gas and Electric Company.

The information was filed in connection with the application by Southern California Edison Company and San Diego Gas and Electric Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on October 18, 1973 at the San Onofre site located in San Diego County, California.

The original application was dated May 28, 1970, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on February 20, 1971 (36 FR 3278). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Environmental Report; and the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of

Opportunity for Hearing was published in the **Federal Register** on April 7, 1977 (42 FR 18460). Subsequently, the Notice of Hearing was published in the **Federal Register** on October 26, 1977 (42 FR 57575).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. 20555 and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Any person who wishes to have his views on the antitrust matters with respect to the City of Riverside and the City of Anaheim presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U. S. Nuclear Regulatory Commission, Washington, D. C., 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before October 26, 1979.

Dated at Bethesda, Maryland, this 13th day of August, 1979.

For the Nuclear Regulatory Commission.
I06Robert L. Baer,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 79-26165 Filed 8-27-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

August 29, 1979

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the forms; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Food and Nutrition Service
Annual Report of Revenue and Cost
FNS-13
Annually
State Education Agencies, 56 responses; 70 hours
Charles A. Bilett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Departmental and other
Industrial Plant Equipment Replacement Analysis Work Sheet
DD 1106
On occasion
Defense Contractors, 47 responses; 2,080 hours
C. Louis Kincannon, 395-3772

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

Consumer Products Survey, Appliance Labeling
CS-159
Single time
Indiv. who have recently purchased appliances, 5,797 responses; 984 hours
Jefferson B. Hill, 395-5867

Reinstatements

Automotive Fuel Economy Guide Evaluation Survey
EIA-35
Single time
Sample of New Car & Light Truck Buyers, 4,000 responses; 1,333 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Policy Development and Research
* Longitudinal Survey of Housing Adjustments of Older People—Reinterview
AHS-57 (R)
Monthly
Household in Houston, Tex. SMSA with Head/Spouse 55-57 Yrs., 1,000 responses; 250 hours
Arnold Strasser, 395-5080
Policy Development and Research
Section 8 Existing Housing Program—Repairs and Maintenance
Single time
Households & Landlords Participating in Section 8 EH, 2,400 responses; 2,200 hours
Arnold Strasser, 395-5080

Revisions

Administration (Office of Ass't Sec'y)
*Title 1 Claim for Loss
HUD-637 & 637.B
On occasion
Banks, Svgs. & Loans, Etc., 31,500 responses; 8,955 hours
Arnold Strasser 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Highway Administration
*Description of Motor Carrier/Shipper Operations Questionnaire
MCS-137 & 137A
Annually
New Carriers & Shippers 12,000 responses; 6,000 hours
Susan B. Geiger, 395-5867

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376-0436

Extensions

Bureau of Customs
*Application and Approval to Manipulate, Examine, Sample or Transfer Goods
Customs 3499
On occasion
Importers, Consignees, 80,000, responses; 10,600 hours
Susan B. Geiger, 395-5867
Bureau of Customs
*Lay-Order (Application and Approval)
Customs 3189
On occassion
Carriers, Consignees, 40,000 responses; 5,300 hours
Susan B. Geiger, 395-5867

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

New Forms

Toxic Substances Control Act Premanufacturing Notification Interiew Guide
Single Time
Chemical Manufacturers, 75 responses; 150 hours
Edwards H. Clarke, 395-5867

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4693

Revision

*Physician's Statement
G-478
On Occasion
Physicians 3,000 responses; 501 hours
Barbara F. Young, 395-6132
*Medical Officer's Statement
G-479
On Occasion
Physicians, 2,000 responses; 334 hours
Barbara F. Young, 395-6132
*Letter to Non-RR Employees on Employment and Earnings Of a Claimant
Id-51 (12-60)
On Occasion
Non-Railroad Employers, 10,000 responses; 830 hours
Barbara F. Young, 895-6132

Extensions

*Request for Termination of Supplementary Medical Insurance
G-718
On Occasion
RRB Medicare Enrollees, 500 Responses, 42 hours
Barbara F. Young, 395-6132

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-27434 Filed 8-31-79; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Color Televison Receivers and Certain Subassemblies thereof; Adjusted Restraint Levels under the Orderly Marketing Agreement with Taiwan

Below is a letter to the Commissioner of Customs adjusting the restraint levels for the first period (February 1979–June 1979) as authorized by Presidential Proclamation 4634 of January 26, 1979.

Stephen L. Lande,
Assistant Special Trade Representative.

The Honorable Robert Chasen,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Chasen: In accordance with paragraph (5)(a) of Presidential Proclamation 4634 of January 26, 1979, we have maintained monthly import statistics on color television receivers and certain subassemblies thereof exported from Taiwan.

Exports of color television receivers from Taiwan during the "pipeline" period specified in paragraph 2(a) of the orderly marketing agreement (July 1, 1978–January 31, 1979) were 26,368 units less than the 368,000 units allotted under the agreement. To carry out the terms of the agreement, it will be necessary to add the shortfall to Taiwan's Period I (February 1979–June 1979) total of 127,000 units.

Accordingly, pursuant to operative paragraphs (6) and (7) of Presidential Proclamation 4634 of January 26, 1979, you are hereby requested to increase the first period restraint levels applicable to color television receivers entered under TSUS Item No. 923.74 by 26,368 items. The adjusted restraint level, therefore, will be 153,368.

This letter will be published in the **Federal Register.**

Sincerely,

Robert S. Strauss.

[FR Doc. 79-27363 Filed 8-31-79; 8:45 am]
BILLING CODE 3190-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 04/04-5178]

Diaz Capital Corp.; Application for License To Operate as a Small business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Diaz Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers and directors of the applicant are as follows:

Frank L. Diaz, 2901 S. Bayshore Drive, Apt. 17F, Coconut Grove, Florida 33133, Chairman of the Board and Secretary.
Frank Diaz, 235 S.W. 22nd Road, Miami, Florida 33145, President, Treasurer and Director.
Iraida Valdez, 9447 S.W. 38th Street, Miami, Florida 33165, Director.

The applicant will maintain its offices at 3126 Coral Way, Miami, Florida 33145.

It will begin operations with $500,000 of private capital derived from the sale of 1,000 shares of common stock to Mr. Frank L. Diaz.

The applicant will conduct its operations principally in Dade, Broward, Monroe and Palm Beach counties of Florida.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant

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under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than September 19, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 28, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-27429 Filed 8-31-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0293]

Hellman, GAL Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On October 17, 1978, a Notice was published in the **Federal Register** (43 FR 47807) stating that Hellman, Gal Capital Corporation, One Federal Street, Boston, Massachusetts 02110, had filed an applicable with the Small Business Administration, pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), for a License to operate as a Small Business Investment Company.

Interested persons were given until the close of business on November 1, 1978, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received and, having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0293 on August 21, 1979, to Hellman, Gal Capital Corporation pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalogue of Federal Domestic Assistance Program 59.011, Small Business Investment Companies)

Dated: August 24, 1979.

Arthur P. Cyr,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-27369 Filed 8-31-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 01/01-0304]

Morris Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration, pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Morris Capital Corporation (Applicant), for a License to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act) and the rules and regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New Jersey and it will commence operations with a capitalization of $503,156, which amount will be raised through the private sale of shares of the Applicant's Common Stock, No Par Value, to a limited number of investors.

The Applicant will have its principal place of business at 163 Washington Street, Morristown, New Jersey 07960, and it intends to conduct operations primarily in the States of New Jersey, New York and Pennsylvania.

The Officers, Directors and those who will be the owners of ten percent or more of the Applicant's Common Stock upon completion of the private offering are:

Name, Address, and Title or Relationship to Applicant

O. David Fischer, 5 Yardley Road, Mendham, NJ, President, Treasurer Director and Shareholder.
Robert L. Tuchman, 249 Long Hill Drive, Short Hills, NJ, Vice President, Secretary and Director.
William R. Johnston, Shalebrook Drive, Morristown, NJ, Director and Shareholder.
Christina Fischer, 5 Yardley Road, Mendham, NJ, Shareholder.
RLT Enterprises, Inc., 163 Washington St., Morristown, NJ, Shareholder.

Robert L. Tuchman is the principal stockholder (60%) of RLT Enterprises, Inc., a recently formed corporation which is also a ten percent owner of, and the Investment Advisor/Manager to, ESLO Capital Corporation, a Small Business Investment Company located at 163 Washington Street, Morristown, New Jersey 07960.

In the event, the private sale of the Applicant's Common Stock results in additional investors owning ten percent or more of such stock, their identify will be published in the **Federal Register,** and the newspaper mentioned below.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA regulations.

Notice is hereby given that any person may, on or before September 19, 1979, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L St., NW., Washinton, D.C. 20416

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Morristown, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 28, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-27367 Filed 8-31-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0375]

Sherwood Business Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Sherwood Business Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $504,000. The capitalization will result from a purchase by Sherwood Diversified Services, Inc., of all the outstanding stock of the applicant.

The Applicant will have its place of business at 770 King Street, Port Chester, New York 10573, and it intends to conduct operations primarily in the State of New York.

The Officers and Directors of the Applicant will be:

Anthony R. Russo, 770 King Street, Port Chester, New York 10573—Chairman of the Board and Chief Executive Officer.
Lewis R. Eisner, 188 Rock Creek Lane, Scarsdale, New York 10583—President.
Irwin Naitove, 1440 Stevenson Road, Hewlett, New York 11557—Executive Vice President.
Carole A. Russo, 770 King Street, Port Chester, New York 10573—Secretary.
Lewis R. Eisner & Co., Inc., 230 Park Avenue, New York, New York 10017—Manager/Adviser.
Sherwood Diversified Services, Inc., 770 King Street, Port Chester, New York 10573—Sole Stockholder.

Mr. Russo is an officer, director and owner of 10 percent or more of the issued and outstanding stock of Sherwood Diversified Services, Inc.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person, may not later than September 19, 1979, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalogue of Federal Domestic Assistance Programs, No. 59.011 Small Business Investment Companies)

Dated: August 23, 1979.

Arthur P. Cyr,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-27368 Filed 8-31-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the thirty-first meeting of the Board for International Food and Agricultural Development (BIFAD) on September 27, 1979.

The purpose of the meeting is to: receive and discuss the progress reports of the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss the status of the Nutrition Collaborative Research Support Program (CRSP) and the less Developed Country (LDC) research sites; discuss AID's programming and contracting process, including host country contracting; and discuss the progress report of the BIFAD study of AID's Agricultural Manpower requirements.

The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.; and will be held in Room 1406 New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703)-235-8929.

Dated: August 23, 1979.

Erven J. Long,

A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 79-27369 Filed 8-31-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Reduction of Nonessential Federal Expenditures for the National Airport and Airway System; Request for Recommendations From Users

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for recommendations.

SUMMARY: This notice requests and is intended to elicit, recommendations from the users of the national airport and airway system on methods of reducing nonessential Federal expenditures for aviation. Congressional legislation requires annual consultation with the users of this system.

DATE: Recommendations should be received on or before January 2, 1980.

ADDRESS: Send recommendations in duplicate to: Federal Aviation Administration, Office of Management Systems, AMS-500, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Leonard B. Bell, Chief, Management Analysis Division (AMS-500), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone 202-426-8060.

SUPPLEMENTARY INFORMATION:

Availability of Notice of Request for Recommendations

Any person may obtain a copy of this notice of request for recommendations by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591 or by calling 202-426-8058.

Discussion

Section 25 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704) provides as follows:

The Secretary of Tranportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such system on methods of reducing nonessential Federal expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users.

By 1.47(f)(3) of the regulations of the Office of the Secretary of Transportation, the authority of the Secretary of Transportation in section 25 is delegated to the Administrator of the Federal Aviation Administration.

The last request for user views pursuant to section 25 was published in the **Federal Register** on October 5, 1978 (43 FR 46105). That notice drew 60 suggestions from 13 users, including two

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major organized user groups. The area of principal interest shown by these users were:

The way the Federal government organizes its aviation weather gathering activity and disseminates weather data to aviation users, the hours of operation of low activity air traffic facilities, the use of the FAA air carrier inspectors, the rulemaking and certification process, the operation of the facilities maintenance program, the need to simplify the Airport Development Aid program (ADAP), the need to resolve the wake vortex problem and the need to reduce the paperwork affecting the aviation public.

The Administrator gave due consideration to all views and also advised users that the FAA has many significant activities underway that bear directly on the suggestions the users made. Some of the more significant actions included:

(1) Review of low activity control towers to determine whether any should be decommissioned.

(2) Automated terminal service.

(3) Provision for direct user access to aviation weather and flight data products to reduce personal weather briefings.

(4) Provision in the current budget for the remote maintenance monitoring of existing remote communications facilities and preparation of a contract to obtain the equipment necessary for implementation.

(5) The conduct of tests at O'Hare Airport to expedite integration of design of Low Level Wind Shear Alerting System with the Vortex Advisory System.

(6) A number of organizational changes in the Washington headquarters organization which reduces the number of organizational elements reporting to the Administrator and streamlines the Washington headquarters.

Accordingly, views and recommendations of users of the national airport and airway system are solicited on methods of reducing nonessential Federal expenditures for aviation and, in particular, of reducing, without adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from users.

(Section 25, Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1704); sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3)).

Issued in Washington, D.C. on August 27, 1979.

Elden P. Nootenboom,

Acting Director, Office of Management Systems.

[FR Doc. 79-27419 Filed 8-31-79; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Calendar of Meetings Open to the Public

Below is a list of NHTSA-sponsored meetings which are planned over the next 2 years and in which public interest or participation is expected. The list, which will be revised and republished periodically, is for planning. Meeting dates and places, particularly those scheduled for the second year, are subject to change.

September 18, 1979

Public hearing on safety related defects in several components of 1971–1974 and 1976–1978 Capris imported by Ford Motor Company

10:00 a.m.
DOT Headquarters Building, Room 2230, 400 Seventh Street, S.W., Washington, D.C.
Purpose: To permit Ford Motor Company and other interested parties to present data, views and arguments concerning an NHTSA determination that the front seat backs of 1971–1974 Capris, the headlight switches in 1971–1972 models, and the floor-mounted gear shift levers in 1971–1974 and 1976–1978 models equipped with manual transmissions are subject to failure, which can result in injuries, deaths and property damage.
Coordinator: JoAnn Murianka, Enforcement (NEF–01), 202–426–2850.

September 19–21, 1979

Occupant protection workshop for State officials

Seattle, Washington.
Purpose: The NHTSA manual on safety belt usage prepared to assist States to develop comprehensive Safety Belt Usage programs will be introduced to appropriate State officials.
Coordinator: James L. Nichols, Traffic Safety Programs (NTS–14), 202–426–2180.

September 24, 1979

Evaluation of feasibility of a single beam headlighting system; final contractor briefing

DOT Headquarters Building, Room 2230, Washington, D.C.
Purpose: To report results of a research study designed to determine the parameters of beam patterns for improved low beam headlamps.
Coordinator: Michael Perel, Research and Development (NRD–41), 202–755–8753.

September 26, 1979

Public hearing on Fiat Rusting Defects

DOT Headquarters Building, Room 2230, Washington, D.C.
Purpose: To determine Whether Fiat has reasonably met its obligations in carrying out a recent recall campaign for excessive rust and corrosion on the undercarriage of its 1970–1971 Model 850 Spyder vehicles. In addition, the hearing will address NHTSA's recent reinstatement of an initial determination that a safety related defect exists in 1970–1974 Fiat Model 124 vehicles due to a similar rusting problem. Interested parties, including consumers, will be given the opportunity to present testimony, data and information on both issues.
Coordinator: JoAnn Murianka, Enforcement (NEF–01), 202–426–2850.

September 27–28, 1979

National Highway Safety Advisory Committee, orientation for new members

DOT Headquarters Building, Washington, D.C.
Purpose: Orientation session on various aspects of highway safety for members of the National Highway Safety Advisory Committee and other interested individuals.
Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872.

October 4, 1979

Public Hearing on GM jack defects.

10:00 a.m.
DOT Headquarters Building, Room 2230, Washington, D.C.
Purpose: Determination has been made that a safety related defect exists in the original equipment jack provided with certain 1975 and 1976 Chevrolet and GMC light duty trucks. This meeting has been scheduled to allow General Motors to present its data, views and arguments in the case. Interested individuals also will have the opportunity to present their views and persons who want to participate in the meeting should contact meeting coordinator before September 28 to schedule their presentations.
Coordinator: JoAnn Murianka, Enforcement (NEF–01), 202–426–2850.

October 1979–December 1980

NHTSA-Public-Industry technical meetings

EPA Environmental Laboratory Facility, Ann Arbor, Michigan.
Purpose: Technical, interpretative or procedural questions from the public and industry regarding NHTSA's bumper, vehicle safety and consumer information program will be answered. Questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. Scheduled meetings for 1979: *October 10 and December 5.* In addition, four meetings are planned for 1980, to be held three months apart, alternating between Washington, D.C. and Ann Arbor, Michigan.
Coordinator: Wm. H. Marsh, Executive Secretariat (NOA–10), 202–426–2872.

October 23–25, 1979

National Highway Safety Advisory Committee meeting

DOT Headquarters Building, Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be prepared.
Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872

October 31–November 2, 1979

Fatal accident reporting system annual workshop

Phoenix, Arizona.
Purpose: To solve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regularly scheduled working meeting of FARS State Analysts and NHTSA regional and headquarters technical managers.
Coordinator: Robert Schweitz, Research and Development (NRD–33), 202–426–4844.

October 31–November 2, 1979

International Conference on Automotive Fuel Economy Research

Sheraton National Hotel, Arlington, Virginia.
Purpose: This first International Conference on fuel economy will allow all interested countries to present their fuel economy research programs, exchange information, meet their counterparts and discuss mutual problem areas with the goal of improving cooperative efforts among the countries participating.
Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2957.

November 7–8, 1979

Biomechanics Advisory Committee meeting

DOT Headquarters Building, Washington, D.C.
Purpose: This Committee reviews NHTSA's procedures, programs and projects requiring the use of live and deceased humans for research in order to validate the need for such use, to minimize the risk of injury to volunteers, and to assure the rights and dignity of the subjects.
Coordinator: Kathy Hasse, Executive Secretariat (NOA–11), 202–426–2872.

November 1979

Public hearing on proposed light truck average fuel economy standard

Washington, D.C.
Purpose: Public comments on the proposed fuel economy standard for light trucks and vans will be received.
Coordinator: Frank Turpin, Rulemaking (NRM–12), 202–472–6902.

December 10–12, 1979

National Conference on Child Passenger Protection

Sheraton-Park Hotel, Washington, D.C.
Purpose: Specialists in the field of highway safety and child development will meet to exchange information on ways to increase the use of child restraints designed for motor vehicles.
Coordinator: Elaine Winestein, Traffic Safety Programs (NTS–14), 202–426–2180.

December 12–13, 1979

Side Impact Protection Conference

FAA Auditorium, Seventh and Independence Avenue, S.W., Washington, D.C.
Purpose: To provide a public forum for the exchange of information on side impact protection and to inform the public, press, and industry of the status of the NHTSA rulemaking activities in upgrading side impact protection.
Coordinator: William C. Brubaker, Rulemaking (NRM–12), 202–426–2242.

January 1980

Motorcycle accident factors research

DOT Headquarters Building, Washington, D.C.
Purpose: Results of a research study to determine the cause of motorcycle accidents, the causes of injuries, the severity of the injuries and effective methods of reducing accidents, deaths, and injuries will be reported.
Coordinator: Nicholas G. Tsongos, Research and Development (NRD–32), 202–426–4820.

January 15–17, 1980

National Highway Safety Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be prepared.
Coordinator: Robert Doherty, Executive Secretariat (NOA–10), 202–426–2872.

January or February 1980

Hearing on pedestrian initial impact protection rulemaking

DOT Headquarters Building, Washington, D.C.
Purpose: Government and private sector response to an NPRM on Pedestrian Safety will be received
Coordinator: Samuel Daniel, Rulemaking (NRM–12), 202–426–2264.

January or February 1980

International symposium on automobile ratings

Washington, D.C.
Purpose: To exchange information on the "state-of-the-art" of automobile ratings. The Symposium will provide a forum for an in-depth examination of the various methods used to rate crashworthiness, damageability and ease of diagnosis and repair. Experienced technical experts, rating groups, insurance and auto industry representatives and consumer representatives will present their views on current and proposed ways used to rate automobiles.
Coordinator: Jack Gillis, Rulemaking (NRM–30), 202–426–1740.

April 1980

Symposium on vehicle aggressivity and compatibility

Washington, D.C.
Purpose: Research on vehicle aggressivity and improved compatibility will be presented. Techniques for testing compliance with vehicle compatibility requirements will be discussed.
Coordinator: James R. Hackney, Research and Development (NRD–12), 202–426–4882.

June 17–19, 1980

National Highway Safety Advisory Committee meeting

DOT Headquarters Building, Washington, D.C.
Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be presented.
Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872.

October 1980

Eighth international technical conference on experimental safety vehicles

Wolfsburg, West Germany
Purpose: The ESV Conferences are conducted to provide a forum for exchanging the results of integrated vehicle development. Various automobile manufacturers, as well as NHTSA Contractors, have designed and developed vehicles which incorporate advanced systems to satisfy national goals in safety, fuel economy, and vehicle emissions. This meeting will be hosted by the Federal Republic of Germany. The Governments of the Federal Republic of Germany, France, Great Britain, Italy, Japan, Sweden and the United States as well as manufacturers of those countries and others will participate.
Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2957.

October 25–27, 1980

Fatal accident reporting system annual workshop

(Location Undetermined)
Purpose: To solve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regularly scheduled working meeting of FARS State Analysts and NHTSA regional and headquarters technical managers.
Coordinator: Robert Schweitz, Research and Development (NRD–33), 202–426–4844.

November 1980

Symposium on Motor Vehicle Fuel Economy Research: Contractors' Coordination Meeting

(Location Undetermined)
Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Program will be explained.
Coordinator: Charles Gauthier, Research and Development (NRD–31), 202–426–0289.

UMI

April 1981

Second International Conference on automotive fuel economy

(Location Undetermined)

Purpose: Government Status Reports on Automotive Transportation Conservation Programs and reports of research in automotive technology for improved fuel economy will be presented.

Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2957.

Persons desiring additional information on a particular meeting may write or phone the coordinator indicated above at the following address: The National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on August 29, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79–27431 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–59–M

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration, (NHTSA).

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice explains the denial of a petition for rulemaking submitted by Mr. Cyrus Michaels to require Pontiac Motor Division to equip its passenger cars having power steering and power brakes with mechanical steering and braking "back-up" systems. This notice is published in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act which provides that the reasons for petition denials shall be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Duane Perrin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: A petition submitted by Mr. Cyrus Michaels stated that while his wife was driving a 1974 Pontiac Grand Prix the engine stalled and caused a power loss to the steering and braking systems. The petition stated that vehicle power loss is a dangerous and common problem, and requested rulemaking to require mechanical steering and braking "back-up systems" for all Pontiac cars equipped with power steering and power brakes.

The agency agrees that power braking systems should be operable under failed-power situations. However, braking regulations currently in effect already require this capability. Safety Standard No. 105–75, *Hydraulic Brake Systems* (49 CFR 571.105–75), established a failed-power brake system requirement for all passenger cars manufactured on or after January 1, 1976. This requirement specifies that an automobile traveling 60 mph shall be capable of stopping within 456 feet under a failed-power situation, with a pedal force not to exceed 150 pounds. Unfortunately, however, the requirement was not applicable to a 1974-model Pontiac.

The NHTSA's Office of Defects Investigation and National Center for Statistics and Analysis have recently conducted a search of their Consumer Letter Complaint File and accident investigation data bank. This search failed to provide a significant number of reports from owners of 1972 through 1976 Pontiacs (or comparable General Motors models) alleging loss of steering and braking power due to vehicle engine stalling. Those complaints that were filed, however, showed the problem to be more prevalent on later model vehicles, possibly due to emission control effects on cold engine driveability (stalling).

Regarding vehicle steering systems, recent NHTSA research entitled "Power Steering Failure Study" showed that the effort required to steer a passenger car after a loss of power to the steering system is not beyond the capabilities of the average vehicle operator. (NHTSA Technical Reference Section, HS–803–032). The study showed that the "surprise factor" to the vehicle operator is the most significant result from loss of steering power.

In consideration of the foregoing, the petition by Mr. Cyrus Michaels is hereby denied. The NHTSA will continue to monitor this subject and may consider further rulemaking at some future date if the problem appears to be worsening.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 106 Pub. L. 93–492, 88 Stat. 1482 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 28, 1979.

A. C. Malliaris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 79–27442 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. IP79–8; Notice 2]

General Motors Corp.; Receipt of Petition for Inconsequential Noncompliance; Correction

In the **Federal Register** of August 27, 1979 (44 FR 50126–50127) this agency published a notice of receipt of a petition for inconsequential noncompliance from General Motors Corporation. The comment due date was inadvertently omitted. The comment due date is September 26, 1979.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 29, 1979.

A. C. Malliaris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 79–27432 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–59–M

National Highway Safety Advisory Committee; Orientation Sessions

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of an orientation session for members of the National Highway Safety Advisory Committee and other interested individuals. The sessions will be held at the DOT Headquarters Building in room 8334 on September 28 and 29 starting at 8:00 a.m. on both days.

The sessions will consist of an overview of highway safety programs and the interaction among the National Highway Traffic Safety Administration, the Federal Highway Administration, and the National Transportation Safety Board.

Attendance is open to the interested public but limited to the space available. This orientation session is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., (DOT Headquarters Building), Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C. on August 28, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79–27346 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the application described herein.

DATES: Comment period closes October 4, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8260–N	Bayonne Barrel & Drum Co., Newark, N.J.	49 CFR 173.28(o), 178.118–10(a)	To authorize conversion of non-DOT specification tight head 18 gauge steel 55-gallon drums to DOT Specification 17H except for location of markings, for shipment of all commodities presently authorized in a DOT Specification 17H drum. (Modes 1, 2, 3, 4.)
8261–N	Dept. of Army, Washington, D.C.	49 CFR 173.62	To authorize shipment of nitrocellulose nitroglycerin in two-gallon capacity polyethylene jugs sealed with rubber stoppers overpacked in a DOT 15M container. (Mode 1.)
8262–N	Battelle Memorial Institute, Richland, Wash.	49 CFR 173.392(d)(1)(iv)	To authorize a one-time only shipment of part of a pressurized water reactor system generator internally contaminated with 120–180 curies of Group III and Group IV radionuclides at approximately 0.003 millicuree per square centimeter as a radioactive material, low specific activity, n.o.s. (Mode 3.)
8263–N	Hercules Inc., Wilmington, Del	49 CFR 173.93	To authorize shipment of a propellant explosive, liquid, class B in a 4 mil polyethylene bag overpacked in a DOT Specification 12H fiberboard box (BA–3000). (Mode 1.)
8264–N	Hercules Inc., Wilmington, Del	49 CFR 713.93	To authorize shipment of propellant explosives, solid, classed as either explosive B or flammable solid, in various types of inside fiber containers, overpacked in DOT–12B boxes or DOT–21C drums (BA–1709 and BA–1709A). (Modes 1, 4.)
8265–N	Hercules Inc., Wilmington, Del	49 CFR 173.93	To authorize shipment of propellant explosives, solid classed as either explosive B or flammable solid, in various types of inside fiber containers overpacked in DOT–12B boxes or DOT–21C drums (BA–3003 and 3003A). (Modes 1, 4.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on August 29, 1979.

J. R. Grothe,

Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79–27433 Filed 8–31–79; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79–6]

Commerce in Explosives; List of Explosive Materials

Correction

In Fr Doc. 79–26655, published at page 50422, on Tuesday, August 28, 1979, the following corrections should be made:

1. On page 50423:

a. In the first column, under "E", in the sixth line, "EDGN" should be corrected to read "EGDN";

b. In the first column, under "E", in the 20th line, "Explosive mixtures containing sentitized" should be corrected to read "Explosive mixtures containing sensitized";

c. In the first column, under "F", between the sixth and seventh lines "*G*" should be placed to differentiate the Section G from Section H;

d. In the first column, under "H", in the fifth line, "Hexogen or octogene and a nitrated H-" should be corrected to read "Hexogene or octogene and a nitrated N-";

e. In the second column, under "M", in the first line "Nagnesium" should be corrected to read "Magnesium";

f. In the second column, under "M", in the ninth line "Mononitrotoluene-nitroglycer in mixture" should be corrected to read "Mononitrotoluene-nitroglycerin mixture";

g. In the second column, unde "O", in the fourth line "Organ nitramines" is corrected to read, "Organic nitramines";

h. In the second column, under "P", in the first line "[RDX and Plasticizer]" should be corrected to read "[RDX and plasticizer]";

i. In the second column, under "P", in the seventh line, "nitropentraerythrite . . ." should be corrected to read "nitropentaerythrite . . .";

j. In the third column, under "S", in the last line of the section, "Styphinc acid" should be corrected to read "Styphnic acid";

k. In the third column, under "T", in the third line, "TATB Triaminotrinitrobenzene" should be corrected to read "TATB triaminotrinitrobenzene";

2. On page 50424, in the first column, in the first line, "Signed: July 11, 1979" should be corrected to read "Signed: July 16, 1979";

3. On page 50424, in the first column, the signature "J. R. Dickerson" should be corrected to read "G. R. Dickerson".

BILLING CODE 1505–01–M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 20-79]

Series C—1984 Notes; Interest Rates

August 29, 1979.

The Secretary announced on August 28, 1979, that the interest rate on the notes designated Series C–1984, described in Department Circular—Public Debt Series—No. 20–79, dated August 22, 1979, will be 9¼ percent. Interest on the notes will be payable at the rate of 9¼ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-27443 Filed 8-31-79; 8:45 am]

BILLING CODE 4810-40-M

Cadmium From Japan; Antidumping; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative Modification or Revocation of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that cadmium from Japan is no longer being sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. If this action is made final, imports of this merchandise from Japan on or after the effective date of this notice will no longer be liable for special dumping duties under the Antidumping Act, 1921. Interested persons are invited to comment on this action.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to cadmium from Japan was published as Treasury Decision 72–206 in the **Federal Register** of August 4, 1972 (37 FR 15700).

After due investigation it has been determined tentatively that cadmium from Japan is no longer being, nor is likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination is Based

There have been no shipments of cadmium from Japan since April 1974, and no imports of such product into the U.S. since May, 1974. Futhermore, there are no unliquidated entries of such merchandise.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the finding of dumping on cadmium from Japan.

In accordance with § 153.40 Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views. A copy of all submissions should be delivered to any counsel who has heretofore represented any parties in these proceedings.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than September 19, 1979. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 4, 1979.

This notice is published pursuant to § 153.44(4) of the Customs Regulations (19 CFR 153.44(c)).

David R. Brenner,

Acting General Counsel of the Treasury.

August 27, 1979.

[FR Doc. 79-27422 Filed 8-31-79; 8:45 am]

BILLING CODE 4810-22-M

Portland Cement From Sweden; Antidumping; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative Revocation of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that portland cement, other than white, nonstaining portland cement, in bulk, from Sweden is no longer being sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, the sole manufacturer has given assurances that they are not, and do not intend to resume, selling portland cement, other than white, nonstaining portland cement, in bulk, from Sweden to the United States at less than fair value. Notice is hereby given that the Department of the Treasury intends to revoke this finding. If this action is made final, the finding of dumping covering the subject merchandise from Sweden will be revoked. Interested persons are invited to comment on this action.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Al Jemmott, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to portland cement, other than white, nonstaining portland cement, in bulk, from Sweden was published as Treasury Decision 55369 in the **Federal Register** on April 14, 1961 (26 FR 3427). On August 15, 1978, the Commissioner of Customs received a petition in proper form on behalf of the Swedish firm of Cementa A.B., requesting the revocation of the dumping finding pursuant to § 153.44(a), Customs Regulations (19 CFR 153.44(a)).

After due investigation, it has been determined tentatively that portland cement, other than white, nonstaining portland cement, in bulk, from Sweden is no longer being, nor likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination Is Based

The investigation indicated that there have been no sales of portland cement, other than white, nonstaining portland cement, in bulk, from Sweden to the United States since 1975, and the sole manufacturer has given assurances that they do not intend to resume sales of this merchandise to the United States at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the finding of dumping with respect to portland cement, other than white, nonstaining portland cement, in bulk, from Sweden.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301

Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office not later than September 19, 1979. Requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 4, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material, and they are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential material.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

David R. Brennan,

Acting General Counsel of the Treasury.

August 27, 1979.

[FR Doc. 79-27421 Filed 8-31-79; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Availability of Summary Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Specially Adapted Housing Program has been completed.

Single copies of the Specially Adapted Housing evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: August 27, 1979.

By the direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

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INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79–23657 appearing on page 45283 in the issue of Wednesday, August 1, 1979, make the following corrections:

(1) In the third column of page 45283, below the heading "Motor Carriers of Property" insert the designation "Volume No. 127".

(2) In the third column of page 45290, directly above the paragraph for MC 134289, insert the designation "Volume No. 138".

BILLING CODE 1505-01-M

[Notice No. 149]

Motor Carrier Temporary Authority Applications

August 16, 1979.

Important Notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount the type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2934 (Sub-32TA), filed July 27, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., P.O. Box 107B, Indianapolis, IN 46206. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Microfoam and related articles (except commodities in bulk in tank vehicles)* from the facilities of E.I. du Pont de Nemours, at or near Wurtland, KY, to points and places in ME, NH, CT, DE, IL, IN, MD, MA, MI, NJ, NY, OH, PA, RI, VT, WV and WI for 180 days. Supporting Shipper: E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898. Send Protest To: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohion Street, Room 429, Indianapolis, IN 46204.

MC (Sub-25TA), filed July 23, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and IL 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Iron and steel articles, materials, equipment and supplies used in the manufacturing, processing, sales, and distribution of iron and steel articles;* (1) Between Bartonville, IL, on the one hand, and on the other, points in IA, MN, WI, NE, KS, MO, IN, OH, KY, SD, and ND; (2) Between Crawfordsville, IN, on the one hand, and on the other, points in IL, KY, MO, KS, MN, and WI; (3) Between Chicago Heights, IL, on the one hand, and on the other, points in WI, KY, KS, IA, and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Consolidated Industries, Inc., 7000 S. W. Adams St., Peoria, IL 61641. Send protests to: David Hunt, TA, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 2934 (Sub-33TA), filed July 27, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Indianapolis, IN 46032. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Sofa or couch lounge frames, iron or steel, furniture and related products* from Elizabeth, NJ and points within 25 miles, to Columbus, OH, for 180 days. Supporting shipper: Simmons Company, Brunswick Avenue, Elizabeth, NJ 07207. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 9325 (Sub-79TA), filed July 17, 1979. Applicant: K LINES, INC., 17765 S. W. Boones Ferry Road, Portland, Oregon 97201. Representative: John A. Anderson, Suite 1440–200 S. W. Market St., Portland, Oregon 97201. Sodium Phosphate, in bulk, from points in Alameda County, CA to Longview, WA for 180 days. Supporting shipper(s): FMC Corporation, 2000 Market Street, Philadelphia, PA 19103, 215–299–6117. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, 114 Pioneer Courthouse,

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555 S. W. Yamhill Street, Portland, Oregon 97204.

MC 14215 (Sub-57TA), filed July 5, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Refractories and refractory products including materials used in the installation thereof,* from the plantsite of North American Refractories, Farber, MO, in the county of Audrain, to AR, AL, DC, DE, FL, GA, IL, IN, KY, LA, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, VA, and WV; and the return of materials and supplies used or useful in the manufacture of refractory products for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North American Refractories Co., 900 Hanna Bldg. E., 14 and Euclid, Cleveland, OH 44115. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14215 (Sub-58TA), filed July 5, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Coal tar pitch, in bulk, in dump vehicles,* from Follansbee, WV and Youngstown, OH to St. Marys, PA, Punxsutawney, PA and Niagara Falls, NY for 180 days. An underlying seeks 90 days authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14215 (Sub-59TA), filed July 17, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43212. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. *Iron and steel and iron and steel articles,* from the facilities of Weirton Steel (A division of National Steel Corp.) at Weirton, WV and Steubenville, OH to Fredericksburg, Lynchburg, Manassas, Orange, Richmond, Roanoke, and Virginia Beach, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weirton Steel, 3 Springs Road, Weirton, WV 26062. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14215 (Sub—60TA), filed July 24, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Iron and steel and iron and steel articles, and materials used in their manufacture, except commodities in bulk, in tank vehicles* between the plantsite of Crucible, Inc., Div. of Colt Industries at Midland, PA on the one hand, and, on the other, CT, GA, IL, IN, KY, MD, MA, MO, NJ, NY, OH, RI, TN, VA and WV for 180 days. Supporting shipper(s): Crucible Inc., Div. of Colt Industries, P.O. Box 226, Midland, PA 15059. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 19945 (Sub-74TA), filed July 20, 1979. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Joseph R. Behnken (same address as applicant). *Coke, in bulk,* from the plantsite and storage facilities of Great Lakes Carbon Corp.-MO Cok and Chemical Division, St. Louis, MO to points in IL, IN, IA, MI, MN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great Lakes Carbon Corporation, 299 Park Ave., New York, NY 10017. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 30844 (Sub-653TA), filed July 24, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes, same as applicant. *Incandescent electric lamp bulbs without fittings or filaments* from Lexington, KY to Newark, NJ; Kernston, VA and points in Trumball and Mahoning Counties, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Co., Nela Park Noble Rd., Cleveland, OH 44112. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 30845 (Sub-8TA), filed July 31, 1979. Applicant: ROBERT M. JOHNSON, NANNIE LEE JOHNSON AND MARY PITTMAN D/B/A ELLIS MOVING & STORAGE, 215 Fatherland St., P.O. Box 23295, Nashville, TN 37202. Representative: John G. Hardeman, 618 United American Bank Bldg, Nashville, TN 37219. *Electronic products* from Owensboro, KY to Poughkeepsie, NY, for 180 days. Supporting shipper(s): General Electronic Corporation, 250 E. Main Street, Hendersonville, TN 37075. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 42405 (Sub-40TA), filed July 20, 1979. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representive: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Common* carrier: *regulation* route; *general commodities* (except Classes A and B explosive), moving . . . express service, (1) between Little Rock, AR and Fordyce, AR: from Little Rock over U.S. Hwy 167 to Fordyce; (2) between Springdale, AR and Alpena, AR: from Springdale over AR Hwy 68 to Alpena; (3) between Harrison, AR and Conway, AR: from Harrison over US Hwy 65 to Conway; (4) between junction US Hwy 65 with US Hwy 62 and junction US Hwy 63 with US Hwy 61: from junction US Hwy 65 with US Hwy 62 over with US Hwy 62 to junction with US Hwy 63, then over US Hwy 63 to junction with US Hwy 61; (5) between Little Rock, AR and Piggott, AR: from Little Rock over US Hwy 67 to Corning, AR, then over US Hwy 62 to Piggott; (6) between Walnut Ridge, AR and Paragould, AR: from Walnut Ridge over AR Hwy 25 to Paragould; (7) between Piggott, AR and Caruthersville, MO: from Piggott over US Hwy 62 to junction with AR Hwy 139, then over AR Hwy 139 to junction AR Hwy 90, then over AR Hwy 90 to junction MO Hwy 84, then over MO Hwy 84 to Caruthersville; (8) between Caruthersville over County Hwy U to junction with I–55; from Caruthersville over County Hwy U to junction with I–55; (9) between junction I–55 with MO Hwy 84 and Memphis, TN: from junction on I–55 with MO Hwy 84 over I–55 to Memphis; (10) from Piggott, AR and Forrest City, AR from Piggott over AR Hwy 1 to Forrest City; (11) between Bringley, AR and Jonesboro, AR: from Brinkey over AR Hwy 39 to Jonesboro; (12) between Blytheville, AR and West Memphis, AR: from Blytheville over U.S. Hwy 61 junction with AR Hwy 77, then over AR Hwy 77 to West Memphis; (13) between Bald Knob, Ar and Marion, AR: from Bald Knob over U.S. Hwy 64 to Marion; (14) between Little Rock, AR and Memphis, TN: from Little Rock over I–40 and US Hwy 70 to Memphis; (15) between Tecumseh, OK and junction OK Hwy 99 with OK Hwy 39: from Tecumseh over US Hwy 270 to junction with OK Hwy 9A, then over OK Hwy 9A to junction with OK Hwy 39, then over OK Hwy 39 to junction with OK Hwy 99, (16) between junction Ok Hwy 58 with US Hwy 270 and junction OK Hwy 58 with US Hwy 60; from junction OK Hwy 58 with US Hwy 270 over OK Hwy 58 to junction US HWy 60; (17) between Canton, OK and junction OK Hwy 51 with US Hwy 270: from Canton, OK over OK Hwy 51 to junction US Hwy 270. Return over these same routes, serving all intermediate points and commercial zones. Applicant intends to tack the authority requested with its existing authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 150 supporting shipper statements. They may be examined at the field office listed below or at Headquaters. Send protests to: Connie Stanley, ICC, Rm.

240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52704 (Sub-239TA), filed July 19, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H" LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *(1) Malt beverages and related advertising materials* (except in bulk), from the facilities of Miller Brewing Company at or near Albany, GA, to points in the United States in and east of WI, IL MO, OK, and TX (except points in CT, ME, MA, NH, RI and VT); and *(2) Materials, equipment and supplies used in the manufacture, sale or distribution of malt beverages* (except commodities in bulk), from points in the United States in and east of WI, IL, MO, OK and TX (except points CT, ME, MA, NH, RI and VT), to the facilities of Miller Brewing Company at or near Albany, GA, for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 West Highland Blvd., Milwaukee, WI 53208. Send protest to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Building, Birmingham, AL 35203.

MC 53965 (Sub-162TA), filed July 18, 1979. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, KS 76401. Representative: Bruce A. Bullock, same as above. (1) *Pizza and pizza ingredients,* and (2) *material and supplies used in the manufacture and distribution of pizza and pizza ingredients,* between the facilities of Tony's Pizza Service at or near Salina, KS, on the one hand, and, on the other, points in PA, SC, NC, GA, AL, MS, TN, KY, OH, IN, MI, IL, WI, NM, IA, MO, AR, LA, TX, OK, NE, SD, MN, ND, MT, WY, CO, AZ, UT, ID, WA, OR, NV, and CA. Supporting shipper(s): Tony's Pizza Service—Subsidiary of Schwan Sales Enterprises, Inc., 115 West College Drive, Marshall, MN 56258. Send protest to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 58035 (Sub-22TA), filed July 24, 1979. Applicant: TRANS–WESTERN EXPRESS, LTD., 48 East 56th Ave., Denver, CO 80216. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Scrap metals,* from the facilities of Liss Metals, Inc. in Larimer and Weld Counties, CO to Chicago and Joliet, IL for 180 days. Supporting shipper(s): Liss Metals, Inc., 301 Air Park Drive, Fort Collins, CO. Send protest to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 59655 (Sub-27TA), filed July 31, 1979. Applicant: SHEEHAN CARRIERS, INC., 62 Lime kiln Road, Suffern, NY 10901. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Malt beverages and related advertising materials, and materials, equipment, and supplies used in the manufacture and sale of malt beverages,* between Rochester, NY, on the one hand, and, on the other, Taftville, CT; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Levine Distributing Company, Inc., 505 Norwich Ave., Taftville, CT 06380. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 61445 (Sub-17TA), filed July 23, 1979. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Ave., Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. *Iron and steel articles,* from PA, NJ; Cayuga, Suffolk and Nassau Counties, NY; Bridgeport, CT; Baltimore, MD; Norfolk, Richmond, and Roanoke, VA; and Darlington, SC; to CT, DC, DE, MA, MD, ME, NC, NH, NJ, NY, PA, SC, VA, and VT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Steel Supply Co., 1800 E. Byberry Rd., Phila., PA 19116. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 65895 (Sub-11TA), filed July 30, 1979. Applicant: REDDAWAY'S TRUCK LINE, 1721 N. W. Northrup, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210, 503–226–3755. (1) *General commodities,* except those of unusual value, Class A and B explosives, and those injurious or contaminating to other lading, in containers and trailers, (2) *empty trailers and containers* between Grants Pass, OR, Halsey, OR, Springfield, OR, Longview, WA, and Tacoma, WA, and their commercial zones. Restricted to traffic having a prior or subsequent movement by water. For 180 days. Supporting shipper(s): Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 94265 (Sub-315TA), filed July 20, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., Route 460 West, P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 72434, Atlanta, GA 30328. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I of the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the facilities of Peter Eckrich & Sons, Inc., in Allen Township, MI, to points in MS and FL, restricted to the transportation of traffic originating at the above named origin, for 180 days. Supportins shipper(s): Peter Eckrich & Sons, Inc., 455 Squires Rd., Quincy, MI 49082. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620. Philadelphia, PA 19106.

MC 95084 (Sub-144TA), filed July 18, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lumber, from AR and LA to points in IL, IA, KS, MN, MO, NE, ND, OK, SD, and WI, for 180 days. Supporting shipper(s): Continental Lumber Co., Inc., 116 North Main, Halstead, KS 67056. Send protests to: Herbert W. Allen D/S, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC 95084 (Sub-145TA), filed July 27, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *(1) Irrigation systems, (2) Parts for irrigation systems, (3) Solar energy systems, fuel burning heating appliances, parts and accessories used in the installation, operation and maintenance of such systems or appliances, (4) Pipe, tubing, poles and such materials, equipment and supplies as are used in the installation and maintenance thereof, (5) iron and streel articles, (6) Accessories, equipment, materials and supplies used in the manufacture or assembly of the commodities described in (1) through (5) above, (7) Used irrigation systems and parts thereof,* between the facilities of Valmont Industries, Inc., at or near Valley, NE on the one hand, and, on the other, points in and East of ND, SD, NE, KS, OK, TX, including all international border crossing points for 180 days. Supporting shipper(s): Valmont Industries, Inc., Valley, NE 68064. Send protests to: Herbert W. Allen, D/S, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107515 (Sub-1268TA), filed July 5, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peach Road, Atlanta, GA 30326. *Plastic and plastic articles (except in bulk)* from Trenton, TN to Bedford Park, IL and points in NC, SC, GA, AL, MS, AR, FL, PA and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Universal Packing Corp., Kellwood Drive Trenton, TN 38282. Send protests to: Sara K. Davis, T/A, ICC, 1252 W.

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Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1269TA), filed July 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor-Lenox Towers South, 3390 Peachtree Rd, Atlanta, GA 30326. *Animal feed and feed ingredients (except commodities in bulk)* from Birmingham, AL to facilities of Kal Kan Foods, Inc. at or near Columbus, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kal Kan Foods, Inc. 3386 E. 44th St., Vermon, CA 90059. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1270TA), filed July 18, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, 5th Floor, Lenox Towers South, 3390 Peachtree Rd., NE, Atlanta, GA 30326. *Bakery goods* from Athens and Bogart, GA to points in the U.S. (except AK, CO, GA, HI, ID, MT, NV, OR, UT, WA and WY) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Benson's Inc., P.O. Box 216, Douglasville, PA 19518. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1271TA), filed July 18, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Lighting fixtures and/or parts thereof* from the facilities of Lithonia Lighting, Div. of National Service Industries, Inc. at or near Cochran and Conyers, GA to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, 1400 Lester Rd., Conyers, GA 30207. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1272TA), filed July 18, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Drugs, medicines, intravenous solutions and administration sets in vehicles equipped with mechanical refrigeration* from facilities of Travenol Laboratories, Inc. located in the Los Angeles, CA commercial zone to points in the commercial zones of Boston, MA, Pittsburgh, PA, Cleveland, OH and Baltimore, MD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Travenol Laboratories, Inc., 1 Baxter Parkway, Deerfield, IL 60015. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 107515 (Sub-1273TA), filed July 30, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Marc A. Pearl, Fifth Floor, Lenox Towers S, 3390 Peachtree Road, NE., Atlanta, GA 30326. *Footwear and footwear accessories and footwear display cabinets and cases,* from facilities of Meldisco Shoe Co., Morrow, GA, to points in TX. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meldisco Shoe Company, 1100 Commerce Rd., Morrow, GA 30260. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 109515 (Sub-17TA), filed July 23, 1979. Applicant: OZELLA HARRINGTON, an individual, P.O. Box 604, Benson, AZ 85602. Representative: Earl H. Carroll, 363 N. 1st Ave., Phoenix, AZ 85003. Contract carrier, irregular routes, *Nitric acid,* in bulk, from Curtiss, AZ to Henderson, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Apache Powder Co., P.O. Box 700, Benson, AZ 85602. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix AZ 85025.

MC 109584 (Sub-198TA), filed August 2, 1979. Applicant: ARIZONA PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Liquid trace minerals,* in bulk, in tank vehicles, from Anaheim, CA to points in ID, OR and WA for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Delst Chemical & Research, Inc., P.O. Box 2392, Fullerton, CA 92633. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 111045 (Sub-176TA), filed July 27, 1979. Applicant: REDWING CARRIERS, INC., 8515 Palm River Rd., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). *Acrylonitrile,* in bulk, in tank vehicles, from Avondale, LA to Pace, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Ave., Wayne, NJ 07470. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 111485 (Sub-27TA), filed July 12, 1979. Applicant: PASCHALL TRUCK LINES INC., Route #4, Murray, KY 42071. Representative: John M. Ballenger, P. O. Box 11278, Alexandria, VA 22312. *Common Carrier: Regular Routes: General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving Paducah, KY, and points in its commercial zone as off-route points in connection with applicant's existing regular routes, for 180 days. Applicant intends to tack the authority here applied for to authority held by it in MC–111485 Sub-7 and Sub-10, and further intends to interline with other carriers at Memphis and Nashville, TN; St. Louis, MO; Louisville and Paducah, KY; and Paris, TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 97 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC or copies thereof may be examined at the field office named below. Send protests to: Floyd A. Johnson, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 111545 (Sub-290TA), filed July 19, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P. O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same as applicant). (1) *Trailers designed to be drawn by passenger automobiles (except travel trailers and camping trailers) in initial movements and (2) buildings, complete or in sections, mounted on wheeled undercarriages* from the facilities of Moduline (Minnesota), Inc. at or near Montevideo, NM to Manitowoc, WI, Rapid City, SD, Forest City, IA, Billings, MT, Mt. Pleasant, IA, Minot, ND, Sheridan, WY, Havre, MT and Williston, ND for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moduline (Minnesota), Inc., P. O. Box 147, Montevideo, MN 56265. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm 300, Atlanta, GA 30309.

MC –112304 (Sub-204TA), filed July 5, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Aluminum and aluminum products* from the facilities of Revere Copper & Brass, Inc., at or near Scottsboro, AL, to points in CT, DE, DC, IL, IN, IA, KY, MD, MA, MI (lower Peninsula), MO, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WV and WI; and, from Omal, OH, to Scottsboro, AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revere Copper & Brass, Inc., Box 191, Rome, NY 13440. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-205TA), filed July 20, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (Same as applicant). *Aluminum chloride, in drums* between the facilities of Ascension Chemical Co. of America Corp., at Tonawanda, NY, on the one hand, and, on the other, the facilities of Ascension Chemical Co. of Texas, Inc., at or near Huntsville, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ascension Chemical of America Corp., 4000 River Rd., Tonawanda, NY 14150; Ascension Chemical Co. of Texas, Inc., P.O. Box 188–19, Huntsville, TX 77340. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113434 (Sub-141TA), filed April 23, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A–5253 144th Avenue, Holland, MI 49423. *Such commodities as are dealt in or used by manufacturers of glass containers* (except in bulk); from the facilities of Glenshaw Glass Company, Inc., Glenshaw, PA, to the states of IL, IN, OH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glenshaw Glass Co. Inc., 1101 Wm Flinn Hwy, Glenshaw, PA 15116. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 113784 (Sub-89TA), filed July 24, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: Douglas R. Gowland (address same as above). *Soda Ash in pneumatic tank,* from ports of entry on the U.S.-Canadian boundary line located on the Detroit and St. Clair Rivers to Morenci, MI., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Canada, Ltd., P.O. Box 2000, Amherstburg, Ontario. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC114045 (Sub-545TA), filed July 23, 1979. Applicant: TRANS—COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart, P.O. Box 61228, Dallas, TX 75261. *Foodstuffs (except in bulk)* between the facilities of Wetterau, Inc. at or near St. Louis, MO on the one hand, and on the other, points west of the Mississippi River for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wetterau Incorporated, 8920 Pershall Road, Hazelwood, MO 63042. Send protests to: Opal M. Jones, 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC114274 (Sub-68TA), filed July 18, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Paper and paper products and materials, equipment and supplies used and useful in the manufacture and shipping of paper and paper products, from Plattsburg and Lyons Falls, NY, and Gilman, VT, to IL, IN, IA, and MI, for 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 800 Summer St., Stamford, CT 06901. Send protests to: Herbert W. Allen D/S, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC114334 (Sub-58TA), filed July 26, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel and iron and steel articles* from the facilities of Chapparal Steel Company at or near Midlothian, TX to points in TN, AL and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chapparal Steel Company, P.O. Box 1100, Midlothian, TX 76065. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 115654 (Sub-156TA), filed July 23, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Building, 425 Thirteenth St. N.W., Washington, DC 20004. *Sugar (except in bulk),* from Supreme, LA to points in AR, MO, IL, IN, OH, KY, TN, GA, AL and MS, for 180 days. Supporting shipper(s): Supreme Sugar Company, Inc., 1 Shell Square, New Orleans, LA 70138. Send protests to: Glenda Kuss, T/A, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-157TA), filed July 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. *Foodstuffs and feed ingredients, in vehicles equipped with mechanical refrigeration (except in bulk)* between the facilities of Mid-South Refrigerated Warehouse at or near Memphis, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, TN, and WV, for 180 days. Supporting shipper(s): Mid-South Refrigerated Warehouse, 1100 E. Parkway S., Memphis, TN 38114. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-158TA), filed July 25, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. *Such commodities as are dealt in by wholesale and retail grocery houses, including Bottlers' Flavoring Compounds (except commodities in bulk) in vehicles equipped with mechanical refrigeration,* from the facilities of General Foods Corporation at or near Memphis, TN, to points in AL, AR, GA, LA, MS, and MO, for 180 days. Restriction: Restricted to the transportation of shipments originating at the facilities named herein and destined to the indicated destinations. Supporting shipper(s): General Foods Corporation, 250 North Street, White Plains, NY 10625. Send protests to: Glenda Kuss, Suite A–422, 801 Broadway, Nashville, TN 37203.

MC 116254 (Sub-281TA), filed August 3, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: M. D. Miller (same address as above). *Gypsum, gypsum products, and building materials,* from the plantsite of U.S. Gypsum Company at or near New Orleans, LA, to AL, AR, FL, GA, MS, and TN for 180 days. Supporting shipper(s): United States Gypsum Company, 53 Perimeter Center East, Atlanta, GA 30346. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 117815 (Sub-328TA), filed July 13, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Charcoal briquettes and wood chips (except commodities in bulk)* from the facilities of The Kingsford Company at Burnside, KY and points in its Commercial Zone, to points in IL, IN, IA, MI, MN, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, 4th and Broadway, Commonwealth 31Bldg.,

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Louisville, KY 40201. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 117815 (Sub-329TA), filed July 23, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, IA 50317. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Frozen Vegetables* from the facilities of Winter Garden, Inc. at or near Bells, Memphis, and Rossville, TN to IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI, for 180 days, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. Suporting shipper(s): Winter Garden, Inc., P. O. Box 119, Bells, TN 38006. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119765 (Sub-87TA), filed July 25, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Coffee, tea and non-alcoholic beverages* (1) from Linden, NJ to Anderson and Yorktown, IN; (2) from Morris County, NJ to St. Louis, MO; Houston, TX; and Anderson and Yorktown, IN; and (3) from Houston, TX to St. Louis, MO and Yorktown, IN requesting all above commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dana Brown Private Brands, Inc., 4907 West Pine Blvd, St. Louis, MO 63108. Send protest to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 119934 (Sub-231TA), filed July 11, 1979. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, IN 46040. Representative: Robert W. Loser, II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Printing ink, in bulk, in tank vehicles, from New Albany, IN to Chicago, Mattoon and Salem, IL; Corinth, MS; New York, NY; Cincinnati, Cleveland, Dayton and Springfield, OH; Gallatin and Memphis, TN; and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Shipper: Flint Ink Corporation, 25111 Glendale, Detroit, MI 48239. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm 429, Indianapolis, IN 46204.

MC 119974 (Sub-85TA), filed July 24, 1979. Applicant: L. C. L. TRANSIT CO., 949 Advance St., Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *Edible and inedible fats, animal oils and products and blends of animal fats and oils,* in bulk, in tank vehicles, from facilities of Geo. A. Hormel & Co. at Davenport, IA to all points in IL, MN, MO, NE, SD & WI, for 180 days. Supporting shipper(s): Geo. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisonsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123294 (Sub-68TA), filed July 24, 1979. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, same address as applicant. *Asphalt filler, in bulk,* from Pigua, OH, to Brookville, IN restricted to shipments originating or destined to the facilities of Owens Corning Fiberglas for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Owens Corning Fiberglas, Toledo, OH. Send protests to: Dave Hunt, T/A 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27406 Filed 8-31-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Rehabilitation and Betterment Program, Yakima-Tieton Irrigation District, Washington; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental impact statement on the proposed rehabilitation and betterment of the irrigation facilities of the Yakima-Tieton Irrigation District (YTID) near Yakima, Washington.

The Yakima-Tieton Irrigation District proposes to repalace its 70-year-old open canal irrigation distribution system with a new pressure pipe distribution system. The new system would replace the existing and open canal system with over 200 miles of pipeline. The size of pipe will range from 4 inches to 90 inches in diameter. A regulating reservoir would be constructed at the head of the distribution network. The earthen dam would be approximately 46 feet high and the reservoir would inundate about 23 acres. The new system would require three booster pump stations to provide adequate water pressure to agricultural lands at higher elevation in the district. The pump station power demands would be offset by two in-line hydropower plants in the system. Their total power output of 2,000 kilowatts would more than offset the pumping power demands of the pump stations.

The environmental impact statement will consider the impact of all of the project alternatives. These alternatives include: (1) full pressure system for irrigation service, (2) full presure system modified to provide frost protection to growers willing to pay for the added costs involved, (3) full pressure system for irrigation service with added hydropower production, and (4) a program to rehabilitate portions of the existing canal and pipeline system. The more significant environmental concerns include removal of riparian habitat associated with the existing open canal distribution system and the related effects on wildlife, creation of a small equalizing reservoir to provide controlled flows within the system, impacts during construction, and potential land use changes.

Environmental studies, preparation, and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act of 1969, and will be accomplished under the Council on Environmental Quality regulations published in the **Federal Register** on November 29, 1978. Accordingly, we are soliciting the participation of Federal, State, and local agencies, affected private groups, and individuals in the determination of significant environmental items to ba analyzed.

An environmental assessment was prepared in 1978 and distributed for review by Federal, State, and local governmental agencies, and other interested organizations. Meetings were held with concerned Federal, State, and local agencies on February 13, 1979, to discuss the scope of the environmental impact statement. Further public meetings and interagency coordination activities will be announced locally as they are scheduled. To further assure that the full range of issues related to this proposal are discussed in the environmental impact statement and all significant issues are identified, comments and suggestions are invited. Interested agencies, organizations, and individuals should write to or contact the Bureau of Reclamation at the address provided below. The contact persone will be:

Douglas J. James, Environmental Statement Coordinator, Bureau of Reclamation, Pacific Northwest Region, Box 043, 550 West Fort Street, Boise, ID 83724, Telephone: 208-384-1208.

Dated: August 24, 1979.

Orrin Ferris,

Acting Commissioner of Reclamation.

[FR Doc. 79-27338 Filed 8-31-79; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Land Management

[AA-9205-C and AA-9205-D]

Alaska Native Claims Selection; Decision of August 17, 1979, to Issue Conveyance Amended

The purpose of this decision is to amend the description of lands within Sec. 20, T. 36 S., R. 63 E., Copper River Meridian in the decision dated August 17, 1979.

The description for Sec. 20 now reads:

T. 36 S., R. 63 E., Copper River Meridian;
Sec. 20 (fractional), all.

The description is hereby corrected and amended to read as follows:

T. 36 S., R. 63 E., Copper River Meridian;
Sec. 20 (fractional), excluding Regional 14(h)(1) application AA-10505.

This decision corrects and amends only the description of lands within Sec. 20, T. 36 S., R. 63 E., Copper River Meridian. All other terms and conditions of the August 17, 1979, decision remain unchanged.

Sue Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-27382 Filed 8-31-79; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Additions, Deletions, and Corrections

By notice in the **Federal Register** of February 6, 1979, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in section with accordance 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

Charles A. Herrington,

Acting Keeper of the National Register.

The following list of properties has been added to the National Register of Historic Places since notice was last given in the February 6, 1979, **Federal Register.** National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER: properties receiving grants-in-aid for historic preservation are designated by G.

ALABAMA

Russell County

Pittsview vicinity, *Glennville Historic District,* S of Pittsview (8-7-79).

ALASKA

Aleutian Islands Division

Aleutian Islands, *Temnac P-38G Lightning (aircraft)* (8-26-79).
Atka vicinity, *Atka B-24D Liberator (aircraft)* (7-26-79).

Ketchikan Division

Saxman, *Saxman Totem Park (AHRS KET-060)* S. Tongass Hwy. (8-7-79).

ARIZONA

Maricopa County

Tempe, *Andre Building,* 401-403 S. Mill Ave. (8-10-79).

Pima County

Tucson, *Manning, Levi H., House,* 9 Paseo Redondo (7-27-79).

ARKANSAS

Bradley County

Warren vicinity, *Adams-Leslie House,* S of Warren (8-9-79).

Conway County

Morrilton, *Morrilton Male and Female College,* E. Church St. (8-3-79).

Garland County

Hot Springs, *Citizens Building,* 723 Central Ave. (8-9-79).

Jackson County

Newport, *Jackson County Jail,* 503 3rd St. (8-10-79).

Jefferson County

Pine Bluff, *Hotel Pines,* Main St. and W. 5th Ave. (8-10-79).

Lee County

Marianna, *Elks Club,* 67 W. Main St. (7-27-79).

Pulaski County

Little Rock, *Marshall Square Historic District,* Bounded by 17th, McAlmont, 18th, and Vance Sts. (8-10-79).
Little Rock, *Waters, Charles Clary, House,* 2004 W. 22nd St. (8-10-79).

Sebastian County

Fort Smith, *Breckinridge, C. R., House,* 504 N. 16th St. (8-7-79).
Fort Smith, *Murphy, William J., House,* 923 N. 13th St. (8-7-79).

CALIFORNIA

Los Angeles County

Los Angeles, *Spring Street Financial District,* 354-704 S. Spring St. (8-10-79).
Los Angeles, *Wilton Historic District,* S. Wilton Pl., S. Wilton Dr., and Ridgewood Pl. (7-24-79).

Ventura County

Ventura, *Olivas Adobe,* 4200 Olivas Park Dr. (7-24-79).

COLORADO

Adams County

Westminster, *Westminster University,* 3455 W. 83rd Ave. (8-10-79).

Denver County

Denver, *Enterprise Hill Historic District,* Bounded by 21st and 22nd Aves., Tremont and Glenarm Pls. (8-9-79).
Denver, *Field, Thomas M., House (Colorado State Home for Dependent Children)* 2305 S. Washington St. (8-10-79).

El Paso County

Colorado Springs, *Rio Grande Engine No. 168,* 9 S. Sierra Madre (8-10-79).
Manitou Springs, *Manitou Bathhouse,* 934 Manitou Ave. (8-1-79).

CONNECTICUT

Fairfield County

Fairfield, *Ogden, David, House,* 1320 Bronson Rd. (8-17-79).
Stamford, *Octagon House,* 120 Strawberry Hill Ave. (8-17-79).

Hartford County

Enfield, *Enfield Historic District,* 1106-1492 Enfield St. (8-10-79).
Hartford, *Union Baptist Church (St. Thomas's Church,* 1913 and 1921 Main St. (8-15-79).

Middlesex County

Cromwell, *Middletown Upper Houses Historic District,* CT 99 (7-27-79).
Middletown, *Church of the Holy Trinity and Rectory,* 381 Main St. and 144 Broad St. (8-14-79).

New Haven County

New Haven, *Goffe Street Special School for Colored Children,* 106 Goffe St. (8-17-79).

New London County

Noank, *Noank Historic District,* CT 215 (8-10-79).

DELAWARE

Kent County

Felton vicinity, *Hughes Early Man Sites (7-24-79).*

New Castle County

Wilmington, *Baynard Boulevard Historic District*, Baynard Blvd. between 18th St. and Concord Ave. (7-26-79).

Sussex County

Fenwick Island, *Fenwick Island Lighthouse Station*, Off DE 54 (8-13-79).
Georgetown, *Richards Mansion*, N. Bedford St. and the Circle (7-26-79).

GEORGIA

Troup County

LaGrange, *Ferrell-Holder House*, 1402 Vernon Rd. (8-14-79).

Warren County

Warrenton, *Roberts-McGregor House*, Depot St. (8-14-79).

Ada County

Boise, *Artesian Water Co. Pumphouse and Wells*, Off ID 21 (7-26-79).

Kootenai County

Coeur d'Alene, *Coeur d'alene City Hall*, 5th and Sherman Sts. (8-3-79).

Oneida County

Malad, *Malad Second Ward Tabernacle*, 20 S. 100 W. St. (7-27-79).

Shoshone County

Wallace, *Wallace Historic District*, Roughly bounded by Pine, Bank, 5th and 7th Sts. (8-10-79).

ILLINOIS

Cook County

La Grange, *La Grange Village Historic District*, U.S. 12/20/45 (8-8-79).

DuPage County

Winfield, *Besch House*, O S 070 Church St. (7-27-79).

Kane County

Wayne, *Oaklawn Farm*, Army Trail and Dunham Rds. (7-26-79).

Macon County

Decatur, *Millikin Building*, 100 N. Water St. (7-24-79).

Madison County

Edwardsville, *LeClaire Historic District*, Roughly bounded by RR tracks, Wolf St., Hadley and Madison Aves. (8-8-79).

St. Clair County

East St. Louis, *Pennsylvania Avenue Historic District*, Pennsylvania Ave. (7-27-79).

Vermilion county

Danville vicinity, *Collins Archeological District* (8-3-79).

Whiteside County

Sterling vicinity, *McCune Mound and Village Site* (8-16-79).

INDIANA

Fulton County

Rochester, *Smith, John W., House*, 730 Pontiac St. (7-26-79).

IOWA

Jackson County

Canton, *Canton School*, South St. (7-24-79).

KENTUCKY

Bourbon County

Paris vicinity, *Sacred Home (Robinson-Breckinridge House)* W of Paris on Hume-Bedford Rd. (8-9-79).

Clark County

Clark County Multiple Resource AREA (Partial Inventory), This area includes various properties at various locations. Details available upon request. (8-1-79).

Daviess County

Owensboro, *Union Station*, 1039 Frederica St. (8-1-79).

Fayette County

Lexington, *Stony Point*, 4935 Parkers Mill Rd. (8-7-79).
Lexington vicinity, *Bowman Houses*, W of Lexington on Bowman's Mill Rd. (8-9-79)

Scott County

Georgetown *Georgetown College Historic Buildings*, E. Jackson St. (8-8-79).

LOUISIANA

Avoyelles Parish

Bunkie, *Bailey Theatre*, Oak St. (7-26-79).

Caddo Parish

Shreveport, *Lewis House*, 675 Jordan St. (7-27-79).

Concordia Parish

Ferriday vicinity, *Lisburn Plantation House*, SE of Ferriday (7-26-79).

Iberia Parish

New Iberia, *Steamboat House*, 623 E. Main St. (7-27-79).

Lafayette Parish

Lafayette, *St. John's Cathedral*, St. John St. (7-27-79).

Orleans Parish

New Orleans, *Grant-Black House*, 3932 St. Charles Ave. (7-26-79).

Pointe Coupee Parish

LaCour, *LaCour, Ovide, Store*, LA 419 (7-27-79).

Rapides Parish

Alexandria, *Hirsch, Mayer, House*, 1216 Jackson St. (7-26-79).

Sabine Parish

Fisher, *Fisher Historic District*, Roughly bounded by 4 L Dr., 3rd Ave., S. 2nd and North Sts. (7-27-79).

St. Martin Parish

St. Martinville, *Old Castillo Hotel*, 220 Port St. (7-24-79).

Tangipahoa Parish

Kentwood, *Tangipahoa Parish Training School Dormitory*, Off LA 38 (7-27-79).

Washington Parish

Bogalusa, *Bogalusa City Hall*, 214 Arkans Hall Ave. (7-26-79).
Bogalusa, *Sullivan House*, 223 S. Border Dr. (7-27-79).

MAINE

Kennebec County

Augusta, *Ellis, Dr. J. W., House*, 62 State St. (8-15-79).

Lincoln County

Damariscotta, *Main Street Historic District*, Main St. (8-10-79).

Sagadahoc County

Phippsburg, *Fort Baldwin Historic Site*, Sabino Hill (8-3-79).

Waldo County

Searsport, *Searsport Historic District*, Main St. (7-27-79).

MARYLAND

Allegany County

Cumberland, *Town Clock Church*, 312 Bedford St. (8-6-79).
Cumberland vicinity, *Union Grove Schoolhouse*, Ne of Cumberland on Mason Rd. (7-24-79).

Anne Arundel County

Linthicum Heights, *Turkey Hill*, 106 W. Maple Rd. (7-24-79).

Baltimore (independent city)

Dorguth Memorial United Methodist Church, Scott and Carroll St. (8-14-79).

Baltimore County

Catonsville, *Summit*, 10 Stanley Dr. (7-24-79).
Lutherville vicinity, *Cloisters, The*, W of Lutherville at 10440 Falls Rd. (8-7-79).

Dorchester County

Taylor's Island, *Grace Episcopal Church Complex*, Hooper Neck Rd. (7-24-79).

Montgomery County

Poolesville vicinity, *Darnall Place*, E of Pooles at 17615 White's Ferry Rd. (8-13-79). HABS.

Queen Anne's County

Stevensville, *Christ Church*, MD 18 (7-24-79).

Worcester County

Snow Hill, *All Hallows Episcopal Church*, 101 N. Church St. (8-6-79).

MICHIGAN

Calhoun County

Marshall, *Emporium*, 154-156 W. Michigan Ave. (8-9-79).

Ionia County

Ionia, *Ionia County Courthouse*, E. Main St. (8-9-79).

Jackson County

Jackson, *Michigan State Prison*, Armory Court and Cooper St. (8-10-79). HAER.

Kalamazoo County

Kalamazoo, *Desenberg Building*, 251 E. Michigan Ave. (8-13-79).
Kalamazoo vicinity, *DeLano, William S., House*, N of Kalamazoo at 555 W. E Ave. (8-9-79).

Macomb County

St. Clair Shores, *Ford, Edsel and Eleanor, House*, 1100 Lakeshore Dr. (7-24-79).

Newaygo County

Croton, *Croton Hydroelectric Plant*, Croton Dam Rd. (8-16-79) HAER.

Oakland County

Waterford, *Waterford Village Historic District*, Dubay and Pontiff Sts., Steffeus, Andersonville and Airport Rds. (8-10-79).

Van Buren County

Paw Paw, *Van Buren County Courthouse Complex*, Paw Paw St. (8-9-79).

Wayne County

Detroit, *Trombly, Charles, House*, 553 E. Jefferson Ave. (8-13-79).

MINNESOTA

Rice County

Faribault, *Cathedral of Our Merciful Saviour*, 515 NW. 2nd Ave. (8-10-79).

MISSISSIPPI

Adams County

Natchez, *Mercer-Laird House*, 118 S. Wall St. (8-9-79).

Claiborne County

Port Gibson, *Port Gibson Multiple Resource Area*. This area includes various properties at various locations. Details available upon request. (7-22-79).

MISSOURI

St. Louis (independent city)

Hadley-Dean Glass Company, 701-705 N. 11th St. (8-1-79).

MONTANA

Deer Lodge County

Anaconda, *Ancient Order of Hibernians Hall*, 321-323 E. Commercial St. (8-10-79).
Anaconda, *City Hall*, 401 E. Commercial St. (8-10-79).

Powell County

Deer Lodge, *Bielenberg, Nick J., House*, 801 Milwaukee Ave. (8-10-79).

NEBRASKA

Douglas County

Omaha, *Omaha Quartermaster Depot Historic District*, Roughly bounded by RR tracks, Woolworth Ave., Hickory, 22nd and 20th Sts. (7-26-79).

NEW HAMPSHIRE

Carroll County

North Conway, *North Conway Depot and Railroad Yard*, Norcross Circle (8-10-79).

NEW JERSEY

Burlington County

Jobstown vicinity, *Rosebud Farm*, E of Jobstown on Springfield Meetinghouse Rd. (8-17-79).
Moorestown vicinity, *Farmer's Hall*, SE of Moorestown on Mt. Laurel Rd. (8-1-79).

Hudson County

Jersey City, *Grace Church Van Vorst*, 268 2nd St. (8-1-79) HABS.

Hunterdon County

Pattenburg vicinity, *Case Farmstead*, W of Pattenburg on SR 14 (8-14-79).

Middlesex County

Highland Park vicinity, *Raritan Landing Archeological District* (8-10-79).

Somerset County

Neshanic, *Neshanic Historic District*, Amwell and Zion Rds. (8-1-79).
Rocky Hill vicinity, *Cat Tail Brook Bridge*, NW of Rocky Hill on Montgomery Rd. (8-1-79).

Sussex County

Branchville vicinity, *Foster-Armstrong House*, N of Branchville on River Rd. (7-23-79) HABS.
Newton, *Sussex County Courthouse*, High and Spring Sts. (7-23-79).
Wallpack Center vicinity, *Gunn, Cornelius, House*, SW of Wallpack Center on Ridge Rd. (7-23-79).
Wallpack Center vicinity, *Layton, Richard, House*, SW of Wallpack Center on Ridge Rd. (7-23-79).
Wallpack Center vicinity, *Shoemaker-Houck Farm*, S of Wallpack Center on Heney's Mill-Wallpack Center Rd. (7-23-79) HABS.
Wallpack Center vicinity, *Snable, Andrew, House*, NE of Wallpack Center on Sandyston-Haney's Mill Rd. (7-23-79).

NEW MEXICO

Colfax County

Springer, *Cowan, R. H., Livery Stable*, 220 Maxwell Ave. (8-3-79).

Mora County

Cleveland, *Cassidy, Daniel, and Sons General Merchandise Store*, NM 3 (8-1-79).
Ocaté, *Strong, J. P., Store*, NM 21 and NM 120 (7-27-79).

San Miguel County

Las Vegas, *Lincoln Park Historic District*, 7th, 8th, Lincoln and Jackson Sts. (8-6-79).
Las Vegas, *Railroad Avenue Historic District*, U.S. 85 (8-6-79).

Santa Fe County

Santa Fe, *Vierra, Carlos, House*, 1002 Old Pecos Trail (8-3-79).

Valencia County

Los Lunas, *Atchison, Topeka, and Santa Fe Railroad Depot*, U.S. 85 (8-1-79).

NEW YORK

Albany County

Cohoes, *Silliman Memorial Presbyterian Church*, Mohawk and Seneca Sts. (8-1-79).

Chenango County

Greene, *Rosekrans Building*, 62 Genessee St. (7-27-79).

Columbia County

Claverack, *van Hoesen, Jan, House*, NY 66 (8-1-79).

Cortland County

Preble vicinity, *Little York Pavilion*, S of Preble off NY 281 (7-27-79).

Dutchess County

Rhinebeck, *Rhinebeck Village Historic District*, U.S. 19 and NY 308 (8-8-79).

Erie County

Buffalo, *Blessed Trinity Roman Catholic Church Buildings*, 317 LeRoy Ave. (8-3-79).

Nassau County

Lattingtown, *Aldred, John E., Estate (Ormston)* Lattingtown Rd. (8-3-79).

Onondaga County

Skaneateles, *Smith, Reuel E., House*, 28 W. Lake St. (7-27-79) HABS.

Putnam County

Brewster, *Old Brewster Town Hall*, Main St. (7-24-79).

Queens County

New York, *Cornell Farmhouse*, 73-50 Little Neck Pkwy. (7-24-79).

Rensseloer County

Rensselaer, *Beverwyck Manor (St. Anthony-on-Hudson Seminary)* Washington Ave. (8-3-79). HABS.
Rensselaer, *Patroon Agent's House and Office*, 15 Forbes Ave. (8-3-79).

NORTH CAROLINA

Alleghany County

Laurel Springs, *Doughton, Robert L., House*, NC 18 (8-13-79).

Transylvania County

Brevard vicinity, *Morgan's Mill*, SW of Brevard on SR 1331 (8-16-79).
Pisgah Forest vicinity, *Deaver, William, House*, N of Pisgah Forest on NC 280 (8-13-79).

Watauga County

Blowing Rock vicinity, *Westglow (Elliott Daingerfield House)* W of Blowing Rock on U.S. 221 (8-13-79).

Yadkin County

Enon vicinity, *Glenwood*, E of Enon on SR 1549 (8-13-79).

NORTH DAKOTA

Cass County

Fargo, *Masonic Block*, 11 S. 8th St. (8-3-79).

Walsh County

Warsaw, *St. Stanislaus Church Historic District*, Off I-29 (8-3-79).

OHIO

Clark County

Springfield vicinity, *Marquart-Mercer Farm*, SW of Springfield (7-26-79).

Cuyahoga County

Brecksville vicinity, *Coonrad, Janos, House*, SE of Brecksville at 10340 Riverview Rd. (7-24-79).
Cleveland, *League Park*, Lexington and 66th Sts. (8-8-79).

Cleveland Heights, *East Cleveland District 9 School*, 14391 Superior Rd. (7-26-79).
Warrensville Heights vicinity, *Cooley Farms*, N of Warrensville Heights off OH 175 (8-8-79).

Franklin County

Columbus, *Old Port Columbus Airport Control Tower*, 420 E. 5th Ave. (7-26-79).

Hamilton County

Cincinnati, *Gwynn Building*, 6th and Main Sts. (8-3-79).
Mariemont, *Mariemont Historic District*, U.S. 50 (7-24-79).

Jefferson County

Steubenville, *Ohio Valley Clay Company*, Washington and Water Sts. (8-10-79).

Lawrence County

Ironton, *Rankin Historic District*, Roughly bounded by Vernon, 7th, Monroe and 4th Sts. (7-26-79).

Lorain County

Elyria, *Elyria Multiple Resource Area*. This area includes various properties at various locations. Details available upon request. (8-13-79).
Oberlin, *Jewett, Frank, House*, 73 S. Professor St. (7-24-79).

Montgomery County

Dayton, *Gilbert, Philip E., Houses*, 1012 Huffman Ave. and 18-30 Belpre Pl. (8-3-79).

Pickaway County

Circleville, *Morris House*, 149 W. Union St. (8-3-79).

Stark County

North Canton vicinity, *Hoover Farm*, S of North Canton on Easton St. (8-3-79).

Warren County

Springboro, *Wright, Dr. Aaron, House*, 155 W. Central Ave. (8-3-79).
Waynesville, *Waynesville Greek Revival Houses*, 5303 and 5323 Wilkerson Lane (8-8-79).

Washington County

Newport vicinity, *Barker, Judge Joseph, Jr., House*, SW of Newport on OH 7 (7-26-79).

OREGON

Curry County

Gold Beach, *Hume, Mary D. (freighter)* Port of Gold Beach (8-1-79).

Multnomah County

Portland, *Oregon Cracker Company Building*, 616 NW. Glisan St. (8-10-79).
Portland, *Smithson and McKay Brothers Blocks*, 943 and 927 N. Russell St. (8-10-79).
Portland, *Temple Beth Israel*, 1931 NW. Flanders St. (7-26-79).
Portland, *University Club*, 1225 SW. 6th Ave. (7-26-79).

PENNSYLVANIA

Covered Bridges of Indiana County Thematic Resources. Reference—see individual listings under Indiana County.
Covered Bridges of Juniata and Snyder Counties Thematic Resources. Reference—see individual listings under Juniata and Snyder Counties.

Allegheny County

Pittsburgh, *Ewart Building*, 921, 923 and 925 Liberty Ave. (8-9-79).
Pittsburgh, *Pennsylvania Railroad Bridge*, 11th St. (8-13-79).
Pittsburgh, *Sixteenth Street Bridge*, Spans Allegheny River (8-13-79).

Bedford County

Bedford vicinity, *Bonnet's Tavern*, 4 mi. W of Bedford at jct. of U.S. 30 and PA 31 (8-1-79).

Cambria County

Johnstown, *Nathan's Department Store*, 426-432 Main St. (8-10-79).

Carbon County

Weissport and vicinity, *Carbon County Section of the Lehigh Canal*, Along Lehigh River (8-10-79).

Chester County

Elverson vicinity, *Bull, Thomas, House*, E of Elverson on Bulltown Rd. (8-3-79) HABS.
Glenmoore vicinity, *Springton Manor Farm*, S of Glenmoore at Springton and Creek Rds. (8-7-79).
Malvern vicinity, *Wisner, Jacob, House (Rapp House)* NW of Malvern on Yellow Springs Rd. (8-6-79).
Marshallton vicinity, *Taylor House*, E of Marshallton on W. Strasburg Rd. (8-1-79).
Phoenixville vicinity, *Winings, Jacob, House and Clover Mill*, SW of Phoenixville on James Mill Rd. (8-17-79).

Clinton County

Loganton vicinity, *Logan Mill Covered Bridge*, SW of Loganton over Fishing Creek (8-6-79).

Dauphin County

Fort Hunter, *Fort Hunter Historic District*, U.S. 22 (8-17-79).
Middletown, *Raymond, Charles and Joseph, Houses*, 38 and 37 N. Union St. (8-1-79).

Franklin County

Greencastle vicinity, *Spring Grove Farm and Distillery*, NW of Greencastle on Williamsport Pike (8-10-79).

Indiana County

Creekside vicinity, *Thomas Covered Bridge (Covered Bridges of Indiana County Thematic Resources)* (8-3-79).
Kintersburg, *Kintersburg Covered Bridge (Covered Bridges of Indiana County Thematic Resources)* (8-3-79).
Willet vicinity, *Harmon's Covered Bridge (Covered Bridges of Indiana County Thematic Resources)* (8-3-79).
Willet vicinity, *Trusal Covered Bridge (Covered Bridges of Indiana County Thematic Resources)* (8-3-79).

Jefferson County

Brookville, *Gray-Taylor House*, 9 Walnut St. (8-3-79).

Juniata County

Dimmsville, *Dimmsville Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79).
Oriental vicinity, *East Oriental Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79) (also in Snyder County).
Oriental vicinity, *North Oriental Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79) (also in Snyder County).
Port Royal, *Lehman's, Port Royal Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79).
Spruce Hill vicinity, *Academia Pomeroy Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* NW of Spruce Hill (8-10-79).

Lackawanna County

Scranton, *Central Railroad of New Jersey Freight Station*, 602 W. Lackawanna Ave. (8-1-79).

Luzerne County

Kingston, *Wyoming Seminary*, Sprague Ave. (8-6-79).

Monroe County

Stroudsburg, *Stroud Mansion*, Main and 9th Sts. (8-1-79).
Stroudsburg vicinity, *Turn, John, Farm*, NE of Stroudsburg (7-23-79).

Montour County

Danville, *Montgomery, Gen. William, House*, 1 and 3 Bloom St. (8-9-79).

Philadelphia County

Philadelphia, *Franklin Institute*, 15 S. 7th St. (8-1-79).
Philadelphia, *Philadelphia Racquet Club*, 213-225 S. 16th St. (8-1-79).
Philadelphia, *Protestant Episcopal Church of the Saviour*, Ludlow St. and 3723-3725 Chestnut St. (8-1-79).

Pike County

Bushkill, *Bushkill Gristmill*, U.S. 209 (8-3-79) HABS.
Bushkill vicinity, *Brodhead Farm (Wheat Plains)* NE of Bushkill on U.S. 209 (7-23-79).
Bushkill vicinity, *Nyce Farm (Van Gordon House)* NW of Bushkill on U.S. 209 (7-23-79).
Dingman's Ferry, *Dingman's Ferry Dutch Reformed Church*, U.S. 209 (7-23-79) HABS.
Milford, *Callahan House (Jacob Helm House)* U.S. 29 (7-23-79) HABS.
Milford, *Pike County Courthouse*, Broad and High Sts. (7-23-79).

Snyder County

East Oriental Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources). Reference—see Juniata County.
North Oriental Covered Bridge (covered bridges of Juniata and Snyder Counties thematic resources). Reference—see Juniata County.
Beavertown vicinity, *Dreese's Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79).
Meiserville, *Aline Covered Bridge (Covered Bridges of Juniata and Snyder Counties Thematic Resources)* (8-10-79).

Union County

Mifflinburg, *Heiss, William A., House and Buggy Shop*, 523 Green St. (8-6-79).

Wayne County

Ledgedale vicinity, *Lacawac*, E of Ledgedale (8-9-79).

RHODE ISLAND

Washington County

Kingstown vicinity, *Marchant, Henry, Farm*, W of Kingstown on S. County Trail (8-16-79).

SOUTH CAROLINA

Anderson County

Belton, *Belton Depot*, Public Sq. (8-13-79).

Chesterfield County

McBee vicinity, *Kirkley, Evy, Site (38CT25)* (8-3-79).

Greenwood County

Greenwood, *Mt. Pisgah A.M.E. Church*, Hackett Ave. and James St. (8-16-79).

SOUTH DAKOTA

Brookings County

Bushnell, *Farmers Store*, Main St. (8-7-79).

Clark County

Clark, *Elrod, Gov. S. H., House*, 301 N. Commercial St. (7-27-79).

Lake County

Ramona vicinity, *St. Ann's Catholic Church of Badus*, NE of Ramona (8-7-79).

Turner County

Parker, *Thielman-Stoddard House*, 132 1st St. (8-3-79).

Union County

Alcester vicinity, *Baker House*, NE of Alcester (8-7-79).

Yankton County

Yankton, *Gurney, Charles, Hotel*, 3rd and Capital Sts. (8-3-79).
Yankton, *Yankton Carnegie Library*, 4th and Capitol Sts. (8-7-79).

TENNESSEE

Davidson County

Goodlettsville, Cartwright House, Old Dickerson Pike (8-1-79).
Nashville, *Germantown Historic District*, Off I-40 and U.S. 41 (8-1-79).

Hamblen County

Lowland vicinity, *St. Paul Presbyterian Church*, W of Lowland (8-10-79).

Hamilton County

Chattanooga, *Wiley United Methodist Church*, 504 Lookout St. (8-1-79).

Robertson County

Springfield, *Springfield Town Square Historic District*, U.S. 41 and TN 49 (8-1-79).

Shelby County

Memphis, *Front Row Historic District*, S. Front St. between Monroe and Gayoso Aves. (8-1-79).
Memphis, *Patton-Bejach House*, 1085 Poplar St. (7-27-79).

TEXAS

Bexar County

Leon Springs vicinity, *Axe Stagecoach Inn*, Boerne Stage Rd. and I-10 (8-1-79) HABS.

Dallas County

Dallas, *Wilson Building*, 1621-1623 Main St. (7-24-79).

Erath County

Thurber vicinity, *Thurber Historic District*, S of Thurber (8-17-79).

Harris County

Houston, *Kennedy Bakery*, 813 Congress St. (7-27-79).

Harrison County

Marshall, *Arnot House*, 306 W. Houston St. (7-27-79).

Hays County

San Marcos vicinity, *Burleson-Knispel House*, 1.5 mi. N of San Marcos on Lime Kiln Rd. (8-3-79).

Nacogdoches County

Nacogdoches vicinity, *Barret, Tol, House*, S of Nacogdoches (7-27-79).

Somervell County

Glen Rose, *Somervell County Courthouse*, Off TX 144 (8-1-79).

Travis County

Austin, *Scholz Garten*, 1607 San Jacinto (7-27-79).
Austin, *Westhill*, 1703 West Ave. (7-26-79).
Austin, *Wooldridge Park*, Guadalupe St. (8-1-79).

UTAH

Carbon County

Helper, *Helper Commercial District*, Bounded by RR tracks, Janet, 1st. West, and Locust Sts. (7-24-79).

Salt Lake County

Salt Lake City, *Rowland Hall-St. Mark's School*, 205 1st Ave. (7-26-79).
Salt Lake City, *Salt Lake City Public Library*, 15 S. State St. (8-7-79).
Salt Lake City, *Woodruff-Riter House*, 225 N. State St. (7-26-79).

Utah County

Provo, *Hotel Roberts*, 192 S. University Ave. (7-26-79).

Weber County

Ogden, *U.S. Post Office and Courthouse*, 298 W. 24th St. (7-26-79).

VERMONT

Addison County

Vergennes, *Strong, Samuel Paddock, House*, 82 W. Main St. (8-15-79).

VIRGINIA

Fredericksburg (independent city).
Brompton, Hanover St. and Sunken Rd. (7-24-79).
Isle of Wight County
Smithfield vicinity, *Four Square*, W. of Smithfield on VA 620 (7-26-79) HABS.

Mecklenburg County

Baskerville vicinity, *Elm Hill*, SE of Baskerville off PA 4 (7-27-79).

Prince George County

Hopewell vicinity, *Evergreen*, E. of Hopewell on VA 644 (7-24-79).

Southampton County

Courtland vicinity, *Elm Grove*, NE of Courtland on VA 646 (7-24-79).

Westmoreland County

Oak Grove vicinity, *Monroe, James, Family Home Site*, N of Oak Grove (7-24-79).

WASHINGTON

Kittitas County

Easton vicinity, *Cabin Creek Historic District*, W of Easton (8-17-79).

Thurston County

Olympia, *Bigelow, Daniel R., House*, 918 Glass St. (8-7-79).

Whatcom County

Bellingham, *Eldridge Avenue Historic District*, Eldridge Ave., and environs (7-27-79).

WISCONSIN

Buffalo County

Alma, *Sherman House*, 301 S. Main St. (8-14-79).

Dane County

Madison vicinity, *Blackhawk County Club Mound Group* (47 Da 131), Shorewood Hills (8-1-79).

Dodge County

Mayville, *Hollenstein Wagon and Carriage Factory*, Bridge and German Sts. (7-27-79).

Douglas County

Superior vicinity, *Davidson Windmill*, SE of Superior on WI 13 (8-3-79).

Grant County

Platteville, *Beebe House*, 390 W. Adams St. (8-7-79).

La Crosse County

La Crosse, *Waterworks Building*, 119 King St. (7-27-79).
West Salem and vicinity, *Palmer Brothers' Octagons*, 358 N. Leonard St. and WI 16 (8-7-79).

Marinette County

Marinette, *Lauerman, F. J., House*, 383 State St. (8-14-79).

Milwaukee County

Milwaukee, *Graham Row*, 1501, 1503, and 1507 N. Marshall St. (7-27-79).
Milwaukee, *Quarles*, Charles, House, 2531 N. Farwell Ave. (7-27-79).

Oconto County

Oconto, *Beyer Home Museum*, 917 Park Ave. (8-14-79).

V 44 / 172 SEP 79 UMI

Racine County

Racine, *St. Luke's Episcopal Church, Chapel, Guildhall and Rectory*, 614 S. Main St. (7–27–79).

Rusk County

Ladysmith vicinity, *Flambeau Mission Church*, W of Ladysmith (8–7–79).

Sawyer County

Ojibwa vicinity, *Hall-Raynor Stopping Place*, N of Ojibwa on WI G (8–14–79).

Washington County

Kewaskum vicinity, *St. John of God Roman Catholic Church, Convent, and School*, E of Kewaskum at 1488 Highland Dr. (8–9–79).

WYOMING

Johnson County

Barnum vicinity, *Dull Knife Battlefield*, N of Barnum (8–15–79).

Laramie County

Cheyenne, *Keefe Row*, E. 22nd St. and Evans Ave. (8–3–79).

* * * * *

The following properties were omitted from the February 6, 1979, "Federal Register," Part II, February 6, 1979.

HAWAII

Honolulu County

Honolulu, *Puowaina-Hill of Sacrifice*, 2177 Pupwaina Dr. (1–11–76).

The following is a list of corrections to properties listed in the "Federal Register," Part II, February 6, 1979. Additional corrections may appear in subsequent updates.

WISCONSIN

Brown County

Allouez, *Baird Law Office*, Heritage Hill State Park (10–15–70) (previously listed at 2630 S. Webster Ave.).

Allouez, *Tank Cottage*, Heritage Hill State Park (4–28–70) (previously listed at 10th Ave. and 5th St.).

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requesting determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under section 63.3 of the procedures for requesting determinations of eligibility are designated by 63.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ALABAMA

Jackson County

Bridgeport, *L and N Bridge*, spans Tennessee River.

ARIZONA

Maricopa County

Phoenix, *Archeological Site NA 15, 787*, Off I–10 (63.3).

CALIFORNIA

Butte County

Oroville, *Table Mountain Boulevard Bridge*, Spans Feather River (63.3).

Napa County

Napa vicinity, *Archeological Site CA–NAP–15*, S of Napa (63.3).

San Bernardino County

Parker Dam vicinity, *Whipple Mountain Cave* (63.3).

COLORADO

Boulder County

Lafayette, *Lafayette Historic District* (63.3).

CONNECTICUT

Hartford County

Bristol, *Senior Citizens Center*, 98 Summer St.

GEORGIA

Grady County

Cairo vicinity, *Pine park Community Center*, E of Cairo (63.3).

IDAHO

Bonner's Ferry Bridge

MASSACHUSETTS

Middlesex County

Marlboro, *Flagg Swamp Rockshelter*, SR 85 (63.3).

MISSISSIPPI

Hinds County

Jackson, *J. C. Penny Building*, 157 E. Capitol St. (63.3).

Humphreys County

Silver City vicinity, *Gholson Archaeological Site (22 HU 508)* N of Silver City (63.3).

MISSOURI

Gentry County

Albany, *Albany Depot.*

Harrison County

Bethany, *Bethany Depot.*

Jackson County

Kansas City, *Jackson County Courthouse* 415 E. 12th St.

Ralls County

Saverton, *Curd House*, Off SR 79.
Saverton, *Wellman House*, Off SR 79.

Saline County

Archeological Sites 23 SA221, 23 SA228, and 23 SA231, SR 65.

MONTANA

Rosebud County

Colstrip vicinity, *Sly Bison Archeological Site (THS–79–4)* W of Colstrip (63.3).

NEW HAMPSHIRE

Grafton County

Littleton, *Lane, Edward H., House*, 16 Cottage St. (63.3).

NEW JERSEY

Bergen County

New Milford, *Demarest-Bloomer-Hart House*, 147 River Edge Ave. (63.3).

Gloucester County

Stone, George Morgan, House (63.3).

Hudson County

Jersey City, *Van Vorst Park Historic District* (63.3).

Middlesex County

New Brunswick, *Christ Episcopal Church*, 7 Paterson St. (63.3).
New Brunswick, *First Dutch Reformed Church*, 9–11 Bayard St. (63.3).

Union County

Elizabeth City, *Central Railroad Bridge at MP 14.05* (63.3).

NEW MEXICO

Chaves County

Roswell vicinity, *Archeological Site AR 30–6–1047*, E of Roswell.

Eddy County

Carlsbad vicinity, *Archeological Site 30–6–1034*, NE of Carlsbad.
Carlsbad vicinity, *Archeological Site HI 30–6–190*, E of Carlsbad.
Carlsbad vicinity, *Maroon Cliffs Archeological District*, E of Carlsbad.

Lea County

Hobbs vicinity, *Archeological Sites AR 30–6–30 and AR 7–73*, SW of Hobbs.

Rio Arriba County

Chimayo vicinity, *Archeological Site SCS No. 2*, Santa Cruz Watershed Project Area.

Sandoval County

Baca Geothermal Lease Archeological District.

NEW YORK

Nassau County

Glen Cove, *Chess, Mary, Building*, Pratt Oval (63.3).

NORTH CAROLINA

Rowan County

Salisbury, *Yadkin Hotel*, Depot and Council Sts. (63.3).

Swain County

Oconaluftee Bridge, spans Oconaluftee River.

OHIO

Franklin County

Columbus, *Engine House No. 8*, 285 N. 20th St.

OKLAHOMA

Pushmataha County

Archeological Site 34 PU 100, Clayton Lake area.

PENNSYLVANIA

Lancaster County

Lancaster, *Lancaster Historic District* (63.3).

* * * * *

The following is a list of corrections to properties previously listed in the Federal Register. Additional corrections may appear in subsequent updates.

HAWAII

Honolulu County

Oahu, *Kawainui Marsh* (63.3) (previously listed as Archeological Site 7).

[FR Doc. 79–27201 Filed 8–31–79; 8:45 am]

BILLING CODE 4310–03–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 24, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by September 14, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ALASKA

Russian Orthodox Church Buildings and Sites Thematic Resources. Reference—see individual listings under Aleutian Islands, Anchorage, Angoon, Bethel, Bristol Bay, Cordova-McCarthy, Juneau, Kenai-Cook Inlet, Kodiak, and Kuskokwim Divisions.

Aleutian Islands Division

Akutan, *Sir Alexander Nevsky Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Belkofski, *Holy Resurrection Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Dutch Harbor, Unalaska Island, *Church of the Holy Ascension (Russian Orthodox Church Buildings and Sites Thematic Resources)* (listed in NR).
Nikolski, *St. Nicholas Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Perryville, *St. John the Theologian Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
St. George Island, *St. George the Great Martyr Orthodox Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
St. Paul Island, *Saints Peter and Paul Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Sand Point, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Anchorage Division

Eklutna, *Old St. Nicholas Russian Orthodox Church (Russian Orthodox Church Buildings and Sites Thematic Resources) (listed in NR).*

Angoon Division

Angoon, *St. John the Baptist Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Bethel Division

Napaskiak, *St. Jacob's Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Bristol Bay Division

Ekuk, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Igiugig, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Naknek, *St. John the Baptist Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Nondalton, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Nushagak, *Transfiguration of Our Lord Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Pedro Bay, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Pilot Point, *St. Nicholas Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
South Naknek, *Elevation of Holy Cross Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Cordova-McCarthy Division

Cordova, *St. Michael the Archangel Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Juneau Division

Juneau, *St. Nicholas Russian Orthodox Church (Russian Orthodox Church Buildings and Sites Thematic Resources)* 326 5th St. (listed in NR).

Kenai-Cook Inlet Division

English Bay, *Saints Sergius and Herman of Valaam Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Kenai, *Church of the Assumption of the Virgin Mary (Russian Orthodox Church Buildings and Sites Thematic Resources)* (listed in NR).
Ninilchik, *Holy Transfiguration of Our Lord Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources)* Sterling Hwy. (listed in NR).
Seldovia, *St. Nicholas Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Kodiak Division

Afognak Island, *Nativity of Holy Theotokos Church (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Akhiok, *Protection of the Theotokos Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Karluk, *Ascension of Our Lord Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Kodiak, *Holy Resurrection Church (Russian Orthodox Church Buildings and Sites Thematic Resources)* (listed in NR).
Kodiak Island, *Saints Sergius and Herman of Valaam Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Ouzinkie, *Nativity of Our Lord Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Kuskokwim Division

Chuathbaluk, *St. Sergius Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Lime Village, *Saints Constantine and Helen Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Lower Kalskag, *St. Serophim Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*
Nikolai, *Presentation of Our Lord Chapel (Russian Orthodox Church Buildings and Sites Thematic Resources).*

Sitka Division

Sitka, *Russian Bishop's House (Russian Orthodox Church Buildings and Sites Thematic Resources)* (listed in NR).
Sitka, *St. Michael's Cathedral (Russian Orthodox Church Buildings and Sites Thematic Resources)* (listed in NR).

CONNECTICUT

New Haven County

New Haven, *Prospect Hill Historic District*, Prospect, St. Ronan, Edwards, Canner, Highland, and Ogden Sts.

DELAWARE

Kent County

Little Creek vicinity, *Port Mahon Lighthouse*, NE of Little Creek.

IOWA

Butler County

Parkersburg, *Wolf, Charles, House*, 401 5th St.

Clinton County

Clinton, *Curtis, George M., House*, 420 S. 5th Ave.
Clinton, *Lamb, Lafayette, House*, 317 7th Ave. South.

Dubuque County

Dubuque, *Dubuque Freight House*, E. 3rd St.

Linn County

Lisbon, *Stuckslager, Harrison, House*, 207 N. Jackson St.

Lyon County

Rock Rapids, *Lyon County Courthouse*, 3rd and Story Sts.

Monona County

Onawa, *Onawa Public Library*, Iowa Ave. and 7th St.

Muscatine County

Muscatine vicinity, *Pine Creek Gristmill*, NE of Muscatine in Wildcat Den State Park.

Poweshiek County

Brooklyn, *Brooklyn Hotel*, 154 Front St.
Grinnell, *Grinnell, Levi P., House*, 1002 Park St.
Montezuma, *New Carroll House Hotel*, E. Main and 5th St.

Warren County

Palmyra, *Palmyra Methodist Episcopal Church.*

LOUISIANA

Bienville Parish

Gibsland, *Sylvan Retreat*, 610 N. 3rd St.

MAINE

Androscoggin County

Lewiston, *Healey Asylum*, 81 Ash St.

Washington County

Machias, *Perry, Clark*, House, Court St.

York County

Kittery, *Rice Public Library*, 8 Wentworth St.
Kittery, *Whipple House*, 88 Whipple Rd.
Kittery Point, *Bray House*, Pepperrell Rd.
Kittery Point, *Howells, William Dean, House, Pepperrell Rd.*

MARYLAND

Baltimore County

Reisterstown, *St. Michael's Church*, Academy Lane and Reisterstown Rd.

Montgomery County

Brookeville, *Brookeville Historic District, MD 97.*

MISSISSIPPI

Lowndes County

Greenwood Springs vicinity, *Buttahatchie River Archeological District* (also in Monroe County).

MISSOURI

Boone County

Columbia, *Wabash Railroad Station and Freight House*, 126 N. 10th St.

Buchanan County

St. Joseph, *Missouri Theater and Missouri Theater Building*, 112–128 S. 8th St. and 713–721 Edmond St.

Carroll County

Carrollton, *Carroll County Sheriff's Quarters and Jail*, 101 W. Washington St.

Macon County

Macon, *Blees Military Academy*, U.S. 63.

St. Charles County

St. Charles, *Marten-Becker House*, 837 1st. Capitol Dr.

St. Louis (independent city)

Mayfair Hotel, 806 St. Charles Ave.

NEBRASKA

Butler County

Dwight, *Fremont, Elkhorn and Missouri Valley Railroad Depot*, 1st and Maple Sts.

Douglas County

Omaha, *Douglas County Courthouse*, 1700 Farnam St.
Omaha, *Omaha High School*, 124 N. 20th St.

NEW HAMPSHIRE

Rockingham County

Portsmouth, *Wentworth-Gardner and Tobias Lear Houses*, Mechanic and Gardner Sts.

NEW YORK

Albany County

Menands, *Albany Rural Cemetery*, Cemetery Ave.

OHIO

Coshocton County

Coshocton, *Lee, Samuel, House*, 306 4th St.

Franklin County

Columbus, *Thurber, James, House*, 77 Jefferson Ave.

Hamilton County

Cincinnati, *Davidson, Tyler, Fountain*, 5th St.

Knox County

Fredericktown, *FREDERICKTOWN MULTIPLE RESOURCE AREA*. This area includes: *Beers, John, House*, W. Sandusky St.; *Bell House*, 53–57 N. Main St.; *Brick Commercial Block*, Main and College Sts.; *Burch, William, House*, Edgehill Dr., and Mount Vernon Ave.; *Cassell, Henry, House*, High St.; *Cummings, Wilson S., House*, Sandusky and Taylor Sts.; *Delashment, Elias, House*, 2nd and Edgehill Dr.; *Early Greek Revival Cottage*, 2nd and Chestnut Sts.; *Early Greek Revival House*, Main and 2nd Sts.; *Fredericktown Presbyterian Church*, Main St. and Public Sq.; *Greek Revival Commercial Building*, Main St.; *Gothic Revival House*, High St. and N. Main St.; *Hosack House*, W. College St.; *King, Dr., House*, Main and 2nd Sts.; *Old Methodist Church*, Sandusky St. and Public Sq.; *Old Davis and Dague Grocery Store*, Main and College Sts.; *Old Greek Revival Farmhouse*, W. Sandusky St.; *Old Telephone Building*, College and Chestnut Sts.; *Reed James, House*, E. College St.; *Second Hosack House*, College and Chestnut Sts.; *Sprague-Deaver House*, Sandusky and Pleasant St.; *Tuttle, S. S., House*, College and Pleasant St.; *Wright, Lyman, Building*, Main and 2nd Sts.

Seneca County

Flat Rock vicinity, *Henny Barn*, NE of flat Rock.

Oregon

Mation County

Jefferson, *Anderson, James Mechlin*, House, Off I–5.

Wasco County

Shaniko, *Columbia Southern Hotel*, 4th and E Sts.

Yamhill County

Dayton, *First Baptist Church*, 3rd and Main Sts.
Yamhill, *Bunn, John Marion, House*, 285 SW. 3rd St.

TEXAS

Anderson County

Palestine, *Sacred Heart Catholic Church*, 503 N. Queen St.

Guadalupe County

Seguin, *Hall, Robert, House*, 214 S. Travis St.

Shelby County

Memphis, *Annesdale-Snowden Historic District*, Roughly bounded by I–255, Lamar Ave., and Heistan Pl.
Memphis, *Overton Park Historic District*, I–40

[FR Doc. 79-27200 Filed 8-31-79; 8:45 am]
BILLING CODE 4310-03-M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Announcement of Vacancies; Request for Nominations

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council) which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining

or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). Not more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years.

The prescribed duties of the Counsel are to advise the Secretary with respect to the carrying out of his functions under ERISA, and to submit to the Secretary recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1979. The groups or fields represented are as follows: Employee organizations (representing any organization members of which are participants in a multiemployer plan), employers, actuarial counseling, investment counseling, and the general public (representing those receiving benefits from a pension plan).

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph may submit recommendations to the Secretary of Labor, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Recommendations must be delivered or mailed by October 5, 1979.

Recommendations may be in the form of a letter, resolution, or petition, signed by the person making the recommendation, or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation shall identify the candidate by name, occupation or position, and address. It shall include a brief description of the candidate's qualifications and shall specify the group or field which the candidate would represent for the purposes of section 512 of ERISA, the candidate's political party affiliation, and whether the candidate is available and would accept.

Signed at Washington, D.C. this 27th day of August 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 79-27423 Filed 8-31-79; 8:45 am]
BILLING CODE 4510-29-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Consolidation Coal Co. ("Conpaso Project")—Burnham Mine, San Juan County, N. Mex., Navajo Tribal Coal Lease No. N00–C–14–20–2190; Pending Decision to Approve Surface Mining and Reclamation Plan With Stipulations

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of Pending Decision to Approve Proposed Surface Coal Mining and Reclamation Plan With Stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining Reclamation and Enforcement (OSM) has completed an environmental review of the proposed mining and reclamation plan and has recommended approval of the plan with stipulations according to the Indian Coal Mining Regulations (25 CFR 177) and Section 710(c) of the Surface Mining Control and Reclamation Act of 1977. The Office has prepared a technical analysis (TA) and an environmental assessment (EA) and from these studies has determined that significant impacts that could ensue from the proposed operation have been addressed in the following impact statements (EIS's):

1. "Final Environmental Statement Navajo—El Paso/Consolidation Coal Lease and Mining Plan, Navajo Reservation, San Juan County, New Mexico (FES No. 77–13), May 11, 1977, Bureau of Indian Affairs."

2. "El Paso Coal Gasification Project, New Mexico Final Environmental Statement (FES No. 77–03), February 8, 1977, Bureau of Reclamation."

The proposed mine is located about 35 miles southwest of Farmington, New Mexico, and about 50 miles northeast of Gallup, New Mexico, within the Navajo Reservation

Location of Lands to be Affected

Applicant: Consolidation Coal Company
Mine name: Burnham
State: New Mexico
County: San Juan

Township, Range, Section

T.25N., R.16W.: 25, 36.
T.24N., R.16W.: 1, 2, 3, 10, 11, 12
T.25N., R.15W.: 28, 29, 30, 31, 32, 33
T.24N., R.15W.: 4, 5, 6, 7, 8

Office of Surface Mining Reference No.: NM 0005

The Mining and Reclamation Plan was submitted to OSM in October of 1978, and proposed coal mining in the northern portion of the Navajo lease area, and area of about 6,831 acres to be mined over a 38-year period (the total mine plan area is approximately 9,000 acres). The Burnham mining and reclamation plan does not address the remaining area of 40,287-acre Navajo lease. However, the U.S. Bureau of Indian Affairs (BIA) Final Environmental Impact Statement (FES No. 77–13) analyzed mining of 29,095 acres of the 40,287-acre lease that was proposed in a plan submitted to the USGS in 1975. In addition, the U.S. Bureau of Reclamation Final Environmental Impact Statement analyzed the effects of the proposed coal gasification plant and of the associated coal mining on the Navajo lease area.

According to the Burnham mining plan, coal is to be extracted at a rate of approximately 300,000 tons the first year, increasing to 750,000 tons, 1,000,000 tons, and 4,350,000 tons the second, third, and fourth years, respectively. Production for the fifth through the thirty-eighth year is anticipated at 6,400,000 tons per year. Total coal extraction would be approximately 244,000,000 tons during the projected life of the mine. Coal from the seams greater than three feet in thickness in four primary zones would be mined by a multiple seam dragline operation. Coal will be exported off-site by trucks using existing roads. The transportation route discussed in the plan is under evaluation by OSM.

The purpose of this notice is to inform the public that based on OSM staff review and analysis of the mining and reclamation plan, the Regional Director, Region V, Office of Surface Mining, is recommending approval of the Burnham mining plan with stipulations.

DATES: A final decision to approve or disapprove the proposed plan will be made by the Assistant Secretary, Indian Affairs, following a recommendation from the Assistant Secretary, Energy and Minerals. The Secretary's decision will consider the recommendations of OSM as well as the Navajo Tribal Council, the Bureau of Indian Affairs, the U.S. Geological Survey and any public comments received on or before September 24, 1979.

The technical analysis, environmental assessment, and proposed stipulations are available on request and for review

in the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Room 217, 1823 Stout Street, Denver, Colorado 80202 no later than 20 days from the date of this notice. A public meeting with the Regional Director may be requested no later than September 24, 1979, and must include the name and address of the requestor.

FOR FURTHER INFORMATION CONTACT: Bob Starr or Mark Humphrey, Office of Surface Mining, Region V, Room 207, 1823 Stout Street, Denver, Colorado 80202.

Walter N. Heine,

Director.

[FR Doc. 79-27560 Filed 8-31-79; 10:37 am]

BILLING CODE 4310-05-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on September 20-21, 1979 at the Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue, NW., Washington, D.C. The meeting will begin at 9:00 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The morning of Thursday, September 20, will be devoted to presentations by OSHA staff members on the following subjects:

Regulatory Analysis
Voluntary Compliance, Enforcement Policy and Complaint Procedures, and Statutory Efforts To Establish Exemptions to the OSH Act

After hearig these presentations, the Committee will break up into two workgroups to discuss the issues and formulate recommendations. The workgroups will report their recommendations to the full Committee when it reconvenes on Friday.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, 3rd Street and Constitution Ave., NW., Washington, D.C. 20210, Telephone: 202-523-8024.

Offical records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 30th day of August 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-27721 Filed 8-31-79; 11:06 am]

BILLING CODE 4510-26-M

Sunshine Act Meetings

Federal Register
Vol. 44, No.172
Tuesday, September 4, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
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National Neighborhood Reinvestment Corporation	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, September 4, 1979.

PLACE: Commission conference room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

Open to the public

1. Noncompetitive procurement; services of 10 grievance examiners, fiscal year 1979 and 1980.
2. State and local agency program; proposed allocation of remaining fiscal year 1979 funds and fiscal year 1980 funds, and proposed charge resolution contracts for individual FEP Agencies.
3. Affirmative Action instructions for Federal agencies for fiscal year 1980.
4. Report on Commission operations by the Executive Director.

Closed to the public

1. Litigation authorization; General Counsel recommendations.

Vote.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued August 28, 1979.

[S-1711-79 Filed 8-30-79; 11:27 am]

BILLING CODE 6570-06-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 5, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public

1. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
2. Agreement No. 8330-2: Pacific Coast Ocean Freight Forwarders Conference.
3. Agreement No. 8493-9: Modification of the Trans-Pacific American-Flag Berth Operators Agreement to comply with General Order 7.
4. Agreement No. 5200-33: Modification of the Pacific Coast European Conference to comply with General Order 7.
5. Agreement No. 2744-41: Modification of the Atlantic and Gulf/West of South America Conference Agreement to comply with General Order 7.
6. Agreement No. 93-19: Modification of the North Europe-United States Pacific Freight Conference to comply with General Order 7.
7. Agreement No. 9238-8: Modification of the Greece/United States Atlantic Rate Agreement to comply with General Order 7.
8. Agreement Nos. 3868-26, 4610-27, 6080-26, 6190-32, 6870-20, 7540-31, and 8120-21: Modifications of various conference agreements in the South America trades to comply with General Order 7.
9. Petition of Red Sea and Gulf of Aden/U.S.A. Conference to allow officers or employees to serve as policing authority.
10. Agreement No. 10066-1: Modification of an access agreement in the United States/Colombia trades to require that implementation shall be in compliance with Colombian maritime laws.
11. Agreement No. 10359: A cooperative working arrangement known as the Water Transportation Credit Group.
12. Agreement No. 10012-3: Application for extension of the intermodal authority of the Australia/Pacific Coast Rate Agreement for an unlimited duration.
13. Agreement No. 5600-37: Modification of the Philippines North America Conference Agreement to renew its intermodal authority for an indefinite duration.
14. Informal Docket No. 607(I): *The Ideal Toy Corporation* v. *Atlantic Container Line*—Review of decision of Settlement Officer.
15. Informal Docket No. 387(I): *Pan American Health Organization* v. *Moore-McCormack, Inc.*—Consideration of court remand.
16. Appeal of Pacific Coast European Conference of staff action rejecting the filing of tariff matter.
17. Proposed changes to rules governing licensing of independent ocean freight forwarders.

Portion closed to the public

1. Agreement No 10286—WINAC Pool: Status report on Commission's directives in Docket No. 77-43.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary 202-523-5725.

[S-1709-79 Filed 8-30-79; 9:20 am]

BILLING CODE 6730-01-M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Thursday, September 6, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of San Francisco.
2. Request by the Commodity Futures Trading Commission for Board comment on the New York Futures Exchange applications to trade new futures contracts in three-month Treasury bills and long-term Treasury bonds.

Discussion Agenda

1. Proposed statement to be presented to the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations regarding advertising by financial institutions.
2. Congressional proposals relating to the Bank Holding Company Act and the Bank Merger Act.
3. Proposed 1980 Special System Objectives.
4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

V 4 4 / 1 7 2 S E 4 7 9 UMI

Dated: August 30, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1712-79 Filed 8-30-79; 1:54 pm]

BILLING CODE 6210-01-M

4

MERIT SYSTEMS PROTECTION BOARD.

TIME AND DATE OF MEETING: 9:30 a.m., Tuesday, September 11, 1979.

PLACE: Room 404, 717 Madison Place NW., Washington, D.C.

STATUS: Open.

SUBJECT: Oral Arguments: In re Chocolla, In re Glover.

CONTACT PERSON FOR MORE INFORMATION: Charles J. Stanislav, Jr., Acting Director, Office of the Secretary (202-653-7130).

Ruth T. Prokop

Chair.

[S-1710-79 Filed 8-30-79; 10:11 am]

BILLING CODE 6325-25-M

5

NATIONAL NEIGHBORHOOD REINVESTMENT CORPORATION.

Special meeting of the board of directors. Pursuant to the provisions of the Neighborhood Reinvestment Corporation Act (Title VI of the Housing and Community Development Amendments of 1978, Public Law 95-557), notice is hereby given of a meeting of the National Neighborhood Reinvestment Corporation.

TIME AND DATE: 3:30 p.m., September 5, 1979.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting, Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: Donnie L. Bryant, 202-377-6480.

AGENDA: Call to order and remarks of chairman, approval of fiscal year 1980 budget, and approval of fiscal year 1981 budget submission.

No. 6, August 29, 1979.

Donnie L. Bryant,

Secretary.

[S-1708-79 Filed 8-29-79; 4:37 pm]

BILLING CODE 6720-01-M

Tuesday
September 4, 1979

Federal Register

Part II

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List of Libraries That Have Announced Availability of Federal Register and Code of Federal Regulations

V 4 4 / 1 7 2 S E 4 7 9 UMI

LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

In order to direct the public to facilities where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge, the Office of the Federal Register is publishing a list of libraries which have requested inclusion. A complete listing of *Government Depository Libraries* is available, without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Service, GSA, Washington, DC 20408, or phone (202) 523–5240, giving the name and address of the library.

ALABAMA

Birmingham:
Government Documents Department
Birmingham Public Library
2020 Park Place
Birmingham, AL 35203
(205) 254–2551

Gadsden:
Gadsden Public Library
254 College Street
Gadsden, AL 35901
(205) 547–1611

ALASKA

Anchorage:
Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

ARIZONA

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Tempe:
Arizona State University
College of Law Library
Government Documents
Tempe, AZ 85281

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

CALIFORNIA

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342–2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

Long Beach:
Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666

Riverside:
Field Solicitor, Law Library
U.S. Department of the Interior
3610 Center Avenue, Suite 104
Riverside, CA 92506

Sacramento:
Regional Solicitor, Law Library
U.S. Department of the Interior
Room E–2753
2800 Cottage Way
Sacramento, CA 95825

San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102

University of California
Hastings College of the Law
Library
198 McAllister Street
San Francisco, CA 94102

Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644–5601

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclaimation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

Colorado State Library
1362 Lincoln Street
Denver, CO 80203

Regional Solicitor, Law Library
U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

National Park Service Library
655 Parfet Street
P.O. Box 25287
Denver, CO 80225

Lakewood:
Villa Library*
455 South Pierce Street
Lakewood, CO 80226
(303) 936–7407

CONNECTICUT

Bloomfield:
Prosser Public Library
1 Tunxis Avenue
Bloomfield, CT 06002

Hartford:
The Stanley Osborne Library*
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566–2198

Middletown:
Olin Library
Wesleyan University
Middletown, CT 06457

Waterbury:
Silas Bronson Public Library
Business, Industry & Technology Department
267 Grand Street
Waterbury, CT 06702

DISTRICT OF COLUMBIA

Community Services Administration
Law Library
1200 – 19th Street, N.W.
Room 525
Washington, DC 20506

Natural Resources Library
U.S. Department of the Interior
Washington, DC 20240

Office of the Federal Register
1100 L Street, N.W.
Room 8301
Washington, DC 20408

FLORIDA

Sarasota:
The University of Sarasota
2080 Ringling Blvd.
Sarasota, FL 33577
(813) 955–4228

Tampa:
Tampa–Hillsborough County Public Library
900 North Ashley Street
Tampa, FL 33602
(813) 223–8969

GEORGIA

Atlanta:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
148 Cain Street, N.E., Suite 405
Atlanta, GA 30303

Elberton:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Samuel Elbert Building
Elberton, GA 30635

IDAHO

Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724

ILLINOIS

Chicago:
University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois Library
Chicago Circle, P.O. Box 8198
Chicago, IL 60680
(312) 996–2738

Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838–0500

Normal:
Milner Library
Illinois State University
Normal, IL 61761

Rockford:
Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
(815) 965–6731

ILLINOIS—Continued

Springfield:
Energy Information Library*
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

INDIANA

Fort Wayne:
The Public Library of
Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

IOWA

Des Moines:
State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 281–5125

State Library Commission of Iowa
Historical Building
East 12th & Grand
Des Moines, IA 50319

Dubuque:
Whalert Memorial Library
Loras College
1450 Alta Vista
Dubuque, IA 52001

KANSAS

Pittsburg:
Library
Pittsburg State University
Pittsburg, KS 66762

KENTUCKY

Bowling Green:
Western Kentucky University
Helm–Cravens Library
Bowling Green, KY 42101

Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564–2480

LOUISIANA

Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

New Orleans:
U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
(504) 589–6510

MARYLAND

Aberdeen:
Department of the Army
U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E–2100
Aberdeen Proving Ground, MD 21010

Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401

Oakland:
Garrett County Planning Office*
323 East Oak Street
Oakland, MD 21550
(301) 334–4200

Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

MASSACHUSETTS

Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 306
1 Gateway Center
Newton Corner, MA 02156

Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103

Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935–4000

MICHIGAN

Ann Arbor:
Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 48106
(313) 973–3300

Detroit:
Downtown Library*
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City–County Building
Detroit, MI 48226

East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824

MICHIGAN—Continued

Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469–5300

Mt. Pleasant:
Library – Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774–3414

Pontiac:
Adams–Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library*
2100 Pontiac Lake Road
Pontiac, MI 48054

Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377–2476

MINNESOTA

Blaine:
Anoka County Library
707 Highway #10
Blaine, MN 55434

Edina:
Southdale–Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 830–4900

Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331–5571

Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

U.S. Bureau of Mines
Twin Cities Research Center
Library
P.O. Box 1660
Twin Cities, MN 55111

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864–5161 ext. 336

MISSOURI

Jefferson City:
Federal Documents Department
Missouri State Library
P.O. Box 387
303 E. High Street
Jefferson City, MO 65102

Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301

Springfield:
Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831–1561

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Lincoln:
University of Nebraska–Lincoln Libraries
Lincoln, NE 68588

NEVADA

Boulder City:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 427, Park Street
Boulder City, NV 89005

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271–3777

New London:
Fernald Library
Colby–Sawyer College
New London, NH 03257

NEW JERSEY

Elmer:
Arthur P. Schalick High School
Elmer–Centerton Road
R.D. 1
Elmer, NJ 08318

Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601

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NEW JERSEY—Continued

Jersey City:
Hudson Health Systems Agency Library
871 Berger Avenue
Jersey City, NJ 07306
Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430
Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255–4000 ext. 385

NEW MEXICO

Albuquerque:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1696
Albuquerque, NM 87103
Santa Fe:
Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

NEW YORK

Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294–8700 ext. 7345
Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278–8113
Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305
Syracuse:
Reference Department
Onondaga County Public Library
335 Montgomery Street
Syracuse, NY 13202
475–8458
Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292–8920

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629–3329
Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607
Gastonia:
Gaston County Public Library*
Headquarters: Gaston-Lincoln Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865–3418

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501

North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224–2490

Office of Program Planning*
All Nations Circle – Bldg. 35
United Tribes Educational Technical Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Cincinnati:
National Institute for Occupational Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226

Ohio River Basin Commission Library
Suite 208–20, 36 East 4th Street
Cincinnati, OH 45206
(513) 684–3831
Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District*
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781–6600 ext. 219
Cleveland Heights:
Cleveland Heights – University Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932–3600
Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466–2694

OHIO—Continued

Findlay:
Marathon Oil Company
Law Library, Room 854–M
539 South Main Street
Findlay, OH 45840
(419) 422–2121 ext. 3376
Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387–0992
Toledo:
Toledo–Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 242–7361 ext. 241

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005
Muskogee:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1508
Muskogee, OK 74401
Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056
Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624–6546
Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375–7174
Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104
Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037
Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787–7343
Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454–2961/454–0244
Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872–5411 ext. 552, 542
Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library

4800 Forbes Avenue
Pittsburgh, PA 15213
Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257
Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19081
(215) KI 4–7900
Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228–6747
West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436–2869
Wilkes–Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes–Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island Library
Kingston, RI 02881
(401) 792–2602

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411

SOUTH CAROLINA—Continued
Charleston—Continued
Charleston County Library
404 King Street
Charleston, SC 29403

Citadel
Charleston, SC 29409

College of Charleston
66 George Street
Charleston, SC 29401
Clemson:
Clemson University
Clemson, SC 29631
Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208
Conway:
Coastal Carolina (of University of SC)
Route 6
Conway, SC 29526
Due West:
Erskine College*
Due West, SC 29639
Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501
Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601
Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646
Rock Hill:
Winthrop College
Rock Hill, SC 29733
Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

SOUTH DAKOTA

Aberdeen:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 549
Aberdeen, SD 57401

TENNESSEE

Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

Field Solicitor
U.S. Department of the Interior
P.O. Box H–4393, Herring Plaza
Amarillo, TX 79101
College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843
Dallas:
U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270
Victoria:
University of Houston†
Victoria Campus
2302–C Red River
Victoria, TX 77901
(512) 575–7436

VIRGINIA

Arlington:
Office of Hearings and Appeals
Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203
Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691–2741
Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501
Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510
Reston:
U.S. Geological Survey
Library
National Center, Mail Stop 950
Reston, VA 22092
Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community
College
P.O. Box 12084
Richmond, VA 23241
(804) 264–3220

VIRGINIA—Continued
Richmond—Continued
Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219
Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676–3075
Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359–2475
Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442–5554
Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

WEST VIRGINIA

Beckley:
National Mine Health and Safety
Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801
Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

WISCONSIN

Kenosha:
Library/Learning Center
University of Wisconsin–Parkside
Wood Road
Kenosha, WI 53141
Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

WYOMING

Laramie:
Coe Library – Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766–2174

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federal register

Tuesday
September 4, 1979

Part III

Department of Health, Education, and Welfare

Food and Drug Administration

Medical Devices; Classification of Neurological Devices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 882

[Docket No. 78N-1000]

Neurological Devices; General Provisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule regarding general provisions applicable to the classification of neurological devices. The preamble to this rule responds to general comments received on the proposals regarding classification of neurological devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 28, 1978 (43 FR 55640), FDA published a proposed regulation containing general provisions applicable to the classification of neurological devices. The preamble to the regulation described the development of the proposed regulaitons classifying neurological devices and the activities of the Neurological Device Classification Panel, an FDA advisory committee that makes recommendations to FDA concerning the classification of neurological devices. FDA also published in that issue of the **Federal Register** individual proposed regulations to classify 103 neurological devices. FDA provided a period of 60 days for interested persons to submit written comments on these proposals.

Exemptions for Class I Devices

FDA proposed to exempt four devices from the good manufacturing practice (GMP) regulations in Part 820 (21 CFR Part 820), including the recordkeeping and reporting requirements of Part 820. The four devices are the two-point discriminator (Docket No. 78N-1003), the esthesiometer (Docket No. 78N-1017), the tuning fork (Docket No. 78N-1018), and the percussor (Docket No. 78N-1025). Elsewhere in this issue of the **Federal Register,** the agency is publishing final rules for classification of these four devices. The final rule for each of these devices exempts the device from all parts of the GMP requirements with the exception of §§ 820.180 and 820.198 (21 CFR 820.180 and 820.198) relating to records and complaint files. The agency has determined that exemption of devices from §§ 820.180 and 820.198 of the GMP regulation would not be in the public interest. Moreover, compliance with these sections is not unduly burdensome for device manufacturers. The complaint file requirements of § 820.198 ensures that device manufacturers have adequate systems for complaint investigation and followup. The general requirements concerning records in § 820.180 ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, can determine whether the manufacturer's corrective actions are adequate, and can determine whether an exemption from other sections of the GMP regulation, if one has been granted, is still appropriate.

Comments on Classification Proposals

Elsewhere in this issue of the **Federal Register**, FDA is issuing final regulations classifying 102 individual neurological devices. FDA is responding to specific comments regarding the classification of individual neurological devices in the final regulations for these devices.

No written comments were received on proposed § 882.1 (21 CFR 882.1), which concerns general provisions for all neurological devices. Accordingly, FDA is promulgating § 882.1 without change. However, FDA received several general comments regarding the classification process and the basis for the classification proposals for neurological devices. The agency is responding to these general comments below.

1. A comment stated that FDA did not always provide a sufficient explanation for the agency's proposal to classify a device and suggested that FDA relied too heavily on Panel experience and expertise. The Comment also stated that the supplemental information placed on file in the Hearing Clerk's office is not always readily available to interested persons. The comment suggested that, in future classification proposals, FDA should be more specific in setting forth the basis for its conclusions.

FDA believes that it provided an adequate explanation of the basis for each neurological device classification proposal. FDA relied on the recommendations of the Neurological Device Classification Panel and, in many cases, adopted the reasons given by the Panel as the basis for the proposed classification. It is apparent from the statute and from the legislative history of the Medical Device Amendments of 1976 (Pub. L. 94-295; 90 Stat. 539-583) that Congress intended FDA to rely on the advice of its device classification panels in deciding how to classify devices. Indeed, the House Committee that considered the legislation recognized that "data" supporting classification of devices was not intended to be limited to results of scientific experiments but should also include less formal evidence, other scientific information, or the judgments of experts. (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H. Rept. No. 94-853, 94th Congress, 2d. Session 40 (1976).) In many cases, FDA obtained additional information relevant to the classification of a device, summarized or cited this information in the proposal, and placed a copy of the information on file in the Hearing Clerk's office.

The agency does not believe that it is necessary for a classification proposal to include an exhaustive recitation of all data available on a device. When FDA obtained and relied on information in addition to, or other than, a Panel recommendation, the summary of the information in the proposal and the availability of the information in the Hearing Clerk's office, serve to inform interested persons of the basis for the proposed classification. This supplemental information is readily available to interested parties. In addition to being on public display in the Hearing Clerk's office, virtually all of the information is from the medical or scientific literature and is available in libraries.

The legislative history shows that Congress intended that the burden of providing evidence substantiating the safety and effectiveness of a medical device rests on the manufacturer (id.). A manufacturer who is dissatisfied with the data relied on by the Panel or by FDA in the classification proposal should submit any additional information that the manufacturer believes pertinent as part of its comments on the proposal.

2. Several comments stated that some neurological devices are similar or identical to devices that have been reviewed by other classification panels. One comment suggested that FDA postpone final classification of these neurological devices until the agency has published for comment the recommendations of the other panels and the proposed regulations based on those recommendations.

FDA has attempted to do what the comment asks. Before publishing the neurological device classification proposals, FDA reviewed the recommendations from all of the classification panels to identify those devices reviewed by more than one panel. FDA found that 25 devices reviewed by the Neurological Device Classification Panel were essentially the same as devices reviewed by other classification panels. For 20 of these devices, FDA postponed publishing proposed classifications until the agency published the other panel's recommendations. For 5 neurological devices that also were reviewed by panels in addition to the Neurological Device Classification Panel, FDA published the Panels' recommendations as part of the proposals in the neurological device category.

FDA is continuing its efforts to consolidate panel recommendations concerning similar devices by attempting to identify these devices before publication of classification proposals, and by ensuring that each panel's recommendation is considered and published for comment before FDA promulgates final classification regulations for devices reviewed by more than one panel. In the **Federal Register** of March 6, 1979 (44 FR 12269), FDA published a notice of the availability of an index of classification regulations for medical devices. The index can be used by interested persons to determine the specific classification regulation for a device that was classified by more than one classification panel and to determine with which panel's classification regulations it will be published. FDA is, for instance, postponing publication of the final regulation for surgical sponges for internal use until after publication for comment of the recommendations on similar devices of the General and Plastic Surgery Device Classification Panel.

With respect to several neurological device classification proposals, FDA has changed the identification or name of the device to make clear that the regulation applies only to the neurological uses of the device. The devices are:

Electroencephalogram (ECG) telemetry system (Docket No. 78N-1031).
Powered cranial compound drill, burr, trephine, and accessories (Docket No. 78N-1050).
Powered cranial simple drill, burr, trephine and accessories (Docket No. 78N-1051).
Cranial drill handpiece (brace) (Docket No. 78N-1052).
Electric cranial drill motor (Docket No. 78N-1053.
Pneumatic cranial drill motor (Docket No. 78N-1054).
Self-retaining neurosurgical retractor (Docket No. 78N-1070).
Implanted malleable clip (Docket No. 78N-1081).

These changes should eliminate some of the ambiguity that prompted the comments.

3. A comment stated that FDA should offer a second comment period if the original proposal is substantially altered in response to comments, e.g., if the final regulation places a device in a classification category that differs from the proposed classification.

In the case of any proposed classification regulation in which FDA makes substantial changes in response to comments, FDA will consider whether a reproposal is legally required, or is desirable as a matter of policy. The agency declines to commit itself to publishing a reproposal each time the classification category into which a device is placed differs from the proposed classification. The agency will evaluate each case on its own merits. Interested persons may also petition for reclassification of a device under Subpart C of Part 860 (21 CFR Part 860), the classification procedures regulation. In view of the availablility of the reclassification process, in most cases it would be an unnecessary procedural step to republish a proposed classification regulation merely because the device in the final regulation is in a classification different from that proposed.

4. A comment expressed concern over the completeness of the list of devices reviewed by the Neurological Device Classification Panel and for which classification proposals were published and noted that there was no mention of wound drainage devices. The comment also stated that because electrosurgical devices have an important role in neurosurgery, separate classification of electrosurgical devices by the Neurological Device Classification Panel may be warranted.

This is a valid point. There may well be devices on the market that FDA is unaware of and that should have been reviewed by the Panel but were not. As these devices come to FDA's attention, the agency will refer them to the Panel for classification recommendations and publish proposed classification regulations. It should be noted, however, that many devices used in the neurological field also are used in other medical specialities. The agency will publish proposed classification regulations for many such devices later. For example, devices for wound drainage and electrosurgery are used in several surgical specialties besides neurosurgery. When the agency publishes the recommendations of the General and Plastic Surgery Device Classification Panel and a proposed classification regulation for each of these devices, the recommendations of all panels that reviewed these devices will be included. FDA realizes that the use of electrosurgical devices in neurosurgery may be somewhat different from their use in other medical specialties because of the critical and delicate nature of neurosurgery. However, FDA does not believe that the differences are sufficient to warrant separate classification.

5. A comment suggested that reusable devices (e.g., surgical instruments) that come into contact with the central nervous system be classified into class III (premarket approval), because certain viruses can be transmitted from one patient to another if the devices are not adequately sterilized between uses. The comment also suggested that implantable devices should not be reused except, perhaps, for expensive electronic neuroprostheses, for which change of the outer coating material might be made mandatory for reuse.

FDA rejects the comment. Reusable devices, such as surgical instruments, should be capable of being sterilized by the user following each use. FDA can require by general controls or standards that manufacturers assure that they are. However, it is the responsibility of the users of the devices to assure that the devices are properly sterilized before reuse, and requiring premarket approval of reuseable devices would do nothing to assure that users carry out this responsibility. With respect to implantable devices, the agency agrees that implantable devices should not be reused except in very limited circumstances. FDA is unaware of any implantable neurological device that is being marketed as reuseable. Therefore, the agency is not changing the proposed classification category for any implantable neurological device. In the future, if a manufacturer desires to market an implantable neurological device that can be reused, FDA may require that it undergo premarket approval before it is marketed.

6. A comment pointed out that FDA proposed to classify 66 neurological devices into class II (performance standards) and questioned whether standards could be generated for so many devices in a reasonable period of time.

FDA agrees that it would be difficult to promulgate individual performance

standards for 66 neurological devices in the near future. However, the agency believes that the length of time required to develop a performance standard should not prevent a device that meets the criteria for class II from being classified into this category. Classification of the device into class II signals FDA's intention eventually to promulgate standards for the device. Until the standards are promulgated for a class II device, FDA has the same degree of regulatory control over the device as it does over a class I device. Futhermore, an individual performance standard will not be necessary for each device classified into class II. For example, some devices are being classified into class II only because of concerns about electrical safety. FDA may adopt a single electrical safety standard that would apply to many devices that present such concerns. In addition, to reduce the risks presented by certain class II devices, FDA is exploring the possibility of using voluntary standards, rather than mandatory standards under section 514 of the act (21 U.S.C. 360d).

7. A comment said that FDA should consider the effect of the GMP regulation on the safety and effectiveness of devices before classifying devices in class II. The comment stated that FDA should identify, for each device to be classified in class II, the specific characteristics of the device that need to be controlled by standards because they cannot be controlled by good manufacturing practices or other general controls.

FDA agrees that the adequacy of good manufacturing practice or other general control requirements to control the safety and effectiveness of a device must be considered before classifying a device in class II. FDA attempted to do this in the case of each class II recommendation. The agency does not agree that the characteristics of a device that need to be controlled by a performance standard need to be identified in the proposal to classify the device in class II. The Panel recommendation and classification proposal advise interested persons of many of the device characteristics that a performance standard should address. However, the Panel did not, and could not, always identify all possible risks to health presented by a device. The law does not require FDA to identify specifically the risks to be controlled by a performance standard until FDA publishes a notice under section 514(c) of the act inviting interested persons to submit existing standards or offers to develop proposed standards. FDA may, for neurological devices classified in class II, identify additional risks to health, or device characteristics, that need to be addressed by performance standards in notices published under section 514(c).

List of Neurological Devices

The following is a list of neurological devices being classified in final regulations published elsewhere in this issue of **Federal Register**. The list shows the section in the Code of Federal Regulations under which the regulation classifying the device is being codified, the docket number of the classification regulation, and the classification of each device.

Subpart B—Neurological Diagnostic Devices

Section	Device	Docket No.	Class
882.1020	Rigidity analyzer	78N-1001	II
882.1030	Ataxiagraph	78N-1002	II
882.1200	Two-point discriminator	78N-1003	I
882.1240	Echoencephalograph	78N-1004	II
882.1275	Electroconductive media	78N-1005	II
882.1310	Cortical electrode	78N-1006	III
882.1320	Cutaneous electrode	78N-1007	II
882.1330	Depth electrode	78N-1008	II
882.1340	Nasopharyngeal electrode	78N-1009	III
882.1350	Needle electrode	78N-1010	III
882.1400	Electroencephalograph	78N-1011	II
882.1410	Electroencephalograph electrode/lead tester	78N-1012	II
882.1420	Electroencephalogram (EEG) signal spectrum analyzer	78N-1013	I
882.1430	Electroencephalograph test signal generator	78N-1014	I
882.1460	Nystagmograph	78N-1015	II
882.1480	Neurological endoscope	78N-1016	II
882.1500	Esthesiometer	78N-1017	I
882.1525	Tuning fork	78N-1018	I
882.1540	Galvanic skin response measurement device	78N-1019	II
882.1550	Nerve conduction velocity measurement device	78N-1020	II
882.1560	Skin potential measurement device	78N-1021	II
882.1570	Powered direct-contact temperature measurement device	78N-1022	II
882.1610	Alpha monitor	78N-1023	II
882.1620	Intracranial pressure monitoring device	78N-1024	II
882.1700	Percussor	78N-1025	I
882.1750	Pinwheel	78N-1026	I
882.1790	Ocular plethysmograph	78N-1027	III
882.1825	Rheoencephalograph	78N-1028	III
882.1835	Physiological signal amplifier	78N-1029	II
882.1845	Physiological signal conditioner	78N-1030	II
882.1855	Electroencephalogram (EEG) telemetry system	78N-1031	II
882.1870	Evoked response electrical stimulator	78N-1032	II
882.1880	Evoked response mechanical stimulator	78N-1033	II
882.1890	Evoked response photic stimulator	78N-1034	II
882.1900	Evoked response auditory stimulator	78N-1035	II
882.1925	Ultrasonic scanner calibration test block	78N-1036	I
882.1950	Tremor transducer	78N-1037	II

Subparts C-D [Reserved]

Subpart E—Neurological Surgical Devices

Section	Device	Docket No.	Class
882.4030	Skull plate anvil	78N-1038	I
882.4060	Ventricular cannula	78N-1039	I
882.4100	Ventricular catheter	78N-1040	II
882.4125	Neurosurgical chair	78N-1041	I
882.4150	Scalp clip	78N-1042	II
882.4175	Aneurysm clip applier	78N-1043	II
882.4190	Clip forming/cutting instrument	78N-1044	I
882.4200	Clip removal instrument	78N-1045	I
882.4215	Clip rack	78N-1046	I

Section	Device	Docket No.	Class
882.4250	Cryogenic surgical device	78N-1047	II
882.4275	Dowel cutting instrument	78N-1048	II
882.4300	Manual cranial drill, burr, trephine, and accessories	78N-1049	II
882.4305	Powered compound cranial drill, burr, trephine, and accessories	78N-1050	II
882.4310	Powered simple cranial drill, burr, trephine, and accessories	78N-1051	II
882.4325	Cranial drill handpiece (brace)	78N-1052	II
882.4360	Electric cranial drill motor	78N-1053	II
882.4370	Pneumatic cranial drill motor	78N-1054	II
882.4400	Radiofrequency lesion generator	78N-1055	II
882.4440	Neurosurgical headrest	78N-1057	I
882.4460	Neurosurgical head holder (skull clamp)	78N-1058	II
882.4500	Cranioplasty material forming instrument	78N-1059	I
882.4525	Microsurgical instrument	78N-1061	I
882.4535	Nonpowered neurosurgical instrument	78N-1062	I
882.4545	Shunt system implantation instrument	78N-1063	I
882.4560	Stereotaxic instrument	78N-1064	II
882.4600	Leukotome	78N-1065	I
882.4650	Neurosurgical suture needle	78N-1066	I
882.4700	Cottonoid paddle	78N-1067	II
882.4725	Radiofrequency lesion probe	78N-1068	II
882.4750	Skull punch	78N-1069	I
882.4800	Self-retaining retractor for neurosurgery	78N-1070	II
882.4840	Manual rongeur	78N-1071	II
882.4845	Powered rongeur	78N-1072	II
882.4900	Skullplate screwdriver	78N-1073	I

Subpart F—Neurological Therapeutic Devices

Section	Device	Docket No.	Class
882.5030	Methyl methacrylate for aneurysmorrhaphy	78N-1075	II
882.5050	Biofeedback device	78N-1076	II
882.5070	Bite block	78N-1077	II
882.5150	Intravascular occluding catheter	78N-1078	III
882.5175	Carotid artery clamp	78N-1079	II
882.5200	Aneurysm clip	78N-1080	II
882.5225	Implanted malleable clip	78N-1081	II
882.5235	Aversive conditioning device	78N-1082	II
882.5250	Burr hole cover	78N-1083	II
882.5275	Nerve cuff	78N-1084	II
882.5300	Methyl methacrylate for cranioplasty	78N-1085	II
882.5320	Preformed alterable cranioplasty plate	78N-1086	II
882.5330	Preformed nonalterable cranioplasty plate	78N-1087	II
882.5360	Cranioplasty plate fastener	78N-1088	II
882.5500	Legion temperature monitor	78N-1089	II
882.5550	Central nervous system fluid shunt and components	78N-1090	II
882.5800	Cranial electrotherapy stimulator	78N-1091	III
882.5810	External functional neuromuscular stimulator	78N-1092	II
882.5820	Implanted cerebellar stimulator	78N-1093	III
882.5830	Implanted diaphragmatic/phrenic nerve stimulator	78N-1094	III
882.5840	Implanted intracerebral/subcortical stimulator for pain relief	78N-1095	III
882.5850	Implanted spinal cord stimulator for bladder evacuation	78N-1096	III
882.5860	Implanted neuromuscular stimulator	78N-1097	III
882.5870	Implanted peripheral nerve stimulator for pain relief	78N-1098	II
882.5880	Implanted spinal cord stimulator for pain relief	78N-1099	II
882.5890	Transcutaneous electrical nerve stimulator for pain relief	78N-1100	II
882.5900	Preformed craniosynostosis strip	78N-1101	II
882.5910	Dura substitute	78N-1102	II
882.5940	Electroconvulsive therapy device	78N-1103	III
882.5950	Artificial embolization device	78N-1104	III
882.5960	Skull tong for traction	78N-1105	II

Patient Information

FDA is considering requiring the development and dissemination of information for patients and consumers about the uses, benefits, and risks of medical devices. For example, patient information has already been required or approved by FDA for intrauterine devices and hearing aids. In addition, the Bureau of Radiological Health is conducting a consumer education program on x-rays that includes posters on the effects of radiation during pregnancy and the distribution of x-ray record cards.

FDA believes that patient information is needed if: (1) There is a choice among alternatives of which the patient should be aware; (2) There are substantial risks or discomforts associated with the product; (3) The cost of the product is significant; (4) There is a need for the patient to strictly adhere to a specific treatment regimen; and (5) There is substantial public or professional controversy about the device or its related procedures.

FDA can require that manufacturers make medical device information available to providers for their use and the use of their patients through the premarket approval or standards setting processes as well as the general control provisions of the Federal Food, Drug, and Cosmetic Act. The mechanisms available to FDA to provide patient information for devices include: (1) Labeling for restricted and nonrestricted devices; (2) Patient package inserts and provider information; and (3) Consumer and patient education programs.

FDA has tentatively identified several neurological devices for which patient information may be required. Other neurological devices may be identified in the future, after the criteria for selection of devices needing patient information have been further refined. The devices that have been identified so far are listed below:

Device	Docket No.
Central nervous system fluid shunts and components	78N-1090
External functional neuromuscular stimulator	78N-1092
Implanted cerebellar stimulator	78N-1093
Implanted diaphragmatic/phrenic nerve stimulator	78N-1094
Implanted intracerebral/subcortical stimulator for pain relief	78N-1095
Implanted spinal cord stimulator for bladder evacuation	78N-1096
Implanted neuromuscular stimulator	78N-1097
Implanted peripheral nerve stimulator for pain relief	78N-1098
Implanted spinal cord stimulator for pain relief	78N-1099
Electroconvulsive therapy device	78N-1103

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs amends Chapter I of Title 21 of the Code of Federal Regulations by adding new Part 882, Subpart A, to read as follows:

PART 882—NEUROLOGICAL DEVICES

Subpart A—General Provisions

Sec.

882.1 Scope.

Authority: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360C, 701(a)).

Subpart A—General Provisions

§ 882.1 Scope.

(a) This part sets forth the classification of neurological devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 of this chapter may not show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87 of this chapter.

(c) To avoid duplicative listings, a neurological device that has two or more types of uses (e.g., use both as a diagnostic device and as a therapeutic device) is listed in the subpart representing one use of the device, rather than in two or more subparts.

Effective date. This regulation is effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26791 Filed 8-31-79; 8:45 am]

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21 CFR Part 882

[Docket No. 78N-1001]

Neurological Devices; Classification of Rigidity Analyzers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying rigidity analyzers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55645) a proposed regulation to classify rigidity analyzers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 by adding Subpart B and § 882.1020, to read as follows:

Subpart B—Neurological Diagnostic Devices

§ 882.1020 Rigidity analyzer.

(a) *Identification.* A rigidity analyzer is a device for quantifying the extent of the rigidity of a patient's limb to determine the effectiveness of drugs or other treatments.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26792 Filed 8-31-79; 8:45 am]

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21 CFR Part 882

[Docket No. 78N-1002]

Neurological Devices; Classification of Ataxiagraphs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ataxiagraphs into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55646) a proposed regulation to classify ataxiagraphs into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1030, to read as follows:

§ 882.1030 Ataxiagraph.

(a) *Identification.* An ataxiagraph is a device to determine the extent of ataxia (failure of muscular coordination) by measuring the amount of swaying of the body when the patient is standing erect and with eyes closed.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26793 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1003]

Neurological Devices; Classification of Two-Point Discriminators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying two-point discriminators into class I (general controls) and exempting manufacturers of the device from the good manufacturing practice regulation. The effect of this rule is to require that the device meet only the general controls applicable to all devices, except for the good manufacturing practice regulation. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55646) a proposed regulation to classify two-point discriminators into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA proposed that this device be exempt from the good manufacturing practice (GMP) requirements in Part 820 (21 CFR Part 820), including the recordkeeping and reporting requirements in Part 820. FDA has determined that exemption of devices from the GMP requirements should not extend to § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. FDA is, however, exempting the device from all other sections of the GMP regulations. Accordingly, the proposed rule is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1200, to read as follows:

§ 882.1200 Two-point discriminator.

(a) *Identification.* A two-point discriminator is a device with points used for testing a patient's touch discrimination.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26794 Filed 8-31-79; 8:45 am]

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21 CFR Part 882

[Docket No. 78N-1004]

Neurological Devices; Classification of Echoencephalographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying echoencephalographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55647) a proposed regulation to classify echoencephalographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1240, to read as follows:

§ 882.1240 Echoencephalograph.

(a) *Identification.* An echoencephalograph is an ultrasonic scanning device (including A-scan, B-scan, and doppler systems) that uses noninvasive transducers for measuring intracranial interfaces and blood flow velocity to and in the head.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26795 Filed 8-31-79; 8:45 am]

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21 CFR Part 882

[Docket No. 78N-1005]

Neurological Devices; Classification of Electroconductive Media

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroconductive media into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55648) a proposed regulation to classify electroconductive media into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1275, to read as follows:

§ 882.1275 Electroconductive media.

(a) *Identification.* Electroconductive media are the conductive creams or gels used with external electrodes to reduce the impedance (resistance to alternating current) of the contact between the electrode surface and the skin.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26796 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1006]

Neurological Devices; Classification of Cortical Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cortical electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55649) a proposed regulation to classify cortical electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Two comments were received. The comments suggested that any invasive device (e.g., cortical electrodes) may be capable of transmitting from patient to patient viral diseases of the central nervous system if the device is reuseable. One of the comments suggested that these devices be classified into class III (premarket approval) because of this risk.

The agency believes that the risk of transmitting central nervous system diseases from patient to patient by cortical electrodes can be avoided by requiring in a performance standard that cortical electrodes either be disposable (single-use only) or capable of being repeatedly sterilized by the user. Therefore, the agency rejects the comment to classify cortical electrodes in class III. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1310, to read as follows:

§ 882.1310 Cortical electrode.

(a) *Identification.* A cortical electrode is an electrode which is temporarily placed on the surface of the brain for stimulating the brain or recording the brain's electrical activity.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26797 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1007]

Neurological Devices; Classification of Cutaneous Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cutaneous electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a

proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55650) a proposed regulation to classify cutaneous electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No comments were received that objected to classifying cutaneous electrodes into class II. However, one comment pointed out that electrodes that come into contact with abraded skin or blood (e.g., cutaneous electrodes) may transmit viral diseases and should therefore be capable of being sterilized.

As was stated in the preamble to the proposed general provisions for neurological devices (43 FR 55640), the agency recognizes that all possible risks to health presented by neurological devices may not have been identified in the classification recommendations and the proposed FDA regulations. Future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) may identify other risks to health that are to be addressed by FDA requirements in addition to those identified in the classification recommendations and regulations. The risk of transmitting viral diseases because of electrodes that are not sterile will be considered along with other risks to health presented by cutaneous electrodes when the agency proposes to establish performance standards for cutaneous electrodes. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1320, to read as follows:

§ 882.1320 Cutaneous electrode.

(a) *Identification.* A cutaneous electrode is an electrode that is applied directly to a patient's skin either to record physiological signals (e.g., the electroencephalogram) or to apply electrical stimulation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26798 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1008]

Neurological Devices; Classification of Depth Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying depth electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55650) a proposed regulation to classify depth electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Two comments suggested that a depth electrode may be capable of transmitting from patient to patient viral diseases of the central nervous system if the device is reuseable. One of the comments suggested that depth electrodes be classified into class III (premarket approval) because of this risk.

The agency believes that the risk of transmitting central nervous system diseases from patient to patient by depth electrodes can be avoided by requiring in a performance standard that depth electrodes be either disposable (single-use only) or capable of being repeatedly sterilized by the user. Therefore, the agency rejects the comment to classify depth electrodes in class III. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1330, to read as follows:

§ 882.1330 Depth electrode.

(a) *Identification.* A depth electrode is an electrode used for temporary stimulation of, or recording electrical signals at, subsurface levels of the brain.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26799 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1009]

Neurological Devices; Classification of Nasopharyngeal Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nasopharyngeal electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations

classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55651) a proposed regulation to classify nasopharyngeal electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No comments were received that objected to classifying nasopharyngeal electrodes into class II. However, one comment pointed out that electrodes that come into contact with abraded skin or blood (e.g., nasopharyngeal electrodes) may transmit viral disease and should therefore be capable of being sterilized.

As was stated in the preamble to the proposed general provisions for neurological devices (43 FR 55640), the agency recognizes that all possible risks to health presented by neurological devices may not have been identified in the classification recommendation and the proposed FDA regulations. Future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) may identify other risks to health that are to be addressed by FDA requirements in addition to those identified in the classification recommendations and regulations. The risk of transmitting viral diseases because of electrodes that are not sterile will be considered along with other risks to health presented by nasopharyngeal electrodes when the agency proposes to establish performance standards for nasopharyngeal electrodes. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1340, to read as follows:

§ 882.1340 Nasopharyngeal electrode.

(a) *Identification.* A nasopharyngeal electrode is an electrode which is temporarily placed in the nasopharyngeal region for the purpose of recording electrical activity.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26800 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1010]

Neurological Devices; Classification of Needle Electrodes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying needle electrodes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55652) a proposed regulation to classify needle electrodes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Two comments suggested that a needle electrode may be capable of transmitting from patient to patient viral diseases of the central nervous system if the device is reuseable. One of the comments suggested that needle electrodes be classified into class III (premarket approval) because of this risk.

The agency believes that the risk of transmitting central nervous system diseases from patient to patient by needle electrodes can be avoided by requiring in a performance standard that needle electrodes be either disposable (single-use only) or capable of being repeatedly sterilized by the user. Therefore, the agency rejects the comment to classify needle electrodes in class III. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1350, to read as follows:

§ 882.1350 Needle electrode.

(a) *Identification.* A needle electrode is a device which is placed subcutaneously to stimulate or to record electrical signals.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26801 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1011]

Neurological Devices; Classification of Electroencephalographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroencephalographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55653) a proposed regulation to classify electroencephalographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1400, to read as follows:

§ 882.1400 Electroencephalograph.

(a) *Identification.* An electroencephalograph is a device used to measure and record the electrical activity of the patient's brain obtained by placing two or more electrodes on the head.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26802 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1012]

Neurological Devices; Classification of Electroencephalograph Electrode/Lead Testers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroencephalograph electrode/lead testers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken

under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55653) a proposed regulation to classify electroencephalograph electrode/lead testers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1410, to read as follows:

§ 882.1410 Electroencephalograph electrode/lead tester.

(a) *Identification.* An electroencephalograph electrode/lead tester is a device used for testing the impedance (resistance to alternating current) of the electrode and lead system of an electroencephalograph to assure that an adequate contact is made between the electrode and the skin.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26803 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1013]

Neurological Devices; Classification of Electroencephalogram (EEG) Signal Spectrum Analyzers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroencephalogram (EEG) signal spectrum analyzers into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55654) a proposed regulation to classify electroencephalogram (EEG) signal spectrum analyzers into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1420, to read as follows:

§ 882.1420 Electroencephalogram (EEG) signal spectrum analyzer.

(a) *Identification.* An electroencephalogram (EEG) signal spectrum analyzer is a device used to display the frequency content or power

spectral density of the electroencephalogram (EEG) signal.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26804 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1014]

Neurological Devices; Classification of Electroencephalograph Test Signal Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroencephalograph test signal generators into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55655) a proposed regulation to classify electroencephalograph test signal generators into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1430, to read as follows:

§ 882.1430 Electroencephalograph test signal generator.

(a) *Identification.* An electroencephalograph test signal generator is a device used to test or calibrate an electroencephalograph.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26805 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1015]

Neurological Devices; Classification of Nystagmographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nystagmographs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55655) a proposed regulation to classify nystagmographs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1460, to read as follows:

§ 882.1460 Nystagmograph.

(a) *Identification.* A nystagmograph is a device used to measure, record, or visually display the involuntary movements (nystagmus) of the eyeball.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26806 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1016]

Neurological Devices; Classification of Neurological Endoscopes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying neurological endoscopes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55656) a proposed regulation to classify neurological endoscopes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1480, to read as follows:

§ 882.1480 Neurological endoscope.

(a) *Identification.* A neurological endoscope is an instrument with a light source used to view the inside of the ventricles of the brain.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26807 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1017]

Neurological Devices; Classification of Esthesiometers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying esthesiometers into class I (general controls) and exempting manufacturers of the device from the good manufacturing practice regulation.

The effect of this rule is to require that the device meet only the general controls applicable to all devices, except for the good manufacturing practice regulation. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55657) a proposed regulation to classify esthesiometers into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA proposed that this device be exempt from the good manufacturing practice (GMP) requirements in Part 820 (21 CFR Part 820), including the recordkeeping and reporting requirements in Part 820. FDA has determined that exemption of devices from the GMP requirements should not extend to § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. FDA is, however, exempting the device from all other sections of the GMP regulations. Accordingly, the proposed rule is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1500, to read as follows:

§ 882.1500 Esthesiometer.

(a) *Identification.* An esthesiometer is a mechanical device which usually consists of a single rod or fiber which is held in the fingers of the physician or other examiner and which is used to determine whether a patient has tactile sensitivity.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26808 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1018]

Neurological Devices; Classification of Tuning Forks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying tuning forks into class I (general controls) and exempting manufacturers of the device from the good manufacturing practice regulation. The effect of this rule is to require that the device meet only the general controls applicable to all devices, except for the good manufacturing practice regulation. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55658) a proposed regulation to classify tuning forks into class I (general controls). A

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period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA proposed that this device be exempt from the good manufacturing practice (GMP) requirements in Part 820 (21 CFR Part 820), including the recordkeeping and reporting requirements in Part 820. FDA has determined that exemption of devices from the GMP requirements should not extend to § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. FDA is, however, exempting the device from all other sections of the GMP regulations. Accordingly, the proposed rule is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1525, to read as follows:

§ 882.1525 Tuning fork.

(a) *Identification.* A tuning fork is a mechanical device which resonates at a given frequency and is used to diagnose hearing disorders and to test for vibratory sense.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26809 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1019]

Neurological Devices; Classification of Galvanic Skin Response Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying galvanic skin response measurement devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulation classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55658) a proposed regulation to classify galvanic skin response measurement devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1540, to read as follows:

§ 882.1540 Galvanic skin response measurement device.

(a) *Identification.* A galvanic skin response measurement device is a device used to determine autonomic responses as psychological indicators by measuring the electrical resistance of the skin and the tissue path between two electrodes applied to the skin.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26810 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1020]

Neurological Devices; Classification of Nerve Conduction Velocity Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nerve conduction velocity measurement devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55659) a proposed regulation to classify nerve conduction velocity measurement devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1550, to read as follows:

§ 882.1550 Nerve conduction velocity measurement device.

(a) *Identification.* A nerve conduction velocity measurement device is a device which measures nerve conduction time by applying a stimulus, usually to a patient's peripheral nerve. This device includes the stimulator and the electronic processing equipment for measuring and displaying the nerve conduction time.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26811 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1021]

Neurological Devices; Classification of Skin Potential Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying skin potential measurement devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55660) a proposed regulation to classify skin potential measurement devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1560, to read as follows:

§ 882.1560 Skin potential measurement device.

(a) *Identification.* A skin potential measurement device is a general diagnostic device used to measure skin voltage by means of surface skin electrodes.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26812 Filed 8-31-79; 8:45 am]

Billing Code 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1022]

Neurological Devices; Classification of Powered Direct-Contact Temperature Measurement Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying powered direct-contact temperature measurement devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55661) a proposed regulation to classify powered direct-contact temperature measurement devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1570, to read as follows:

§ 882.1570 Powered direct-contact temperature measurement device.

(a) *Identification.* A powered direct-contact temperature measurement device is a device which contains a power source and is used to measure differences in temperature between two points on the body.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26813 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1023]

Neurological Devices; Classification of Alpha Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying alpha monitors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55662) a proposed regulation to classify alpha monitors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1610, to read as follows:

§ 882.1610 Alpha monitor.

(a) *Identification.* An alpha monitor is a device with electrodes that are placed on a patient's scalp to monitor that portion of the electroencephalogram which is referred to as the alpha wave.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26814 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1024]

Neurological Devices; Classification of Intracranial Pressure Monitoring Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intracranial pressure monitoring devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55662) a proposed regulation to classify intracranial pressure monitoring devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment suggested that any invasive device, such as an intracranial pressure (ICP) monitoring device, may be capable of transmitting from patient to patient viral diseases of the central nervous system if the device is reuseable. The comment suggested that these devices be classified into class III (premarket approval) because of this risk.

The agency believes that the risk of transmitting central nervous system disease from patient to patient by intracranial pressure monitoring devices can be avoided by requiring in a performance standard that intracranial pressure monitoring devices either be disposable (single-use only) or capable of being repeatedly sterilized by the user. Therefore, the agency rejects the comment to classify intracranial pressure monitoring devices in class III.

Another comment agreed with classifying intracranial pressure monitoring devices in class II but suggested that the development of a performance standard be a high priority for the devices instead of a low priority as proposed because of the increasing use of ICP monitoring and the proliferation of types of ICP monitoring devices.

On February 23, 1979, FDA referred this comment to the Neurological Section of the Respiratory and Nervous System Devices Panel (formerly the Neurological Device Classification Panel). The Panel agreed with the comment and recommended that the priority for development of performance standards for intracranial pressure monitoring devices be changed to "high." As was stated in the preamble to the proposed general provisions for neurological devices (43 FR 55640), the agency is not proposing at this time to establish priorities for development of performance standards for class II devices. At a later date, the agency will establish priorities for the development of performance standards for class II devices based on the classification panel's recommendations, available resources, and other relevant factors. Accordingly, the proposed regulation is being adopted as written.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1620, to read as follows:

§ 882.1620 Intracranial pressure monitoring device.

(a) *Identification.* An intracranial pressure monitoring device is a device used for short-term monitoring and recording of intracranial pressures and pressure trends. The devices includes the transducer, monitor, and interconnecting hardware.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26815 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1025]

Neurological Devices: Classification of Percussors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying percussors into class I (general controls) and exempting manufacturers of the device from the good manufacturing practice regulation. The effect of this rule is to require that the device meet only the general controls applicable to all devices, except for the good manufacturing practice regulation. This action is being taken under the Medical Device Amendment of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55664) a proposed regulation to classify percussors into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. FDA proposed that this device be exempt from the good manufacturing practice (GMP) requirements in Part 820 (21 CFR Part 820) including the recordkeeping and reporting requirements in Part 820. FDA has determined that exemption of devices from the GMP requirements should not extend to § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. FDA is, however, exempting the device from all other sections of the GMP regulations. Accordingly, the proposed rule is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1700, to read as follows:

§ 882.1700 Percussor.

(a) *Identification.* A percussor is a small hammerlike device used by a physician to provide light blows to a body part. A percussor is used as a diagnostic aid during physical examinations.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26816 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1026]

Neurological Devices; Classification of Pinwheels

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pinwheels into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55664) a proposed regulation to classify pinwheels into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1750, to read as follows:

§ 882.1750 Pinwheel.

(a) *Identification.* A pinwheel is a device with sharp points on a rotating wheel used for testing pain sensation.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26817 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1027]

Neurological Devices; Classification of Ocular Plethysmographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

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SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ocular plethysmographs into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55665) a proposed regulation to classify ocular plethysmographs into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received. The comment disagreed with the reasons given for classifying ocular plethysmographs into class III. The comment asserted that the pneumoplethysmographic technique has been shown to be very effective in several recent studies and has a low incidence of complications. The comment also stated that the other techniques of ocular plethysmography are not as good as the pneumoplethysmographic technique, and that they may be difficult to apply and the results difficult to interpret. The comment also disagreed that carotid compression is a major hazard when using the pneumoplethysmographic technique because carotid compression is infrequently used and, when used, is safe if done by those experienced in its use.

FDA agrees that some of the ocular plethysmograph devices are more effective than others. The fact that a device is effective, however, is not a reason for classifying it in class I or II. As a group, ocular plethysmographs are devices that present a potential unreasonable risk of illness or injury to the patient. FDA concluded that there is insufficient information to establish a performance standard that would assure the safety and effectiveness of ocular plethysmographs and, for this reason, that the devices should be classified in class III. This conclusion does not preclude approval of a premarket approval application for a particular ocular plethysmograph device. Accordingly, the proposed rule is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1790, to read as follows:

§ 882.1790 Ocular plethysmograph.

(a) *Identification.* An ocular plethysmograph is a device used to measure or detect volume changes in the eye produced by pulsations of the artery, to diagnose carotid artery occlusive disease (restrictions on blood flow in the carotid artery).

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26818 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1028]

Neurological Devices; Classification of Rheoencephalographs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying rheoencephalographs into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982 or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55666) a proposed regulation to classify rheoencephalographs into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1825, to read as follows:

§ 882.1825 Rheoencephalograph.

(a) *Identification.* A rheoencephalograph is a device used to estimate a patient's cerebral circulation (blood flow in the brain) by electrical inpedance methods with direct electrical connections to the scalp or neck area.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26819 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1029]

Neurological Devices; Classification of Physiological Signal Amplifiers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying physiological signal amplifiers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55667) a proposed regulation to classify physiological signal amplifiers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1835, to read as follows:

§ 882.1835 Physiological signal amplifier.

(a) *Identification.* A physiological signal amplifier is a general purpose device used to electrically amplify signals derived from various physiological sources (e.g., the electroencephalogram).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26820 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1030]

Neurological Devices; Classification of Physiological Signal Conditioners

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying physiological signal conditioners into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55668) a proposed regulation to classify physiological signal conditioners into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1845, to read as follows:

§ 882.1845 Physiological signal conditioner.

(a) *Identification.* A physiological signal conditioner is a device such as an integrator or differentiator used to modify physiological signals for recording and processing.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26821 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1031]

Neurological Devices: Classification of Electroencephalogram (EEG) Telemetry Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroencephalogram (EEG) telemetry systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55668) a

proposed regulation to classify physiological signal telemetry systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment agreed with the proposal to classify physiological signal telemetry systems into class II and pointed out the danger of inherent leakage currents that are present when telephone telemetry systems are used.

The agency agrees with the comment that electrical leakage current is a potential hazard of using telephone telemetry systems.

The agency has made minor changes to the name and identification of this device to make it clear that the rule applies to those devices used to transmit the electroencephalogram (EEG). Separate proposals have recently been published (44 FR 13358 and 13359; March 9, 1979) for telemetry transmitters and receivers used to transmit cardiovascular signals. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1855, to read as follows:

§ 882.1855 Electroencephalogram (EEG) telemetry system.

(a) *Identification.* An electroencephalogram (EEG) telemetry system consists of transmitters, receivers, and other components used for remotely monitoring or measuring EEG signals by means of radio or telephone transmission systems.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26822 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1032]

Neurological Devices; Classification of Evoked Response Electrical Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying evoked response electrical stimulators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55669) a proposed regulation to classify evoked response electrical stimulators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1870, to read as follows:

§ 882.1870 Evoked response electrical stimulator.

(a) *Identification.* An evoked response electrical stimulator is a device used to apply an electrical stimulus to a patient by means of skin electrodes for the purpose of measuring the evoked response.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26823 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1033]

Neurological Devices: Classification of Evoked Response Mechanical Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying evoked response mechanical stimulators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55670) a proposed regulation to classify evoked response mechanical stimulators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1880, to read as follows:

§ 882.1880 Evoked response mechanical stimulator.

(a) *Identification.* An evoked response mechanical stimulator is a device used to produce a mechanical stimulus or a series of mechanical stimuli for the purpose of measuring a patient's evoked response.

(b) *Classification.* Class II (performance standards).

Effective date. This regulaton shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26824 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1034]

Neurological Devices; Classification of Evoked Response Photic Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying evoked response photic stimulators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55671) a proposed regulation to classify evoked response photic stimulators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment pointed out that the identification for evoked response photic stimulators did not include the so-called "pattern-shift generator" that presents to the patient a shifting pattern on a television screen. The comment also pointed out that the pattern-shift generators used in evoked response measurements could be hazardous because the shifting pattern might evoke an epileptic seizure in some epileptic patients.

The agency agrees that minor changes should be made in the language used in the identification of the evoked response photic stimulator to make it clear that it includes the pattern-shift devices. The agency acknowledges the health hazard identified in the comment. Accordingly, the proposed regulation is adopted with the changes noted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1890, to read as follows:

§ 882.1890 Evoked response photic stimulator.

(a) *Identification.* An evoked response photic stimulator is a device used to generate and display a shifting pattern or to apply a brief light stimulus to a patient's eye for use in evoked response measurements or for electroencephalogram (EEG) activation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26825 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1035]

Neurological Devices; Classification of Evoked Response Auditory Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying evoked response auditory stimulators into class II (performance standards). The effect of classifying a device into Class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55672) a proposed regulation to classify evoked response auditory stimulators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1900, to read as follows:

§ 882.1900 Evoked response auditory stimulator.

(a) *Identification.* An evoked response auditory stimulator is a device that produces a sound stimulus for use in evoked response measurements or electroencephalogram activation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26826 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1036]

Neurological Devices; Classification of Ultrasonic Scanner Calibration Test Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ultrasonic scanner calibration test blocks into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55672) a proposed regulation to classify ultrasonic scanner calibration test blocks into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adoped without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1925, to read as follows:

§ 882.1925 Ultrasonic scanner calibration test block.

(a) *Identification.* An ultrasonic scanner calibration test block is a block of material with known properties used to calibrate ultrasonic scanning devices (e.g., the echoencephalograph).

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26827 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1037]

Neurological Devices; Classification of Tremor Transducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying tremor transducers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55673) a proposed regulation to classify tremor transducers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart B by adding new § 882.1950, to read as follows:

§ 882.1950 Tremor transducer.

(a) *Identification.* A tremor transducer is a device used to measure the degree of tremor caused by certain diseases.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26828 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1038]

Neurological Devices; Classification of Skull Plate Anvils

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying skull plate anvils into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55674) a proposed regulation to classify skull plate anvils into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed

regulation to classifying this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 by adding new Subpart E and § 882.4030, to read as follows:

Subparts C and D—[Reserved]

Subpart E—Neurological Surgical Devices

§ 882.4030 Skull plate anvil.

(a) *Identification.* A skull plate anvil is a device used to form alterable skull plates in the proper shape to fit the curvature of a patient's skull.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26829 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1039]

Neurological Devices; Classification of Ventricular Cannulas

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ventricular cannulas into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55675) a proposed regulation to classify ventricular catheters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received. The comment suggested that the ventricular catheter be classified into class I because the risks to health identified for the device are the same as those identified for the ventricular cannula, which the agency proposed to classify in class I (43 FR 55674). The comment noted that the only explanation for the difference in the classification of the two devices was that the ventricular catheter may be left in the patient longer than the venticular cannula.

The agency disagrees with the comment. The agency proposed that the ventricular catheter and the ventricular cannula be classified in different classes because the characteristics of the devices that present risks to the patient are different and they require different levels of control. For instance, metal ventricular cannulas can be adequately controlled by general controls because it is relatively easy for the user to determine by inspection if the device has design or construction flaws. However, the user cannot easily determine by inspection whether a flexible catheter constructed of a polymeric substance may deteriorate while in use. The agency believes that a standard that controls the type of material used in the ventricular catheter and the performance of the device is necessary to provide reasonable assurance that the device will function properly without unnecessary risk to the patient. Accordingly, the proposed rule is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4060, to read as follows:

§ 882.4060 Ventricular cannula.

(a) *Identification.* A ventricular cannula is a device used to puncture the ventricles of the brain for aspiration or for injection. This device is frequently referred to as a ventricular needle.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26830 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1040]

Neurological Devices; Classification of Ventricular Catheters

AGENCY: The Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying ventricular catheters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

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Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4100, to read as follows:

§ 882.4100 Ventricular catheter.

(a) *Identification.* A ventricular catheter is a device used to gain access to the cavities of the brain for injection of material into, or removal of material from, the brain.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26831 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1041]

Neurological Devices; Classification of Neurosurgical Chairs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying neurosurgical chairs into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55676) a proposed regulation to classify neurosurgical chairs into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4125, to read as follows:

§ 882.4125 Neurosurgical chair.

(a) *Identification.* A neurosurgical chair is an operating room chair used to position and support a patient during neurosurgery.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26832 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1042]

Neurological Devices; Classification of Scalp Clips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying scalp clips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55676) a proposed regulation to classify scalp clips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment suggested that the class of devices known as wound clips not be required to meet standards, as proposed for scalp clips. The comment noted that the pressure exerted by a wound clip is entirely under the control of the surgeon, and, therefore, the manufacturer cannot assure that the pressure that the clip applies to tissue is appropriate. The comment also suggested that separate standards should not be developed for wound clips and scalp clips if possible because separate standards may result in confusion, mutually exclusive requirements, and possible monetary waste.

The agency has considered publishing one regulation that would apply to both scalp clips and wound clips. However, the agency believes that devices known as scalp clips are different enough from wound clips so that a separate classification regulation is needed. A proposed classification regulation applicable to wound clips will be published separately later. The comment does not deal with scalp clips. Accordingly, the proposed regulation for scalp clips is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4150, to read as follows:

§ 882.4150 Scalp clip.

(a) *Identification.* A scalp clip is a plastic or metal clip used to stop bleeding during surgery on the scalp.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26833 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1043]

Neurological Devices; Classification of Aneurysm Clip Appliers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying aneurysm clip appliers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55677) a proposed regulation to classify aneurysm clip appliers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4175, to read as follows:

§ 882.4175 Aneurysm clip applier.

(a) *Identification.* An aneurysm clip applier is a device used by the surgeon for holding and applying intracranial aneurysm clips.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26834 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1044]

Neurological Devices; Classification of Clip Forming/Cutting Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying clip forming/cutting instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55678) a proposed regulation to classify clip forming/cutting instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4190, to read as follows:

§ 882.4190 Clip forming/cutting instrument.

(a) *Identification.* A clip forming/cutting instrument is a device used by the physician to make tissue clips from wire stock.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26835 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1045]

Neurological Devices; Classification of Clip Removal Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying clip removal instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55678) a proposed regulation to classify clip removal instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed

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regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4200, to read as follows:

§ 882.4200 Clip removal instrument.

(a) *Identification.* A clip removal instrument is a device used to remove surgical clips from the patient.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26836 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1046]

Neurological Devices; Classification of Clip Racks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying clip racks into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55679) a proposed regulation to classify clip racks into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4215, to read as follows:

§ 882.4215 Clip rack.

(a) *Identification.* A clip rack is a device used to hold or store surgical clips during surgery.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26837 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1047]

Neurological Devices; Classification of Cryogenic Surgical Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cryogenic surgical devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55680) a proposed regulation to classify cryogenic surgical devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4250, to read as follows:

§ 882.4250 Cryogenic surgical device.

(a) *Identification.* A cryogenic surgical device is a device used to destroy nervous tissue or produce lesions in nervous tissue by the application of extreme cold to the selected site.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26838 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1048]

Neurological Devices; Classification of Dowel Cutting Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying dowel cutting instruments into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55680) a proposed regulation to classify dowel cutting instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment was received. The comment disagreed with the proposal to classify dowel cutting instruments into class I and suggested that the device be classified into class II instead. The comment noted that the cutting teeth on the device may lacerate pelvic muscle and cause hemorrhage if the device uncontrollably plunges through the inner table of the bone and strikes pelvic structures. A performance standard should address the risk of uncontrollable plunging of the device and the means used by the instrument to control the bone dowel after it has been cut so that it may be retrieved easily.

FDA agrees with the comment. On February 23, 1979, the Neurological Section of the Respiratory and Nervous Systems Devices Panel (formerly the Neurological Device Classification Panel) reviewed the comment and recommended that FDA classify dowel cutting instruments into class II because the hazards identified by the comment cannot be adequately controlled by general controls.

FDA agrees with the Panel and is changing the classification of dowel cutting instruments from class I to class II in the final rule. For the reasons stated in the general regulation on neurological devices, published elsewhere in this issue of the **Federal Register**, FDA does not believe that it is necessary to issue a new proposal concerning this decision. Persons who disagree with classifying dowel cutting instruments in class II may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860), the classification procedures regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4275, to read as follows:

§ 882.4275 Dowel cutting instrument.

(a) *Identification.* A dowel cutting instrument is a device used to cut dowels of bone for bone grafting.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26839 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1049]

Neurological Devices; Classification of Manual Cranial Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying manual cranial drills burrs, trephines, and their accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55681) a proposed regulation to classify manual drills, burrs, trephines, and their accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment objected to classifying manual drills, burrs, trephines, and their accessories into class II and suggested that these devices be classified instead into class I (general controls) because the devices are hand operated and the manufacturer has no way of controlling whether they are properly used. The comment also stated that there are now in effect for these devices standards that were developed by the International Standards Organization (ISO), and more meaningful standards cannot be established without a great deal of expense.

The agency agrees with the comment that the manufacturers cannot always prevent the device from being misused. However, the agency does not agree with and will not adopt the comment's recommendation that the device be classified into class I. The Neurological Device Classification Panel recommended that manual drills, burrs, trephines, and their accessories be classifed into class II to require the devices to have guards that will prevent the device tips from plunging into the patient's brain. The agency agrees with the panel that a performance standard is necessary for this device. The agency is unaware of any existing standards for this device that require guards to prevent the tips of the device from plunging into the patient's brain. However, the agency believes that several organizations have formed committees to work on standards that may apply to this device. If a standard that applies to this device is developed in the future, the agency will consider adopting it rather than developing a separate FDA standard.

The agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of manual drills and accessories (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by

adding new § 882.4300, to read as follows:

§ 882.4300 Manual cranial drills, burrs, trephines, and their accessories

(a) *Identification.* Manual cranial drills, burrs, trephines, and their accessories are bone cutting and drilling instruments that are used without a power source on a patient's skull.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26840 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1050]

Neurological Devices; Classification of Powered Compound Cranial Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying powered compound cranial drills, burrs, trephines, and their accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55682) a proposed regulation to classify powered compound drills, burrs, trephines, and their accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, the agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of compound drills and accessories (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4305, to read as follows:

§ 882.4305 Powered compound cranial drills, burrs, trephines, and their accessories.

(a) *Identification.* Powered compound cranial drills, burrs, trephines, and their accessories are bone cutting and drilling instruments used on a patient's skull. The instruments employ a clutch mechanism to disengage the tip of the instrument after penetrating the skull to prevent plunging of the tip into the brain.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26841 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1051]

Neurological Devices; Classification of Powered Simple Cranial Drills, Burrs, Trephines, and Their Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying powered simple cranial drills, burrs, trephines, and their accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55682) a proposed regulation to classify powered simple drills, burrs, trephines, and their accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, the agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of simple drills and accessories (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4310, to read as follows:

§ 882.4310 Powered simple cranial drills, burrs, trephines, and their accessories.

(a) *Identification.* Powered simple cranial drills, burrs, trephines, and their accessories are bone cutting and drilling instruments used on a patient's skull. The instruments are used with a power source but do not have a clutch mechanism to disengage the tip after penetrating the skull.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26842 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1052]

Neurological Devices; Classification of Cranial Drill Handpieces (Braces)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cranial drill handpieces (braces) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55683) a proposed regulation to classify drill handpieces (braces) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, the agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of drill handpieces (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4325, to read as follows:

§ 882.4325 Cranial drill handpiece (brace).

(a) *Identification.* A cranial drill handpiece (brace) is a hand holder, which is used without a power source, for drills, burrs, trephines, or other cutting tools that are used on a patient's skull.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26843 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1053]

Neurological Devices; Classification of Electric Cranial Drill Motors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electric cranial drill motors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectivess of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55684) a proposed regulation to classify electric drill motors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, the agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of drill motors (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4360, to read as follows:

§ 882.4360 Electric cranial drill motor.

(a) *Identification.* An electric cranial drill motor is an electrically operated power source used with removable rotating surgical cutting tools or drill bits on a patient's skull.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26844 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1054]

Neurological Devices; Classification of Pneumatic Cranial Drill Motors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying pneumatic cranial drill motors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the

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safety and effectiveness of the device. This action is being taken under the Medical Device Admendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55685) a proposed regulation to classify pneumatic drill motors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, the agency has made minor changes to the name and identification of the device to make it clear that the rule applies to those devices that are used on a patient's skull. Separate proposed regulations will be issued later for other types of drill motors (e.g., dental). Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) a°ERR20°nd under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4370, to read as follows:

§ 882.4370 Pneumatic cranial drill motor.

(a) *Identification.* A pneumatic cranial drill motor is a pneumatically operated power source used with removable rotating surgical cutting tools or drill bits on a patient's skull.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26845 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1055]

Neurological Devices; Classification of Radiofrequency Lesion Generators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying radiofrequency lesion generators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55685) a proposed regulation to classify radiofrequency lesion generators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4400, to read as follows:

§ 882.4400 Radiofrequency lesion generator.

(a) *Identification.* A radiofrequency lesion generator is a device used to produce lesions in the nervous system or other tissue by the direct application of radiofrequency currents to selected sites.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26846 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1057]

Neurological Devices; Classification of Neurosurgical Headrests

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying neurosurgical headrests into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55686) a proposed regulation to classify neurosurgical headrests into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4440, to read as follows:

§ 882.4440 Neurosurgical headrests.

(a) *Identification.* A neurosurgical headrest is a device used to support the patient's head during a surgical procedure.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26847 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1058]

Neurological Devices; Classification of Neurosurgical Head Holders (Skull Clamps)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying neurosurgical head holders (skull clamps) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55687) a proposed regulation to classify neurosurgical head holders (skull clamps) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4460, to read as follows:

§ 882.4460 Neurosurgical head holder (skull clamp).

(a) *Identification.* A neurosurgical head holder (skull clamp) is a device used to clamp the patient's skull to hold head and neck in a particular position during surgical procedures.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26848 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1059]

Neurological Devices; Classification of Cranioplasty Material Forming Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cranioplasty material forming instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55687) a proposed regulation to classify cranioplasty material forming instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4500, to read as follows:

§ 882.4500 Cranioplasty material forming instrument.

(a) *Identification.* A cranioplasty material forming instrument is a roller used in the preparation and forming of cranioplasty (skull repair) materials.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26849 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1061]

Neurological Devices; Classification of Microsurgical Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying microsurgical

instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classsifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55688) a proposed regulation to classify microsurgical instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4225, to read as follows:

§ 882.4525 Microsurgical instrument.

(a) *Identification.* A microsurgical instrument is a nonpowered surgical instrument used in neurological microsurgery procedures.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26850 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1062]

Neurological Devices; Classification of Nonpowered Neurosurgical Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nonpowered neurosurgical instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55689) a proposed regulation to classify nonpowered neurosurgical instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4535, to read as follows:

§ 882.4535 Nonpowered neurosurgical instrument.

(a) *Identification.* A nonpowered neurosurgical instrument is a hand instrument or an accessory to a hand instrument used during neurosurgical procedures to cut, hold, or manipulate tissue. It includes specialized chisels, osteotomes, curettes, dissectors, elevators, forceps, gouges, hoods, surgical knives, rasps, scissors, separators, spatulas, spoons, blades, blade holders, blade breakers, probes, etc.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26851 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1063]

Neurological Devices; Classification of Shunt System Implantation Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying shunt system implantation instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55689) a proposed regulation to classify shunt system implantation instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4545, to read as follows:

§ 882.4545 Shunt system implantation instrument.

(a) *Identification.* A shunt system implantation instrument is an instrument used in the implantation of cerebrospinal fluid shunts, and includes tunneling instruments for passing shunt components under the skin.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26852 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1064]

Neurological Devices; Classification of Stereotaxic Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying stereotaxic instruments into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55690) a proposed regulation to classify stereotaxic instruments into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4560, to read as follows:

§ 882.4560 Stereotaxic instrument.

(a) *Identification.* A stereotaxic instrument is a device consisting of a rigid frame with a calibrated guide mechanism for precisely positioning probes or other devices within a patient's brain, spinal cord, or other part of the nervous system.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26853 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1065]

Neurological Devices; Classification of Leukotomes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying leukotomes into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55691) a proposed regulation to classify leukotomes into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4600, to read as follows:

§ 882.4600 Leukotome.

(a) *Identification.* A leukotome is a device used to cut sections out of the brain.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26854 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1066]

Neurological Devices; Classification of Neurosurgical Suture Needles

AGENCY: Food and Drug Administration.

ACTION: Final rule.

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SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying neurosurgical suture needles into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device, classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55691) a proposed regulation to classify neurosurgical suture needles into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4650, to read as follows:

§ 882.4650 Neurosurgical suture needle.

(a) *Identification.* A neurosurgical suture needle is a needle used in suturing during neurosurgical procedures or in the repair of nervous tissue.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26855 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1067]

Neurological Devices; Classification of Cottonoid Paddies

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cottonoid paddies into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55692) a proposed regulation to classify cottonoid paddies into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4700, to read as follows:

§ 882.4700 Cottonoid paddie.

(a) *Identification.* A cottonoid paddie is a cotton pad used during surgery to protect nervous tissue, absorb fluids, or stop bleeding.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a) 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26856 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1068]

Neurological Devices; Classification of Radiofrequency Lesion Probes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying radiofrequency lesion probes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safey and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55693) a proposed regulation to classify radiofrequency lesion probes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by

adding new § 882.4725, to read as follows:

§ 882.4725 Radiofrequency lesion probe.

(a) *Identification.* A radiofrequency lesion probe is a device connected to a radiofrequency (RF) lesion generator to deliver the RF energy to the site within the nervous system where a lesion is desired.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26857 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1069]

Neurological Devices; Classification of Skull Punches

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying skull punches into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55693) a proposed regulation to classify skull punches into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4750, to read as follows:

§ 882.4750 Skull punch.

(a) *Identification.* A skull punch is a device used to punch holes through a patient's skull to allow fixation of cranioplasty plates or bone flaps by wire or other means.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26858 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1070]

Neurological Devices; Classification of Self-Retaining Retractors for Neurosurgery

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying self-retaining retractors for neurosurgery into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55694) a proposed regulation to classify self-retaining retractors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment objected to classifying self-retaining retractors into class II and suggested that the devices be classified instead into class I (general controls) because the devices are hand operated and the manufacturer has no way of controlling whether they are properly used. The comment also stated that there are now in effect for these devices standards that were developed by the International Standards Organization (ISO) and more meaningful standards cannot be established without a great deal of expense.

Although the agency agrees with the comment that the manufacturer cannot always prevent self-retaining retractors from being misused, the agency does not agree with and will not adopt the comment's recommendation that the device be classified into class I. The Neurological Device Classification Panel recommended that self-retaining retractors used in neurosurgery be classified into class II to protect against injuring the patient by sudden movement caused by failure of the locking mechanism on the device. The Panel did not believe that general controls would provide adequate control of this potential hazard. The agency agrees with the Panel that a performance standard is necessary for this device. If a standard that applies to this device is now in existence or is developed in the future, the agency will consider adopting it rather than developing a separate FDA standard.

The agency has made minor changes to the name of the device to make it clear that the rule applies to those self-retaining retractors that are used in neurosurgery. Separate proposed regulations that apply to other uses of self-retaining retractors will be issued later. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by

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adding new § 882.4800, to read as follows:

§ 882.4800 Self-retaining retractor for neurosurgery.

(a) *Identification.* A self-retaining retractor for neurosurgery is a self-locking device used to hold the edges of a wound open during neurosurgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26859 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1071]

Neurological Devices; Classification of Manual Rongeurs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying manual rongeurs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55695) a proposed regulation to classify manual rongeurs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment objected to classifying manual rongeurs into class II and suggested that the device be classified instead into class I (general controls) because manual rongeurs are hand operated and the manufacturer has no way of controlling whether they are properly used. The comment also stated that there are now in effect for these devices standards that were developed by the International Standards Organization (ISO), and more meaningful standards cannot be established without a great deal of expense.

Although the agency agrees with the comment that manufacturers cannot always prevent the device from being misused, the agency does not agree with and will not adopt the comment's recommendation that the device be classified into class I. The Neurological Device Classification Panel recommended that manual rongeurs be classified into class II because of the need to control the device to avoid breakage of the rongeur jaws. The Panel believes that performance standards are necessary to assure that the thickness of the rongeur jaws and the material used in the construction of the device is sufficient to prevent the jaws from breaking. The Panel does not believe that general controls will provide adequate control of these characteristics of manual rongeurs. The agency agrees with the Panel that a performance standard is necessary for this device. If a standard that applies to this device is in existence or is developed in the future, however, the agency will consider adopting it rather than developing a separate FDA standard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4840, to read as follows:

§ 882.4840 Manual rongeur.

(a) *Identification.* A manual rongeur is a manually operated instrument used for cutting or biting bone during surgery involving the skull or spinal column.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26860 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1072]

Neurological Devices; Classification of Powered Rongeurs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying powered rongeurs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55695) a proposed regulation to classify powered rongeurs into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4845, to read as follows:

§ 882.4845 Powered rongeur.

(a) *Identification.* A powered rongeurs is a powered instrument used for cutting or biting bone during surgery involving the skull or spinal column.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26861 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1073]

Neurological Devices; Classification of Skullplate Screwdrivers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying skuliplate screwdrivers into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55696) a proposed regulation to classify skullplate screwdrivers into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart E by adding new § 882.4900, to read as follows:

§ 882.4900 Skullplate screwdriver.

(a) *Identification.* A skullplate screwdriver is a tool used by the surgeon to fasten cranioplasty plates or skullplate to a patient's skull by screws.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26862 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1075]

Neurological Devices; Classification of Methyl Methacrylate for Aneurysmorrhaphy

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying methyl methacrylate for aneurysmorrhaphy into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55697) a proposed regulation to classify methyl methacrylate for aneurysmorrhaphy into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment objected to classifying methyl methacrylate for aneurysmorrhaphy into class II and recommended that instead it be classified in class III. The comment pointed out that methyl methacrylate bone cement for orthopedic application has been regulated as a prescription drug and is a class III transitional device under section 520(1) of the act (21 U.S.C. 360j(l)). The comment stated that because the formulation of methyl methacrylate for aneurysmorrhaphy is identical to that of methyl methacrylate bone cement, the two devices should be regulated in the same manner.

FDA rejects the comment. Methyl methacrylate bone cement for orthopedic applications is a transitional device under section 520(1) of the act because it was subject to an approved new drug application on file with FDA prior to passage of the Medical Device Amendments of 1976. FDA disagrees that other uses of methyl methacrylate must be classified in the same manner as methyl methacrylate bone cement. Methyl methacrylate for aneurysmorrhaphy has been marketed for many years and was not regulated as a prescription drug prior to passage of the Medical Device Amendments of 1976. FDA considers methyl methacrylate for aneurysmorrhaphy to be a pre-enactment device and is classifying it into class II under section 513 of the act (21 U.S.C. 360c).

Two comments objected to the proposal to classify methyl methacrylate for aneurysmorrhaphy into class II because there is not sufficient information to establish a performance standard. One comment referred to discussions held by the Neurological Device Classification Panel during its deliberations on this device and noted that there were differences of opinion among the Panel members about the safety and effectiveness of the device. Both comments stated that the device should be classified into class III because insufficient information exists to establish a performance standard.

FDA disagrees with the comments. On May 29, 1979, the Neurological Section of the Respiratory and Nervous System Devices Panel (formerly the Neurological Device Classification Panel) met to consider all comments received on the proposal to classify methyl methacrylate for

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aneurysmorrhaphy into class II. At the meeting, representatives of Howmedica, Inc., and the Health Research Group appeared before the Panel to present their views that methyl methacrylate for aneurysmorrhaphy should be classified into class III rather than class II as proposed. Representatives of the L. D. Caulk Co. and a representative of the Joint Committee on Materials, Devices, and Drugs of the American Association of Neurological Surgeons appeared before the Panel to support FDA's proposal to classify methyl methacrylate for aneurysmorrhaphy in class II.

After considering the comments and the additional testimony presented to the Panel, the Panel concluded that there is sufficient information available to establish a performance standard for the device and recommended that the classification of the device be class II as proposed. FDA agrees with the Panel and is adopting the proposed regulation without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5030, to read as follows:

§ 882.5030 Methyl methacrylate for aneurysmorrhaphy.

(a) *Identification.* Methyl methacrylate for aneurysmorrhaphy (repair of aneurysms, which are balloonlike sacs formed on blood vessels) is a self-curing acrylic used to encase and reinforce intracranial aneurysms that are not amenable to conservative management, removal, or obliteration by aneurysm clip.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26863 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1076]

Neurological Devices; Classification of Biofeedback Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying biofeedback devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55699) a proposed regulation to classify biofeedback devices into class II (performance stanadards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment questioned whether clinical psychologists would be able to use biofeedback devices if the devices were sold only to physicians or other licensed practitioners. In particular, the comment was concerned that psychologists not be excluded from the definition of a "licensed practitioner."

Clinical psychologists are included in the definition of "licensed practitioner" because they are now licensed in all States and the District of Columbia. Unless specifically excluded by provisions of their State licenses, clinical psychologists may, therefore, purchase and use biofeedback devices.

No comments disagreed with the proposal to classify biofeedback devices in class II. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 by adding new Subpart F and § 882.5050, to read as follows:

Subpart F—Neurological Therapeutic Devices

§ 882.5050 Biofeedback device.

(a) *Identification.* A biofeedback device is an instrument that provides a visual or auditory signal corresponding to the status of one or more of a patient's physiological parameters (e.g., brain alpha wave activity, muscle activity, skin temperature, etc.) so that the patient can control voluntarily these physiological parameters.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26864 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1077]

Neurological Devices; Classification of Bite Blocks

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying bite blocks into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55700) a proposed regulation to classify bite blocks into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5070, to read as follows:

§ 882.5070 Bite block.

(a) *Identification.* A bite block is a device inserted into a patient's mouth to protect the tongue and teeth while the patient is having convulsions.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26865 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1078]

Neurological Devices; Classification of Intravascular Occluding Catheters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intravascular occluding catheters into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55700) a proposed regulation to classify intravascular occluding catheters into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5150, to read as follows:

§ 882.5150 Intravascular occluding catheter.

(a) *Identification.* An intravascular occluding catheter is a catheter with an inflatable or detachable balloon tip that is used to block a blood vessel to treat malformations, e.g., aneurysms (balloonlike sacs formed on blood vessels) of intracranial blood vessels.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26866 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1079]

Neurological Devices; Classification of Carotid Artery Clamps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying carotid artery clamps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55701) a proposed regulation to classify carotid artery clamps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5175, to read as follows:

§ 882.5175 Carotid artery clamp.

(a) *Identification.* A carotid artery clamp is a device that is surgically placed around a patient's carotid artery (the principal artery in the neck that supplies blood to the brain) and has a removable adjusting mechanism that protrudes through the skin of the patient's neck. The clamp is used to occlude the patient's carotid artery to treat intracranial aneurysms (balloonlike sacs formed on blood vessels) or other intracranial vascular malformations that are difficult to attach directly by reducing the blood pressure and blood flow to the aneurysm or malformation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26867 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1080]

Neurological Devices; Classification of Aneurysm Clips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying aneurysm clips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55703) a proposed regulation to classify aneurysm clips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment from a manufacturer suggested that aneurysm clips be classified in class III (premarket approval) instead of class II (performance standards) as proposed. The comment stated that aneurysm clips are critical, life-sustaining devices and that simple performance standards are not sufficient for these types of instruments.

The agency disagrees with this comment. The comment supplied no additional data or documentation that was not considered by the agency before publishing the proposal to classify aneurysm clips into class II. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5200, to read as follows:

§ 882.5200 Aneurysm clip.

(a) *Identification.* An aneurysm clip is a device used to occlude an intracranial aneurysm (a balloonlike sac formed on a blood vessel) to prevent it from bleeding or bursting.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26868 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1081]

Neurological Devices; Classification of Implanted Malleable Clips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted malleable clips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55704) a proposed regulation to classify implanted malleable clips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment agreed with the proposal to classify implanted malleable clips in class II. The comment also agreed with the recommendation of the Neurological Device Classification Panel that sterling silver not be used in implanted malleable clips. The comment suggested that a performance standard should exclude the use of sterling silver as a material for implanted malleable clips.

The agency agrees that a performance standard should exclude the use of sterling silver as a material for implanted malleable clips. At a future date, the agency will initiate proceedings to adopt performance standards for this device, as well as for other devices that are classified in class II.

A comment from a manufacturer suggested that implanted malleable clips be classified in class III (premarket approval) instead of class II (performance standards) as proposed. The comment stated that these clips are critical, life-sustaining devices and simple performance standards are not sufficient for these types of devices.

The agency disagrees with the comment to classify implanted malleable clips in class III. The comment supplied no additional data or documentation that was not considered by the agency before publishing the proposal to classify the device in class II.

The agency has made minor changes to the identification of the device to make it clear that the rule applies to those implanted malleable clips intended primarily for intracranial use. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5225, to read as follows:

§ 882.5225 Implanted malleable clip.

(a) *Identification.* An implanted malleable clip is a bent wire or staple that is forcibly closed with a special instrument to occlude an intracranial blood vessel or aneurysm (a balloonlike sac formed on a blood vessel), stop bleeding, or hold tissue or a mechanical device in place in a patient.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26869 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1082]

Neurological Devices; Classification of Aversive Conditioning Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying aversive conditioning devices into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55705) a proposed regulation to classify aversive conditioning devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5235, to read as follows:

§ 882.5235 Aversive conditioning device.

(a) *Identification.* An aversive conditioning device is an instrument used to administer an electrical shock or other noxious stimulus to a patient to modify undesirable behavioral characteristics.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26870 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1083]

Neurological Devices; Classification of Burr Hole Covers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying burr hole covers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55706) a proposed regulation to classify burr hole covers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5250, to read as follows:

§ 882.5250 Burr hole cover.

(a) *Identification.* A burr hole cover is a plastic or metal device used to cover or plug holes drilled into the skull during surgery and to reattach cranial bone removed during surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26871 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1084]

Neurological Devices; Classification of Nerve Cuffs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nerve cuffs into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken

under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55707) a proposed regulation to classify nerve cuffs into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

Three comments were received. The comments disagreed with classifying nerve cuffs in class III. Two of the comments were from physicians, who described their successful experiences with the device in repairing nerves and in capping the ends of nerves to prevent and treat painful neuromas (tumors). Both physicians stated that the nerve cuff is useful in protecting severed nerves in patients who have wounds with massive scarring, e.g., wounds due to gunshot wounds, and in treating and preventing the occurrence of neuromas on nerves in extremities that have been amputated. One of the physicians cited a recent study (Swanson, et al., *The Journal of Hand Surgery*, 2:70–78, 1977) of the effectiveness of nerve capping in the treatment and prevention of amputation neuromas. The study reported on the results of capping 38 nerves in the upper extremities of 18 patients and 9 nerves in the lower extremities of 8 patients. One patient required a second operation to recap a nerve for successful relief of pain, and two patients were considered failures.

A comment from Dow Corning Corporation (DOW), a manufacturer of the nerve cuff, included an extensive bibliography of references relative to the use of the nerve cuff in humans and in animals, including the study by Swanson mentioned above. The comment argued that the proposal to classify nerve cuffs in class III relied too heavily on one journal article (Szal and Miller, *Archives of Otolaryngology*, 101:160–165, 1975) that showed negative results when nerve cuffs were used to protect nerve repair sites in rabbits. The comment noted that many other investigators have consistently reported that nerve cuffs are effective and that the Szal study was not relevant to the clinical use of the nerve cuff because the wrong size nerve cuffs were used on the facial nerves of rabbits.

On February 23, 1979, the Neurological Section of the Respiratory and Nervous System Devices Panel (formerly the Neurological Device Classification Panel) met to review the comments received on the proposal to classify nerve cuffs in class III. At the meeting, representatives of Dow presented a brief history of the device and described the manner in which it is currently being used. They stated that the nerve cuff has been used extensively to treat war injuries, but that it was only being marketed on a small scale today. They noted that neuromas were prevented in all but about 5 percent of the cases reported by Swanson in his study. The firm also noted that neuromas normally occur in 30 percent of such cases. The Dow representative asked the Panel to recommend that the device be classified in class II because of its long history of use without adverse reports.

During the Panel discussion, one of the Panel members pointed out that the literature from the 1960's pertaining to the nerve cuff was enthusiastic, but that the use of the device has largely been displaced by improvements in surgical technique. The member also pointed out that the effectiveness of nerve cuffs in nerve repair was not always good and that the results were sometimes disappointing. Although several Panel members disagreed with classifying nerve cuffs in class II because the device is of questionable effectiveness when used as a sheath in repairing nerves, the majority of the Panel members voted to recommend that the classification of nerve cuffs be changed to class II. Those Panel members favoring class II noted that the data showed that the device is effective in capping the ends of nerves to prevent neuromas and that the device could be beneficial in the absence of microsurgical techniques.

FDA has carefully considered the Panel's recommendation and the additional information and data submitted on this device. FDA agrees with the Panel and is changing the classification of nerve cuffs in the final rule to class II rather than class III as proposed. The agency realizes that the nerve cuff may not be as effective in repairing nerves as newer techniques involving microsurgery. However, the data appear to demonstrate the effectiveness of the device as a nerve cap in preventing neuromas and its usefulness as a sheath to protect the nerve during nerve repair when the recommended size nerve cuff is used. Accordingly, the final regulation is being changed to classify the device in class II. For the reasons stated in the general regulation on neurological devices, published elsewhere in this issue of the **Federal Register**, FDA does not believe that it is necessary to issue a new proposal concerning this decision. Persons who disagree with classifying nerve cuffs in class II may petition for reclassification of the device under Subpart C of Part 860, the classification procedures regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5275, to read as follows:

§ 882.5275 Nerve cuff.

(a) *Identification.* A nerve cuff is a tubular silicone rubber sheath used to encase a nerve for aid in repairing the nerve (e.g., to prevent ingrowth of scar tissue) and for capping the end of the nerve to prevent the formation of neuroma (tumors).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26872 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1085]

Neurological Devices; Classification of Methyl Methacrylate for Cranioplasty

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying methyl methacrylate for cranioplasty into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55708) a proposed regulation to classify methyl methacrylate for cranioplasty into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

A comment objected to classifying methyl methacrylate for cranioplasty into class II and recommended that instead it be classified into class III. The comment pointed out that methyl methacrylate bone cement for orthopedic applications has been regulated as a prescription drug and is a class III transitional device under section 520(1) of the act (21 U.S.C. 360[(l)). The comment stated that because the formulation of methyl methacrylate for cranioplasty is identical to that of methyl methacrylate bone cement, the two devices should be regulated in the same manner.

FDA rejects the comment. Methyl methacrylate bone cement for orthopedic applications is a transitional device under section 520(1) of the act because it was subject to an approved new drug application on file with FDA prior to passage of the Medical Device Amendments of 1976. FDA disagrees that other uses of methyl methacrylate must be classified in the same manner as methyl methacrylate bone cement. Methyl methacrylate for cranioplasty has been marketed for many years and was not regulated as a prescription drug prior to passage of the Medical Device Amendments of 1976. FDA considers methyl methacrylate for cranioplasty to be a pre-enactment device and is classifying it into class II under section 513 of the act (21 U.S.C. 360c).

A comment objected to the proposal to classify methyl methacrylate for cranioplasty into class II because there is not sufficient information to establish a performance standard and recommended that it be classified instead into class III.

FDA disagrees with the comment. On May 29, 1979, the Neurological Section of the Respiratory and Nervous Systems Devices Panel (formerly the Neurological Device Classification Panel) met to consider all comments received on the proposal to classify methyl methacrylate for cranioplasty into class II. At the meeting, representatives of Howmedica, Inc., appeared before the Panel to present their views that methyl methacrylate for cranioplasty should be classified into class III rather than class II as proposed. Representatives of the L. D. Caulk Co. and a representative of the Joint Committee on Materials, Devices, and Drugs of the American Association of Neurological Surgeons appeared before the Panel to support FDA's proposal to classify methyl methacrylate for cranioplasty into class II.

After considering the comments and the additional testimony presented to the Panel, the Panel concluded that there is sufficient information available to establish a performance standard for the device and recommended that the classification of the device be class II as proposed. FDA agrees with the Panel and is adopting the proposed regulation without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5300, to read as follows:

§ 882.5300 Methyl methacrylate for cranioplasty.

(a) *Identification.* Methyl methacrylate for cranioplasty (skull repair) is a self-curing acrylic that a surgeon uses to repair a skull defect in a patient. At the time of surgery, the surgeon initiates polymerization of the material and forms it into a plate or other appropriate shape to repair the defect.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

FR Doc. 79–26873 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1086]

Neurological Devices; Classification of Preformed Alterable Cranioplasty Plates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying preformed alterable cranioplasty plates into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55709) a proposed regulation to classify preformed alterable cranioplasty plates into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5320, to read as follows:

§ 882.5320 Preformed alterable cranioplasty plate.

(a) *Identification.* A preformed alterable cranioplasty plate is a device that is implanted into a patient to repair a skull defect. It is constructed of a

material, e.g., tantalum, that can be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26874 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1087]

Neurological Devices; Classification of Preformed Nonalterable Cranioplasty Plates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying preformed nonalterable cranioplasty plates into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55711) a proposed regulation to classify preformed nonalterable cranioplasty plates into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5330, to read as follows:

§ 882.5330 Preformed nonalterable cranioplasty plate.

(a) *Identification.* A preformed nonalterable cranioplasty plate is a device that is implanted in a patient to repair a skull defect and is constructed of a material, e.g., stainless steel or vitallium, that cannot be altered or reshaped at the time of surgery without changing the chemical behavior of the material.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26875 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1088]

Neurological Devices; Classification of Cranioplasty Plate Fasteners

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cranioplasty plate fasteners into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55712) a proposed regulation to classify cranioplasty plate fasteners into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5360, to read as follows:

§ 882.5360 Cranioplasty plate fastener.

(a) *Identification.* A cranioplasty plate fastener is a screw, wire, or other article made of tantalum, vitallium, or stainless steel used to secure a plate to the patient's skull to repair a skull defect.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26876 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1089]

Neurological Devices; Classification of Lesion Temperature Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying lesion temperature monitors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55713) a proposed regulation to classify lesion temperature monitors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5500, to read as follows:

§ 882.5500 Lesion temperature monitor.

(a) *Identification.* A lesion temperature monitor is a device used to monitor the tissue temperature at the site where a lesion (tissue destruction) is to be made when a surgeon uses a radiofrequency (RF) lesion generator and probe.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26877 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1090]

Neurological Devices; Classification of Central Nervous System Fluid Shunts and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying central nervous system fluid shunts and components into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55714) a proposed regulation to classify central nervous system fluid shunts and components into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment objected to classifying central nervous system fluid shunts and components into class II (performance standards) and suggested that the device be classified into class III instead because not enough information exists to establish a performance standard.

The comment did not submit any additional data or information that was not considered by the agency before publishing the proposal to classify central nervous system fluid shunts and components into class II. Therefore, the agency rejects this comment.

A comment agreed with the proposal to classify implanted or partially implanted central nervous system fluid shunts and components into class II, but suggested that all components that are external to the patient (e.g., cerebrospinal fluid (CSF) collection bags) be classified into class I. The comment stated that medical costs could be reduced if bags designed for other purposes could be used for external CSF collection.

The agency has carefully considered this comment and has decided to classify all central nervous system fluid shunts and components in class II as proposed. The agency does not believe that classification of the device into class II will prevent the user from using other types of bags that were not specifically designed for CSF collection. The agency believes, however, that components specifically promoted for this purpose should be appropriate for the application and compatible with the other components used for central nervous system fluid shunting. The agency does not anticipate that a detailed performance standard for every component will be necessary. However, it does believe that a standard for central nervous system fluid shunt and components should address the compatibility of each component to the functioning of the overall system. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5550, to read as follows:

§ 882.5550 Central nervous system fluid shunts and components.

(a) *Identification.* A central nervous system fluid shunt is a device or combination of devices used to divert fluid from the brain or other part of the central nervous system to an internal delivery site or an external receptacle for the purpose of relieving elevated intracranial pressure or fluid volume (e.g., due to hydrocephalus). Components of a central nervous system shunt include catheters, valved catheters, valves, connectors, and other accessory components intended to facilitate use of the shunt or evaluation of a patient with a shunt.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26878 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1091]

Neurological Devices; Classification of Cranial Electrotheraphy Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cranial electrotheraphy stimulators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55716) a proposed regulation to classify cranial electrotheraphy stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5800, to read as follows:

§ 882.5800 Cranial electrotheraphy stimulator.

(a) *Identification.* A cranial electrotheraphy stimulator is a device that applies electrical current to a patient's head to treat insomnia, depression, or anxiety.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26879 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1092]

Neurological Devices; Classification of External Functional Neuromuscular Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external functional neuromuscular stimulators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55717) a proposed regulation to classify external functional neuromuscular stimulators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5810, to read as follows:

§ 882.5810 External functional neuromuscular stimulator.

(a) *Identification.* An external functional neuromuscular stimulator is an electrical stimulator that uses external electrodes for stimulating muscles in the leg and ankle of partially paralyzed patients (e.g., after stroke) to provide flexion of the foot and thus improve the patient's gait.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26880 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1093

Neurological Devices; Classification of Implanted Cerebellar Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted cerebellar stimulators into class III (Premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55718) a proposed regulation to classify implanted cerebellar stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment disagreed with the proposal to classify implanted cerebellar stimulators in class III. The comment recommended that cerebellar stimulators for use in the treatment of spasticity be classified instead in class II because personal experience with over 100 patients had proven the safety and effectiveness of the device.

The Neurological Device Classification Panel received extensive testimony and data on cerebellar stimulation and concluded that insufficient information exists to establish a performance standard that would assure the safety and effectiveness of the device. The Panel, therefore, recommended that the device undergo premarket approval to assure that it is safe and effective. The comment received on the proposal to classify implanted cerebellar stimulators in class III did not provide additional data to show that a performance standard can be established that would assure the safety and effectiveness of implanted cerebellar stimulators. Therefore, the agency rejects the comment and is adopting the proposed regulation without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5820, to read as follows:

§ 882.5820 Implanted cerebellar stimulator.

(a) *Identification.* An implanted cerebellar stimulator is a device used to stimulate electrically a patient's cerebellar cortex for the treatment of intractable epilepsy, spasticity, and some movement disorders. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's cerebellum and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26881 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1094]

Neurological Devices; Classification of Implanted Diaphragmatic/Phrenic Nerve Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted diaphragmatic/phrenic nerve stimulators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55719) a proposed regulation to classify implanted diaphragmatic/phrenic nerve stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

The following is a summary of the comments received and the agency's responses to them:

1. One comment stated that this device should now be classified into class III so that manufacturers and users who are unfamiliar with the device will realize the need for caution in its construction and its application. The comment stated, however, that the device, as currently constructed, is reasonably safe and effective and that the principal risk to the patient is not from device failure but from the failure of the user to appreciate the indications for diaphragm pacing and from failure to apply the device properly.

FDA agrees with this comment.

2. A comment pointed out that the Neurological Device Classification Panel gave as a reason for classifying this device in class III the fact that available data on the device were from only one company. The comment stated that whether the device is available from one or more sources has no bearing on its safety and efficacy and enclosed a select bibliography of 59 references on diaphragm stimulation.

FDA agrees that the availability of a device from only one company does not mean that the device is not safe or effective. The Neurological Device Classification Panel did not recommend that this device be classified into class III solely because it is available from only one company. However, the Panel did cite this fact as one reason for believing that insufficient information is available to establish a performance standard for the device that will assure its safety and effectiveness. Because this device is a life-sustaining implant, the Federal Food, Drug, and Cosmetic Act requires that FDA classify it into class III if insufficient information is available to establish a performance standard that will assure the safety and effectiveness of the device. In this case, the agency concurs with the Panel that insufficient information exists to establish such a performance standard.

3. A comment was received regarding the risks to health identified by the Panel. The comment stated that device failure can be minimized, although not totally prevented, by using high quality components and production techniques and that the consequences of a catastrophic device failure can be ameliorated by using patient monitoring and device redundancy. The comment

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also stated that the materials that are used to construct the device have been used in several thousand other patients and have been shown to be tissue compatible. The comment also noted that injury to the phrenic nerve in patients in whom the device has been implanted has been associated with the surgical technique rather than with the electrical stimulation of the device and that patients have used the device for up to 9 years without evidence of injury to the phrenic nerve.

FDA recognizes that the risks to health identified by the Panel will not occur in every patient. However, those risks to health are hazards that the patient is exposed to when the device is implanted and used. Obviously, in most patients, the benefits to be gained from using the device far outweigh the risks to which the patient is exposed. However, the risks to health do exist and should be regulated in the most effective possible way.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5830, to read as follows:

§ 882.5830 Implanted diaphragmatic/phrenic nerve stimulator.

(a) *Identification.* An implanted diaphragmatic/phrenic nerve stimulator is a device that provides electrical stimulation of a patient's phrenic nerve to contract the diaphragm rhythmically and produce breathing in patients who have hyperventilation (a state in which an abnormally low amount of air enters the lungs) caused by brain stem disease, high cervical spinal cord injury, or chronic lung disease. The stimulator consists of an implanted receiver with electrodes that are placed around the patient's phrenic nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26882 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1095]

Neurological Devices; Classification of Implanted Intracerebral/Subcortical Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted intracerebral/subcortical stimulators for pain relief into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55720) a proposed regulation to classify implanted intracerebral/subcortical stimulators for pain relief into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

The following is a summary of the comments and the agency's responses to them:

1. Several comments asked that the implanted intracerebral/subcortical stimulator for pain relief not be classified into class III because this would make it more difficult for patients to get the device and for neurosurgeons to use it. Several comments also said that the device should not be classified into class III because brain stimulation for pain relief is no longer an experimental procedure and should be standard treatment.

The agency disagrees with the comments. Classifying a device into class III does not necessarily mean that the device will be more difficult to obtain and does not imply that it is an experimental device. Each manufacturer of a device classified into class III will have at least 30 months after the effective date of the final regulation classifying the device into class III to submit to FDA an application for approval of the device. Manufacturers may continue marketing the device during the 30-month period. If a manufacturer's application is approved, the manufacturer can continue marketing the device indefinitely. FDA believes that 30 months is sufficient time for manufacturers to document the safety and effectiveness of their devices and to submit an application for approval. If at the end of 30 months a manufacturer does not have sufficient safety and effective data to support an application for approval, FDA may authorize continued distribution of the device for investigational purposes, as provided in section 520(g) of the act (21 U.S.C. 360j(e)).

2. Several comments stated that the device should be classified into class II because there is sufficient clinical experience with the device to demonstrate that it is safe and effective. However, one comment agreed with classifying the device into class III and stated that long-term effectiveness of the device has not been proven.

The agency does not agree that the device should be classified into class II. Although there have been several reports of successful clinical application of the device, FDA does not believe that there is sufficient information to develop a performance standard that will assure that marketed devices are safe and effective. The available data contain little information that can be used in developing a performance standard. FDA believes that the only way to assure that implanted intracerebral/subcortical stimulators for pain relief are safe and effective is to classify the device into class III so that each manufacturer will be required to document the safety and effectiveness of the device that the manufacturer markets.

3. Several comments stated that the risks of using the device are minimal and that the complication rate has been low. One comment stated that the platinum electrodes that are used cause almost no tissue reaction. Two comments stated that the risks of injuring brain tissue while inserting the device electrodes into the brain are no greater than the risks involved in using some other widely accepted neurosurgical procedures. Another comment stated that the devices use safe levels of electrical current. The comments suggested that, for these reasons, the device should be classified into class II instead of class III.

The agency does not agree that the risks to health from this device are minimal and that the device should be classified into class II. FDA realizes that the risks associated with this device may be presented by other accepted neurosurgical procedures and may not result in patient injury in every case. Patients are, however, exposed to potentially serious risks when the device is used. Obviously, the benefits to the patient must be balanced against these risks before the device is used. If a particular device is unreliable or ineffective, patients may be exposed to risks needlessly. FDA believes that the implanted intracerebral/subcortical stimulator for pain relief must be classified into class III to require manufacturers of the device to demonstrate that their device is reasonably safe and effective for this use. Accordingly, the proposed rule is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5840, to read as follows:

§ 882.5840 Implanted intracerebral/subcortical stimulator for pain relief.

(a) *Identification.* An implanted intracerebral/subcortical stimulator for pain relief is a device that applies electrical current to subsurface areas of a patient's brain to treat severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed within a patient's brain and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26883 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1096]

Neurological Devices; Classification of Implanted Spinal Cord Stimulators for Bladder Evacuation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted spinal cord stimulators for bladder evacuation into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55721) a proposed regulation to classify implanted spinal cord stimulators for bladder evacuation into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5850, to read as follows:

§ 882.5850 Implanted spinal cord stimulator for bladder evacuation.

(a) *Identification.* An implanted spinal cord stimulator for bladder evacuation is an electrical stimulator used to empty the bladder of a paraplegic patient who has a complete transection of the spinal cord and who is unable to empty his or her bladder by reflex means or by the intermittent use of catheters. The stimulator consists of an implanted receiver with electrodes that are placed on the conus medullaris portion of the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26884 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 882

[Docket No. 78N-1097]

Neurological Devices; Classification of Implanted Neuromuscular Stimulators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted neuromuscular stimulators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

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FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55722) a proposed regulation to classify implanted neuromuscular stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5860, to read as follows:

§ 882.5860 Implanted neuromuscular stimulator.

(a) *Identification.* An implanted neuromuscular stimulator is a device that provides electrical stimulation to a patient's peroneal or femoral nerve to cause muscles in the leg to contract, thus improving the gait in a patient with a paralyzed leg. The stimulator consists of an implanted receiver with electrodes that are places around a patient's nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver. The external transmitter is activated by a switch in the heel in the patient's shoe.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26885 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1098]

Neurological Devices; Classification of Implanted Peripheral Nerve Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted peripheral nerve stimulators for pain relief into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55724) a proposed regulation to classify implanted peripheral nerve stimulators for pain relief into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Several comments agreed with classifying implanted peripheral nerve stimulators for pain relief in class II. One comment recommended that the device be classified into class III (premarket approval), but no new information was submitted to support the recommendation.

Accordingly, the agency rejects the comment and is adopting the proposed regulation without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5870, to read as follows:

§ 882.5870 Implanted peripheral nerve stimulator for pain relief.

(a) *Identification.* An implanted peripheral nerve stimulator for pain relief is a device that is used to stimulate electrically a peripheral nerve in a patient to relieve severe intractable pain. The stimulator consists of an inplanted receiver with electrodes that are placed around a peripheral nerve and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26886 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1099]

Neurological Devices; Classification of Implanted Spinal Cord Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying implanted spinal cord stimulators for pain relief into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55725) a proposed regulation to classify implanted spinal cord stimulators for pain relief into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Several comments were received regarding the use of this device for treating conditions other than pain, such as multiple sclerosis or other motor disorders. One comment suggested that the device category be broadened to include indications other than pain relief, or that a separate category for implanted spinal cord stimulators for motor disorders be created.

The agency disagrees that this device category should include devices that are indicated for uses other than pain relief. The proposed neurological device classification regulations that FDA published will apply to those neurological devices that were on the market prior to May 28, 1976, the enactment date of the Medical Device Amendments of 1976. New devices introduced for marketing after May 28, 1976, or devices that have been substantially altered (e.g., by providing new indications in the labeling), are by law automatically classified into class III and must undergo premarket approval prior to marketing. The agency believes that implanted spinal cord stimulators for motor disorders were distributed by manufacturers before May 28, 1976 only for investigational purposes and were not being "marketed." Because the implanted spinal cord stimulator for motor disorder indications is not a "pre-enactment" device and will be automatically classified into class III, the Panel did not recommend, and FDA did not propose, a separate classification category for this use. Manufacturers who now desire to distribute, for other than investigational purposes, an implanted spinal cord stimulator that includes labeling with indications for motor disorders must submit to FDA a premarket approval application or petition the agency to reclassify the device for this new indication.

Several comments agreed with the agency's proposal to classify implanted spinal cord stimulators for pain relief into class II.

Two comments disagreed with classifying the device into class II. One comment suggested that the device be classified into class I (general controls), but offered no reason for the recommendation other than stating that the collective experience of many surgeons justified classification of the device into class I. The other comment suggested that the device be classified into class III rather than class II because there is not sufficient information to develop a performance standard. The comment did not supply any additional information or explain the basis for the suggestion. Therefore, the agency disagrees with both comments and is adopting the proposed regulation without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5880, to read as follows:

§ 882.5880 Implanted spinal cord stimulator for pain relief.

(a) *Identification.* An implanted spinal cord stimulator for pain relief is a device that is used to stimulate electrically a patient's spinal cord to relieve severe intractable pain. The stimulator consists of an implanted receiver with electrodes that are placed on the patient's spinal cord and an external transmitter for transmitting the stimulating pulses across the patient's skin to the implanted receiver.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William R. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26887 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1100]

Neurological Devices; Classification of Transcutaneous Electrical Nerve Stimulators for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying transcutaneous electrical nerve stimulators for pain relief into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55726) a proposed regulation to classify transcutaneous electrical nerve stimulators for pain relief into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5890, to read as follows:

§ 882.5890 Transcutaneous electrical nerve stimulator for pain relief.

(a) *Identification.* A transcutaneous electrical nerve stimulator for pain relief is a device used to apply an electrical current to electrodes on a patient's skin to treat pain.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26888 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N-1101]

Neurological Devices; Classification of Preformed Craniosynostosis Strips

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying preformed craniosynostosis strips into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55727) a proposed regulation to classify preformed craniosynostosis strips into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5900, to read as follows:

§ 882.5900 Preformed craniosynostosis strip.

(a) *Identification.* A preformed craniosynostosis strip is a plastic strip used to cover bone edges of craniectomy sites (sites where the skull has been cut) to prevent the bone from regrowing in patients whose skull sutures are abnormally fused together.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

FR Doc. 79-26889 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1102]

Neurological Devices; Classification of Dura Substitutes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying dura substitutes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55728) a proposed regulation to classify dura substitutes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5910, to read as follows:

§ 882.5910 Dura substitute.

(a) *Identification.* A dura substitute is a sheet or material that is used to repair the dura mater (the membrane surrounding the brain).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26890 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1103]

Neurological Devices; Classification of Electroconvulsive Therapy Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying electroconvulsive therapy devices into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification

procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55729) a proposed regulation to classify electroconvulsive therapy devices into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

Several comments were received from patients who had been treated with electroconvulsive therapy (ECT). The comments complained of loss of memory after receiving the ECT treatments and asked for strict controls over the application of ECT. Several other comments disagreed with the proposal to classify ECT devices in class II and recommended that they be classified in class III. One of the comments stated that there is insufficient information available to develop a performance standard for ECT devices in the following areas: (1) The proper wave form to be used; (2) The amount of energy to be applied; (3) The size and shape of the electrodes; (4) The characteristics of the skin/electrode interface. Another comment stated that ECT is, by its nature, brain damaging and, because there is no consensus regarding the effectiveness of the therapy, disagreed that the FDA can "assure effectiveness" of ECT. Another comment agreed with the proposal to classify ECT devices in class II and pointed out that the American Psychiatric Association (APA) has initiated efforts to develop a performance standard for ECT devices.

On May 29, 1979, the Neurological Section of the Respiratory and Nervous System Devices Panel (formerly the Neurological Device Classification Panel) met to consider the comments that were received on the proposal to classify electroconvulsive therapy devices in class II. At the meeting, a representative of the Health Research Group asked that ECT devices be classified in class III because insufficient information is available to develop a performance standard. A representative of the Citizen's Commission on Human Rights of the Association of Scientologists for Reform, claimed that ECT is neither safe nor effective for any use and called for its abolition. A patient described her personal experience with ECT and stated that she had severe memory loss because of the treatment. Richard Weiner, M.D., Ph. D., described the goals and purposes of a committee formed by the American Psychiatric Association (APA) at the request of FDA to develop standards for electroconvulsive therapy devices. Dr. Weiner stated that the committee is reviewing the literature to gather information on which to base a performance standard, and that he expected to have sufficient information to begin writing the standard in about six months.

The Panel's discussion centered around the question of whether there is now sufficient information to develop an adequate performance standard for electroconvulsive therapy devices. There was disagreement over what constitutes sufficient information; and several panel members expressed doubt that enough information does, in fact, exist and noted that such information was not available to them. The Panel therefore voted to recommend that ECT devices be classified in class III rather than class II as proposed, because there is not now enough information available on which to establish a performance standard for ECT devices.

FDA has carefully considered the classification of electroconvulsive therapy devices and has decided to classify the devices in class III rather than class II as proposed. FDA is aware of and encourages the work of the APA committee in developing a performance standard. The agency is persuaded, however, based on the comments received on the proposal and on the recommendation of the Panel, that there is insufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the ECT device. This conclusion, which differs from the preliminary judgment contained in the proposed regulation, was prompted by FDA's belief that the characteristics of ECT devices that should be addressed in a standard have not been identified precisely enough for the agency to determine whether adequate information is available to write a standard. Accordingly, the agency believes that ECT devices should be classified in class III until the APA committee has completed its review of ECT, has identified the characteristics of ECT devices that should be controlled by a performance standard, and has found that sufficient information exists to establish an adequate standard. FDA encourages the committee to submit its conclusions, a proposed standard, and the information on which the standard is based to FDA, along with a petition to reclassify ECT devices into class II.

Accordingly, the final regulation for electroconvulsive therapy devices is being changed to classify the device in class III instead of class II as proposed. For the reasons stated in the general regulation on neurological devices, published elsewhere in this issue of the **Federal Register**, FDA does not believe that it is necessary to issue a new proposal concerning this decision. Persons who disagree with classifying electroconvulsive therapy devices in class III may petition for reclassification of the device under Subpart C of Part 860, the classification procedures regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5940, to read as follows:

§ 882.5940 Electroconvulsive therapy device.

(a) *Identification.* An electroconvulsive therapy device is a device used for treating severe psychiatric disturbances (e.g., severe depression) by inducing in the patient a major motor seizure by applying a brief intense electrical current to the patient's head.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26891 Filed 8-31-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 882

[Docket No. 78N-1104]

Neurological Devices; Classification of Artificial Embolization Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying artificial embolization devices into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before May 28, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken

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under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55730) a proposed regulation to classify artificial embolization devices into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

One comment recommended that artificial embolization devices be classified in class II rather than III because the devices have been used for 15 years and the safety of their use has been established. The comment noted that the safety of artificial embolization devices depends more on the experience of the user than on the device itself. The comment also pointed out that although the use of the device is associated with major risks of neurological damage, the disease process being treated is also associated with high morbidity and mortality.

The agency agrees that the safety of artificial embolization devices depends on the skill of the user as well as on the device itself. However, the comment did not supply additional information that was not considered by the Neurological Device Classification Panel and FDA in developing the proposed classification regulation. Therefore, the agency disagrees that artificial embolization devices should be classified in class II. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5950, to read as follows:

§ 882.5950 Artificial embolization device.

(a) *Identification.* An artificial embolization device is an object that is placed in a blood vessel to permanently obstruct blood flow to an aneurysm or other vascular malformation.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26882 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 882

[Docket No. 78N–1105]

Neurological Devices; Classification of Skull Tongs for Traction

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying skull tongs for traction into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Veale, Bureau of Medical Devices (HFK–430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of November 28, 1978 (43 FR 55640) a proposed regulation explaining the development of the proposed regulations classifying neurological devices, the medical device classification procedures, and the activities of the Neurological Device Classification Panel. FDA also published in that issue of the **Federal Register** (43 FR 55731) a proposed regulation to classify skull tongs for traction into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 882 in Subpart F by adding new § 882.5960, to read as follows:

§ 882.5960 Skull tongs for traction.

(a) *Identification.* A skull tongs for traction is an instrument used to immobilize a patient with a cervical spine injury (e.g., fracture or dislocation). The device is caliper shaped with tips that penetrate the skin. It is anchored to the skull and has a heavy weight attached to it that maintains, by traction, the patient's position.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective October 4, 1979.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–26883 Filed 8–31–79; 8:45 am]

BILLING CODE 4110–03–M

federal register

Tuesday
September 4, 1979

Part IV

Community Services Administration

Energy Crisis Assistance Program

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

[CSA Instruction 6143-4]

Emergency Energy Conservation Program; Energy Crisis Assistance Program

AGENCY: Community Services Administration

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule on the Energy Crisis Assistance Program. This rule is required in order to implement the fiscal year 1980 appropriation which includes funding for the program. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements.

DATES: This rule is effective October 4, 1979. CSA, however, welcomes written comments on this rule and will accept them through September 19, 1979; if warranted CSA will amend the rule to reflect the comments.

ADDRESS: Please send comments to:

Mr. Edward J. Freel, or
Mr. Wallace W. Lumpkin, Room 300, 1200 19th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward J. Freel, Telephone (202) 254-6110, or
Mr. Wallace W. Lumpkin, Telephone (202) 632-6503, Teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: On July 31, 1979 the Committee on Appropriations acted favorably on an Administration request to appropriate funds for use this winter to enable states to aid the poor and near poor cope with the high cost of fuel and/or the weather related problems that may result from an anticipated severe winter.

Based on positive congressional action to date, CSA has developed a final rule to implement energy crisis assistance program funds which might be appropriated under Section 222(a)(5) of the Economic Opportunity Act of 1964 as amended.

This rule also sets forth the application process and procedures Governors of States and the Mayor of the District of Columbia will follow in requesting funds under this program.

CSA is waiving the formal 60 day minimum comment period for this significant rule as required by Executive Order 12044, Improving Government regulations. CSA finds that a 60 day comment period for this rule is contrary to the public interest and impracticable since complying with this requirement would make it impossible to publish a final rule prior to the onset of winter weather, would not provide Governors sufficient time to plan for weather-related problems in their states and would not be consistent with Congressional intent that this program be operated during all cold weather months.

However, CSA, has involved affected groups in the rule making process process at an early stage of development. For example, on August 6, 1979 CSA officials met with individuals involved in the administration of last year's program from New Hampshire, Pennsylvania, Kansas, Wisconsin, Missouri, and Texas. On August 20, 1979 CSA officials met with individuals representing the welfare reform task force of the National Governor's Conference, and Washington based representatives of state governments. On August 21, 1979 and on August 23, 1979 they met with representatives of the National Community Action Agency Executive Directors Association (NCAAEDA).

William W. Allison,
Deputy Director.

45 CFR 1061 is amended by adding a new subpart 1061.70 to read as follows:

Subpart 1061.70—Energy Crisis Assistance Program

Sec.

1061.70-1 Effective Date.
1061.70-2 Applicability.
1061.70-3 Policy.
1061.70-4 Who Can Apply for Funds.
1061.70-5 Administration of the Program at the State Level.
1061.70-6 Local Delivery System(s).
1061.70-7 How a Local Program is Operated.
1061.70-8 What These Funds can be Used for.
1061.70-9 Who is Eligible to Participate in this Program.
1061.70-10 Termination of Program.
1061.70-11 How a Governor Requests Funds.
1061.70-12 General Funding Policies.
1061.70-13 Post-Funding Requirements.
1061.70-14 CSA Application Review and Approval Process.
1061.70-15 Coordination with Utility/Fuel Vendors.

Appendices

A Regional Office Addresses.
B CSA Poverty Guidelines.
C State Funding Plans.
D CAP Form 11, Assurance of Compliance with . . . Title VI of the Civil Rights Act of 1964.
E CSA Form 393, Certificate of Applicant's Attorney.
F CSA Form 440, Project Progress Report.
G SF-269, Financial Status Report.
H SF-272, Federal Cash Transactions Report.
I OEO Form 380, Accounting System Certification Form.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Subpart 1061.70—Energy Crisis Assistance Program

§ 1061.70-1 Effective date.

October 4, 1979.

§ 1061.70-2 Applicability.

This subpart is applicable to grants funded under section 222(a)(5) of the Economic Opportunity Act of 1964 as amended if the assistance is administered by the Community Services Administration.

§ 1061.70-3 Policy.

(a) The primary intent of the program is to make funds available to states to enable Governors to respond to energy-related crises affecting poor and near poor households, which are caused by the high cost of energy and an anticipated severe winter.

(b) This one-time CSA-funded program does not entitle any household to a certain amount and/or form of assistance.

§ 1061.70-4 Who can apply for funds.

(a) Governors of each State, Puerto Rico and the Virgin Islands, and the Mayor of the District of Columbia may apply for funds under this program. (Note: All references in this document to "Governor" include the Mayor of the District of Columbia.)

(b) Funds will be distributed by CSA among the States and the District of Columbia according to a formula based on the following: past severity of weather, a fuel cost factor, and number of low-income individuals residing in the State.

(c) To make a request, the Governor will submit a State Funding Plan (Appendix C) to the CSA Regional Office serving his/her state. (See Appendix A). This will begin the formal application process.

(d) For further information regarding the application process see § 1061.70-11.

§ 1061.70-5 Administration of the program at the State level.

The Governor is provided the flexibility to choose any agency, which meets the following criteria, to serve as the grantee of record for this program. The Agency

(a) has proven experience in administering, monitoring, or operating programs for the poor;

(b) will be able to implement the program and provide services in a timely manner throughout the state;

(c) has a sound fiscal system and proven acceptability of its audits; and

(d) will be able to comply with CSA's program and financial reporting requirements.

Where there are either administrative or legislative impediments that would prevent an agency at the State level from implementing the delivery of services in a timely manner, CSA will work with the Governor to develop an alternate plan which could include the option of designating more than one grantee for the state.

§ 1061.70-6 Local delivery system(s).

The Governor also has the flexibility to choose the local delivery system, such as community action agencies, aging offices and welfare offices. [Note: This does not preclude using the single state grantee as a deliverer.] However, in making the determination regrading the local operator(s), the Governor should assure that the operator(s) have:

(a) experience in operating programs that serve the poor;

(b) the ability to carry out, or arrange for the outreach activities outlined in § 1061.70-7; and

(c) and adequate accounting system with appropriate fiscal controls.

§ 1061.70-7 How a local program is operated.

(a) *Serving Clients.* (1) *Reaching Potential Clients.*—(i) The local program operator is required to provide assistance to those households that do not have access to other supportive service networks but are income eligible for this program as well as to those who do have such access.

(ii) To carry out this mandate effectively, local delivery systems must notify, inform, and contact persons potentially eligible for this program through, for example, the use of outreach workers, community groups, decentralized intake and certification systems, mass mailings, radio and T.V. spots, use of community newspapers, church bulletins, etc. Expenses for these activities are to be included as administrative costs.

(2) *Serving the elderly.* Highest priority should be placed on serving the elderly. Therefore, local program operators should offer special services. Suggested activities include:

(i) intake and certification by mail;

(ii) scheduled appointments;

(iii) transportation;

(iv) use of senior citizen centers for provision of services; and

(v) intake and certification in residences for persons unable to leave their residences due to infirmity or fear of victimization.

(3) *Serving Renters.* This program is also intended to serve renters who are experiencing an energy related crisis.

In the State Plan, the Governor will indicate how renters in an energy-related crisis will be served. For example assistance might be provided where a renter lives in a building heated with natural gas provided for in his/her rent; however, because the heating is inadequate, the renter purchased two electric space heaters and pays the electric bill himself.

(b) *Limitations on payments.* In no event shall the sum of all assistance under this program made to and/or on behalf of any household, exceed the actual amount needed to ameliorate the household's energy-related problem or $400 whichever is less. The Governor is free to set assistance limits at a lower level as well as to provide for varying the maximum assistance level up to the $400 limit based on one or more of the following factors: climate, availability of, type of and cost of fuel. Such procedures must be outlined in Part IV of the State Funding Plan. (See Appendix C).

(c) *Appeal by household which has been denied assistance.* (1) Within 30 days of the effective date of this subpart each local program operator shall make known to all applicants procedures for review of the partial or complete denial of assistance under the program to any household. If the agency has an existing process which includes the elements listed below its continued use will satisfy the requirements of this policy.

(2) The locally-designed procedures are to be applicable to partial or complete denials of requests for assistance for specific, tangible benefits to low-income household, e.g. utility payments, in-kind assistance, etc. for which the local program operator currently is receiving CSA funds. The procedures will not apply to such activities as community organization, information and referral, etc.

(3) For purposes of this policy we will consider that there has been a denial of assistance when the benefits or services and/or funds currently are available, the local program operator has the authority to provide or disburse them, and the applicant falls within or believes that he/she can prove that he/she falls within the income eligibility and established program guidelines.

(4) Unless CSA provides standard forms, local program operators will use their existing intake/application forms or develop application forms of none currently are in use.

(5) In addition operators will develop procedures for reviewing denials of assistance which will include:

(i) provisions for notifying the applicant in writing of the reasons for denial of assistance, that he/she may request a review of the denial and may submit additional information (in writing or orally) which the applicant believes would warrant a favorable determination;

(ii) provisions for reviewing the denial of an application for assistance in a timely manner if such is requested by the applicant. This should include the specific assignment of responsibility to a senior level official other than the person making the initial determination;

(iii) provisions for notifying the applicant in writing of the agency's final decision; and

(iv) the methods the agency will employ to publicize the existence of the appeal process.

(6) If the population served by the local program operator includes a sizable non-English speaking group, procedures, written materials, and publicity shall be made available in that language.

(7) A written description of the above required procedures shall be maintained on file by the local program operator and shall be available for public inspection.

(8) All documents relating to specific denials of assistance and action(s) taken will be maintained in the agency's files for the length of time required by CSA policy on "Retention and Custodial Requirement for Records." These records will be available for review by CSA officials upon request.

§ 1061.70-8 What these funds can be used for.

(a) Funds made available under this program must be used for the payment of utility/fuel costs, not to include telephone costs. Funds may also be used for one or more of the following:

(1) establishment of a line of credit with utility/fuel vendors for the primary fuel used by the eligible household. Governors may also include other limitations such as: limiting the line of credit to the elderly and the handicapped only, establishing a specific duration of a future credit, and varying the maximum level (not to exceed $400). (See Appendix C, Part IV).

(2) the provision of immediate, short-term assistance in the form of emergency fuel supplies; warm clothing; blankets; replacement of broken window panes; firewood; fuel oil delivery; temporary shelter; nutrition, health and other supportive services; and emergency repairs to housing; and

(3) direct cash assistance in those cases where a person has paid a fuel bill and is in crisis, or to implement one of

the allowable activities of the program discussed under this subsection. This amount shall not exceed a $50 total per household for the entire duration of the program.

(b) Funds under this program cannot be used to weatherize homes.

§ 1061.70-9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Only households with incomes no higher than 125% of the CSA Poverty Guidelines (see Appendix B) or those certified for

(c) CSA requested from OMB a complete waiver of the clearinghouse review procedures for the FY 80 Energy Crisis Assistance Program. OMB has granted a waiver under the following conditions transmitted in a letter dated August 29, 1979:

(1) The Governor's State Funding Plan (Appendix C) will be subject to modified procedures of Part III of A-95. To the fullest practicable degree, the State agency responsible for development of the plan will involve the State clearinghouse in the development phase.

additional resources to supplement and support this program.

(b) *Maintenance of Effort.* Resources for similar services scheduled to be provided this heating season under state and local authorities shall not be reduced because of this program nor shall this program be used as a substitute for such services. The Director of CSA may make exceptions only in those situations where a strict application of this requirement would result in unnecessary hardship or be inconsistent with the purposes of the Energy Crisis Assistance Program.

activities for this program only. These reports are due bi-weekly for the period beginning November 15, 1979 through June 30, 1980, and a final report is due 90 days after the termination date. The Grantee of Record shall follow these procedures for submission of the SF269: one copy to the appropriate CSA Regional Office, one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street NW., Washington, D.C. 20506, and one copy to Energy Assistance Programs Division, R300, 1200 19th Street NW., Washington,

state regulations prior to September 1, 1979 and, where required by law or regulation is included in a deferred payment arrangement.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

BILLING CODE 6315-01-M

the allowable activities of the program discussed under this subsection. This amount shall not exceed a $50 total per household for the entire duration of the program.

(b) Funds under this program cannot be used to weatherize homes.

§ 1061.70–9 Who is eligible to participate in this program.

(a) *Income Eligibility.* Only households with incomes no higher than 125% of the CSA Poverty Guidelines (see Appendix B) or those certified for Supplementary Security Income who are heads of households. [Note: No state may change these income eligibility guidelines.]

(b) *Program Eligibility.* In the State Plan, the Governor may specify certain program eligibility criteria by defining what constitutes an energy-related crisis. The Governor also has the option to use income eligibility criteria as the sole eligibility criteria.

(c) *Income disregard.* Payments made under this program are not to be considered as income for purposes of determining eligibility or benefits under any income maintenance program including, but not limited to public assistance, veterans benefits, food stamps, or Supplemental Security Income.

(d) *Determination of Income Eligibility Required of Grantees.* Proof of income eligibility is required. The period for determining eligibility will be not more than 12 months nor less than the 90 day period preceding the request for assistance. When proof of eligibility is unavailable, an applicant must sign a declaration of income eligibility. In such cases, the local program operator must make a reasonable number of spot checks to verify income eligibility.

§ 1061.70–10 Termination of program.

This program shall terminate on September 30, 1980 and expenses may not be incurred after this date.

§ 1061.70–11 How a Governor requests funds.

(a) Applications for funds under this program will be for statewide coverage with the exception of Indian reservations and farmworker groups who will be funded directly by CSA.

(b) Within 15 calendar days of the effective date of this subpart, the Governor will provide the appropriate CSA Regional Office with the information required in Appendix C. In addition to the materials requested in Appendix C, the Governor will provide a timetable indicating when services will be provided at the local level.

(c) CSA requested from OMB a complete waiver of the clearinghouse review procedures for the FY 80 Energy Crisis Assistance Program. OMB has granted a waiver under the following conditions transmitted in a letter dated August 29, 1979:

(1) The Governor's State Funding Plan (Appendix C) will be subject to modified procedures of Part III of A–95. To the fullest practicable degree, the State agency responsible for development of the plan will involve the State clearinghouse in the development phase. Where such early coordination is not possible, the plan will be sent to the State clearinghouse not later than simultaneously with the submission of the plan to CSA;

(2) The State clearinghouse will determine the degree to which areawide clearinghouses should be involved in the review process and a normal 45 day review period will be afforded, on an *after the fact* basis;

(3) CSA's approval of the State Funding Plan will be conditional, in that the State plan may be subject to possible subsequent revision to accommodate any appropriate recommendations for its modification as provided by clearinghouses in the A–95 review process. The State operating agency will be instructed to make every effort to accommodate such recommendations and will provide appropriate clearinghouses with a statement as to its final judgment on each recommendation. As a result of this requirement CSA must require that any revisions made to the State Funding Plan be submitted to the appropriate CSA Regional Office for approval;

(4) CSA will provide State and appropriate areawide clearinghouses, via Standard Form 424, with an information copy of the "block" grant award to the State agency receiving the funds; and

(5) In addition the State agency will provide, for each, "sub-state" project grant award, information to the State and appropriate areawide clearinghouses as to the amount of monies awarded, to whom, and the purpose of each award. For these sub-state award notifications the use of Standard Form 424 is encouraged but is not mandatory.

(d) If a state fails to submit a plan, CSA may develop and implement a plan for the state.

§ 1061.70–12 General funding policies.

(a) *Matching Share.* A matching share is not required for this program. However, states and local program operators are encouraged to mobilize additional resources to supplement and support this program.

(b) *Maintenance of Effort.* Resources for similar services scheduled to be provided this heating season under state and local authorities shall not be reduced because of this program nor shall this program be used as a substitute for such services. The Director of CSA may make exceptions only in those situations where a strict application of this requirement would result in unnecessary hardship or be inconsistent with the purposes of the Energy Crisis Assistance Program.

(c) *Administrative Costs.* The grantee of record may expend up to 10% of the total state grant for administrative and program support costs. Where the grantee has contracted out performance of all or part of the work program, the grantee must provide a sufficient portion of these administrative funds to those program operators to enable them to administer the program.

(d) *Overexpenditures.* If the grantee incurs expenditures in excess of the total amount of the approved grant, the amount of the overexpenditure must be absorbed by the grantee.

(e) *Procurement.* In accordance with OMB Circulars A–110 and A–102 all proposed sole source contracts where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 must receive prior approval by the appropriate CSA Regional Office.

(f) *Other.* Where the grantee is found to be deviating from the approved state funding plan, CSA, upon investigation, shall take appropriate corrective action.

§ 1061.70–13 Post-funding requirements.

(a) *Audit.* The grantee of record will not be required to have a separate audit of this program. The program including its contracted-out components will be audited at the time of the grantee's regularly scheduled audit. Five copies of the audit shall be submitted by the auditor to the appropriate CSA Regional Auditor concurrent with submission to the grantee of record.

(b) *Project Reporting.* The grantee of record is required to submit a separate Project Progress Review Report, CSA Form 440 bi-weekly beginning November 15, 1979 through June 30, 1980 and a final report is due ninety days after the termination date to the appropriate CSA Regional Office with a copy forwarded to CSA Headquarters Attention: Energy Assistance Programs Division, R300, 1200 19th Street, NW., Washington, D.C. 20506.

(c) *Financial Reporting.* The grantee of record must submit a separate SF269, Financial Status Report, covering

activities for this program only. These reports are due bi-weekly for the period beginning November 15, 1979 through June 30, 1980, and a final report is due 90 days after the termination date. The Grantee of Record shall follow these procedures for submission of the SF269: one copy to the appropriate CSA Regional Office, one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street NW., Washington, D.C. 20506, and one copy to Energy Assistance Programs Division, R300, 1200 19th Street NW., Washington, D.C. 20506.

(d) *Evaluation.* In the event that CSA undertakes a national evaluation of this program, the cooperation of the grantee of record, the local program operators, and that of participating utility/fuel vendors will be required.

(e) *Prohibition against transfer to another grant.* Funds unobligated at the termination of the grant cannot be transferred by the grantee of record to another grant.

§ 10611.70–14 CSA application review and approval process.

(a) CSA Regional Directors are delegated the authority for final approval of grants under this program.

(b) Based on uniform review guidance, Regional Directors will determine the adequacy of state funding plans.

(c) Once a plan has been approved by the Regional Director, Regional Offices will expedite the processing and forward the Statement of CSA Grant (CSA Form 314) to the grantee of record chosen by the Governor. Upon receiving the CSA Form 314, the grantee of record must sign it and return it to the CSA Regional Office.

(d) When a state deviates from its approved state plan, upon investigation, CSA will take appropriate action.

§ 1061.70–15 Coordination with utility/fuel vendors.

The Governor is required to undertake activities in order to reach agreements with utility/fuel vendors to ensure that in each case where payment is certified that:

(a) reconnection of utilities and/or delivery of fuel is made upon certification for payment;

(b) for any remaining balances, the customer is offered a deferred payment arrangement or a level payment plan;

(c) a reconnection charge, is to be paid by the customer only where such a charge was company practice prior to September 1, 1979; and

(d) no security deposit is required to be paid except where such a deposit was required by state law or explicit state regulations prior to September 1, 1979 and, where required by law or regulation is included in a deferred payment arrangement.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

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APPENDIX A

CSA REGIONAL OFFICES

CSA Region I
E-400, John F. Kennedy Fed. Bldg.
Boston, Massachusetts 02203
Phone: (617) 223-4080/FTS-8-223-4080
BOSTON - Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

CSA Region II
26 Federal Plaza, 32nd Floor
New York, New York 10007
Phone: (212) 264-1900/FTS-8-264-1900
NEW YORK - New Jersey, New York, Puerto Rico, Virgin Islands

CSA Region III
3535 Market Street - Gateway Bldg.
Philadelphia, Pennsylvania 19104
Phone: (215) 596-6001/FTS-8-596-6001
PHILADELPHIA - Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

CSA Region IV
101 Marietta Street, N.W.
Atlanta, Georgia 30303
Phone: (494) 221-2717/FTS-8-242-2717
ATLANTA - Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

CSA Region V
300 South Wacker Drive, 24th Floor
Chicago, Illinois 60606
Phone: (312) 353-5562/FTS-8-353-5562
CHICAGO - Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

CSA Region VI
1200 Main Street
Dallas, Texas 75202
Phone: (214) 767-6126/FTS-8-729-6131
DALLAS - Arkansas, Louisiana, New Mexico, Oklahoma, Texas

CSA Region VII
911 Walnut Street
Kansas City, Missouri 64106
Phone: (816) 374-3761/
FTS-8-758-3761
KANSAS CITY - Iowa, Kansas, Missouri, Nebraska

CSA Region VIII
1961 Stout Street, Federal Bldg.
Denver, Colorado 80294
Phone: (303) 837-4767/
FTS-8-372-4767
DENVER - Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

CSA Region IX
450 Golden Gate Avenue, Box 36008
San Francisco, California 94102
Phone: (415) 556-5400/
FTS-8-556-5400
SAN FRANCISCO - Arizona, California, Hawaii, Nevada, Trust Territories

CSA Region X
1321 Second Avenue
Seattle, Washington 98101
Phone: (206) 442-4910/
FTS-8-399-4910
SEATTLE - Alaska, Idaho, Oregon, Washington

APPENDIX B

COMMUNITY SERVICES ADMINISTRATION

125% of POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII.

Size of Family Unit	Non-Farm Family	Farm Family
1	$ 4,250	$3,638
2	5,625	4,800
3	7,000	5,963
4	8,375	7,125
5	9,750	8,288
6	11,125	9,450

For family units with more than 6 members, add $1,375 for each additional member in a non-farm family and $1,163 for each additional member in a farm family.

POVERTY GUIDELINES FOR ALASKA.

Size of Family Unit	Non-Farm Family	Farm Family
1	$ 5,338	$ 4,562
2	7,050	6,013
3	8,763	7,463
4	10,475	8,913
5	12,188	10,363
6	13,900	11,813

For family units with more than 6 members, add $1,713 for each additional member in a non-farm family and $1,450 for each additional member in a farm family.

POVERTY GUIDELINES FOR HAWAII.

Size of Family Unit	Non-Farm Family	Farm Family
1	$ 4,913	$ 4,188
2	6,488	5,525
3	8,063	6,863
4	9,638	8,200
5	11,213	9,538
6	12,788	10,875

For family units with more than 6 members, add $1,575 for each additional member in a non-farm family and $1,338 for each additional member in a farm family.

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APPENDIX C

REQUEST FOR FUNDS

ENERGY CRISIS ASSISTANCE PROGRAM

PART I

I, _____ Governor of the State of _____ apply for funds in the amount of _____ to conduct activities for the purpose of relieving part of the increased energy/fuel cost burden facing the poor and the near-poor.

I waive the thirty day review and disapproval period set out in Section 242 of the Economic Opportunity Act of 1964, as amended.

I am choosing _____ agency/organization as the grantee of record for the State. The address of the agency/organization is _____, the telephone number is _____, and the person to contact for further information is _____.

_____
Signature of the Governor

_____
Date

PART II

(1) AREA TO BE SERVED*	(2) NAME OF PROGRAM OPERATOR	(3) ADDRESS AND TELEPHONE NUMBER OF CONTACT PERSON	(4) PER CENT OF FUNDS FROM GRANT TO BE USED IN THIS AREA

(e.g.)
* CITY, CITIES, COUNTY, COUNTIES, WHOLE STATE

PART III

I am submitting the following required forms for the grantee of record (if it is not presently receiving CSA funds or for Program Operators who are not presently receiving CSA funds.

Required Forms

CAP Form 11
OEO Form 380
CSA Form 353 (for grantees of record only)
Bonding Certification
(applicable only for non-profit organizations)

PART IV

Provide a description of the methods in the state you will require (1) for monitoring of the program at this level; (2) for assuring that initial and immediate investigation of charges of poor administration of the program, faulty or inadequate eligibility certification, failure of energy suppliers to provide relief, and duplication and/or fraud; (3) for assuring that fiscal and Management technical assistance will be provided if needed, to program operators. Specify which agency (agencies) will have this responsibility and provide the mailing address and telephone number of the contact person in the responsible agency or agencies. Please include how you will notify the Regional Office of the initiation of an investigation and of the outcome of all such investigations (4) for providing special services to assure that the highest priority is placed on serving the elderly and (5) for providing service to renters.

In addition, if you are planning to set assistance limits at lower levels or are varying the assistance level or the types of assistance provided within the state as provided for in the regulation, furnish the details of such arrangements including the specific factors you will use in developing within-state payment levels.

APPENDIX D

OFFICE OF ECONOMIC OPPORTUNITY
Community Action Program

Assurance of Compliance with the Office of Economic Opportunity's Regulations under Title VI of the Civil Rights Act of 1964

_____ (hereinafter called the "Applicant")
(Name of Applicant or Delegate Agency)

AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the Regulations of the Office of Economic Opportunity issued pursuant to that title (45 C.F.R. Part 1010), to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance either directly or indirectly from the Office of Economic Opportunity; and HEREBY GIVES ASSURANCE THAT it will immediately, in all phases and levels of programs and activities, install an affirmative action program to achieve equal opportunities for participation, with provisions for effective periodic self-evaluation.

In the case where the Federal financial assistance is to provide or improve or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the Applicant, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the Applicant retains ownership or possession of the property, whichever is longer. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining either directly or indirectly any and all Federal grants, loans, contracts, property, or discounts, the referral or assignment of VISTA volunteers, or other Federal financial assistance extended after the date hereof to the Applicant by the Office of Economic Opportunity, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Date _____

_____
(Name of Applicant or Delegate Agency)

By _____
(President, Chairman of Board, or comparable authorized official)

_____
_____
_____
(Mailing Address)

CAP FORM 11 (REV. JUN 69) PREVIOUS EDITIONS ARE OBSOLETE.

U.S. GOVERNMENT PRINTING OFFICE 1969 O - 354-846
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APPENDIX E

CERTIFICATE OF APPLICANT'S ATTORNEY

(For Health Demonstration Programs under Section 222, Research and Pilot Programs under Section 232, and Special Impact Programs under Section 151 of the Economic Opportunity Act)

Form Approved OMB No. 116-R0198

This certificate is required when applying for a new grant; or upon OEO's request, for the continuation of an existing grant.

1. NAME OF APPLICANT AGENCY

2. IS THE APPLICANT AN INSTITUTION OF HIGHER EDUCATION AS DEFINED IN SECTION 401(F) OF THE HIGHER EDUCATION ACT OF 1963, PUBLIC LAW 88-204?

☐ YES ☐ NO

IF "YES", WAS IT IN EXISTENCE ON AUGUST 20, 1964? ☐ YES ☐ NO

3. THE APPLICANT IS

☐ A PUBLIC AGENCY

☐ AN ORGANIZATION CHARTERED AS A NONPROFIT CORPORATION UNDER THE LAWS OF THE STATE OF _____

☐ A NONPROFIT UNINCORPORATED ASSOCIATION.

☐ OTHER *(Explain in Item 6, below.)*

4. IF THE APPLICANT IS A NONPROFIT ORGANIZATION, INDICATE WHETHER IT HOLDS A CURRENT RULING FROM THE INTERNAL REVENUE SERVICE THAT IT IS TAX EXEMPT

☐ YES *(Date of Ruling)* _____ ☐ NO

5. IF ANSWER TO ITEM 4, ABOVE, IS "NO"

A. IS IT YOUR OPINION THAT THE APPLICANT QUALIFIES FOR SUCH A RULING?

☐ YES ☐ NO

B. HAS ANY OFFICIAL OF THE INTERNAL REVENUE SERVICE INDICATED THAT THE APPLICANT MAY NOT QUALIFY FOR SUCH A RULING?

☐ YES *(Explain in Item 6, below.)* ☐ NO

6. REMARKS

7. **OPINION**

In my opinion, the above information accurately describes the applicant agency, and that agency has the authority, under applicable principles of law, to carry out the program described in this application.

TYPED NAME OF ATTORNEY	MEMBER OF THE BAR OF *(State)*	SIGNATURE
ADDRESS		DATE

OEO FORM 393 NOV 71 GSA DC 72-6620

APPENDIX F

Page ____ of ____

COMMUNITY SERVICES ADMINISTRATION

PROJECT PROGRESS REVIEW REPORT

(Check applicable box)
☐ 1st Qtr. ☐ ANNUAL
☐ 2nd Qtr.
☐ 3rd Qtr. ☐ FINAL

OMB No. 116-R0227 Approval expires August 1981

DATE SUBMITTED

NAME OF GRANTEE

GRANTEE NO.

PROGRAM ACCOUNT

PROJECT TITLE

PROJECT GOAL

STANDARD(S) OF EFFECTIVENESS *(No.)*

1 ACCOMPLISHMENTS

A MEASURABLE

B NON-QUANTIFIABLE

2 PROBLEMS

3 PLANNED CHANGES *

4 TRAINING & TECHNICAL ASSISTANCE NEEDS *

5 ASSESSMENT OF EFFECTIVENESS

* Do not complete when filing final report or in annual reports for individual projects which will not be refunded.

CERTIFICATION

The undersigned certifies that this report has been completed in accordance with applicable instructions; that it is true to the best of his/her knowledge, information and belief; and that it has been approved, or reviewed and approved, as indicated in Item 6, below.

6. THIS REPORT HAS BEEN *(Check appropriate box.)*
☐ APPROVED BY GRANTEE'S GOVERNING BOARD
☐ REVIEWED BY GRANTEE'S ADMINISTERING BOARD AND APPROVED BY ITS GOVERNING OFFICIALS

7. DATE OF APPROVAL

8 TYPED NAME & TITLE OF PRINCIPAL GOVERNING OFFICIAL OR PRINCIPAL OFFICER OF GOVERNING BOARD

9. SIGNATURE

10. DATE

CSA FORM 440 (REV. AUG 77) (REPLACES OEO FORM 440, DATED AUG 72, WHICH IS OBSOLETE.)

GPO 919-407

V 4 4 / 1 7 2 S E 4 7 9 UMI

APPENDIX G

FINANCIAL STATUS REPORT
(Follow instructions on the back)

1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED		2. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER		OMB Approved No. 80-R0180	PAGE OF PAGES
3. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code)	4. EMPLOYER IDENTIFICATION NUMBER	5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER	6. FINAL REPORT ☐ YES ☐ NO	7. BASIS ☐ CASH ☐ ACCRUAL	
			PERIOD COVERED BY THIS REPORT		
			a. FROM (Month, day, year)	b. TO (Month, day, year)	

10.	STATUS OF FUNDS				
PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	(d)	TOTAL (e)
a. Net outlays previously reported	$	$	$	$	$
b. Total outlays this report period					
c. *Less:* Program income credits					
d. Net outlays this report period (*Line b minus line c*)					
e. Net outlays to date (*Line a plus line d*)					
f. *Less:* Non-Federal share of outlays					
g. Total Federal share of outlays (*Line e minus line f*)					
h. Total unliquidated obligations					
i. *Less:* Non-Federal share of unliquidated obligations shown on line h					
j. Federal share of unliquidated obligations					
k. Total Federal share of outlays and unliquidated obligations					
l. Total cumulative amount of Federal funds authorized					
m. Unobligated balance of Federal funds					

11. INDIRECT EXPENSE	a. TYPE OF RATE (Place "X" in appropriate box)	☐ PROVISIONAL ☐ PREDETERMINED ☐ FINAL ☐ FIXED		
	b. RATE	c. BASE	d. TOTAL AMOUNT	e. FEDERAL SHARE

12. REMARKS: *Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. CERTIFICATION
I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REPORT SUBMITTED
TYPED OR PRINTED NAME AND TITLE	TELEPHONE (*Area code, number and extension*)

STANDARD FORM 269 (7-76)
Prescribed by Office of Management and Budget
Cir. No. A-110

269-102

APPENDIX G (Page 2)

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

Item	*Entry*
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (institution) code, if required by the Federal sponsoring agency.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.
10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms or conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are: Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10j	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i.
10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
10m	Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l.
11b	Enter rate in effect during the reporting period.
11c	Enter amount of the base to which the rate was applied.
11d	Enter total amount of indirect cost charged during the report period.
11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date

STANDARD FORM 269 (BACK) (7-76)

APPENDIX H

FEDERAL CASH TRANSACTIONS REPORT

(See instructions on the back. If report is for more than one grant or assistance agreement, attach completed Standard Form 272–A.)

Approved by Office of Management and Budget, No. 80–R0182

1. Federal sponsoring agency and organizational element to which this report is submitted

2. RECIPIENT ORGANIZATION

Name

Number and Street

City, State and ZIP Code:

4. Federal grant or other identification number

5. Recipient's account number or identifying number

6. Letter of credit number

7. Last payment voucher number

Give total number for this period

8. Payment Vouchers credited to your account

9. Treasury checks received (whether or not deposited)

10. PERIOD COVERED BY THIS REPORT

FROM (month, day, year)

TO (month, day year)

3. FEDERAL EMPLOYER IDENTIFICATION NO.

11. STATUS OF FEDERAL CASH *(See specific instructions on the back)*

a. Cash on hand beginning of reporting period	$
b. Letter of credit withdrawals	
c. Treasury check payments	
d. Total receipts (*Sum of lines b and c*)	
e. Total cash available (*Sum of lines a and d*)	
f. Gross disbursements	
g. Federal share of program income	
h. Net disbursements (*Line f minus line g*)	
i. Adjustments of prior periods	
j. Cash on hand end of period	$

12. THE AMOUNT SHOWN ON LINE 11J, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING *Days*

13. OTHER INFORMATION

a. Interest income	$
b. Advances to subgrantees or subcontractors	$

14. REMARKS (*Attach additional sheets of plain paper, if more space is required*)

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement

AUTHORIZED CERTIFYING OFFICIAL

SIGNATURE

DATE REPORT SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (*Area Code, Number, Extension*)

THIS SPACE FOR AGENCY USE

272-102

STANDARD FORM 272 (7–76)
Prescribed by Office of Management and Budget
Cir. No. A–110

APPENDIX H (Page 2)

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 8, 9, 10, 11d, 11e, 11h, and 15 are self explanatory, specific instructions for other items are as follows:

Item	*Entry*
3	Enter employer identification number assigned by the U.S. Internal Revenue Service or the FICE (institution) code. If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272–A, Report of Federal Cash Transactions—Continued; otherwise;
4	Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency.
5	This space reserved for an account number or other identifying number that may be assigned by the recipient.
6	Enter the letter of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank.
7	Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account.
11a	Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks.
11b	Enter total amount of Federal funds received through payment vouchers (Form TUS 5401) that were credited to your account during the reporting period.
11c	Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited.
11f	Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors, the gross amount of direct salaries and wages, including the employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs.
11g	Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement.
11i	Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required.
11j	Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i).
12	Enter the estimated number of days until the cash on hand, shown on line 11j, will be expended. If more than three days cash requirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or other reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances.
13a	Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not remitted to the Federal sponsoring agency for over 60 days, explain under "Remarks." Do not report interest earned on advances to States.
13b	Enter amount of advance to secondary recipients included in item 11h.
14	In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required.

APPENDIX I

ACCOUNTING SYSTEM CERTIFICATION

(CSA Instruction 6801-1)

ADDRESS *(CSA Program Office/Region)*

SECTION I. STATEMENT OF PUBLIC FINANCIAL OFFICER *(If the applicant is a Public Agency or when the Accounting System of a Private-nonprofit Agency will be maintained by a Public Agency.)*

I am the Chief Financial Officer of _____ (NAME OF PUBLIC AGENCY) _____

and, in this capacity, I will be responsible for providing financial services adequate to insure the establishment and maintenance of an accounting system for _____ (NAME OF APPLICANT) which is a public (or nonprofit) agency charged with carrying out a CSA program in _____ _____ (NAME OF COMMUNITY) _____. The accounting system will have internal controls adequate to safeguard the assets of such agency(ies), check the accuracy and reliability of accounting data, promote operating efficiency, and encourage compliance with prescribed management policies of the agency(ies).

NAME OF PUBLIC AGENCY

TYPED NAME OF FINANCIAL OFFICER	SIGNATURE	DATE

SECTION II. STATEMENT OF PUBLIC ACCOUNTANT *(If applicant is a Private-nonprofit Agency or a Public Agency whose accounting system will not be maintained by a Public Agency.)*

I am a certified or duly licensed public accountant and have been engaged to examine and report on the financial accounts of the _____ (NAME OF APPLICANT), which is a private-nonprofit organization (or public agency) carrying out a CSA program in _____ (NAME OF COMMUNITY)

I have reviewed the accounting system that this agency has established and, in my opinion, it includes internal controls adequate to safeguard the assets of the agency, check the accuracy and reliability of accounting data, promote operating efficiency, and encourage compliance with prescribed management policies of the agency.

NAME OF FIRM

TYPED NAME OF ACCOUNTANT	SIGNATURE	DATE

CSA FORM 380 MAY 75 (FORMERLY OEO FORM 380, DATED JAN 72, WHICH MAY BE USED UNTIL EXHAUSTED.)

[FR Doc. 79-27484 Filed 8-31-79; 8:45 am]
BILLING CODE 6315-01-C

Reader Aids

Federal Register
Vol. 44, No. 172
Tuesday, September 4, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

51549-51794.....4

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
September 4	September 19	October 4	October 19	November 5	December 3
September 5	September 20	October 5	October 22	November 5	December 4
September 6	September 21	October 9	October 22	November 5	December 5
September 7	September 24	October 9	October 22	November 6	December 6
September 10	September 25	October 10	October 25	November 9	December 10
September 11	September 26	October 11	October 26	November 13	December 10
September 12	September 27	October 12	October 29	November 13	December 11
September 13	September 28	October 15	October 29	November 13	December 12
September 14	October 1	October 15	October 29	November 13	December 13
September 17	October 2	October 17	November 1	November 16	December 17
September 18	October 3	October 18	November 2	November 19	December 17
September 19	October 4	October 19	November 5	November 19	December 18
September 20	October 5	October 22	November 5	November 19	December 19
September 21	October 9	October 22	November 5	November 20	December 20
September 24	October 9	October 24	November 8	November 23	December 24
September 25	October 10	October 25	November 9	November 26	December 24
September 26	October 11	October 26	November 13	November 26	December 26
September 27	October 12	October 29	November 13	November 26	December 26
September 28	October 15	October 29	November 13	November 27	December 27

CFR CHECKLIST; 1978/1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
2 [Reserved]	
3	6.00
4	4.50
7 Parts:	
0–52	6.75
53–209	5.00
700–899	6.00
900–944	5.25
945–980	3.75
981–999	3.75
1000–1059	6.00
1060–1119	6.50
1120–1199	4.50
1200–1499	6.25
1500–2799	10.00
2852	6.00
2853–end	4.50
8	4.00
9	8.00
10 Parts:	
0–199	6.50
12 Parts:	
1–199	6.00
200–299	8.00
300–end	8.50
13	5.00
14 Parts:	
1–59	7.50
60–199	7.25
200–1199	7.00
1200–end	3.50
15	7.50
16 Parts:	
0–149	4.50
150–999	4.25
1000–end	5.00

CFR Unit (Rev. as of Apr. 1, 1979):

18 Parts:	
0–149	6.50
150–end	7.00
19	7.50
20 Parts:	
1–399	5.50
400–499	7.00
500–end	6.50
21 Parts:	
1–99	5.50
100–199	7.50
200–299	4.00
300–499	7.00
600–1299	6.00
1300–end	4.25
22	7.00
23	6.50
24 Parts:	
0–499	8.00
500–1699	7.50
1700–end	6.00
25	7.00
26 Parts:	
1 (§§ 1.170–1.300)	6.50
1 (§§ 1.301–1.400)	5.50
1 (§§ 1.401–1.500)	6.00
1 (§§ 1.501–1.640)	6.00
1 (§§ 1.641–1.850)	6.50
1 (§§ 1.851–1,1200)	7.50
1 (§§ 1.1201–end)	8.50
2–29	6.00
30–39	6.00
40–299	7.00
300–499	6.00
600–end	4.25
27	11.00

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
29 Parts:	
0–499	6.25
500–1899	6.25
1900–1919	7.00
1920–end	5.25
30	6.25
31	6.25
32 Parts:	
40–399	8.50
400–589	4.50
590–699	4.50
700–799	6.00
800–999	5.50
1000–1399	3.50
1400–1599	4.50
1600–end	3.00
32A	4.00
33 Parts:	
1–199	6.25
200–end	5.75
35	4.75
36	5.00
37	4.00
38	6.50
39	4.25
40 Parts:	
0–49	4.75
50–59	6.50
60–99	8.50
100–399	5.50
400–end	8.75
41 CFR:	
Chapters:	
1–2	6.50
3–6	5.75
7	2.75
8	2.75
10–17	4.75
Chapter 18, Parts:	
1–52 (Vol. I, Rev. 7/31/78)	5.25
1–52 (Vol. II, Rev. 7/31/78)	7.00
1–52 (Vol. III, Rev. 7/31/78)	5.75
Chapters:	
19–100	4.50
101–end	8.50
CFR Index	5.00

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1–399	6.00
400–end	5.50
43 Parts:	
1–999	4.25
1000–end	6.50
44 [Reserved]	
45 Parts:	
1–99	4.75
100–149	5.75
150–199	5.25
200–499	3.50
500–end	8.25
46 Parts:	
1–29	3.25
30–40	3.25
41–69	4.50
70–89	3.75
90–109	3.25
110–139	3.25
140–155	3.50
156–165	4.25
166–199	3.00
200–end	6.50
47 Parts:	
0–19	5.00
20–69	5.75
70–79	5.25
80–end	7.00
48 [Reserved]	
49 Parts:	
1–99	3.25
100–199	9.25
200–999	12.00
1000–1199	5.00
1200–1299	6.50
1300–end	4.50
50	5.75

UMI

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AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Department of Agriculture
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMO Surface Mining Office

JUSTICE Justice Department
DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department
AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department
CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department
ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies
AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

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REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

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46250 8-7-79 / Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County; handling regulation—correction

39324 9-5-79 / Milk in the Texas and certain other marketing area

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45130 8-1-79 / Cost of living adjustment for compulsory royalty rates paid by noncommercial broadcasting

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29077 5-18-79 / Stations on shipboard in maritime services; remote control units used in conjunction with marine VHF radiotelephones

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45608 8-3-79 / Payments for non-air transportation services for air cargo; general policy statement

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federal register

Wednesday
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Highlights

ADDRESSES FOR DELIVERY OF COMMENTS

Some readers of the **FEDERAL REGISTER** have complained that it is difficult to hand deliver comments on agency rulemakings. Agencies always give a mailing address, but when that address is a post office box, it may take many phone calls to find out where to deliver comments. Consider saving the readers time by including this information in proposed rule documents. For example—

ADDRESSES: Comments may be mailed to Box 1, Washington, D.C. 00000, or delivered to Room 1, 1 First Street, Washington, D.C. between 8:45 am and 5:15 pm. Comments received may also be inspected at Room 1 between 8:45 am and 5:15 pm.

51962 **Federal Election Campaign** FEC requests comments regarding contributions to and expenditures by delegates and candidates for delegate to national party nominating conventions; comments by 10–5–79 (Part V of this issue)

51894 **Uranium Mill Tailings Radiation Control** DOE proposes designaton of processing sites and establishment of priorities; comments by 9–15–79 (Part II of this issue)

51829 **Veterans Benefits** VA proposes to define "child" for determining benefit payment; comments by 10–5–79

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

Interpretive Rulings; Loans Secured by Real Estate

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This amendment revises selected interpretive rulings issued by the Comptroller of the Currency relating to loans by national banks which are secured by real estate. The revisions are necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans (12 U.S.C. 371, as amended).

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew J. Levinson, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: On February 16, 1978, the Comptroller of the Currency published for comment a proposed amendment to 12 CFR Part 7 (43 FR 6801) to revise selected interpretive rulings relating to loans by national banks which are secured by real estate. The revisions were necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans.

On September 25, 1978, the Comptroller published in final form (43 FR 43289) those rulings which were slightly altered or left unchanged from the February proposal. Also on that date, the Comptroller reproposed for comment (43 FR 43310), those rulings which were substantially changed from the February proposal or which were not specifically addressed in the February proposal. The Comptroller is now adopting in final form, with certain changes as discussed below, those rulings proposed in September. All comments submitted with respect to the proposed rulings were given due consideration.

Nonconforming Loans

As a result of the comments received, the Comptroller has decided to revise § 7.2700 regarding nonconforming loans. As adopted, the Comptroller has deleted the requirement in the proposed ruling that real estate loans classified as nonconforming be carried in a separate general ledger account. The Comptroller was persuaded by the comments that each bank be permitted to earmark its nonconforming real estate loans in a way most suitable to the bank's loan accounting system without requiring the establishment of a separate general ledger account. The bank must adopt an appropriate accounting method whereby it can ascertain the total number of nonconforming real estate loans on a regular basis and be able to provide such information to OCC bank examiners when requested.

Development and Construction Loans

Several comments questioned the treatment of land acquisition and development loans under 12 U.S.C. 371 as interpreted by proposed ruling § 7.2015. Among other things, the 1974 amendments to 12 U.S.C. 371 for the first time specifically addressed national bank lending on unimproved real estate. As such, development loans are subject to the loan to value ratio requirements of the statute. Construction loans, on the other hand, are not subject to the loan to value ratios if they are classified as commercial loans under 12 U.S.C. 371(c).

It is important that the distinctions between development loans and construction loans be kept in mind. Development loans are generally loans the proceeds of which are used to acquire and convert undeveloped property into improved real estate through the construction of roads, installation of sewers and other similar improvements, and division of the tract into individual lots in preparation of a residential subdivision. Construction loans are loans to finance the construction of a building or buildings for either residential or commercial purposes. Development loans may be reclassified as construction loans at the time they qualify as such.

Section 7.2015 permits national banks to make development loans based upon the appraised value of the final project. Advances at various stages of development, however, must not exceed the limitations contained in 12 U.S.C. 371 and in 12 CFR 7.2010, which enunciate the statutory loan to value ratios. For example, if the land to be acquired was raw land with no offsite improvements, then the bank could not advance more than 66⅔ percent of the appraised value of such real estate. If the real estate was improved by offsite improvements or in the process of being improved by a building or buildings to be constructed then the bank could advance up to 75 percent of the appraised value.

It should be remembered that construction loans may be made in amounts in excess of 75 percent of appraised value: *Provided,* That the maturity is 60 months or less and there is a firm takeout commitment from a financially responsible lender other than the construction lender. No takeout is necessary for loans which finance construction of residential or farm buildings. Construction loans in excess of 75 percent of appraised value are classified as commercial loans and (along with those construction loans voluntarily classified as commercial under 12 U.S.C. 371(c)) are subject to an aggregate limit of 100 percent of capital and surplus.

Takeout Commitments

Several comments asked for a further explanation of § 7.2000(g) regarding takeout commitments. In addressing interim financing, the ruling was intended to clarify 12 U.S.C. 371(a)(3), which exempts from the real estate loan restrictions any loan, other than a construction loan, which is covered by a valid and binding agreement by a financially responsible third party to take out the bank within 60 months from the date of making the loan. This was intended to specifically address the mortgage warehousing situation. A construction loan with a takeout agreement will be exempt from the real estate restrictions only if treated as a commercial loan under 12 U.S.C. 371(c).

Rehabilitation Loans

As proposed, § 7.2400(b) would clarify that loans made to substantially renovate, remodel or rehabilitate

existing residential structures may be considered as construction loans. One comment suggested that this language be expanded to include existing commercial structures as well.

The Comptroller agrees with this suggestion and has amended § 7.2400(b) to clarify that rehabilitation loans may be classified as construction loans whether involving residential or commercial structures. The purpose of this paragraph is to assist banks in helping meet our nation's housing stock by financing the rehabilitation of existing dwellings. The Comptroller recognizes that in many housing rehabilitation programs in urban areas, the revitalization of the commercial sector is fundamental to the ultimate success of the project.

Drafting Information

The principal drafters of this document were Mr. Richard H. Neiman, Attorney, Mr. Andrew J. Levinson, Attorney, Mr. Michael B. Mierzewski, legal clerk, and Mr. John M. Miller, Deputy Chief Counsel.

Final Amendment

The Comptroller amends 12 CFR Part 7 by deleting § 7.2020, by adding §§ 7.2010, 7.2015, and 7.2700 and by revising §§ 7.2040 and 7.2400. The final rulings read as follows:

§ 7.2010 Loan-to-value ratios.

(a) *Unimproved real estate.* Real estate is unimproved if there are not offsite improvements or substantial and permanent onsite improvements significantly enhancing the value of the property. National banks may make loans secured by unimproved real estate in an amount not to exceed 66⅔ percent of the appraised value of such real estate.

(b) *Real estate improved by offsite improvements.* Offsite improvements are those improvements which substantially enhance the value of otherwise unimproved real estate. Whether an improvement qualifies as an offsite improvement for purposes of 12 U.S.C. 371 is a question of fact to be determined in each case. National banks may make loans upon the security of such real estate in an amount not to exceed 75 percent of its appraised value. Common examples of offsite improvements are: Streets, sewers, water, other utilities, and real property whose value is enhanced because it is located in a rapidly developing area.

(c) *Real estate in the process of being improved by a building or buildings to be constructed or in the process of construction.* National banks may make loans upon the security of such real estate in an amount not to exceed 75 percent of its appraised value. The appraised value may be based upon the value of the completed building or buildings; however, prudent banking requires that the disbursement of loan proceeds be made proportionately to the development of the project. For purposes of 12 U.S.C. 371, a completed building or buildings is defined as a permanent structure contributing substantially to the value of the property. Examples of such are cited in paragraph (d) of this section.

(d) *Real estate improved by building or buildings.* National banks may make loans upon real estate improved by a building or buildings in an amount not to exceed 90 percent of its appraised value. For purposes of 12 U.S.C. 371, a completed building or buildings is defined as a permanent structure contributing substantially to the value of the property. Examples of permanent structures contributing substantially to the value of the property, other than conventional buildings, within the meaning of paragraphs (c) and (d) are as follows:

(1) A commercial recreation area which may include such amenities as: Numerous campsites, picnic tables, tent bases, toilet facilities, fireplaces, or dockage and a beach;

(2) A trailer park consisting of numerous sites with facilities for sewage, running water, and electricity;

(3) Farmland which is improved. Farmland is improved when it is useful for agricultural purposes without further substantial improvements. Agricultural purposes include animal husbandry as well as the growing of crops. Usefulness for such purposes may be demonstrated either by actual past or present use, by the appraisal of persons familiar with the value of agricultural land or by both. The appraised value of improved farmland is to be based upon its value for agricultural purposes.

The appraised value, for purposes of this ruling, may be based upon the current market value, the cost approach to value, the capitalization of income approach to value or any other acceptable appraisal standard appropriate for the particular type of loan.

§ 7.2015 Land acquisition and development loans.

National banks may make commitments to make land acquistition and development loans based upon the appraised value of the final project. Advances at various stages of construction, however, must not exceed the limitations contained in 12 U.S.C. 371 and in 12 CFR 7.2010.

§ 7.2020 [Deleted]

§ 7.2040 First liens.

(a) *General definition.* A first lien on real estate within the meaning of 12 U.S.C. 371 is any lien which grants to the lienholder a claim against the property so secured which is prior to the rights of all others. Such a lien will normally be created by an instrument in the form of a mortgage or deed of trust but may also consist of a judgment which by operation of law creates a lien against certain property of the judgment debtor or a land contract such as that described in § 7.2000(c).

(b) *Effect of life estates and similar claims.* A mortgage on the fee simple interest in real estate which is subject to an existing life tenancy or other existing or potential claim whereby under local law the interest of the life tenant or other claimant may vest in whole or in part in a third party free of the mortgage is not an eligible first lien under 12 U.S.C. 371 unless the third party joins in the mortgage or otherwise agrees to subordinate his or her interest in the mortgaged property.

(c) *Effect of certain permitted liens.* (1) A mortgage on real estate will be subject from time to time to various liens, charges, and encumbrances which, although they may be paramount to the bank's security claim in the form of a mortgage, do not substantially affect the value or use of the real estate. Liens for taxes and assessments imposed by a governmental body for the current year, zoning laws and ordinances, construction liens not yet filed or relating to obligations not overdue, permits, rights-of-way, easements, leases, and encumbrances will not prevent such mortgage from constituting a first lien within the meaning of 12 U.S.C. 371.

(2) A subordinate lien on real estate may be treated as a "first lien" within the meaning of 12 U.S.C. 371 if:

(i) The bank has the right to pay off the prior liens and become a first lienholder; and

(ii)(A) The bank actually holds funds pledged by or on behalf of the borrower in an amount sufficient to pay off the prior liens; or

(B)(*1*) The borrower is obligated for all funds advanced by the bank, including any amount advanced to perfect or secure the bank's first lien position; and

(B)(*2*) The bank, at the inception of the loan, could fund the amount advanced to the borrower plus the amount outstanding on prior liens without violating 12 U.S.C. 84, 12 U.S.C. 371, 12 U.S.C. 371c, or any other statute, regulation, or ruling.

(d) *Exclusion of oil, gas, or mineral rights from lien of mortgage.* A mortgage on the fee title to realty is a first lien despite the fact that the mortgage may expressly provide that it does not cover oil, gas, or mineral rights. This is true regardless of whether the mortgagor has already transferred or mortgaged such rights to a third person or simply retains such rights by excluding them from the lien of the mortgage given to the bank.

(e) *Merger of first and junior liens.* If a national bank holds a first and junior mortgage on real estate and there is no intervening lien, the combined mortgages will be regarded as merged into one first lien with the combined indebtedness being considered as a single loan when applying the provisions of 12 U.S.C. 371. A lien which arises only upon the bank's election of its remedy under mortgage insurance or guaranty, applicable to the first lien, is not an intervening lien.

(f) *"Cover-all" or "open-end" mortgages.* Mortgages sometime contain a provision that the mortgaged properties shall secure both the loan for which it is given as well as all other present and future indebtedness of the borrower to the bank, i.e., a "cover-all clause," such mortgage being frequently termed an "open-end" mortgage. In such case, the amount of all loans made by the bank in primary reliance upon the security of the real estate must be added together to determine if the requirements of 12 U.S.C. 371 have been met.

(g) *Personal liability of mortgagor.* The requirement of 12 U.S.C. 371 that a real estate loan shall be secured by a lien on real estate does not require that the mortgagor have personal liability for the mortgage loan.

§ 7.2400 Construction loans.

(a) Loans made to finance the construction of buildings, including apartment buildings, which are intended primarily for residential purposes, even though some commercial use may be made of a part of the building, are considered loans to finance the construction of residential buildings within the meaning of 12 U.S.C. 371(c).

(b) For purposes of 12 U.S.C. 371(c), loans, the proceeds of which are used to substantially renovate, remodel, or rehabilitate existing residential or commercial structures, are considered construction loans.

§ 7.2700 Nonconforming loans.

Paragraph (f) of 12 U.S.C. 371 permits a national bank to make loans secured by real estate which do not comply with the limitations and restrictions in that section, provided the aggregate unpaid amount on the nonconforming loans does not exceed 10 percent of the amount the bank may invest in real estate loans. The bank shall keep records available for examination that indicate which loans are to be counted against the limit on nonconforming loans. All nonconforming loans shall be earmarked as such and accounted for in a manner permitting the bank to be able to ascertain the total number of nonconforming loans and the outstanding balance of these loans on a regular basis. The bank's records shall also indicate those loans which were at one time nonconforming but have subsequently come into compliance with the limitations and restrictions of 12 U.S.C. 371.

Dated: August 29, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-27574 Filed 9-4-79; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[ER-1148; Docket 33910]

Reduction in Air Taxi Reporting Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on August 29, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule reduces the amount of information now collected from air taxi operators and commuter air carriers by eliminating one report and reducing the data reported on another. State governments which already collect the air taxi data needed by the CAB are encouraged to share these data with us in return for exempting their air taxi operators from the CAB's reporting requirements. The limited period of confidential treatment accorded commuter origin and destination data has been eliminated.

DATES: Adopted: August 29, 1979. Effective: November 4, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6044.

SUPPLEMENTARY INFORMATION:

Background

In EDR-367 (43 FR 52182, November 8, 1978) the Board proposed to reduce the reporting requirements applicable to air taxi operators and commuter air carriers under Part 298, of our Economic Regulations (14 CFR Part 298). These reductions were to be accomplished by:

1. Eliminating CAB Form 298-D, "Report of All Revenue Operations (Excluding Rotary-Wing and All-Cargo Operations) Performed by Air Taxi Operators, Including Commuter Air Carriers;"

2. Eliminating one of the three schedules comprising CAB Form 298-C, "Report of Scheduled Operations of Commuter Air Carriers," consolidating the remaining schedules of Form 298-C into a new one-page format, reducing the filing frequency from quarterly to semi-annually, and reducing the required number of copies from three to one; and

3. Modifying the definition of "commuter air carrier" to exclude air taxi operators with mail contracts of $20,000 or less per year who would otherwise not qualify as commuters.

Beyond these reductions, the Board proposed to encourage State governments, which already collect the commuter data needed by the Board, to share these data with the Board by exempting their commuter carriers from the Board's reporting requirements. The Board also proposed to eliminate the limited period of confidential treatment currently accorded commuter origin and destination (O & D) data.

Comments

Fourteen comments were received in response to the rulemaking notice.[1]

Comments submitted by the National Air Transportation Association, the Public Utilities Commission of the State of California, and Woodland Aviation expressed support for the overall proposal, but were concerned that the Board's proposed sharing of state-collected commuter data would encourage or force State agencies to institute new and unnecessary reporting requirements that could be more burdensome than what the Board now requires.

Currently, air taxi data are collected by both the Federal and State levels of government. The data collected by the States range from no data at all to more than the Board needs. For example, the State of Alaska's air taxi reporting system generates a broad spectrum of

[1] Air Ruidoso, Inc., Bard-Air Corporation, Gemini Air Service, Kenmore Air Harbor, Inc., McPhillips Flying Service, Inc., Seaco Airlines, Inc., State of Wisconsin Department of Transportation, VIP Aviation, Inc., National Air Transportation Association, Department of Transportation of the State of New Mexico, Official Airline Guides, Inc., Public Utilities Commission of the State of California, Woodland Aviation, Inc., and the Air Line Pilots Association, International.

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data which encompasses, among other things, the same commuter data we receive. By sharing our data with the states, any duplicative reporting burden which commuter carriers now face in reporting to both levels of government could be eliminated.

Our intention is not to encourage any State to collect commuter data. On the contrary, State attempts to regulate the routes, rates, or services of federally authorized carriers, including commuters, are forbidden under the Airline Deregulation Act of 1978 [2] and the States of California, Oregon, and Illinois [3] have been permanently enjoined from violating the federal pre-emption provision. Thus, a State-imposed reporting requirement may run counter to Federal law if undertaken to faciliate or implement impermissible State regulation. Our intention, therefore, is simply to enable the Board to take advantage of any lawful and legitimate State reporting requirements and at the same time, decrease the overall reporting burden. We also realize that some States may wish to fulfill their legitimate information needs, if any, by using the Board's data rather than collecting the data themselves. In this situation the Board will, when requested by an interested State, routinely supply it with a copy of our commuter reports. This may help some States avoid the burden of having to develop their own reporting systems.

In another comment dealing with the Board's proposed sharing of commuter data, the Department of Transportation of the State of New Mexico stated that, since the Federal government has pre-empted the States' authority to regulate air carriers under the Airline Deregulation Act of 1978, it would be more reasonable for the Board to continue collecting and providing carrier data to the States instead of receiving the data from them. As stated previously, our goal is to reduce the overall reporting burden, particularly that of the Federal government, for commuter carriers. We will, of course, supply State governments with copies of the reports we do receive whenever asked. We cannot justify, however, collecting data solely for the benefit of others when the Board itself has no need for the data.

[2] Section 105(a) of the Airline Deregulation Act of 1978, Pub. L. 95-504 92 Stat. 1705, 1708, 49 U.S.C. 1305.

[3] *Hughes Air Corp., et al.* v. *California Public Utilities Commission, et al.*, N.D. Cal. No. C-78-2880-SW (March 9, 1979); *Sierra Flite Service, et al.* v. *California Public Utilities Commission, Oregon Public Utility Commissioner, et al.*, N.D. Cal. No. C-79-0840-SW (June 1, 1979); *Coleman Air Transport, et. al.* v. *Illinois Aeronautics Board, et al.*, C.D. Ill. No. 79-3080 (August 16, 1979).

The Official Airline Guides, Inc. (OAG) filed a comment objecting to the proposed reduction in the filing frequency for commuter operating data on CAB Form 298-C. Specifically, the OAG stated that it sometimes requires commuter carriers to submit a copy of their Form 298-C at the same time it is filed with the Board in order to verify that a carrier is, in fact, operating, and that the scheduled flights performed agree with the flight schedules published in the *Official Airline Guide*. In order to ensure the availability of timely information about commuter operations, the OAG recommended retaining a quarterly filing frequency.

Since EDR-367 was developed before the enactment of the Airline Deregulation Act of 1978, we have taken another hard look at the proposed semi-annual reporting period.

Within the current deregulated environment, which encourages competition among carriers, commuter data are needed in a timely manner to enable the Board to analyze and monitor carrier fitness and the level of air service being provided to small communities. As a result of our review, we believe that a quarterly filing requirement is needed to ensure the availability of data for effectively monitoring continuing fitness and service levels. Accordingly, quarterly filing of CAB Form 298-C will be continued.

The Air Line Pilots Association, International (ALPA) submitted the only comment in opposition to the proposed rule.

First, ALPA expressed its belief that the Board needs timely air taxi and commuter data about the number of departures and the number of passengers. ALPA was concerned that any reduction or elimination of these data would limit the effective participation of air taxi operators and commuter air carriers in issues (such as safety, airport congestion, aircraft manufacturing demands, *etc.*) affecting the air transportation industry.

Commuters will continue to report departure and passenger data quarterly on revised CAB Form 298-C. Air taxi departure and passenger data, on the other hand, will be monitored during periodic surveys of the air taxi industry, which the Board will be conducting on behalf of the National Transportation Safety Board (NTSB).

We anticipate, at this time, that an air taxi survey will be conducted at least annually; therefore, the survey data collected will be as timely as the air taxi operating data now reported annually on CAB Form 298-D. This continued availability of timely air taxi and commuter data will ensure meaningful participation by air taxis and commuters in the issues concerning the air transportation industry.

Secondly, ALPA indicated that any sharing of data between the Board and State governments must ensure that the data shared are uniform, reliable and timely.

As with any data collection undertaken by the Board, proper steps will be taken to ensure that the data submitted are uniform. Furthermore, before establishing a data sharing program, the reliability and timeliness of the data to be shared will also be considered.

ALPA also suggested that a determination be made as to which States a carrier would report to when its operations switch from intrastate to interstate. While we have no control over the States developing their own reporting systems which do not conflict with Federal pre-emption, the Board plans to enter into a data sharing agreement with those States that have legitimate needs for commuter data. This will help eliminate any current and possible future duplicative reporting requirements.

Finally, ALPA expressed its concern that the disclosure of commuter O & D data would subject commuter carriers to a competitive disadvantage in relation to other air taxi operators. As stated in EDR-367, public policy favors disclosure of all data filed with the Board, and withholding commuter O & D data from public disclosure runs counter to the Board's policy of immediately disclosing the domestic O & D Survey and service segment data submitted by certificated carriers.

Other Matters

In EDR-367 the Board proposed that the Director, Bureau of Accounts and Statistics, under delegated authority, would conduct periodic surveys of the air taxi industry to satisfy the NTSB's data needs and grant commuters an exemption from the Board's reporting requirements when the data needed by the Board can be collected from State governments.

A reorganization of the Board's staff on January 14, 1979, redesignated the Bureau of Accounts and Statistics (BAS) as the Bureau of Carrier Accounts and Audits and transferred certain functions from BAS to the Office of Economic Analysis (OEA) and the Office of Comptroller (OC). Among these were the functions dealing with collecting special reports from any air carrier and granting waivers from the Board's reporting requirements. Editorial corrections necessary to reflect these changes have been made in the final rule.

A review by the Board's staff of recent CAB Form 298-C Schedule T-1, "Report of Revenue Traffic by On-Line Origin and Destination," filings has revealed that a significant number of commuter carriers are reporting a greater number of O & D markets than can be reported on the revised CAB Form 298-C contained in EDR-367. The proposed report format would needlessly burden these carriers with having to file several pages of the same form. Considering this and the current and anticipated future growth in the commuter industry under the Airline Deregulation Act of 1978, we have decided to divide the proposed CAB Form 298-C into two schedules, Schedule A-1, "Report of Flight and Traffic Statistics in Scheduled Operations" and Schedule T-1 "Report of Revenue Traffic by On-Line Origin and Destination." This will enable carriers with 72 or fewer markets to file their O & D data on a single page.

Also, a number of carriers have very similar names which make it difficult for users of CAB Form 298-C data to distinguish between them. Furthermore, problems arise when a carrier changes its address without notifying the Board. This situation makes it very difficult to contact a carrier when a question arises about its reports. We have clarified CAB Form 298-C to indicate that the reporting carrier will provide its full corporate name on the face of each schedule. We wish to remind each carrier that any change of address must be reported to the Board within 30 days of the change on CAB Form 298-A "Registration, Reregistration and Amendments Under Part 298 of the Economic Regulations of the Civil Aeronautics Board."

The Board amends 14 CFR Part 298 as follows:

1. The Table of Contents is amended by revoking and reserving §§ 298.62 and 298.63 and by adding a new § 298.65 to Subpart F as follows:

Subpart F—Requirements for Filing of Flight Schedules and Reports

Sec.

* * * * *

298.62 [Reserved]
298.63 [Reserved]

* * * * *

298.65 Reporting exemption for State collection of data.

2. Paragraph (f) of § 298.2 is amended to read as follows:

§ 298.2 Definitions.

* * * * *

(f) "Commuter air carrier" means an air taxi operator which (1) performs at least five round trips per week between two or more points and publishes flight schedules which specify the times, days of the week and places between which they are performed, or (2) transports mail by air under a contract or contracts with the United States Postal Service when the total amount of the contract or contracts is estimated at the beginning of any reporting period (January 1 and July 1) to be in excess of $20,000 over the next 12 months.

* * * * *

3. § 298.61 is revised to read as follows:

§ 298.61 Reporting of scheduled operations by commuter air carriers.

(a) Each "commuter air carrier" shall file CAB Form 298-C "Report of Scheduled Operations of Commuter Air Carriers" as prescribed in this section. CAB Form 298-C can be obtained from the Publications Services Division, Civil Aeronautics Board, Washington, D.C. 20428.

(b) CAB Form 298-C report is comprised of two schedules, Schedule A-1 "Report of Flight and Traffic Statistics in Scheduled Operations" and Schedule T-1 "Report of Revenue Traffic by On-Line Origin and Destination." The original of each schedule shall be filed quarterly with the Office of Comptroller for the periods ended March 31, June 30, September 30, and December 31 of each year to be received on or before May 10, August 10, November 10, and February 10, respectively. Note.—Due dates falling on a Saturday, Sunday, or national holiday will become effective on the first following working day.

(c) Each commuter air carrier shall indicate, in the space provided, its full corporate name.

(d) The information included in this report shall pertain only to flights performed in scheduled service during the quarter. The numeric carrier code and the date code established by the Office of Comptroller shall be inserted in the spaces provided in the heading of the report. All information shall be typed or neatly printed.

(e) Schedule A-1 shall be used to report the total flight and traffic statistics in scheduled operations by commuter air carriers. Each carrier shall identify the type of traffic carried during the reporting period by checking the appropriate box or boxes in the heading of the schedule. These statistics should cover only scheduled services and should be compiled in accordance with the instructions below. All statistics shall be reported in whole numbers; do not use decimals.

(1) Line 1 "Aircraft-Hours Flown" shall show the total airborne aircraft hours flown computed from the moment an aircraft leaves the ground until it touches ground at the end of each flight stage.

(2) Line 2 "Aircraft-Miles Flown" shall show the total aircraft-miles operated computed in airport-to-airport distances for each flight stage as actually operated, whether or not actually performed according to the scheduled service pattern.

(3) Line 3 "Number of Departures Performed" shall show the total number of takeoffs performed, including extra section takeoffs and takeoffs from nonscheduled airports resulting from deviations from the scheduled service pattern.

(4) Line 4 "Revenue Passenger-Miles" shall show total revenue passenger-miles, computed by mulitplying the aircraft-miles flown on each flight stage by the number of revenue passengers carried on that flight stage.

(5) Line 5 "Available Seat-Miles" shall show total revenue seat-miles available, computed by multiplying the aircraft-miles flown on each flight stage by the number of passenger seats available for sale on that flight stage.

(6) Line 6 "Revenue Ton-Miles" shall show total revenue ton-miles, computed by first multiplying the aircraft-miles flown on each flight stage by the number of pounds of revenue traffic carried on that flight stage to obtain revenue pound-miles. Revenue pound-miles are then divided by 2,000 pounds to find revenue ton-miles. For passengers and their baggage, a standard weight of 200 pounds per passenger may be used.

(7) Line 7 "Available Ton-Miles" shall show total revenue ton-miles available, computed by first multiplying the aircraft-miles flown on each flight stage by the number of pounds of aircraft capacity available for use on that stage to obtain revenue pound-miles available. Revenue pound-miles available are then divided by 2,000 pounds to find available ton-miles.

(8) Line 8 "Number of Departures Scheduled in Passenger Service" shall show the total number of takeoffs scheduled to be performed in passenger service.

(9) Line 9 "Number of Scheduled Departures Completed in Passenger Service" shall show the total number of scheduled departures in passenger service reported on Line 8 which were performed, excluding extra sections. To determine if a departure is performed as scheduled, only the originating point of a flight stage need be considered; whether

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the flight lands at its scheduled destination or not has no bearing.

(f) Schedule T–1 shall show the total on-line origin and destination traffic in scheduled service for the period as follows:

(1) Each pair of origin and destination airports shall appear only once, *i.e.*, no entry shall have the same origin and destination airports as another entry. For example, DAL–HOU and HOU–DAL would each appear once, but either DAL or HOU could reappear with any other point.

(2) The origin and destination data shall be for the on-line movement of traffic rather than for flight stages or flight origin and destination. For example, if a flight operates from A to B to C with 5 passengers enplaning at A, 1 deplaning and 2 enplaning at B, and 6 deplaning at C, the applicable passenger data would be reported as follows:

Origin airport	Destination airport	Number of passengers
A	B	1
A	C	4
B	C	2

(3) Only the ultimate origins and destinations of the traffic moving on the reporting carrier's system shall be reported. Using the example given above, the traffic report would remain the same, even if the carrier operated one flight from A to B and a different flight from B to C, as long as the passengers' on-line origins and destinations remained the same.

(4) Only one grand total shall be shown in the space provided after the final traffic entry. Do not use subtotals.

(5) Columns (1) and (2) shall show the airport codes for the movement of traffic from the point of origin to the point of destination. Carriers shall use the airport codes in the *Official Airline Guide* (OAG). If an airport cannot be found in the OAG, the carrier shall, until otherwise instructed by the Board, insert its own code for the airport in column (1) or (2) followed by an asterisk, and shall identify the airport and its location in the space provided.

(6) Columns (3), (4) and (5) shall show the total number of revenue passengers, pounds of cargo, and pounds of mail, respectively, transported from the point of on-line origin to the point of on-line destination.

(g) The information requested in CAB Form 298–C may be submitted on any comparable form prepared on automatic data processing equipment if the substitute form has been approved by the Comptroller, Civil Aeronautics Board, Washington, D.C. 20428. Data in any approved format shall contain the same column headings arranged in the same sequence as in CAB Form 298–C.

§§ 298.62, 298.63 [Revoked and Reserved]

4. §§ 298.62 and 298.63 are revoked and reserved.

5. § 298.64 is revised to read as follows:

§ 298.64 Requests for extensions of time within which to file reports or for waivers from reporting requirements.

(a) If circumstances prevent the filing of CAB Form 298–C on or before the due date, a written request for an extension may be submitted. Except in cases of emergency, the request must be delivered to the Board's Office of Comptroller in writing at least 3 days in advance of the due date. The request must state good and sufficient reason to justify the granting of the extension and the date when the reports can be filed. If the request is denied, and air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(b) The Director, Office of Economic Analysis may waive any reporting requirement contained in § 298.61 of this part, upon his own initiative or upon written request from any commuter air carrier if the waiver is in the public interest and the request demonstrates that (i) unusual circumstances warrant such a departure, (ii) a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal, and (iii) the application of the alternative procedure will maintain or improve uniformity in reporting between commuter air carriers.

6. A new § 298.65 is added to Subpart F to read as follows:

§ 298.65 Reporting exemption for State collection of data.

(a) The Director, Office of Economic Analysis, may exempt a commuter air carrier from the reporting requirements of § 298.61 of this part if a State government collects the information specified in that section and provides it to the Board by the dates specified. The data provided to the Board in this manner must be at least as reliable as if they were collected by the Board directly.

(b) The Director, Office of Economic Analysis, will provide assistance to any State agency interested in participating in this exemption program.

7. CAB Form 298–C Schedules A–1 and T–1 are amended as shown in attached Exhibits A and B, respectively.[1]

(Sections 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771, 91 Stat. 2164, 49 U.S.C. 1324(a), and 1386(b).)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27546 Filed 9–4–79; 8:45 am]

BILLING CODE 6320–01–M

[1] CAB Form 298–C is filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 236

[Docket No. R–79–705]

Rental Projects; Eligibility Requirements for Mortgage Insurance

AGENCY: U.S. Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: Section 236.12 is being amended to reflect the increased dollar limitations on units within projects insured under Part 236 of the National Housing Act as authorized by the Housing and Community Development Amendments of 1978.

EFFECTIVE DATE: October 5, 1979.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Frank D. Brown, Office of Housing, Multifamily Housing Development, Development Division, Room 6114, HUD, 451 7th Street, S.W., Washington, D.C. 20410; (202) 755–6513. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Since these amendments to § 236.12 implement a statute without the exercise of administrative discretion and because of the benefits that will inure to the public from an expeditious implementation of these amendments, the Secretary has determined that advance publication, notice and public procedure are unnecessary.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of HUD, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, § 236.12 is amended by revising paragraph (a)(1) and (b) to read as follows:

§ 236.12 Maximum mortgage amounts.

(a) The mortgage shall involve a principal obligation not in excess of the lowest of the following:

(1) Dollar limitations on units. For such part of the property or project attributable to dwelling use (excluding exterior land improvements as defined by the Commissioner) an amount per family unit, depending on the number of bedrooms, which may be:

(i) For projects involving eligible nonprofit mortgagors:

(a) $21,563 without a bedroom
(b) $24,662 with one bedroom
(c) $29,984 with two bedrooms
(d) $38,379 with three bedrooms
(e) $42,756 with four or more bedrooms

(ii) For projects involving eligible mortgagors other than nonprofit mortgagors:

(a) $19,406 without a bedroom
(b) $22,195 with one bedroom
(c) $26,985 with two bedrooms
(d) $34,541 with three bedrooms
(e) $38,480 with four or more bedrooms

* * * * *

(b) Increased mortgage amount-elevator type structures. In order to compensate for higher costs incident to construction of elevator type structures of sound standards of construction and design, the Commissioner may increase the dollar amount limitations per family unit as provided in paragraph (a)(1) of this section not to exceed:

(1) For projects involving eligible nonprofit mortgagors:

(i) $22,692 without a bedroom
(ii) $26,012 with one bedroom
(iii) $31,631 with two bedrooms
(iv) $40,919 with three bedrooms
(v) $44,917 with four or more bedrooms

(2) For projects involving eligible mortgagors other than nonprofit mortgagors:

(i) $20,422 without a bedroom
(ii) $23,410 with one bedroom
(iii) $28,467 with two bedrooms
(iv) $36,827 with three bedrooms
(v) $40,425 with four or more bedrooms

* * * * *

Issued at Washington, D.C., on August 27, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79–27556 Filed 9–4–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna; Closure

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of closure of purse seine fishing for giant-size bluefin tuna.

SUMMARY: This notice closes the 1979 purse seine fishing season for giant-size Atlantic bluefin tuna at 2359 hours e.d.t., August 24, 1979.

EFFECTIVE DATE: 2359 hours e.d.t., August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; telephone 617–281–3600.

SUPPLEMENTARY INFORMATION: On June 14, 1979, final regulations promulgated under the authority of the Atlantic Tuna Convention Act (16 U.S.C. Sections 971–971h), and implementing the provisions thereof, were filed with the Office of the Federal Register.

Section 285.30(a) of those final regulations (50 CFR Part 285) establishes an annual quota of 300 short tons for giant-size Atlantic bluefin tuna taken by purse seine vessels. Section 285.29(a)(2) provides that the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, shall monitor the catch of giant tuna and project a date when the quota for the purse seine fishery for giant tuna will be exhausted. Notice of the date and time when the fishery is to be closed is to be published in the **Federal Register** by the Assistant Administrator.

Notice is hereby given that the Assistant Administrator has projected, based upon reported catches of giant tuna, that the 1979 quota of giant-size Atlantic bluefin tuna permitted to be caught by vessels using purse seine gear will be caught by August 24, 1979. Actual notice of this closure was given to all vessel owners holding a valid vessel certificate for this fishery. Consequently, fishing for giant tuna by purse seine vessels was closed at 2359 e.d.t. on August 24, 1979.

Signed at Washington, D.C., this 29th day of August, 1979.

(16 U.S.C. 971–971h).

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–27581 Filed 9–4–79; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Parts 611 and 672

Gulf of Alaska Groundfish; Correction to Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction to Regulations.

SUMMARY: These amendments are corrections to the regulations governing foreign and domestic fishing for groundfish in the Gulf of Alaska. These amendments exclude fish of the genus *Sebastolobus* from the "other rockfish" category of fish.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: (202) 634–7432.

SUPPLEMENTARY INFORMATION: The regulations implementing the Alaska groundfish fishery management plan (see 43 FR 52709 for vessels of the United States; 43 FR 59321 for foreign vessels) include fish of the genus *Sebastolobus* (thornyhead) in the specifications of optimum yield (OY) and total allowable level of foreign fishing (TALFF) for the "other rockfish" category of fish (see 50 CFR 611.92(b), Table I, and 50 CFR 672(a), Table I). The National Oceanic and Atmospheric Administration (NOAA) has since discovered that the specifications of OY and TALFF in the plan (see 43 FR 17242) and the regulations did not include thornyhead because, since the species was of no commercial value, the magnitude of past harvest of the species was unknown.

This correction deletes fish of the genus *Sebastolobus* from the "other rockfish" category, thereby classifying *Sebastolobus* in the "other species" category.

The Assistant Administrator for Fisheries, NOAA has determined that these regulations are not significant under Executive Order 12044, and also

that a regulatory anlysis is not required. The Assistant Administrator has determined that this amendment is essentially technical in nature, and will have no impact on fishery resources. The amendment alleviates an unintended restriction on fishing activities, and is not controversial. Accordingly, the advance notice and comment requirements of 5 U.S.C. 553(b) and the "cooling off" requirement of section 553(d) are found to be impracticable, unnecessary or contrary to the public interest concerning this amendment.

Signed in Washington, D.C., this 30th day of August, 1979.

(16 U.S.C. 1801 *et seq.*).

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

§ 611.92 [Amended]

(A) 50 CFR 611.92(b), Table I, footnote 4, is amended to read:

⁴The category "other rockfish" means all fish of the genus *Sebastes* except Pacific ocean perch.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

§ 672.20 [Amended]

(B) 50 CFR 672.20(a)(1), Table I, is amended by:

(1) Changing the asterisk after the species category "other species" to a "2";

(2) By adding footnote number "1" after the species category "other rockfish";

(3) By adding the following footnote number 1 to the bottom of Table I:

¹The category "other rockfish" includes all fish of the genus *Sebastes* except Pacific Ocean perch.

and

(4) By renumbering the original asterisk footnote as footnote number "2".

[FR Doc. 79-27582 Filed 9-4-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 44, No. 173

Wednesday, September 5, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 425]

Proposed Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring peanut crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring peanuts in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than November 5, 1979 to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 425 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 425, Peanut Crop Insurance.

This part prescribes procedures for insuring peanut crops effective with the 1980 crop year.

All previous regulations applicable to insuring peanut crops as found in 7 CFR 401.101–401.111, and 401.138, will not be applicable to 1980 and succeeding peanut crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) peanut insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring peanut crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 425 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for the consolidation of cancellation and termination for indebtedness dates to the extent possible, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, (8) that when appraisals for unharvested acreage are made (except appraisals for uninsured causes or poor farming practices) only the appraisal in excess of 20 percent of the amount of insurance will be included in the value of production, and (9) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 425.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Peanut Crop Insurance regulations provide a December 31 cancellation date for all peanut producing counties.

These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.138, but these provisions shall remain in effect for FCIC peanut insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 425 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of peanuts, which shall remain in effect until amended or superseded, to read as follows:

PART 425—PEANUT CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

425.1 Availability of Peanut Insurance
425.2 Premium rates, coverage levels and amounts of insurance per acre
425.3 Public notice of indemnities paid
425.4 Creditors
425.5 Good faith reliance on misrepresentation
425.6 The contract
425.7 The application and policy

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

§ 425.1 Availability of Peanut Insurance.

Insurance shall be offered under the provisions of this subpart on peanuts in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which peanut insurance will be offered.

§ 425.2 Premium rates, coverage levels, and amounts of insurance per acre.

(a) The Manager shall establish premium rates, coverage levels, and applicable pounds of peanuts per acre to determine the dollar amounts of insurance which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level from among those levels shown on the actuarial table for the crop year.

§ 425.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 425.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 425.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the peanut insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 425.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the peanut crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 425.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the peanut crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a peanut contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Peanut Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Peanut Insurance Policy are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Application for 19——and succeeding crop years1974PEANUT

Crop Insurance Contract

(Contract Number) ————————
(Identification Number) ————————
(Name and Address) ————————
(Zip Code) ————————
(County) ————————
(State) ————————
Type Of Entity ————————
Applicant Is Over 18 Yes——No ————————

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the peanuts planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level. THE PREMIUM RATES AND APPLICABLE POUNDS PER ACRE USED TO DETERMINE THE AMOUNT OF INSURANCE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Level Election ————————

EXAMPLE: FOR THE 19——CROP YEAR ONLY (100% SHARE)

Location/ Farm No.	Amount of insurance per acre*	Premium per acre**	Practice

*Your guarantee will be on a unit basis (acres x amount of insurance per acre x share).

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following peanut insurance policy, the attached appendix, and the provisions of the county actuarial table showing the applicable pounds per acre used to determine the dollar amount of insurance, coverage levels, premium rates, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(CODE NO./WITNESS TO SIGNATURE)——

————————

(Signature of Applicant)————————
(Date),————————19——

Address of Office for County:— ————————
————————
Phone ————————
Location of farm headquarters: ————————
————————
Phone ————————

PEANUT CROP INSURANCE POLICY

TERMS AND CONDITIONS

Subject to the provisions in the attached appendix:

1. CAUSES OF LOSS. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production and/or value resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production and/or value, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. CROP AND ACREAGE INSURED. (a) The crop insured shall be peanuts planted for the purpose of digging, maturing and marketing as farmers' stock peanuts, as determined by the Corporation, and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to peanuts on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) not planted to a type shown as insurable on the actuarial table, (2) planted on a farm for which an acreage allotment and poundage quota for peanuts was not established, (3) destroyed for the purpose of conforming with any other program administered by the Secretary of Agriculture, (4) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (5) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (6) which is destroyed and after such destruction it was practical to replant to peanuts and such acreage was not replanted, (7) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, or (8) planted for experimental purposes.

3. RESPONSIBILITY OF INSURED TO REPORT ACREAGE AND SHARE. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of peanuts planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. COVERAGE LEVELS AND AMOUNT OF INSURANCE PER ACRE. (a) For each crop year of the contract, the coverage levels and applicable pounds of peanuts per acre to be used to determine the dollar amount of insurance shall be those shown on the actuarial table. The dollar amount of insurance per acre for each crop year shall be the applicable pounds of peanuts per acre multiplied by the average quota support price per pound for the insured type of peanuts for the crop year as announced by the United States Department of Agriculture under the current price support program and this result rounded to the nearest whole dollar.

(b) The amount of insurance per acre shall be reduced by 20 percent for any unharvested acreage.

5. ANNUAL PREMIUM. (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the dollar amount of insurance per acre, times the applicable premium rate, times the insured's share at the time of planting, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. INSURANCE PERIOD. Insurance on insured acreage shall attach at the time the peanuts are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) threshing or removal of the peanuts from the field, (c) total destruction of the insured peanut crop, or (d) the November 30 of the calendar year in which the peanuts are normally harvested.

7. NOTICE OF DAMAGE OR LOSS. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the growing season or after harvest but before threshing, the peanuts on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to peanuts. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice therof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) completion of selling or otherwise disposing of the insured crop on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire peanut crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. CLAIM FOR INDEMNITY. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of peanuts on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of peanuts on the unit by the applicable amount of insurance per acre, which product shall be the amount of insurance for the unit, (2) subtracting therefrom the value of the total production of peanuts to be counted for the unit, and (3) multiplying the result obtained in step (2) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The value of the total production to be counted for a unit shall be determined by the Corporation and shall include the value of all threshed and appraised production as follows:

(1) Threshed production which has been sold shall be valued at the gross receipt or the fair market value (as determined by the Corporation) taking into consideration the average quota support price.

(2) Unthreshed, unharvested or threshed but not sold production shall be valued at the fair market value (as determined by the Corporation) taking into consideration the average quota support price.

(3) The value of appraised production to be counted shall include (i) any appraisals made by the Corporation for potential production on harvested acres, for uninsured causes of loss, and for poor farming practices, valued at the average quota support price or fair market value (as determined by the Corporation), whichever is higher, (ii) not less than the applicable amount of insurance for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) only the value of the production in excess of 20 percent of the amount of insurance for all other unharvested acreage.

(d) The value of the appraised potential production for acreage for which consent has been given to be put to another use shall be counted as the value of the production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of peanuts becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

(e) To enable the Corporation to determine the fair market value of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, the Corporation shall be given the opportunity to have such peanuts inspected and graded before they are disposed of by the insured. If the insured disposes of any production without giving the Corporation the opportunity to have the peanuts inspected and graded, the value of such production shall be the average quota support price per pound for the crop year under the peanut price support program for the insured type.

9. MISREPRESENTATION AND FRAUD. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. TRANSFER OF INSURED SHARE. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. RECORDS AND ACCESS TO FARM. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all peanuts produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. LIFE OF CONTRACT: CANCELLATION AND TERMINATION. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

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State: All states.
Cancellation date: Dec. 31.
Termination date for indebtedness: Mar. 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

APPENDIX TO PEANUT INSURANCE POLICY

(ADDITIONAL TERMS AND CONDITIONS)

1. MEANING OF TERMS. For the purpose of peanut crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the pounds of peanuts per acre used to determine the amount of insurance, insurable and uninsurable acreage, and related information regarding peanut insurance in the county.

(b) "Average quota support price per pound" means the average quota support price per pound for the insured type of peanuts for the crop year as announced by the United States Department of Agriculture under the current price support program. If such price is not announced by July 15 of the crop year, the Corporation may elect to use the average support price for the previous crop year and determine the price by type based on the differentials in effect for such year. *Provided, however,* That for any crop year in which a quota support price is not in effect, the estimated average market price, as determined by the Corporation, shall be used in lieu thereof.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which the peanut crop is normally grown and shall be designated by the calendar year in which the peanut crop is normally harvested.

(e) "Harvest" as to any acreage means the digging of at least 20 percent of the applicable pounds per acre of peanuts as shown on the actuarial table for the purpose of combining or threshing.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured peanut crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(k) "Tenant" means a person who rents land from another person for a share of the peanut crop or proceeds therefrom.

(l) "Unit" means all insurable acreage of peanuts in the county, planted on a farm for which a single farm acreage allotment for the insurable type of peanuts is established, on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peanut crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. ACREAGE INSURED. (a) The Corporation reserves the right to limit the insured acreage of peanuts to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of peanuts.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. IRRIGATED ACREAGE. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. ANNUAL PREMIUM. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. CLAIM FOR AND PAYMENT OF INDEMNITY. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured peanut acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the peanuts are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) the Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. SUBROGATION. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. TERMINATION OF THE CONTRACT. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

COVERAGE LEVEL. (a) If the insured has not elected on the application a coverage level from among those shown on the actuarial table, the coverage level which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level for any crop year on or before the closing date for submitting application for that crop year.

9. ASSIGNMENT OF INDEMNITY. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. CONTRACT CHANGES. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board Directors on July 24, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-27486 Filed 9-4-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

[7 CFR Part 1065]

[Docket No. AO-86-A39]

Milk in the Nebraska-Western Iowa Marketing Area; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice further extends the time for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Nebraska-Western Iowa marketing area. Associated Milk Producers, Inc., requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before September 14, 1979.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing: Issued September 29, 1978; published October 4, 1978 (43 FR 45881).

Extension of time for filing briefs: Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Recommended Decision: Issued July 24, 1979; published July 30, 1979 (44 FR 44523).

Extension of time for filing exceptions: Issued August 13, 1979; published August 16, 1979 (44 FR 47950).

Notice is herby given that the time for filing exceptions to the above listed recommended decision is hereby extended to September 14, 1979.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.),* and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: August 29, 1979.

William T. Manley,

Deputy Administrator Marketing Program Operations.

[FR Doc. 79-27492 Filed 9-4-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Ch. I]

Improving Government Regulations; Semiannual Agenda

AGENCY: Comptroller of the Currency.

ACTION: Semiannual Agenda.

SUMMARY: The Semiannual Agenda, required by the Secretary of the Treasury in order to implement the President's Executive Order 12044 concerning improving government regulations, provides notice to the public of the Comptroller of the Currency's regulatory actions since February 1, 1979, including projects initiated or acted upon since that date, and projects pending at this time. The principal functions of the Comptroller of the Currency are the chartering, examining, supervising and regulating of national banking associations.

ADDRESS: Public comments are invited, and may be directed to Alan Herlands, Director of Regulations Analysis, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219. Comments on specific projects may also be directed to knowledgeable officials identified in connection with projects set forth below.

FOR FURTHER INFORMATION CONTACT: Alan Herlands, Director of Regulations Analysis, 202-447-1177.

SUPPLEMENTARY INFORMATION:

Investment Securities

(12 CFR Part 1)

An Advance Notice of Proposed Rulemaking and request for comments were published in the **Federal Register** on January 3, 1979 (44 FR 762). This proposal concerned 12 CFR 1.9, which provides that a national bank may request the Comptroller to rule on the applicability of 12 CFR Part 1 or paragraph Seven of 12 U.S.C. 24 to any security which it holds, or desires to deal in, underwrite, or purchase for its own account. Comment was requested as to whether Part 1 should be revised by including a general set of principles or characteristics applicable to

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determinations between general obligation bonds and revenue bonds.

Only two comments were received: One favoring such an amendment, one opposing it. In light of the Comptroller's review of the need for an amendment and the lack of public interest, the Comptroller has decided not to pursue this project.

For further information, contact Radcliffe Park, Assistant Director for Legal Advisory Services, 202–447–1880.

Description of Office Organization, Procedures, Public Information

(12 CFR Part 4)

This Part describes, among other matters, the office organization and delegations of authority within the Office of the Comptroller of the Currency. An amendment is expected to be issued within the next three months to incorporate into the regulation recent organizational changes to provide current and accurate information to the public.

On August 7, 1979 the Comptroller published an amendment to Part 4 to expand the delegations of authority to Regional Administrators of National Banks to decide applications for certain operating subsidiaries, changes in par value of common stock, certain capital increases and cash dividends, and increases in investments in bank premises (44 FR 46263). These changes should reduce processing time for affected applications.

On August 17, 1979 the Comptroller published additional amendments to Part 4 to provide criteria and procedures for expedited processing of applications for branches and changes in title or location (44 FR 48169). It is estimated these amendments will apply to 75% of all applications received and will reduce the processing time of those applications by 20%.

For further information, contact Darrel W. Dochow, Deputy Director, Bank Organization and Structure Division, 202–447–1184.

Policies on Corporate Applications

(12 CFR Parts 4, 5 and 14)

On November 1, 1978, the Comptroller issued policy statements applicable to applications for charters, branches, conversions, mergers, fiduciary powers, operating subsidiaries, title changes, relocations and changes in capital structure (41 FR 47964). The policies were not codified.

The Comptroller is reassessing all of these policies and the related regulations, considering appropriate reductions in application processing time, barriers to entry, and substantive decision criteria. Proposed revisions to the policy statements and related regulations may be issued for comment from time to time during the next six months.

For further information, contact Darrel W. Dochow, Deputy Director, Bank Organization and Structure Division, 202–447–1184.

Common Trust Fund Survey Trust Department Annual Report

(12 CFR Part 4.11(b) (4))

Each national bank exercising fiduciary powers is required to file a Trust Department Annual Report. In addition, certain national banks have been required to respond to an annual Common Trust Fund Survey. The Comptroller had determined that, in general, the benefits derived from the Common Trust Fund Survey are not justified by the costs associated therewith, and the survey should be discontinued. However, the Comptroller is considering amendments to the Trust Department Annual Report which would require those national banks previously subject to the Common Trust Fund Survey to include in their annual reports certain minimal information concerning their common trust funds. Discussions are underway with other Federal bank regulatory agencies which also require trust department annual reports. Final resolution of these matters should occur prior to December 31, 1979.

For further information, contact Dean E. Miller, Deputy Comptroller for Specialized Examinations, 202–447–1731.

Hearings on Corporate Applications

(12 CFR Part 5)

An amendment to this Part is expected to be issued in September, 1979, to clarify (a) the procedure for requesting a hearing, (b) the basis upon which a hearing will be ordered, and (c) where hearings will be held.

In the past, many hearings held added little information for the Comptroller's decision, but significantly delayed the processing of applications. This amendment will clarify the Comptroller's policy to limit hearings to those circumstances where one is justified. This change should reduce unnecessary expenses and time delays.

Also in the past, hearings were normally held in the city where the Regional Administrator of National Banks' office was located. Particularly in light of the increased involvement by non-profit citizens' groups expected as a result of the implementation of the Community Reinvestment Act of 1977, the Comptroller expects that a greater number of hearings will be held at locations more convenient for interested parties. This amendment will clarify the Comptroller's policy concerning the location of hearings. This change should enhance public participation in the decision process.

For further information, contact Darrel W. Dochow, Deputy Director, Bank Organization and Structure Division, 202–447–1184.

Lending Limits Applicable to Foreign Governmental Entities

(12 CFR Part 7.1330)

April 12, 1979, the Comptroller issued, after public comment on a proposal, a new interpretive ruling to clarify the statutory (12 USC 84) national bank lending limits with respect to loans to foreign governments, their agencies and instrumentalities. This action was necessary as a result of the increased level of international lending by national banks, which in turn led to an increase in the number of questions concerning the proper interpretation of the statute. The interpretation also described minimum document requirements, which are not in excess of what would normally be necessary for proper account relationships and credit analysis purposes.

For further information, contact William B. Glidden, Attorney, 202–447–1880.

Loans Secured by Real Estate

(12 CFR Part 7, Subpart B)

September 25, 1978, the Comptroller published for comment (43 FR 43310) proposed amendments to 12 CFR Part 7 to revise selected interpretive rulings relating to loans by national banks which are secured by real estate. The revisions are necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans (12 U.S.C. 371, as amended), and to clarify the Comptroller's interpretation of that statute. The interpretive rulings are expect to be issued in final form during September, 1979.

For further information, contact Charles F. Byrd, Assistant Director for Legal Advisory Services, 202–447–1880.

Other Real Estate Owned

(12 CFR Part 7.3025)

In January and Septmeber, 1978, the Comptroller issued for comment proposed amendments to the interpretive ruling describing the treatment of property acquired by banks through foreclosure or to secure debts previously contracted. A final interpretation was published on August 8, 1979 (44 FR 46428).

The purpose of the amendment is to provide greater consistency with revised generally accepted accounting principles (GAAP) and to establish an exemption from annual independent appraisals for small properties. Both of these changes should reduce the costs to banks associated with the present interpretation. In addition, the increased consistency with GAAP should make national bank financial data more useful to the banks themselves, the Comptroller, and public users of national banks' financial statements.

For further information, contact Andrew J. Levinson, Attorney, 202–447–1880.

Investment in Bank Premises

(12 CFR Part 7.3100)

In January, 1978 the Comprtoller issued for comment an amendment to this interpretive ruling in order to provide greater consistency with revisions to generally accepted accounting principles. This change should reduce the costs to national banks in preparing their financial statements and should make the financial statements more useful to the banks themselves, the Comptroller, and public users of national bank financial statements. A final interpretation is expected within three months.

For further information, contact Paul G. Nelson, Senior Attorney, 202–447–1880.

Leasing of Personal Property

(12 CFR Part 7.3400)

On April 13, 1979, the Comprtoller amended an interpretive ruling allowing national banks to lease personal property to customers where the lease transaction is the functional equivalent of an extension of credit to the lessee (44 FR 22388). This action followed lengthy public proceedings dating from June, 1975.

For further information, contact Thomas P. Vartanian, Attorney, 202–447–1880.

National Banks' Pension Plans

(12 CFR Part 7.5010)

This interpretive ruling briefly sets forth the Comptroller's position with respect to pension plans for a national bank's employees. A statement therein describes appropriate eligibility standards which should be applied. In light of the many changes which have recently occurred in laws applicable to pension plans, the Comptroller intends to review this interpretation and, if appropriate, propose an amendment thereto for public comment to update its provisions. A proposal may results with three months.

For further information, contact Larry A. Mallinger, Attorney, 202–447–1880.

Loan Production Offices

(Formerly 12 CFR Part 7.7380)

In response to a recent court decision, the Comptroller withdrew this interpretation in May, 1979 pending the resolution of any appeals of that decision (44 FR 29038).

For further information, contact L. Robert Griffin, Attorney, 202–447–1893.

Bank Indebtedness: Leasing

(12 CFR Part 7.7520)

In January, 1978, the Comptroller issued for comment a proposed interpretive ruling to provide greater consistency with revised generally accepted accounting principles for national banks which lease their banking premises. A final interpretation should be issued within three months. This change should reduce the costs to national banks in preparing their financial statements and should make the financial statements more useful to the banks themselves, the Comptroller, and public users of national financial statements.

For further information, contact Paul G. Nelson, Senior Attorney, 202–447–1880.

Single Premium Annuities

(12 CFR Part 7)

On July 27, 1979, the Comptroller published an Advance Notice of Proposed Rulemaking requesting comment concerning national bank participation in insurance company offerings of single premium annuity contracts which would utilize deposit accounts in national banks.

For further information, contact Thmoas P. Vartanian, Attorney, 202–447–1880.

Fiduciary Powers of National Banks; Collective Investment Funds

(12 CFR Part 9)

The Comptroller has under development an amendment to this regulation which would require national banks to prepare and make available a disclosure statement with respect to accounts over which investment discretion may be exercised. The statement would set forth policies and practices concerning commissions paid for effecting securities transactions.

This proposal would be issued pursuant to Section 28(e) of the Securities Exchange Act of 1934, and follows the recent adoption of rules by the Securities and Exchange Commission. The Comptroller's proposal is expected within 3 months.

For further information, contact Dean E. Miller, Deputy Comptroller for Specialized Examinations, 202–447–1731.

Securities Exchange Act Disclosure Rules

(12 CFR Part 11)

On June 4, 1979, the Comptroller published for comment proposed amendments to this regulation governing disclosures by national banks which have registered pursuant to Section 12(g) of the Securities Exchange Act of 1934. Banks required to register are generally those with more than 500 shareholders.

The proposed additions to Part 11 would make it substantially similar to Securities and Exchange Commission regulations for non-bank companies. The amendments cover beneficial ownership of securities, corporate governance, management remuneration, and accounting matters. In addition, the Comptroller requested comments on ways to significantly reduce the burdens imposed by these disclosure rules. A final amendment on the matters proposed is expected to be issued in November, 1979.

For further information, contact Frederick R. Medero, Director, Securities Disclosure Division, 202–447–1954.

Recordkeeping and Confirmation Requirements for Securities Transactions Effected for Customers

(12 CFR Part 12)

On July 24, 1979, the Comptroller adopted a new regulation requiring national banks to establish minimum procedures and records, and provide confirmations relating to the handling of securities transactions for trust department accounts and for customers, effective January 1, 1980 (44 FR 43252). Additional comment was requested on these requirements as they relate to government and municipal securities. The regulation includes partial exemptions for national banks which have averaged less than 200 transactions per year for customers.

For further information, contact Dean E. Miller, Deputy Comptroller for Specialized Examinations, 202–447–1731.

Change in Bank Control Rules

(12 CFR Part 15)

The Change in Bank Control Act of 1978 (Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978) requires that

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individuals seeking to acquire control of a national bank give the Comptroller 60 days advance notice, and the Comptroller may disapprove the acquisition. Effective March 10, 1979, the Comptroller amended this regulation in furtherance of the new statute, and issued an accompanying policy statement. The Comptroller is presently attempting to identify any problems that have developed with this new regulatory provision and welcomes comments from the public.

For further information, contact Patrick Doyle, Attorney, 202–447–1880.

Offering Circular Regulation

(12 CFR Part 16)

This regulation presently requires new national banks raising their initial equity captial and national banks offering debt or equity securities to the public in excess of $300,000 to use an offering circular. Following changes by the Securities and Exchange Commission in its regulations requiring similar documents, the Comptroller proposed for comment in June, 1979, to require a limited offering circular for national banks offering less than $1,000,000 in securities and a full-scope offering circular for larger offering. Final action of this proposal should occur by December 31, 1979.

For further information, contact Ralph Janvey, Attorney, 202–447–1954.

Required Notification to Nominate Bank Directors

(12 CFR Part 17)

This regulation permits national banks to require that any person proposing to nominate a director file certain information in advance with the Comptroller and the bank. Particularly in light of amendments to the Change in Bank Control rules (12 CFR Part 15) discussed above, the Comptroller is considering a proposal to rescind this regulation.

For further information, contact Larry Mallinger, Attorney, 202–447–1880.

Form and Content of Annual Report to Shareholders

(12 CFR Part 18)

This existing regulation requires that each national bank (other than those subject to 12 CFR Part 11, discussed above, and wholly-owned subsidiaries of bank holding companies) send an Annual Report to Shareholders and file that report with the Comptroller. The Comptroller expects to issue within two months proposed amendments which would clarify certain accounting requirements and delete the filing requirement. In addition, the proposal is expected to request comment on whether or not the regulation should be eliminated in its entirety.

For further information, contact Rhoger H. Pugh, Director, Coordination Division, 202–447–1587.

Rules of Practice: Hearings

(12 CFR Part 19)

Procedures and Standards Applicable to Suspensions and Prohibitions, Where a Felony Is Charged

(Former 12 CFR Part 24)

The Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Pub. L. 95–630) changed and expanded the Comptroller's regulatory powers in several respects, including bringing individuals within the scope of the Comptroller's cease-and-desist authority, providing for civil money penalties against banks and individuals that violated certain provisions of law, and permitting the Comptroller to hold hearings with a view to suspension or removal from office of a bank officer or director who has evidenced personal dishonesty or who has committed a breach of trust. These statutory changes were incorporated on April 3, 1979, into an amended version of the Comptroller's rules of practice and procedure (12 CFR Part 19).

In addition, the Comptroller incorporated into this regulation revised procedures governing securities law hearings and rules relating to investigations. This consolidation of rules of practice and procedures led the Comptroller to rescind the former regulation (12 CFR Part 24) governing part of what is now covered in Part 19 (44 FR 19373).

For further information, contact William B. Glidden, Attorney, 202–447–1880.

Minimum Security Devices and Procedures

(12 CFR Part 21)

The Comptroller's existing regulation requires several specific reports and records, refers to effective dates long past, and unnecessarily contains gender-specific terminology. The Comptroller is considering a proposal to eliminate most of the reporting and recordkeeping requirements, the now meaningless effective dates, and the gender-specific terminology. A proposed amendment is expected within two months.

For further information, contact Richard C. Wanlin, National Bank Examiner, 202–447–1574.

Statements of Business Interest of Directors and Principal Officers of National Banks

(12 CFR Part 23)

The Comptroller's present regulation requires that bank insiders file certain reports concerning their outside business interests. In light of the provisions of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 and the proposed rules issued thereunder on the same subject by the Board of Governors of the Federal System, the Comptroller is considering significant reductions in or elimination of this regulation. Action should be expected within three months.

For further information, contact Thomas P. Vartanian, Attorney, 202–447–1880.

Community Reinvestment Act Regulation

(12 CFR Part 25)

On March 27, 1979, the Comptroller adopted an amendment to the Community Reinvestment Act regulation which reflected an amendment to that law contained in the Financial Institutions Regulatory and Interest Rate Control Act of 1978, relating to financial institutions whose business predominantly consists of serving the needs of military personnel who are not located within a defined geographic area. This amendment allowed qualified institutions to delineate a "military community" of nonlocal depositors in addition to a local community or communities (44 FR 18163).

For further information, contact Jo Ann D. Barefoot, Deputy Comptroller for Customer and Community Programs, 202–447–0934.

Management Interlocks Regulation

(12 CFR Part 26)

The Depository Institution Management Interlocks Act, Title II of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, authorized the Comptroller to issue regulations to implement that Act's prohibitions and to permit service not otherwise prohibited under the Act. On July 19, 1979, the Comproller issued this regulation to clarify the prohibitions and grant certain exceptions to the prohibitions (44 FR 42152). In addition, proposed amendments to the regulation were simultaneously issued for comment with respect to establishing "grandfather" provisions and to clarify the coverage of the prohibitions to nominees of others.

For further information, contact Gwen Hibbs, Attorney, 202–447–1880.

Fair Housing Home Loan Data System

(Proposed 12 CFR Part 27)

The Comptroller published a proposed regulation in April, 1979, which would have required all national banks to maintain a log of inquiries and applications for home loans, obtain and maintain specified information in its own files, and submit data to the Comproller upon request for computer analysis to assist examiners in determining compliance with fair housing laws. A final regulation is expected to be issued in September, 1979, which may contain significantly less burdens then were proposed. Despite the inclusion of some new requirements on national banks, the final regulation should reduce the time involved for both bankers and bank examiners during on-site examinations and should result in more effective enforcement of fair housing laws.

For further information, contact Patrick J. Marr, Consumer, Community and Fair Lending Examinations Division, 202–447–1600.

Foreign Banks Operating in the United States

(Proposed 12 CFR Part 28)

Under the International Banking Act of 1978 (Public Law 95–369), the Comptroller has responsibility to charter and supervise the activities of federal branches and agencies operated by foreign banks in the United States. The Comptroller published a proposed regulation on May 10, 1979, issued a proposed statement of policy, and adopted on April 4, 1979, several amendments to regulations governing applications (12 CFR Parts 4 and 5) and fees (12 CFR Part 8) to permit applications to be filed. A final Part 28 and minor changes to Parts 4, 5 and 8 are expected to be issued in September 1979.

For further information, contact William B. Glidden, Attorney, 202–447–1880.

By Direction of the Secretary of the Treasury.

Dated: August 27, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79–27463 Filed 9–4–79; 8:45 am]

BILLING CODE 4810–33–M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3077]

Westinghouse Credit Corp.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Pittsburgh, Pa. finance company to cease violating federal regulations and statutes relating to credit discrimination and credit reporting by requesting, recording and utilizing prohibited consumer credit information; considering the sex and marital status of applicants in evaluating creditworthiness; and failing to provide rejected applicants with reasons for denial of credit. The company would be further required to establish educational programs for its consumer credit employees and retail dealers to explain the application of federal credit regulations to firm's credit practices.

DATE: Comments must be received on or before Nov. 5, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PD, Lewis H. Goldfarb, Washington, D.C. 20580, (202) 724–1181.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

In the matter of Westinghouse Credit Corp.; agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Westinghouse Credit Corporation, a corporation, and it now appears that Westinghouse Credit Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Westinghouse Credit Corporation, by its duly authorized officer and its attorneys, and counsel for the Federal Trade Commission that:

1. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

2. Proposed respondent Westinghouse Credit Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Three Gateway Center, Pittsburgh, Pennsylvania 15222.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent (1) issue its complaint

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corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by the statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed resondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. It is agreed that the relief for consumers set forth in the order contained herein fully satisfies any claim for consumer redress which the Commission has under Section 5(b) and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the draft of complaint, prior to service of this order. By its final acceptance of this agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to recommend or commence a civil action under Section 5 or Section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's draft of complaint, prior to service of this order.

Order

Definitions: For the purpose of this order the following definitions are applicable:

(a) "Equal Credit Opportunity Act" shall refer to that version of the Act, 15 U.S.C. § 1691 *et seq.*, now in effect or as it may be amended. (A copy of the Act to which the citations in this order refer is attached as Appendix A hereto.)

(b) "Regulation B" shall refer to that version of Regulation B, 12 CFR 202, now in effect or as it may be amended. (A copy of the Regulation to which the citations in this order refer is attached as Appendix A hereto.)

(C) "Fair Credit Reporting Act" shall refer to that version of the Act, 15 U.S.C. § 1681 *et seq.*, now in effect or as it may be amended. (A copy of the Act to which the citations in this order refer is attached as Appendix A hereto.)

(d) The terms "adverse action," "applicant," "application," "completed application for credit," "contractually liable," "consumer credit," "credit," "creditor," "credit transaction," "extend credit and extension of credit," "inadvertent error," "marital status" and "person" shall be defined as provided by § 202.2 of Regulation B.

(e) The term "regional manager" shall refer to each employee of the respondent who has immediate supervisory responsibility for respondent's "district managers."

(f) The term "district manager" shall refer to each employee of the respondent who is the head of each office where respondent receives and evaluates applications for consumer credit.

(g) The terms "consumer report" and "consumer reporting agency" shall be defined as provided in Section 603(d) and 603(f) respectively, of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681a(d) and 1681a(f) (1970).

(h) The term "retail dealer" shall refer to a separate business entity engaged in the sale of retail merchandise with which respondent has an agreement or a course of dealing whereby it purchases consumer sales finance contracts from the dealer.

(i) The term "dealer audit program" shall refer to respondent's current and usual procedure of reviewing the business practices of retail dealers through communications by mail, telephone or a visit with a retail dealer or with a consumer who has financed a purchase from a retail dealer.

Part I

It is ordered That respondent Westinghouse Credit Corporation, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with every application for consumer credit do forthwith cease and desist from:

1. Retaining in its files information, the use of which is prohibited by the Equal Credit Opportunity Act or Regulation B in the evaluation of a credit application, and retention of which is not expressly permitted by § 202.12(a) of Regulation B.

2. Recording the marital status of an applicant in terms other than "married," "unmarried," or "separated" on any document used to evaluate any application for consumer credit.

3. Placing any notation for the purpose of emphasizing prohibited marital status information on a consumer credit report used to evaluate any application for consumer credit.

4. Taking sex or marital status into account in the evaluation of any applicant's creditworthiness in connection with an application for consumer credit.

5. Requesting or considering information concerning the spouse (or former spouse under (e) below) of an applicant for consumer credit unless:

(a) The spouse will be permitted to use the account; or

(b) The spouse will be contractually liable upon the account; or

(c) The applicant is relying on the spouse's income as a basis for repayment of the credit requested; or

(d) The applicant resides in a community property state or property upon which an applicant is relying as a basis for repayment of the credit requested is located in such a state; or

(e) The applicant is relying on alimony, child support or separate maintenance payments from a spouse or former spouse as a basis of repayment of the credit requested.

6. Extending consumer credit or purchasing consumer credit contracts unless respondent provides each applicant against whom adverse action is taken upon an application for consumer credit with a written notification of the action taken on the application within 30 days of respondent's receipt of a completed application for consumer credit as required by § 202.9(a)(1) of Regulation B. Within thirty (30) days after service of this order, each notification of adverse action shall be provided by sending by first class mail a notice in the form and language shown in Appendix B which has been properly completed to indicate the principal, specific reasons for adverse action on each consumer credit application.

(a) Provided that where an application for consumer credit was denied by respondent after October 1, 1977, and the applicant was neither given the principal, specific reasons for the denial through issuance to the applicant of WCC Form 486 or otherwise, nor informed of the right to request the principal, specific reasons, as required by § 202.9 of Regulation B, respondent shall, within ninety (90) days of the service upon it of this order, mail to each such applicant known to respondent at the last address reflected in respondent's files, the letter and self-addressed, postage prepaid request form set forth in Appendix C. Respondent shall reply to each request which complies with § 202.9 of Regulation B and shall enclose a copy of the Commission's pamphlet on the Equal Credit Opportunity Act, attached as Appendix D, or a subsequent similar pamphlet mutually agreeable to the Federal Trade Commission and Westinghouse Credit Corporation. If, upon receiving a consumer request in response to this notification letter, respondent cannot determine the principal, specific reasons for the denial by a good faith examination of the applicant's file because one or more documents are missing from the file, respondent shall not be deemed to have violated the requirements of this order if respondent: (i) discloses to any such applicant that it is unable to provide reasons for denial because its records are incomplete and (ii) invites the applicant to reapply for consumer credit. A list of the names of consumers whose requests are processed pursuant to (i) and (ii) hereof shall be submitted as part of respondent's supplemental compliance report.

(b) *Provided further that* if, during the next eight (8) years, respondent changes its consumer credit evaluation criteria and the notification letter contained in Appendix B can no longer be completed to disclose the principal, specific reasons for adverse action on each application, respondent shall submit to the Commission a supplemental written report of compliance setting forth the proposed changes to Appendix B and the reasons therefor, which report shall be received and filed by the Commission before respondent implements such changes in its evaluation system.

7. Failing to preserve records as required by § 202.12(b) of Regulation B, including but not limited to (1) notifications of adverse actions, and (2) statements of the specific reasons for denial.

8. Extending consumer credit through or purchasing consumer credit contracts from any retail dealer from which respondent purchased 150 or more consumer sales finance contracts during the previous twelve (12) months and which engages in a pattern or practice of failing to provide respondent with a complete and legible copy of the application forms received by the retail dealer relating to applications for consumer credit acted upon by respondent.

Provided that the provisions of this paragraph shall expire ten (10) years after service of this order.

9. Failing to implement, within one hundred and eighty (180) days after service of this order, an initial educational program, a full and complete description of which has been received and filed by the Commission as a supplemental report of compliance, for all of respondent's officers and employees who are responsible for the formulation and implementation of respondent's consumer credit policies and practices, including but not limited to the processing of credit applications. In order to satisfy its obligations under this paragraph, respondent shall:

(a) Furnish each such officer and employee a copy of this order, a copy of the Equal Credit Opportunity Act and Regulation B, and written educational materials which explain the Equal Credit Opportunity Act, Regulation B, and the Fair Credit Reporting Act, as they apply to respondent's credit practices. Such educational materials shall be clearly written, shall omit discussion of any part of the Equal Credit Opportunity Act, Regulation B, or the Fair Credit Reporting Act which is not relevant to respondent's credit practices, and shall emphasize those parts of Regulation B and the Fair Credit Reporting Act which are particularly relevant to respondent's credit practices, including but not limited to §§ 202.4, 202.5(c), 202.5(d), 202.6(b)(2), 202.6(b)(5), 202.6(b)(6), 202.7(a), 202.7(d), 202.9 and 202.12 of Regulation B and Section 615 of the Fair Credit Reporting Act;

(b) Inform orally each such officer and employee, at a general meeting, or otherwise, of the provisions of this order and of the duties of Westinghouse Credit Corporation and its officers and employees under the Equal Credit Opportunity Act, Regulation B, and the Fair Credit Reporting Act. Each such officer and employee shall be advised that his or her failure to comply with the provisions of this order shall subject him or her to disciplinary action, including possible dismissal, as Westinghouse Credit Corporation deems appropriate. Respondent shall submit a written agenda of its oral presentation to its employees as part of the supplemental report of compliance filed pursuant to this paragraph; and

(c) Secure a signed statement from each such officer and employee that he or she has been given a copy of this order, the Equal Credit Opportunity Act and Regulation B, has also been given and has read the educational materials described in subparagraph (a), and has received the information described in subparagraph (b). A copy of each such statement shall be retained for at least three (3) years and shall be made available for inspection by a representative of the Commission.

10. Failing to provide the documents described in Paragraph 9(a) hereof and the information described in Paragraph 9(b) hereof to each officer or employee who within five (5) years after the service of this order is given the responsibilities described in Paragraph 9 hereof and to require each such officer or employee to sign within ten (10) days of the assumption of said responsibilities a statement as described in Paragraph 9(c) hereof. A copy of each such statement shall be retained for at least three (3) years and shall be made available upon request for inspection by a representative of the Commission.

11. Failing to conduct a refresher educational program at least once a year for five (5) years after service of this order for all officers and employees having the responsibilities described in Paragraph 9 hereof, for the purpose of explaining the requirements of the Equal Credit Opportunity Act, Regulation B, and the Fair Credit Reporting Act and ensuring that such employees are carrying out their employment responsibilities in conformity with this order. In order to satisfy its obligations under this paragraph, respondent shall:

(a) Conduct a conference or seminar for all district managers to discuss the requirements of the Equal Credit Opportunity Act, Regulation B, and the Fair Credit Reporting Act as they pertain to respondent's credit practices. Such conferences or seminars shall also cover relevant amendments to the Equal Credit Opportunity Act, Regulation B, or the Fair Credit Reporting Act and relevant current regulatory or judicial interpretations.

(b) Conduct at each district office similar conferences or seminars led by an appropriate person, for all employees at the district level having the responsibilities described in Paragraph 9 hereof in order to ensure that each such employee receives or has received in the past the written materials described in Paragraph 9(a) and an oral explanation of those materials, and of the requirements of the Equal Credit Opportunity Act, Regulation B, and the Fair Credit Reporting Act as they pertain to respondent's credit practices. These sessions also shall cover relevant amendments to the Equal Credit Opportunity Act, Regulation B, or the Fair Credit Reporting Act and relevant current regulatory and judicial interpretations.

(c) If necessary to reflect relevant amendments to the Equal Credit Opportunity Act, Regulation B, or the

Fair Credit Reporting Act, or relevant regulatory and judicial interpretations, furnish each employee having the responsibilities described in Paragraph 9 hereof with an updated version of the written educational materials described in subparagraph 9(a). Such written materials shall be retained for a period of three (3) years and shall be made available upon request for inspection by a Commission representative.

12. Extending consumer credit through or purchasing consumer credit contracts from retail dealers unless respondent conducts an initial retail dealer education program as herein described. A full and complete description of said initial retail dealer educational program shall be filed with the Commission as a supplemental report of compliance within one hundred and eighty (180) days after service of this order. In order to satisfy its obligations under this paragraph, respondent shall:

(a) Within one hundred and eighty (180) days after service of this order, send by first-class mail to each retail dealer from which respondent purchased 150 or more consumer sales finance contracts during the previous twelve (12) months, the letter set forth in Appendix E;

(b) Within one hundred and eighty (180) days after service of this order, send by first-class mail to each retail dealer not included in subparagraph (a) hereof, the letter set forth in Appendix F;

(c) Within one hundred and eighty (180) days after service of this order, furnish to each retail dealer written educational materials which explain in clearly written language the Equal Credit Opportunity Act and Regulation B as they apply to the retail dealer's credit practices regarding applications referred to respondent. Such educational materials shall omit discussion of any part of the Equal Credit Opportunity Act or Regulation B which is not relevant to the retail dealer's or respondent's credit practices, and shall address itself to those parts of Regulation B which are particularly relevant to the retail dealer's credit practices, including but not limited to §§ 202.4, 202.5(a), 202.5(c), 202.5(d), 202.6(b)(6), 202.7(a), 202.7(d), and 202.12;

(d) Make available to each retail dealer described in subparagraph (a) hereof an initial educational class which shall include an oral explanation of the written educational materials described in subparagraph (c) hereof. Such initial educational class may be provided by respondent's district managers as part of the district manager's normal ongoing business relationship with the retail dealer, and shall be made available at such a time or times as to facilitate attendance by the retail dealer's officers and/or employees who have responsibilities regarding the processing of applications for consumer credit, including but not limited to those who have direct contact with consumers regarding such applications. Within one hundred and eighty (180) days after service of this order, respondent shall contact each retail dealer described in subparagraph (a) hereof to set a date for the initial retail dealer educational classes; and

(e) With respect to each retail dealer described in subparagraph (a) hereof, secure a signed statement from the responsible representative of respondent which states or provides:

(i) That the retail dealer has been provided with the written educational materials described in subparagraph (c) hereof;

(ii) That respondent made available the educational class described in subparagraph (d) hereof;

(iii) The date(s) on which respondent made available the educational class described in subparagraph (d) hereof; and

(iv) A list setting forth the titles and number of individuals who attended the educational class described in subparagraph (d) hereof, a list setting forth the titles and number of individuals who received the written educational materials described in subparagraph (c) hereof, and a statement as to the total number of such dealer's employees who, in the dealer's opinion, have the responsibilities set forth in subparagraph (d) above. A copy of such lists shall be retained for at least three (3) years and shall be made available for inspection by a representative of the Commission.

13. Failing to provide, within thirty (30) days after respondent purchases the first consumer credit contract, the letter described in subparagraph 12(b) hereof and the written educational materials described in subparagraph 12(c) hereof to each business entity which within five (5) years after the service of this order becomes a retail dealer.

14. Extending consumer credit through or purchasing any consumer credit contract from any retail dealer unless respondent conducts at least once a year for five (5) years after service of this order a refresher retail dealer educational program. In order to satisfy its obligations under this paragraph, respondent shall:

(a) If necessary to reflect relevant amendments to the Equal Credit Opportunity Act or Regulation B, or relevant, current regulatory and judicial interpretations, furnish to each retail dealer an updated version of the written educational materials described in subparagraph 12(c) hereof. If an updated version of the educational materials is not furnished to retail dealers, a notice informing said dealers of the availability of additional copies of the written educational materials from the previous year shall be furnished. Such updated written materials shall be retained for at least three (3) years and shall be made available for inspection by a representative of the Commission.

(b) Make available to each retail dealer from which respondent purchased 150 or more consumer credit contracts during the previous twelve (12) months, a refresher educational class which shall include an oral explanation of the written educational materials described in subparagraph (a) hereof. Such refresher educational class may be provided by respondent's district managers as part of the district manager's normal ongoing business relationship with the retail dealer, and shall be made available at such a time or times as will facilitate attendance by the retail dealer's officers and/or employees of the retail dealer who have responsibilities regarding the processing of applications for consumer credit, including but not limited to those who have direct contact with consumers regarding such applications.

15. Failing to use credit application forms which clearly and conspicuously disclose to the applicant that he or she is entitled to apply for an individual account, and that if the applicant chooses to apply for an individual account, he or she need not supply any information about his or her spouse or former spouse unless the applicant is relying upon a spouse's income, is relying on alimony, child support or separate maintenance payments, or resides in a community property state.

16. Failing to make available to each retail dealer and to each business entity that within five (5) years after service of this order becomes a retail dealer an equal opportunity in credit sign for the purpose of public display in the retail dealer's place of business, which is clear and conspicuous, not smaller in dimension than twenty-two (22) inches by twenty-eight (28) inches, states the provisions of Section 701(a) of the Equal Credit Opportunity Act, and further states the right to apply for an individual account regardless of the applicant's marital status.

17. Failing to include in its ordinary dealer audit program questions to determine whether retail dealers are in compliance with the requirements of the Equal Credit Opportunity Act and Regulation B, which are contained in §§ 202.5, 202.7(a), 202.7(d) and 202.12 of the Regulations.

Provided that if respondent eliminates its dealer audit program at any time in the future, it shall nevertheless retain those portions of the program which pertain to compliance by retail dealers with the Equal Credit Opportunity Act and its implementing Regulation.

Provided further that the provisions of this paragraph shall expire fifteen (15) years after service of this order.

18. Respondent shall not be liable for a civil penalty for any violation of any paragraph except 4 and 5 of Part I of this order if it shows by a preponderance of the evidence that any such violation was caused by an inadvertent error.

Part II

It is further ordered that respondent, Westinghouse Credit Corporation, a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with any application for credit that is primarily for personal, family, household purposes, and in connection with either the receipt or consideration of any consumer report, do forthwith cease and desist from:

1. Failing whenever credit for personal, family or household purposes involving the consumer is denied, either wholly or partly because of information contained in a consumer report from a consumer reporting agency, to so advise the consumer against whom such adverse action has been taken and to supply the name and address of the consumer reporting agency making the report as required by Section 615(a) of the Fair Credit Reporting Act.

2. Failing, within ninety (90) days after service of this order, to mail the letter and self-addressed, postage prepaid request form contained in Appendix G to each applicant who was denied credit after October 1, 1977, and before the service of this consent order, for personal, family, or household purposes involving the consumer, based in whole or in part on information contained in a consumer report from a consumer reporting agency. The letter shall be sent to the last address of the applicant which is reflected in respondent's files.

(a) *Provided that* to the extent that respondent's records indicate that the notice required by Section 615(a) of the Fair Credit Reporting Act was previously given to the applicant, respondent shall be deemed to be in compliance with this provision of the order as to each such applicant.

(b) *Provided further that* the notice required in this paragraph may be combined, where appropriate, with the notice required under Paragraph 6, Part I, hereof.

(c) *Provided further that* in replying to requests from applicants received in response to the letter contained in Appendix G, respondent shall include the language set forth in Appendix H in the Section 615(a) notice it sends to the applicant and shall enclose a copy of the Commission's pamphlet on the Fair Credit Reporting Act attached as Appendix I, or a subsequent pamphlet mutually agreeable to the Federal Trade Commission and Westinghouse Credit Corporation.

3. Failing whenever credit for personal, family, or household purposes involving the consumer is denied, either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, to disclose, at the time such adverse action is communicated to the consumer, his or her right to make a written request for the nature of the information upon which such adverse action was based, and failing, upon receipt of such a request to disclose within a reasonable period of time the nature of the information to the consumer, as required by Section 615(b) of the Fair Credit Reporting Act.

4. Failing, withint ninety (90) days after service of this order, to mail the letter and self-addressed, postage prepaid request form contained in Appendix G to each applicant who was denied credit after October 1, 1977, and before the service of this consent order, for personal, family or household purposes involving the consumer, based in whole or in part on information obtained from a person other than a consumer reporting agency bearing on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. The letter shall be sent to the last address of the applicant which is reflected in respondent's files.

(a) *Provided that* to the extent that respondent's records indicate that the notice required by Section 615(b) of the Fair Credit Reporting Act was previously given to the applicant, respondent shall be deemed to be in compliance with this provision of the order as to each such applicant.

(b) *Provided further that* the notice required by this paragraph may be combined, where appropriate, with the notice required under Paragraph 6, Part I, hereof.

5. Respondent shall not be liable for a civil penalty for any violation of Part II of this order if it shows by a preponderance of the evidence that any such violation was caused by an inadvertent error.

Part III

1. *It is further ordered* that respondent shall preserve evidence of compliance with the requirements imposed under this order for a period of not less than three (3) years after respondent notifies each applicant of the reasons for denial pursuant to Paragraph 6 of Part I of this order, the right to request the name and address of any consumer reporting agency pursuant to Paragraph 2 of Part II of this order, and the right to request the nature of third party information pursuant to Paragraph 4 of Part II of this order. Respondent shall upon request permit Commission representatives to inspect such records.

2. *It is further ordered* that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, arrangement of sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

3. *It is further ordered* that respondent shall: (a) Within sixty (60) days after service of this order, submit to the Commission a written report setting forth in detail the manner and form in which it has complied with Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 15 of Part I of this order and Paragraphs 1 and 3 of Part II of this order, and the manner and form in which it intends to comply with Paragraphs 9, 10, 11, 12, 13, 14, and 17 of Part I of this order and Paragraphs 2 and 4 of Part II of this order.

(b) Within one hundred and eighty (180) days after service of this order submit to the Commission a supplemental written report setting forth the manner and form in which it has complied with Paragraphs 9, 10, 12, 13, 16, and 17 of Part I of this order and Paragraphs 2 and 4 of Part II of this order.

(c) Once a year for five (5) years, submit to the Commission a supplemental written report setting forth the manner and form in which it has complied with Paragraphs 11 and 4 of Part I of this order. These five (5) annual periods shall begin the day after service of this order and such supplemental reports shall be submitted within ten

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(10) days after the close of each annual period.

Appendix A

[A copy of ECOA, Regulation B, and FCRA as required by Definitions (a), (b) and (c).]

Appendix B

Date:

Thank you for your recent application for credit privileges which was referred to Westinghouse Credit Corporation by [*name of retail dealer.*]. We regret that we have declined your application at this time, based upon the following factors (appropriate box[es] is [are]) checked or information provided.

Statement of Credit Denial or Termination

Applicant's Name:
Applicant's Address:
Description of Transaction: New Application.
Add on to Existing Account

Principal Reason(s) for Adverse Action Concerning Credit

1. Insufficient credit references
2. Unable to verify credit references
3. Temporary or irregular employment
4. Unable to verify employment
5. Length of employment
6. Insufficient income
7. Excessive obligations
8. Unable to verify income
9. Too short a period of residence
10. Temporary residence
11. Unable to verify residence
12. No credit file
13. Insufficient credit file
14. Delinquent credit obligation(s)
15. Garnishment, attachment, foreclosure, repossession or suit
16. Bankruptcy
17. Insufficient credit experience with WCC to warrant additional credit
18. Applicant rejected WCC offer of reduced amount of credit
19. Failure to meet ——% down payment requirement
20. —— times delinquent with WCC account number ——
21. Credit application incomplete because of ——— Other ———

Disclosure of Use of Information Obtained From an Outside Source

No information from a consumer reporting agency or an outside source other than a consumer reporting agency was used in whole or in part as a basis for the adverse action. Additional disclosure inapplicable.

Information obtained in a report from a consumer reporting agency. If you have any questions about the report, you may contact the agency.

Name:
Address:
Phone:

Information obtained from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, within 60 days of receipt of this notice, for disclosure of the nature of the adverse information. Write or call Westinghouse Credit Corporation at the address appearing at the top of this letter.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the legal capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Very truly yours,
Westinghouse Credit Corporation
District Manager

Appendix C

Dear——

Our records show that Westinghouse Credit Corporation denied your application for consumer credit within the last two years. In most circumstances, the Equal Credit Opportunity Act requires WCC to give its applicants for consumer credit whose applications were denied the right to be told the specific reasons for the denial.

Our records show that you may not have been informed of your right to request the reasons for WCC's denial of your application. If you were not so informed, or if you exercised that right but found that the reasons given to you were not meaningful or helpful, let us know within the next sixty (60) days by returning the enclosed self-addressed, postage prepared request form. We will do our best promptly to provide you with the information you seek.

If you want more information about federal credit laws, write: Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,
Westinghouse Credit Corporation

Appendix C

Request Form

Yes, I would like to know the specific reasons why my application for Westinghouse credit was denied.

_____
(Name)

_____
(Street Address)

_____
(City, State)

_____

(If possible, please note the month and year of your application to WCC.)

Appendix D

[Attach ECOA pamphlet as required by Part I, ¶6(a).]

Appendix E

Dear ——:

The Equal Credit Opportunity Act and Regulation B prohibit discrimination on the basis of sex, marital status, race, religion, national origin, age, receipt of public assistance or exercise of rights under federal consumer credit laws. Some months ago the Federal Trade Commission initiated an investigation of Westinghouse Credit Corporation and other national credit companies relating to their compliance with the Equal Credit Opportunity Act. On [date], WCC entered into a consent agreement with the FTC, which terminated the investigation of WCC. A copy of that agreement, with its incorporated order, is enclosed.

Many of the provisions of the consent order concern only WCC's internal procedures and have no bearing whatsoever on the operations of its dealers. For example, the order contains detailed provisions governing the mailing of notices by WCC to applicants against whom adverse action has been taken and provisions concerning the education of WCC employees with respect to the requirements of the Equal Credit Opportunity Act and Regulation B.

There are, however, other provisions in the consent order that directly or indirectly affect WCC's relationship with your company and with other retail dealers. Under those provisions WCC has agreed:

To furnish to you the various materials enclosed with this letter, including a copy of the consent order referred to above, a copy of the Equal Credit Opportunity Act and Regulation B, and a copy of certain written materials summarizing the requirements of the statute and regulations.

To meet once a year with your employees for the purpose of discussing and answering questions about WCC's policies concerning compliance with the requirements of the Equal Credit Opportunity Act and Regulation B as they relate to applications referred to WCC.

To make available to you, upon request, an equal-opportunity-in-credit sign, for display in your place of business.

To require you to furnish to WCC complete and legible copies of all documents received by you relating to credit applications referred to WCC.

WCC has agreed to these provisions for two reasons. First, it is the FTC Staff's opinion that under certain circumstances WCC itself could be liable for civil penalties if retail dealers with whom WCC has an agreement or a course of dealing (whereby WCC purchases sales finance contracts) violated the Equal Credit Opportunity Act. To protect itself against such possible liability, as well as because of its general policy of supporting the protection of rights of consumers in credit transactions, WCC has agreed to and intends to comply fully with the provisions of the consent order set forth above concerning WCC's relationship with retail dealers. Second, WCC believes that compliance by WCC with these provisions of its agreement will assist its dealers in avoiding problems under the Act.

WCC urges that you review the enclosed materials carefully, and that you take steps to insure that WCC receives copies of all documents received by you relating to applications for consumer credit referred to WCC. WCC's District Manager will contact you in the near future to arrange a convenient time to meet with your staff to discuss compliance with the Act.

Your assistance and cooperation in this program can be critical in protecting both WCC as well as your own company from exposure to the substantial penalties that the Equal Credit Opportunity Act provides for violation of its provisions.

Thank you for your cooperation. If you have any questions, please contact [name] at [address] [telephone number].

Sincerely yours,
Westinghouse Credit Corporation

Appendix F

Dear——:

The Equal Credit Opportunity Act and Regulation B prohibit discrimination on the basis of sex, marital status, race, religion, national origin, age, receipt of public assistance or exercise of rights under federal consumer credit laws. Some months ago the Federal Trade Commission initiated an investigation of Westinghouse Credit Corporation and other national credit companies relating to their compliance with the Equal Credit Opportunity Act. On [date], WCC entered into a consent agreement with the FTC, which terminated the investigation of WCC.

Many of the provisions of the consent order concern only WCC's internal procedures and have no bearing whatsoever on the operations of its dealers. For example, the order contains detailed provisions governing the mailing of notices by WCC to applicants against whom adverse action has been taken and provisions concerning the education of WCC employees with respect to the requirements of the Equal Credit Opportunity Act and Regulation B.

There are, however, other provisions in the consent order that directly or indirectly affect WCC's relationship with your company and with other retail dealers. Under those provisions WCC has agreed:

To furnish to you the various materials enclosed with this letter, including a copy of the Equal Credit Opportunity Act and Regulation B and a copy of certain written materials summarizing the requirements of the statute and regulations.

To make available to you, upon request, an equal-opportunity-in-credit sign, for display in your place of business.

To require you to furnish to WCC complete and legible copies of all documents received by you relating to credit applications referred to WCC.

WCC has agreed to these provisions for two reasons. First, it is the FTC Staff's opinion that under certain circumstances WCC itself could be liable for civil penalties if retail dealers with whom WCC has an agreement or a course of dealing (whereby WCC purchases sales finance contracts) violated the Equal Credit Opportunity Act. Therefore, in order to protect itself from exposure to such liability, as well as because of its general policy of supporting the protection of rights of consumers in credit transactions, WCC has agreed to and intends to comply fully with the provisions of the consent order set forth above concerning WCC's relationship with retail dealers. Second, WCC believes that compliance by WCC with these provisions of its agreement will assist its dealers in avoiding problems under the Act.

WCC urges that you review the enclosed materials carefully, and that you take steps to insure that WCC receives copies of all documents received by you relating to applications for consumer credit referred to WCC.

Your assistance and cooperation in this program can be critical in protecting both WCC as well as your own company from exposure to the substantial penalites that the Equal Credit Opportunity Act provides for violations of its provisions.

Thank you for your cooperation. if you have any questions, please contact [name] at [address] [telephone number].

Sincerely yours
Westinghouse Credit Corporation

Appendix G

Dear ——:

Our records show that Westinghouse Credit Corporation denied your application for consumer credit within the last two years. The Fair Credit Reporting Act gives persons denied consumer credit the right to know whether the denial was based on information supplied by a consumer credit reporting agency and, if so, the name and address of such agency. Credit reports provide a variety of information to creditors including information about how many and what types of credit accounts you have, whether you are able to pay your bills, and whether you have been sued.

The Fair Credit Reporting Act also gives persons denied credit the right to know the substannce of information relied upon in denying credit if such information was supplied by a person other than a consumer credit reporting agency. For example, you can find out whether a creditor considered information from your employer concerning your salary or the period of time which you have been employed, or information from your landlord about how much rent you pay or how long you have lived at a given address.

Our records show that you may not have been informed about whether WCC used information from a credit bureau or from some other person in considering your application. If you would like to find out whether such information was taken into account, please fill out and return the enclosed self-addressed, postage prepaid request form.

One reason that you may want to return the enclosed form is to see whether credit report or third party information is accurate. If such information is wrong, you may be able to correct it, and improve your chances to get credit.

If you want more information about the federal credit laws, write: Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,
Westinghouse Credit Corporation.

Appendix G

Request Form

YES, I would like to know whether my application was denied because of information supplied by a credit bureau. If so, please supply me with the name and address of the credit bureau.

I would also like to know whether my application was denied because of information received from a third person other than a credit bureau.

If my application was denied because of information received from a third person,
I do
I do not
want WCC to describe this information to me.

Thank you.
_____ [Name]
_____ [Street Address]
_____ [City, State]
_____ (If possible, please note the month and year of your application to WCC.)

Appendix H

If you ask the credit bureau to disclose the nature and substance of information in your file *within thirty days* after you receive this notice, the bureau cannot charge you a fee for the disclosure.

Appendix I

[Attach FCRA pamphlet as required by Part II. ¶ 2(c).]

[File No. 782-3077]

Westinghouse Credit Corp.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Westinghouse Credit Corporation (WCC), Three Gateway Center, Pittsburgh, Pennsylvania 15222.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint that led to the proposed order to cease and desist alleged violations of the separate Acts: The Equal Credit Opportunity Act ("ECOA") and the Fair Credit Reporting Act ("FCRA"). The alleged violations and corresponding order provisions of each of these Acts will be discussed separately below.

I. Equal Credit Opportunity Act Allegations and Order Provisions

The complaint contains allegations of five separate violations of the ECOA and Regulation B, as in effect since March 23, 1977. The proposed order provisions require WCC to cease and desist from the law violations alleged in the complaint and to provide retroactive relief to consumers whose rights are alleged to have been violated. In addition, the proposed order would impose five addtional affirmative obligations on WCC, which are designed to lessen the likelihood of future violations by WCC and the retail dealers through which it operates.

(1) *Recording and Retaining Prohibited Information.* The complaint alleges that WCC regularly receives oral communications from its retail dealers and consumer reporting

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agencies ("credit bureaus") which describe applicants' marital status using the terms "divorced," "widowed," and "single." The complaint alleges that WCC records such prohibited marital status information on the internal documents which are used by its evaluators to make credit decisions. The proposed consent agreement would order WCC to cease and desist from either recording or retaining in its files prohibited marital status information.

(2) *Considering an Applicant's Sex and Marital Status.*

Consumer credit reports which WCC obtained from credit bureaus regularly contain information from court records, including divorce actions in which the applicant was named as a party. The complaint alleges that WCC regularly annotated consumer credit reports to emphasize prohibited marital status information. The complaint further alleges that WCC's credit evaluators considered such prohibited marital status information in determining whether to decline or approve applications for consumer credit. The proposed consent agreement would order WCC to cease and desist from placing any notation for the purpose of emphasizing marital status information on a consumer credit report and from taking sex or marital status into account in the evaluation of an applicant's creditworthiness.

(3) *Requesting and Considering Information About a Non-Applicant Spouse.* The complaint alleges that WCC regularly requested information about an applicant's spouse when it did not know whether the spouse intended to be a joint applicant or whether another permissible purpose existed for WCC to request information about the spouse. The compliant also alleges that, in a substantial number of instances, WCC obtained credit reports on applicants' deceased spouses. The proposed order would prohibit WCC from requesting or considering information about an applicant's spouse unless authorized by Regulation B.

(4) *Failing to Provide Reasons for Denial or Informing Rejected Applicants of the Right Reasons for Denial.* The complaint alleges that the form used by WCC to notify consumers of its decision to reject their applications for credit did not comply with the reason-giving procedures set forth in Regulation B. The form did not comply because where the form was used to disclose, as required by the FCRA, that information from a credit bureau or other third party had been used to make an adverse decision, WCC failed to also notify the consumer, as required by the ECOA, that he or she had a right to a separate statement from WCC of the principal, specific reasons for denial. The complaint additionally charges that WCC sometimes failed to inform consumers of the action taken on their applications and failed to respond to consumers' requests for reasons for denial.

The proposed consent agreement would order WCC to cease and desist from failing to comply with the notification requirements of Regulation B. It would further require that WCC give consumers the principal, specific reasons for denial by completing a specified form when it first notifies them of the rejection, rather than merely telling consumers that they have a right to request a statement of the reasons for denial. The proposed order would also require WCC to mail retroactive notices to all consumers who may not have received either a statement of the reasons why their applications were denied or a statement of their right to request such reasons. The retroactive notice will be given to all consumers whose applications were denied on or after October 1, 1977, unless WCC can prove that such consumers received either a statement of the reasons for denial or a statement of the right to request reasons for denial. The notice states that consumers have a right to reasons for denial and that WCC may not have informed them of the right to request them. The notice also states that if consumers received a statement of reasons but found that the reasons given were not meaningful or helpful, they may make a second request for reasons from WCC. The notice invites consumers to write the Federal Trade Commission for further information about their credit rights. The proposed order would also require WCC to mail the Commission's ECOA pamphlet to each consumer requesting reasons for denial pursuant to its retroactive notice provision. Finally, the letter containing the retroactive notice would contain a postage pre-paid, self-addressed request form which consumers could complete and mail to request a statement of reasons for denial.

(5) *Failing to Retain Applications and Rejection Notifications.* The complaint alleges that WCC and its retail dealers have failed to retain records of consumer credit transactions, as required by Regulation B. Specifically, the complaint alleges that WCC has failed to retain the originals or copies of notifications of denial. The complaint additionally alleges that WCC's retail dealers regularly discarded rejected applications and that WCC knew about its dealers' record retention violations. The proposed consent agreement would require WCC to cease and desist from failing to retain records already in its possession and would further order it to cease doing business with any retail dealer which engages in a pattern or practice of failing to provide WCC with copies of all the records in the dealer's possession which have been used to process applications for consumer credit from WCC. The provision requiring WCC to obtain applications from its dealers only applies to dealers from which WCC purchases 150 or more consumer credit contracts annually, and the provision expires in ten years.

(6) *Educational Program for WCC Employees.* The proposed consent agreement would order WCC to establish an educational program for its consumer credit employees which would explain the application of the ECOA, Regulation B, and the FCRA to the company's consumer credit practices. As part of the initial educational program, WCC would prepare written educational materials which explain in clear language WCC's obligations under the ECOA, Regulation B, and the FCRA. WCC would also provide each employee with a copy of the Commission's final order in this case. Pursuant to the consent agreement, WCC would hold general meetings for its employees which would include an oral presentation describing the requirements imposed on WCC by the proposed agreement and the ECOA. Any employee who is unable to attend a general meeting would be approached individually by WCC training personnel. All employees would be informed that their failure to comply with the provisions of the proposed agreement would subject them to disciplinary action, including possible dismissal. WCC would secure a signed statement from each of its consumer credit employees that he or she has read the Commission's order, received the written educational materials, and received oral instructions regarding the requirements of the statutes and Regulation B.

The proposed consent agreement further provides that each new consumer credit employee hired by WCC during the next five years will receive a copy of the written educational materials and the proposed order. Each new employee would also be required to sign the statement confirming participation in the educational program. The proposed consent agreement would also require WCC to conduct a refresher educational program for its consumer credit employees each year for five years. The refresher program would include the distribution of written educational materials concerning changes in the law and employee attendance at seminars reviewing general ECOA and FCRA requirements.

(7) *Educational Program for WCC's Retail Dealers.* The proposed consent agreement would order WCC to institute an educational program for its retail dealers. As part of such program, WCC would develop written educational materials which would explain in clear language the retail dealers' obligation under the ECOA and Regulation B. The written educational materials would be provided to each retail dealer which refers consumer credit contracts to WCC. These materials would be accompanied by a cover letter which states that WCC has agreed to undertake the education of its retail dealers pursuant to an agreement with the FTC. The Consent agreement would further order WCC to provide an educational class to each of its retail dealers from which WCC purchases 150 or more consumer credit contracts annually. The class would be provided to those employees of the retail dealer with responsibilities for processing consumer credit applications and would include an oral explanation of the written educational materials. WCC employees would be required to sign a statement certifying that they made the class available to each covered retail dealer and listing the number and titles of the employees of each retail dealer who actually received such training. The consent agreement would further require WCC to provide the cover letter and written educational materials to each new retail dealer during the next five years. WCC would have to conduct annual refresher courses for its retail dealers for five years. Such refresher courses would include providing each retailer dealer with updated written educational materials. If during any year it were unnecessary to update the written educational materials because there were neither amendments to the ECOA or

Regulation B nor relevant regulatory or judicial interpretations, WCC would be required to offer each retail dealer additional copies of the written educational materials from the previous year. For retail dealers from which WCC purchased 150 or more consumer credit contracts during the previous year, the refresher educational class which would also include an annual oral explanation of the written educational materials.

(8) *Notice of Applications of Rights of Married Applicants to Apply for Individual Accounts.* The proposed agreements would order WCC to use credit application forms which clearly disclose to applicants that they are entitled to apply for an individual account and that applicants choosing to apply for individual accounts need not supply any information about their spouses or former spouses unless they are relying on their spouses' income, or relying on alimony, child support or separate maintenance payments, or reside in a community property state.

(9) *Equal Opportunity in Credit Sign for Retail Dealers.* The proposed consent agreement would order WCC to make available to each retail dealer an equal opportunity in credit sign for display in the retail dealer's place of business. Such signs would state that discriminiation on the basis of sex, marital status, race, national origin, color, religion, age, receipt of public assistance income, or exercise of rights under the Federal Consumer Credit Protection Act is prohibited in any aspect of a credit transaction. The sign would further state that applicants have the right to apply for an individual credit account regardless of their marital status, the ECOA signs would be made available to each existing retail dealer and to each new dealer during the next five years.

(10) *Retail Dealer Audit Program to Detect ECOA Violations.* The proposed consent agreement would order WCC to audit each retail dealer for fifteen years to determine whether the dealer is in compliance with the requirements of Regulation B regarding discriminatory discouragement of applicants, the information asked of applicants during the application process, the signatures obtained from applicants on credit instruments, and the retention of applications. The audit of retail dealers would be incorporated in WCC's ordinary dealer audit program; however, if WCC eliminated its dealer audit program at any time during the fifteen year period, it would be required to continue auditing its retail dealers for ECOA compliance.

(11) *Defenses for Violation of Consent Agreement.* The proposed consent agreement states that WCC would not be liable for a civil penalty for violating most of the provisions of the order if WCC could demonstrate that certain violations were caused by a mechanical, electronic, or clerical error which was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. The inadvertent error defense would not be available if WCC took sex or marital status into account in evaluating an applicant's creditworthiness, or if WCC requested or considered information about an applicant's spouse in an impermissible situation.

II. Fair Credit Reporting Act Allegations and Order Provisons

The complaint contains allegations of two vilolations of the FCRA. The proposed order provisons are designed to provide prospective relief as well as retroactive relief in some instances.

(1) *Violation of Notification Requirements When Credit is Denied Due to Credit Bureau Report.* The complaint alleges that WCC violated Section 615(a) of the Fair Credit Reporting Act. Section 615(a) provides that whenever consumer credit is denied either wholly or partly because of information contained in a consumer credit report from a credit bureau, the creditor must so advise the consumer and supply the name and address of the credit bureau making the report. The complaint alleges that subsequent to April 25, 1971 WCC violated Section 615(a) in three ways. First, it alleges that WCC rejected applications for credit in all or part because of adverse information contained in credit reports. Second, it alleges that WCC rejected applications for credit in whole or in part because the credit bureau report did not contain sufficient affirmative information to meet WCC's creditworthiness standards or that the credit bureau reported that it did not have a file in the consumer's name. Third, it alleges that WCC often failed to provide the complete name and address of the creit bureau as required.

The proposed consent agreement would order WCC to prospectively comply with Section 615(a). The proposed order would also require WCC to mail a letter to each applicant who was denied credit since October 1, 1977, in whole or in part because of information in a credit bureau report. The letter explains consumers' rights under the Fair Credit Reporting Act and states that the applicant may not have been informed about whether WCC used information from a credit bureau or from some other source in denying the consumer's application.

The letter states that if the consumer would like to know whether such information played a part in WCC's decision to deny the consumer's application, the consumer should complete and return the enclosed self-addressed, postage pre-paid request form. The letter also explains that by returning the request form and receiving their information about the role, if any, a credit bureau report or other third party information may have had in WCC's decision to deny credit, the consumer will be better able to determine whether such information is accurate or in need of correction. The letter concludes by inviting the consumer to write to the Federal Trade Commission if more information about federal credit laws is desired.

The consent order would excuse WCC from mailing the proposed letter and request form to any consumer to whom WCC has previously given the notice required by Section 615 of the FCRA. The consent order also provides that WCC may combine the information in the letter concerning consumers' FCRA rights with the information in the letter regarding consumers' right to receive the specific reasons for denial under the ECOA. Consumers who complete and return the FCRA request form would receive, in addition to the information required under the FCRA, a statement of their right to receive the nature and substance of the information in their credit file from the credit bureau without charge if their request to the credit bureau is made within 30 days. WCC would also enclose a copy of the FTC pamphlet on the FCRA.

(2) *Violation of Notification Requirements When Credit Is Denied Due to Information Received from Other Creditors, Employers, Landlords, or Other Third Parties.* The complaint alleges that WCC violated Section 615(b) of the Fair Credit Reporting Act. Section 615(b) provides that whenever consumer credit is denied either wholly or partly because of information obtained from a third party other than a credit bureau, the creditor must tell the consumer that he or she may request a disclosure of the nature of the information obtained. The complaint alleges that subsequent to April 25, 1971 WCC often failed to disclose to consumers that information obtained from such third parties contributed to the credit denial and that they had a right to request form WCC the nature of the information.

The consent agreement would require WCC to prospectively comply with Section 615(b). It would also require that WCC mail the FCRA letter and request form discussed above to each applicant who was denied credit since October 1, 1977 in whole or in part because of information WCC received from a third party other than a credit bureau. As with the notification respecting information obtained from credit bureaus, the proposed consent agreement would permit combining this notification letter with the ECOA notification and states that the FCRA letter and request form need not be sent to any consumer who has previously received the required Section 615 notice from WCC.

(3) *Defense for Violation of Consent Agreement.* The proposed consent agreement states that WCC would not be liable for a civil penalty for violating the provisions of the order respecting the FCRA if WCC could demonstrate that any violation was caused by a mechancial, electronic, or clerical error which was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

III. Standard Compliance Provisions

The proposed consent order contains standard paragraphs to facilitate the Commission's review of WCC's compliance with its obligations under the proposed order.

(1) *Preserving Evidence of Compliance.* The proposed consent order would require WCC to retain for three years evidence of its compliance with the order provisions regarding the retroactive notifications to rejected applicants about their rights under the ECOA and FCRA.

(2) *Notification of Changes in WCC's Corporate Structure.* The proposed order would require WCC to notify the Commission at least thirty days prior to any corporate changes, such as dissolution or mergers, which would affect its compliance obligations.

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(3) *Compliance Reports.* The consent order would require WCC to submit a total of seven compliance reports. The first report, due sixty days after the order becomes final, would require WCC to detail how it has complied or intends to comply with each order provision. The second compliance report, due one hundred eighty days after the order becomes final, would require WCC to detail how it complied with those order provisions with which it had not yet complied at the time it submitted its first compliance report. WCC would also be obligated to submit for five years annual reports on its compliance with the order to conduct annual refresher courses on the ECOA and FRCA for its employees and to make yearly ECOA refresher courses available to its dealers.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27545 Filed 9-4-79; 8:45 am]

BILLING CODE 6750-01-M

[16 CFR Part 419]

Games of Chance in the Food Retailing and Gasoline Industries; Proposed Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Amendment of Trade Regulation Rule.

SUMMARY: The Federal Trade Commission proposes to amend its regulations relating to games of chance in the food retailing and gasoline industries. The proposed amendment will limit the information currently required to be posted in all participating retail outlets and furnished to the Commission. The reasons for the proposed amendment are the lack of evidentiary support of the provision as it is currently in operation, and the Commission's continuing concern with reducing the cost burdens and inflationary impact of government regulation.

DATES: Notification of Interest on or before September 28, 1979. Written comments and available exhibits on or before October 15, 1979. Prepared statements on or before October 29, 1979. Public hearings commence November 19, 1979, in Washington, D.C. at 9:00 a.m.

ADDRESSES: Send comments to Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Public hearing: Federal Trade Commission Building, Room 332, Pennsylvania Avenue at 6th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Noble F. Jones, Consumer Protection Specialist, Federal Trade Commission, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Telephone (216) 522-4207.

SUPPLEMENTARY INFORMATION: The Commission is proposing to amend the existing Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries by modifying paragraph (e) of § 419.1. This provision currently requires that, at the conclusion of a game the following information must be clearly and conspicuously posted in all participating retail outlets and must be furnished to the Commission:

A complete list of the name and address of the winner of each prize and the amount or value of the prize won by each;

The total number of game pieces distributed;

The total number of prizes available in each category; and

The total number of prizes awarded in each category.

The Commission's proposed modification will limit the individual retail outlet postings to only those winners which redeemed their prizes at the individual retail outlet in question, and will no longer require the submission of complete winner lists to the Commission at the conclusion of a game, but rather will require that the information previously submitted under the Rule will be retained for a three-year period and will be made available for Commission staff inspection upon reasonable request.

This notice sets out the procedures to be followed, the text of the proposed Rule, a list of general questions and issues upon which the Commission particularly desires comment and testimony, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to testify or otherwise participate in the proceedings.

The Commission is proposing to modify the record-keeping and reporting requirements (16 CFR 419.1(e)) of the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries. This proceeding has been instituted upon receipt of two petitions for modification of paragraph (e). The reasons for the proposed amendment are the lack of evidentiary support of the provision as it is currently in operation, and the Commission's continuing concern with reducing the cost burdens and inflationary impact of government regulation.

Section A. Proposed Amendment of Trade Regulation Rule.

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et seq.*, the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, *et seq.*, and Section 553 of Subchapter II, Chapter 5, Title 5, of the United States Code (Administrative Procedure), has initiated a proceeding for the amendment of the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries. The Commission has determined, pursuant to 16 CFR 1.20, to follow the procedures set forth in this notice for this proceeding.

Section B. Reasons for Amendment of the Rule

Section 419.1(e) of the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries requires that, at the conclusion of a game, certain information be furnished to the Commission and be posted in each retail outlet which participated in the game. The required information includes: a complete list of the names and addresses of all winners; the total number of game pieces distributed; the total number of prizes available; and the total number of prizes awarded. During the course of the hearings on the Rule, there were three (3) comments which addressed the area of record-keeping and reporting. None of the comments suggested the rather extensive requirements included in the final form of the Rule. However, at the time of the promulgation of the Rule in October, 1969, the Commission was of the opinion that the information required by the Rule was material to consumers who participated in game promotions. The Commission stated:

Paragraph (e) of the final rule requires producers and users of games to post, at the conclusion of a game, certain information in each retail outlet which used the game and to also furnish this information to the Commission. This paragraph adopts the suggestion of the game producers that the Commission require the maintenance of certain records to be furnished to the Commission upon its request. It goes further than the producers' suggestion, however, in requiring that the information be posted in each outlet using the game and furnished automatically to the Commission at the conclusion of each game. Also, in addition to that which was suggested by the producers, the rule requires that this information consist of a complete list of the winners of each prize and the total number of prizes by category or denomination which were made available.[1]

Also in October, 1969, the Commission released its response to a request by an industry member for a change in Rule paragraph (e)(1) to eliminate the necessity of posting the names and addresses of all prize winners in each store and to require instead that only the names and addresses of winners of prizes of five dollars ($5.00) or more need be posted. The Commission, in denying the request, clarified its reason for the inclusion of the paragraph in the Rule. The Commission stated:

* * * the purpose of this provision of the Rule is to enable the game participants to see for themselves that the prizes were awarded and to whom.[2]

This proceeding has been initiated in response to two petitions from industry members for relief from the requirements of paragraph (e)(1).[3] The petitions request that the Commission no longer require the users of games to post a complete list of all winners in every retail outlet that participates in a game. Both petitions argue that the information is rarely utilized by consumers and, therefore, the additional costs involved in compiling a complete list of all winners is unnecessary and inflationary. Copies of both petitions are available for inspection in Room 130, Public Reference Room, Federal Trade Commission, Pennsylvania Avenue at Sixth Street, NW., Washington, D.C. 20580.

In light of the issues raised in the petitions, the Commission is persuaded at this time to consider an amendment to the Rule.

Section C. Invitation To Comment on Amendment of the Trade Regulation Rule

All interested parties are hereby notified that they may submit to the Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114, written data, views, or arguments on any issues of fact, law or policy, which may have some bearing on the proposed modification of 16 CFR 419.1(e). The Commission requests that persons commenting on this subject address the following issues:

1. With what frequency do consumers currently examine the winners lists?

2. How meaningful is the information currently available?

3. What impact would the proposed amendment have on consumer access to the information contained in the winners lists?

4. What are the costs involved in complying with paragraph (e) as it is currently in operation? How would these costs be affected by the proposed amendment?

In all comments, the Commission particularly welcomes empirical evidence. Written comments will be accepted until October 15, 1979. To assure prompt consideration of all comments, it should be identified as "Games of Chance Amendment Comment," and, when feasible and not burdensome, submitted in five (5) copies.

Section D. Public Hearings

Public hearings will be held commencing on November 19, 1979, at 9:00 a.m., in Room 332 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street, NW., Washington, D.C. 20580. Persons desiring to present their views orally at the hearings should so advise the Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than September 28, 1979.

Section E. Instructions to Witnesses

1. *Advance notice.* If you wish to testify at the hearings, you must notify the Presiding Officer of your desire to appear and file with him your complete, word-for-word statement no later than October 29, 1979. This advance notice is required so that other interested persons can determine the need for examination and have an opportunity to prepare. Any examination which is permitted will be conducted with regard to the written testimony, which will be entered into the record exactly as submitted. Consequently, it will not be necessary for you to repeat this statement at the hearing. You may simply appear to answer questions with regard to your written statement or you may deliver a short summary of the most important aspects of that statement within time limits to be set by the Presiding Officer. As a general rule, such oral summaries should not exceed ten (10) minutes.

2. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the period for submission of written comments so they can be studied by other interested persons. Such documents that may be unavailable to you during this period must be filed as soon as possible thereafter, and not later than the deadline for filing prepared statements. Mark each of the documents with your name, and number them in sequence (*e.g.*, Jones Exhibit 1). The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

3. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement a *curriculum vita*, biographical sketch, resume, or summary of your professional background, and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon, or chiefly concerned with, one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph 2, above, the following:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e) if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

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[1] Statement of Basis and Purpose of Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries, 34 FR 13,309 (1969).

[2] CCH Trade Reg. Rep. para. 41,121-3.

[3] *Petition for Modification of Paragraph (e)(1) of the Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries* (filed on behalf of Wallace Games, Inc. and Silpro, Inc., Nov. 20, 1978); *Petition for an Interpretive Guide or Statement of Policy* (filed on behalf of TeleCom Productions, Inc., March 28, 1979).

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(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

5. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 1–4, above, should be identified as "Games of Chance Statement" ("and Exhibits," if appropriate), and submitted in five copies when feasible and not burdensome.

Copies of all materials filed by witnesses will be made available for examination in Room 130, Public Reference Room, Federal Trade Commission, Pennsylvania Avenue and Sixth Street, NW., Washington, D.C.

6. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearances and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine you or file rebuttals. If you do not comply with all of the requirements, the Presiding Officer has the power to refuse to let you testify.

7. *General procedures.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be placed under oath unless the Presiding Officer so requires. You are also not required to respond to any question outside the area of your written statement, although, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute. The Presiding Officer will assure that all questioning is conducted in a fair and reasonable manner and will allocate time according to the number of parties participating, the legitimate needs of each group for full and true disclosure, and the number and nature of the factual issues discussed. The Presiding Officer further has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires.

The deadlines established by this notice will not be extended and hearing dates will not be postponed unless hardship to participants can be demonstrated.

Section F. Notification of Interest

Interested persons who wish to avail themselves of the opportunity to question witnesses must, by September 28, 1979, notify the Presiding Officer of their position with respect to the proposed rule and each individual provision thereof. This notification must be in sufficient detail to enable the Presiding Officer to identify groups with the same or similar interests respecting the proposed rule and the Presiding Officer may require the submission of additional information from any applicant whose notification is inadequate. Failure to file an adequate notification in sufficient detail may result in the applicant not being considered for purposes of direct and cross-examination.

Before the hearings commence, the Presiding Officer will identify groups with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of conducting direct or cross-examination and, if unable to make this selection, the Presiding Officer may select a representative of each such group. The Presiding Officer will notify all interested persons of the identity of the group representatives at the earliest practicable time.

Section G. Post-Hearing Procedures

Interested persons will be afforded 30 days after the close of the hearings to file rebuttal submissions. Rebuttal presentations shall be permitted only if the Presiding Officer determines that the presentation of rebuttal submissions is required for a full and true disclosure with respect to any disputed issue of fact that is material and necessary to resolve. Rebuttal submissions must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions which are essentially additional written comment in contrast to rebuttal. The 30-day rebuttal period is intended to include the time consumed in securing a complete transcript.

Section H. Rulemaking Record

In view of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before placing it on the rulemaking record. While the Commission encourages comments on its proposed rule, the submission of material that is not generally probative of the issues posed by the proposed rule merely overburdens the rulemaking record and decreases its usefulness, both to those reviewing the record and to interested persons using it during the course of the proceeding. The Commission's rulemaking staff has received similar instructions. Material that the staff has obtained during the course of its investigation prior to the initiation of the rulemaking proceeding that is not placed in the rulemaking record will be made available to the public, to the extent that it is considered to be nonexempt from disclosure under the Freedom of Information Act, 5 U.S.C. Section 552.

Section I. Compensation for Representation in Rulemaking Proceedings

Pursuant to Section 18(h) of the FTC Act, funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of Section 1.17 of the Commission's Rules. For further information, contact Bonnie Naradzay, Special Assistant for Public Participation, Office of the General Counsel, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, 202–523–3520.

Accordingly, the Commission has proposed to amend 16 C.F.R. 419 by revising § 419.1(e) to read as follows:

§ 419.1 The Rule

* * * * *

(e) Fail to post clearly and conspicuously at the conclusion of each game in each individual retail outlet which used the game:

(1) The names and addresses of all persons who redeemed a prize in the individual participating retail outlet, and the amount or value of each prize;

(2) The total number of game pieces distributed in all participating retail outlets;

(3) The total number of prizes in each category or denomination which were made available in all participating retail outlets;

(4) The total number of prizes in each category or denomination which were awarded in all participating retail outlets.

The information required by subparagraphs (2), (3), and (4) of this paragraph (e), as well as a complete list of the names and addresses of all winners of a game, is required to be retained in the records of the game promoter for a period of not less than three (3) years. Upon reasonable request, such information shall be made immediately available to the Commission and its staff for inspection.

Issued: July 24, 1979.

By direction of the Commission.

Loretta Johnson,

Acting Secretary.

[FR Doc. 79-27580 Filed 9-4-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

[36 CFR Part 1213]

Procedures for the Identification and Protection of Archeological, Architectural, Historic, and Scientific Properties

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Proposed rule; Extension of Comment Period.

SUMMARY: This notice extends the comment period for 36 CFR 1213 which was published as a proposed rule in the **Federal Register** on August 2, 1979, pages 45417–45420. The Heritage Conservation and Recreation Service will receive and accept comments on this proposed rule until October 4, 1979.

DATE: The period for comment is hereby extended to October 4, 1979.

ADDRESS: Comments should be submitted to the Secretary, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Deputy Assistant Secretary for Fish and Wildlife and Parks, David Hales, Department of the Interior, Washington, D.C. 20240, 202–343–4678.

Dated: August 28, 1979.

Paul Pritchard,

Acting Director, Heritage Conservation and Recreation Service.

[FR Doc. 79-27559 Filed 9-4-79; 8:45 am]

BILLING CODE 4310-03-M

VETERANS ADMINISTRATION

[38 CFR Part 3]

Veterans Benefits; Child

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: The Veterans Administration is proposing to amend its regulation defining the term "child" for payment of Veterans Adminstration benefits. The need for this action results from a determination that certain persons attending school may be considered to be veterans' children for benefit payment purposes even if they were adopted by veterans on or after the attainment of age 18 or, in the case of stepchildren, by becoming members of veterans' households on or after the attainment of age 18. The major effect of this change is to permit payment of Veterans Administration educational assistance to certain persons over age 18 who were adopted by veterans on or after age 18, or who became members of veterans' households on or after age 18 as stepchildren, and to permit payment of additional disability compensation, pension or dependency and indemnity compensation by reason of such dependent "children".

DATES: Comments must be received on or before October 5, 1979. It is proposed to give this change unlimited retroactive effect.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until October 15, 1979.

FOR FURTHER INFORMATION CONTACT:
T. H. Spindle (202–389–3005)

SUPPLEMENTAL INFORMATION: For Veterans Administration benefit purposes the term "child" is defined in 38 U.S.C. 101(4) to include a veteran's adopted child or a veteran's stepchild who is a member of the veteran's household or was a member at the time of the veteran's death. The regulation implementing 38 U.S.C. 101(4), § 3.57, imposes the further requirement that an adopted child must have been under age 18 at the time of adoption by the veteran, and that a stepchild must have been under age 18 at the time the child became a member of the veteran's household.

The Veterans Administration has determined that the statutory definition of the term "child" renders the under-age 18 requirement invalid in school attendance situations. Consequently, we are proposing to amend § 3.57 to permit a person age 18 or over (but not over age 23) to be recognized as a "child" of the veteran without regard to the child's age at the time of adoption or, in the case of a stepchild, at the time the child became a member of the veteran's household.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no compliance burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 9 a.m. and 4:30 p.m. Monday through Friday (except holidays) until October 15, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 27, 1979.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

Section 3.57 is revised to read as follows:

§ 3.57 Child.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, the term "child" of the veteran means an unmarried person:

(i) Who is a legitimate child, a child legally adopted before the age of 18 years, a stepchild who acquired that status before the age of 18 years and who is a member of the veteran's household or was a member of the veteran's household at the time of the veteran's death, or an illegitimate child; and

(ii) Who is under the age of 18 years; or

(iii) Who, before eaching the age of 18 years, became permanently incapable of self-support; or

(iv) Who, after reaching the age of 18 years and until completion of education or training (but not after reaching the age of 23 years) is pursuing a course of instruction at an approved educational institution.

(2) For the purposes of determining entitlement to benefits based on a child's school attendance, the term "child" of the veteran also includes the following unmarried persons:

(i) A person who was adopted by the veteran between the ages of 18 and 23 years.

(ii) A person who became a stepchild of the veteran between the ages of 18 and 23 years and who is a member of the veteran's household or was a member of the veteran's household at the time of the veteran's death.

(b) *Stepchild.* The term means a legitimate or an illegitimate child of the veteran's spouse. A child of a surviving spouse whose marriage to the veteran is deemed valid under the provisions of § 3.52, and who otherwise meets the requirements of this section is included.

(c) *Adopted child.* The term means a child adopted pursuant to a final decree of adoption, a child adopted pursuant to an unrescinded interlocutory decree of adoption while remaining in the custody of the adopting parent (or parents) during the interlocutory period, and a child who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized under law to so act, unless and until such agreement is terminated, while the child remains in the custody of the adoping parent (or parents) during the period of placement for adoption under such agreement. The term includes, as of the date of death of a veteran, such a child who:

(1) Was living in the veteran's household at the time of the veteran's death, and

(2) Was adopted by the veteran's spouse under a decree issued within 2 years after August 25, 1959, or the veteran's death whichever is later, and

(3) Was not receiving from an individual other than the veteran or the veteran's spouse, or from a welfare organization which furnishes services or assistance for children, recurring contributions of sufficient size to constitute the major portion of the child's support. (38 U.S.C. 101(4).)

[FR Doc. 79-27546 Filed 9-4-79; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1312-3]

Approval and Promulgation of Implementation Plans; Florida; Proposed Plan Revision-Correction

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Correction in proposed rule.

SUMMARY: In document FRL 1260-4, appearing at pp. 38578-38580 of the Federal Register of July 2, 1979, an erroneous impression is given of the SO_2 emission limit which applies to large fuel burning sources located north of Hecksher Drive in Duval County; for such sources, the proposed emission rate is 2.5#/10^6 Btu, as set forth in the proposal notice of August 15, 1975 (40 FR 34408). In the portion of FRL 1260-4 dealing with "Duval County Sources" (page 38579), the first sentence of the third paragraph should read: "All other fossil fuel fired steam generators in Duval County with more than 250 million Btu/hour heat input are to meet an emission limit of no more than 1.65 lbs. $SO_2/10^6$ Btu, except those located north of Hecksher Drive; for the latter sources, the applicable emission limit is 2.5 lbs. $SO_2/10^6$ Btu."

This correction raises no issue that has not been opened to public comment in the proposal notice of August 15, 1975, or in the public hearings held in Florida on the several revisions in SO_2 emission limits for fuel burning sources. Accordingly, it is not felt necessary to reopen the comment period for the proposal of July 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Brian Mitchell, EPA Region IV Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30308, 404/881-3286 (FTS 257-3286).

(Sec. 110(a), Clean Air Act (42 U.S.C. 7410(a)).)

Dated: August 27, 1979.

John G. White,

Regional Administrator.

[FR Doc. 79-27585 Filed 9-4-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1312-7]

Proposed Delayed Compliance Order for General Electric Co., Erie, Pennsylvania, Withdrawal of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior **Federal Register** notice proposing a Delayed Compliance Order for the General Electric Company's Erie, Pennsylvania plant. This action is being taken because the final compliance date specified in the proposal has passed.

DATE: This withdrawal is immediately effective.

FOR FURTHER INFORMATION CONTACT:

Benjamin Kalkstein, Attorney-Advisor, U.S. Environmental Protection Agency, 3EN31, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106. 215/597-3439.

SUPPLEMENTARY INFORMATION: A **Federal Register** notice published at 44 FR. 38603 (July 2, 1979) solicited public comments and offered the opportunity to request a public hearing on a Proposed Delayed Compliance Order to be issued by EPA to General Electric's Erie, Pennsylvania plant. Final compliance with the proposed Order would have been required on or before July 1, 1979. Because the date for final compliance has passed, EPA is withdrawing the proposal.

In consideration of the foregoing, the proposal published in the **Federal Register** at 44 FR 38603 (July 2, 1979) entitled "Proposed Delayed Compliance Order for General Electric Co., Erie, Pa." is hereby withdrawn.

Dated: August 9, 1979.

Jack J. Schramm,

Regional Administrator, Region III.

[FR Doc. 79-27575 Filed 9-4-79; 8:45 am]
BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 366]

Legal Assistance Referral Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Association of Interstate Commerce Commission Practitioners (AICCP) and the Motor Carrier Lawyers' Association (MCLA) have asked the Commission to develop regulations to facilitate the operation of a legal assistance program for indigent or partially indigent participants in Commission proceedings.

DATES: Comments are due on or before October 5, 1979.

ADDRESS: Send comments to:

Secretary, Interstate Commerce Commission, Washington, DC 20423.

All written submissions will be available for public inspection during regular business hours at the same address.

Petitioners' Representatives:

Frank Montecalvo, President, Association of Interstate Commerce Commission Practitioners, 1112 ICC Building, Washington, DC 20423.

John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528.

J. Raymond Clark, Esq., Suite 1150, 600 New Hampshire Avenue, NW, Washington, DC 20037.

Charles Ephraim, Esq., President, Motor Carrier Lawyers' Association, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036.

Charles A. Webb, Esq., Vorys, Sater, Seymour, and Pease, 1800 M Street, NW, Suite 800—South, Washington, DC 20036.

Joseph G. Dail, Jr., Esq., 6810 Fleetwood Road, McLean, VA 22101.

Marshall Kragen, Esq., 1721 DeSales Street, NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT:

Donald J. Shaw, Jr. (202) 275-7292 or Lee Alexander (202) 275-7989.

SUPPLEMENTARY INFORMATION: The Association of Interstate Commerce Commission Practitioners (AICCP) and the Motor Carrier Lawyers' Association (MCLA) propose that this program be supervised by a separate "Committee on Interstate Commerce Representation" (CICR). The Committee will consist of five members, two appointed by AICCP, two appointed by MCLA, and a Chairman appointed by the other four members. CICR will develop detailed procedures for day-to-day operation of the program. A panel of participating representatives will be established. The panelists will volunteer to provide professional services without charge or at reduced fees to parties with limited financial resources. Specific eligibility standards will be established by CICR. Any fees charged will be determined by panelists and clients on a case-by-case basis. If a fee is paid, a nominal portion will be remitted to CICR for reimbursement of expenses.

To assist CICR in implementing this program, petitioners request that the Commission promulgate rules and regulations providing for:

(1) The appointment of a Commission employee to serve as a liaison to CICR;

(2) Administrative and clerical support for the daily functioning of CICR;

(3) Petitions for waiver or reduction of filing fees on an individual basis by parties of limited financial resources;

(4) Availability of the Commission's "second copy" of transcript;

(5) Reduction in the number of copies of pleadings to be filed by eligible clients; and

(6) Cooperation by Commission personnel in CICR's evaluation process.

We agree with the objectives and procedures described in petitioners' innovative and worthwhile proposal. The rules proposed here will entail a minor modification of the usual administrative processes. For example, in addition to submitting the normal application forms, a client of the Legal Assistance Referral Service will submit a certification form to be developed by CICR. This form will merely show that the applicant meets CICR eligibility standards. These standards for admission to the referrel program will be submitted to the Commission for approval. The certification form will indicate to our Fee Branch that no filing fee is necessary. The Commission will also require that only two copies of any pleading be filed by eligible clients. A copy of any transcripts will also be made available. The Commission is prepared to assist and support CICR to the extent necessary to assure the success of the referral service. We anticipate a one year trial period to evaluate the program and make necessary changes.

Persons interested in commenting on the proposed regulations are invited to file written statements with the Commission. No oral hearing is contemplated at this time. We request that comments address the following issues: When requests for assistance are received by Commission personnel, to whom should they by directed? What are the functions of the proposed Commission liaison to CICR? What level of administrative and clerical support will CICR require? What are CICR's eligibility standards? (As part of this question, parties should address the types of cases to be covered by the program and who should qualify for assistance. Parties are also asked to address the relationship between the provision authorizing waiver of filing fees and the Commission's duty to ensure financial fitness. 125 M.C.C. at 334-37.) What type of records will the Commission be required to keep?

Accordingly, it is proposed that the following rules be adopted at 49 CFR Part ———.

PART ———. SPECIAL REGULATIONS GOVERNING COMMISION PARTICIPATION IN THE LEGAL ASSISTANCE REFERREL SERVICE

§ ———.1. Scope.

These special rules govern the participation in Commission proceedings by eligible clients of the Committee on Interstate Commerce Representation (CICR).

§ ———.2. Definition.

(a) *CICR.* The Committee on Interstate Commerce Representation will consist of five members, two appointed by the Motor Carrier Lawyers' Association, two appointed by the Association of Interstate Commerce Commission Practitioners, and a fifth member to serve as Chairman to be appointed by the other four members.

(b) *Certification Form.* CICR will develop a certification form to document the fact that a participant in Commission proceedings meets CICR eligibility requirements.

§ ———.3. Function of CICR.

CICR will supervise the Legal Assistance Referral Service, including the determination of eligibility standards. These standards will be subject to Commission approval.

§ ———.4. Special Procedures.

(a) Submission by any participant in Commission proceedings of a proper CICR certification form will trigger Commission assistance as provided in this Part.

(b) Upon submission of the proper certification as set forth in (a), the Commission will make the following adjustments in procedures.

I. Filing fees will be waived.

II. Participants will be provided copies of pertinent transcripts at no charge.

III. Only two copies of any pleading or evidentiary presentation will be required.

§ ———.5. Commission Assistance.

The Commission, through the Office of the Secretary, will provide CICR assistance as follows:

(a) *Liaison.* The Commission will appoint an employee to serve as liaison to CICR.

(b) *Support.* The Commission will provide some administrative and clerical support to CICR.

(c) *Referral.* Any person requesting free representation or assistance from the Commission will be referred to CICR.

(d) *Coorporation.* The Commission will cooperate in CICR's evaluation process and will assist CICR to provide representation for small businesses and individuals with limited resources.

§ ———.6. Duration.

Commission assistance to the Legal Assistance Referral Service program will be provided for one year. At the end of this time, we will evaluate the program and make any changes in the rules to assure the success of this program.

Dated: August 27, 1979.

By the Commission, Chairman O' Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, and Gaskins. Commissioner Gaskins not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27568 Filed 9-4-79; 8:45 am]
BILLING CODE 7035-01-M

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Notices

Federal Register
Vol. 44, No. 173
Wednesday, September 5, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Estimate with Respect to 1979 White or Irish Potato Production

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Estimate with respect to 1979 white or Irish potato production.

Headnote 2 of Subpart A of Part 8 of Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 37.5 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1979, is that for the calendar year 1979 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

* * * * * * *

Issued at Washington, D.C., on this 1st day of September 1979.

Thomas R. Hughes,
Administrator.

[FR Doc. 79-27568 Filed 9-4-79; 8:45 am]
BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

[Order 79-8-166; Docket 36486]

Dallas/Ft. Worth-Honolulu/Hilo Subpart Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-8-166.

SUMMARY: The Board is instituting the *Dallas/Ft. Worth-Honolulu/Hilo Subpart Q Proceeding*, Docket 36486, and is proposing to grant Dallas/Ft. Worth-Honolulu/Hilo authority to Western Air Lines and Ozark Air Lines. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than October 4, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections or Additional Data should be filed in Docket 36486, Docket Section, Civil Aeronautics Board, Washington, D.C., 20428.

FOR FURTHER INFORMATION CONTACT: Donna Kaylor, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C 20428 (202) 673-5380.

SUMMARY INFORMATION: Objections should be served upon all persons listed in the service lists of Dockets 35472 and 35471.

The complete text of Order 78-8-166 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-8-166 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board: August 29, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27552 Filed 9-4-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-8-160]

Northern Tier Authority Awards to Alaska Airlines, et al.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Final Order and Order to Show Cause 79-8-160.

SUMMARY: The Board is making final the tentative findings in Order 79-3-60, served March 13, 1979, and awarding the following Northern Tier authority to the respective carrier applicants:

Alaska Airlines—New segments: (1) Seattle-Portland-Spokane-Missoula-Great Falls-Billings-Minneapolis-Baltimore-Washington (National and Dulles Airports); (2) Anchorage-Minneapolis-Baltimore-Washington (National and Dulles Airports). The authority is subject to the maintenance of certain minimum service levels at small communities on its system.

USAir (formerly Allegheny Airlines)—New segments: (1) Salt Lake City-Denver; (2) Salt Lake City-Spokane; (3) Spokane-Chicago (O'Hare, Midway, and Rockford Airports); (4) Minneapolis-Milwaukee; (5) Minneapolis-Philadelphia/New York (La Guardia and Kennedy Airports)/Newark/Baltimore/Washington (National and Dulles Airports); (6) Minneapolis-Spokane-Portland-Seattle.

American Airlines—New segments: (1) Seattle-Portland-Minneapolis-Baltimore-Washington (National and Dulles Airports); (2) Minneapolis-New York (La Guardia and Kennedy Airports)/Newark/Philadelphia; (3) Denver-Salt Lake City.

Braniff Airways—New segments: (1) Minneapolis-New York (La Guardia and Kennedy Airports)-Newark; (2) Minneapolis-Philadelphia/Baltimore/Washington (National and Dulles Airports); (3) Minneapolis-Anchorage/Seattle/Portland/Spokane.

Continental Air Lines—New segments: (1) Billings-Denver/Portland/Salt Lake City/Seattle; (2) Spokane-Chicago (O'Hare, Midway, and Rockford Airports)/Minneapolis/Portland/Seattle/Salt Lake City; (3) Washington (National and Dulles Airports)-Milwaukee/Minneapolis/Portland/Seattle; (4) Denver-Great Falls/Salt Lake City; (5) Minneapolis-New York (La Guardia and Kennedy Airports)/Newark/Philadelphia/Portland/Seattle; (6) Great Falls-Minneapolis/Portland/Seattle/Salt Lake City; (7) Milwaukee-Minneapolis/Portland/Seattle.

Delta Air Lines—New segment: Salt Lake City-Denver.

Eastern Air Lines—New segments: (1) Minneapolis-Portland-Seattle; (2) Minneapolis-New York (La Guardia and Kennedy Airports)-Newark; (3) Minneapolis-Philadelphia; (4) Minneapolis-Baltimore-Washington (National and Dulles Airports); (5) Milwaukee-Portland-Seattle; (6) Milwaukee-Baltimore-Washington (National and Dulles Airports).

Frontier Airlines—New segments: (1) Denver-Idaho Falls-Pocatello; (2) Seattle-Portland-Spokane-Missoula-Bozeman-Great Falls-Billings. Add the intermediate point Helena.

Hughes Airwest—Add new segments: (1) Portland-Seattle-Spokane-Minneapolis-Milwaukee; (2) Idaho Falls-Denver; (3) Pocatello-Denver. Condition 5 is amended to eliminate the stop restriction in the Portland-Spokane market.

National Airlines—New segment: Spokane-Seattle/Portland.

Republic Airlines (formerly North Central Airlines)—New segments: (1) Anchorage-Seattle-Spokane-Portland-Missoula-Great Falls-Helena-Billings-Minneapolis-Milwaukee-Baltimore-Washington (National and Dulles Airports); (2) Denver-Salt Lake City-Billings-Bozeman-Great Falls-Missoula-Spokane; (3) Minneapolis-New York (La Guardia and Kennedy Airports)/Newark/Philadelphia; (4) Denver-Idaho Falls/Pocatello; (5) Spokane-Chicago (O'Hare, Midway, and Rockford Airports); (6) Helena-Denver/Chicago (O'Hare, Midway, and Rockford Airports)/Omaha/Rapid City/Minot/Salt Lake City/Las Vegas/Phoenix/Ticson/Albuquerque/Santa Fe/Topeka/Kansas City/St. Louis/Memphis/Little Rock/Dallas/El Paso. The authority is conditioned to preclude single-plane service between Anchorage and Portland and Seattle, and between Denver and Spokane.

Northwest Airlines—New segment: Spokane-Missoula-Helena-Great Falls-Bozeman-Billings-Salt Lake City-Denver.

Ozark Air Lines—New segments: (1) Minneapolis-Philadelphia; (2) Spokane-Missoula-Great Falls-Bozeman-Billings-Salt Lake City-Denver; (3) Anchorage-Seattle-Portland-Spokane-Great Falls-Billings-Minneapolis-Milwaukee-Baltimore-Washington (National and Dulles Airports); (4) Portland-Seattle-Spokane-Missoula-Great Falls-Billings-Minneapolis; (5) Spokane-Chicago (O'Hare, Midway, and Rockford Airports); (6) Denver-Helena; (7) Denver-Idaho Falls/Pocatello; (8) Billings-Helena; (9) Minneapolis-New York (La Guardia and Kennedy Airports)-Newark. The authority is conditioned to preclude single-plane service between Anchorage and Portland and Seattle, and between Denver and Spokane.

Trans World Airlines—New segment: Minneapolis-New York (La Guardia and Kennedy Airports)-Newark.

United Air Lines—New segments: (1) Minneapolis-Portland/Seattle; (2) Spokane-Chicago-Rockford (O'Hare, Midway, and Rockford Airports).

Western Air Lines—New segments: (1) Salt Lake City-Billings/Spokane; (2) Minneapolis-Baltimore-Washington (National and Dulles Airports); (3) Anchorage-Minneapolis-Milwaukee-Baltimore-Washington (National and Dulles Airports); (4) Seattle-Portland-Spokane-Great Falls-Billings-Minneapolis-Milwaukee-Baltimore/Washington (National and Dulles Airports); (5) Minneapolis-New York (La Guardia and Kennedy Airports)/Newark/Philadelphia; (6) Billings-Helena.

Wien Air Alaska—New segments: (1) Portland-Seattle-Spokane-Missoula-Great Falls-Billings-Minneapolis-Milwaukee-Baltimore-Washington (National and Dulles Airports); (2) Anchorage-Minneapolis-Milwaukee-Baltimore-Washington (National and Dulles Airports).

In addition, the Board is proposing to award unrestricted authority to Continental Air Lines between Boise, on the one hand, and Portland, Seattle, and Spokane, on the other; to Western Air Lines between Boise and Seattle; and to any other fit, willing and able carrier, in any of the markets at issue.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by October 5, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year no later than September 20, 1979.

ADDRESSES: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 36477, which we have entitled the *Boise-Portland/Seattle/Spokane Show-Cause Proceeding*. They should be addressed to the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Alaska Airlines; USAir (formerly Allegheny Airlines); American Airlines; Braniff Airways; Continental Air Lines; Delta Air Lines; Eastern Air Lines; Frontier Airlines; Highes Airwest; National Airlines, Republic Airlines (formerly North Central Airlines); Northwest Airlines; Ozark Air Lines; Trans World Airlines; United Air Lines; Western Air Lines; Wien Air Alaska; City of Great Falls; Alaska Transportation Commission; Champion International Corporation; Seattle Parties; Spokane Parties; State of Minnesota; Minneapolis-Saint Paul Metropolitan Airports Commission; Missoula Area Chamber of Commerce; City of Missoula; Missoula County; Chamber of Commerce of Bozeman, Montana; State of Maryland; Control Data Corporation; the Great Falls Area Chamber of Commerce; the City of Boston; and the City of Boise.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5354.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-8-160 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-8-160 to that address.

By the Civil Aeronautics Board: August 28, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27553 Filed 9-4-79; 8:45 am]
BILLING CODE 6320-01-M

Transatlantic Cargo Service Case; Notice of Hearing

[Docket 30789]

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 3, 1979, at 9:30 a.m., (local time), in Hearing Room 1003 A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undesigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served May 4, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 30, 1979.

Frank M. Whiting,
Administrative Law Judge.

[FR Doc. 79-27551 Filed 9-4-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission in Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 10:00 p.m., on October 3, 1979, at The George Howard Building, 3450 Courthouse Drive, Ellicott City, Maryland 21043.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for a discussion of civil rights issues with representatives of the Howard County Human Rights Commission and a review

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of the draft report on police handling of complaints of abuse in Baltimore.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 30, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27494 Filed 9-4-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Black Population for the 1980 Census; Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C., app. (1976), notice is hereby given that the Census Advisory Committee on the Black Population for the 1980 Census will convene on October 2, 1979, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on the Black Population for the 1980 Census is composed of 21 members appointed by the Secretary of Commerce. It was established in October 1974 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, recommending subject content and tabulatins of special use to the black population, and expanding the dissemination of census results among present and potential users of census data in the black population.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m., is: (1) Introductory remarks by the Director of the Census Bureau, (2) current status of 1980 census plans, (3) neighborhood statistics, (4) State data center programs, (5) Community Services Program update, (6) Affirmative Action Program report, (7) promotional plans for the 1980 census, (8) Committee discussion, and (9) Committee recommendations and plans for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning these meetings or who wish to submit written statements may contact the Committee Control Officer, Larry Lucas, Decennial Census Division, Bureau of the Census, Room 2747, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-2050.

Dated: August 30, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 79-27569 Filed 9-4-79; 8:45 am]

BILLING CODE 3510-07-M

Industry and Trade Administration

[Transmittal No. 263; Order No. 47-1, Amdt. 4]

Bureau of International Economic Policy and Research; Statement of Organization, Function and Delegation of Authority

ITA Organization and Function Order 47-1 of December 4, 1977, as amended (43 FR 12056, 43 FR 29344, 44 FR 31689, and 44 FR 39571) is hereby further amended as follows to reflect the reorganization of the Office of International Economic Research.

1. In *Section 5. Office of International Economic Research* is revised to read:

.01 The *Office of the Director* includes the *Director*, who shall conduct the Department's program of quantitative research and analysis of trade and international economic policy issues; conduct research on the U.S. international economic and competitive positions and on their domestic economic impact; produce trade and international economic forecasts and simulations; provide Secretarial officials with economic background and policy recommendations based on analyses and simulations; publish interpretative data and analyses; undertake a program of research to improve the accuracy of international economic methodologies; and service requests for trade and international economic information. The immediate office of the Director includes the *International Statistics Staff* which shall plan, develop, and implement a system of international economic statistics for advanced warning of international economic developments; ensure that international statistics used within the Office are of adequate quality; serve as consultants within the Office on the use of international statistics; advise on correct statistical procedures for international data; and publish the quarterly *International Economic Indicators*. The Director shall direct the following Divisions:

.02 The *International Economics Division* shall analyze international economic factors affecting U.S. trade and investment interests abroad; undertake special studies of foreign economic behavior and interrelationships; utilize econometric models concerned with forecasting and simulating the international economy; prepare analyses and recommendations based on simulations of the international economy; and alert policy officials to significant international economic developments.

.03 The *Trade Performance Division* shall analyze the U.S. trade share position; evaluate changes in U.S. trade performance compared to competitor nation performance; and prepare reports and policy recommendations based on assessment of the factors affecting the U.S. position. The Division shall perform its functions through the following subordinate units:

a. The *Comparative Analysis Branch* shall undertake a program of research and analysis into the U.S. market share position; analyze world trade flows and competitor nation exports; analyze and evaluate exchange rate changes, price changes and other factors affecting the comparative U.S. trade position; produce reports on global trade patterns and market shares; and maintain large-scale matrices of competitor nation trade behavior.

b. The *Trade Statistics Branch* shall maintain data on U.S. trade, produce compilations of trade data for comparative trade analyses; maintain automated data bases of trade statistics; publish a series of reports on U.S. trade statistics; and maintain trade data reference facilities.

.04 The *Trade Research Division* shall conduct policy-oriented research and analyses of U.S. foreign trade and shall be responsible for the forecasting of U.S. trade. The Division shall perform its functions through the following subordinate elements:

a. The *Quantitative Research Branch* shall conduct quantitative research into the short- and long-term factors affecting U.S. trade; develop and utilize a variety of econometric models for forecasting and simulating U.S. trade, including specific product and geographic groups; prepare forecasts and simulations of short- and long-term U.S. trade, including specialized forecasts and policy simulations for other parts of the Department; utilize quantitative techniques to estimate the effect of policy or economic variables on trade; and prepare policy analyses/recommendations based on the above.

b. The *Analytic Studies Branch* shall analyze trends and current developments in U.S. trade; conduct special studies on specific developments in U.S. trade; analyze historical trade data for changes in patterns, including specific regions or products; develop a system of monitoring current U.S. trade developments to alert policy officials; produce reports interpreting U.S. trade trends and developments; and maintain timely data packages and presentations for policy officials.

.05 The *Structural Research Division* shall conduct research into the fundamental structural factors affecting the international competitiveness of U.S. industry, to include the influence on structure and trade competitiveness of technology, investment, and productivity; conduct research into the impact of changes in world trade and trade policies on the domestic economy, including employment, income, and welfare effects; undertake a program of long term forecasting of the structural effects of trade and of U.S. competitiveness; conduct research into the effects of the U.S. competitiveness of major international developments, such as the emergence of newly-industralized economies; conduct research into the effect of global industrial and positive adjustment policies; and undertake special studies in these areas to evaluate specific U.S. policy alternatives.

Effective date: July 30, 1979.

Frank A. Weil,

Assistant Secretary for Industry and Trade.

Abraham Katz,

Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc. 79-27540 Filed 9-4-79; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-646]

Notice of Application

Notice is hereby given that Cove Ships Inc., Wall Street Plaza, Suite No. 1630, New York, New York 10005, has filed an application dated August 17, 1979, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1979, unless extended, to operate the SS COVE SAILOR, 34,865 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For the purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before September 28, 1979, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and serviced by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

Dated: August 28, 1979.

Robert J. Patton, Jr.,

Acting Secretary.

[FR Doc. 79-27541 Filed 9-4-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Office of Coastal Zone Management; Receipt of Petition for Amendment of Rule

Notice is given that, on August 6, 1979, the National Oceanic and Atmospheric Administration (NOAA) received a petition for the amendment of a rule, as authorized by 5 U.S.C. 533(e), from the Coastal Zone Management Interaction Committee (COZMIC). Petitioner COZMIC described itself as a national organization of electric utilities and the Edison Electric Institute. COZMIC requests that NOAA amend certain regulations pertinent to the implementation of Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, 1456(c)(3)(A)).

The cited section of the Act requires that any activity which requires a Federal license or permit and which affects land or water uses in the coastal zone of a State must be conducted in a manner consistent with the State's approved coastal zone management program (if there is an approved program). The pertinent regulations declare this consistency requirement to apply to any such activity for which an *initial* application for a Federal license or permit is made and, under certain circumstances, to any such activity for which a *renewal* application is made. With regard to a renewal application, COZMIC seeks to restrict the application of the consistency requirement to a renewal only if the "affected State demonstrates that changes in the construction or operation of this facility or activity will cause *new* land or water use coastal zone effects substantially different than those originally authorized" (emphasis supplied). The regulations appear in 15 CFR 930, 930.50, 930.22, 930.50-930.52 (44 Fed. Reg. 123, June 25, 1979, pgs. 37150, *et seq.*)

Pursuant to § 14.03 of NOAA Directive 21-24, effective June 1, 1979, the COZMIC petition has been referred to the Assistant Administrator for Coastal Zone Management for consideration. Pursuant to Section 14.06 of the Directive, the Assistant Administrator

must notify COZMIC of this decision to proceed or not to proceed with the amendment requested by COZMIC within 120 days of his receipt of the petition.

Questions with regard to this notice may be asked of Mr. Harry Feehan, Office of General Counsel, NOAA, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235 (202–254–7512).

August 28, 1979.

M. P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79–27469 Filed 9–4–79; 8:45 am]

BILLING CODE 3510–08–M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
a. Name, Dr. Jennifer Buckwald, Department of Physiology.
b. Address, University of California-Los Angeles, 760 Westwood Plaza, Los Angeles, California 90024.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals: Northern elephant seals (*Mirounga angustirostris*), 60.
4. Type of Take: To mark with bleach to be able to identify and record individuals in order to study the vocalizations of Northern elephant seals.
5. Location of Activity: San Nicholas Island, California.
6. Period of Activity: One Year.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 5, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 30, 1979.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 79–27583 Filed 9–4–79; 8:45 am]

BILLING CODE 3510–22–M

Permit Modification Request

Notice is hereby given that Dr. Kenneth S. Norris, University of California at Santa Cruz, has requested a modification to Permit No. 269, which was issued to him under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), on June 19, 1979.

Dr. Norris is requesting that three (3) spotted porpoises (*Stenella attenuata)* be authorized in lieu of three (3) of the fifteen (15) spinner dolphins (*Stenella longirostris)* which are authorized under Permit No. 269 to be captured and radio tagged. The procedures and techniques for the capture and tagging would be the same as described in the original permit application.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submittted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before October 5, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 30, 1979.

R. B. Brumsted,

Acting Director, Office of Marine Mammals/ Endangered Species, National Marine Fisheries Service.

[FR Doc. 79–27584 Filed 9–4–79; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Coal-Fired Heating Plant: Intent to Prepare an Environmental Impact Statement and Scoping Meeting; Environmental Impact Analysis Process

The U.S. Air Force will be preparing an environmental impact statement on a new central heating plant for Malmstrom Air Force Base, Great Falls, Montana. This plant will be a coal-fired, high-temperature water facility replacing numerous existing individual natural gas-fired building heating units. The statement will consider other fuel alternatives and no-action alternative.

One public scoping meeting will be held to identify what are and what are not significant issues. Additionally an overview or preliminary findings of an air quality study will be presented. The meeting will be at 7:00 p.m. on 20 September 1979 at the Commission Chambers, Room 200, Civic Center, Great Falls, Montana 59401.

Interested parties that cannot attend the meeting are encouraged to submit comments and recommendations in writing.

For information concerning the proposed action and the environmental impact statement, contact Mr. Phillip E. Lammi, Chief, Environmental Planning Division, U.S. Air Force Regional Civil Engineer/Western Region, 630 Sansome Street; Room 1316, San Francisco, California, 94111, (Telephone 415–556–6439).

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–27360 Filed 9–4–79; 8:45 am]

BILLING CODE 3910–01–M

Operation of the PAVE PAWS Radar System at Beale Air Force Base, California; Public Hearing

An informal public hearing will be held for the purpose of soliciting comments from the public on the Draft Environmental Impact Statement (EIS) on Operation of the PAVE PAWS Radar System at Beale Air Force Base, California. The hearing is scheduled to be conducted on September 20, 1979 at 7:30 p.m. at Yuba County Veterans Memorial Community Center, Marysville, California.

The Draft EIS was filed with the Environmental Protection Agency on July 27, 1979. The statement considers the impacts of operating PAVE PAWS, a new surveillance radar to be used to detect, track and provide early warning of sea-launched ballistic missiles. A secondary purpose of the radar is to assist the USAF Spacetrack System by tracking objects that are orbiting the Earth.

The following procedures will apply during the hearing. Individual speakers will be limited to five minutes, with ten minutes allotted for a group spokesman. The time limit may be waived at the discretion of the presiding officer. There will be no relinquishing of time by one speaker to another. Written statements, in additon to or in lieu of oral presentations, will be accepted. Submit written communications as directed at the public hearing, or to the Deputy for Environment and Safety, Office of the Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330. Written statements must be received not later than October 2, 1979 in order to be included in the hearing record. For further information contact Lt. Col. Paul E. Radder, Jr., Deputy Commander 100th Combat Support Group, Beale AFB, CA 95903, Phone: (916) 634–2311.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–27359 Filed 9–4–79; 8:45 am]

BILLING CODE 3910–01–M

Supersonic Flight Operations, Valentine Military Operations Area, Holloman AFB, N. Mex., Extension of Review Period; Draft Environmental Impact Statement

On August 3, 1979 the Environmental Protection Agency announced in the **Federal Register** that the Air Force had filed a Draft Environmental Impact Statement (EIS) on Supersonic Flight Operations, Valentine Military Operations Area (MOA). The proposed flights are in support of aircraft training operations at Holloman Air Force Base (AFB), New Mexico. The **Federal Register** notice stated that the 45-day review period for the Draft EIS was calculated from August 3, and would end on September 17, 1979.

In response to local request the Air Force hereby extends the review period until October 6, 1979.

FOR FURTHER INFORMATION CONTACT:
Capt. Bill Gauntt, Headquarters, Tactical Air Command (HQ TAC/DEEV), Langley AFB, VA 23665. Phone: 804–764–4430.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–27542 Filed 9–4–79; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

August 28, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Attack of Mobile Forces (Night/Adverse Weather) will meet on September 24 and 25, 1979 in the Pentagon. The meetings will start at 9:00 a.m. and adjourn at 5:00 p.m. each day.

The Committee will review the Air Force operational concepts to achieve this mission. The meetings will be closed to the public in accordance with section 522b(c), Title 5, United States Code, specifically subparagraph (2).

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–27543 Filed 9–4–79; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79–CERT–82]

American Cyanamid Co., Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on August 10, 1979, American Cyanamid Company (American), Berdan Avenue, Wayne, New Jersey 07470, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Pensacola Plant, Pensacola, Florida, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979) all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, American states that the volume of natural gas for which it requests certification is up to 3,000 Mcf per day and the eligible seller is Conecuh-Monroe Counties Gas District, P.O. Box 210, Evergreen, Alabama 36401. This natural gas will displace the use of approximately 20,000 gallons of No. 6 fuel oil (2.5% sulfur) per day and will be transported by United Gas Pipe Line Company, 700 Milam, P.O. Box 1478, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before September 17, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to American and any persons filing comments, and published in the **Federal Register.**

Issued in Washington, D.C., on August 28, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79–27468 Filed 9–4–79; 8:45 am]

BILLING CODE 8450–01–M

Enserch Exploration, Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction to Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: This corrects the document that appeared in the **Federal Register** on August 17, 1979 on page 44 FR 48432. The following corrections should be made:

1. Page 3, paragraph no. 1, line 1
Delete—"improperly"
Substitute—"allegedly"
2. Page 4, "II. DISPOSITION OF REFUNDED OVERCHARGES", second sentence,
Delete—"The first payment is due 90 days after the effective day of the Consent Order and each 90 days thereafter until the total refund has been completed."
Substitute—"The first payment is due 90 days after the Office of Hearings and

Appeals adopts the Office of Enforcement's Petition for the Implementation of Special Refund Procedures and each 90 days thereafter until the total refund has been completed."

Issued in Dallas, Texas on the 27th day of August 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-27484 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Ad Hoc Committee on Energy Statistics; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the American Statistical Association's Ad Hoc Committee on Energy Statistics will meet with representatives of the Energy Information Administration (EIA) on Friday, September 21, 1979, in Room GE-045 of the James Forrestal Building located at 1000 Independence Avenue, S.W., Washington, D.C., from 9:00 a.m. to approximately 4:00 p.m.

The purpose of the meeting is to enable the EIA to utilize the American Statistical Association's Ad Hoc Committee on Energy Statistics to obtain advice on EIA programs and to benefit from the Ad Hoc Committee's expertise concerning other energy statistical matters.

The tentative agenda is as follows:

A. Opening remarks.
B. Progress reports on topics discussed at the May 4, 1979, meeting, including:
   1. Use of proprietary modes and model components
   2. Consistency and comparability of different data bases used in models
   3. Evaluating short-term forecasts
   4. Oil and Gas Information System (OGIS) validation
   5. Status of work on seasonal adjustment of EIA data
   6. Energy Emergency Management Information System
C. Major topics:
   1. EIA disclosure policies
   2. New initiatives to collect and analyze data on secondary stocks
   3. EIA policies and procedures for imputation of missing data, with special reference to domestic production and imports of crude petroleum
   4. Procedures for determining normal stock ranges and minimum acceptable levels of petroleum stocks
D. Planning for future meetings with EIA, and other Committee activities.

The meeting is open to the public. Any member of the public may file a written statement with EIA for forwarding to the committee, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Mr. Bruce D. Dwyer, Acting Director, Office of Planning and Evaluation, EIA, (202) 633-8696, or Dr. Fred Leone, Executive Director of the American Statistical Association, (202) 393-3253, at least five days prior to the meeting and reasonable provision will be made to include their presentations on the agenda.

Subsequent to approval by the Committee, minutes and an executive summary of the meeting will be available for public review and copying at the Office of Planning and Evaluation, EIA, 12th and Pennsylvania Avenue, N.W., Room 6149, Mail Stop 4311, Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued at Washington D.C. on August 30, 1979.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 79-27562 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. E-9408]

American Electric Power Service Corp.; Compliance Filing

August 28, 1979.

Take notice that by letter dated August 6, 1979, the American Electric Power Service Corporation (AEP), in accordance with ordering paragraph (A) (1) and (B) of Opinion No. 50 of the Commission, issued July 27, 1979, in the above Docket filed on behalf of Ohio Power Company and Appalachian Power Company, Indiana & Michigan Electric Company and Kentucky Power Company (the AEP Companies), five copies each of (a) Supplement No. 1, dated as of August 1, 1979, to Modification No. 3, dated as of April 1, 1975, to the Interconnection Agreement, dated July 6, 1951, as amended, among the AEP Companies and the undersigned, American Electirc Power Service Corporation, as agent, and (b) Certificate of Concurrence signed by each of the AEP Companies.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before September 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 79-27505 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. E-8187, E-8700, ER76-203 and ER76-238]

Boston Edison Co.; Order on Remand

Issued August 27, 1979.

On October 23, 1978, the United States Court of Appeals for the District of Columbia remanded the case of *Town of Norwood* v. *Federal Energy Regulatory Commission* [1] to this Commission. In its decision, the court required the Commission to determine whether the Town of Norwood, Massachusetts (Norwood) has been the subject of undue discrimination within the meaning of Section 205(b) of the Federal Power Act. In accordance with that opinion, we shall reopen the record in these dockets for purposes of making findings of fact and conclusions of law consistent with this order and the court's decision in this case as well as the cases of *Public Service Company of Indiana* v. *Federal Energy Regulatory Commission (PSCI)* [2] and *Borough of Chambersburg* v. *Federal Energy Regulatory Commission*.[3]

This case involves an array of facts and issues having their origins in four separate proceedings. Essentially, Norwood has desired to use transmission facilities of Boston Edison Company (Edison) in order to wheel power purchased from New England Power Company (NEPCO). Norwood seeks to discontinue purchasing wholesale power from Edison, its present supplier, and instead, purchase its requirements from NEPCO. In doing so however, Norwood desires to obtain the same low wheeling rate that Edison has provided to NEPCO in a contract relating to service for the Quincy-Weymouth area. Although the wheeling service provided to NEPCO for the Quincy-Weymouth area is substantially similar to the service Norwood has sought, Edison has offered to wheel for

[1] 587 F.2d 1306 (D.C. Cir. 1978).
[2] 575 F.2d 1204 (7th Cir. 1978).
[3] 580 F.2d 573 (D.C. Cir. 1978).

Norwood only at a rate substantially higher than that provided for in the Edison-NEPCO contract. Norwood thus argues that it has been unduly discriminated against and that this discrimination constitutes a violation of § 205(b) of the Federal Power act.

On May 21, 1976, the presiding administrative law judge issued an initial decision rejecting Norwood's claim that the wheeling rate in effect between Edison and NEPCO should be provided to Norwood. The judge reasoned that, since Norwood had not shown the Edison-NEPCO transmission rate to be a compensatory one, he could not order Edison to wheel at such an unduly low rate. Various parties took exception to the judge's initial decision and, on December 7, 1976, the Commission [4] issued its order in this case.[5] The Commission agreed with the presiding judge's determination that the Edison-NEPCO wheeling contract was noncompensatory. The Commission ruled, however, that the contract was insulated from any alteration by virtue of the *Sierra-Mobile* doctrine.[6] Due to the contract's fixed-rate nature, the Commission held that Edison could not unilaterally increase the wheeling rate absent a showing that the contract "might impair the financial ability of the public utility to continue its service, cast upon other customers an excessive burden, or be unduly discriminatory." [7]

The FPC also refused to extend the low Edison-NEPCO wheeling rate to Norwood since this would require the Commission to set jurisdictional rates below a just and reasonable level. In April 1977, the Commission denied rehearing.[8]

The Town of Norwood subsequently appealed from the Commission's orders and on October 23, 1978, the United States Court of Appeals for the District of Columbia handed down its decision. The Court ruled that Norwood's claims of discrimination could not be dismissed merely because the Edison-NEPCO contract was protected by the *Sierra-Mobile* doctrine. Such an approach, the court argued, "comes altogether too close to reading Section 205(b) out of the Federal Power Act in cases where there is a *Sierra-Mobile* contract." [9] The Court held that where one customer is discriminated against in favor of another customer of the same class, that discrimination is not justified merely because one party has a fixed-rate contract while the other does not. The Court concluded that the Commission must look beyond the mere existence of a contract in order to determine whether a disparity in rates is justified. The Court in *Norwood* as well as the Seventh Circuit Court of Appeals [10] have pointed out various factors at which this Commission may look to determine whether a disparity in rates resulting from one or more customers having a fixed-rate contract is justified. *Norwood* suggests that we consider the negotiations of the parties in which they bargained for their respecting contractual terms:

> The process of bargaining over contractual terms is necessarily a technique for risk allocation. Where several customers have bargained with a utility over a period of time, it is quite likely that the contracts which result will differ. Customers' needs may vary, as well as their general level of risk aversion and the types of risk to which they are most averse. They may have different projections about likely cost changes, technological advances, or demand fluctuations. And their bargaining power is likely to vary as well.[11]

PSCI additionally suggests that this Commission may consider among other things, (1) the length of the contract "since discounts can be justified on the basis of long-term requirements arrangements," [12] (2) the services that might be provided or excluded by either the buyer or seller, or (3) "any factor that might explain why a buyer did not bargain for a contract with a *Sierra-Mobile* clause in it when other comparable utilities successfully obtained such a clause.[13] *Norwood* also requires us to consider any allegations which go to the fairness and good faith of the parties at the contract formation stage.

Once a customer alleging § 205(b) undue discrimination shows that a substantial disparity in rates exists between customers of the same class, it then becomes incumbent on the utility to justify this disparity on the basis of factual differences. The Commission has already found that a substantial disparity exists between the Edison-NEPCO wheeling rate and that rate offered by Edison to Norwood. Norwood has also alleged that the Quincy-Weymouth contract was the result of a prohibited undue preference. We shall therefore reopen the record in order to allow Edison the opportunity to justify the disparity in rates and to answer the allegations of undue preference.

Related Issues

In *Norwood* v. *FERC, supra*, the town sought review of a number of issues other than § 205(b) undue discrimination. These issues related to (1) Norwood's failure to give Edison proper notice of termination of service, (2) Edison's computation of the adverse impacts that would flow from termination of Edison's requirements contract with Norwood, (3) Norwood's accountability for any of these adverse impacts and (4) Edison's willingness to wheel power for Norwood. The Circuit Court declined to review these issues since our determination as to any § 205(b) violation could alter or moot these and other questions. We shall therefore order the presiding judge to reconsider these questions in light of his or her findings of fact or conclusions of law on the issues of § 205(b) undue discrimination.

The Commission orders

(A) The record in these dockets is reopened for purposes of establishing findings of fact and conclusions of law as required by this order.

(B) The Chief Administrative Law Judge shall designate a presiding administrative law judge to convene a conference in this case to be held within 15 days of issuance of this order. The designated law judge is authorized to set procedural dates for hearing on the issue of Section 205(b) undue discrimination and related issues and to rule upon all motions (except motions to consolidate and sever any motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a hearing shall be held to determine whether Boston Edison has unduly discriminated against the Town of Norwood in violation of § 205(b) of the Federal Power Act, and further, to inquire into related issues as set forth in this order.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

[4] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.
[5] Order Reversing in Part, Modifying in Part, and Affirming in Part Initial Decision Resolving Investigation and Petition for Declaratory Order (issued December 7, 1976).
[6] *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 344 (1956).
[7] *Sierra*, Ibid. 350 U.S. at 355.
[8] Order Denying Rehearing, issued April 4, 1977, *Boston Edison Co.*, Docket Nos. E-8187 and E-8700.
[9] *Norwood*, supra, at 1312.
[10] *Public Service Co. of Indiana*, supra.
[11] *Norwood*, supra at 1312.
[12] *PSCI*, supra, p. 1212, fn. 12.
[13] *Ibid.*

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By the Commission.
Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27504 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP73-329]

Chattanooga Gas Co.; Proposed PGA Rate Adjustment

August 28, 1979.

Take notice that on August 10, 1979, Chattanooga Gas Company, A Division of Jupiter Industries, Inc., (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FERC Gas Tariff to be effective on July 1, 1979 consisting of the following revised tariff sheet:

Substitute Thirty Fourth Revised Tariff Sheet No. 6

The Substitute Thirty Fourth Revised Tariff Sheet No. 6 reflects a current increase in the LNG rates of 50.0 cents per MMBTU and a cumulative increase of $2.067 per MMBTU.

Chattanooga originally filed its semi-annual PGA Rate adjustment with the Commission on July 9, 1979. However, East Tennessee filed revised tariff sheets on July 25, 1979. The revised tariff sheets filed by East Tennessee are based upon revised rates filed by Tennessee Gas Pipeline Company to reflect the elimination of costs and volumes associated with gas purchases not flowing by July 1, 1979 and the elimination of costs from producers and pipeline suppliers not authorized by the Commission to charge Tennessee on or before July 1, 1979. Moreover, East Tennessee's May 31, 1979 filing failed to reflect certain transportation revenues which East Tennessee received during the period October 1, 1978 through March 31, 1979. Therefore, Chattanooga files this revision to its originally July 1, 1979 PGA filing to reflect the effect of East Tennessee's latest revision.

As noted above, the Proposed effective date of Chattanooga's rate change is July 1, 1979. Sections 221.(c) and 24.8(d) require Chattanooga to file any propsed rate change pursuant to those Sections at least forty-five days prior to the Effective Date of Adjustment. However, for good cause shown, Chattanooga respectfully requests that the Commission grant waiver of the forty-five day notice requirement in order that the proposed rate change will become effective July 1, 1979, as proposed.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27506 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-108]

State of New Mexico, Section 108 NGPA Determination El Paso Natural Gas Co., Flanningam, No. 1 Well, JD79-12827; Preliminary Finding by State of New Mexico

Issued August 27, 1979.

On July 13, 1979, the Commission received notice from the New Mexico Oil Conservation Division that the Flanningam No. 1 well has been designated as a "seasonally affected" stripper well under § 271.804(e) of the Commission's interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of this designation on July 24, 1979.

Under § 271.804(e)(1), a well may be designated as "seasonally affected" at the *same time* it receives a section 108 determination as a stripper well. Alternatively, under § 271.804(e)(2), a well may be designated as "seasonally affected" *subsequent* to receiving a determination as a stripper well. In no case, however, do the regulations provide that a well may be designated as "seasonally affected" *prior* to receiving a determination as a stripper well.

With respect to the well in question, the jurisdictional agency submitted to the Commission a notice of determination that this well qualifies as a stripper well on April 18, 1979. This notice purported to establish maximum efficient rate of flow based on 12-month production records. Such records, however, indicated that the well's average production for the 12 months was in excess of 60 Mcf per production day. Accordingly, the notice of determination was returned to the jurisidictional agency on May 31, 1979, for deferral under § 271.804(d). A subsequent notice of determination for the well has not been submitted by the agency.

Accordingly, the well in question has not previously received a determination that it qualifies as a stripper well, nor is such a determination before the Commission at this time. Therefore, the designation of this well as a seasonally affected stripper well is improper at this time.

On the basis of the data submitted with this designation, the Commission makes a preliminary finding, pursuant to 18 CFR 271.806(b) and 275.202 (a)(1)(i), that the designation submitted by the State of New Mexico Oil Conservation Division that the above-named well qualifies as a seasonally affected well is not supported by substantial evidence.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27500 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-107]

State of New Mexico, § 108 NGPA Determination, El Paso Natural Gas Co., San Juan 27-5 Unit Well #110, JD79-12375; Preliminary Finding Regarding Determination by State of New Mexico

Issued August 24, 1979.

On July 12, 1979, the Commission received notice from the New Mexico Oil Conservation Division that the San Juan 27-5 Unit well #110, which has previously been determined to qualify as a stripper well [1] under section 108 of the Natural Gas Policy Act of 1978 (NGPA), has been designated as a "seasonally affected" well under § 271.804(e) of the Commission's interim regulations. The Commission published notice of this designation on July 23, 1979.

Section 271.804(e)(2) provides that if at any time subsequent to a final determination of stripper well status, the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is "seasonally affected", he may file with the jurisdictional agency for a designation as a seasonally affected well. Section 271.804(e)(1) defines a seasonally affected well as one which is "subject to seasonal fluctuations which temporarily increase average production above 60 Mcf per production day," and further provides that a jurisdictional agency shall grant a designation that a well is seasonally affected "only if it finds that the seasonal fluctuations *have not* and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for *any* 12-month period." (emphasis added)

[1] The well was determined by the jurisdictional agency to qualify as a stripper well on May 25, 1979 and the Commission was notified of this determination on May 30, 1979. The Commission's 45-day review period expired on July 15, 1979.

The data submitted with this designation indicate that average production during the first 12 months of the 24-month period was 107.05 Mcf per production day. Accordingly, the well does not qualify as a seasonally affected well under § 271.804.

On the basis of the records submitted with this designation, the Commission makes a preliminary finding, pursuant to 18 CFR § 271.806(b) and 275.202 (a)(1)(i), that the designation submitted by the state of New Mexico Oil Conservation Division that the above-named well qualifies as a seasonally affected well is not supported by substantial evidence.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27501 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-612]

Iowa Power & Light Co.; Rate Schedule Filing

August 20, 1979.

The filing Company submits the following: Take notice that Iowa Power and Light Company ("Iowa Power"), on August 24, 1979, tendered for filing proposed changes in its Docket No. ER79-148, which sets forth rates for wholesale electric service to Montezuma Municipal Light and Power, Montezuma, Iowa ("City").

Proposed Supplement No. 11 to Docket No. ER79-148 provides for an increased capacity charge for base load power. Proposed Supplement No. 12 provides for an increased capacity charge for equalization power. These changes are needed to conform to increased costs of added capacity and changes in the Mid-Continent Area Power Pool rates.

Iowa Power requests that the Commission waive its prior notice requirements and accept Proposed Supplement Nos. 11 and 12 for filing with a retroactive effective date of June 1, 1979. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27507 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-613]

Iowa Power & Light Co., Rate Schedule Filing

August 28, 1979.

The filing Company submits the following: Take notice that Iowa Power and Light Company ("Iowa Power"), on August 24, 1979, tendered for filing proposed changes in its FERC Rate Schedule No. 45, which sets forth rates for wholesale electric service to Indianola Waterworks and Electric Light and Power Board of Trustees.

Proposed Supplement No. 17 to Rate Schedule No. 45 provides for an increased capacity charge for base load power. Proposed Supplement No. 18 provides for an increased capacity charge for equalization power. These changes are needed to conform to increased costs of added capacity and changes in the Mid-Continent Area Power Pool rates.

Iowa Power requests that the Commission waive its prior notice requirements and accept Proposed Supplement Nos. 17 and 18 for filing with a retroactive effective date of June 1, 1979. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27508 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket ID-1875]

Justin T. Rogers; application

August 29, 1979.

Take notice that Justin T. Rogers on July 11, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Pennsylvania Power Company, Public Utility.
Executive Vice President, Ohio Edison Company, Public Utility.
Director, Ohio Edison Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27519 Filed 9-4-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-57]

The Kansas Power and Light Co., Application

August 29, 1979.

Take notice that on August 10, 1979, The Kansas Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $70,000,000 in the aggregate principal amount of short-term, unsecured promissory notes in the form of commercial paper, and authorizing Applicant to issue said notes from and after October 1, 1979, until and on

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October 31, 1980, with a final maturity date for any of said notes of not later than October 31, 1981.

Applicant is incorporated under the laws of the State of Kansas with its principal business office at Topeka, Kansas.

The interest rate applicable to the commercial paper promissory notes will be, in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper or comparable quality and of the particular maturity sold to commercial paper dealers, and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. Applicant contemplates the issuance of promissory notes and "roll-over" of commercial paper promissory notes, at any time and from time to time until October 31, 1980, each of such notes to have a maturity date of not later than October 31, 1981.

The proceeds will be used to finance in part Applicant's construction program to October 31, 1980. The authorization to issue up to $70,000,000 and the authorization of Applicant to issue said notes not later than October 31, 1980, with final maturities of said notes not later than October 31, 1981, will allow Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before September 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27516 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-58

Montana-Dakota Utilities Co.; Application

August 29, 1979.

Take notice that on August 15, 1979, Montana-Dakota Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of 850,000 additional shares of Common Stock. Applicant is incorporated under the laws of Delaware with its principal business office at Bismarck, North Dakota. It is engaged in the natural gas and electric business in the States of Minnesota, Montana, North Dakota, South Dakota and Wyoming.

The Applicant proposes to issue 850,000 shares of Common Stock, par value $10, in accordance with the Commission's Regulations under the Federal Power Act. The Company presently has issued and outstanding 5,459,476 shares of Common Stock with the par value of $10 per share.

The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's 1979 Construction Program including the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 17, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27517 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos., RP71-16 (PGA79-3) and Docket No. RP72-140 (PGA79-02)]

Midwestern Gas Transmission Co. and Great Lakes Gas Transmission Co.; Pipeline Rates: Order Accepting Tariff Sheets for Filing, Permitting Rate Increase To Become Effective, and Granting Interventions

Issued August 24, 1979.

On July 12, 1979, the Canadian Government through its Privy Council established a new price for natural gas exports from Canada to the United States. The new border price is $2.80 (U.S.) per MMBtu, or 50 cents per MMBtu higher than the previous rate. Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) seek to flow through the Canadian price increase to their U.S. customers.

Effective October 1, 1977, the Secretary of Energy was vested with jurisdiction over Section 3 of the Natural Gas Act, 15 U.S.C. § 717(b), concerning the importation and exportation of natual gas. The Secretary has delegated certain specific Section 3 authority to the Administrator jurisdiction over " the price proposed to be charged at the point of importation or exportation".

Pursuant to this authority and upon application, the ERA issued on August 10, 1979, in ERA Docket No. 79-17-NG, *et al.*, an interim order authorizing Midwestern and Great Lakes, among others, to continue to import gas from Canada at the increased border price. The temporarry authorization became effective August 11, 1979, "pending final findings of fact after conclusion of the comment period." (ERA order, mineo at 4). The Commission takes notice of the fact that by notice issued August 10, 1979, the ERA set August 20, 1979 as the deadline for filing of comments.

On July 25, 1979, Midwestern filed a proposed PGA rate increase reflecting in its rates the scheduled increase in the Canadian border price. [1] It requests an August 11, 1979, effective date to coincide with the change in the border price. Acceptance of the filing will result in an annual increase of approximately $57 million. Because a 30 day notice period was provided by the Canadian government, Midwestern states it was unable to prepare and file its PGA increase with the Commission within the 30-day statutory notice period. Midwestern further states that under the current PGA regulations and its tariff it is only permitted to file for PGA rate adjustments on January 1 and July 1 of each year and that, without waiver of the regulations and its tariff permitting the August 11, 1979, effective date, the new Canadian border price will result in undue hardship. Midwestern states that no customers opposed the requested waivers.

On July 20, 1979, as amended July 25, 1979, Great Lakes filed a similar PGA rate request. [2] Great Lakes now seeks a September 1, 1979, effective date which would require waiver of its tariff and the Commission's regulations. [3] Great Lakes is now permitted to file PGA rate adjustments on May 1 and November 1 of each year.

On August 8, 1979, Wisconsin Gas Company (Wisconsin Gas) filed a petition to intervene in Docket No. RP71-16 (PGA79-3). On August 10, 1979, a joint petition to intervene was filed by Northern States Power Company Wisconsin (NSP Wisconsin) and Northern States Power Company Minnesota (NSP Minnesota) in that docket. All have demonstrated an interest in this proceeding warranting their participation and accordingly their petitions shall be granted.

NSP Wisconsin and NSP Minnesota fully support Midwestern's proposed effective date of August 11. They point out that refusal to permit the tracking of the Canadian increase will only enlarge the economic burden which ultimately will be imposed on the consumer. Also, they point out that deferral of the increase until Midwestern's next PGA filing on January 1, 1980, will impose cost increases at a time when substantial volumes are being used. Wisconsin Gas believes that a waiver should be granted but requests that Midwestern be given a September 1, 1979, effective date.

In view of the financial hardship that would be placed on Midwestern and Great Lakes if the proposed increases are not permitted to become effective on the requested dates and the substantial carrying charges that would have to be recouped from the companies' customers when their next regularly scheduled PGA filing is made, the Commission finds that good cause exists to grant waiver of § 154.38(d)(4)(iv)(a) of the Commission's regulations in order to allow these rate increases to become effective on the proposed effective dates. Accordingly, in view of this fact and the ERA's interim authorization and upon a review of the filings, the Commission finds, subject to further order of the ERA, that it is appropriate and in the public interest to permit these rates to become effective on the proposed dates.

The Commission orders:

(A) Subject to the ERA's grant of permanent authority to import natural gas from Canada at the new border price of $2.80 (U.S.) per MMBtu, Midwestern's revised tariff sheet filed July 25, 1979, is accepted for filing and permitted to become effective August 11, 1979.

(B) Subject to the ERA's grant of permanent authority to import natural gas from Canada at the new border price of $2.80 (U.S.) per MMBtu, Great Lakes' revised tariff sheet filed July 20, 1979, is accepted for filing and permitted to become effective September 1, 1979.

(C) Pursuant to § 154.51 of the Commission's regulations, and for good cause shown, waiver of the 30-day notice requirement is granted to permit the rates in Paragraphs (A) and (B) to go into effect on their proposed effective dates.

(D) For good cause shown, waiver of § 154.38(d)(4)(iv)(a) is granted.

(E) The petitioners to intervene listed below shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided*, however, that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided*, further, that the admission of such intervenors shall be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(F) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Northern States Power (Wisconsin)
Northern States Power (Minnesota)
Wisconsin Gas Company
North Central Public Service Co., Division of Donovan Companies, Inc.

[FR Doc. 79-27499 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-100 (PGA79-4)]

National Fuel Gas Corp.; Proposed PGA Rate Adjustment

August 28, 1979.

Take notice that on August 16, 1979, National Fuel Gas Supply Corporation (National) tendered for filing a proposal for relief from the requirement of filing revised tariff sheets to be effective August 1, 1979, as directed by letter order dated August 2, 1979.

National states that this proposal is in the public interest because the rate revision would result in a rate reduction of only .11¢ per Mcf. Increases that will occur September 1, 1979, but will not be included in National's rates until February 1, 1980, amount to approximately 9.7¢ per Mcf. Additionally, National's customers have used the originally filed rates.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27509 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-611]

Niagara Mohawk Power Corp.; Tariff Revision

August 28, 1979.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on August 24, 1979, tendered for filing as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY) dated April 27, 1979.

Niagara presently has on file an agreement with PASNY dated January 15, 1963, that is designated as Niagara's Rate Schedule FPC No. 22. The new agreement is being submitted as a supplement to the existing agreement.

Niagara requests waiver of the Commission's notice requirements to allow September 1, 1979 to become the effective date.

According to Niagara copies of this filing were served upon PASNY.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules or practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

[1] Ninth Revision Sheet No. 5A to FERC Gas Tariff, Third Revised Volume No. 1.

[2] Thirty-first Revised Sheet No. 51 to FERC Gas Tariff, First Revised Volume No. 1.

[3] Great Lakes originally sought an August 1, 1979, effective date but amended its request to permit its customers ample time to reflect the rate change in their state-regulated rates.

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Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27510 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-72]

Northwest Pipeline Corp.; Change in Rates Pursuant to Demand Charge Credit Adjustment

August 28, 1979.

Take notice that Northwest Pipeline Corporation, on August 16, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to compensate Northwest for demand charge credits given to certain of its customers due to curtailment of firm contract obligations because of gas supply deficiency.

The notice of change in rates is being filed pursuant to the Commission's Order issued March 29, 1974, at Docket No. RP74-72 and Article 13.4 of Northwest's FERC Gas Tariff, Original Volume No. 1. The change in rates will result in a net increase of .001¢ per therm for Rate Schedules CDL-1, DS-1 and PL-1. As more fully explained in the instant filing the demand charge credit adjustment reflected on Northwest's Statement of Rates is zero.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision contained in its Original Volume No. 1 Tariff. Both rate adjustments are reflected on the tendered Substitute Twenty-third Revised Sheet No. 10 which is proposed to become effective October 1, 1979.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1979. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27511 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-104]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant To Purchased Gas Cost Adjustment Provision

August 28, 1979.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on August 15, 1979 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Twelfth Revised Sheet No. 4
Ninth Revised Sheet No. 5

Pacific Interstate states that these tariff sheets are issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision as set forth in Section 16 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The proposed effective date of both of these tendered tariff sheets and the rates reflected thereon is October 1, 1979.

Pacific Interstate states that the above tendered tariff sheets reflect a proposed October 1, 1979 Pacific Interstate Rate Schedule S-G-1 commodity rate of 183.96¢ per decatherm, an increase of 24.17¢ from the 159.79¢ per decatherm rate effective April 1, 1979, the date of the last S-G-1 commodity rate change and that such increase reflects a Current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of $104,717 and that the Surcharge Adjustment is designed to amortize, over a six-month period beginning October 1, 1979, an amount of $76,309, which is the amount in Pacific Interstate's Unrecovered Purchased Gas Cost Account at June 30, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27512 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1422]

Peter Ronald; Application

August 29, 1979.

Take notice that Peter Ronald on August 6, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice president and director, Louisville Gas and Electric Company, Public Utility.
Vice president, Ohio Valley Transmission Corporation, Public Utility.

Any persons desiring to be heard or to protest said application should file petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27520 Filed 9-04-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. E-8586 and E-8587]

Public Service Co. of Indiana, Inc.; Order on Remand

Issued: August 27, 1979.

On April 27, 1978, the United States Court of Appeals for the Seventh Circuit affirmed in part, reversed and remanded in part Commission Opinion Nos. 783 and 783-A issued in *Public Service Company of Indiana*, Docket Nos. E-8586 and E-8587.[1] Specifically, the court remanded to this Commission the question of whether the rates proposed by PSCI for service to the City of Frankfort, Indiana violate Section 205(b) of the Federal Power Act. In accordance with that opinion, we shall order the record reopened in these dockets and direct the presiding administrative law judge to make certain findings of fact and conclusions of law consistent with this Order and the Circuit Court's decision in this case as well as the cases of *Borough of Chambersberg* v. *Federal Energy Regulatory Commission* [2] and *Town of Norwood* v. *Federal Energy Regulatory Commission*.[3]

On January 8, 1974, PSCI tendered for filing a rate schedule purporting to increase the rates for firm power service to five interconnected municipalities—Crawfordsville, Peru, Washington, Loganport and Frankfort, Indiana (Cities). The proposed filing would have resulted in an aggregate annual increase in the power costs to the five municipal systems of $835,000. The filing was assigned Docket No. E-8587.[4]

On March 7, 1974, the Commission [5] issued an order in consolidated Docket Nos. E-8586 and E-8587, suspending PSCI's rates to cities for five months, those rates to become effective, subject to refund, on October 15, 1974.[6] In that order, the Commission held that the contracts governing service to the cities of Crawfordsville, Washington, Peru and Logansport, Indiana, contained fixed-rate provisions, which under the authority of the *Sierra-Mobile* doctrine,[7] prohibited unilateral attempts by PSCI to alter the applicable wholesale rates. Accordingly, PSCI's filings with respect to these cities were rejected. The contract governing service to the city of Frankfort, however, was found to contain a *Memphis* clause [8] which permitted the filing of a unilateral rate increase, and the proposed rates as applied to Frankfort were permitted to become effective, subject to refund, and set for hearing under Section 205 of the Federal Power Act. PSCI's proferred rates to the other four cities were also set for investigation under Section 206(a) of the Act for purposes of determining whether their contractualy-fixed rates were "so low as to adversely affect the public interest." [9]

On March 10, 1976, an initial decision was handed down. The Presiding Administrative Law Judge essentially approved PSCI's proposed rate increase to Frankfort and the other interconnected cities, holding that the fixed-rate contracts of the four cities violated Section 206. On November 10, 1976, the Commission issued Opinion No. 783 which disallowed in part PSCI's proposed rate increase and reversed the judge's ruling with regard to the fixed-rate contracts held by the four cities.[10] The FPC felt that this Commission was "legally prohibited from depriving the *Sierra* cities of contractual protection" based on the record in this case.[11] Since Frankfort's rate increase was based on the presiding judge's establishment of "just and reasonable" rates for service to that city, the Commission declined to extend a *Sierra* protection to Frankfort based on the theory that other wholesale customers pay lower rates to PSCI. The Commission therefore held that, under Section 206(a), the fixed rate contracts to the four *Sierra* cities were not contrary to the public interest merely because of "a *de facto* discriminatory impact resulting from PSCI's lawful exercise of its contractual right to seek a just and reasonable rate for service to Frankfort".[12]

Based upon *St. Michaels Utilities Commission* v. *F.P.C.*,[13] the Commission held that a rate differential could exist between members of the same class if it were predicated upon differences in facts.[14] The Commission conceded that a substantial disparity existed between the rates of Frankfort and the other four interconnected Cities. The FPC held, however, that the existence of a *Sierra* protection for the four Cities constituted enough of a factual difference to justify the rate differential between the Cities and Frankfort within the meaning of *St. Michaels*. The Commission thus concluded that, to the extent that PSCI had shown that its proferred rate increase to Frankfort was necessary to recover its cost of service and a fair return, the increase had to be approved as lawful unter the Act.

On Appeal of our rulings in Opinion Nos. 783 and 783-A, the United States Court of Appeals for the Seventh Circuit affirmed in part and remanded in part with regard to the discrimination issues. The Court affirmed the Commission's determination that there was no violation of Section 206. Based on the Commission's finding that the *Mobile-Sierra* burden had not been met, the Court affirmed the policy expressed in *Mobile* that fixed-rate contracts generally should be enforced absent a very clear showing of injury to the public interest. However, the Circuit Court held that an allegation of discrimination under Section 205(b) cannot be dismissed merely because some members of a class of customers have fixed-rate contracts while others do not. Such a factual difference, by itself, is not sufficient to justify a disparity in rates. The Commission must look beyond the mere existence of a contract to find that a rate disparity is justified.

The Seventh Circuit, as well as the U.S. Court of Appeals for the District of Columbia [15] have addressed the question of what factors should be considered in a hearing on undue discrimination under Section 205(b). The Seventh Circuit has suggested that this Commission consider, among other things, (1) the length of a contract "since discounts can be justified on the basis of long-term requirements arrangements," [16] (2) the services that might be provided or excluded by either the buyer or seller, or (3) "any factor that might explain why a buyer did not bargain for a contract with a *Sierra-Mobile* clause in it when other comparable utilities successfully obtained such a clause.[17] The D.C. Circuit opinion additionally requires that, in reviewing a challenge of undue discrimination, the Commission must consider allegations which go to the fairness and good faith of the parties at the contract formation stage. If no impropriety is found, the customer may be required to live with its improvidently-incurred situation. The

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[1] *Public Service Co. of Indiana* v. *Federal Energy Regulatory Commission*, 575 F. 2d 1204 (7th Cir. 1978).

[2] 580 F. 2d 573 (D.C. Cir. 1978).

[3] 587 F. 2d 1306 (D.C. Cir. 1978).

[4] PSCI also filed on that date proposed rate increases for its other municipal customers, including Hoosier Energy Division of the Indiana Statewide Rural Electric Cooperative, Inc. (Hoosier), Wabash Valley Power Association (Wabash) and the Indiana Municipal Electric Association (IMEA). The filing relating to Hoosier was assigned Docket No. E-8586. The other rate filings, including Cities, were assigned Docket No. E-8587. All filings were consolidated on March 7, 1974. See Order Suspending Proposed Rate Increases, Setting Matter for Hearing, Instituting an Investigation under Section 206, consolidating Proceedings and Permitting Intervention, *Public Service Company of Indiana, Inc.*, Docket No. E-8586 and E-8587 (issued March 7, 1974).

[5] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[6] The Hoosier rate increase was suspended for one day, to become effective March 10, 1974, subject to refund. The proposed rates to Wabash and IMEA were suspended for five months and became effective subject to refund, on October 15, 1974. These rate schedules were not pertinent to this order.

[7] *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 344 (1956).

[8] *United Gas Pipe Line Co.* v. *Memphis Light, Gas & Water Division*, 358 U.S. 103 (1958).

[9] *FPC* v. *Sierra Pacific Power Co.*, *supra*, 350 U.S. at 355.

[10] Opinion and Order Setting Just and Reasonable Rates, issued November 10, 1976, Docket Nos. E-8586 and E-8587.

[11] Opinion No. 783 at 9.

[12] *Ibid.*, at 11.

[13] *St. Michaels Utilities Commission* v. *Federal Power Commission*, 377 F.2d 912 (4th Cir., 1976).

[14] Opinion and Order Granting Rehearing, In Part, And Modifying Opinion No. 783, issued February 25, 1977, *Public Service Company of Indiana*, Docket Nos. E-8586 and E-8587.

[15] *Norwood*, *supra*.

[16] *PSCI*, p. 1212, fn. 12.

[17] *Ibid.*

Court in *Norwood* delineated a number of factors which might justify a rate differential for purposes of Section 205(b). As stated by the Court:

> The process of bargaining over contractual terms is necessarily a technique for risk allocation. Where several customers have bargained with a utility over a period of time, it is quite likely that the contracts which result will differ. Customers' needs may vary, as well as their general level of risk aversion and the types of risk to which they are most averse. They may have different projections about likely cost changes, technological advances, or demand fluctuations. And their bargaining power is likely to vary as well.[16]

Thus, there may be a number of factors that justify a disparity in contractual rates and terms between members of a class of customers. Should these factual differences not justify the specific rate differences, then the presiding administrative law judge should find a violation of Section 205(b). If on the other hand the factors enumerated above justify the specific rate differences, the judge should find that no violation of Section 205(b) has occurred. As pointed out however by the Court in *PSCI*, no such factual determination was made in this case. We will therefore reopen the record for purposes of allowing evidence to be heard on this issue and direct the judge to make conclusions of law consistent with such evidentiary findings.

Burden of Proof

When a customer comes forth with allegations of undue discrimination under Section 205(b) of the Federal Power Act, that alleging customer has the initial burden of demonstrating that a substantial disparity in rates exists between members of the same class. Once such an initial showing is made, the burden then shifts to the filing utility to show that the disparity is justified on the basis of factual differences, as discussed above. In the present case, we have already determined that a substantial disparity in rates exists between Frankfort and the other four interconnected Cities. PSCI however was not given the opportunity below to justify the specific rate disparity on the basis of factual differences between Frankfort and the other cities. We shall therefore direct the judge to allow PSCI to make such a showing.

The Commission orders: (A) The record in this case is reopened for purposes of making findings of fact and conclusions of law as required by this order.

(B) The Chief Administrative Law Judge shall designate a presiding administrative law judge to convene a conference in this case to be held within 15 days of issuance of this order. The designated law judge is authorized to set procedural dates for hearing on the issue of Section 205(b) undue discrimination and rule upon all motions (except motions to consolidate and sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a hearing shall be held to determine whether the rates proposed by PSCI for service to the City of Frankfort, Indiana violate Section 205(b) of the Federal Power Act.

(D) All motions contained in the pleadings of the parties on remand are hereby denied.

(E) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27503 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[16] *Norwood, supra*, p. 13.

[Docket No. ID-1854]

Samuel Hunington; Application

August 29, 1979.

Take notice that on August 2, 1979, Samuel Hunington filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, New England Power Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27515 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-80]

Southern Natural Gas Co.; Petition for Continued Rate Base Treatment of Advance Payments

August 28, 1979.

Take notice that on August 14, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. RP79-80 a petition pursuant to Section 4 and Section 16 of the Natural Gas Act and Section 1.7 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure requesting that the Commission grant it an extension until October 31, 1979, of the requirement contained in Paragraph F of Account 166 of the Commission's Uniform System of Accounts that an advance payment recorded in that account be removed therefrom if deliveries of gas for which the advance payment was made have not commenced within five years from the date the advance payment was included in said account to permit Southern to retain in its rate base certain advance payments made to SONAT Exploraton Company (SONAT) and The Offshore Company (Offshore), all as more fully set forth in the petition on file with the Commission and open to public inspection.

Southern states that pursuant to two Advance Payment Agreements, both dated July 18, 1974, it has advanced certain sums of money to SONAT and Offshore for the development of the natural gas reserves in the Mississippi Canyon Block 194 Field, offshore Louisiana (Block 194 Field). Until very recently, it was expected that gas sales would commence from the Block 194 Field by August 23, 1979, the fifth anniversary of the date Southern's advance payments to SONAT and Offshore for the development of these gas reserves were included in Southern's Account 166. Gas production commenced on August 2 from the Block 194 Field, but onshore sales for Southern's account may not commence until after August 23. Accordingly, Southern requests, if the Commission deems it necessary under these circumstances, a short extension until October 31, 1979, of the five-year requirement contained in Paragraph F of Account 166.

Southern states further that good cause exists for granting the relief requested. The commencement of gas deliveries from the Block 194 Field will represent a historic achievement for the natural gas industry, and the unprecedented nature of the development necessary for the Block 194 Field made a lengthy development time unavoidable. The depth of the Gulf in the Block 194 Field varies from 700 feet to 1,800 feet, and the production platform stands in 1,020 feet of water. The platform rises to 1,090 feet at its deck level and is the tallest platform constructed. Because of its size, the platform had to be set in the Gulf in three stages. The extraordinary nature of the installation of these platform facilities necessitated the use of the most sophisticated current technology in the fields of engineering and design. Although the completion of such an enormous and sophisticated project necessarily extended beyond the presumptive five-year development time, there have been no undue delays. From the acquisition of the leases in March 1974, through the design and construction of the platform, the installation of the platform, and the drilling of exploratory wells, to the commencement of platform drilling in October 1978, each phase of this unique project has proceeded in an orderly and timely manner. Accordingly, Southern respectfully submits that the extraordinary circumstances of this case justifies the Commission granting the relief requested.

Any person desiring to be heard or to make any protest with reference to said application, should on or before Sept. 13, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27513 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-106]

Texaco, Inc., Table Rock Unit No. 8, JD79-12141; Preliminary Finding Regarding determination by State of Wyoming

Issued August 24, 1979.

On July 10, 1979, the Oil and Gas Conservation Commission of the State of Wyoming submitted to the Commission a notice that the Texaco, Inc., Table Rock Unit No. 8, JD79-12141, met all the requirements of a stripper well under under section 108 of the Natural Gas Policy Act of 1978 (NGPA) and Commission regulations implementing that section. Notice of that determination was issued July 19, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during such period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The record submitted with the determination for the above-listed well indicates that this well produced no natural gas during the 90-day production period upon which the application is based. There were no findings that this well was shut in due to State law or practice. Accordingly, the 90-day production period upon which this application is based contained no production days. Since section 108(b) requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf *per production day*, a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the records submitted with these determinations, the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(i), that the determination submitted by the Oil and Gas Commission of the State of Wyoming that the above-listed well qualifies as a section 108 stripper well, is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27501 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-156 (PGA 79-2, DCA 79-2)]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 28, 1979.

Take notice that Texas Gas Transmission Corporation (Texas Gas) on August 23, 1979, tendered for filing proposed changes in Substitute Twenty-Sixth Revised Sheet No. 7 to its FERC Gas Tariff, Third Revised Volume No. 1.

The revised tariff sheet is being issued to reflect the elimination of costs from producer and pipeline suppliers which those suppliers are not authorized to charge on August 1, 1979.

The proposed effective date of the above tariff sheet is August 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27514 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1876]

Thomas C. Webb; Application

August 29, 1979.

Take notice that Thomas C. Webb on August 9, 1979 filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Finance, Central Maine Power Company, Public Utility.
Director, Maine Yankee Atomic Power Company, Public Utility.
Director, Maine Electric Power Company, Inc., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27521 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1874]

Victor A. Owoc; Application

August 29, 1979.

Take notice that Victor A. Owoc on July 11, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Pennsylvania Power Company, Public Utility.
Senior Vice President and Director, Ohio Edison Company, Public Utility.

Any persons desiring to be heard or to protest said application should file petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27518 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

[DOE/EIS-0026-D]

Waste Isolation Pilot Plant Draft Environmental Impact Statement; Supplemental Notice in Connection with Public Hearings

AGENCY: U.S. Department of Energy.

ACTION: Notice of additional public hearings on the draft environmental impact statement (DEIS).

SUMMARY: The Department of Energy (DOE) announces additional public hearings on the draft environmental impact statement, DOE/EIS-0026-D, Waste Isolation Pilot Plant (April 1979), which discusses a pending proposal to design, construct and operate a licensed waste isolation pilot plant (WIPP) for the permanent disposal of radioactive transuranic nuclear wastes (TRU), for research and development on various high level waste forms in a mined repository, and for a disposal demonstration in an intermediate scale facility (ISF) of up to a thousand spent fuel assemblies from commercial nuclear power reactors. Additional hearings will be held at Odessa, Texas on October 1, 1979, at Hobbs, New Mexico on October 2, 1979, and at Santa Fe, New Mexico on October 5, 1979. A notice of the availability of the DEIS and general information on the public hearings was published on April 18, 1979 (44 FR 23117).

Hearings on the DEIS were held in Idaho Falls, Idaho on June 5, 1979, in Albuquerque, New Mexico on June 7 and 8, 1979, and in Carlsbad, New Mexico on June 9, 1979. Several interested parties have requested additional hearings in New Mexico and Texas.

DATES: The hearings will be held October 1, 1979, October 2, 1979, and October 5, 1979, from 9:00 a.m. to 10:00 p.m. with recess from 11:30 a.m. to 1:00 p.m. and 5:00–7:00 p.m.

ADDRESS: Send written comments and requests to speak to: U.S. Department of Energy, WIPP Project Office, Albuquerque, NM 87115.

HEARING LOCATIONS: Hearings will be held at the following locations.

The Founders Building, Auditorium, University of Texas, Permian Basin, Odessa, TX 79762.
Holiday Inn, 200 South Linam, Hobbs, NM 88240.
New Mexico National Guard Headquarters Complex, 2600 Cerrillos Road, Santa Fe, NM 87503.

FOR FURTHER INFORMATION CONTACT:

1. Mr. Eugene Beckett, WIPP Project Leader, Department of Energy, MS B-107, Washington, DC 20545, 301/353-3253.
2. Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environment, Department of Energy, MS 4G-064, Washington, DC 20545, 202/252-4600.
3. Mr. Stephen H. Greenleigh, Assistant General Counsel for Environment, Forrestal Building, MS 6A-152, Department of Energy, Washington, DC 20585, 202/252-6947.
4. Mr. Ben E. McCarty, Public Affairs Officer, Forrestal Building, MS 8G-031, Department of Energy, Washington, DC 20585, 202/252-4296.
5. Mr. Don Schueler, Project Manager, WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.

SUPPLEMENTARY INFORMATION:

I. Previous Notices

The Department of Energy published a notice of intent (43 FR 30331) on July 14, 1978, regarding the preparation of a DEIS on a proposed waste isolation pilot plant and soliciting comments as to the scope and content of that document. The notice of intent indicated that the proposed facility was being considered for siting in Eddy County, New Mexico. The Department of Energy published a notice of availability of the DEIS (44 FR 23117) on April 18, 1979. The notice of availability provided general information on the public hearings. The Department of Energy published a supplemental notice of a public comment period extension to September 6, 1979 (44 FR 38620) on July 2, 1979.

II. Background for the Proposed Project

The role of the proposed project in the Nation's overall program has been examined by an interagency review group (IRG) whose report to the President was issued in March 1979 (TID-29442).

The DEIS examines the WIPP proposal in light of the policy recommendations contained in the IRG report and compares the environmental impacts of a WIPP reference case with other program and site alternatives.

III. Purpose of the EIS

The Department of Energy intends to use the WIPP EIS as the environmental input into future decisions concerning the proposed Wipp project. These include, but are not limited to, withdrawal of Federal and State land at the Eddy County site; proceeding to full detailed design and construction of the reference repository, including selection of a construction contractor and long lead-time equipment procurement. The DEIS was also designed to consider the submission of a license application to the NRC, however, Congress has not authorized the disposal demonstration of spent fuel assemblies from commerical reactors and licensing of the proposed facility.

IV. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS have been distributed to Federal, State and local agencies, organizations, and individuals known to be interested in the WIPP proposal. Additional copies may be obtained from the following locations:

WIPP Project Office, Department of Energy, MS B-107, Washington, DC 20545, 301/353-3253.
WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.
U.S. Department of Energy, 2626 West Mockingbird Lane, Dallas, Texas 75235, 214/767-7736.

Copies of the DEIS are also available for public inspection at:

Public Reading Room, FOI, Room GA-152, Forrestal Building, 1000 Independence Ave., SW, Washington, DC.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Richland Operations Office, Federal Building, Richland, Washington.
Energy Information Center, 215 Fremont Street, San Francisco, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.
Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado.
Carlsbad Public Library, Public Document Room, 101 South Halagueno Street, Carlsbad, New Mexico.

B. Written Comments

The **Federal Register** Notice of April 18, 1979 invited interested parties to submit written comments with respect to the DEIS to the WIPP Project Office at the Washington, DC address listed above. The **Federal Register** Notice of July 2, 1979 extended the written comment period to September 6, 1979.

V. Public Hearings

A. Conduct of Hearings

The purpose of the hearings is to afford further opportunity for public comment regarding the DEIS. DOE will make a presentation summarizing the substantive areas of concern raised in the June 5, 7, 8, and 9 hearings and written comments received prior to close of the comment period.

The hearings will be conducted by a three-person board selected by DOE. The presiding officer and one other member of the Board will constitute a quorum. This will not be a judicial or evidentiary type hearing.

DOE reserves the right to arrange the schedule of presentation to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited, based on the number of persons requesting to be heard.

Questions may be asked only by those conducting the hearing. Cross examination of persons presenting statements will not be permitted. Any participant who wishes to ask a question at the hearing may submit the question in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer. DOE will make available appropriate witnesses to respond to appropriate questions.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. Additional copies of the complete transcript will also be available at the public document centers noted above. Any person may purchase a copy of the transcript from the reporter.

After all hearings have been conducted, the hearing board will prepare a report identifying significant issues raised during the hearings. This report will be used by DOE in the preparation of the final EIS.

B. Full Participation

Any individual who desires may make a written or oral request to DOE for an opportunity to be scheduled to make an oral presentation at the hearing. Requests to participate in the hearings should be received by the WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115 before September 21, 1979. Requestors are encouraged, to the extent practical, to furnish DOE a summary of the proposed oral presentation with the written request to participate in order for DOE to arrange grouping of participants speaking on similar topics. Requestors should provide a phone number where they can be reached. Each person scheduled will be notified by DOE by phone or in writing no later than September 27, 1979, of the time scheduled for the presentation and the amount of time available. Scheduled speakers are encouraged to provide a text of the presentation at the hearing to assist the reporter. Priority will be given to those who did not have an opportunity to present a statement in previous hearings.

C. Limited Participation

Individuals who did not make an advance request to speak or who were not scheduled to speak may register to speak at the hearing. After scheduled speakers, an opportunity will be provided to these individuals to speak. Time for each participant will be limited depending on time available and number of requests.

Dated at Washington, D.C., this 29th day of August 1979.

For the United States Department of Energy.

Lynda L. Brothers,

Acting Deputy Assistant Secretary for Environment (Policy and Assessments).

[FR Doc. 79-27485 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Refinery Capability Task Group of the Committee on Refinery Flexibility; Meetings

Notice is hereby given that the Refinery Capability Task Group of the National Petroleum Council's Committee on Refinery Flexibility will meet on Friday, September 21, 1979, at the National Petroleum Council Headquarters, Suite 601, 1625 K Street, N.W., Washington, D.C., beginning at 9:00 a.m.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agenda of the Task Group session is as follows:

1. Review and approve summary minutes for the August 8 meeting of the Task Group.
2. Report on the Coordinating Subcommittee meeting of September 5, 1979.
3. Report on status of Part I of the NPC Survey of U.S. Refineries.
4. Review and comment on Executive Summary for Part II of the NPC Survey of U.S. Refineries.
5. Review and comment on Executive Summary for Part III of the NPC Reoprt.

6. Discuss any other matters pertinent to the overall assignment of the Task Group.

All meetings are open to the public. The Chairmen of the Task Group are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Mr. Gene Peer, U.S. Department of Energy, (202) 633–9179, prior to the meeting, and provision will be made for their appearance on the agenda. Summary minutes of the Task Group meeting will be available through the National Petroleum Council or by contacting Mr. Peer.

Issued at Washington, D.C., on August 31, 1979.

Alvin L. Alm,

Assistant Secretary, Policy and Evaluation.

[FR Doc. 79-27561 Filed 9-4-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1312-5]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2) (C) of the National Environmental Policy Act of 1969, and section 309 of the Clear Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of June 1, 1978 and June 30, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755–2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 13, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between June 1 and June 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
D-COE—C07003-NY	Cayuga Station, Permit, Somerset, Niagara County, New York	ER-2	C
DS-COE-C39002-NY	Hudson River Project, Northeast U.S. Water Supply Study, Metro Area, Nassau County, New York.	3	C
D-COE-D35013—PA	Commercial Sand and Gravel Dredging Operations, Allegheny River, Mile 0–72, Pennsylvania	LO-2	D
D-COE-E07005-NC	Mayo Electric Generating Plant, Roxboro, Person County, North Carolina	EU-2	E
DS-COE-E32006-GA	Harbor Modification, Savannah Harbor, Kings Island Turning Basin, Georgia	ER-2	E
DS-COE-E32021-FL	Boot Key Harbor, Navigation, Marathon, Monroe County, Florida	LO-1	E
D-COE-E32023-MS	Cadet Bayou, Construction of Proposed Anchorage Basin, Operation and Maintenance of Existing Federal Channel and Navigation, Hancock County, Mississippi.	ER-2	E
D-COE-E34013-OO	Addition of Pumped Storage to the Richard B. Russell Project, Piedmont Plateau, Elbert and Hart Counties, Georgia and Abbeville and Anderson Counties, South Carolina.	ER-2	E
DS-COE-E35005-KY	Obion Creek, West Kentucky Tributaries Project, Graves, Carlisle, Hickman, and Fulton Counties, Kentucky.	3	E
D-COE-E39003-GA	Aquatic Plant Control, Georgia	LO-1	E
D-COE-F07006-WI	Weston Generating Unit 3, Permit, Wausau, Marathon County, Wisconsin	ER-1	F
D-COE-G34029-LA	Madison Parish Port Improvement, Madison County, Louisiana	LO-1	G
D-COE-G50004-AR	U.S. 62 and AR-101, Norfolk Lake Highway Bridges, Baxter County, Arkansas	LO-1	G
DS-COE-H34016-MO	Harry S. Truman Dam and Reservoir Operation, Osage River, Downstream Measures, Missouri	3	H
D-COE-J36014-MT	Flood Control Project Along Right Banks of Yellowstone and Tongue Rivers, Miles City, Custer County, Montana.	LO-1	I
D-COE-K39007-CA	Pillar Point Mariana, Regulatory Permit, San Mateo County, California	LO-1	J
DS-COE-L36061-WA	Grays Harbor and Chehalis River Navigation Project, Operation and Maintenance, Grays Harbor Terminal No. 2 Project, Washington.	ER-1	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-G65029-LA	Management of Kisatchie Unit, Kisatchie National Forest, Natchitoches County, Louisiana	LO-1	G
D-AFS-J65073-WY	Land Management Plan for Dunoir Special Management, Shoshone National Forest, Cody, Wyoming.	ER-2	I

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between June 1 and June 30, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
D-AFS-J65074-OO	Star Land Management Plan, Kootenai National Forest, Montana and Idaho	LO-1	I
D-AFS-J65075-CO	Williams Fork Land Management Plan, Arapahoe National Forest, Grand County, Colorado	ER-2	I
D-AFS-K61024-CA	North Fork American River, Wild and Scenic River Study and Report, Placer County, California	LO-1	J
D-AFS-L61105-ID	Leesburg Planning Unit, Land Management Plan, Salmon National Forest, Lemhi County, Idaho (USDA-FS-DES(ADM)R4-78-5).	LO-2	K
D-AFS-L61106-ID	Bear River Planning Unit, Caribou National Forest, Bear Lake, Franklin and Caribou Counties, Idaho (USDA-FS-R4-78-4).	LO-2	K
D-AFS-L61107-WA	Canal Front Land Management Plan, Olympic National Forest, Clallam, Jefferson and Mason Counties, Washington (USDA-FS-R6-DES(ADM)-78-9).	LO-1	K
D-REA-G06005-OK	Guaranteed Loan, Black Fox Station, Units 1 and , Rogers County, Oklahoma	LO-1	G
D-SCS-A67015-OO	Rural Abandoned Mine Program (RAMP)	LO-2	A
D-SCS-G36076-LA	Lower Bayou Teche Watershed, Lafayette and Vermilion Parishes, Louisiana	LO-1	G
D-SCS-H36035-MO	Mozingo Creek Watershed, Nodaway County, Missouri	LO-1	H
	DEPARTMENT OF COMMERCE		
D-NOA-B90002-ME	Maine Coastal Zone Management Program (CZM)	LO-1	B
D-NOA-C90003-NJ	New Jersey Coastal Zone Management Program (CZM), Bay and Ocean Shore Segment, New Jersey.	ER-2	C
	DEPARTMENT OF DEFENSE		
D-USA-J21001-UT	Operations of the Drill and Transfer System, Dugway Proving Ground, Utah	LO-2	I
	DEPARTMENT OF ENERGY		
D-DOE-B08000-OO	Dickey-Lincoln School Lakes, Transmission Project Maine, New Hampshire, and Vermon (DOE/EIS-0008-D).	ER-2	B
D-DOE-E07004-KY	Low Btu Coal Gasification Facility and Industrial Park, Georgetown, Scott County, Kentucky	ER-2	E
D-DOE-F06009-OH	Mound Facility, Nuclear Weapons, Miamisburg, Montgomery County, Ohio	ER-2	F
D-FRC-K05005-CA	Potter Valley Project No. 77, Lake and Mendocino Counties, California	LO-1	J
D-FRC-L03001-AK	Western LNG Project, Construction and Operation of a LNG Liquefaction Terminal, Nikiski, Alaska.	ER-2	K
	DEPARTMENT OF INTERIOR		
D-NPS-C61003-OO	Gateway National Recreation Area, Master Plan, New York and New Jersey	ER-2	C
D-NPS-E61026—OO	General Management Plan and Development Plans, Gulf Island National Seashore, Florida and Mississippi.	LO-1	E
D-SFW-D64000-WV	Canaan Valley National Wildlife Refuge, Tucker County, West Virginia	3	D
D-HCR-L61109-OO	Proposed Designation of the Owyhee River as an Element of the National Wild and Scenic Rivers Systems, Idaho and Oregon (DES 78-17).	LO-1	K
	DEPARTMENT OF TRANSPORTATION		
D-CGD-E50004-FL	Tampa South Crosstown Expressway, Eastern Extension to I-95, Hillsborough County, Florida	ER-2	E
D-FAA-D51010-VA	Metropolitan Washington Airport Policy, Arlington County, Virginia	ER-2	D
D-FHW-B40031-VT	U.S.-2, Danville to St. Johnsbury, Caledonia County, Vermont (FHWA-VT-EIS-78-01-D)	LO-2	B
D-FHW-B40032-MA	Improvements, MA-129, Wilmington to Reading Middlesex County, Massachusetts (FHWA-MASS-EIS-78-01-D).	ER-2	B
D-FHW-B40034-VT	Northfield and Williamstown State Highway, Washington and Orange Counties, Vermont (FHWA-VT-EIS-78-02-D).	LO-2	B
D-FHW-C40035-NY	Alternate Route 7, Latham and Mohawk River Interchange, Latham to Maplewood, Hoosick Street Extension, Albany County, New York.	ER-2	C
DS-FHW-E40105-NC	Albemarle, Snuggs Street to Salisbury Avenue and Carolina Avenue, Connector, U.S. 52 to NC-24 and NC-27, Stanly County, North Carolina.	LO-1	E
D-FHW-E40143-AL	U.S. 72, Scottsboro to Tennessee State Line, Jackson County, Alabama (FHWA-AL-EIS-78-03D).	LO-1	E
D-FHW-F40109-MI	Reconstruction of MI-153, Ford Road, Wayne County, Michigan	LO-2	F
D-FHW-F40112-WI	Taylor Drive, CTH 'TA', Sheboygan County, Wisconsin	ER-2	F
D-FHW-G53004-AR	Pine Bluff Railroad Demonstration Project, Jefferson County, Arkansas	LO-1	G
DS-FHW-H40081-MO	Route 755, St. Louis City, St. Louis, Missouri (FHWA-MO-EIS-71-50-D2)	3	H
D-FHW-H40082-IA	Dubuque North-West Arterial U.S. 20 to U.S. 52 and IA-3, Dubuque County, Dubuque, Iowa (FHWA-IOWA-EIS-78-01-D).	LO-2	H
D-FHW-H40083-NB	Fort Robinson East, U.S. 20 Relocation, Sioux and Dawes Counties, Nebraska (FHWA-NEBR-EIS-78-02-D).	LO-1	H
D-FHW-J40035-CO	City of Grand Junction, Horizon Drive, Mesa County, Colorado	ER-1	I
D-FHW-J40037-ND	U.S. 83, 4th Avenue to 5th Avenue Transition, minot, Ward County, North Dakota	ER-1	I
D-FHW-J40039-CO	West of Grand Junction, Study Area, CO-340, Mesa County, Colorado	ER-1	I
D-FHW-K40058-CA	Mar Vista Street, Whittier Boulevard to College Avenue, Whittier, Los Angeles County, California	LO-2	J
D-FHW-L40066-OR	Powell Boulevard, Phase II 52nd Avenue to I-205, Mt. Hood Highway 26, Multnomah County, Oregon (FHWA-OR-EIS-78-7-D).	LO-2	K
D-FHW-L40067-WA	WA-5, Trosper Road to Martin Way Interchange, Thurston County, Washington (FHWA-WA-EIS-78-01-D).	LO-2	K
D-FHW-L40068-OR	McLeod Lane to Oregon Electric Railroad, Chemawa Road, Marion County, Oregon (FHWA-OR-EIS-78-08-D).	LO-1	K
D-UMT-F54002-IL	Rail Rapid Transit Extension, Chicago O'Hare Airport, Cook County, Illinois	LO-2	F

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between June 1 and June 30, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	GENERAL SERVICE ADMINISTRATION		
D-GSA-B11003-RI	Disposal of Surplus Federal Military Properties, Quonset Point Naval Air Station, Davisville Construction Battalion Center, Newport Naval Base, Newport County, Rhode Island.	ER-2	B
D-GSA-B11004-RI	Naval Auxiliary Landing Field, Charleston, Washington County, Rhode Island	ER-2	B
D-GSA-B81005-MA	Construction of New Federal Office Building, Repair and Alteration of John W. McCormack Post Office and Courthouse, and Purchase of Leased Food and Drug Administration Building, Boston, Massachusetts.	LO-2	B
D-GSA-F81007-MI	U.S. Customs Service Cargo Inspection Facility, Detroit, Wayne County, Michigan	ER-2	F
D-GSA-G81010-TX	Federal Office Building and Parking Facility, El Paso County, Texas	LO-1	G
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-C89003-NY	Disposition of the Amos Block, 208–220 Water Street, Syracuse, Onondaga County, New York	ER-2	C
D-HUD-D54025-PA	Pedestrian Walkway, 69th Street Terminal, Upper Darby Township, Delaware County, Pennsylvania.	LO-1	D
D-HUD-D89021-PA	Eastern North Philadelphia Plan, Philadelphia, Pennsylvania	ER-2	D
D-HUD-F85030-OH	Forest Park Development, Title X, Hamilton County, Ohio	LO-2	F
D-HUD-F85033-MI	Proposed Oakland Park Towers, Troy, Oakland County, Michigan	ER-2	F
D-HUD-G85100-OK	Shadowlake Village, Cleveland County, Oklahoma	LO-2	G
D-HUD-G85102-TX	LaSalle Crossing Subdivision, Montgomery County, Texas	LO-1	G
D-HUD-L85006-ID	Cherry Lane Village, Planned Community, Meridian, Ada County, Idaho (HUD-R10-EIS-78-3D)	LO-2	K
	NUCLEAR REGULATORY COMMISSION		
D-NRC-A00133-OO	Handling and Storage of Spent Light Water Reactor Fuel (NUREG-0404)	ER-2	A

Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project of action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impat of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between June 1 and June 30, 1978*

Identifying No.	Title	General Nature of Comments	Source for copies of comments
	CORPS OF ENGINEERS		
F-COE-D28003-00	Potomac River Water Supply Structures, Maryland and Virginia.	EPA continues to have environmental reservations on the project as proposed. EPA concurs with the issuance of the permits with certain conditions relating to the low flow study task force's recommendation.	D
F-COE-F32017-MN	Lake Superior, Lutsen and Beaver Bay Harbor of Refuge, Cook and Lake Counties, Minnesota.	EPA's comments on the draft EIS are adequately addressed in the final EIS. EPA has no major objections to the proposed action provided that the littoral drift be monitored and remedial measures be taken. Also, that care be taken when materials are disposed of. Also, the material must be confined at a site, sealed and the material should be covered.	F
F-COE-F32034-WI	Fox River Navigation Project, Operation and Maintenance, Wisconsin.	EPA's concerns were adequately addressed in the final EIS	F
F-COE-F32041-MI	Mitigation Shore Damage, Frankfort Harbor, Benzie County, Michigan.	EPA's concerns were adequately addressed in the final EIS	F
F-COE-F32043-MI	Manistee Harbor, Navigation Structures, Manistee County, Michigan.	EPA's concerns were adequately addressed in the final EIS	F
F-COE-F36060-00	Kaskaskia Island Drainage and Levee, Flood Protection, Mississippi River, Missouri and Illinois.	EPA's concerns were adequately addressed in the final EIS	F
F-COE-J36013-CO	Bear Creek Lake, Colorado	EPA's concerns were adequately addressed in the final EIS	I
F-COE-K85011-CA	Delta Coves Proposed Subdivision, Permit, Contra Costa County, California.	EPA's concerns were adequately addressed in the final EIS	J

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between June 1 and June 30, 1978*—Continued

Identifying No.	Title	General Nature of Comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE		
F-REA-J07006-ND	Antelope Valley Station, Two 455 MW Units and Related Transmission Facilities, Mercer County, North Dakota.	EPA's concerns were adequately addressed in the final EIS	I
	DEPARTMENT OF COMMERCE		
F-NOA-B91007-00	Fishery Management Plan for the Atlantic Mackeral Fishery.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA pointed out that no fishing should occur at designated sewage and industrial waste ocean disposal sites which will be in use through 1981.	B
	DEPARTMENT OF ENERGY		
F-DOE-K08004-CA	New Melones 230 kV Electrical Transmission Line, Central Valley Project, California.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggests that precautions be taken to reduce asbestos dust emissions should blasting occur in serpentine rock formations during construction.	J
	DEPARTMENT OF INTERIOR		
RF-BOR-A86102-00	Recreation Service (Formerly BOR), Departmental Implementation of Executive Order No. 11644, as Amended by EO 11989, Pertaining to the Use of Off-Road Vehicles of Public Lands.	As a result of EPA's review of the final EIS, EPA has concluded the document to be unresponsive to the major issues commented on the draft EIS. Furthermore, EPA has severe environmental reservations on the proposed action.	A
	DEPARTMENT OF TRANSPORTATION		
F-FHW-A41162-NY	Sunrise Highway Extension, Brentwood Road to Phyllis Drive, Suffolk County, New York.	EPA expressed environmental reservations over the proposed project's potential noise impacts on residential areas. The installation of noise reduction devices in the affected homes or construction of the roadway below grade in sensitive areas was recommended.	C
NF-FHW-A41923-MD	MD-198 From I-95 to MD-29, Montgomery and Prince Georges Counties, Maryland.	EPA's concerns were adequately addressed in the final EIS. However EPA is concerned that no mention was made of EPA's earlier reservations as reflected in our DEIS comment letter and the letter was not included in the final statement.	D
F-FHW-A41987-UT	Redwood Road, 6500 South to 3500 South, and North Temple to 1000 North, UT-68, Salt Lake County, Utah.	EPA's concerns were adequately addressed in the final EIS	I
F-FHW-A42147-MA	MA-25 and MA-28, Wareham, Plymouth, and Bourne, Plymouth County, Massachusetts.	EPA's concerns were adequately addressed in the final EIS	B
F-FHW-D40037-MD	U.S. 15, Putnam Road to Business Route MD-15, Frederick County, Maryland.	EPA's concerns were adequately addressed in the final EIS	d
F-FHW-H40051-NB	Grand Island, U.S. 30 Improvement, Hall County, Nebraska.	EPA continues to have environmental reservations with the proposed project because of anticipated noise levels which exceed the noise standards of the FHWA "Federal-Aid Highway Program Manual 7-7-3." EPA suggested FHWA further examine the feasibility of nonstructural alternatives such as rerouting truck traffic and changes to existing traffic flow patterns.	H
F-FHW-K40047-CA	Del Monte Avenue Widening, Washington Street to East City Limits, Monterey County, California.	EPA's concerns were adequately addressed in the final EIS	J
	GENERAL SERVICES ADMINISTRATION		
F-GSA-D81007-DC	Restoration of Old Post Office, Washington, D.C.	EPA's concerns were adequately addressed in the final EIS	D
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-D89020-DE	I-95/Route 40 Growth Corridor, New Castle County, Delaware.	EPA's concerns were adequately addressed in the final EIS	D
F-HUD-F85025-IL	Woodridge Center Development, Du Page County, Illinois.	EPA's concerns were adequately addressed in the final EIS. However, EPA made several suggestions such as water quality alternatives, public awareness program, and more.	F
F-HUD-F85028-IL	Knolls Development, Willowbrook, Du Page County, Illinois.	EPA's concerns were adequately addressed in the final EIS	F
F-HUD-F85035-MN	West Park Hills and Countryside Addition, Hennepin County, Minnesota.	EPA's concerns were adequately addressed in the final EIS. However, EPA feels that the existing wetland vegetation be left in the natural state with an additional buffer for protection.	F
F-HUD-J89000-CO	Unacceptable Noise Exposure Areas Surrounding Stapleton and Buckley Airports, Adams County, Colorado.	EPA's concerns were adequately addressed in the final EIS	I

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between June 1 and June 30, 1978*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
FS-COE-E34011-KY	Taylorsville Lake, Salt River Basin, Spencer, Anderson, and Nelson Counties, Kentucky	E
F-COE-H34008-IA	Operation and Maintenance, Coralville Lake and Dam, Johnson, Iowa and Linn Counties, Iowa	H

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Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between June 1 and June 30, 1978*—Continued

Identifying No.	Title	General Nature of Comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE		
F-AFS-B82005-00	NE Cooperative Spruce Budworm Suppression Project, 1978, Maine, Vermont, and New Hampshire		B
F-AFS-G65026-00	Timber Management Plan, Quachita National Forest, Arkansas and Oklahoma		G
F-AFS-G65027-NM	Geothermal Leasing, Gila National Forest, Grant and Catron Counties, New Mexico		G
F-AFS-L61103-WA	Lone Tree Planning Unit, Land Management Plan, Gifford Pinchot National Forest, Lewis and Skamania Counties, Washington		K
F-AFS-L65035-WA	Upper Clapus Planning Unit, Gifford Pinchot National Forest, Skamania and Yakima Counties, Washington		K
F-SCS-B36018-CT	Neck River Watershed, New Haven County, Connecticut		B
F-SCS-E36050-MS	Union Creek, Channel Improvement, Neshoba and Newton Counties, Mississippi		E
F-SCS-F36046-MN	South Fork, Zumbro River Watershed, Dodge and Olmstead Counties, Minnesota		F
	DEPARTMENT OF COMMERCE		
F-NOA-B91008-00	Fishery Management Plan for the Squid Fishery of the Northwestern Atlantic Ocean		B
	DEPARTMENT OF INTERIOR		
F-BLM-J99002-CO	San Luis Resource Area, Grazing Management, Colorado		I
	DEPARTMENT OF TRANSPORTATION		
FS-FAA-C51003-VI	Proposed Expansion of Harry S. Truman Airport, St. Thomas, Virgin Islands		C
F-FAA-E51021-NC	Asheville Airport Expansion and Improvements, Asheville, Buncombe County, North Carolina		E
FS-FHW-A40434-IA	U.S. 30, Benton and Linn Counties, Iowa		H
F-FHW-E40081-GA	Appalachian Highway in North Georgia, Forsythe, Cherokee, Pickens, Gilmer, Fannin, and Union Counties, Georgia		E
F-FHW-E40111-AL	Interstate Spur, I-59 to 12th Street, City of Tuscaloosa, Tuscaloosa County, Alabama (FHWA-ALA—EIS-71-39F)		E
F-FHW-G40055-LA	Louisiana North-South Expressway, Louisiana		G
F-FHW-H40036-NB	Brownville Bridge West, U.S. 136, Nemaha County, Nebraska		H
	FEDERAL ENERGY ADMINISTRATION		
F-FEA-D03003-MD	Allocation of Petroleum Feedstock, Baltimore Gas and Electric, Sollers Point, Baltimore County, Maryland		D
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-C80002-NY	Hotel Syracuse Expansion, Onondaga County, New York (UDAG)		C
F-HUD-E89006-NC	East End/Valley Street Redevelopment Plan, Asheville, North Carolina		E
F-HUD-F85032-MI	Elmwood III Development, Wayne County, Michigan		F
F-HUD-G85063-TX	Lincold Green Subdivision, Harris County, Texas		G
F-HUD-G85075-TX	Bridgestone Subdivision, Harris County, Texas		G
F-HUD-G85079-TX	Glen Meadows Subdivision, Harris County, Texas		G
F-HUD-G85080-TX	Woodmeadow, Sagegien, and Sagebend Subdivisions, Harris County, Texas		G
F-HUD-G85081-TX	Northglen Subdivision, Harris County, Texas		G
F-HUD-G85088-TX	Pecan Grove Plantation Subdivision, Fort Bend County, Texas		G
F-HUD-G85094-TX	Walnut Creek Village Subdivision, Tarrant County, Texas		G
FS-HUD-H91000-MO	Dangerous Buildings and Demolition Program, Kansas City, Jackson County, Missouri		H
	TENNESSEE VALLEY AUTHORITY		
F-TVA-G01002-NM	Dalton Pass Uranium Mine, McKinley County, New Mexico		G

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between June 1 and June 30, 1978*

Identifying No.	Title	General Nature of Comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE		
R-DOA-A69003-00	7 CFR Part 1480, Industrial Hydrocarbons and alcohols, Pilot Projects (43 FR 20774).	EPA strongly supports the proposed regulations. EPA suggests the addition of a requirement for loan guarantee applicants to provide assessments of the environmental impacts of their projects.	A
	DEPARTMENT OF DEFENSE		
A-USN-A10040-WA	Naval Submarine Base, Trident Support Site Bangor, Washington.	EPA believes additional information to the final EIS provides an adequate discussion of the proposal.	K
	DEPARTMENT OF INTERIOR		
A-BLM-A02127-00	Gulf of Mexico Outer Continental Shelf (OCS) Lease Sales No. 58A and 62 in the Gulf of Mexico, Resource Report.	EPA offered several comments on the proposed order to strengthen the proposed sale	A
	DEPARTMENT OF TRANSPORTATION		
R-CGD-A52129-00	33 CFR Part 161, U.S. Marine Safety Information System, Notification of Tank Vessel Ownership Information, Names and Country of Registry.	EPA offered support to the Coast Guard on the proposed rulemaking	A

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-27578 Filed 9-4-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1312-6]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of July 1, 1978 and July 31, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing and the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 13, 1979.

William D. Dickerson,
Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between July 1, 1978 and July 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
DS-COE-A32508-VA	Channel Extension, Southern Branch of the Elizabeth River, Virginia	ER-2	D
D-COE-F09002-IL	Peabody Coal Company, Proposed Extension of Pit No. 3, Permit, St. Clair County, Illinois	EU-1	F
D-COE-F32059-MI	Confined Disposal Facility, Maintenance and Dredging, Crooked River Lock and Weir, Inland Route, Emmet County, Michigan.	LO-2	F
D-COE-F32060-MI	Navigation Season Extension Demonstration Program, Fiscal Year 1979	ER-2	F
D-COE-H36034-NB	Platte River and Tributaries, Local Flood Protection Project, Columbus, Grand Island and North Platte, Nebraska.	3	H
	DEPARTMENT OF AGRICULTURE		
DS-AFS-J65034-CO	East River Land Management Plan for Gunnison National Forest, Colorado	ER-2	I
D-AFS-K64003-CA	Sheep Mountain Wilderness, Angeles and San Bernardino National Forest, Los Angeles County, California.	LO-2	J

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Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between July 1, 1978 and July 31, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF AGRICULTURE			
D-AFS-L61108-OR	Ochoco-Crooked River Planning Unit, Land Management Plan, Ochoco National Forest, Crook, Wheeler, and Grant Counties; Oregon (USDA-FS-R6-DES-(ADM)-78-7).	LO-1	K
D-REA-F06010-WI	Tyrone Energy Park, Unit 1, Loan Guarantee, Dunn County, Wisconsin	ER-2	F
D-SCS-E36053-MS	Beartown Creek RC&D Measure, Pike County, Mississippi (USDA-SCS-EIS-RC&D-ADM-78-2-(D)-MS).	LO-1	E
D-SCS-G36082-AR	Bois D'Arc Bayou Watershed Project, Little River County, Arkansas	LO-1	G
D-SCS-H36036-KS	Elk Creek Watershed, Atchison, Jackson, and Nemaha Counties, Kansas	LO-1	H
DEPARTMENT OF COMMERCE			
DS-EDA-C88001-NY	1980 Olympic Winter Games, Village of Lake Placid, Towns of North Elba and Wilmington Vicinity, Essex County, New York.	ER-2	C
D-NOA-D86000-MD	Maryland Coastal Zone Management Program (CZM)	ER-2	D
DEPARTMENT OF INTERIOR			
D-BLM-A02126-OO	1979 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 49, Offshore Mid-Atlantic States Baltimore Canyon Trough.	EU-3	A
D-BLM-J01012-WY	Development of Coal Resources in Southwestern Wyoming, Lincoln and Uinta Counties, Wyoming.	ER-2	I
D-BLM-J99005-UT	Hot Desert Grazing Management Plan, Dixie Resource, Washington County, Utah	ER-2	I
D-BLM-J99006-WY	Grazing Management, Sandy Area, Southwest Wyoming	LO-2	I
D-NPS-K61022-AZ	Colorado River Management Plan, Grand Canyon National Part, Mohave County, Arizona	LO-2	J
DEPARTMENT OF TRANSPORTATION			
D-FAA-F51017-IL	Greater Rockford Airport and Winnebago Counties, Illinois	ER-2	F
D-FAA-F51018-WI	Richland Airport, Land Acquisition and Improvement, Richland County, Wisconsin	LO-2	F
D-FAA-K51012-HI	Lihue Airport Development, Kauai County, Hawaii	LO-2	J
DS-FHW-A42169-IL	Supplemental Freeway FAP 406, Barry to Quincy, Pike and Adams Counties, Illinois	LO-2	F
D-FHW-B40032-CT	I-691 from I-84 at Cheshire-Southington Town Line to I-91 in Meriden, Hartford County, Connecticut (FHWA-CONN-EIS-78-02-D).	3	B
D-FHW-B40035-MA	MA-85 and US-20, Marlborough, Middlesex County, Massachusetts (FHWA-MASS-EIS-78-02-D).	LO-2	B
D-FHW-D40061-VA	I-81, Upgrade Between I-77 North And South Junction, Wythe County, Virginia	ER-2	D
D-FHW-E40144-TN	Walnut Street Bridge Replacement, Spanning the Tennessee River, Frazier Avenue to 4th Hamilton County, Chattanooga, Tennessee (FHWA-TN-EIS-78-1-D).	LO-1	E
D-FHW-F40114-MN	MN-65 Cambridge Bypass, Isanti County, Minnesota	ER-2	F
D-FHW-J40040-CO	Kipling to Independence, I-70 to Ralston Road, Jefferson County, Colorado	ER-1	I
GENERAL SERVICES ADMINISTRATION			
D-GSA-B60005-RI	Proposed Lease Construction, Federal Office Building, Providence County, Rhode Island	LO-2	B
D-GSA-E81014-GA	Federal Office Building and Parking Facility, Savannah, Chatham County, Georgia (EGA 78001).	LO-1	E
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
D-HUD-C85021-NJ	Terrestria Planned Unit Development, Stone Bridge Run Gloucester Township, Camden County, New Jersey.	ER-2	C
D-HUD-C89004-NY	Rochester Circulation Plan for the Central Business District, Monroe County, New York	ER-2	C
D-HUD-E85036-AL	Grandview Pines Ltd., Millbrook, Elmore County, Alabama, (HUD-R04-EIS-77-31D)	LO-1	E
D-HUD-F85034-OH	Strawberry Farms Subdivision, Columbus, Franklin County, Ohio	ER-3	F
D-HUD-G85105-TX	Westlake Forest Subdivision, Harris County, Texas	LO-1	G
NUCLEAR REGULATORY COMMISSION			
DS-NRC-A00125-OO	Manufacture of Floating Nuclear Power Plants, Part III, Comparing Overall Risk and Consequences (NUREG-0127) (Docket No. STN 50-437).	EU-3	A
D-NRC-F06008-IL	La Salle County Stations Nos. 1 and 2, Commonwealth Edison, La Salle County, Illinois	3	F
D-NRC-J00006-WY	Morton Ranch Uranium Mill, License, Converse County, Wyoming	LO-2	I
D-NRC-J00007-WY	Wyoming Mineral Corporation Irigaray Solution Mining Project, Johnson County, Wyoming	LO-2	I
VETERANS ADMINISTRATION			
D-VAD-E81015-FL	520 Bed Replacement Hospital, 120 Bed Nursing Home Care Unit, 200-Bed Domiciliary and Renovation of Existing Buildings, VA Hospital, Bay Pines, Florida.	LO-2	E

Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection. EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservation. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the propsed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between July 1, 1978, and July 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF AGRICULTURE			
F-AFS-F65001-WI	Timber management plan, Chequamegon National Forest, Wisconsin.	EPA's concerns were adequately addressed in the final EIS	F
DEPARTMENT OF INTERIOR			
F-NPS-E61025-OO	Natchez Trace Parkway, additional construction, Tennessee, Alabama and Mississippi.	EPA's concerns were adequately addressed in the final EIS	E
DEPARTMENT OF TRANSPORTATION			
F-CGD-D40048-OO	Bridge over Ohio River, mile 66.5, U.S. 22 Wierton, West Virginia and Steubenville, Ohio.	EPA's concerns were adequately addressed in the final EIS	D
F-FHW-A41474-MI	MI-66 relocation, Phelps Road to Smithville, Missaukee and Kalkaska Counties, Michigan.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA is still concerned about the proposed connector route from Smithville to the new MI-66 and the impacts of Filer Creek. EPA is aware that Michigan Department of Natural Resources and U.S. Fish and Wildlife Service have also expressed concerns about the need for the roadway and its impact on the Filer Creek Wetlands.	F
F-FHW-C40034-NY	U.S. 219, Southern Expressway, section 3 and 4, Erie County, New York.	EPA's concerns were adequately addressed in the final EIS	C
F-FHW-D40003-WV	U.S. 60, Diamond to Hugheston, Kanawha County, West Virginia.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA did note some concern over the proposed dredge and fill operations in the Kanawha River and suggested several measures to minimize the impact. EPA also made comments to be considered when preparing air quality analyses for future projects.	D
F-FHW-D40041-MD	Relocated MD-97, Taneytown bypass, Carroll County, Maryland.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA is concerned about the 600-foot channel relocation of stream A, and the 68-acre fill into the wetland area.	D
F-FHW-D40046-PA	LR 1037, Allegheny Valley expressway, Allegheny County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS	D
F-FHW-F40063-WI	WI-29, Wausau to Ringle, Marathon County, Wisconsin.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommends that construction specifications limit the area where clearing and grubbing can take place, and that where feasible vegetation be cleared only from areas where roadway and shoulders will be placed. Also, EPA suggested that excess material be removed from site, rather than dumping on the site.	F
F-FHW-F40067-IL	Intersection of Eldorado Street, U.S. 36 and Jasper Street, Macon County, Illinois.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA recommend that the private residence be soundproofed and that a noise barrier be installed adjacent to Jasper Park.	F
F-UMT-E54001-FL	Metropolitan Dade County rail rapid transit project, Florida.	EPA's concerns were adequately addressed in the final EIS	E
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION			
F-ERD-A00132-WA	Fusion materials irradiation testing facility, Hanford Reservation, Richland, Washington (old No. ERDA-1556-D, high flux neutron source.	EPA's concerns were adequately addressed in the final EIS. However, EPA believes that DOE should have included a more detailed discussion of the construction costs, and the alternatives to this project as requested in the comments on the draft EIS.	A
GENERAL SERVICES ADMINISTRATION			
F-GSA-D80006-DC	Particulate removal equipment, boiler conversion, plant modifications, West Heating Plant, Washington, DC.	EPA's concerns were adequately addressed in the final EIS. However, EPA requested to be notified concerning an approvable compliance schedule and a prevention of significant deterioration determination.	D
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
F-HUD-D54025-PA	Pedestrian walkway, 69th Street, Upper Darby Township, Delaware County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS	D
F-HUD-J65014-CO	Tollgate Village, Aurora Highlands, Willow Park, Summer Valley Ranch, Smoky Hill, City of Aurora Housing Developments, Arapahoe County, Colorado.	EPA's concerns were adequately addressed in the final EIS	I
F-HUD-K85016-CA	Community Development block grant, 3-year plan, July 1978-June 1981, San Jose, California.	EPA's concerns were adequately addressed in the final EIS	J
U.S. POSTAL SERVICE			
F-UPS-B81003-CT	U.S. Post Office and vehicle maintenance facility, Stamford, Fairfield County, Connecticut.	EPA finds the final EIS to be unresponsive to the agency's request for an analysis of the environmental risks and benefits associated with use of alternative sites. EPA feels the analysis is particularly important in light of the degradation of a class A stream and filling of valuable wetlands that will result from the proposed development of the preferred site. EPA has requested the Postal Service to take no action until a supplement to the EIS, containing the alternative analysis, is prepared and circulated for public review.	B

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between July 1, 1978, and July 31, 1978*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-E35045-GA	Permit applications, Isle of Hope Marina, Skidaway River, Isle of Hope, Chatham County, Georgia	E
FS-COE-G32008-TX	Gulf Intracoastal waterway maintenance dredging, channel to Rockport, Texas	G
	DEPARTMENT OF AGRICULTURE	
F-AFS-H61002-MO	Willow Springs unit, Mark Twain National Forest, Douglas, Howell, and Ozark Counties, Missouri	H
F-AFS-L61092-OR	Land management plan, Umpqua National Forest, North Umpqua and South Umpqua planning units, Douglas, Lane and Jackson Counties, Oregon.	K
F-AFS-L61101-ID	Land management plan, Hot Point planning unit, Nez Perce National Forest, Idaho County, Idaho (USDA-FS-R1(17) FES(ADM)78-7)	K
F-REA-H07004-MO	Thomas Hill unit 3, 610 MW, mine expansion and related transmission facilities, Randolph County, Missouri	H
F-SCS-E36047-NC	Swift Creek watershed, Pitt, Beaufort and Craven Counties, North Carolina (USDA-SCS-EIS-WS(ADM)-77-1(F) NC)	E
	DEPARTMENT OF COMMERCE	
F-EDA-E28027-TN	Water and sewerage facilities, Bradley and McMinn Counties, Tennessee (joint EDA/EPA EIS)	E
	DEPARTMENT OF DEFENSE	
F-USA-A11060-OO	Restationing of troops redeploying from Korea	A
	DEPARTMENT OF INTERIOR	
F-NPS-A61244-FL	Wilderness recommendation for Everglades National Park, Dade and Monroe Counties, Florida	E
	DEPARTMENT OF TRANSPORTATION	
F-FHW-E40115-AL	Improvements to AL-35, Rainsville to Fort Paine, DeKalb County, Alabama	E
F-FHW-H40057-OO	Abbott Drive in Omaha, Douglas County, Nebraska and Carter Lake, Pottawattamie County, Iowa	H
F-FHW-L40052-WA	I-90, Hilltop interchange and frontage roads, Grant County, Washington (FHWA-WA-EIS-77-01-F)	K
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-E28028-NC	Enka water project, phase I, Buncombe County, North Carolina	E
F-HUD-E85032-TN	Walnut Grove subdivision, Shelby County, Tennessee (HUD-ROX-EIS-17F)	E
F-HUD-F85029-OH	Laurel Greene subdivision, planned unit development, Frankfort County, Ohio	F
F-HUD-G85074-TX	Tara subdivision, Fort Bend County, Texas	G
F-HUD-G85083-TX	Westcreek subdivision, Travis County, Texas	G
	CORPS OF ENGINEERS	
F-COE-D32005-MD	Cambridge Harbor channel and Turning Basin, Cambridge, Dorchester County, Maryland	D

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between July 1, 1978, and July 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
None.			

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-27579 Filed 9-4-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1266-7]

Canned and Preserved Fruits and Vegetables Processing Point Source Category; Effluent Guidelines and Standards; Denial

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA is today denying a petition for modification of best practicable control technology currently available (BPT) effluent limitations guidelines for mushroom processors filed by the National Canners Association.

EFFECTIVE DATE: September 5, 1979.

FOR FURTHER INFORMATION CONTACT: Allen Leduc, Office of Analysis and Evaluation (WH-586), U.S. EPA, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 426-2617.

SUPPLEMENTARY INFORMATION: On April 16, 1976 (41 FR 16272) EPA promulgated effluent limitations guidelines for best practicable control technology currently available (BPT) for canned and preserved mushroom processors (40 CFR 407.72), a constituent of the canned and preserved vegetables subcategory of the Canned and Preserved Fruits and Vegetables Processing Point Source Category (40 CFR Part 407). The BPT effluent limitations guidelines were subsequently challenged by the National Canners Association (NCA), on behalf of its mushroom processing members, in a petition for modification filed with EPA on November 16, 1976. In addition, industry representatives filed a petition for review of BPT effluent limitations guidelines for mushrooms (40 CFR 407.72) in the U.S. Court of Appeals for the Third Circuit. *Pennsylvania Food Processors Association* v. *EPA*, No. 76-1836. On December 29, 1978, the U.S. Court of Appeals for the Third Circuit granted a joint motion by EPA and the industry representatives to dismiss the petition for review. The motion was made pursuant to a settlement agreement reached by EPA and the petitioners. EPA agreed as a part of the settlement to publish in the **Federal Register** its response to the National Canners Association "Petition for Modification of the 1977 effluent limitations established for mushroom processors" dated November 16, 1976.

The Petition

The NCA petition criticized the EPA economic analysis of the impacts of the BPT regulations. That analysis was presented in the document entitled *Economic Analysis of Effluent Guidelines—Canned, Frozen and Preserved Fruits and Vegetables Industry*, EPA 230/2-75-036 (*Economic Analysis*). The NCA criticism is based on the following grounds: (1) The after tax income estimates for the mushroom processing model plants in the analysis were too high; (2) the results of an NCA survey of the industry showed financial losses in the industry not reflected in the analysis; and (3) the analysis failed to consider the impact of increasing canned mushroom imports on the domestic industry.

The NCA believes that this information shows that the conomic impacts on the industry have been much more severe than predicted in the EPA *Economic Analysis* and that the effluent limitations guidelines should be revised to reflect the use of a less expensive technology. The NCA petition requested that the BPT effluent limitation guidelines be modified by eliminating the requirement to install biological treatment systems and substituting limitations based only on screening and pH control.

Background of the EPA Economic Analysis of the BPT Regulations

The EPA *Economic Analysis* calculated the economic impacts of the BPT effluent limitations guidelines on the mushroom processing industry by performing a study using model plants. The model plants were developed from survey data collected by EPA from the mushroom processing industry. The models represented plants processing 200, 1500, 2500 and 5000 tons per year of raw product.

The profit and rate of return which were used in the model plant study were based on 1973 data. EPA selected 1973 because it was one of the least profitable years for the industry. (*Economic Analysis*, p. VII-9). Although it was determined that these low profit levels were the result of credits for returns of possibly contaminated products, rather than high operating costs, these low returns nevertheless were including in the model plant budgets (*Economic Analysis*, p. III-17). By using the low profit levels from 1973, the after tax income estimates reported in the *Economic Analysis* would not have been overstated as alleged by NCA.

Also included as a characteristic of the model plants were low rates of return on investment (ROI) based on 1973 data from the industry. The ROI in the mushroom industry varied with plant sizes, but the after tax ROI for all sizes was below one percent (*Economic Analysis*, p. III-21). Therefore, the 1973 figures may have understated the overall industry financial status.

The impact of imports was not quantitatively addressed in the *Economic Analysis*. However, the effects of imports were qualitatively considered in two ways. First, import competition was assumed to restrict the ability of mushroom processors to pass the costs of pollution control on to the consumer. Second, this effect as well as the qualitative assessment of the effects of imports on demand for domestic production, were considered in the closure analysis (*Economic Analysis*, pp. VII-50 to 52). Based on the results of the closure analysis, small plants processing less than 2000 tons per year of raw product were exempted from the regulations.

EPA believes that the NCA criticisms of the EPA *Economic Analysis* are not justified, considering the data base used in the *Economic Analysis*.

EPA Review of the NCA Petition

As part of the EPA evaluation of the NCA petiton, EPA requested a review of the petition by Development Planning and Research Associates, Inc. (DPRA), the organization that assisted in preparation of the original EPA *Economic Analysis* (EPA 230/1-75-036). DPRA prepared a report summarizing its assessment of the NCA petition. This report, entitled *Economic Review, Petition for Modification, 1977 Established Effluent Limitations for Mushroom Processors*, May, 1977, P-243, (Economic Review) is available for public review upon request. Also, the petition was reviewed by the Office of Analysis and Evaluation of the Office of Water and Waste Management and the Office of Planning and Evaluation of the Office of Planning and Management.

The NCA petition proposed that the financial data used in the EPA *Economic Analysis* be changed to reflect losses in the baseline year of the analysis (1973) and in the effective year

of the BPT regulations (1977), rather than reflect small after tax profits in those years. This proposal was made based on data received by NCA from four mushroom canning plants in a special industry survey. The data showed that those four plants incurred losses in the years 1973, 1974, and 1975. The NCA attributed these losses to the increased imports of canned mushrooms during that time period.

The DPRA review of the NCA industry survey results indicated that the data submitted by the four plants responding to that survey were not representative of the industry. The four plants represented about 13 percent of the total number of plants in the industry and 11 to 12 percent of the total industry production. However, the losses reported for those plants represented about 35 percent of all financial losses reported by the industry in 1973, and 81 percent of all industry losses reported in 1974. These disproportionate losses relative to production by the four plants leads us to believe the data do not reflect typical industry characteristics.

In addition, none of the plants in the NCA survey were direct dischargers (Petition p. 9). The respondents either discharged their wastewaters to publicly owned treatment works (POTWs) or to land. BPT effluent limitations guidelines would only be applicable to direct dischargers. Therefore, NCA's reliance on data from indirect dischargers to assess the costs of BPT effluent limitations guidelines on direct dischargers was highly speculative. DPRA pointed out that the cost for discharge to a POTW, which a majority of mushroom processors utilize, is less than the annual cost of a privately owned biological treatment system. (Economic Review, p. 4). DPRA concluded that when most users can no longer afford the cost of a POTW, they likely will not be able to afford to stay in business (Id). Therefore, these users would never face the costs of installing a biological treatment system.

The NCA petition also challenged the development of the model plants in the *Economic Analysis* on the basis that the data available to the contractor did not cover all sizes of plants. However, the model plants for sizes not covered by the data were developed using a standard economic engineering synthesis approach. The resulting model plants accurately represent the characteristics of plants in the respective size ranges.

Finally, NCA submitted data released by a Special Representative for Trade Negotiations (U.S. International Trade Commission) on the amount of canned mushroom imports during 1976. While the impact of mushroom imports was not quantitatively examined in the original EPA analysis, the effects of imports were qualitatively considered in the closure analysis conducted by DPRA. The mushroom industry was said to have a "severe impact" pertaining to imports. This qualitative analysis is explained in the *Background* section above and on pages IV—33, VII–50 to 52 and Table IV–19 of the *Economic Analysis*.

Conclusions

The Agency finds the financial data submitted by NCA to be insufficient for modifying the *Economic Analysis*. Also, contrary to the petition, the effects of imports on the domestic industry were adequately considered in the analysis. For these reasons, the National Canners Association "Petition for Modification of the 1977 effluent limitations established for mushroom processors" is denied.

Dated: August 27, 1981.

Douglas M. Costle,

Administrator.

[FR Doc. 79-27577 Filed 9-4-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1312-4]

Water Quality Standards; Navigable Waters of the State of Oklahoma

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved the water quality standards revisions adopted by the State of Oklahoma. These revisions become part of the State's water quality standards contained in the document "Oklahoma's Water Quality Standards 1976."

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Lera, EPA Region VI, Oklahoma/New Mexico Section Chief, Water Division, Water Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214–767–2624).

SUPPLEMENTAL INFORMATION: On March 16, 1979, EPA, Region VI approved the water quality standards revisions adopted by the State on February 13, 1979. This action was taken in accordance with section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's water quality standards regulations at 40 CFR 35.1550.

AVAILABILITY: Copies of the Oklahoma water quality standards may be obtained from Mr. Ron Jarman, Water Quality Division, Oklahoma Water Resources Board, P.O. Box 53585, Oklahoma City, Oklahoma 73152.

(Sec. 303(c), Clean Water Act, as amended (33 U.S.C. 1313(c)))

Dated: August 29, 1979.

Thomas C. Jorling,

Assistant Administrator.

[FR Doc. 79-27579 Filed 9-4-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report A-2]

TV Broadcast Applications Accepted for Filing and Notification of Cut-off-Date

Cut-off date: October 26, 1979.

Notice is hereby given that the applications listed below are hereby accepted for filing. They will be considered to be ready and available for processing after October 26, 1979. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 26, 1979 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than October 26, 1979.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 26, 1979.

BPCT–790308LC, new, Omaha, Nebraska, Pappas Telecasting, Inc., Channel 15, ERP: Vis. 5000 kW; HAAT: 1548 ft.

BPCT–790409KE, new, Omaha, Nebraska, Sun Broadcasting Co., Channel 15, ERP: Vis. 117 kW; HAAT: 1109 ft.

BPCT–790627KE, new, Omaha, Nebraska, Family Television, Inc., Channel 15, ERP: 2910 kW; HAAT: 841 ft.

BPCT–790629KG, new, Omaha, Nebraska, Omaha TV 15, Inc., Channel 15, ERP: Vis. 2630 kW; HAAT: 1040 ft.

BPCT–790703KF new, Omaha, Nebraska, 220 Television, Inc., Channel 15, ERP: Vis. 5000 kW; HAAT: 1320 ft.

BPET–790604KG, KAVT–TV, Austin, Minnesota, Independent School District #492, Channel 15, ERP: Vis. 1680 kW; HAAT: 377 ft.

BPCT–790615KG, new, Spokane, Washington, Southwest Television, Ltd., Channel 22, ERP: Vis. 1156 kW; HAAT: 2029 ft.

BPCT–790327LD, new, Omaha, Nebraska, Christian Broadcasting of the Midlands, Inc., Channel 42, ERP: Vis. 806 kW; HAAT: 1034 ft.

BPCT–790507KE, new, Corpus Christi, Texas, Coastal Bend Family Television, Inc., Channel 38, ERP: Vis. 3120 kW; HAAT: 763 ft.

BPET–790720KE, KTPS–TV, Tacoma, Washington, Tacoma School District #10, Channel 20, Change channel from 62; change ERP Vis. to 1000 kW; change HAAT to 760 ft.

BPCT–790309LC, new, Honolulu, Hawaii, Sunset Communications Corporation, Channel 20, ERP: Vis. 284 kW; HAAT: –75 ft.

BPCT–790525KF, new, Fayetteville, North Carolina, Fayettsville Television, Inc., Channel 40, ERP: Vis. 727 kW; HAAT: 349 ft.

BPCT–790629KH, new, Nashville, Tennessee, Carolina Christian Broadcasting, Inc., Channel 30, ERP: Vis. 1162 kW; HAAT: 745 ft.

BPCT–790716KG, new, Austin, Texas, Texas Television, Inc., Channel 42, ERP: Vis. 5000 kW; HAAT: 1290 ft.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-27479 Filed 9-4-79; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-1]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-off date: October 26, 1979.

Notice is hereby given that the applications listed below are hereby accepted for filing. Because the applications listed below are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed below will be accepted for filing.

Petitions to deny any application listed below and minor amendments to any such application must be on file with the Commission not later than the close of business on October 26, 1979. Any application previously accepted for filing and in conflict with an application listed below may also be amended as a matter of right not later than the close of business on October 26, 1979. Any application previously accepted for filing and in conflict with an application listed below may also be amended as a matter of right not later than the close of business on October 26, 1979. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's Rules.

BPCT–790507KL, new, Evansville, Indiana, Family TV, Inc., Channel 44, ERP: Vis. 1313 kW; HAAT: 970 ft.

BPCT–790507KM, new, Somerset, Kentucky, Bluegrass Media, Inc., Channel 16, ERP: Vis. 540 kW, HAAT: 640 ft.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-27478 Filed 9-4-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 25, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the propsed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3852.

Filing Party: Wallace Aiken, Esq., Aiken, St. Louis and Siljeg, 1215 Norton Building, Seattle, Washington 98104.

Summary: Agreement No. T–3852, between the City of Kodiak, Alaska (City) and Alaska Terminal and Stevedoring, Inc. (AT&S) provides for the 5-year lease by the City to AT&S of certain terminal and back-up land at Kodiak for non-preferential use in performing a full and customary range of stevedoring services for any and all vessels calling at the facility, excluding those customarily serviced and controlled by Sea-Land Service, Inc.

Agreement No. T–3853.

Filing Party: General Manager, Chicago Regional Port District, 12800 Butler Drive, Lake Calumet Harbor, Chicago, Illinois 60633.

Summary: Agreement No. T–3853, between the Chicago Regional Port District (District) and International Great Lakes Shipping Company (INGLA), provides for the licensing of INGLA for the purpose of rendering stevedoring, terminalling, cleaning, fitting, securing of all cargos and other services to or for vessels, barges, railroad cars, containers and trucks which seek to utilize the licensed area in the Port of Chicago. Charges for such services will be assigned in accordance with INGLA's tariff. INGLA will pay a license fee to District, based on the type and amount of cargo handled, as set forth in the agreement.

Agreement No. 10186–3.

Filing Party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, Attorneys At Law, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 10186–3, a space chartering agreement between Korean Shipping Corporation and Orient Overseas Container Lines, Inc., amends the basic agreement to authorize the chartering of space to each other on vessels operated by each other in the trades between Korea, Japan, Taiwan, Hong Kong, Thailand, Singapore, Indonesia, the Philippines and the United States.

Agreement No. 10377.

Filing Party: Dennis N. Barnes, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10377 is a space charter agreement whereby Toko Kaiun Kaisha, Ltd. (Toko) will charter unused capacity aboard its vessels to Suh Jin Shipping Co., Ltd. (Suh Jin). The principal commodities carried will be iron and steel products, plywood and other general cargoes. Neither Toko nor Suh Jin will transport any cargoes in containers from Korean or Japanese ports to U.S. West Coast ports. The agreement, as proposed, would terminate on October 30, 1983.

Dated: August 29, 1979.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-27472 Filed 9-4-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1836]

Earle's Air Freight, Earle's Moving and Storage Co., Inc., d.b.a.; Order of Revocation

On August 20, 1979, Earle's Air Freight, Earle's Moving and Storage Co., Inc. d/b/a, P.O. Box 789, Annapolis, Maryland 21404, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1836 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1836 issued to Earle's Air Freight, Earle's Moving and Storage Co., Inc. d/b/a, be and is hereby revoked effective August 20, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Earle's Air Freight, Earle's Moving and Storage Co., Inc. d/b/a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-27474 Filed 9-4-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-85]

Trailer Marine Transport Corp.—Proposed Reduced Rates on Sugar Cane and Refined Sugar N.O.S.; Order of Investigation and Hearing

On July 27, 1979, Trailer Marine Transport Corporation (TMT) filed revised pages to its Tariff FMC-F No. 5 which would reduce the rates on sugar cane and refined sugar, N.O.S. subject to proportional and round trip applications, effective August 27, 1979.

TMT Tariff FMC-F No. 5 establishes local, joint, and proportional commodity rates between U.S. Atlantic and Gulf Coast ports and ports in the Commonwealth of Puerto Rico and the Virgin Islands via direct and transshipment service at Puerto Rico. The proposed reduced rates are applicable only to cargo for which the bill of lading states that it is "* * * part of a round trip movement involving raw sugar moving northbound to the refinery at Port Wentworth (Savannah) Georgia and the return southbound movement of refined sugar to Puerto Rico." Specifically, the proposed rates would apply: from San Juan, Puerto Rico to Jacksonville, Florida on shipments of 45,000 lb. minimum trailerload (TL) quantities of raw sugar, delivered to TMT's terminal at San Juan, moving to Jacksonville and destined via motor carrier to Port Wentworth, Georgia (Item 6190, TMT Freight Tariff No. 7, FMC-F No. 5); and from Jacksonville to San Juan on shipments of 45,000 lb. minimum TL quantities of refined sugar loaded into the trailer by the shipper or its agent, moved via motor carrier from Port Wentworth to Jacksonville and destined to San Juan, TMT terminal only. (Item 4535 TMT Freight Tariff No. 7, FMC-F No. 5).

Protests and requests for investigation and suspension were received from the Georgia Ports Authority (Port Authority) and Sea-Land Service, Inc. (Sea-Land).

The Port Authority protests the implementation of the proposed rate change solely as being in violation of section 16 of the Shipping Act, 1916, (Act) for giving undue and unreasonable preference to the Port of Jacksonville by diverting traffic that is naturally tributary to the Port of Savannah and cuusing "irreparable injury" to the Port.

It is the position of Sea-Land that the proposed rates of TMT are in violation of both section 16 and 18(a) of the Act. Sea-Land contends that TMT's proposed rates are predatory in nature in that they are below costs, are designed to divert cargo essential to Sea-Land's direct all-water service between Savannah, Georgia (not served by TMT) and San Juan, and are prejudicial as the rates aply only to one shipper. In support of these arguments, Sea-Land states that it has provided 14 sailings between Savannah and San Juan in the first half of 1979, lifting 946 loads of cargo of which 273 loads were sugar covered by TMT's proposed rates. Sea-Land further argues that the rates northbound and southbound do not meet out-of-pocket costs or fully distributed costs and are, therefore, unreasonable.

TMT filed a reply to the protests of Sea-Land and the Port Authority. According to TMT, the movement of raw sugar from Puerto Rico to Savannah is the result of a fire which destroyed part of the facilities of Sugar Corporation for refining and packing sugar. Sugar Corporation, therefore, arranged with Savannah Sugar Corporation to refine the raw sugar and return it to Puerto Rico, and in early 1979 a barge under charter transported approximately 5,000 long tons of raw sugar to Savannah. After 1979, TMT states that Sugar Corporation intends to evaluate its overall costs of having the sugar refined in the U.S. versus the cost of rebuilding its plant facilities. Based on these circumstances, TMT asserts that the traffic in question did not exist prior to early 1979 and, therefore, it is clearly demonstrated that this cargo has not been naturally tributary to Savannah, nor would this volume of sugar have normally been available to Sea-Land at Savannah.

TMT has further replied to the question of the reasonableness of its proposed rates. It is TMT's position that Sea-Land erred in its analysis and that the proposed rates will not produce revenues below fully distributed costs, rather the revenues are clearly in excess of such costs. Consequently, TMT contends that its proposed rates on sugar cane and refined sugar are not unreasonable and in violation of section 18(a) of the Act.

We have permitted the subject rate decrease to go into effect without suspension in view of its not being a general decrease in rates subject to section 3(c)(1)(B) of the Intercoastal Shipping Act, 1933, as amended, and as the protesting parties have not provided justification of such competitive impact to warrant suspension. Further, the Commission has considered the question raised by the protest of the Port Authority regarding diversion of cargo naturally tributary to the Port of Savannah, and based on the factual conditions surrounding the recent movement of this amount and type of sugar, we have determined not to include it as an issue in this case.

Reductions in rates may be proper if they do not go beyond lawful limits of competition. However, based on the amount of decrease in TMT's rates on sugar, and the uncertainty of whether the rates will meet costs, if that is required, the Commission is of the opinion that TMT's proposed decrease in rates be made the subject of a limited public hearing in order to determine whether the rates are so low as to be unjust, unreasonable or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916, (46 U.S.C. 815, 817(a)).

Now, therefore, it is ordered, That pursuant to the authority of sections 16 First, 18(a) and 22 of the Shipping Act, 1916, (46 U.S.C. 815, 817(a), 821), an investigation is hereby instituted into the lawfulness of the tariff matter contained in Items 6190 and 4535 of Trailer Marine Transport Corporation Tariff FMC-F No. 5, for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That this proceeding be limited to an investigation of the following areas:

1. The method by which the proposed rates on sugar cane (Item 6190) and refined sugar N.O.S. (Item 4535) were constructed by TMT.

2. Identification and determination of the cost elements which must be met by the cargo.

3. Determination of whether the cargo has met those cost elements identified in Issue No. 2.

4. Whether, upon a determination of Issues No. 2 & 3, TMT's proposed decreased rates on sugar cane and refined sugar N.O.S. are so low as to be unjust and unreasonable, or so as to give undue or unreasonable preference or advantage to one shipper, or subject one carrier to undue or unreasonable prejudice or disadvantage in violation of the Act.

It is further ordered, That Trailer Marine Transport Corporation be named Respondent in this proceeding;

It is further ordered, That Sea-Land Service Inc. and the Georgia Ports Authority be named Protestants in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event shall commence on or before February 22, 1980;

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material facts that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the **Federal Register,** and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure, (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-27475 Filed 9-4-79; 8:45 am]

BILLING CODE 6730-01-M

U.S. Gulf/Japan Cotton Pool; Cancellation

Filing Party: Gerald J. Flynn, Chairman, United States Gulf/Japan Cotton Pool, 40 Rector Street, New York, N.Y. 10006.

Agreement No. 8682, as amended.

Summary: On August 22, 1979, the Commission received notification of the cancellation and termination of Agreement No. 8682, as amended. The cancellation is proposed to be effective August 15, 1979.

Dated: August 29, 1979.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-27473 Filed 9-4-79; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

Correction

In FR Doc. 79-26636, published on page 50400, on Tuesday, August 28, 1979, in the second column, the first line, "Agreement No. T-3738-1." should be corrected to read "Agreement No. T-3787-1.".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 27, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (industrial loan, financing, and insurance activities; California): to operate, through its direct subsidiary, FinanceAmerica Thrift Corporation, ("Thrift") an industrial loan company and to offer credit-related life, disability and property insurance and to engage in the actitivies of a finance company to the extent of providing management facilities and related services to FinanceAmerica Corporation, an indirect subsidiary of Applicant. BankAmerica Corporation, San Francisco, California (bookkeeping, data processing and industrial loan activities, California), through its direct subsidiary, FinanceAmerica Corporation ("FinanceAmerica") to perform the activities of bookkeeping and data processing for Thrift and to operate as an industrial loan company to the extent of providing management and related services to Thrift. The proposed activities of Thrift would be conducted from offices in Bellflower, Diamond Bar, Placentia and Upland, California and would serve the State of California. The proposed activities of FinanceAmerica will be conducted from an office in Allentown, Pennsylvania and will serve the State of California.

Board of Governors of the Federal Reserve System, August 28, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board

[FR Doc. 79-27527 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

V 4 4 / 1 7 3 SEP 5 1979

Bay Springs Financial Corp.; Formation of Bank Holding Company

Bay Springs Financial Corporation, Bay Springs, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bay Springs Bank, Bay Springs, Mississippi. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27528 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on August 14, 1979, paragraph 2 of the Committee's authorization for domestic open market operations was amended to read as follows:

2. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York (or, under special circumstances, such as when the New York Reserve Bank is closed, any other Federal Reserve Bank) (a) to lend to the Treasury such amounts of securities held in the System Open Market Account as may be necessary from time to time for the temporary accommodation of the Treasury, under such conditions as the Committee may specify; and (b) to purchase directly from the Treasury for renewable periods not to exceed thirty days, when authorized by the Board of Governors of the Federal Reserve System pursuant to an affirmative vote of not less than five members, for its own account (with discretion, in cases where it seems desirable, to issue participations to one or more Federal Reserve Banks) such amounts of special short-term certificates of indebtedness as may be necessary from time to time for the temporary accommodation of the Treasury, provided that the rate charged on such certificates shall be a rate of ¼ of 1 percent below the discount rate of the Federal Reserve Bank of New York at the time of such purchases and provided that the total amount of such certificates held at any one time by the Federal Reserve Banks shall not exceed $2 billion.

By order of the Federal Open Market Committee, August 27, 1979.

Murray Altmann,

Secretary.

[FR Doc. 79-27524 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Foreign Currency Operations

On August 14, 1979, pararaph 2 of the authorization for foreign currency operations was amended to raise the amount of the reciprocal currency arrangement with the Bank of Mexico from $360 to $700 million, effective August 17, 1979.

Note.—For paragraph 2 of the Authorization see 42 FR 1071.

By order of the Federal Open Market Committee, August 27, 1979.

Murray Altmann,

Secretary.

[FR Doc. 79-27525 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Rules of Organization

The Federal Open Market Committee has amended sections 4 and 5 of its rules of organization concerning selection of staff officers and managers.

Effective August 14, 1979, sections 4 and 5 of the Committee's rules of organization are amended to read as follows:

Sec. 4. STAFF. (a) Selection of staff officers. At its first meeting on or after March 1 of each year, the Committee selects, from among the officers and employees of the Board and the Federal Reserve Banks, the following staff officers to serve until the first meeting on or after March 1 of the next following year: Secretary, Deputy Secretary, and one or more Assistant Secretaries; General Counsel, Deputy General Counsel, and one or more Assistant General Counsels; Economists, one or more of whom may be designated as Senior or Associate Econmists or given titles reflecting their area of particular specialization; and such other officers as the Committee might wish from time to time.

Sec. 5. MANAGERS. The Committee selects a Manager for Domestic Operations, System Open Market Account; and a Manager for Foreign Operations, System Open Market Account. The foregoing shall be satisfactory to the Federal Reserve Bank selected by the Committee to execute open market transactions for such Account and shall serve at the pleasure of the Committee. The Managers keep the Committee informed on market conditions and on transactions they have made and render such reports as the Committee may specify.

By order of the Federal Open Market Committee, August 27, 1979.

Murray Altmann,

Secretary.

[FR Doc. 79-27526 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

First Railroad & Banking Co. of Georgia; Acquisition of Bank

First Railroad & Bank Company of Georgia, Augusta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to The Bank of Dalton, Dalton, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27522 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

First Railroad & Banking Co. of Georgia; Acquisition of Bank

First Railroad & Banking Company of Georgia, Augusta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Banking Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to the Commercial Bank of Cobb County, Marietta, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27523 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

First Security Corp.; Acquistion of Bank

August 30, 1979

First Security Corporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of first Security Bank of St. George, N.A., St. George, Utah, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27529 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

First Tulsa Bancorproation, Inc.; Proposed Acquisition of Firstul Leasing and Financial Co.

First Tulsa Bancorporation, Inc., Tulsa, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of Firstul Leasing and Financial Company, Tulsa, Oklahoma.

Applicant states that the subsidiary would continue to engage in the activity of leasing personal property and engage *de novo* in the activities of financing of business accounts receivable and business inventories and sales of commercial, industrial and farm equipment. These activities would be performed from an office of Applicant's subsidiary in Tulsa, Oklahoma, and the geographic area to be served is the Tulsa metropolitan area and environs. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 27, 1979.

Board of Governors of the Federal Reserve System, August 27, 1979

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27530 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Freer Bancshares, Inc.; Formation of Bank Holding Company

Freer Bancshares, Inc., Freer, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Brush Country Bank, Freer, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27531 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Gibbon Bancshares, Inc.; Formation of Bank Holding Company

Gibbon Bancshares, Inc., Gibbon, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.8 per cent of the voting shares of State Bank of Gibbon, Gibbon, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis, Any person wishing to

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comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27532 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

International Bancshares Corp.; Formation of Bank Holding Company

International Bancshares Corporation, Laredo, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Compnay Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less director's qualifying shares) of International Bank of Commerce of Laredo, Laredo, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 27, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27533 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Lone Tree Service Co.; Proposed Retention of Kent Insurance Agency

Lone Tree Service Company, Lone Tree, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of Kout Insurance Agency, Lone Tree, Iowa.

Applicant states that the subsidiary would engage in the activity of acting as agent for the sale of credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary bank, Farmers and Merchants Savings Bank, Lone Tree, Iowa. These activities would be performed from offices of Applicant's subsidiary in Lone Tree, Iowa, and the geographic area to be served extends for a distance of approximately eight miles to the east of Lone Tree, Iowa, and for a distance of approximately five miles to the north, west and south of Lone Tree. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 28, 1979.

Board of Governors of the Federal Reserve System, August 28, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27535 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

Westside Banco, Inc.; Formation of Bank Holding Company

Westside Banco, Inc., Westside, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Westside State Savings Bank, Westside, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-27534 Filed 9-4-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Educational Opportunity Centers, Upward Bound, Special Services for Disadvantaged Students; Talent Search; Application Preparation Workshops

AGENCY: Office of Education, HEW.

ACTION: Notice of Locations for Application Preparation Workshops.

SUMMARY: Application Preparation Workshops will be held throughout the United States to aid prospective applicants in developing applications for the Educational Opportunity Centers, Upward Bound, Special Services for Disadvantaged Students and Talent Search programs.

DATES: Application Preparation Workshops will be conducted on the following dates:

September 6-7, 1979—San Francisco, California.
September 11-12, 1979—Hato Rey, Puerto Rico.
September 11-12, 1979—Philadelphia, Pennsylvania.
September 13-14, 1979—Chicago, Illinois.
September 13-14, 1979—Atlanta, Georgia.

ADDRESSES: Application Preparation Workshops will be conducted at the following locations:

San Francisco—Irving G. Breyer Board Room, Room 30, San Francisco Unified School District, 135 Van Ness Avenue, San Francisco, California (accessible to handicapped: 170 Fell Street Entrance).

Hato Rey—Metro Building, Penthouse, Mayaguez Street, Edificio Metro, Penthouse, Box 25A Calle Mayagues, (Esq. Ponce de Leon), Hato Rey, Puerto Rico.

Philadelphia—Montgomery Auditorium, The Free Library of Philadelphia, Logan Square, Philadelphia, Pennsylvania.

Chicago—Field Museum of Natural History, Roosevelt and Lake Shore Drive, Chicago, Illinois.

Atlanta—Auditorium, Walter George High School, 800 Hutchens Road, S.W., Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Program Development Branch, Division of Student Services and Veterans Programs, Room 3514, ROB-3, U.S. Office of Education, 400 Maryland Avenue, S.W. Washington, D.C. 20202. Telephone: (202) 245-2511.

SUPPLEMENTARY INFORMATION: Each Application Preparation Workshop will be one and a half days long. On the first day, registration will begin at 8:30 a.m. and presentations are scheduled from 9:00 a.m. to 5:00 p.m. The presentations will include a review of the requirements for filing applications for grants under the Special Programs for Students from Disadvantaged Backgrounds (Talent Search, Upward Bound, Special Services for Disadvanted Students, Educational Opportunity Centers) and a review of the regulations for each program. In addition there will be a discussion of the suggested application development guides and the technical review evaluation forms. The morning session will cover the general requirements and procedures applicable to all four programs and the specific requirements for the Educational Opportunity Centers program. The afternoon session will cover the specific requirements for the Special Services, Upward Bound, and Talent Search programs. Time will be provided throughout the day for questions and answers. On the second day, no formal presentations will be made. Office of Education staff will be available from 9:00 a.m. to 12:00 noon to answer any additional questions.

(Catalog of Federal Domestic Assistance Numbers: 13.543 Educational Opportunity Centers; 13.492 Upward Bound; 13.482 Special Services for Disadvantaged Students; 13.488 Talent Search.)

Dated: August 31, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-27800 Filed 9-4-79; 8:45 am]

BILLING CODE 4110-02-M

Commission on the Review of the Federal Impact Aid Program; Meeting

AGENCY: Commission on the Reivew of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979. The meeting will be open to the general public and all interested persons are invited to attend. Notice of this meeting is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 1).

DATE: September 28 and 29, 1979. The Commission will meet at 9:00 a.m. each day and continue until 5:00 p.m., unless business is completed earlier on the 29th.

ADDRESS: Capitol Room, Hotel Washington, 15th and Pennsylvania Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Designate, Commission on the Review of the Federal Impact Aid Program, c/o Ann Bailey, Committee Management Staff, Room 2135, F.O.B. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (202) 245-7960.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Public Law 95-561). The Commission is to conduct a review and evaluation of the administration and operation of the impact aid program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and the Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of Federal ownership of real property and the provision of educational services for federally connected children—or by reason of sudden or substantial increases in school attendance resulting from Federal activities.

Tentative Agenda

1. Swearing in of Commission members.
2. Organization of the Commission.
3. Discussion and determination of the means by which the charge of the Commission is to be implemented.
4. Determination of the dates, sites, and purposes of subsequent meetings of the Commission.

RECORDS: Records of all proceedings of the Commisson will be kept in accordance with law and will be available for inspection by the public at the office of the Commission, located at a site yet to be determined, notice of which location is to be available from the Committee Management Staff, Office of Education, Department of Health, Education, and Welfare, Room 2135, F.O.B. 6, 400 Maryland Avenue, S.W., Washinton, D.C. 20202.

Signed at Washington, D.C., on the 24th day of August 1979.

Richard Dallas Smith,

Executive Director, Designate, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 79-27549 Filed 9-4-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

Public Meeting on Proposed Data Collection of Compliance Information

Notice is hereby given that the Office for Civil Rights will hold a one-day meeting Thursday, September 20, 1979, from 9:00 a.m. to 5:00 p.m. in Federal Office Building #6, Room 6104, 400 Maryland Avenue, S.W., Washington, D.C.

The purpose of the meeting is to review and discuss the proposed contents of the Fall 1980 OS/CR 101 and 102 Elementary and Secondary School Survey forms.

A translator for the deaf will be available. The building is accessible.

FOR FURTHER INFORMATION CONTACT: Janet Smallwood, DHEW, Office for Civil Rights, 330 Independence Avenue, S.W., Washington, D.C. 20201, 202/245-6241.

Dated: August 30, 1979.

Bruce Mayor,

Acting Director Office for Civil Rights.

[FR Doc. 79-27564 Filed 9-4-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-79-945]

Notice of Availability of Recent Changes to HUD Minimum Property Standards

AGENCY: Housing and Urban Development.

ACTION: Notice of Availability—Changes to Minimum Property Standards.

SUMMARY: The Assistant Secretary for Housing—Federal Housing Commissioner has established certain changes in the HUD Minimum Property Standards. These changes are being made to clarify, eliminate, and update certain provisions of the existing standards.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Gray, Director, Minimum Property Standards Division, Office of Architecture and Engineering Standards, Room 6170, telephone 202–755–6590.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in handbooks: Minimum Property Standards for One- and Two-Family Dwellings in Handbook 4900.1, Multifamily Housing in Handbook 4910.1, and Care-Type Housing in Handbook 4920.1. The Minimum Property Standards are incorporated by reference into 24 CFR 200.927. An updated copy of the Minimum Property Standards is available for public examination in (1) the Information Center, Room 1104, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., and in each HUD Regional, Area, and Service Office; and (2) the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. In addition, copies of volumes 1, 2, and 3 of the Minimum Property Standards may be purchased from the United States Government Printing Office, Washington, D.C. 20402.

Notices of changes in the Minimum Property Standards are required by 24 CFR 200.933 to be published in the **Federal Register**. An official, historic file of such changes is available in the office of the Rules Docket Clerk in the HUD Headquarters in Washington, D.C., and in each HUD Regional, Area, and Service Office. A similar copy of the standards is also being maintained in the Office of the Federal Register, Washington, D.C.[1]

Public comments to these changes are not being solicited because they do not contain substantive revisions to technical requirements. The changes are primarily made for editorial purposes, reference updating and clarification.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

The most recent changes made are intended to:

(1) Clarify criteria and eliminate inconsistencies in response to field, user and product association requests,

(2) Bring criteria in line with recognized codes,

(3) Delete gratuitous, procedural, programmatic and redundant material,

(4) Update reference material as necessary,

(5) Correct format and edit material in anticipation of reprinting the standards.

Issued at Washington, D.C., on August 27, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-27555 Filed 9-4-79; 8:45 am]

BILLING CODE 4210-01-M

[1] A copy of the standards was filed as part of the original document and is available in the Library at the Office of the Federal Register.

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N-79-944]

Consumer Forum on HUD-Owned Multifamily Property Disposition; Forum

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice is given announcing a consumer forum.

SUMMARY: The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is announcing a Consumer Forum on HUD-owned Multifamily Property Disposition. The Forum is scheduled for September 24, 1979, and the description of the Forum is stated.

DATE OF FORUM: A Consumer Forum on HUD-owned Multifamily Property Disposition is scheduled to be held on Monday, September 24, 1979, from 9:00 a.m. to 5:00 p.m. at the Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C.

ADDRESS: Joseph Smith, Director, Consumer Liaison Division, Office of Consumer Affairs, Room 4212, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Portia James, 202–755–6996; Joseph Smith, 202–755–5360.

SUPPLEMENTARY INFORMATION: The one-day HUD-owned Multifamily Property Disposition Forum will provide an overview session and a series of workshops to enable participants to develop an in-depth understanding of HUD's Multifamily Property Disposition Program.

The Forum will acquaint consumers and neighborhood organizations with HUD's criteria for public/private organizations owning, managing and rehabilitating HUD-owned multifamily properties.

An overview of the multifamily property disposition process will be highlighted in the morning session with keynote presentations by HUD officials. In the afternoon, workshops will focus on specific topics and issues.

The Forum on HUD-owned Multifamily Property Disposition will be open to the public.

Issued at Washington, D.C., August 27, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-27554 Filed 9-4-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Commercial Recreation Use Fees—Rivers

August 27, 1979.

AGENCY: Bureau of Land Management, Interior.

ACTION: Commercial Recreation Use Fees—Rivers.

SUMMARY: For the 1980 through and including 1982 river use seasons, fees for commercial river float boating will be increased from the present $75.00 per 100 user days to $120.00 per 100 user days on the following areas:

Green River—Desolation/Gray Canyons
Colorado River—Westwater Canyon
Dolores River—Utah state line to confluence with the Colorado River
San Juan River—Bluff, Utah to Mexican Hat, Utah

Fees for trips of one day or less duration will be $50.00 per 100 user days on the following areas:

Green River—Nefertiti Rapid to the Diversion Dam
Colorado River—Rose Ranch to Castle Creek

The above fee increase is based on an appraisal conducted during the fall of 1978 and supplemented during the summer of 1979. Results of this appraisal indicated fees should be based on three percent of the effective gross revenues collected. This amounted to an average of $1.20 per user day on multiple day trips, including one day trips on Westwater, and $.50 per user day on trips of one day or less for the "daily" section as described above. The fee schedule will be reappraised every three years, with the next fee adjustment falling due in 1983.

DATE: Effective Date: January 1, 1980.

ADDRESS: State Director, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: State Director, Utah.

SUPPLEMENTAL INFORMATION: Use fees on the above mentioned river segments have remained at the same level since their inception in 1973 except for the 1979 river use season. The Federal Land Policy and Management Act of 1976 directs that fair market value be charged for commercial use.

The current fee schedule is based on an appraisal using the market approach and effective gross revenue data obtained from commercial river guides. Fees collected will be returned to the area from which they were generated for site protection and management.

Gerald E. Magnuson,

Acting State Director.

[FR Doc. 79-27544 Filed 9-4-79; 8:45 am]

BILLING CODE 4310-84-M

Coal Management Program Briefings and Planning Workshops

AGENCY: Bureau of Land Management, Interior.

ACTION: Coal Management Program Briefings and Planning Workshops.

SUMMARY: The Office of Coal Management, Bureau of Land Management and the Office of Coal Leasing, Planning, and Coordination, U.S. Department of the Interior, will hold a series of briefings, workshops and open house events to be conducted in eight States during September and October 1979, to acquaint elected officials, the coal industry and the public with details of the new Federal coal management program.

DATES: The opening session is scheduled for September 10, 1979, in Denver, Colorado. See supplementary information below for full schedule of dates and city location.

ADDRESS: Any suggestions or remarks should be sent to the Assistant to the Director for Coal Management, Bureau of Land Management, Room 3610, 18th & C Streets, N.W. Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mary Beth Henry (202) 343–4191, or Tom Walker (202) 343–4537.

SUPPLEMENTARY INFORMATION: The sessions are intended to increase understanding, by the mining industry and the public, of the new Federal coal management program, implemented by Secretary of the Interior, Cecil D. Andrus, on June 4, 1979. The program initiates, for the first time since 1971, competitive leasing of Federal coal to assure adequate coal production to meet U.S. energy needs. The schedule includes:

Denver, Colorado—September 10–11—covering the Denver-Raton Mesa, Uinta-Southwest Utah, Green River-Hams Fork, and the San Juan River Coal Regions.
Cheyenne, Wyoming—September 12–13—covering the Green River-Hams Fork, and Powder River coal regions.
Tuscaloosa, Alabama—September 17–18—covering the Southern Appalachian coal region.
Salt Lake City, Utah—September 20–21—covering the Uinta-Southeast Utah, Green River-Hams Fork, and San Juan River coal regions.
Albuquerque, New Mexico—October 2–3—covering the San Juan River, Denver-Raton Mesa, and Texas coal regions.
Oklahoma City, Oklahoma—October 4–5—covering the Western Interior coal region.
Bismarck, North Dakota—October 17–18—covering the Fort Union coal region.
Billings, Montana—October 29–30—covering the Powder River and Fort Union coal regions.

Specific building and street locations of the sessions within the cities shown will be announced later. Further inquiry can also be directed to address shown above, or by contacting the respective State Director, Bureau of Land Management, Interior, at the following location:

State Director, Colorado, Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado 80202, (303) 837–4325.
State Director, Montana, 222 N. 32nd Street, P. O. Box 30157, Billings, Montana, 59107, (406) 657–6461.
State Director, New Mexico, U.S. Post Office Federal Building, South Federal Place, Box 1449, Santa Fe, New Mexico 87501, (505) 988–6217.
State Director, Utah, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, (801) 524–5311.
State Director, Wyoming, 2515 Warren Avenue, P. O. Box 1828, Cheyenne, Wyoming 82001, (307) 778–2220.
Director, Eastern States, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235–2830.

Each of the two-day workshops will include an evening Open House program offering opportunities for community leaders and the interested public to discuss the program with officials involved in the development and operation of the program. Comprehensive workshops for the coal industry and other interested groups will be held on the second day in each of the cities. Topics shall include identification of potential coal lands, data analysis, surface owner consent, designation of lands unsuitable for coal leasing, preferred lease areas, and methods for hearings and appeals. All sessions are open to the public.

Sessions covering the Central and Northern Appalachian and the Eastern Interior coal regions are also in the planning stage for late October or early November, and formal announcement will be made regarding these proposed workshops.

Guy R. Martin,

Secretary for Land and Water Resources.

August 29, 1979.

[FR Doc. 79-27467 Filed 9-4-79; 8:45 am]

BILLING CODE 4310-10-M

[Tentative Sale No. 59]

Mid-Atlantic Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Additions of Blocks and Extension of Time To Submit Nominations and Comments

The area of the Call for Nominations and Comments for Oil and Gas Leasing published at 44 FR 40727 on July 12, 1979, is increased to include the following blocks. The date for submission of nominations and comments is extended from September 7, 1979, to September 28, 1979.

Description of Blocks Added

OCS Official Protraction Diagram NJ 18–3: Blocks 827, 871, 915, 959, 1003.

OCS Official Protraction Diagram NJ 18–6: Blocks 27 through 31, 71 through 75, 115 through 119, 159, 160, 203, 204, 247, 248, 285 through 292, 329 through 332, 373 through 376, 417 through 420, 461 through 464, 505, 543 through 549, 587 through 593, 631 through 637, 675 through 678, 719

through 722, 763 through 766, 807 through 810.

OCS Official Protraction Diagram NJ 19–1, Block Canyon: Blocks 499, 500, 543, 544.

Ed Hastey,

Associate Director, Bureau of Land Management.

Larry E. Meierotto,

Assistant Secretary of the Interior.

August 29, 1979.

[FR Doc. 79–27480 Filed 9–4–79; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Cascade Reservoir Land Use, Management Plan, Payette Division, Boise Project, Idaho; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental impact statement on the proposed Cascade Reservoir Land Use Management Plan, Idaho. The proposed management plan presents current recreation and wildlife activities and construction on the perimeter of Cascade Reservoir and presents plans for future actions. Cascade Reservoir is located approximately 130 kilometers (80 miles) north of Boise, Idaho, and has been in operation since 1948.

The statement will cover the impacts of the preferred management plan alternative which proposes the allocation of land for both recreation and wildlife management, and the other alternatives including: (1) Managing the Reclamation lands primarily for recreation, (2) managing primarily for wildlife, and (3) no management plan. The environmental impact statement will address the impacts of recreation and wildlife uses on the reservoir lands, locations of recreation developments, and the effects of the implementation of the management plan on the nearby towns and counties.

Environmental studies and preparation and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act of 1969, and will be accomplished under the Council on Environmental Quality regulations published in the **Federal Register** on November 29, 1978.

Issues and concerns related to the proposed management plan have been identified through a series of public meetings in Cascade and Boise, Idaho, on April 11 and 13, 1978, and on November 30 and December 1, 1978.

The Department of the Interior invites comments and suggestions on the proposal to ensure that all significant issues are identified and discussed in the statement. Interested agencies, organizations, and individuals should write to or contact the Bureau of Reclamation at the address provided below. The contact person will be:

Gaye W. Lee, Environmental Protection Specialist, Bureau of Reclamation, Pacific Northwest Region, Box 043, 550 West Fort Street, Boise, ID 83724, Telephone: 208–384–1926.

Dated: August 28, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79–27444 Filed 9–4–79; 8:45 am]

BILLING CODE 4310–09–M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Coordinating Council on Juvenile Justice and Delinquency Prevention Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet Wednesday, September 19, 1979 at 633 Indiana Avenue, N.W., Washington, D.C., 13th Floor Conference Room. The meeting will be open to the public.

The meeting will begin at 10:00 a.m. The Council will discuss issues of staff support for the Council; the impact on the Council of proposed amendments to the Juvenile Justice and Delinquency Prevention Act; the role of the Council in relation to other key provisions of the Juvenile Justice Delinquency Prevention Act of 1974, as amended; and, approaches to organizing the work of the Council.

Presentations will be made on the outcome of the discussions at the previous meeting of the Council on Title XX of the Social Security Act; the White House Working Group on Youth and the Working Group on Youth Unemployment; and, the work of the Community Research Forum of the University of Illinois under a grant from the Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration. There will be a luncheon recess from 12:00 noon until 1:00 p.m.

For further information contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

David D. West,

Acting Associate Administrator Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79–27558 Filed 9–4–79; 8:45 am]

BILLING CODE 4410–18–M

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) and its Subcommittees will meet Thursday, Friday and Saturday, September 20, 21 and 22, 1979, at the Wellington Hotel in Washington, D.C. The meeting will be open to the public.

On Wednesday, September 19, preceding the full Committee meeting, the Executive Committee will meet at 6:00 p.m. The meeting of the full Committee is scheduled to convene at 8:45 a.m. on Thursday, September 20. The session will begin with a report from the Executive Committee and reports from the Administrator of LEAA and the Associate Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). At 10:30 a.m., following a brief recess, the four Subcommittees: Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; Advisory Committee to the Administrator on Standards for Juvenile Justice; Advisory Committee to the Administrator of the Office; and Advisory Committee on the Concentration of Federal Effort, will meet. Following a 12:30 p.m.—2:00 p.m. luncheon, the Subcommittees will reconvene in individual sessions for the remainder of the day.

On Friday, September 21, at 10:00 a.m., the full Committee will reconvene to review recommendations arising from the previous day's joint meeting of the Subcommittee to Advise the Administrator and the Subcommittee on Concentration of Federal Effort on the topics of State Subsidies and the establishment of Regional Advisory Committees. The rest of the day will be devoted to the Report of the Advisory Committee to the Administrator on Standards. That report will review recommended Standards for the Administration of Juvenile Justice and Strategies for delinquency prevention. At the conclusion of this review, the Committee will vote on their adoption.

The full Committee will reconvene on Saturday, September 22, at 9:00 a.m. to continue the report of the Executive Committee and to hear the reports from the Advisory Committee to Advise the Administrator of the Office; the Advisory Committee on Concentration of Federal Effort and the Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention. This will be followed by a review of plans for the November/December meeting of the Committee. The meeting of the full Committee is scheduled to adjourn at 11:30 a.m.; an hour long meeting of the Executive Committee will follow.

For further information, contact Mr. David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

David D. West,

Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79–27557 Filed 9–4–79; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL COMMISSION ON AIR QUALITY

Policy on Public Participation

The National Commission on Air Quality Public Participation Plan published below is intended to assure active and meaningful public involvement in the Commission's studies of the Clean Air Act, as mandated under Section 323 of that Act.

The Commission during its studies will seek to ensure broad public participation at important stages of its program, including during the development of its reports and recommendations to Congress. The plan published below seeks to assure not only that the Commission informs the interested publics about its studies but also that the Commission is advised of the experiences of all sectors involved in air quality issues and applies that information to the overall study.

The Commission's Public Participation Plan will be a flexible document subject to modification as necessary, and the Commission accordingly invites public comments on the plan and on additional ways in which the Commission can achieve its goals of involving the public in its activities. As detailed below, the Commission is especially interested in receiving public comments on three issues: The feasibility and value of the Commission's sponsoring a national conference on air quality; the concept of a formal, independent mid-point evaluation of the Commission's public participation program, with recommendations, if appropriate, for improving the effort; and the necessity for reimbursing particular sectors of the public for travel costs associated with participation in Commission activities.

Comments and questions on the Public Participation Plan should be addressed to Mr. Morris A. Ward, Assistant Director, Public Affairs and Administration, National Commission on Air Quality, Second Floor, 499 South Capitol St., SW., Washington, D.C. 20003; telephone (202) 245–6355.

William H. Lewis, Jr.,

Director.

August 30, 1979.

National Commission on Air Quality—Public Participation Plan

Introduction

The Public Participation Plan of the National Commission on Air Quality (NCAQ) is divided into four sections: Initiation of Public Contact; Information Dissemination; Consultation and Response; and Evaluation.

Public Participation activities in each section are closely related to the Commission's technical work, as outlined in the Commission's June 22, 1979, Plan of Study. The activities are intended to increase communication between the public and the NCAQ Commissioners and staff members on air quality issues.

The Commission expects this Public Participation Plan to be flexible and dynamic, changing in response to public comments, to meet changing needs. The plan will be revised also to reflect ongoing evaluations. NCAQ hopes that the public will continue to propose additional innovative ways to accomplish the participation objective, provide insights about successes and failures of other federal Commissions' public participation efforts, and suggest areas of emphasis throughout the study period.

The Public Participation Plan proposes that the Commission undertake a variety of activities such as workshops, expert panels, ad hoc information groups, public hearings, a formal evaluation, and perhaps also a national conference. These activities would provide opportunities for substantive dialogue among air pollution control interests, but they also are costly in terms of staff time, time and expenses of the public, and logistical costs. While the Commission places a high priority on public participation, its resources are limited. Public comment on the cost effectiveness and relative merit of each of these activities will affect the Commission's resource allocations. The Commission is particularly inviting comment about the feasibility and value of the national conference and of the formal independent evaluation of the Public Participation Plan and how it is implemented. The advantages and resource constraints of each are discussed in Part III.G. and Part IV. of the Plan, respectively.

Another resource constraint which affects the Public Participation Plan is the Commission's travel budget. The approved fiscal year 1979 and fiscal year 1980 travel budgets for the Commission will cover only essential travel for the Commissioners and staff. This restriction consequently limits the degree to which the Commission can reimburse the public for travel costs associated with participation. Therefore, the Commission is seeking comment concerning criteria for reimbursing travel expenses within the limits described, alternative ways to encourage participation, and assessments of activities which will suffer most from a lack of travel support.

Objective

The purpose of this Public Participation Plan is to ensure that any and all interested parties become actively involved in the ongoing work of the National Commission on Air Quality and to provide opportunities for consensus to emerge concerning technical issues related to the Clean Air Act and the Commission's recommendations to Congress.

Because these recommendations will relate to national policy on air pollution control, it is essential that diverse interests contribute to the Commission's examination of the Clean Air Act, and to its study of alternative means of achieving the Act's goals.

Accordingly, this Plan proposes a strategy for fulfilling the Commission's desire and obligation both to inform and to respond to a multiplicity of interests and opinions regarding air quality issues.

I. Initiation of Public Contact

The Commission intends to identify groups or individuals who may be interested in or affected by air pollution control issues. An initial mailing list has been compiled. The Commission expects that this list will be continually expanded as additional names are suggested and as additional groups seek to be kept informed of Commission activities. As the work of the Commission progresses, the general mailing list will be divided by location and by particular areas of interest. Tasks to initiate public contact include:

A. *Identification and inclusion on the mailing list of groups and individuals*

interested in air quality issues. Initial estimate is 5,000 names including (in alphabetical order):

1. Agricultural Interests
2. Civic Associations
3. Congress and Congressional Staff
4. Consumer Groups
5. Conservation Organizations
6. Educational Associations and Institutions
7. Environmental Groups
8. Federal Departments and Agencies
9. Individuals
10. Industry Groups and Individual Corporations
11. Labor Organizations
12. Local, City, County Government Agencies
13. Minority Groups
14. National and Local Media
15. Public Health Organizations
16. Regional Government Agencies
17. Scientific and Professional Associations
18. Small Businesses
19. State Executive Branches
20. State Legislative Branches
21. Trade Press and Specialized Press
22. Other

B. *Summarizing of interests, activities, publications, and potential involvement* of groups and individuals identified above. This effort will include the preparation of descriptions of the groups' past air quality activities and current areas of emphasis and will include listing the publications and newsletters of each group.

C. *Organization of the mailing list* into the following categories:

1. A list of the most active, interested, and involved groups and individuals nationwide—initial estimate 1,000. The Commission will attempt to keep the groups and individuals on this list fully informed about the Commission's progress and will contact them by direct mail on occasions when public comment is being sought.

2. Lists of groups and individuals according to geographic regions. This list will be particularly important for those regions selected for study under Parts II and III of the Commission's Plan of Study.

3. Lists of groups and individuals expressing specific interest or having particular expertise in a technical or policy area being studied by the Commission.

D. *Initiation of Public Contacts.* While much initial contact will be made by telephone, the following formal contacts will also be made:

1. Media contacts for print media including national newspapers and news magazines, trade and specialized publications. In many cases, information will be delivered to Washington bureaus of out-of-town papers, or to news services which supply local publications. Regional mailing lists will be developed in areas where NCAQ Commissioners live and work and in regions selected for intense study. Press releases and other information will be addressed to the appropriate environmental writer or editor.

Mailing lists for radio and television will be developed in an identical manner and scope. When live coverage is appropriate, special efforts will be made to notify assignment editors and "talk-show" producers.

2. Initial mailings to entire mailing list including NCAQ Plan of Study and accompanying fact sheet, introduction of Commissioners and key staff, and background information on NCAQ mandate, history, and organizations.

II. Information Dissemination

In order to participate effectively, the public must have accurate, understandable, and pertinent information about air quality issues the Commission is addressing. NCAQ will establish and maintain information depositories in public libraries or universities in regional areas studied by the Commission and in other areas deemed appropriate or necessary. The depositories will contain copies of technical studies completed under contract to NCAQ, background information about the Commission, and other relevant information. NCAQ will be reponsible for keeping the contents of the depository current. The NCAQ library in Washington, D.C., will be open to the public during normal working hours. Requests for copies of reports and documents will be filled by NCAQ when possible or will be referred to contractors and other sources who may charge a fee for reproduction. In its effort to disseminate information, the Commission will:

A. *Serve as a clearinghouse,* directing the public to existing sources of air quality information. The Commission intends to be responsive to requests for basic information. However, a substantial amount of information has already been produced by public and private sources. Therefore, the Commission will research existing public information sources and will develop a list of contact people in outside organizations to whom requests can be referred.

B. *Maintain an NCAQ speakers bureau.* Commissioners and NCAQ staff will be active participants in various public meetings, conferences, workshops, panels and forums of groups interested in air quality issues. Commission members and NCAQ staff will inform those groups of the Commission's activities and will encourage involvement of those groups in the Commission's work. NCAQ participation and speeches will be announced in the NCAQ bulletin and through proper media channels. Texts of speeches by NCAQ members and staff will be available upon request when written versions of the speech were prepared.

C. *Distribute timely information on a regular basis.* The Commission regularly will prepare information for wide distribution to keep interested parties advised of the Commission's progress. This effort includes dissemination of information in the following ways.

Type	Timing	Distribution
1. Four page NCAQ bulletin containing articles on contracts awarded, upcoming speeches, announcements, summaries of Commission meetings, notices of available reports, articles by staff, etc.	Monthly	Entire mailing list.
2. Announcements of Commission meetings:		
a. FEDERAL REGISTER Notices	30-day advance	Readers of FEDERAL REGISTER.
b. NCAQ Bulletin	Monthly	Entire mailing list.
c. Dear Colleague letter	Occasionally	Congressional offices.
3. Summaries of NCAQ meetings describing the content of presentations, discussions, and actions taken.	Monthly	Core list.
4. Articles in newsletters, and other publications of outside organizations.	Frequently	Outside organizations.
5. National Press (print/electronic). Trade Press (print/electronic). Regional Press (print/electronic).		

D. *Ensure that technical background documents are available* for public scrutiny. A copy of each document will be placed in the regional depositories and in the NCAQ library. Examples of documents to be provided are:

Type	Timing
1. Contractor reports	Upon approved completion of contract.
2. Existing studies	When compiled.
3. Reports of expert panels	When completed.
4. NCAQ staff studies	When completed.
5. Regional profiles and status reports	When plan of study parts II and III regional attainment and nonattainment areas are selected.
6. Industrial profiles and status reports	When plan of study part VI industries are selected.

E. *Distribute information which facilitates the formal public comment process.* The Commission will solicit and consider public comments prior to making certain key decisions. Some solicitations will include a **Federal Register** notice and some will be by direct mail. Comments and suggestions will be solicited prior to selection of attainment and nonattainment areas under Parts II and III of the Plan of Study, before industries are selected for study under Part VI, prior to substantive revisions of the Public Participation Plan, before final recommendations to Congress are developed, and at other points yet to be identified. When public comments are being sought, the Commission will provide information concerning the action or decision at least 30 days prior to the decision. This time is needed so the public can develop informed comments and so that the Commission can carefully consider public views before taking final action. The information will include:

Type	Timing
1. The proposed document or summary of action to be taken.	30-days advance.
2. Fact sheet, when appropriate, summarizing: Issues involved. Ramifications of decision. Alternatives considered. Trade-offs of alternatives. Known positions of outside organizations or individuals. Areas particularly needing comment.	30-days advance.
3. Technical background documents	When requested.

III. Consultation and Response

Throughout the study, NCAQ will encourage and maintain a dialogue with members of the public. NCAQ will exchange views and openly explore issues, alternatives, and consequences with individuals and groups representing a variety of interests. Consultation will take place at formal and informal meetings, workshops and hearings, through discussions with expert panels and ad hoc information groups, and during the public comment periods. When appropriate, as after a public comment period, a formal NCAQ response will identify those who participated and subjects discussed; summarize the public's views, important comments, criticisms and suggestions; and detail how public contributions affected NCAQ actions and/or why public comments were not incorporated. This formal response hereafter will be called a responsiveness summary.

An attachment to the Public Participation Plan delineates in chart form the formal meetings and responses proposed by the Commission. In its effort to consult and respond effectively the Commission will:

A. *Conduct montly Commission meetings which are open to the public* unless otherwise provided by majority vote of the Commissioners. Approximately thirty (30) days prior to each meeting, a notice and proposed agenda will be published in the **Federal Register.** This notice will appear also in the NCAQ bulletin. In order to inform the public of events that take place at Commission meetings, NCAQ will make available summaries of each meeting upon request. Unless otherwise provided by majority vote, a transcript will be kept of all proceedings of the full Commission, and the transcript will be available for public inspection during regular staff working hours in the NCAQ library.

B. *Schedule numerous informal meetings between NCAQ staff and outside interests.* These meetings will be kept informal in order to encourage open expression of views. These meetings will also allow NCAQ staff to become fully familiar with existing relevant information and technical studies in the possession of a variety of public and private interests. Examples of such meetings include:

Who	Why
1. Liaison staff/Technical staff/Outside groups and individuals	To brief groups about NCAQ progress; To learn about available data/concerns/preferences.
2. Brown bag lunches for NCAQ staff with outside groups and individuals representing different interests.	To brief groups about an issue; listen to suggestions; build understanding of other viewpoints.

C. *Convene panels of experts for in-depth discussion of specific issues relating to air quality.* Through seminars, commissioned papers, and workshops the Commission will consult with experts about air quality issues where there is a level of controversy or where no consensus exists on a particular issue. The expert panels are expected to provide NCAQ with a variety of cogent opinions and, where possible, to work together to achieve consensus. After receipt of an expert panel report, NCAQ will place a copy in each regional depository and in the NCAQ library. Expert panels are proposed for the following issues:

1. Photochemical oxidants (Plan of Study, Part I). Scientists will recommend scientific approach and identify areas needing research.

2. Modelling techniques (Plan of Study, Part II). Scientists will review existing techniques and recommend NCAQ modelling approach.

3. Benefit methodology (Plan of Study, Part V). Economists will clarify estimation techniques and crituque existing studies.

4. Cost Methodology (Plan of Study, Part V). Economists will identify relevant cost methodology and critique existing studies and techiques.

5. Particle size and composition (Plan of Study, Part I). Experts will evaluate potential effects and adequacy of data.

6. Biomedical effects of diesel exhaust (Plan of Study, Part I). Experts will discuss potential effects and recommend areas of research.

7. High altitude carbon monoxides (Plan of Study, Part I). Medical experts will evaluate the health effects of carbon monoxide at high altitude.

D. *Establish Ad Hoc Information Groups and consult with members of those groups.* Ad Hoc Information Groups will be established as follows. Under Parts II and III of the NCAQ Plan of Study, the Commission will select up to six areas for intense study. These will include both areas which attain ambient air quality standards for certain pollutants and areas which are not attaining standards for some pollutants. An Ad Hoc Information Group will be established for each area to fully reflect government, business, environmental, and civic interests in the selected area. Throughout the study, individuals serving on the Ad Hoc Information Groups will be consulted about data, opinions, growth projections and local experiences to ensure use of best available and most realistic information.

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Two workshops will be held for the Ad Hoc Information Groups and other interested or affected parties in each regional study area. The first workshop will be held shortly after the study begins to explain NCAQ objective for the study, determine sources for existing information, and respond to questions. The second workshop will be held at the end of the study to consult with the Ad Hoc Information Group and other interested parties concerning NCAQ findings and tentative conclusions concerning that regional study.

An Ad Hoc Information Group will also be established for the industry selected for study under Part VI of the Plan of Study. This group will consist of representatives of the industries to be studied, state and local control agencies, environmental organizations, and labor organizations and will provide a forum for communication among NCAQ staff, industry representatives, and those affecting and affected by the industry.

E. *Require certain contractors to consult with and respond to the public.* Certain research contracts will produce more useful information and better conclusions if a public participation task is included in the contractor's scope of work. Other contracts will include tasks to gather information about public participation in current air quality control programs. These tasks will help the Commission keep the public informed about ongoing technical projects, will contribute to the data base about costs and benefits of public participation, and will further integrate the research and public affairs aspects of the Commission's work.

Appropriate contractor public participation tasks may include individual interviews with various interests, workshops, information distribution, a survey of interested parties, and a compilation of data from files. Groups and individuals to be contacted may include the Ad Hoc Information Group members, expert panel members or segments of the NCAQ mailing list grouped according to location or interest area.

While other studies undoubtedly will be identified, technical studies currently proposed to include a public participation task are:

1. Survey of State Implementation Plan Submittals (Plan of Study, Part I). Contractor will compile information from files and other sources to ascertain the extent of public participation in the SIP process.

2. Assessment of Transportation Control Measures (Plan of Study, Part I). Contractor will interview various groups and individuals to evaluate the extent of public participation and its effect on implementing TCM's.

3. Survey of PSD and Offset Permits (Plan of Study, Part I). Contractor will compile information from files and other sources to identify the extent of public participation in the permitting process.

4. Ability of Federal, State, and Local Governments to Implement and Enforce Provisions of the Clean Air Act (Plan of Study, Part VII). Contractor will conduct a nationwide survey to discover limitations on implementation ability and effects of those limitations on air quality goals.

5. Study of Mechanisms Necessary to Address Inter-Regional Transport of Photochemical Oxidants (Plan of Study, Part VII). Contractor will expand upon the EPA study of oxidant transport in the Northeast Corridor. State, local, and federal officials will be interviewed about potential inter-regional abatement mechanisms.

F. *Conduct formal public meetings or hearings* concerning specific air quality issues and Commission recommendations. In addition to the previously discussed regional study area workshops and meetings of expert panels, the Commission intends to formally consult with the public in various locations on a variety of topics. Included will be:

1. Meetings connected with technical studies. These meetings will feature presentations on a specific topic by various interests, followed by a panel discussion. The public will be invited to attend the two meetings currently planned. The theme of one meeting will be "A Study of Effects of Legal Requirements on Relations between Government and the Scientific Community" (Plan of Study, Part I). This meeting will allow various interests to discuss effects on the criteria-development process of government requirements for open meetings. A "Regulatory Reform Workshop" (Plan of Study, Part VII) will solicit both constructive criticism of existing procedural requirements in the air pollution control programs and recommendations for streamlining those procedures.

2. Meetings to involve groups and individuals outside of Washington, D.C. As resources permit and opportunities arise, the Commission will consult with the public in many locations about general air quality issues and about NCAQ purposes, progress, and findings. These meetings may be arranged specifically to discuss the Commission's air quality work or may occur during workshops or conferences sponsored by outside organizations.

3. Public Hearings. At the end of the NCAQ study, public hearings will be held in various locations to receive public comments on the Commission's final recommendation to Congress.

G. *Sponsor a National Air Quality Conference.* NCAQ is considering the values and costs associated with sponsoring a National Air Quality Conference. This conference could bring together interested and involved people from various parts of the country to discuss tentative NCAQ recommendations and could provide an opportunity for consensus to develop on air quality issues.

As proposed, NCAQ would sponsor a national conference at the end of the study period before final recommendations to Congress are developed and before the public hearings mentioned above begin. This conference would draw participants from the regional study areas, the selected industry sites and other areas. The conference's purposes would be (1) to focus attention on the work of the Commission's upcoming recommendations for Congress; (2) to engage people from different parts of the country with different perspectives in a dialogue about the issues; and (3) to provide NCAQ with comments and suggestions which, to the degree possible, reflect a consensus of the participants.

A national conference would offer numerous benefits, but it also would involve substantial staff time and money. Travel to the conference location could pose a problem because of the limited travel budget. In addition, subsidized travel might be necessary for some participants who otherwise could not afford to attend and without whom attendance at the conference may not be reasonably representative of all interests.

It is possible that some funding for such a conference could be provided by outside public and private sources. The Commission plans to explore this possibility. Also, staff time could be reduced and travel funds could be made available if the conference were produced under contract to an outside organization. This option would, of course, reduce the total amount of funds available to the Commission's technical studies.

The Commission particularly invites comments about the feasibility and value of a national conference. A conference of this scope would necessarily divert resources from other proposed public participation activities. Therefore, comments are sought concerning the relative merit of a conference versus other activities. On the matter of whether to hold a national conference, the Commission especially encourages comments on the following questions:

- Should NCAQ select participants (if so, according to what criteria), or should attendance be open?
- Should NCAQ reimburse some participants for travel? How? What selection criteria should be used to determine eligibility for reimbursement? What alternative funding mechanisms are available?

IV. Evaluation

The NCAQ staff will continually evaluate accomplishments and activities against the overall public participation objective. The Public Participation Plan is meant to be flexible, evolving to meet needs as they arise. A formal mid-point evaluation will help the staff make necessary changes and improvements. In order to conduct a fair and thorough evaluation, the Commission will:

A. *Develop evaluation criteria.* Based on comments received on this section of the Public Participation Plan, the Commission will develop several criteria to measure progress in meeting the public participation goal. Those criteria will become part of the Public Participation Plan. NCAQ is specifically seeking comment on appropriate evaluation criteria.

B. *Schedule periodic evaluations of staff performance in meeting the public participation objective.* The results of these internal evaluations will be included in the NCAQ library file.

C. *Consider the values and costs of an independent mid-point evaluation.* Under this proposal, NCAQ would establish and pay expenses of a panel of individuals who collectively represent the major parties interested in air quality issues and involved in the work of the Commission. Through independent interviews, and using the evaluation criteria, the panel would assess Commission efforts to meet the public participation objective and would suggest appropriate modifications to the public participation program.

The NCAQ is especially interested in comments on the feasibility and value of such an objective mid-point evaluation. If supportive, comments should propose selection criteria for panelists, and appropriate evaluation procedure. If an independent evaluation is not supported, comments should focus on evaluation criteria to be used by the Commission internally.

Summary of Formal Meeting Proposed by NCAQ

Type	Who	When	Why	Response
1. *Seminars*	Expert Panels	Throughout the study	Take advantage of outside expertise; build consensus.	Report on conclusions for the public files.
2. Two *Workshops* in each *Regional Study Area.*	Ad Hoc Info Groups and interested public.	One at beginning of study	To brief the public and learn local concerns.	Report of workshop for the public file.
		One at end of study	To listen to the public and receive comments about study.	Responsiveness summary.
3. Two *Workshops* on *Selected Industries*	Ad Hoc Information Groups and interested public.	One at beginning	To brief the group re purposes of the study and to hear different viewpoints.	Report of workshop for the public file.
		One at end of study	To receive comments about each industry.	Responsiveness summary.
4. *Public Meetings*	Interested public	Throughout the study	To brief the public, receive comments, discuss issues.	Report on meeting for the public file.
5. *National Air Quality Conference*	Participating and interested public.	Near the end of the study	Discuss NCAQ tentative recommendations.	Report on conference for the public file.
6. *Public Hearings*	Interested public	3-Months prior to end of study	Formal comment on proposed recommendations to Congress.	Responsiveness summary.

[FR Doc. 79-27570 Filed 9-4-79; 8:45 am]
BILLING CODE 6820-98-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

Regarding the previous **Federal Register** Notice (published on August 23, 1979 (44 FR 49527)) for the meeting of the Advisory Committee on Reactor Safeguards to be held on September 6–8, 1979, in Washington, D.C., changes in scheduling are indicating below:

Thursday, September 6, 1979

8:30 A.M.–9:00 A.M.: Executive Session (Open)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

9:00 A.M.–12:00 Noon: Meeting with NRC Staff (Open)

The Committee will hear and discuss a report by the NRC Staff regarding the implications of the accident which occurred at the Three Mile Island Nuclear Plant Unit 2.

1:00 P.M.–2:00 P.M.: Meeting with Stone and Webster Engineering Corporation (Open)

The Committee will hear and discuss comments from representatives of the Stone and Webster Engineering Corporation regarding the seismic design of nuclear power plant systems.

Portions of this session will be closed as necessary to discuss Proprietary Information.

2:00 P.M.–3:00 P.M.: Meeting on Nuclear Operations Institute (Open)

Representatives of the Atomic Industrial Forum Policy Committee on Follow-up to the Three Mile Island Accident will brief the Committee regarding the proposed activities of the Nuclear Operations Institute.

3:00 P.M.–4:00 P.M.: Meeting with NRC Staff (Open)

The Committee will hear and discuss a report regarding areas of potentially high stresses in the Mark I containment resulting from recent large scale test data.

4:00 P.M.–7:00 P.M.: Executive Session (Open)

The Committee will hear and discuss the report of its Subcommittee on the review of Licensee Event Reports submitted by the operators of commercially licensed nuclear power plants during the period of 1976–78.

The Committee will discuss the status of action being taken to evaluate systems interactions at the Zion Nuclear Station and Indian Point Nuclear Plant Unit 3.

Friday, September 7, 1979

8:30 A.M.–12:30 P.M.: Three Mile Island Unit 2 Accident Implications (Open)

The Committee will discuss underlying causes which contributed to the accident which occurred at the Three Mile Island Nuclear Station Unit 2.

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1:30 P.M.–6:30 P.M.: Executive Session (Open)

The Committee will hear and discuss the report of its Subcommittee Chairman regarding a proposed plan of action to review and evaluate the status of generic items which were listed in ACRS Report No. 7 dated March 21, 1979 as applicable to light-water nuclear reactors.

The Committee will discuss proposed ACRS recommendations to the Nuclear Regulatory Commission regarding implications of the accident which occurred at the Three Mile Island Nuclear Station Unit 2.

The Committee will discuss the proposed scope and organization of its annual report to Congress on the NRC Safety Research Program.

Saturday, September 8, 1979

8:30 A.M.–3:30 P.M.: Executive Session (Open)

The Committee will discuss proposed ACRS comments and recommendations regarding the implications of the accident which occurred at Three Mile Island 2 on March 28, 1979, its proposed report to the NRC regarding evaluation of Licensee Event Reports, and proposed ACRS position/comments regarding other matters discussed during this meeting.

The Committee will discuss proposed activities related to the development of quantitative risk criteria for nuclear facilities.

The Committee will discuss proposed resolution of Anticipated Transients Without Scram for Boiling Water Reactors.

The Committee will discuss its schedule for future activities and the activities of individual members.

Dated: September 4, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-27859 Filed 9-4-79; 10:41 am]

BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Impediments to International Trade in Services; Solicitation of Public Views and Comments

1. Solicitation of Views: Preparation for discussion in the Organization for Economic Cooperation and Development (OECD) concerning impediments to international trade in services is now underway. It is contemplated that public sector advisory committees will be formed to provide advice on this subject. Pending the availability of advice from such committees the Office of the Special Representative for Trade Negotiations is particularly interested in receiving public views and comments and hereby solicits public views and comments on work undertaken to prepare an inventory to define and categorize types of impediments to international trade in services. Public views and comments concerning foreign barriers to U.S. service industries were solicited in connection with the Tokyo Round of Multilateral Trade Negotiations. (See: 42 FR 38445, 42 FR 59784, 42 FR 38445.)

For further information concerning services and service industries, reference should be made to: "U.S. Service Industries in World Markets: Current problems and future Policy Development," U.S. Dept. of Commerce, 1976, available for purchase by reference to publication No. PB262528 from the Department of Commerce, National Technical Information Service, Washington, D.C. 20230.

A copy of a preliminary draft of the inventory of impediments to international trade in services will be available for public inspection by September 7, 1979 at the Office of the Special Representative for Trade Negotiations, Room 735, 1800 G Street, NW., Washington, D.C.

For further information contact:

Nancy Adams or Dorothy Dwoskin, Room 735, 1800 G Street, NW., Washington, D.C. 20506, (Telephone 202–395–5140).

C. Michael Hathaway,

Acting General Counsel.

[FR Doc. 79-27470 Filed 9-4-79; 8:45 am]

BILLING CODE 3190-01-M

PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE ISLAND

Meetings

In accordance with the Federal Advisory Committee Act (Pub. l. 92463), announcement is made of the following meetings:

Name: President's Commission on the Accident at Three Mile Island.
Place: Washington, D.C., 2100 M Street, N.W.
Time: Wednesday, September 12, 9 a.m.—6 p.m. Thursday, September 13, 9 a.m.—6 p.m. Friday, September 14, 9 a.m.—6 p.m. Saturday, September 15, 9 a.m.—6 p.m.

Proposed Agenda:

I. Discussion of staff reports.
II. Discussion of findings and recommendations.
III. Discussion of issuance of *subpoenas ad testificandum* and *duces tecum*.
IV. Other business.

The Commission was established by Executive Order 12130 on April 11, 1979, to conduct a comprehensive study and investigation of the accident involving the nuclear power facility on Three Mile Island in Pennsylvania.

On September 12–13, 1979, the Commission will meet in closed session to discuss staff reports and issuance of any additional subpoenas. On September 14–15, 1979, the Commission will meet in closed session to discuss its findings and recommendations.

These meetings will be held pending notification and approval by the GSA Administrator.

Inquiries should be addressed to Barbara Jorgenson (202/653–7677).

Dated: August 31, 1979.

Barbara Jorgenson,

Public Information Director.

[FR Doc. 79-27790 Filed 9-4-79; 8:45 am]

BILLING CODE 6820-AJ-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/221]

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 24, 1979 at 1:00 p.m. in Room 1912, Department of State, 2201 C Street N.W., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the international Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting on September 24 is to review the Organization's charter, which must be renewed on October 15, and to discuss preparations for U.S. participation at the VIIth Plenary Assembly of the CCITT, to be held November 10–21, 1980, at Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to September 24, 1979, members of the general public who plan to attend the meeting inform Mr. Richard H. Howarth, Office of International Communications Policy, Department of State, telephone (202) 632–1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: August 24, 1979.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 79-27471 Filed 9-4-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Bicycle Tires and Tubes From the Republic of Korea; Extension of Comment Period

On Monday, July 30, 1979 the Department published notice in the **Federal Register** (44 FR 44639), that a petition, dated January 30, 1979, had been filed pursuant to section 516(a), Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), on behalf of Carlisle Tire and Rubber Company, an American manufacturer of bicycle tires and tubes. The "Notice of Petition" directed that all relevant data, views or arguments with regard to the petition be submitted to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington D.C. 20229, in time to be received no later than August 29, 1979.

Requests for an extension of the comment period, however, have been received. To permit interested persons desiring to submit comments an opportunity to do so, an additional 21 days (until September 19, 1979) will be granted for the filing of data, views or arguments regarding the aforementioned petition. Written submissions will be made available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), at the Classification and Value Division, Headquarters, U.S. Customs Service, Washington, D.C. during regular business hours.

David R. Brennan,

Acting General Counsel of the Treasury.

August 29, 1979.

[FR Doc. 79-27560 Filed 9-4-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Availability of Summary Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Vocational Rehabilitation Program has been completed.

Single copies of the Vocational Rehabilitation evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: August 24, 1979.

John J. Leffler,

Associate Deputy Administrator.

[FR Doc. 79-27498 Filed 9-4-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 147]

August 21, 1979

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifing the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of property

MC 200 (Sub-375TA), filed July 18, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same as above). *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment,* serving Henryetta, OK as an intermediate connection with applicant's existing service route No. 26 in its original certificate between Sapulpa, OK, and Jctn US Hwy 75 and 270, about 9 miles north of Calvin, OK, for 180 days. Supporting shipper(s): Four M Corporation, 600 E. 16th Ave., North Kansas City, MO 64116. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 531 (Sub-417TA), filed July 18, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes (same as applicant). *Petroleum oils,* in bulk, in tank vehicles, in shipper owned trailers from Oak Points, LA to Pascagoula, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chevron, U.S.A., Inc., 575 Market St., San Francisco, CA 94105. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 730 (Sub-455TA), filed July 13, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94595. Representative: Edgar E. Reddick (same address as applicant). *Meat and Packing House products* requiring refrigeration between facilities of John Morrel and Co at or near Esterville and Sioux City, LA, Sioux Falls, SD and Worthington, MN on the one hand, and on the other, points in AL, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2860 (Sub-181TA), filed July 16, 1979. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 W. Park Avenue, Vineland, NJ 08360. *Insulating materials and*

related commodities. From Barrington, NJ on the one hand, and on the other hand, points in IL, IN, IA, LA, MO, MI, KY, TN and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corporation, Fiberglas Tower, Toledo, OH 43659. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 4941 (Sub-54TA), filed May 29, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same as applicant). *Wooden kitchen cabinets, set up* from the facilities of International Paper Company at Austintown, OH to points in CT, ME, MA, NH, RI and VT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, 220 E 42nd St., New York, NY 10017. Send protests to: John B. Thomas, D/S, ICC, 150 Causeway St., Room 501, Boston, MA 02114.

MC 4941 (Sub-55TA), filed July 17, 1979. Applicant: QUINN FREIGHT LINES INC., 1093 North Montello St., Brockton, MA 02403. Representative: Russell S. Callahan (same as applicant). *Common carrier;* irregular route: *paper and paper products* from the facilities of Fonda/Royal Lace Group Division of Saxon Industries, Inc. at St. Albans, VT to points in IL IN and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fonda/Royal Lace Group Division of Saxon Industries, Inc., St. Albans, VT 05478. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 8771 (Sub-56TA), filed May 29, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004. Machinery, machinery parts, contractors' equipment, commodities which because of size and weight require the use of special equipment and self-propelled vehicles weighing more than 15,000 pounds each. From points in CT, DC, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, and VT, to points and places in the states of AL, AR, AZ, CA, FL, GA, IL, IN, KS, KY, LA, MO, MS, NC, NM, OH, OK, SC, TN, TX, WI, and WV. Supporting shipper(s): Abstract of shipments in Appendix A–B– in excess of 29 pages verified statement of Eugene E. Knoch, Vice President, Saw Mill Supply, Inc. (original application may be examined at Commission's office in New York or Washington, DC.) Send protests to: Stephen P. Tomany, 26 Federal Plaza, Rm. 1807, New York, NY 10007.

MC 13700 (Sub-10TA), filed July 3, 1979. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th Street, Holland, MI 49423. Representative: Neil R. Wimbush, 650 East 16th Street, Holland, MI 49423. General commodities, except those of unusual value, classes A & B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment; serving South Bend, IN and its commercial zone as an off-route point in conjunction with applicant's regular route operation (on Hwy I–94). Restricted to handling of interline traffic only. For 180 days. Supporting shipper(s): Murphy Motor Freight Lines, Inc., P.O. Box 43640, St. Paul, MN 5164; South Bend Freight Lines, 1200 South Olive, South Bend, IN 46624 and Lee Way Motor Freight Inc., P.O. Box 12750, Oklahoma City, OK 73157. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 26120 (Sub-8TA), filed July 9, 1979. Applicant: GEORGE L. HOOKER, INC., Tuscarawas Rd., Uhrichsville, OH 44683. Representative: Richard H. Brandon, 220 W. Bridge St., Dublin, OH 43017. Contract carrier: Irregular routes: *Products and materials, equipment and supplies used in the manufacture and shipping of clay products except commodities in bulk,* between Waynesburg, Magnolia, Mineral City, Midvale, and Alliance, OH, on the one hand, and, on the other, points in the United States in and east of WI, IA, MO, TN and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whitacre Greer Fireproofing Co., Box 428, Waynesburg, OH 44688. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 29910 (Sub-222TA), filed July 19, 1979. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Ft. Smith, AR, 72901. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. (1) *New furniture,* crated and uncrated, from Ft. Smith, AR to points in the U.S. (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk) from points in the U.S. (except AK and HI) to Ft. Smith, AR, for 180 days. Underlying ETA sought corresponding authoirty for 90 days. Supporting shipper(s): Riverside Furniture Corporation, P.O. Box 1427, Ft. Smith, AR 72902. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 29910 (Sub-224TA), filed July 16, 1979. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Ft. Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). *Automotive parts* between Detroit, MI; Syracuse, NY and Laredo, TX, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Chrysler Corporation, Box 1976, Detroit, MI 48288. Arkansas-Best Freight System, Inc., 301 S. 11 St., Ft. Smith, AR 72901. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 33641 (Sub-145TA), filed May 25, 1979. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84125. Representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, CA 94104. *Common carrier*-regular route: *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Denver, CO, and Houston, TX: from Denver, CO, over US Hwy 287 to Ft. Worth, TX, then over Interstate Hwy 20 to Dallas, TX, then over Interstate Hwy 45 to Houston, TX, and return over the same route, serving the intermediate points of Ft. Worth and Dallas, TX, and also the commercial zones of Houston, Dallas, and Ft. Worth, TX, for 180 days. Supporting shipper(s): There are 98 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 41951 (Sub-49TA), filed July 5, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. (1) *Salt in packages* from Ludlowville, Horseheads, Retsof, Watkins Glen and Silver Springs, NY, and Cleveland, Akron, Rittman, and Cincinnati, OH, to points in DE, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Somerset, Worchester, Wicomico, and Baltimore Counties, MD, and Baltimore, MD, Accomack, Northampton, York, Isle of Wright, and Southampton Counties, VA, and Norfolk, Virginia Beach, Portsmouth, Suffolk, Chesapeake, Newport News, and Hampton, VA, and (2) *Salt in packages* from Baltimore and Baltimore County, MD, to points in DE, and Accomack and Northampton Counties, VA, and Norfolk, Virginia Beach, Portsmouth, Suffolk, Chesapeake, Newport News, and Hampton, VA for 180. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harvey Salt Company, 1325 Mohrs Lane, Baltimore, MD 21220. Send protests to: ICC., Fed. Res. Bank Bldg., 101 N. 7th St. Rm. 620, Phila, PA 19106.

MC 52861 (Sub-72TA), filed May 16, 1979. Applicant: WILLS TRUCKING, INC., 3185 Columbia Rd., Richfield, OH 44286. Representative: John Wilson (same as applicant). *Scrap metal in dump vehicles* from Chicago, IL to Youngstown, and Fostoria, OH and South Haven and St. Joseph, MI for 180 days. Supporting shipper(s): General Iron Industries, Inc., 1909 N. Clifton Ave., Chicago, IL 60614. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 67450 (Sub-94TA), filed June 21, 1979. Applicant: PETERLIN CARTAGE COMPANY, 9651 Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Malt Beverages,* (except commodities in bulk), from Evansville, IN, Newport, KY, St. Paul, MN and LaCrosse, WI to points in IL, IN, MN and WI for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): G. Heileman Brewing Company, Inc., 925 Third Street, LaCrosse, WI 54601. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 82841 (Sub-267TA), filed July 12, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: William E. Christensen (same address as applicant). *Boards, building, wall or insulating, and materials and supplies used in the installation thereof (except commodities in bulk)* from the facilities of Armstrong Cork Company at or near Macon, GA to points in AZ, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OR, PA, SD, UT, WA, WI, WV, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 82841 (Sub-268TA), filed July 13, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: William E. Christensen (same address as applicant). *Materials, supplies and equipment used in the manufacture of retail store fictures (except commodities in bulk)* (1) Between Omaha, NE and Scottsboro, AL (2) From MN, MO, IL, LA, and MI to Omaha, NE; (3) From OH and GA to Scottsboro, AL for 180 days. An underlying ETA seeks 90 days authority. Restricted to the facilities of Lozier Store Fixtures. Supporting shipper(s): Lozier Store Fixtures, 4401 North 21st St., Omaha, NE 68107. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 95540 (Sub-1121TA), filed July 13, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Rd., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Magazines and periodicals, printed matter,* from Des Moines, IA to points in AL, AR, AZ, CT, CA, DE, FL, GA, KY, LA, MA, MD, MS, NY, NJ, NM, NV, NC, OK, PA, RI, SC, TN, TX, VA, and WV for 180 days. Supporting shipper(s): Meridith Publishing Company, 5701 S.W. Park Ave., Des Moines, IA 50305. Send protests to: Donna M. Jones, T/A, ICC–BOP, Monterey Bldg., Suite 101, 8410 N.W. 55rd Ter., Miami, FL 33166.

MC 95920 (Sub-56TA), filed April 4, 1979. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier,* irregular routes, *charcoal briquettes,* from White City, OR to points in CA, NV, AZ, UT, ID, WA, CO, WY, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 95920 (Sub-57TA), filed July 18, 1979. Applicant: SANTRY TRUCKING COMPANY, 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: Roy A. Amos, 10505 N.E. 2nd Avenue, Portland, OR 97211, 503–285–0340. CONTRACT IRREGULAR *Foodstuffs (except in bulk)* from the plantsite of American Home Foods, Division of American Home Products Corporation, located at or near Vacaville, CA to points and places in the States of OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division of American Home Products Corp., William A. Datre, Assistant General Distribution Manager, 685 Third Avenue, New York, New York 10017. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 95920 (Sub-58TA), filed July 19, 1979. Applicant: SANTRY TRUCKING COMPANY, 10505 N.E. Second Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 1100 Norton Building, (206) 624–9522, Seattle, WA 98104. CONTRACT, IRREGULAR *Malt Beverages* (1) from the Ocean Carriers Container Yard at the Port of Portland, OR to Salem, OR, and (2) from the Ocean Carriers Container Yard at the Port of Seattle, WA to Tumwater, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olympia Brewing, Traffic Manager, Robert F. Rutledge, P.O. Box 947, Olympia, WA 98507. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 99261 (Sub-5TA), filed July 16, 1979. Applicant: ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, New York 13905. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Lift truck and lift truck parts,* between the facilities of Raymond Corp. located at Avon, NY on the one hand, and, on the other, Rochester, Buffalo, Binghamton and Syracuse, NY and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raymond Corp., Route 12, Greene, NY 13778. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 106401 (Sub-69TA), filed July 5, 1979. Applicant: JOHNSON MOTOR LINES, INC., PO Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash, PO Box 31577, Charlotte, NC 28231. *Common* carrier-Regular routes: *General commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* serving points in Alamance, Alexander, Anson, Beaufort, Bladen, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Columbus, Cumberland, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Greene, Harnett, Henderson, Hoke, Iredell, Johnston, Lee, Lenoir, Lincoln, McDowell, Martin, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Orange, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Wayne, and Wilson Counties NC as off-route points in connection with carrier's regular route operations authorized in NC, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority herein applied for with MC 106401 and various subs. Applicant intends to interline with other carriers at Atlanta, GA; Charlotte, NC; Boston, MA; Dallas, TX and other

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Johnson terminal points from MA to TX, on shipments destined or originating beyond applicant's authorized territory. Supporting shipper(s): There are approximately 109 supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Terrell Price, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 111231 (Sub-281TA), filed July 16, 1979. Applicant: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. *Concrete roofing tile* from Shawnee, OK to points in MN and OH, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): National Tile Ind., Inc., 706 W. Independence, Shawnee, OK 74801. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 111941 (Sub-33TA), filed June 20, 1979. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Iron and steel articles,* from the facilities of Bethlehem Steel Corporation at Burns Harbor, IN, to all points in IL including the East St. Louis Commercial Zone and the Rock Island-Moline Commercial Zone. Restricted to traffic orginating at the facilities of the Bethlehem Steel Corporation, for 180 days. Supporting shipper: Bethlehem Steel Corporation, Box 248, Chesterton, IN 46304. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 113300 (Sub-11TA), filed March 12, 1979. Applicant: WILLIAM T. HERRON TRUCKING, INC., R.F.D. 3, Marietta, OH 45750. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *Lime,* in bulk, in dump vehicles, from points in VA to points in OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neville Lime Company, 615 Iron City Drive, Pittsburgh, PA 15205. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 115311 (Sub-372TA), filed July 6, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. box 488, Milledgeville, GA 31061. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30343. (1) Steel building from the facilities of National Steel Products Compnay, Inc. at Houston, TX to all points in LA (2) Steel building parts from the facilities of National Steel Products Co., Inc. at Terre Haute, IN and Houston, TX to LaGrange, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Steel Products, Co., Inc., P.O. Box 40490, Houston, TX 77040. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, Ga 30309.

MC 115841 (Sub-726TA), filed July 19, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC. 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *(1) Malt beverages (except in bulk) and related advertising material and (2) Materials, equipment and supplies used in the manufacture, sale and distribution of malt beverages* (1) from the facilities of Miller Brewing Company at or near Albany, GA to points in AL, FL, GA, KY, LA, MS, and TN; and (2) from points in AL, FL, GA, KY, LA, MS, and TN to the facilities of Miller Brewing Company at or near Albany, GA, for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-727TA), filed July 19, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (address same as above). *Meats and meat products,* from Palestine, TX to points in PA, OH, NY, MO, GA, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801. Send protests to: Glenda Kuss, TA, ICC, Suite A, 422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-728TA), filed July 17, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as above). *Drugs, toilet preparations, shampoos, hair coloring, disinfectants other than toilet preps, compounds, cleaning, polishing & washing wet towels,* from Lincoln, Illinois to points in AL, TN, OK, AR, KS, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lehn & Fink Products Div. of Sterling, 225 Summitt Avenue, Montvale, New Jersey. Send protests to: Glenda Kuss, TA, ICC, Suite A, 422 U.S. Court House, Nashville, TN 37203.

MC 115841 (Sub-729TA), filed July 17, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Alcoholic beverages (except in bulk)* from the plantsite of Schenley Distillers, Inc. at or near Frankfort, KY to the North Carolina Beverage Control Warehouse located at or near Raleigh, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schenley Distillers, Inc., 36 E. 4th Street, Cincinnati, OH 45202. Send protests to: Glenda Kuss, TA, ICC, Suite A, 422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-99TA), filed July 16, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Such commodities as are manufactured or distributed by manufacturers of* (1) *buildings,* (2) *building sections and panels,* (3) *iron and steel articles, and* (4) *equipment, parts, materials and supplies (except commodities in bulk) for (1), (2) and (3)* from the facilities of Inryco, Inc., in the Milwaukee, WI commercial zone to points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inryco, Inc., Box 393, Milwaukee, WI 53201. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 117730 (Sub-63TA), filed July 13, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Steven Loeb, Suite 2027, 33 North LaSalle Street, Chicago, IL 60602. *Bananas,* (1) from Wilmington, DE to points in IL, IN, KY, MI, OH, PA and WI (2) from New York, NY Philadelphia, PA and Baltimore, MD to points in MI, OH, IN, IL, NY, PA WV, KY and WI and (3) from Albany, NY and Newark, NJ to points in IL, IN, MI, OH, PA and Dry Ridge, KY, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Three Supporting Shippers. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Rm. 1386, Chicago, IL 60604.

MC 117730 (Sub-64TA), filed July 13, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen Loeb, Suite 2027, 33 North LaSalle Street, Chicago, IL 60602. *Meats, meat products, meat by-products, articles distributed by meat packing houses, dairy products,* and (2) *foodstuffs when moving in mixed loads with the commodities in (1) above* (except commodities in bulk), when moving in vehicles equipped with mechanical refrigeration, from the facilities of Oscar Mayer & Co., Inc. Madison, WI to points in NY and WV for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 118370 (Sub-5TA), filed July 18, 1979. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Ave., Tampa, FL 33612. Representative: John G. Hardeman, 618 United American Bank Bldg, Nashville, TN 37219. (1) *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report and description in Motor Carrier Certificate 61 MC–209 and 766 (except hides and commodities in bulk) and (2) *Foodstuffs* when moving in mixed loads with articles listed in (1) above (1) from the facilities of Oscar Mayer & Co. at or near Goodlettsville, TN to AL, FL and GA and (2) from the facilities of Oscar Mayer & Co. at or near Beardstown, IL to facilities of Oscar Mayer & Co. at Goodlettsville, TN and FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscar Mayer & Co., P.O. Box 7188, Madison, WI 53707. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 118570 (Sub-7TA), filed July 11, 1979. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: Edward M. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. *Contract;* irregular: Such commodities as are dealt in by a manufacturer of carbonated beverages and materials, equipment and supplies used in the production, manufacture and distribution of carbonated beverages, except commodities in bulk, from the facilities of Cantrell & Cochrane, Inc. at Elizabeth and Garfield, NJ to the countries of Broome, Chemung, Otsego and Tioga, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cantrell & Cochrane, Inc., 397 E. 54th St., Elmwood Park, NJ 07407. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 118580 (Sub-11TA), filed July 18, 1979. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pike, Columbia, TN 38401. Representative: Edward C. Blank, II, 805 South Garden St., Columbia, TN 38401. *Carbon electrodes* from the port of Mobile, AL to Monsanto Company Plant, Maury County, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166, Mail Zone AA3H. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 119531 (Sub-171TA), filed July 5, 1979. Applicant: SUN EXPRESS, INC., P.O. Box 1031, Warren, OH 44482. Representative: Andrew J. Burkholder, 275 East State Street, Columbus, OH 43215. *Metal containers, metal container ends and accessories,* between the facilities owned or used by The American Can Company at Peverly, MO, on the one hand, and, on the other, points in IL, IA, IN, KS, KY, the lower peninsula of MI, MN, OH, TN, WI, NY, NJ, PA and MD for 180 days. Supporting shipper(s): American Can Company, 915 Harger Rd., Oakbrook, IL 60521. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St. Rm. 620, Phila. PA 19106.

MC 119991 (Sub-29TA), filed June 26, 1979. Applicant: YOUNG TRANSPORT, INC., Post Office Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 320 North Meridian St., #777, Indianapolis, IN 46204. *Iron and steel articles,* from the facilities of Republic Steel Corporation at Buffalo, NY; Cleveland, Warren and Youngstown, OH, to points in IL, IN, IA and MO, for 180 days. Supporting shipper(s): Republic Steel Corporation, P.O. Box 6778, Cleveland, OH 44101. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 124160 (Sub-28TA), filed June 13, 1979. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Potash,* from the facilities of Texas Gulf West of Moab, UT to Sweetwater County, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Waters & Rogers, Inc., 650 West 800 South, Salt Lake City, UT 84110. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124160 (Sub-29TA), filed June 27, 1979. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Fly ash* between points in UT, WY, CO, NM, AZ, NV, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pozzolaniz N. W., Inc., 2448 76th S. W., Mercer Island, WA. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124160 (Sub-30TA), filed June 28, 1979. Applicant: SAVAGE BROTHERS, INCORPORATED, 585 South 500 East American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Lime, limestone, and limestone products* from points in Clark County, NV to Lehi, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lehi Block Compnay, 2200 North 1100 West, Lehi, UT 84043. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124160 (Sub-31TA), filed July 13, 1979. Applicant: SAVAGE BROTHERS INCORPORATED, 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Magnesium oxide* from Moss Landing, CA, to Colorado Springs, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Waters & Rogers, Inc., P.O. Box 5287, Denver, Co 80217. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124251 (Sub-73TA), filed July 17, 1979. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Paint, lacquer, stain or varnish and removing, reducing or thinning liquid, in bulk, in tank vehicles* from DeKalb County, GA to Ft. Payne, AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. L. Gillman Paint Co., 2250 Moreland Ave., SE, Atlanta, GA 30315. Send protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., NW, Rm. 300, Atlanta, Ga 30309.

MC 124821 (Sub-55TA), filed May 16, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Foodstuffs and materials, supplies and equipment used in the manufacture, sale and distribution of the above-named commodities,* between the facilities of Ragu Foods, Rochester, NY and Jersey City, Newark, Passaic and Patterson, NJ, and points in NJ on

and north of NJ State Hwy 33; and Scranton and Wilkes-Barre, PA, including points in the commercial zones of the named cities for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ragu Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124821 (Sub-56TA), Filed May 16, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Paper bags and/or wrapping paper NOI and/or materials and supplies used in connection with the manufacture, sale or distribution of the above-named commodities,* from the facilities of Trinity Bag & Paper Co., Inc., Elizabeth, NJ to Binghamton, Buffalo, Elmira, Falconer, Geneva, Horseheads, Jamestown, Jamesville, Liverpool, Niagara Falls, Olean, Rochester, Syracuse, Tonowanda, and Waverly, NY, including points in the commercial zones of the named cities for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Trinity Bag & Paper Co., Inc., 529 Fifth Ave., New York NY 10017. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124821 (Sub-57TA), filed July 2, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave, Old Forge, PA 18518. Representative: Joseph F. Hoary, 121 S. Main St. Taylor, PA 18517. *Masonry Supplies,* from Bethany, CT to points in NY, NJ, OH, IN, MI and IL, for 180 days. Supporting shipper(s): Laticrete International, Inc., P.O. Box AF, Woodbridge, CT 06525. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 125951 (Sub-49TA), filed July 10, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same as above). *Oil and motor lubricants (except in bulk)* from the facilities of Salem Oil Company at or near Whiting, IN to Omaha and Lincoln, NE for 180 days. Restricted to the transportation of traffic originating at the named origins and destined to the designated destination state. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salem Oil Company, P.O. Box 81006, Lincoln, NE 68501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 127840 (Sub-120TA), filed June 22, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William Towle, 180 North LaSalle Street, Chicago, IL 60601. *Liquid corn products,* from Denver, CO to MT, WY, UT, NM, AZ and CO for 180 days. Supporting shipper(s): Clinton Corn Processing Co., P.O. Box 340, Clinton, IA 52732. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129419 (Sub-20TA), filed June 1, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Rd., Crystal Lake, IL 60014. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier,* irregular routes: *liquid sugar, in bulk, in tank vehicles,* from Chaska, MN to points in IL for the account of American Crystal Sugar Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Crystal Sugar Company, 101 N. 3rd St., Moorhead, MN 56560. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 135070 (Sub-85TA), filed July 6, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th St., P.O. Box 82816, Lincoln, NE 68501. *Meats,* from the facilities of Southwestern Foods at or near Wichita, KS and Davenport, IA, to points in New York City, NY and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Southwestern Foods, P.O. Box 400136, Dallas, TX 75240. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-86TA), filed July 13, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 137 N.W. 17th St., P.O. Box 82816, Lincoln, NE 68501. *Refined sugar, in packages,* from Sugarland, TX, to points in OK, KS, and MO, for 180 days. Supporting shipper: Imperial Sugar Company, 8016 U.S. Highway 90–A, Sugarland, TX 77478. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-87TA), filed July 16, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th, P.O. Box 82816, Lincoln, NE 68501. *Meat,* from Amarillo, TX and points in its commercial zone, to Erie and King of Prussia, PA and points in their respective commercial zones, for 180 days. Supporting shipper: North American Provisions Co., 400 W. Higgins Rd., Suite 202, Park Ridge, IL 60068. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135410 (Sub-78TA), filed July 17, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands 205 W. Touhy Ave. Park Ridge, IL 60068. *Paper bags and wrapping paper,* from the plantsite of International Paper Co., at or near Indianapolis, IN to the facilities of Eagles-Midwestern at Milan, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Paper Co., 220 E. 42nd St., New York, NY 10017. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 135410 (Sub-79TA), filed July 17, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands 205 E. Touhy Ave. Park Ridge, IL 60068. *Paper and paper products,* from the facilities of International Paper Co., at or near Ticondero NY to IL, IN, IA, KS, KY, MA, MI, MN, MO, NE, OH, PA, and WI, restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: International Paper Co., 220 E. 42nd St., New York, NY 10017. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 136511 (Sub-70TA), filed July 2, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION 9640 Timberlake Road, Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, DC 20001. *Marine engines and such commodities as are dealt in or used by manufacturers and distributors of marine engines (except commodities in bulk)* between the facilities of Mercury Marine Division of Brunswick Corporation, located at or near Stillwater, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 180 days. Supporting shipper: Mercury Marine Division of Brunwsick Corp., 1 Brunswick Plaza, Skokie, IL 60077. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 136720 (Sub-6TA), filed July 12, 1979. Applicant: APEX BULK COMMODITIES, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Cement,* from San Diego, CA to points in AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: So Cal Materials, 6262 Miramar Road, P.O. Box 26266, San Diego, CA 92126. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 13881 (Sub-20TA), filed July 18, 1979. Applicant: BLACK HILLS TRUCKING CO., Box 2130, Rapid City, SD 57709. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in ND and SD for 180 days. Restricted to traffic originating at the named facility and destined to named states. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 139460 (Sub-30TA), filed July 19, 1979. Applicant: FORT EDWARD EXPRESS CO., INC., Rt 9, Saratoga Road, Fort Edward, NY 12828. Representative: J. Fred Relyea (same address as applicant). *Propane storage tanks, over 330 gallon capacity, on special trailers equipped to load and unload tanks,* between points in NY, CT, ME, MA, NH, RI, PA and VT. Supporting shipper(s): Home Gas Corp & Adirondac Bottle Gas, P.O. Box 480, Great Barrington, MA 02150. Texas Corporation, 80 Wolf Road-Suite 402, Albany, NY 12205. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 139850 (Sub-23TA), filed July 13, 1979. Applicant: FOUR STAR TRANSPORTATION, INC., Box 77, Underwood, IA 51576. Representative: Vance A. Trively (same address as applicant). *Meat and meat products (except hides and edible oil)* from the Cold Storage Warehouse in Millard, NE and Omaha, NE and other warehouses utilized by Lakin Meat Processors to points in the United States (except AK and HI) for 180 days. Supporting shipper: Lakin Meat Processors, 8990 West Dodge Road, Omaha, NE 68114. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142000 (Sub-4TA), filed July 10, 1979. Applicant: LOWELL SAMPSON, INC., 400 East Lundy Lane, Leland, IL 60531. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. (1) *Meat and bone meal, meat meal, blood meal and meat and bone meal tankage,* from Rochelle, IL to points in AR, FL, KY, LA, MI, MN, MS, MO, NE, OH, OK, AL, GA, DE, TX, NJ, PA, VA and TN; and (2) *Dry rendered tankage, dry blood, meat and bone meal and meat meal,* from points listed in (1) above to Rochelle, IL, for 180 days. Supporting shipper(s): Cereal Byproducts, 601 W. Golf Rd., Mt. Prospect, IL 60056. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 143471 (Sub-16TA), filed July 19, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Contract carrier:* irregular routes: *Lumber, lumber products and millwork* from Rapid City, SD and points in its commercial zone to points in CO, IL, IA, KS, MN, MO, NE, ND, SD, WI and WY for the account of Midwestern Forest Products for 180 days. Supporting shipper(s): Midwestern Forest Products, 1220 Creek Drive, Rapid City, SD 57701. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 143651 (Sub-12TA), filed July 9, 1979. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, IA 51450. Representative: Kenneth F. Dudley, 1501 East Main Street, P.O. Box 279, Ottumwa, IA 52501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B & C or Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)* from the facilities utilized by John Morrell & Co. at or near Estherville and Sioux City, IA; Sioux Falls, SD; and Worthington, MN to points in IN, KS, MO, OH, OK, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 144041 (Sub-37TA), filed July 9, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., P.O. Box 465, Conyers, GA 30207. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. *(1) Frozen and canned foodstuffs and (2) materials, supplies and equipment used in the manufacture and distribution of foodstuffs* between the facilities of Douglas Foods, Inc. at Douglas, GA on the one hand, and on the other, points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to the facility of Douglas Foods, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 144140 (Sub-39TA), filed July 6, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., W. Hwy 44, P.O. Box 158, Eustis, FL 32726. Representative: John l. Dickerson (same as applicant). *Beverages, beverage preparations, and citrus products,* from Hightstown, NJ to points in PA on and west of U.S. 15 and points in IN, MI, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Cocoa-Cola Company Foods Division, P.O. Box 337, Hightstown, NJ. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144190 (Sub-5TA), filed July 9, 1979. Applicant: STORY, INC., Route #1, Box 122, Henager, AL 35978. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Unfinished synthetic yarn,* from the facilities of Standard Coosa Thatcher, Inc., at or near Guntersville, AL, and Boaz, AL, to points in CA, for 180 days. Supporting shipper: Standard Coosa Thatcher, Inc., P.O. Box 457, Boaz, AL 35957. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144330 (Sub-74TA), filed June 12, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Roofing and roofing materials* from Los Angeles, CA to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wesatch Roofing Supply, Inc., Box 427, Midvale, UT 84047. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-75TA), filed June 13, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber and lumber mill products and wood products,* except in bulk, from points in ID, MT, OR and WA to points in AR, AZ, CO, IL, IN, KS, MO, NM, OK, TX, UT and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are seven statements in support attached to this application which may be examined at the ICC office in Washington, D.C. or copies which may be examined at the

field office named below. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-76TA), filed June 21, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). *Lumber* from points in TN to points in CO, MT and WY, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper: Paxton Lumber Co., P.O. Box 16343, 4837 Jackson, Denver, CO 80216. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144330 (Sub-77TA), filed June 21, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same as applicants). *Lumber* from points in AR and LA to Rapid City, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Commercial Lumber Sales, Inc., P.O. Box 2797, Little Rock, AR 72203. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144621 (Sub-6TA), filed July 12, 1979. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, CA 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. (1) Buffing, polishing, and cleaning compounds, personal care items, and foodstuffs (except in bulk), from the facilities of Alberto Culver Co., at or near Melrose Park, IL to points in AZ, NV, CA, WA, OR, ID, TX, NY, NJ, MA, PA, and GA; (2) Materials, equipment, and supplies used in the production and distribution of the commodities named in Part (1) above, to the facilities of Alberto Culver Co., at or near Melrose Park, IL; (3) Buffing, polishing, and cleaning compounds, personal care items and foodstuffs (except in bulk), from the facilities of Alberto Culver Co., at or near Sparks, NV, to points in AZ, CA, WA, O and ID; (4) Materials, equipment and supplies used in the production and distribution of the commodities named in Part (3) above, from the destinations named in Part (3) above, to the facilities of Alberto Culver Co., at or near Sparks, NV; (5) Buffing, polishing, and cleaning compounds, personal care items, and foodstuffs (except in bulk), from the facilities of Alberto Culver Co., at or near Atlanta, GA, to points in IL, FL, MD, NY, and NJ; and (6) Materials, equipment and supplies used in the production and distribution of the commodities named in Part (5) above, from the destinations named in Part (5) above, to the facilities of Alberto Culver Co., at or near Atlanta, GA, for 180 days. Supporting shipper(s): Alberto Culver Company, 2525 Armitage, Melrose Park, IL 60160. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144821 (Sub-1TA), filed July 18, 1979. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Such commodities as are dealt in or used by automotive supply and household appliance stores* between points in the US in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Western Auto Supply Co., 2107 Grand Ave., Kansas City, MO 64108. Send protests to: P.E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144821 (Sub-2TA), filed July 18, 1979. Applicant: FREEDOM FREIGHTWAYS, INC., P.O. Box 5850, St. Louis, MO 63134. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Petroleum* and *petroleum products, vehicle body sealer, sound deadening compounds* (except in bulk), and *filters*, from Buffalo and N. Tonawanda, NY; N. Warren, Kimberton, New Kensington, Emlenton, Farmers Valley and Bakerstown, PA; Congo and St. Marys, WV; Kansas City, KS; Vicksburg, MS; Garland, TX; Portland, OR, and Los Angeles, CA, to points in the US (except AK and HI), for 180 days. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144921 (Sub-2TA), filed July 17, 1979. Applicant: JERRY MOBILE HOME TRANSPORTING, INC., 5794 High Banks Road, Springfield, OR 97477. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. *Mobile Homes and sectionalized buildings* from Los Angeles, Woodland, and Marysville, California to points in Oregon for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fiesta Mobile Homes, 1405 Del Norte Road, Camarillo, CA 93010. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 145821 (Sub-2TA), filed July 18, 1979. Applicant: THURMOND BENNETT TRUCKING, INC., P.O. Box 628, Sparta, NC 28675. Representative: Francis J. Ortman, 7101 Wisconsin Ave. Suite 605, Washington, DC 20014. *Contract* carrier-Irregular routes; *New furniture* from the facilities of Coleman Furniture Corp. Pulaski, VA to points in AZ, NM, OH, IN, IL, WI, and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Coleman Furniture Corp., PO Drawer 908, Pulaski, VA 24301. Send protests to: Shelia Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 145950 (Sub-31TA), filed July 17, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 6, Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same address as applicant). *Glass containers and fibreboard material*, from Waco, TX, to New Orleans, Hammond, Baton Rouge, and Thibodaux, LA; Greenville, MS; Albuquerque and Carlsbad, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-32TA), filed July 17, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 6, Box 2611, Waco, TX 76706. Representative: Arthur W. Grimes (same address as applicant). *Packaged products*, from the facilities of Hi-Port Industries at or near Highlands, TX, to points in NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hi-Port Industries, P.O. Box 755, Highlands, TX 77562. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146090 (Sub-3TA), filed July 13, 1979. Applicant: WESTERN MOTOR EXPRESS, d.b.a. WESTERN TRANSPORT, 7843 Chatfield Street, Whittier CA 90606. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whitter, CA 90602. *Bronze trash screens for cooling water intake at nuclear power generating station, required to be transported in special equipment because of size*, from the facilities of Production Steel Co., Inc., in Gardena, CA to Palo Verde Nuclear Power Generating Station 3 miles south of Wintersburg, AZ and rejected or returned shipments for repair, maintenance or exchange, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Production Steel Co., Inc., 19713 S. Main Street, Gardena, CA 90247. Send protest to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146160 (Sub-1TA), filed Jan. 30, 1979. Applicant: STONIER BAKERIES, INC., 8282 Western Way Circle, Jacksonville, FL 32216. Representative: John L. Alfano, 550 Mamaroneck

Avenue, Harrison, NY 10528. *Contract carrier;* irregular routes; *Magazines* (1) From Bloomfield, CT, to Jacksonville and Miami, FL, Atlanta, GA, Charlotte, NC, Cincinnati and Cleveland, OH, Pittsburgh, PA, and Charleston, WV; (2) From Detroit MI, to Chicago, IL, Indianapolis, IN, Des Moines, IA, Kansas City, KS, Louisville, KY, New Orleans, LA, Minneapolis and St. Paul, MN, Kansas City and St., Louis, MO, Cincinnati and Cleveland, OH, Oklahoma city and Tulsa, OK, Pittsburgh, PA, Nashville and Memphis, TN, Dallas and Houston, TX, and Milwaukee, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Look Magazine, Inc., 150 East 58th Street, New York, NY 10022. Send protest to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 146191 (Sub-3TA), filed July 12, 1979. Applicant: JOHN I. RICKETTS d.b.a. RICKETTS TRUCKING, 1001 W. Magnolia, Phonix, AZ 85007. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. *(1) Wood blocks and glued panels (furniture parts), (2) furniture finished and unfinished (other than wrap pack),* Milo and Portland, OR and Tenino, WA to Delano, MN, Scottsdale, AZ and Delano, MN to points in AZ, CA, CO, MN, TX, ID, UT, NV, OR and WA; NOTE: No authority sought between points in single state, for 180 days. Supporting shipper: Thunderbird Furniture, 13401 N. Scottsdale Rd., Scottsdale, AZ 85254 and Bordein Corp., 220 River St., Delano, MN 55328. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Thunderbird Furniture, 13401 N. Scottsdale Rd., Scottsdale, AZ 85254. Bordein Corp., 220 River St., Delano, MN 55328. Send protest to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 146361 (Sub-5Ta), filed June 26, 1979. Applicant: WOLTER TRUCK LINES, INC., R.D. 1 Box 197, Greenwood, DE 19950. Representative: Chester A. Zyblut, 1030—15th St., N.W., Washington, DC 20005. *Fish meal,* in bulk, in dump vehicles, from Gloucester, ME to Lancaster and New York Counties, Pa. Harrisonburg, VA and points in DE and MD located south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Jerry Bunting Haynie, Inc., Box 2502 Salisbury, MD 21811. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 146461 (Sub-3TA), filed March 9, 1979. Applicant: J. H. TRUCKING, INC., Route 4, Box 112, Amarillo, TX 79119. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Booker Custom Packing Co., Booker, TX to points in the United States (except AK and HI), for 180 days. An underlying ETA seeking up to 90 days authority was denied. Supporting shipper(s): Booker Custom Packing Co., Box 290, Booker, TX 79005. Send protest to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Bldg. Amarillo, TX 79101. Supporting shipper(s): Booker Custom Packing Co., Box 290, Booker, TX 79005. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 146590 (Sub-4TA), filed July 10, 1979. Applicant: JOSEPH R. PROSTKO, 1300 Island Avenue, McKees Rocks, PA 15136 Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222 *Contract carrier* over irregular routes. *Iron or steel articles and mill materials and supplies (excluding commodities in bulk),* between the facilities of Crucible, Inc. at Midland, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, MA, MI, NH, NJ, NY, OH, RI and WI under a continuing contract with Crucible, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crucible, Inc., P.O. Box 266, Midland, PA 15059. Send protests to: J. J. England, D/S, I.C.C., 2111 Federal Building, Pittsburgh, PA 15222.

MC 146730 (Sub-4TA), filed July 17, 1979. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101. *Lumber, timbers, poles, posts, pallets, mudsills, capboards, and drag line mats,* from Cole, Osage, Randolph, Callaway, Chariton, Washington, Phelps, and Dent Counties, MO to Woodford, Will, Kendall, Kane, Dekalb, Cook, DePage, Lee, Winnebago, Knox, Henry, Rock Island, and Peoria Counties, IL; St. Joseph, Lake and Porter Counties, IN; and Baltimore, MD; and from Tangipahoa, Washington, and Union Counties, LA; and Pope, Clark, and Saline Counties, AR; to Cole, Osage, Randolph, Callaway, Chariton, Washington, Phelps, and Dent Counties, MO for 180 days. Supporting shipper: Missouri Hardwood, Inc., Highway 63 North, Cedar City, MO. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 146730 (Sub-5TA), filed July 17, 1979. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101. *Fabricated iron and steel pipe,* from the facility of Progressive Fabricators, Inc. at or near St. Louis, MO to Hope Creek Generating Station, Salem County, NJ; and to Bailley Station nuclear plant at Bailleytown, IN. *Steel plate,* from the facilities of U.S. Steel at or near South Chicago and Gary, IN; and also from the facility of Bethlehem Steel at or near Burns Harbor, IN; to the facility of Progressive Fabricators, Inc. at or near St. Louis, MO. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Progressive Fabricators, Inc., 6800 Prescott St., St. Louis, MO. Send protests to: John V. Barry, DS, ICC, 911 Walnut St., Kansas City, MO 64106.

MC 146730 (Sub-6TA), filed July 17, 1979. Applicant: L & W TRANSPORTATION, INC., Route 3, Box 195, Sedalia, MO 65301. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101. *Heavy electrical switchgear, electrical transformers, portable electrical substations, related protective coverings, housing, fencing material, iron and steel articles, aluminum articles, electrical substation shelter aisle switchgear, breaker sleds, bases, switching sleds, and related installation equipment,* from the facilities of Central Electric Manufacturing located at or near Fulton, MO to the following points: Ozark, AR; Albany and Atlanta, GA; Marissa, Percy, Stonefort, Sparta, Campbell Hill, Alton, Vermont, Chicago, and Maywood, IL; Carlisle and Dugger, IN; Hayes and Wichita, KS; Inez and White Plains, KY, New Orleans, LA; Beulah, ND; Cumberland, OH; Jasper, Lynn, and Cleveland, OK; Milan County, Houston, and Austin, TX; Holden, WV; Milwaukee, Koehler, Oak Creek, Glendale, Hartford, and Fond Du Lac, WI; and from those points to the facilities of Central Electric Manufacturing located at or near Fulton, MO. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Central Electric Manufacturing, Bus. Rt. 54 South at JCT BB, Fulton, MO 65251. Send protests to: John V. Barry,

ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 147040 (Sub-1TA), filed June 21, 1979. Applicant: EMERSON ELLCESSOR d.b.a. E. M. Transfer Co., RR #6, Box 215B, Muncie, IN 47302. Representative: Emerson Ellcessor (address same as applicant). *Paper cartons and carton parts,* from Eaton, IN, to Alton, Streator, Vandalia, East St. Louis and Granite City, IL: Detroit, MI: Troy, St. Peters and St. Louis, MO: Washington, PA: Columbus, Lima, Cincinnati, Lancaster and Zanesville, OH: and Huntington, WV, for 180 days. Supporting shipper: Clevepak Corporation, RR#1, Eaton, IN. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 147161 (Sub-3TA), filed July 11, 1979. Applicant: MASS TRANSIT, INC., 2450 Orange Street, Signal Hill, CA 90806. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Contract:* irregular: *Wrought Steel Pipe and Pipe Fittings,* from the facilities of Kelly Pipe Company at or near Santa Fe Springs, CA to points and places in Clark County, NV, under a continuing contract or contracts with Kelly Pipe Company, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Kelly Pipe Company, 11700 Bloomfield Ave., Santa Fe Springs, CA 90670. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551 Los Angeles, CA 90053.

MC 147370 (Sub-1TA), filed July 11, 1979. Applicant: BALTIMORE BOX COMPANY, 725 Pittman Rd., Baltimore, MD 21226. Representative: Robert J. Carson, Smith, Somerville & Case, 100 Light St., Baltimore, MD 21202. *Contract* carrier, irregular routes: *Scrap and waste paper,* from New York City, NY, and its commercial zone, to Richmond, VA and its commercial zone, under a continuing contract with Tessa Industries, Inc., for 180 day. Supporting shipper(s): Harvey Lurie, President, Tessa Industries, Inc., 80 E. 11th St., New York, NY 10003. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 147491 (Sub-1TA), filed June 29, 1979. Applicant: TAB TRUCKING, INC., 4342 Janitrol Rd., Columbus, OH 43228. Representative: Brian S. Stern, 2425 Wison Blvd., Arlington, VA 22201. *Automobile parts and materials, equipment, and supplies used in the manufacture, production, and assembly of motor vehicles,* between Pontiac, MI, on the one hand, and, on the other, Columbus and Norwood, OH, and from Columbus, OH to Flint, MI, for 180 days. Supporting shipper: Pontiac Motor Division, General Motors Corporation, 1 Pontiac Plaza, Pontiac, MI 48053. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 147521 (Sub-3TA), filed July 17, 1979. Applicant: J.S.I. 605 E. Commercial Street, Anaheim, CA 92801. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Foodstuffs,* from Orange County, CA to Denver and Grand Junction, CO and points in OR and WA, for 180 days. Supporting shipper(s): Doric Food Corportation, 1230 Tustin Avenue, Anaheim, CA 92807. The Coca Cola Company, Foods Division, 1226 N. Olive Street, Anaheim, CA 92803. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147620 (Sub-1TA), filed June 11, 1979. Applicant: KENNETH E. MOWERY, d.b.a. K M TRUCKING, P.O. Box 254, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Apple products and juices,* from Martinsburg, WV, Mt. Jackson and Winchester, VA and their respective commercial zones, to pts. in TX, LA, AR, MS, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Fruit Products Co., P.O. Box 2040, Winchester, VA 22601, Bowman Apple Products, Mt. Jackson, VA. Shenandoah Apple Co-operative, Inc., P.O. Box 435, Winchester, VA 22601. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147621, (Sub-1TA), filed July 18, 1979. Applicant: BEE-JAY TRANSPORTATION, INC., 1576 Hart Street, P.O. Box 186–D, Rahway, NJ 07065. Representative: Henry J. Capro, 1585 Morris Avenue, Union, NJ 07083. *Contract carrier,* irregular routes for 180 days. *Roofing, building materials, floor tiles, floor coverings, plastic articles, and foam products,* from South Bound Brook, NJ, Thorofare, NJ, Gloucester City, NJ, Vailsgate, NY and Fullerton, PA (Allentown Industrial Park) to AL, AZ, CA, CO, FL, GA, IL, LA, MI, MN, MO, OK, OR, TN, TX, UT, WA, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: GAS Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147630 (Sub-1TA), filed July 16, 1979. Applicant: WILLIAM CHARLES REAK d.b.a. NORTHWEST FLORIDA DRIVEAWAY, P.O. Box 777, Gulf Breeze, FL 35261. Representative: William Charles Reak, Sr., 201 Poinciana Drive, Gulf Breeze, FL 35261. *Motor vehicles in Drive-A-Way and/or Tow-Away Service* between points in FL on and west of U.S. Highway 231 and points in AL on and west of U.S. Highway 231 between the Florida-Alabama State Line and Dothan, AL, points on and south of U.S. Highway 84, between Dothan, AL, and the Alabama-Mississippi State Line, on the one hand, and, on the other, points in the U.S. except HI., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Florida First National Bank at Pensacola, P.O. Box 12750, Pensacola, FL 32575; Century Bank of Gulf Breeze, P.O. Box 730, Gulf Breeze, FL 32561; Credithrift Acceptance Corp., 6425 Pensacola Blvd., Bldg 2, Suite 7, Pensacola, FL 32505; Vince Whibbs Pontiac Co., 3401 Navy Blvd., Pensacola, FL 32505. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 147651 (Sub-1TA), filed July 12, 1979. Applicant: PLACER TRUCKING, Rt. 8, Box 4335, Keck Dr., Burlington, NC 27215. Representative: W. G. Reese III, P.O. Box 3004, Charlotte, NC 28203. *Contract carrier*—Irregular routes; *Firefighting equipment, machinery, chemicals, plastics* between the facilities of Walter Kidde & Co. located at or near Belleville, NJ, Chicago, IL, Mebane, NC, Atlanta, GA and Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Walter Kidde & Co., 675 Main St., Belleville, NJ. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 147690 (Sub-1TA), filed July 16, 1979. Applicant: PORT CITIES DRAYAGE, INC., P.O. Box 2051, Ft. Smith, AR 72902. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. *Contract carrier*—irregular routes. (1) *Plastic articles and paper products,* and (2) *Sugar,* in bags and packages, (1) from Ft. Smith, AR to New Orleans, LA and (2) from Mathews, LA to points in AR, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: The South Coast Corporation, P.O. Box 8036, Houma, LA 70361. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 147701 (Sub-1TA), filed July 23, 1979. Applicant: JOCELYNE EUBANK, d.b.a. CALIFORNIA CARRIERS EXPRESS, 1228 South Wright Street, Santa Ana, CA 92705. Representative: Jocelyne Eubank, same address as applicant. *Contract:* irregular: *Chemicals, cleaning and scouring compounds, solvents, compounds, plastic liquid, plastic sheeting, machines and machine parts, cartons and containers, defoaming compounds, brush and stencil marking ink (except in bulk, in tank vehicles),* (1) Between the facilities of Dynachem Corporation in Orange County, CA, on the one hand, and, on the other, Indianapolis and Terra Haute, IN; Elmhurst, IL; Herndon, VA; Charlotte and Matthews, NC; Moss Point, MS; Kearney, NJ; Farmingdale, NY; Woburn and South Hadley Falls, MA, and (2) From Moss Point, MS, to Charlotte and Matthews, NC; and South Hadley Falls, MA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Thiokol/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA 92711. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147740 (Sub-TA), filed June 19, 1979. Applicant: RAY CLARK, d.b.a. RAY CLARK TRUCKING, P.O. Box 114, Haines, OR 97833. Representative: David C. White, 2400 S.W. Fourth Ave., Portland, OR 97201. *Contract,* irregular, *used railroad ties* from ports of entry on the International Boundary Line between the U.S. and Canada in WA, ID, and M to Seattle, WA, Hermiston and Portland, OR and points in CA under contract with W. J. Railroad Ties and Supply, Inc. of Umatilla, OR. Supporting shipper: W. J. Railroad Ties & Supply, Inc., P.O. Box 1106, Umatilla, OR 97882. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 147741 (Sub-TA), filed June 25, 1979. Applicant: AUBURN D. ARD, Star Route, Box 13, Chipley, FL 32428. Representative: Auburn D. ARD, (same as applicant). *Contract carrier,* irregular routes, *dry, inorganic fertilizer both bag and bulk,* from fertilizer plants in Dothan, AL, Pelham and Bainbridge, GA to Craven Farm Center on Falling Waters Road in Chipley, FL for 180 days. Supporting shipper(s): Craven Farm Center, Falling Waters Road, P.O. Box 204, Chipley, FL 32428. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 147860 (Sub-TA), filed July 9, 1979. Applicant: ISHMAEL L. BUNCH, Route 2, Hohenwald, TN 38462. Representative: Wm. Landis Turner, 102 North Court Street, Hohenwald, TN 38462. *Steel coils* from Florence, AL to Linden and Lexington, TN, For 180 days. Supporting shipper(s): A. J. Gerrard & Co., P.O. Box 1229, Florence, AL 35630. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147861 (Sub-TA), filed July 12, 1979. Applicant: THE STANDISH CORPORATION, 339 South Leonard, Liberty, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Laundry and cleaning materials and supplies, wire and paper products,* between points in the U.S. (except AK and HI) under continuing contract or contracts between Midwest Hanger Co. and Standish Corporation, for 180 days. Supporting shipper(s): Midwest Hanger Company, 339 South Leonard, Liberty, MO 64068. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., Kansas City, MO 64106.

MC 147861 (Sub-1TA), filed July 12, 1979. Applicant: The Standish Corporation, 339 South Leonard, Liberty, MO 64068. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Footwear, roller skates and roller skate accessories,* (1) from Laredo, TX and Red Wing, MN to Olathe, KS; and (2) between Lynwood, CA on the one hand, and, on the other Olathe, KS, for 180 days. Supporting shipper: R C Sports Inc., 315 N. Lindenwood, Olathe, KS 66061. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

Water Carriers of Passengers

W–1291 (Sub-3TA). By order entered July 6, 1979, the Motor Carrier Board granted Alumina Transport Corp., Richmond, VA. 60 day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of *phosphate rock, in bulk,* from Jacksonville, FL to Crockett and Stockton, CA via the Panama Canal for the account of Occidental Chemical Company. Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission:

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27537 Filed 9-4-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 137]

Permanent Authority Applications; Decision-Notice

Decided: August 6, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of

record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to confrom to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha Mergenovich,
Secretary.

MC 138423 (Sub-2F), filed October 23, 1978, and previously published in the **Federal Register** on December 14, 1978. Applicant: MACDOUGALL & SON TRANSPORT LIMITED, a corporation, P.O. Box 65, Erin, Ontario, Canada NOB 1TO. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wire, wire products, and fencing materials*, from ports of entry on the International Boundary line between the United States and Canada, at or near Buffalo, NY, and Detroit, MI, to points in CT, DE, IN, IL, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, and WV, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), in the reverse direction, under a continuing contract with Lundy Steel Limited, a subsidiary of Ivaco Industries Ltd, of Dunnville, Ontario, Canada. (Hearing site: Buffalo, NY.)

Note.—The purpose of this republication is to add MI and NY as origin and destination points.

[FR Doc. 79-27534 Filed 9-4-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided August 28, 1979.

In our decision of August 21, 1979, a 9-percent surcharge was authorized on all owner-operator traffic, and on all truckload rated traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload rated traffic, whether or not owner-operators are employed, is 9.3 percent.

As stated in our decisions of August 14 and 21, 1979, we have received additional information from the nine Ex Parte No. MC-82 rate bureaus on the relationship of fuel expenses (including taxes) to operating revenues for truckload traffic. Based on our evaluation of this information, it is apparent that the general freight motor carriers are being overcompensated for fuel cost increases on their truckload traffic. This is based on the finding that for truckload traffic the percentage of fuel expense total operating revenue for these carriers which do not rely heavily on owner-operators, is significantly less than the 16.9 percent figure currently being applied to this traffic as well as to owner-operator traffic.

However, the 16.9 percent figure of percentage of fuel expense to operating revenue for owner-operator traffic appears to remain valid. For both practical and competitive reasons, therefore, we remain of the view that the same surcharge level must be placed on all truckload rated traffic, whether or not owner-operators are employed.

However, the general freight motor carriers represented by the MC-82 rate bureaus are predominantly less-than-truckload (LTL) carriers. To offset the over compensation from the surcharge on truckload traffic, an adjustment is ordered on the surcharge on LTL traffic. Effective Tuesday, September 4, 1979, 12:01 a.m., the LTL surcharge will be 1.6 percent.[1] Data developing the 1.6 percent figure is shown in the appendix to this decision.

The overall impact on all general commodity traffic of reducing the LTL surcharge is a reduction of .7 percentage points. This is illustrated in the table below:

	Surcharge		
	Prior method (percent)	Adjusted method (percent)	Reduction (percent)
T.L. rated traffic	9.0	9.0	0
L.T.L. traffic	2.7	1.6	1.1
Total traffic (average)	4.7	4.0	.7

The above calculations are based on data provided by the general commodity carriers and represent a 7.3% rather than 16.3 percent as the percentage of fuel expenses to operating revenue.

Although the weekly figures for owner-operators and all truckload traffic is 9.3 percent, we are authorizing that the surcharge for this traffic should be held at 9 percent. The Commission wishes to emphasize that the truckload surcharge applies only to truckload-rated traffic. We are instructing the Bureau of Investigations and Enforcement to determine if carriers are unlawfully applying this surcharge to all shipments in excess of 10,000 pounds.

It is ordered: All motor carriers must cancel presently applicable surcharges on LTL traffic in excess of 1.6 percent by Tuesday, September 4, 1979, 12:01 a.m. Simultaneously, the carriers may file tariff supplements indicating a 1.6 percent surcharge for this traffic.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum and Gaskins. Vice Chairman Stafford absent and not participating in the disposition of this proceeding. Commissioners Gresham and Gaskins not participating in the disposition of this proceeding.

Agatha L. Mergenovich,
Secretary.

[1] One exception is noted. The motor carriers of bus passengers may retain their use of the 2.7 percent surcharge. Any further adjustment to this surcharge will be handled in the Ex Parte No. 311 (Sub No. 2) proceedings.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)

January 1, 1979 ..... 83.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

August 27, 1979 ..... 98.4¢

Average Percent Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Lease-Truckload Traffic)
16.9%	2.9% [1]

Percent Surcharge Developed

9.3%	1.6%

Percent Surcharge Allowed

9%	1.6%

[1] Additional data for general commodity carriers indicate the following:
(a) Percent Fuel (including tax) of revenue (all traffic) 7.3%
(b) Percent T.L. and LTL Revenue of total revenue:

	Revenue (000)	Percent
T.L.	$3,451,661	32
LTL	7,427,232	68
Total	10,878,893	100

Utilizing the T.L. and LTL weighting factors and retaining the realtionship of fuel to revenue for owner operators (also applied to T.L. rated traffic) and in total of 16.9 percent and 7.3 percent respectively, the comparable relationship for LTL is 2.9 percent. This figure should not be construed as an actual relationship but is developed as a method to adjust the LTL surcharge.

[FR Doc. 79-27536 Filed 9-4-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before October 5, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-78173 (republication) filed May 28, 1979, published in the **Federal Register** issue of June 22, 1979, and republished this issue. By decision of July 26, 1979, the Motor Carrier Board approved the transfer of operating rights in Certificate No. MC-69364, issued June 3, 1942, from Enterprise Transfer Co., 740 Ashland, River Forest, IL 60305 (transferor) to R-A Industries, Inc., 1092 N. North Branch St., Chicago, IL 60622 (transferee). The operating rights in No. MC-69364 authorize the transportation of general commodities, with exceptions, between points in Lake County, IN, and those in Illinois within the Chicago, IL Commercial Zone as defined by the Commission in 1 M.C.C. 673. The purpose of this republication is to indicate that rights in Certificate No. MC-69364 are sought to be transferred, not those in Certificate No. MC-69364 Sub 1 as inadvertently published in the **Federal Register** issue of June 22, 1979. Representative: Phillip A. Lee, 120 W. Madison, Chicago, IL 60602.

Agatha Mergenovich,
Secretary.

[FR Doc. 79-27539 Filed 9-4-79; 8:45 am]

BILLING CODE 7035-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 173
Wednesday, September 5, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-240, Amdt. 2; Aug. 30, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the August 31, 1979, meeting.

TIME AND DATE: 9 a.m., August 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 9. Docket 33019—Chicago-Midway Expanded Service Investigation (OGC).

STATUS: Open (1-30); closed (item 31).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary.

SUPPLEMENTARY INFORMATION: Item 9 is being deleted from the August 31, 1979 calendar in order that the Board Members may have additional time to consider the staff recommendation. Accordingly, the following Members have voted that agency business requires the deletion of Item 9 from the August 31, 1979 calendar and that no earlier announcement of this deletion was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1718-79 Filed 8-31-79; 2:15 pm]

BILLING CODE 6320-01-M

2

[M-240, Amdt. 3; Aug. 30, 1979]

CIVIL AERONAUTICS BOARD.

Deletion of item and making item 31 open for the August 31, 1979, meeting.

TIME AND DATE: 9 a.m., August 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

Deleted: 23. Dockets 31290 and 21866-4; Notice of Proposed Rulemaking proposing options for eliminating the mandatory joint fare program established in phase 4 of the DPFI (memo 9053, BDA, OGC, OEA, BIA, OCCR, BCP).

Deleted: 24. Docket 34138, in the matter of Commuter/Certificated Joint Fares (memo 8311-F, OGC).

Open: 31. International passenger fares proposed by Pan American and TWA and staff International Passenger Fare Study (memo 9094 BIA, BDA, OGC, OEA, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Items 23 and 24 are being deleted from the August 31, 1979 calendar because Member Bailey would like to be present for discussion of these matters. Item 31 is going to be open because on reflection, the staff believes that, if the Board and staff are discreet, it should be possible to have an adequate discussion on the staff recommendation without jeopardizing foreign policy interests or divulging confidential information. We think that the advantages of an open meeting outweigh the disadvantages of having to be mildly circumscribed in discussion. Accordingly, the following Members have voted that Items 23 and 24 be deleted from the August 31, 1979 meeting and that Item 31 be changed from closed to open and that no earlier announcement of these changes was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1719-79 Filed 8-31-79; 2:51 pm]

BILLING CODE 6320-01-M

3

[M-241; Aug. 30, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 6, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 35524—Application of Pan American World Airways, Inc. for authority to serve Travis Air Force Base, California (Memo 9077, BIA).
3. Docket 35578 (*Texas International Airlines, Inc., Enforcement Proceeding*) TXI's motion to disqualify Board Members and to dismiss proceeding (OGC).
4. Docket 35308, Petition of Philippine Airlines for rulemaking to amend the Board's regulations to reinstate a mandatory delay in effectiveness of foreign air carrier schedule suspension orders (OGC).
5. Dockets 35908 and 36204, Notices of USAir and Pennsylvania Commuter Airlines of intent to terminate service at Clearfield-Philipsburg, PA (BDA).
6. Docket 36212, Delta's 60-day Notice of its Intention to Suspend Nonstop and Single-Plane Service in 10 markets (Memo 9085, BDA, OCCR).
7. Docket 34681—Interim essential air transportation at Massena, Ogdensburg, Plattsburgh, Saranac Lake/Lake Placid, Watertown, New York, and Rutland, Vermont (BDA, OGC, BLJ).
8. Docket 35816, Braniff's application and Docket 35987, TXI's application for Dallas/Fort Worth-San Diego nonstop authority (BDA).
9. Docket 35926, Application of Trans Carib Air for Chicago-New York/Newark nonstop authority (BDA).
10. Dockets 19176, 21413, 24216, and 24556; Petitions of Transamerica Corporation, Trans International Airlines (TIA) et al. to modify Orders E-26459, 70-9-54, 72-7-85, 72-9-30 and 72-2-105 (BDA)(memo 9095).
11. Dockets 32851, 30373, 32161, 33159, and 35732; Staff initiated review of pricing freedom and the intercarrier agreements affecting marketing via travel agencies (memo 9067, 9067-A, BDA).
12. Part 223—Free and reduced rate transportation; amendment of Subpart B—free transportation of security guards, et al.—include foreign air carriers in section 223.21 (BIA, OGC, BALJ).
13. Docket 34138, In the Matter of Commuter/Certificated Joint Fares (memo 8311-F, OGC).
14. Dockets 31290 and 21866-4. Notice of Proposed Rulemaking proposing options for eliminating the mandatory joint fare program established in Phase 4 of the DPFI (memo 9053, BDA, OGC, OEA, OCCR, BCP).
15. Service to Costa Rica (BIA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1720-79 Filed 8-31-79; 2:51 pm]

BILLING CODE 6320-01-M

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, September 7, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20661.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 30, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-1713-79 Filed 8-31-79; 8:45 am]

BILLING CODE 6210-01-M

5

MERIT SYSTEMS PROTECTION BOARD.

TIME AND DATE OF MEETING: 2 p.m., Thursday, September 27, 1979.

PLACE: Room 640, 1717 Pennsylvania Avenue NW., Washington, D.C.

STATUS: Open.

SUBJECT: Oral Arguments: *In re Wells* v. *Harris* (formerly In re *Wells* v. *Califano).*

CONTACT PERSON FOR MORE INFORMATION: Charles J. Stanislav, Jr., Acting Director, Office of the Secretary 202-653-7130.

Merit Systems Protection Board.

Ruth T. Prokop,
Chairwoman.

[S-1715-79 filed 8-31-79; 11:01 am]

BILLING CODE 6325-20-M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 50980, August 30, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, September 6, 1979 [NM-79-29].

CHANGE IN MEETING: The business of the Board requires that the time of this meeting be changed to—10 a.m., Thursday, September 6, 1979—the agenda remains the same as previously published.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

August 31, 1979.

[S-1721-79 Filed 8-31-79; 3:43 pm]

BILLING CODE 4910-58-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 3, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, September 4—10 a.m.

1. Discussion of Personnel Matter (Approximately 1½ hours, Closed—Exemption 6).

Wednesday, September 5—1:30 p.m.

1. Briefing on Report of the Siting Policy Task Force (approximately 1 hour, public meeting).
2. Discussion of Proceeding to Assess Commission Confidence in Safe Disposal of Nuclear Wastes (approximately 1 hour, public meeting).
3. Affirmation Session (approximately 10 minutes, public meeting):
   a. Reappointment of ACRS Member.
   b. Approval of Employment Under Sec 145b.
   c. Order in Offshore Power Systems (tentative).

Thursday, September 6—10 a.m.

1. Briefing by H. Denton on Conclusions of TMI Lessons Learned Recommendations (approximately 1½ hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: August 29, 1979.

Walter Magee,
Office of the Secretary.

[S-1717-79 Filed 8-31-79; 2:13 pm]

BILLING CODE 7590-01-M

8

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 5, 1979.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Open

1. Budget fiscal year 1980.

Closed

2. Docket No. MC78-1(Parcel Post).
3. Docket No. MC 78-3 (Red Teg).

[Closed pursuant to 5 U.S.C. § 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, room 500, 2000 L Street NW., Washington, D.C. 20268, Jelephone (202) 254-5614.

[S-1716-79 Filed 8-31-79; 11:04 am]

BILLING CODE 7715-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 49572; August 23, 1979.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capital Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, August 21, 1979.

CHANGES IN THE MEETING: Additional item.

The following additional item will be considered at a closed meeting scheduled for Thursday, August 30, 1979, following the 10 a.m. open meeting.—Settlement of injunctive action.

Chairman Williams and Commissioners Loomis, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in commission priorities require alterations in the scheduling or meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 755-1638.

August 30, 1979.

[S-1714-79 Filed 9-4-79; 10:39 am]

BILLING CODE 8010-01-M

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SE 5
79
UMI

federal register

Wednesday
September 5, 1979

Part II

Department of Energy

Proposed Designation of Processing Sites and Establishment of Priorities Under the Uranium Mill Tailings Radiation Control Act 1978

DEPARTMENT OF ENERGY

Proposed Designation of Processing Sites and Establishment of Priorities Under the Uranium Mill Tailings Radiation Control Act of 1978 (Pub. L. 95-604)

AGENCY: Department of Energy.

ACTION: Notice of proposed designation of processing sites and establishment of priorities as required by Section 102 of Pub. L. 95-604, Uranium Mill Tailings Radiation Control Act of 1978, enacted on Novembr 8, 1978.

SUMMARY: The purpose of the Uranium Mill Tailings Radiation Control Act of 1978 is to provide, in cooperation with interested states, Indian tribes, and persons who own or control inactive mill tailings sites, a program of assessment and remedial action at these sites to stablize and control the tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards. Where appropriate, the program may include the reprocessing of tailings to extract residual uranium and other mineral values.

Consistent with the provisions of Section 102(a)(1) of Public Law 95-604, the Secretary of Energy shall, no later than November 8, 1979, designate processing sites for remedial action at or near the following locations:

Salt Lake City, Utah
Green River, Utah
Mexican Hat, Utah
Durango, Colorado
Grand Junction, Colorado
Rifle, Colorado (two sites)
Gunnison, Colorado
Naturita, Colorado
Maybell, Colorado
Slick Rock, Colorado (two sites)
Shiprock, New Mexico
Ambrosia Lake, New Mexico
Riverton, Wyoming
Converse County, Wyoming
Lakeview, Oregon
Falls City, Texas
Tuba City, Arizona
Monument Valley, Arizona
Lowman, Idaho
Canonsburg, Pennsylvania

As part of his designation, the Secretary shall determined the boundaries of each designated processing site. This notice announces the proposed designation of 22 processing sites for remedial action and includes the site boundaries. These 22 sites are listed, along with their respective boundary descriptions, in Appendix A.

Additionally, by November 8, 1979, the Secretary is obliged to assess the potential health hazard to the public from the residual radioactive materials at designated processing sites and to establish priorities for carrying out remedial action at each site. In establishing priorities, the Secretary shall rely primarily on the advice of the Administrator of the Environmental Protection Agency. The proposed priority ranking for the 22 sites is given in Appendix B.

DATE: Request comments be received concerning the proposed designation of these processing sites and establishment of site priorities on or before September 15, 1979.

ADDRESS FOR COMMENTS AND FURTHER INFORMATION: Dr. William E. Mott, Director, Environmental Control Technology Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Washington, D.C. 20545, telephone: (301) 353-3016.

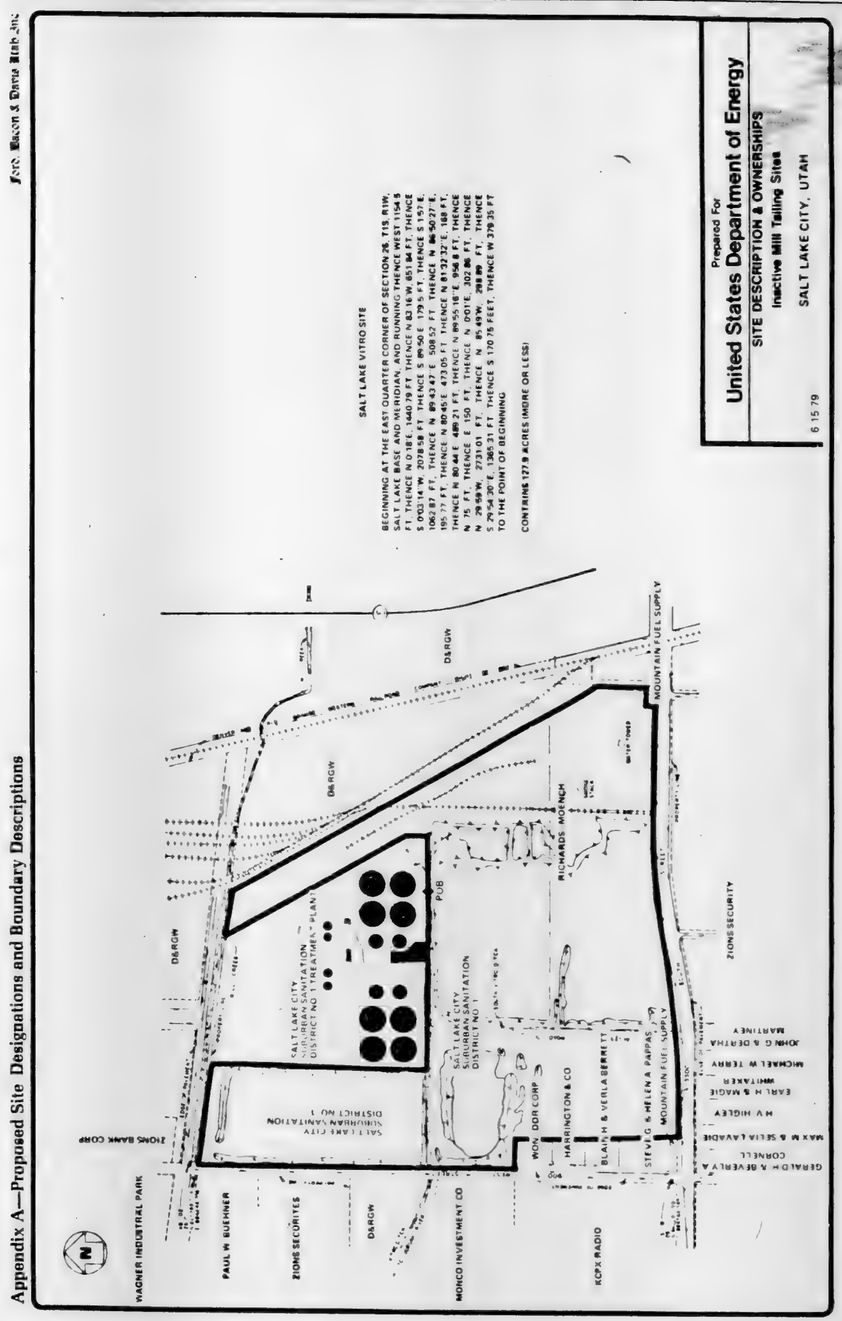
Issued in Washington, D.C. this 22nd day of August 1979.

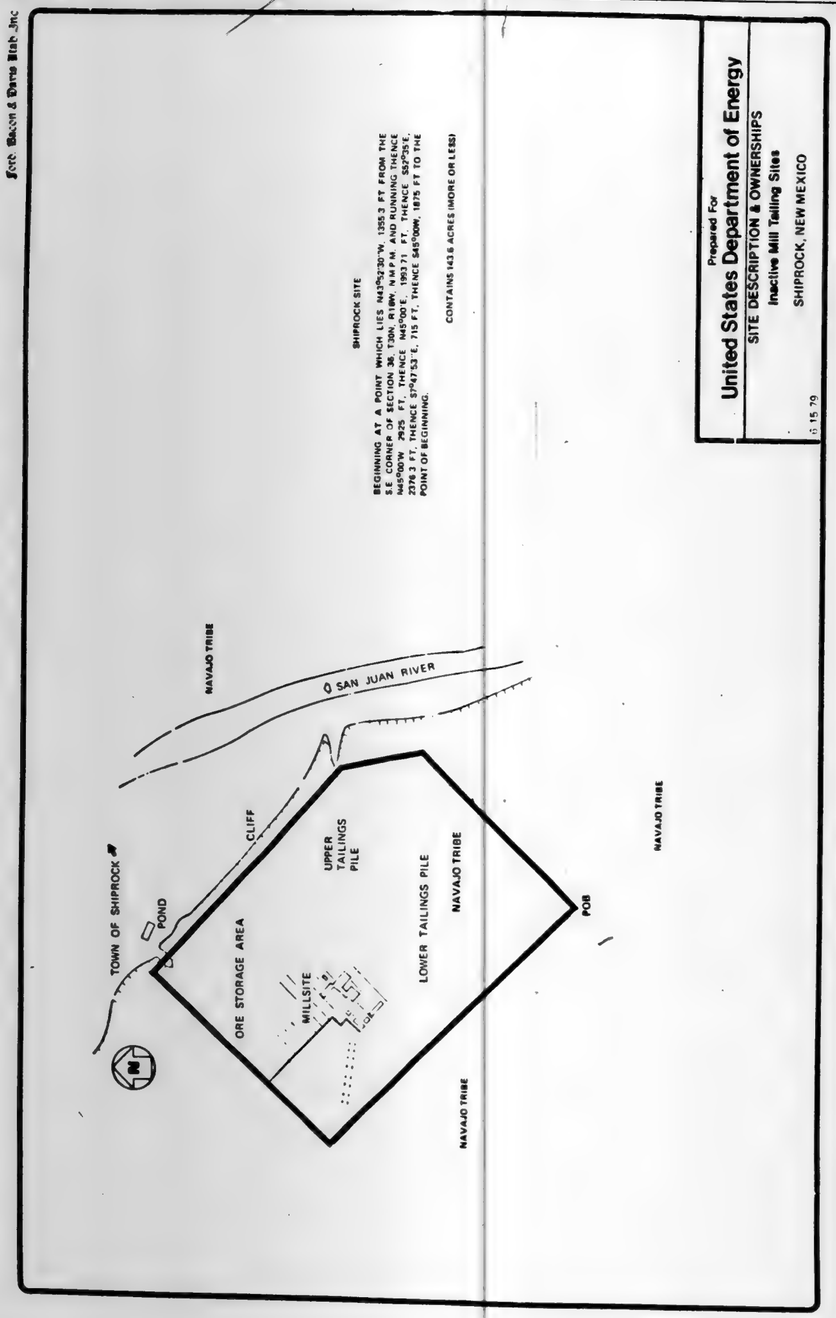
Ruth C. Clusen,

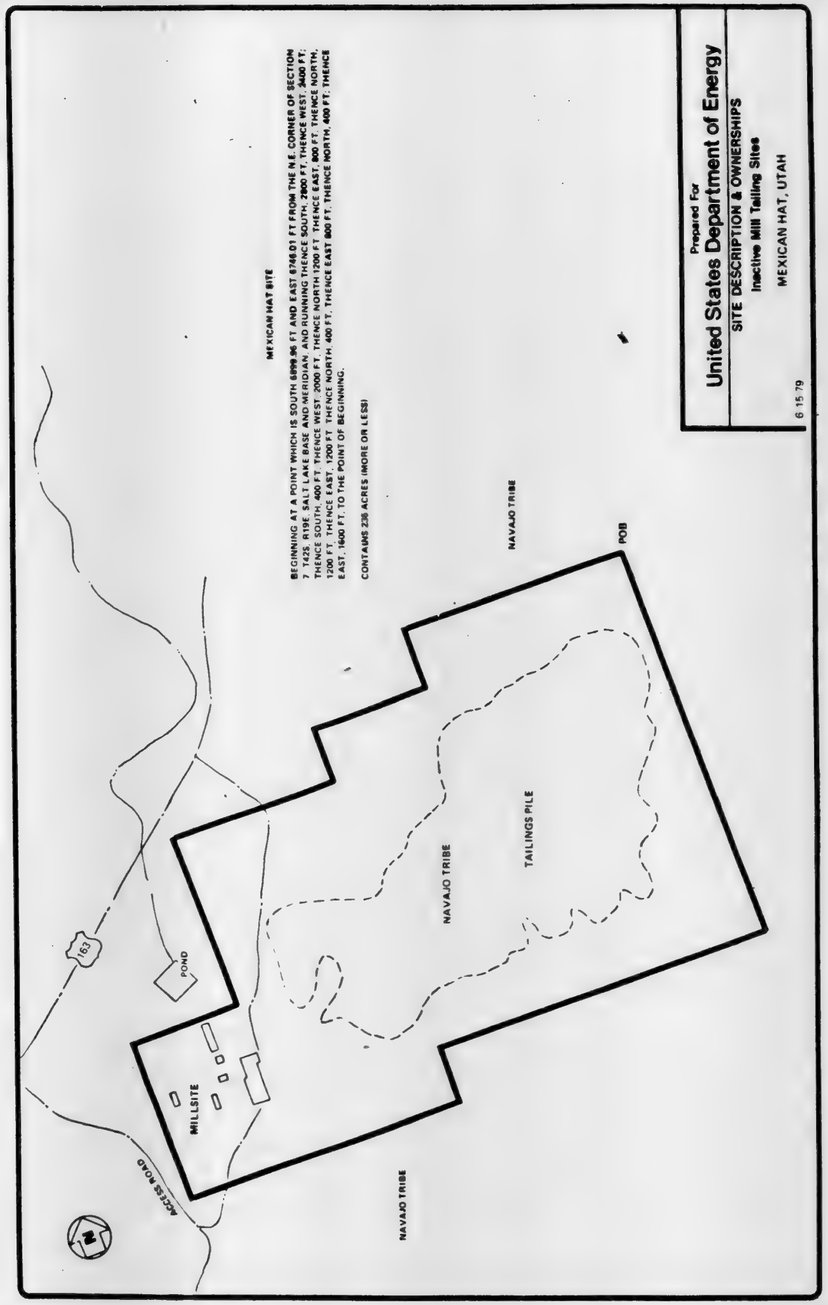
Assistant Secretary for Environment.

BILLING CODE 6450-01-M

Appendix A—Proposed Site Designations and Boundary Descriptions

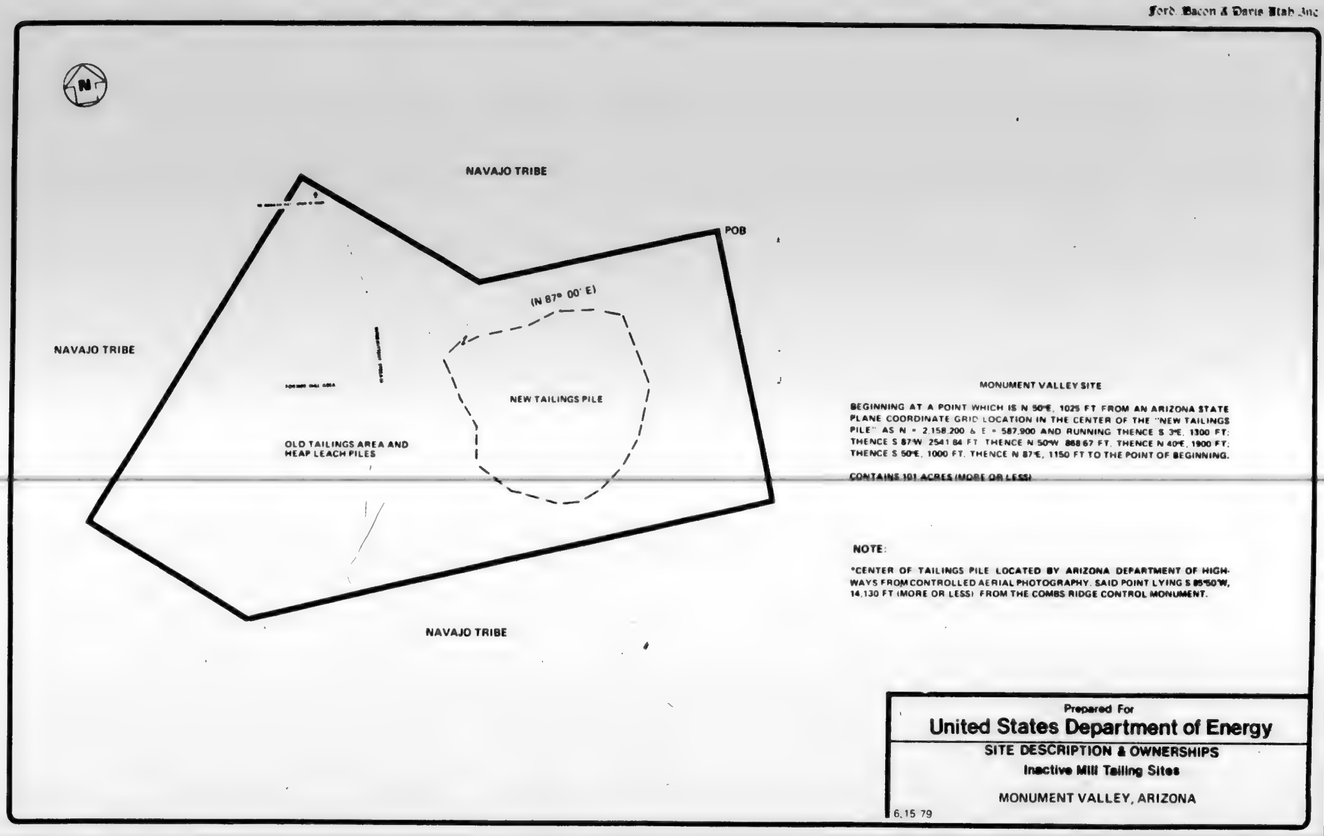



Ford, Bacon & Davis Utah, Inc.
SHIPROCK SITE
BEGINNING AT A POINT WHICH LIES N43°52'30"W, 1355.3 FT. FROM THE S.E. CORNER OF SECTION 36, T30N, R18W, N.M.P.M. AND RUNNING THENCE N45°00'W 2925 FT., THENCE N45°00'E, 1993.71 FT. THENCE S52°05'E, 2338.7 FT. THENCE S7°47'53"E, 715 FT. THENCE S45°00'W, 1875 FT TO THE POINT OF BEGINNING.
CONTAINS 143.6 ACRES (MORE OR LESS)
Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
SHIPROCK, NEW MEXICO
6 15 79
NAVAJO TRIBE
SAN JUAN RIVER
CLIFF
TOWN OF SHIPROCK
POND
ORE STORAGE AREA
MILLSITE
UPPER TAILINGS PILE
LOWER TAILINGS PILE
NAVAJO TRIBE
POB
NAVAJO TRIBE
NAVAJO TRIBE
N


Ford, Bacon & Davis Utah, Inc.
MEXICAN HAT SITE
BEGINNING AT A POINT WHICH IS SOUTH 6899.96 FT. AND EAST 6748.01 FT FROM THE N.E. CORNER OF SECTION 7 T42S, R19E, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH, 2800 FT, THENCE WEST, 2400 FT; THENCE SOUTH, 400 FT, THENCE WEST, 2000 FT, THENCE NORTH 3200 FT, THENCE EAST, 800 FT, THENCE NORTH, 1200 FT, THENCE EAST, 1700 FT, THENCE NORTH, 400 FT, THENCE EAST 800 FT, THENCE NORTH, 1400 FT, THENCE EAST, 1600 FT, TO THE POINT OF BEGINNING.
CONTAINS 236 ACRES (MORE OR LESS)
Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
MEXICAN HAT, UTAH
6 15 79
NAVAJO TRIBE
POB
NAVAJO TRIBE
TAILINGS PILE
163
POND
MILLSITE
ACCESS ROAD
NAVAJO TRIBE
N

UMI 9 7 5 E S 3 7 1 4 4 V

Ford, Bacon & Davis Utah, Inc.



MONUMENT VALLEY SITE

BEGINNING AT A POINT WHICH IS N 50°E, 1025 FT FROM AN ARIZONA STATE PLANE COORDINATE GRID LOCATION IN THE CENTER OF THE "NEW TAILINGS PILE" AS N = 2,158,200 & E = 587,900 AND RUNNING THENCE S 3°E, 1300 FT, THENCE S 87°W, 2541.84 FT, THENCE N 50°W, 868.67 FT, THENCE N 40°E, 1900 FT, THENCE S 50°E, 1000 FT, THENCE N 87°E, 1150 FT TO THE POINT OF BEGINNING.

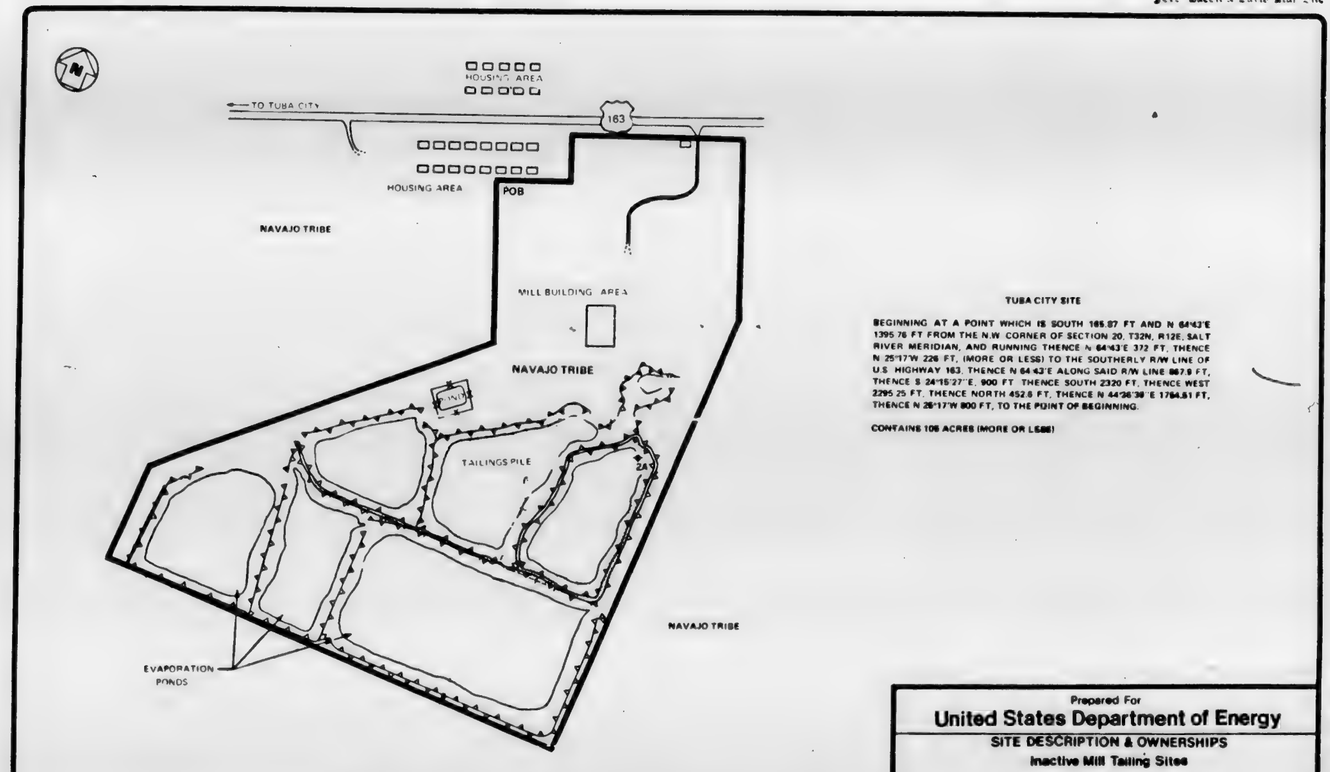
CONTAINS 101 ACRES (MORE OR LESS)

NOTE:

*CENTER OF TAILINGS PILE LOCATED BY ARIZONA DEPARTMENT OF HIGHWAYS FROM CONTROLLED AERIAL PHOTOGRAPHY. SAID POINT LYING S 85°50'W, 14,130 FT (MORE OR LESS) FROM THE COMBS RIDGE CONTROL MONUMENT.

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
MONUMENT VALLEY, ARIZONA
6/15/79

Ford, Bacon & Davis Utah, Inc.



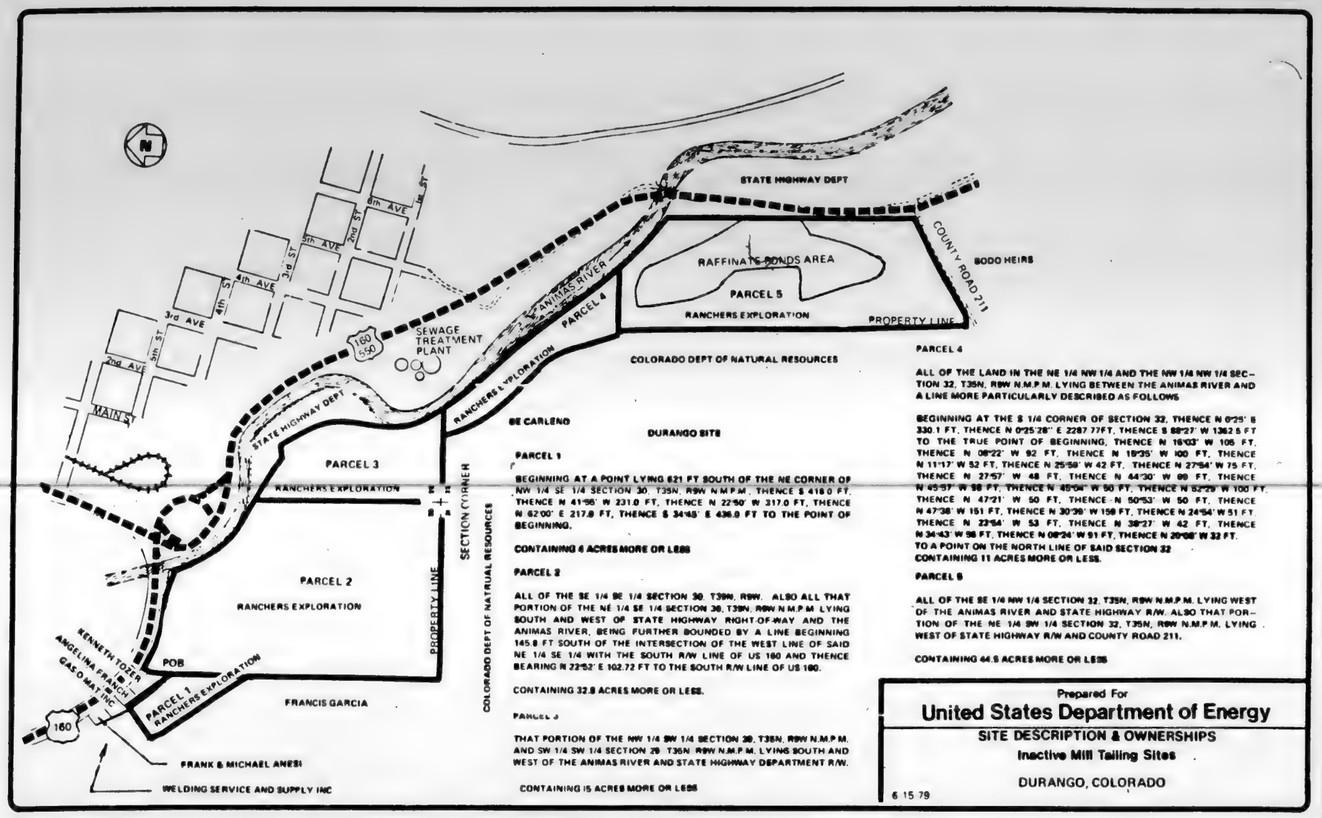
TUBA CITY SITE

BEGINNING AT A POINT WHICH IS SOUTH 165.87 FT AND N 64°43'E 1395.76 FT FROM THE N.W. CORNER OF SECTION 20, T32N, R12E, SALT RIVER MERIDIAN, AND RUNNING THENCE N 64°43'E 372 FT, THENCE N 25°17'W 226 FT, (MORE OR LESS) TO THE SOUTHERLY R/W LINE OF U.S. HIGHWAY 163, THENCE N 64°43'E ALONG SAID R/W LINE 867.9 FT, THENCE S 24°15'27"E, 900 FT, THENCE SOUTH 2320 FT, THENCE WEST 2295.25 FT, THENCE NORTH 452.6 FT, THENCE N 44°26'39"E 1784.61 FT, THENCE N 25°17'W 800 FT, TO THE POINT OF BEGINNING.

CONTAINS 108 ACRES (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
TUBA CITY, ARIZONA
15/79

Ford, Bacon & Davis Utah, Inc.



PARCEL 1

BEGINNING AT A POINT LYING 621 FT SOUTH OF THE NE CORNER OF NW 1/4 SE 1/4 SECTION 30, T35N, R9W N.M.P.M., THENCE S 418.0 FT, THENCE N 41°56' W 231.0 FT, THENCE N 22°50' W 317.0 FT, THENCE N 62°00' E 217.8 FT, THENCE S 34°45' E 436.0 FT TO THE POINT OF BEGINNING.

CONTAINING 6 ACRES MORE OR LESS

PARCEL 2

ALL OF THE SE 1/4 SE 1/4 SECTION 30, T39N, R9W. ALSO ALL THAT PORTION OF THE NE 1/4 SE 1/4 SECTION 30, T39N, R9W N.M.P.M LYING SOUTH AND WEST OF STATE HIGHWAY RIGHT-OF-WAY AND THE ANIMAS RIVER, BEING FURTHER BOUNDED BY A LINE BEGINNING 145.8 FT SOUTH OF THE INTERSECTION OF THE WEST LINE OF SAID NE 1/4 SE 1/4 WITH THE SOUTH R/W LINE OF US 160 AND THENCE BEARING N 22°52' E 102.72 FT TO THE SOUTH R/W LINE OF US 160.

CONTAINING 32.8 ACRES MORE OR LESS.

PARCEL 3

THAT PORTION OF THE NW 1/4 SW 1/4 SECTION 29, T35N, R9W N.M.P.M. AND SW 1/4 SW 1/4 SECTION 29 T35N R9W N.M.P.M. LYING SOUTH AND WEST OF THE ANIMAS RIVER AND STATE HIGHWAY DEPARTMENT R/W.

CONTAINING 15 ACRES MORE OR LESS

PARCEL 4

ALL OF THE LAND IN THE NE 1/4 NW 1/4 AND THE NW 1/4 NW 1/4 SECTION 32, T35N, R9W N.M.P.M. LYING BETWEEN THE ANIMAS RIVER AND A LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE S 1/4 CORNER OF SECTION 32, THENCE N 0°25' E 330.1 FT, THENCE N 0°25'28" E 2287.77FT, THENCE S 88°27' W 1362.5 FT TO THE TRUE POINT OF BEGINNING, THENCE N 16°03' W 105 FT, THENCE N 08°22' W 92 FT, THENCE N 19°35' W 100 FT, THENCE N 11°17' W 52 FT, THENCE N 25°58' W 42 FT, THENCE N 27°54' W 75 FT, THENCE N 27°57' W 48 FT, THENCE N 44°30' W 99 FT, THENCE N 45°57' W 98 FT, THENCE N 45°04' W 90 FT, THENCE N 52°29' W 100 FT, THENCE N 47°21' W 50 FT, THENCE N 50°53' W 50 FT, THENCE N 47°38' W 151 FT, THENCE N 30°36' W 158 FT, THENCE N 24°54' W 51 FT, THENCE N 22°54' W 53 FT, THENCE N 39°27' W 42 FT, THENCE N 34°43' W 98 FT, THENCE N 09°24' W 91 FT, THENCE N 20°08' W 32 FT TO A POINT ON THE NORTH LINE OF SAID SECTION 32 CONTAINING 11 ACRES MORE OR LESS.

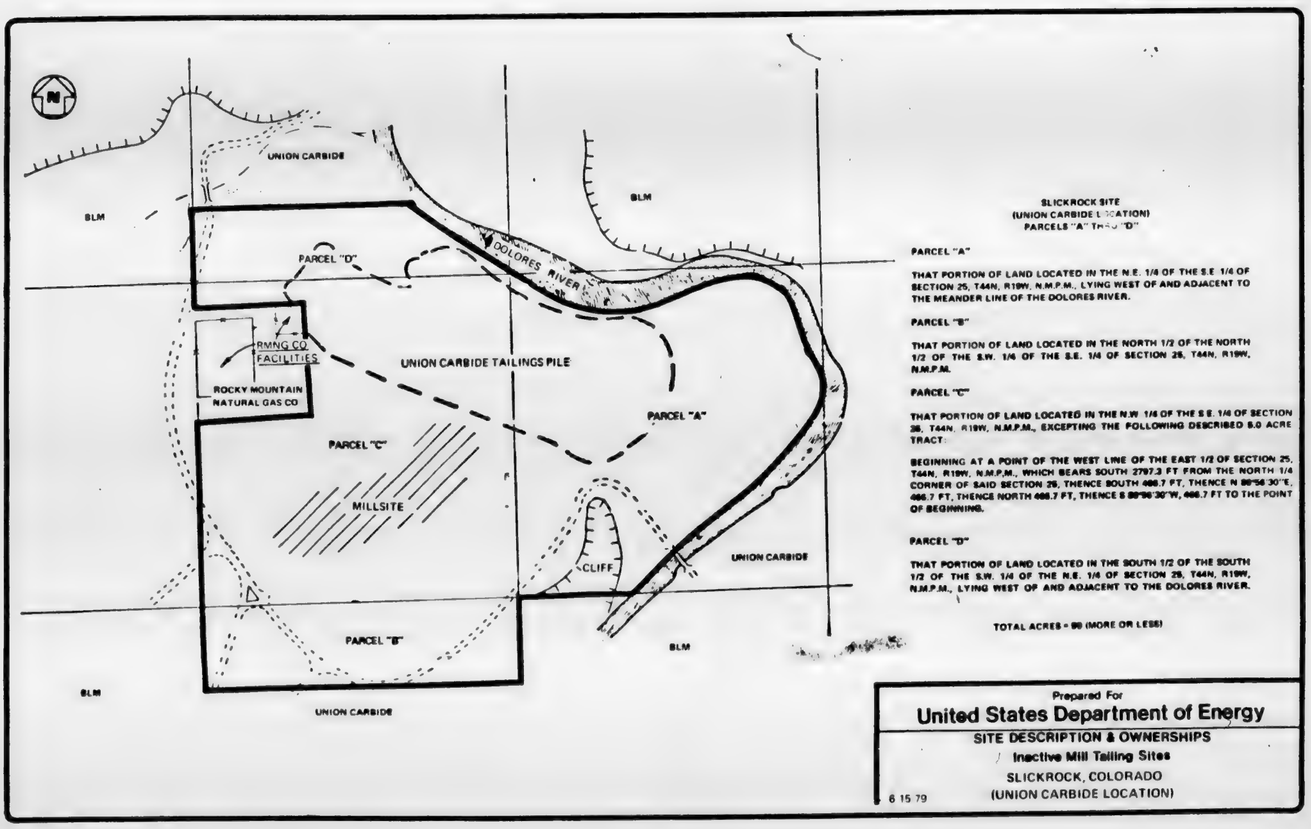
PARCEL 5

ALL OF THE SE 1/4 NW 1/4 SECTION 32, T35N, R9W N.M.P.M. LYING WEST OF THE ANIMAS RIVER AND STATE HIGHWAY R/W. ALSO THAT PORTION OF THE NE 1/4 SW 1/4 SECTION 32, T35N, R9W N.M.P.M. LYING WEST OF STATE HIGHWAY R/W AND COUNTY ROAD 211.

CONTAINING 44.5 ACRES MORE OR LESS

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
DURANGO, COLORADO
6 15 79

Ford, Bacon & Davis Utah, Inc.



SLICKROCK SITE
(UNION CARBIDE LOCATION)
PARCELS "A" THRU "D"

PARCEL "A"

THAT PORTION OF LAND LOCATED IN THE N.E. 1/4 OF THE S.E. 1/4 OF SECTION 25, T44N, R19W, N.M.P.M., LYING WEST OF AND ADJACENT TO THE MEANDER LINE OF THE DOLORES RIVER.

PARCEL "B"

THAT PORTION OF LAND LOCATED IN THE NORTH 1/2 OF THE NORTH 1/2 OF THE S.W. 1/4 OF THE S.E. 1/4 OF SECTION 25, T44N, R19W, N.M.P.M.

PARCEL "C"

THAT PORTION OF LAND LOCATED IN THE N.W. 1/4 OF THE S.E. 1/4 OF SECTION 25, T44N, R19W, N.M.P.M., EXCEPTING THE FOLLOWING DESCRIBED 8.0 ACRE TRACT:

BEGINNING AT A POINT OF THE WEST LINE OF THE EAST 1/2 OF SECTION 25, T44N, R19W, N.M.P.M., WHICH BEARS SOUTH 2797.3 FT FROM THE NORTH 1/4 CORNER OF SAID SECTION 25, THENCE SOUTH 466.7 FT, THENCE N 89°56 30"E, 466.7 FT, THENCE NORTH 466.7 FT, THENCE S 89°56 30"W, 466.7 FT TO THE POINT OF BEGINNING.

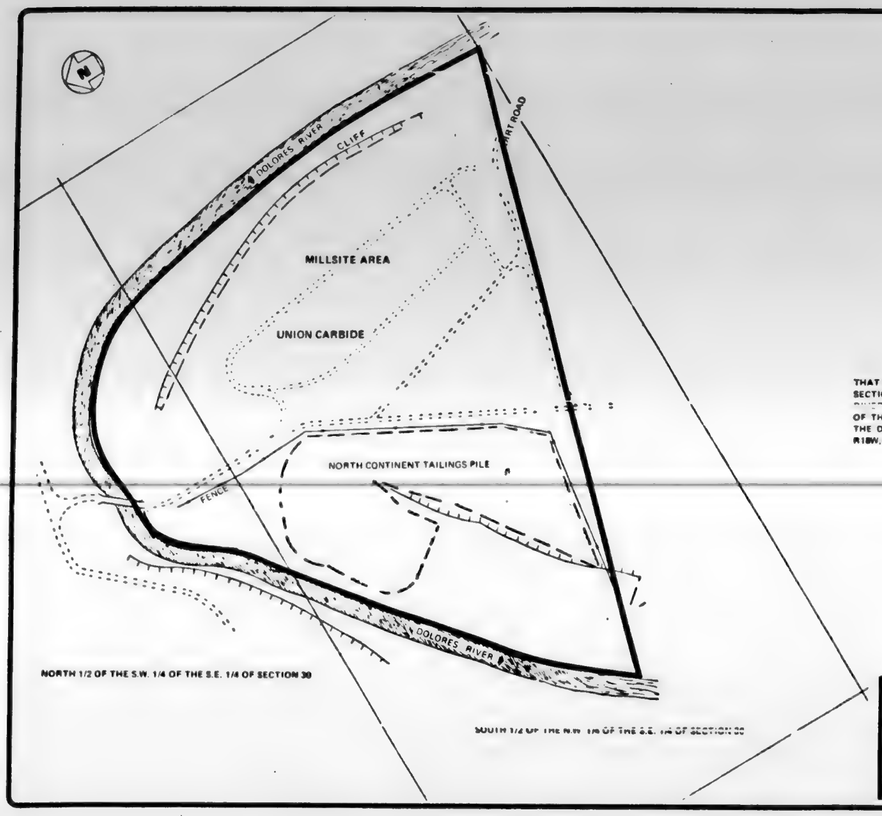
PARCEL "D"

THAT PORTION OF LAND LOCATED IN THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE S.W. 1/4 OF THE N.E. 1/4 OF SECTION 25, T44N, R19W, N.M.P.M., LYING WEST OF AND ADJACENT TO THE DOLORES RIVER.

TOTAL ACRES = 90 (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
SLICKROCK, COLORADO
(UNION CARBIDE LOCATION)
6 15 79

Ford, Bacon & Davis Utah, Inc.



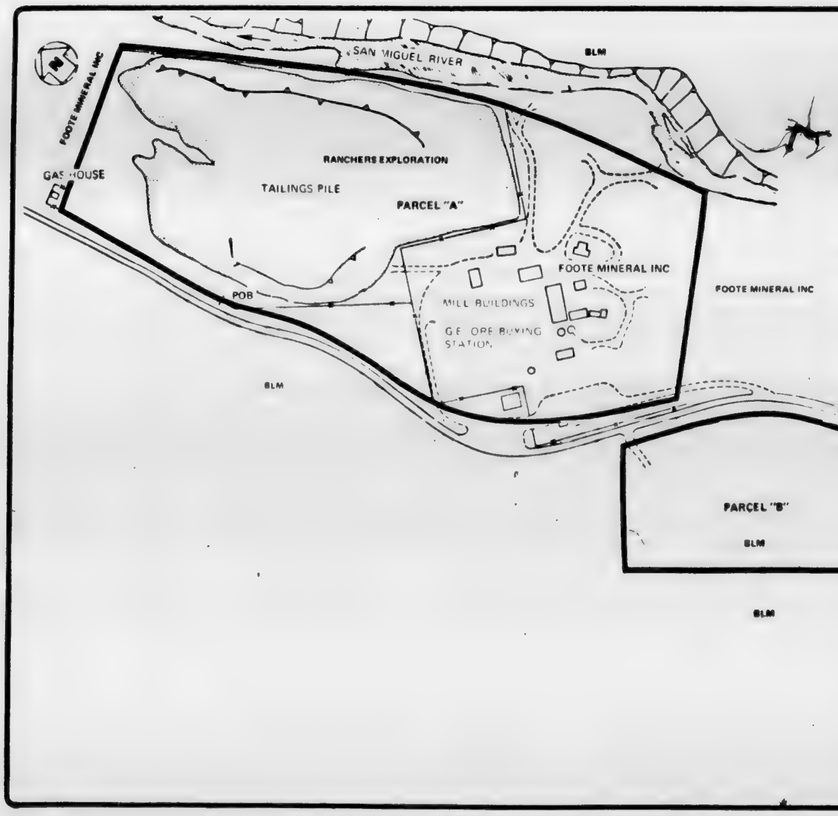
SLICKROCK SITE
(NORTH CONTINENT)

THAT PORTION OF THE SOUTH 1/2 OF THE N.W. 1/4 OF THE S.E. 1/4 OF SECTION 30 LYING ADJACENT TO AND SOUTH OF THE DOLORES [illegible] AND ALSO THAT PORTION OF THE NORTH 1/2 OF THE S.W. 1/4 OF THE S.E. 1/4 OF SECTION 30, LYING ADJACENT TO AND SOUTH OF THE DOLORES RIVER, WHICH SAID SECTION 30 IS LOCATED IN T44N, R18W, NEW MEXICO PRINCIPAL MERIDIAN.

44 ACRES (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
SLICKROCK, COLORADO
(NORTH CONTINENT)
6 15 79

Ford, Bacon & Davis Utah, Inc.



NATURITA SITE

PARCEL "A"

BEGINNING AT THE NO. 3 CORNER OF THE KENTUCKY PLACER MINING CLAIM NO. 2534, SAID POINT BEING N 3°23'49"E, 2528.24 FT (MORE OR LESS) FROM THE S.W. CORNER OF SECTION 14, T46N, R18W, N.M.P.M., SAID POINT ALSO BEING APPROXIMATELY ON THE EASTERLY R/W LINE OF COLORADO STATE HIGHWAY NO. 141, AND RUNNING THENCE NORTHERLY ALONG SAID COLORADO STATE HIGHWAY NO. 141 R/W LINE 882 FT (MORE OR LESS), THENCE N 57°00'50"E, 627.5 FT (MORE OR LESS) TO THE WESTERLY BANK OF THE SAN MIGUEL RIVER, THENCE CONTINUING ALONG SAID WESTERLY BANK THE FOLLOWING COURSES AND DISTANCES, S 89°16'15"E, 260.51 FT, S 47°24'E, 644.3 FT, S 40°40'E, 500 FT, S 36°20'18"E, 795 FT, THENCE LEAVING SAID BANK OF THE SAN MIGUEL RIVER S 58°04'W, 950 FT (MORE OR LESS) TO THE SAID EASTERLY R/W LINE OF COLORADO STATE HIGHWAY NO. 141, THENCE NORTHERLY ALONG SAID R/W LINE 1360 FT (MORE OR LESS) TO THE POINT OF BEGINNING.

CONTAINS 37 ACRES (MORE OR LESS)

PARCEL "B"

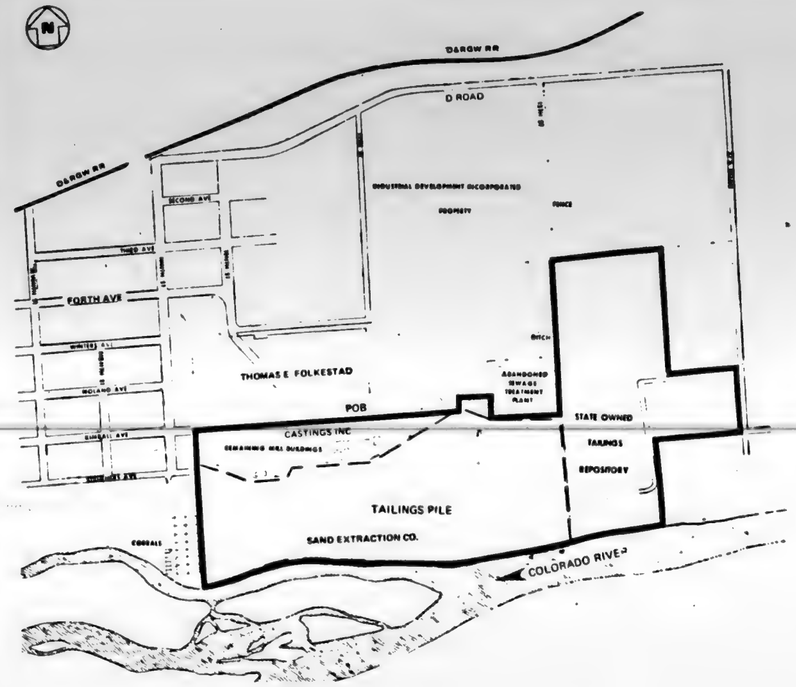
BEGINNING AT A POINT WHICH IS S 47°28'W, 95 FT (MORE OR LESS) FROM THE CORNER NO. 1 OF THE "KENTUCKY PLACER MINING CLAIM NO. 2534", SAID POINT BEING ON THE WESTERLY R/W LINE OF COLORADO STATE HIGHWAY 141, SAID CORNER NO. 1, OF THE "KENTUCKY PLACER MINING CLAIM NO. 2534" BEING N 58°52'28"E, 1060 FT (MORE OR LESS) FROM THE S.W. CORNER OF SECTION 14, T46N, R18W, N.M.P.M., AND RUNNING THENCE S 47°28'W, 400 FT (MORE OR LESS), THENCE N 42°32'W, 1000 FT (MORE OR LESS), THENCE N 47°28'E, 425 FT (MORE OR LESS) TO THE WESTERLY R/W LINE OF COLORADO STATE HIGHWAY 141, THENCE SOUTHERLY ALONG SAID HIGHWAY R/W LINE 1050 FT (MORE OR LESS) TO THE POINT OF BEGINNING.

CONTAINS 13 ACRES (MORE OR LESS)

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Inactive Mill Tailing Sites
NATURITA, COLORADO
6 15 79

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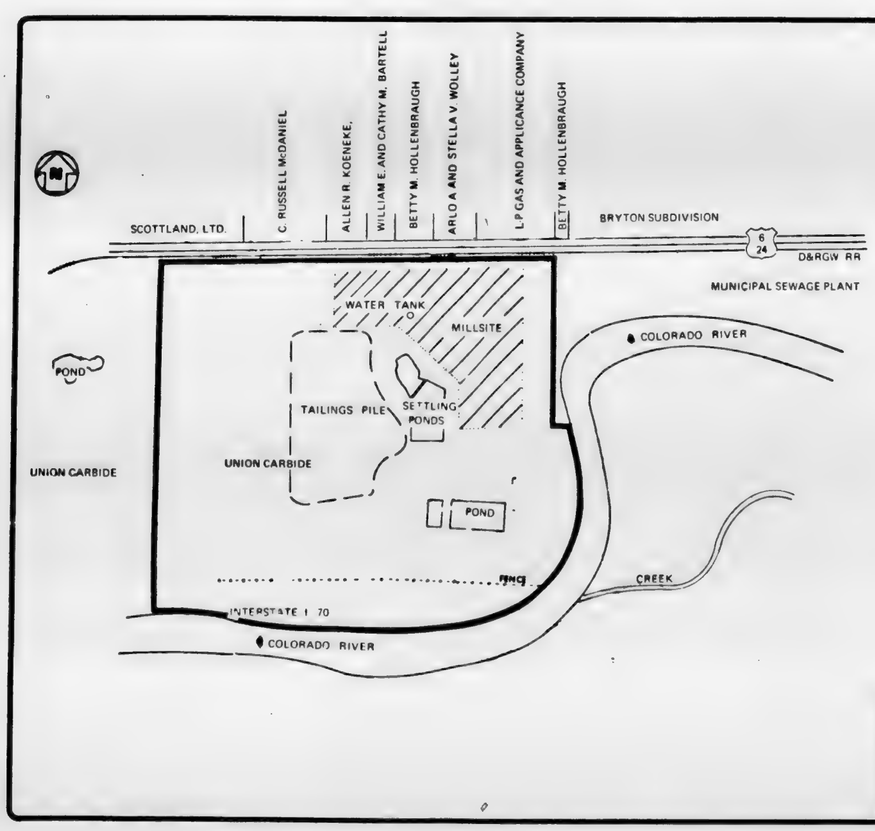
GRAND JUNCTION SITE

BEGINNING AT A POINT WHICH IS S 0°16'54"E, 1981.92 FROM A CITY MONUMENT MARKING THE N.E. CORNER OF SECTION 23, T1S, R1W, UTE MERIDIAN, CITY OF GRAND JUNCTION, STATE OF COLORADO AND RUNNING THENCE N 89°58'27"E, 664.48 FT. THENCE NORTH 67 FT. THENCE EAST 253 FT, THENCE SOUTH 144 FT, THENCE EAST 412 FT, THENCE NORTH ALONG THE EAST LINE OF 15TH STREET 1087 FT, THENCE EAST 770 FT (MORE OR LESS) TO THE WEST LINE OF "PLEASANT VIEW SUBDIVISION", THENCE SOUTH ALONG SAID WEST LINE 830 FT, THENCE EAST ALONG THE SOUTH BOUNDARY OF SAID SUBDIVISION 530 FT TO THE WEST R/W LINE OF 27 1/2 ROAD, THENCE SOUTH ALONG SAID R/W LINE 480 FT (MORE OR LESS), THENCE WEST 640 FT, THENCE SOUTH 650 FT (MORE OR LESS), TO THE NORTH BANK OF THE COLORADO RIVER THENCE WESTERLY ALONG SAID NORTH BANK 3350 FT (MORE OR LESS) TO THE EXISTING CITY LIMITS LINE OF GRAND JUNCTION, THENCE N 0°03'30"E, ALONG SAID CITY LIMITS 1113.16 FT, THENCE S 89°56'53"E, 1318.15 FT TO THE POINT OF BEGINNING.

CONTAINS 105 ACRES (MORE OR LESS)

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Inactive Mill Tailing Sites
GRAND JUNCTION, COLORADO
6/15/79

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NEW RIFLE DESCRIPTION

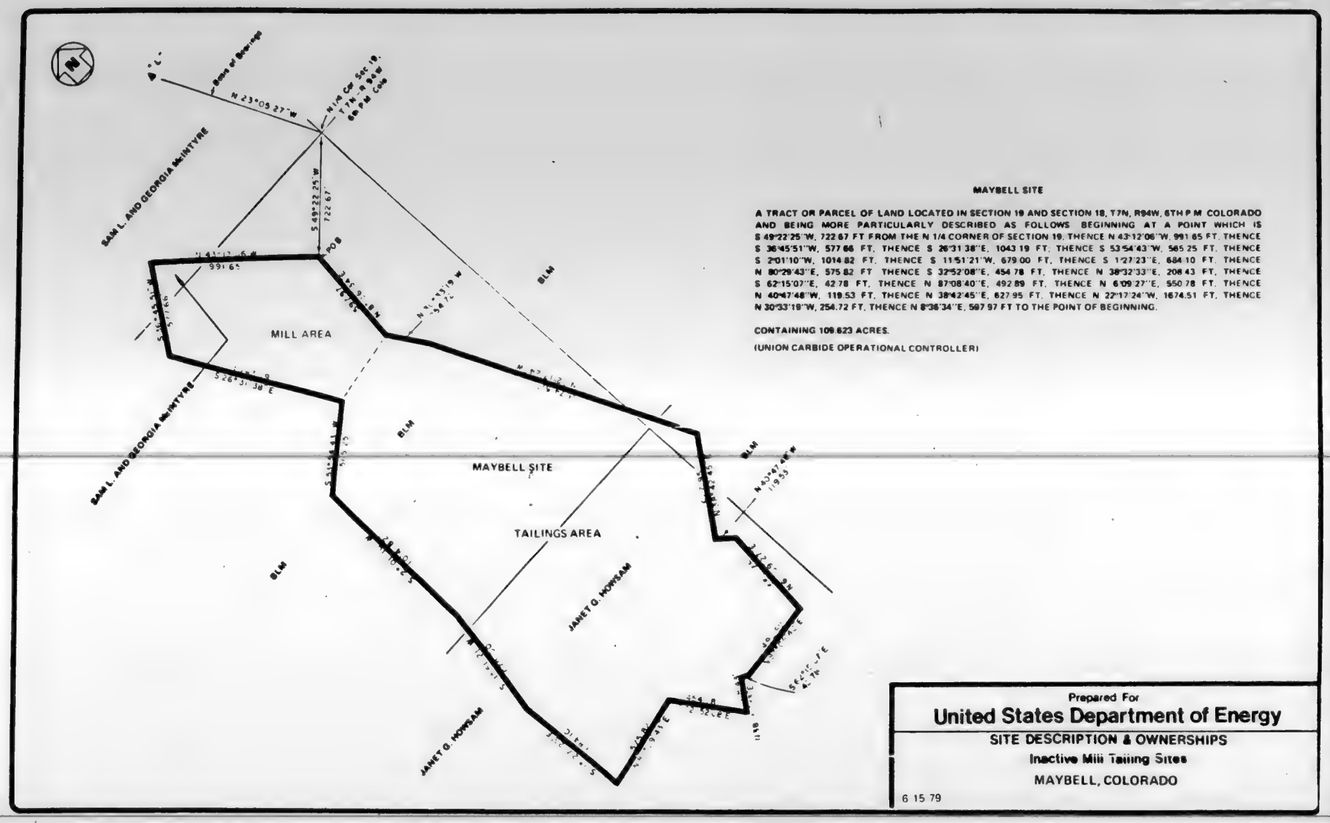
THAT PORTION OF LAND LOCATED IN THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE N.E 1/4 OF SECTION 18, T6S, R93W, 6th P.M. LYING ADJACENT TO AND SOUTH OF THE SOUTH R/W LINE OF THE D&R.G.W.R.R. EXCEPT THE EAST 297 FT. ALSO LOT 5, SECTION 18, T6S, R93E, LOT 6 SECTION 18, T6S, R93W, EXCEPT THE EAST 297 FT OF SAID LOT 6, ALSO LOTS 7 AND 8, SECTION 18, T6S, R93W, LYING ADJACENT TO AND NORTH OF THE INTERSTATE 70 R/W LINE.

CONTAINS 142 ACRES (MORE OR LESS)

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Inactive Mill Tailing Sites
NEW RIFLE, COLORADO
6/15/79

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MAYBELL SITE

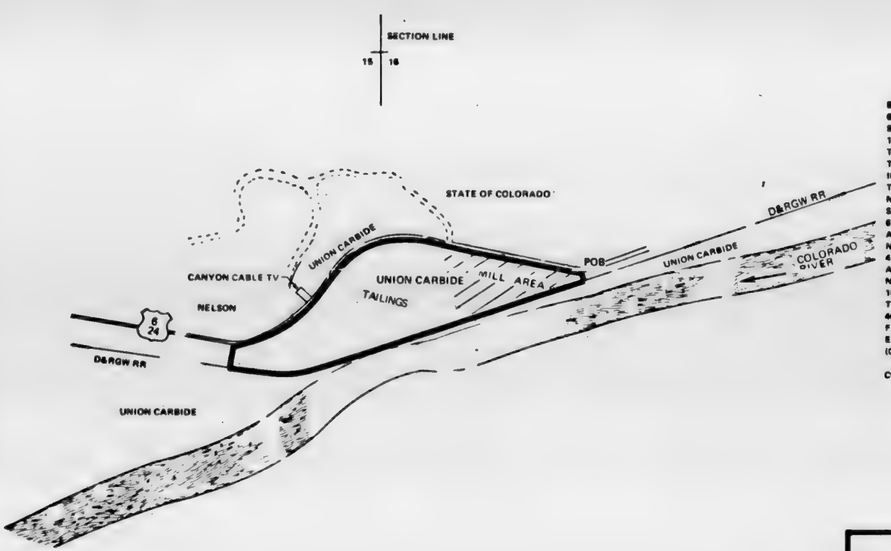
A TRACT OR PARCEL OF LAND LOCATED IN SECTION 18 AND SECTION 18, T7N, R94W, 6TH P.M. COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS S 49°22'25"W, 722.67 FT FROM THE N 1/4 CORNER OF SECTION 18; THENCE N 43°12'06"W, 991.65 FT; THENCE S 36°45'51"W, 577.66 FT; THENCE S 26°21'38"E, 1043.19 FT; THENCE S 53°54'43"W, 565.25 FT; THENCE S 2°01'10"W, 1014.82 FT; THENCE S 11°51'21"W, 679.00 FT; THENCE S 1°27'23"E, 684.10 FT; THENCE N 80°29'43"E, 575.82 FT; THENCE S 32°52'08"E, 454.78 FT; THENCE N 38°32'33"E, 208.43 FT; THENCE S 62°15'07"E, 42.78 FT; THENCE N 87°08'40"E, 492.89 FT; THENCE N 6°09'27"E, 550.78 FT; THENCE N 40°47'48"W, 118.53 FT; THENCE N 38°42'45"E, 827.95 FT; THENCE N 22°17'24"W, 1674.51 FT; THENCE N 30°53'18"W, 254.72 FT; THENCE N 8°36'34"E, 597.97 FT TO THE POINT OF BEGINNING.

CONTAINING 109.623 ACRES.

(UNION CARBIDE OPERATIONAL CONTROLLER)

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SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
MAYBELL, COLORADO
6 15 79

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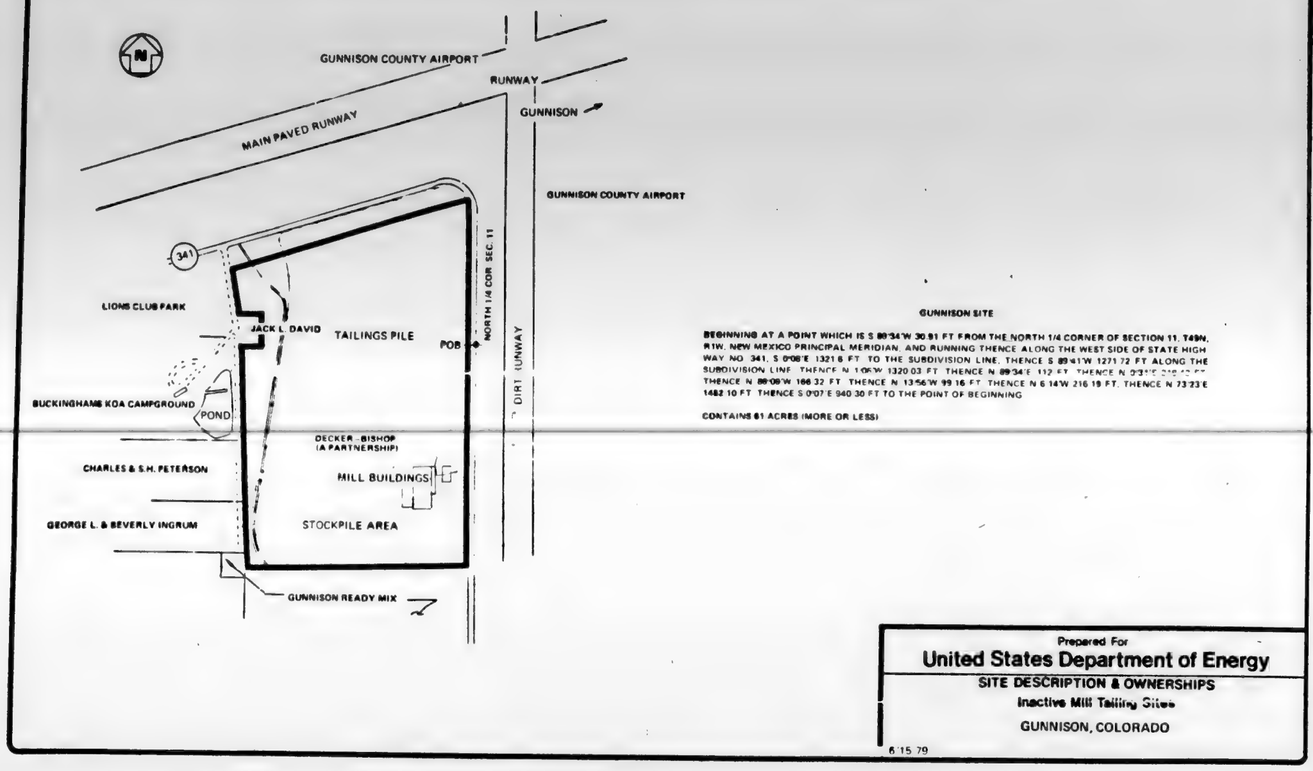
OLD RIFLE SITE

BEGINNING AT A POINT ON THE SOUTH R/W LINE OF U.S. HIGHWAY 6 & 24, SAID POINT MORE PARTICULARLY DESCRIBED AS BEING S 0°18'W 1415 FT, MORE OR LESS, FROM THE N.E. CORNER OF THE N.W. 1/4, OF THE N.W. 1/4 OF SECTION 18, T6S, R93W, 6TH P.M. AND RUNNING THENCE S 0°18'W 36.5 FT TO THE NORTH R/W LINE OF THE D.&R.G.W.R.R., THENCE S 76°36'W 1891.8 FT ALONG SAID R/W LINE, THENCE CONTINUING ALONG SAID R.W. LINE THE FOLLOWING COURSES AND DISTANCES: S 79°2'W, 194.9 FT., S 85°35'W 194.1 FT; N 87°20'W, 183.9 FT, N 80°23'W, 194.0 FT, N 79°32'W, 26.7 FT; THENCE NORTH 74.5 FT, TO THE SAID SOUTH R/W LINE OF U.S. HIGHWAY 6 & 24, AND A POINT ON A 673 FT. RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE AND ARC DISTANCE OF 453.5 FT. (CHORD BEARS N 69°26'30"E, 445 FT); THENCE N 90°07'E, 668.7 FT, TO A POINT ON A 472.98 FT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 222.16 FT. (CHORD BEARS N 83°36'E, 221.1 FT), THENCE N 80°51'30"E, 283.9 FT, THENCE S 79°33'E, 187.7 FT, TO A POINT ON A 2825 FT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 460.21 FT (CHORD BEARS S 74°53'E, 459.7 FT), THENCE S 70°13'E, 308.5 FT TO A POINT ON A 1081.8 FT RADIUS CURVE TO THE LEFT, THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 348.81 FT (CHORD BEARS S 79°24'E, 347.2 FT) TO THE POINT OF BEGINNING

CONTAINS 24 ACRES (MORE OR LESS)

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SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
OLD RIFLE, COLORADO
6 15 79

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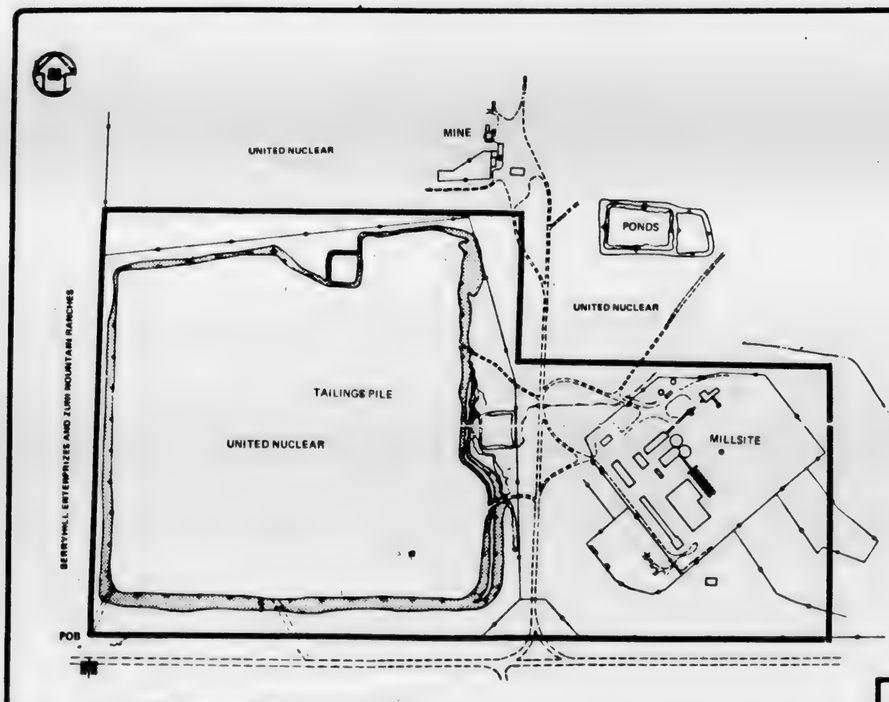
GUNNISON SITE

BEGINNING AT A POINT WHICH IS S 89°34'W 30.91 FT FROM THE NORTH 1/4 CORNER OF SECTION 11, T49N, R1W, NEW MEXICO PRINCIPAL MERIDIAN, AND RUNNING THENCE ALONG THE WEST SIDE OF STATE HIGH WAY NO. 341, S 0°08'E 1321.6 FT. TO THE SUBDIVISION LINE, THENCE S 89°41'W 1271.72 FT. ALONG THE SUBDIVISION LINE, THENCE N 1°05'W 1320.03 FT. THENCE N 89°34'E 112 FT. THENCE N [illegible] THENCE N 89°08'W 166.32 FT. THENCE N 13°56'W 99.16 FT. THENCE N 6°14'W 216.18 FT. THENCE N 73°23'E 1482.10 FT. THENCE S 0°07'E 940.30 FT TO THE POINT OF BEGINNING

CONTAINS 61 ACRES (MORE OR LESS)

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SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
GUNNISON, COLORADO
6 15 79

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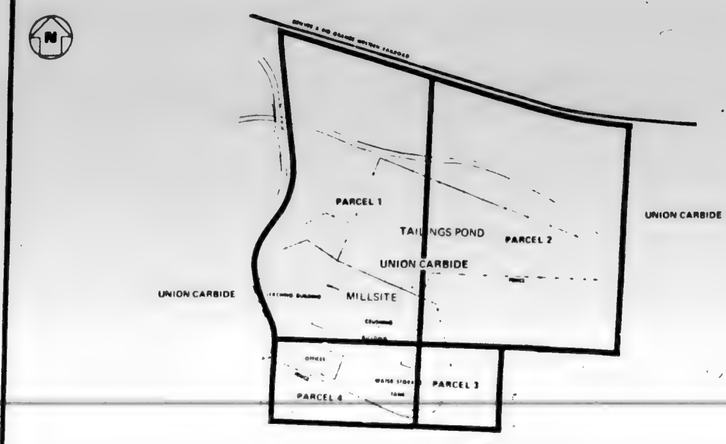
AMBROSIA LAKE SITE

BEGINNING AT A POINT WHICH IS N0°46'E, 229.66 FT FROM THE S.W. CORNER OF SECTION 28, T14N, R9W, N.M.P.M., AND RUNNING THENCE N0°46'E, 2460.6 FT., THENCE N89°58'E, 2460.6 FT., THENCE S0°46' W 1010.6 FT., THENCE N89°58'E 1700.0 FT., THENCE S0°46'W, 1450 FT., THENCE S89°58'W, 4160.6 FT., TO THE POINT OF BEGINNING.

CONTAINS 195.6 ACRES (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
AMBROSIA LAKE, NEW MEXICO
6 15 79

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GREEN RIVER SITE
(PARCELS 1 THRU 4)

PARCEL 1

THAT PORTION OF LAND LOCATED IN THE S.W. 1/4 OF THE S.E. 1/4 SECTION 15, T21S, R16E, SALT LAKE MERIDIAN LYING ADJACENT TO AND EAST OF A COUNTY ROAD FROM ELGIN TO THE GREEN RIVER MISSLE SITE, AND SOUTH OF THE D & R G W. RAILROAD R/W

PARCEL 2

THAT PORTION OF LAND LOCATED IN THE WEST 800 FT OF THE S.E. 1/4 OF THE S.E. 1/4 OF SECTION 15, T21S, R16E, SALT LAKE MERIDIAN LYING SOUTH OF AND ADJACENT TO THE D & R G W. RAILROAD R/W

PARCEL 3

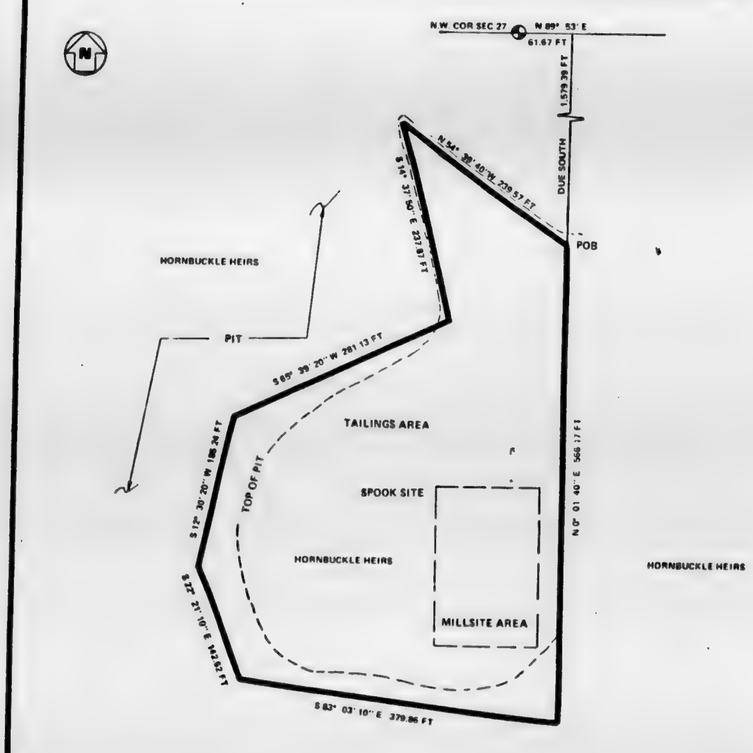
THAT PORTION OF LAND LOCATED IN THE WEST 300 FT. OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE S.E. 1/4 OF THE N.E. 1/4 OF SECTION 22, T21S, R16E, SALT LAKE MERIDIAN

PARCEL 4

THAT PORTION OF LAND LOCATED IN THE NORTH 1/2 OF THE NORTH 1/2 OF THE N.W. 1/4 OF THE N.E. 1/4 OF SECTION 22, T21S, R16E, SALT LAKE MERIDIAN, LYING EAST OF AND ADJACENT TO A COUNTY ROAD FROM ELGIN TO THE GREEN RIVER MISSLE SITE

CONTAINS 39 ACRES (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
GREEN RIVER, UTAH
6.15.79



CONVERSE COUNTY, SPOOK SITE

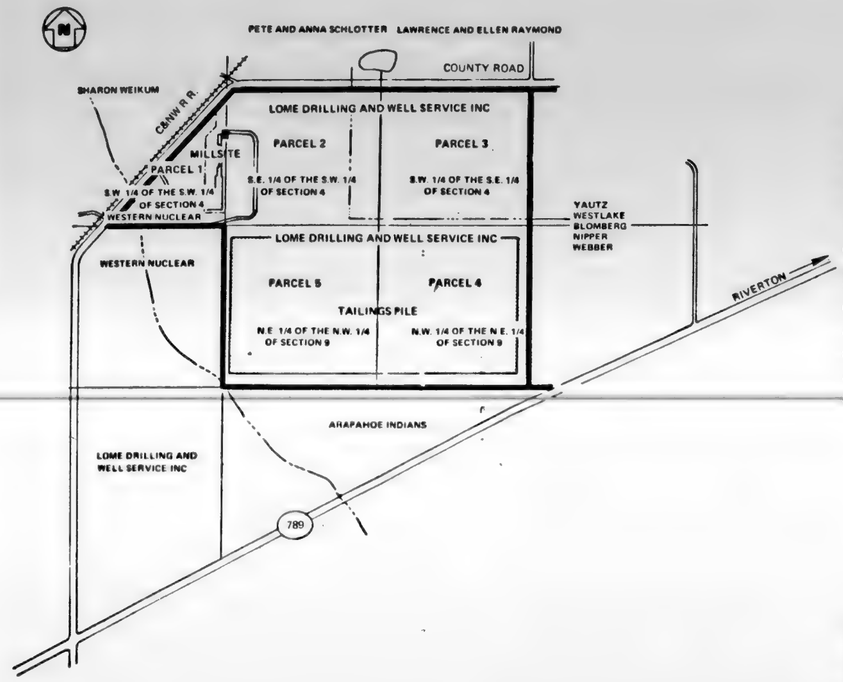
BEGINNING AT A POINT N 89°53'E, 61.67 FT ALONG THE SECTION LINE AND DUE SOUTH 1579.39 FT FROM THE N.W. CORNER OF SECTION 27, T38N, R73W, 6TH PRINCIPAL MERIDIAN CONVERSE COUNTY, WYOMING, AND RUNNING THENCE N 54°28'40"W, 239.57 FT THENCE S 14°37'50"E, 237.87 FT, THENCE S 85°39'20"W, 281.13 FT, THENCE S 12°30'20"W, 185.24 FT, THENCE S 22°21'10"E, 142.62 FT, THENCE S 83°03'10"E, 379.86 FT THENCE N 0° 01' 40" E, 566.17 FT TO POINT OF BEGINNING.

CONTAINING 4.38 ACRES.

(WESTERN NUCLEAR OPERATIONAL CONTROLLER)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
CONVERSE COUNTY, WYOMING
6.15.79

Ford, Bacon & Davis Utah Inc.



RIVERTON SITE

SITE CONSISTING OF THE FOLLOWING PARCELS:

PARCEL 1

ALL LAND LOCATED IN THE S.W. 1/4 OF THE S.W. 1/4 OF SECTION 4, T1S, R4E, W.R.M. LYING EASTERLY OF THE EXISTING COUNTY ROAD.

PARCEL 2

ALL LAND LOCATED IN THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 4, T1S, R4E, W.R.M. LYING SOUTH OF THE EXISTING COUNTY ROAD.

PARCEL 3

ALL LAND LOCATED IN THE S.W. 1/4 OF THE S.E. 1/4 OF SECTION 4, T1S, R4E, W.R.M. LYING SOUTH OF THE EXISTING COUNTY ROAD.

PARCEL 4

ALL LAND LOCATED IN THE N.W. 1/4 OF THE N.E. 1/4 OF SECTION 9, T1S, R4E, W.R.M.

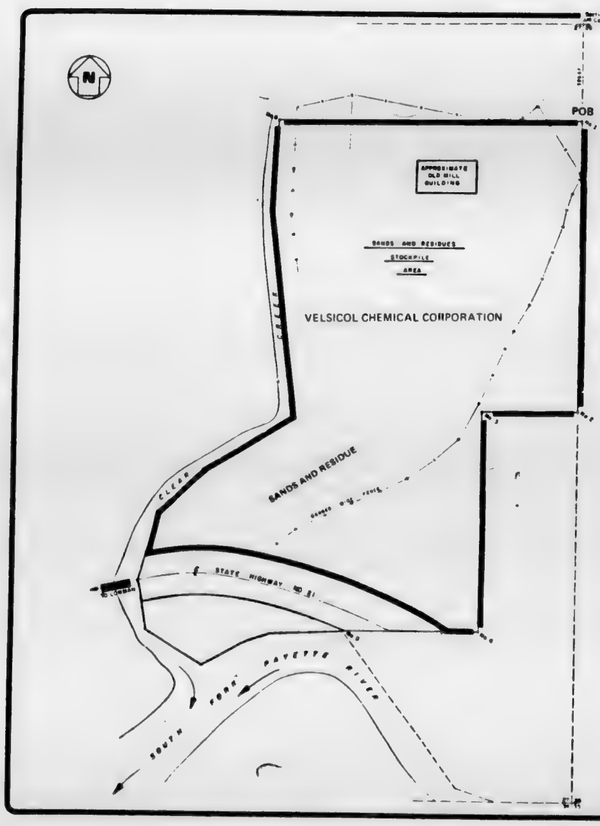
PARCEL 5

ALL LAND LOCATED IN THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 9, T1S, R4E, W.R.M.

CONTAINS 173 ACRES (MORE OR LESS)

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SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
RIVERTON, WYOMING
6/15/79

Ford, Bacon & Davis Utah Inc.



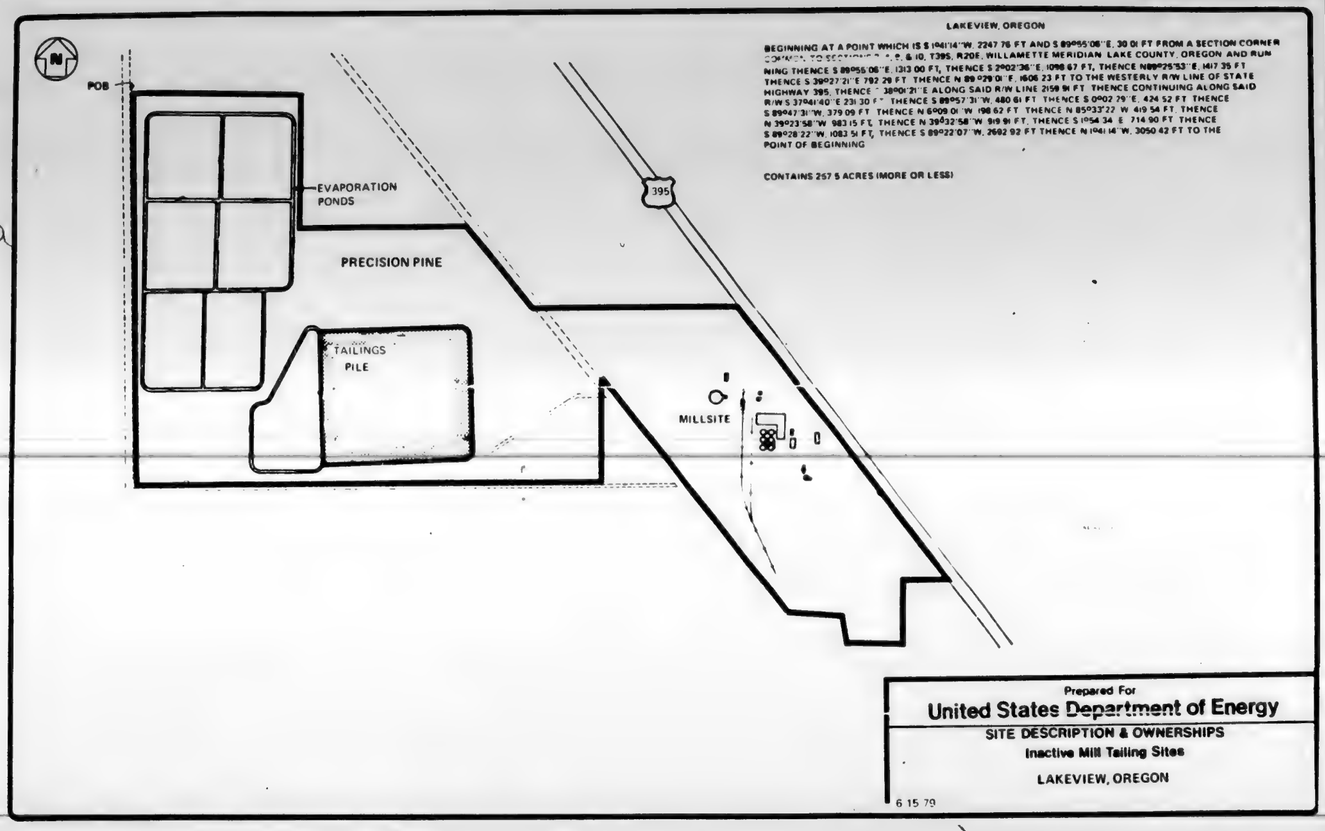
LOWMAN, IDAHO SITE

BEGINNING AT A POINT WHICH IS S 0°01'W, 326.7 FT FROM THE N.E. 1/4 CORNER OF SECTION 27, T9N R7E, SAID POINT BEING THE NO. 1 POINT ON THE HOMESTEAD ENTRY SURVEY NO 490 (H.E.S.), AND RUNNING THENCE S 0°01'W, 993.3 FT TO H.E.S. 490 CORNER NO. 2, THENCE WEST 330 FT TO H.E.S. 490 CORNER NO. 3, THENCE SOUTH 755.04 FT TO H.E.S. 490 CORNER NO. 4 THENCE WEST 112 FT TO THE NORTH R/W LINE OF IDAHO STATE HIGHWAY NO. 21, THENCE NORTHWESTERLY ALONG SAID R/W LINE TO THE EAST MEANDER LINE OF CLEAR CREEK, THENCE NORTHERLY ALONG SAID MEANDER 1708 FT (MORE OR LESS) TO H.E.S. 490 CORNER NO. 6, THENCE EAST 1045.44 FT TO THE POINT OF BEGINNING.

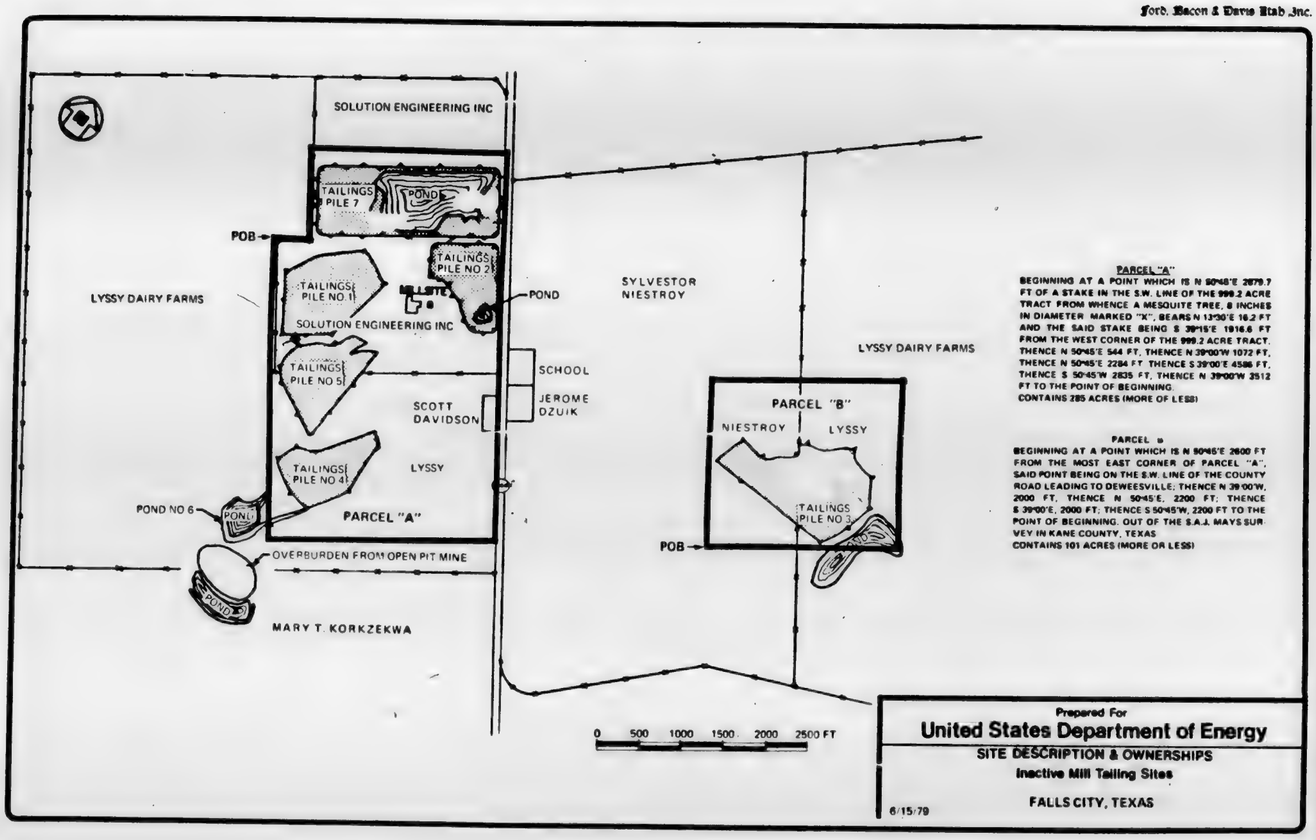
CONTAINS 42 ACRES (MORE OR LESS)

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SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
LOWMAN, IDAHO
6 15/79

Ford, Bacon & Davis Utah, Inc.



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PARCEL "A"

BEGINNING AT A MONUMENT AT THE INTERSECTION OF THE NORTH LINE OF GEORGE STREET AND THE WE - LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, PENNSYLVANIA; THENCE ALONG THE NORTH LINE OF GEORGE STREET S 71°59'W, 252.75 FT; THENCE N 5°00'E, 740.22 FT TO A MONUMENT AT THE SOUTH R/W LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY; THENCI ALONG SAID R/W LINE N 60°54'E, 351.60 FT TO THE WEST LINE OF AARD STREET; THENCE ALONG THE WEST LINE OF WARD STREET S 44°19'E, 222.52 FT, S 39°58'E, 136.18 FT, S 18°52'E, 111.72 FT TO THE WEST LINE OF STRABANE AVENUE; THENCE ALONG THE WEST LINE OF STRABANE AVENUE S 5°00'W, 130.95 FT TO THE POINT OF BEGINNING.

CONTAINS 10.6 ACRES (MORE OR LESS)

PARCEL "B"

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST LINE OF WARD STREET AND THE WEST LINE OF STRABANE AVENUE IN THE BOROUGH OF CANONSBURG, WASHINGTON COUNTY, PENNSYLVANIA. THENCE ALONG THE EAST LINE OF WARD STREET N 39°52'W, 85.06 FT N 39°58'W, 353.53 FT, N 44°19'W, 213.78 FT TO A MONUMENT ON THE SOUTH R/W LINE OF THE WASHINGTON CANONSBURG STREET RAILWAY; THENCE ALONG SAID R/W LINE N 60°54'E, 362.06 FT; THENCE S 71°59'E, 28.82 FT, THENCE S 27°42'E, 186.65 FT, THENCE S 42°25'E, 68.10 FT THENCE S 85°35'E, 214.70 FT TO THE WEST LINE OF STRABANE AVENUE; THENCE ALONG STRABANE AVENUE S 39°05'W, 154.30 FT, S 30°00'W, 146.68 FT, S 21°00'W, 100.47 FT TO THE POINT OF BEGINNING

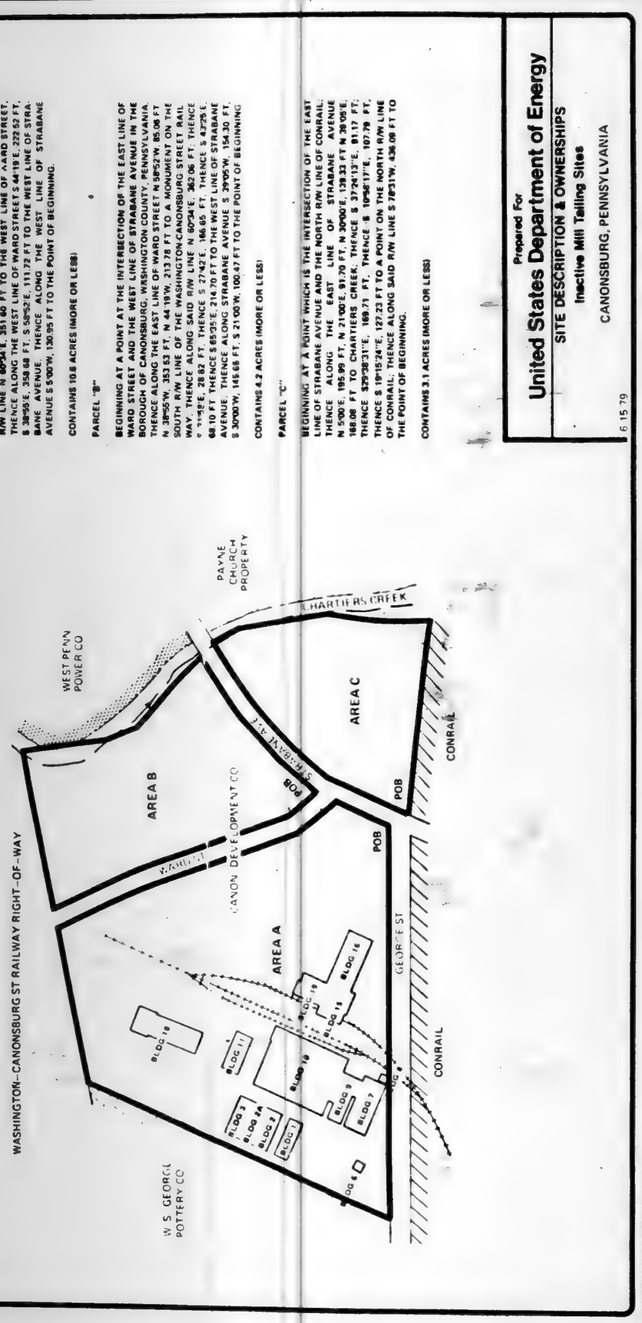
CONTAINS 4.2 ACRES (MORE OR LESS)

PARCEL "C"

BEGINNING AT A POINT WHICH IS THE INTERSECTION OF THE EAST LINE OF STRABANE AVENUE AND THE NORTH LINE OF CONRAIL; THENCE ALONG THE EAST LINE OF STRABANE AVENUE N 5°00'E, 195.99 FT, N 21°00'E, 91.70 FT, N 30°00'E, 139.33 FT N 39°05'E, 168.08 FT TO CHARTIERS CREEK. THENCE S 37°24'13"E, 81.17 FT; THENCE S29°38'31"E, 169.71 FT, THENCE S 10°56'17"E, 107.79 FT, THENCE S 19°15'24"E, 127.23 FT TO A POINT ON THE NORTH R/W LINE OF CONRAIL; THENCE ALONG SAID R/W LINE S 78°31'W, 436.09 FT TO THE POINT OF BEGINNING.

CONTAINS 3.1 ACRES (MORE OR LESS)

Prepared For
United States Department of Energy
SITE DESCRIPTION & OWNERSHIPS
Inactive Mill Tailing Sites
CANONSBURG, PENNSYLVANIA
6-15-79



BILLING CODE 6450-01-C

Appendix B—Priorities for sites and Locations

The Secretary requested the Environmental Protection Agency's (EPA) advice on the proposed establishment of priorities for the 22 sites at locations referenced in P.L. 95-604. EPA has viewed the suggested DOE priority listing as being reasonable and acceptable at the present time for initiating remedial action. The site locations and respective priorities are as follows:

Site Locations and Priority

Salt Lake City, Utah; High.
Canonsburg, Pennsylvania; High.
Durango, Colorado; High.
Shiprock, New Mexico; High.
Grand Junction, Colorado; High.
Riverton, Wyoming; High
Gunnison, Colorado; High.
Old Rifle, Colorado; High.
New Rifle, Colorado; High.
Mexican Hat, Utah; Medium.
Lakeview, Oregon; Medium.
Falls City, Texas; Medium.
Tuba City, Arizona; Medium.
Naturita, Colorado; Medium.
Ambrosia Lake, New Mexico; Medium.
Green River, Utah; Low.
Slick Rock (NC), Colorado; Low.
Slick Rock (UCC), Colorado; Low.
Maybell, Colorado; Low.
Monument Valley, Arizona; Low
Lowman, Idaho; Low
Converse County, Wyoming (Spook Site); Low.

[FR Doc. 79-26788 Filed 9-3-79; 8:45 am]
BILLING CODE 6450-01-M

V 44/173
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federal register

Wednesday
September 5, 1979

Part III

Office of Management and Budget

Cost Principles for Grants to State and Local Governments

V 44 / 173 SE 5 79 UMI

OFFICE OF MANAGEMENT AND BUDGET

Cost Principles for Grants to State and Local Government

This notice offers interested parties an opportunity to comment on a proposed revision to Circular 74–4, "Cost principles for grants to State and local governments." The revision would modify the rules dealing with travel costs of chief executives and members of governing bodies.

At the present time, Circular 74–4 provides that salaries and other expenses of chief executives and governing bodies are unallowable charges against Federal grants. The revision under consideration would modify this by allowing travel costs in those cases where they are specifically related to grant programs and where prior approval for the travel has been given by the Federal funding agency.

The specific change being considered is as follows:

Attachment B, paragraph B.28.

Travel. (Add the following sentence at the end of the paragraph.)
"Notwithstanding the provisions of Attachment B, paragraphs D.6. and 8., travel costs of officials covered by those paragraphs, when specifically related to grant programs, are allowable with the prior approval of the Federal funding agency."

The Office of Management and Budget has, as yet, made no decision with respect to the proposed revision. All interested parties are encouraged to make their views known.

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. Contact person: John J. Lordan, (202) 395–6823. All comments should be received within 60 days of this notice.

Linda L. Smith,
Assistant to the Director for Administration.

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Part IV

Environmental Protection Agency

Requirements for Preparation, Adoption, and Submittal of State Implementation Plans; Approval and Promulgation of State Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 51 and 52]

[FRL 1300-6]

Requirements for Preparation, Adoption, and Submittal of SIP's; Approval and Promulgation of State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rules.

SUMMARY: EPA proposes to amend its regulations for the prevention of significant deterioration 40 CFR 51.24, 52.21 (1978) in response to a court decision that overturned those regulations in major respects. EPA also proposes changes to its regulations affecting new source review in nonattainment areas, including restrictions on further major source growth and requirements under EPA's Emission Offset Interpretative Ruling, 40 CFR Part 51 App. S, and section 173 of the Act, to conform those rules to the court decision.

DATES: The deadline for submitting written comments is October 5, 1979.

ADDRESSES: *Comments.* Comments should be sent (in triplicate if possible) to Central Docket Section (A-130), Washington, D.C. Atten: Docket No. A-79-35.

Docket: In accordance with section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), EPA has established a docket for this rulemaking. It bears Docket No. A-79-35. The docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA during this rulemaking. The contents of the docket will serve as the record in the case of judicial review under section 307(b) of the Act, 42 U.S.C. 7607(b). The docket is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B. A reasonable fee may be charged for copying.

PUBLIC HEARINGS: EPA intends to hold public hearings on the proposals in this notice in September in San Francisco, California, and Washington, D.C. The exact times and places will be announced in due course.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, Standards Implementation Branch (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919/541-5292.

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I. Background

A. *Prevention of Significant Deterioration.* In 1974, EPA promulgated regulations to prevent emissions of sulfur dioxide (SO_2) and particulate matter (PM) from significantly deteriorating air quality in areas where concentrations of those pollutants were lower than the applicable national ambient air quality standards (NAAQS). 39 FR 42510 (codified at 40 CFR 52.21 (1977)). EPA made those regulations part of the State Implementation Plan (SIP). The prevention of significant deterioration (PSD) regulations prohibited the construction of any new source or modification in certain categories, unless EPA or a delegate state had issued a permit evidencing that the source or modification would not cause significant deterioration of air quality in any area.

On August 7, 1977, the President signed the Clean Air Act Amendments of 1977 (1977 Amendments) into law. Pub. L. No. 9595, 91 Stat. 685. Those amendments established a new set of PSD requirements as Part C of Title I of the Clean Air Act (Act). *See* Sections 160-169, 42 U.S.C. 7470-79. The new requirements follow the outline of the old regulations, but are more elaborate and in many ways more stringent. The 1977 Amendments also directed that each SIP was to contain the new requirements. *See* Sections 161, 110(a)(2)(D) and (J), 42 U.S.C. 7471, 7410(a)(2)(D) and (J).

In response to that mandate, EPA promulgated two sets of PSD regulations on June 19, 1978. One set specified the minimum requirements that a PSD SIP revision would have to contain in order to warrant EPA approval. 43 FR 26380 (codified at 40 CFR 51.24 (1978)) (hereinafter, the "Part 51 regulations"). The other set comprehensively amended the old PSD regulations and incorporated into them the new PSD requirements. 43 FR 26388 (codified at 40 CFR 52.21 (1978) (hereinafter, the "Part 52 regulations")). EPA intended that, until it had approved a PSD SIP revision for a state, the permitting of new sources and modifications to be constructed in its clean areas would continue under the new Part 52 regulations. The United States Court of Appeals for the District of Columbia Circuit subsequently affirmed that approach. *Citizens To Save Spencer County* v. *EPA*, 12 ERC 1961 (March 27, 1979).

Many industrial and environmental groups petitioned the same court for review of the substantive provisions of both the Part 51 and Part 52 regulations. On June 18, 1979, the court issued a decision that upheld some of those provisions and overturned others. *Alabama Power Company* v. *Costle*, 13 ERC 1225. In its opinion the court merely summarized its rulings, but promised supplemental, comprehensive opinions in due course, probably by "the end of this summer." *Id.* at 1227 n.7. The court also invited the parties to file petitions for reconsideration, several of which were filed but have not yet been acted upon. In an order that accompanied the summary opinion, the court stayed the effect of its decision until it had issued the supplemental opinions. The purpose of this procedure, the court explained, was "to enable EPA to proceed as soon as possible to commence rulemaking or other proceedings necessary to promulgate those revisions in the PSD regulations required by (the court's)

rulings, and to take other prudent action to effectuate congressional policies." *Id.* at 1227.

By this notice, EPA is beginning the process the court had in mind. It is here proposing various amendments to the PSD regulations. Some of those amendments would replace the provisions rejected by the court; others would add entirely new provisions to supplement the replacement provisions. Each of the proposals is discussed in detail in material which follows this background section.

B. *Requirements Relating to Nonattainment Areas.* The only regulations before the court in *Alabama Power* are EPA's PSD regulations. They are therefore the only regulations directly affected by the court's decision. However, several statutory definitions and other concepts addressed in *Alabama Power* are also relevant to the statutory requirements for areas where pollution exceeds the national ambient air quality standards (nonattainment areas). By this notice, EPA is proposing changes to its regulations for nonattainment areas, to conform the regulations to the decisions in *Alabama Power.*

There are three separate sets of nonattainment requirements affecting the review of new or modified major stationary sources, each applicable under a different set of circumstances. First, before July 1, 1979, EPA's Emission Offset Interpretative Ruling (offset ruling) governed new construction that would cause or contribute to a violation of a standard. The offset ruling will still be effective in the future but only in a few, limited instances. The current, revised offset ruling was published by EPA on January 16, 1979. 44 FR 3274.

Second, after June 30, 1979, state plans which satisfy the requirements of Part D, Title I, of the Act (42 USC 7501 and following) are to be in effect for areas designated as nonattainment areas under section 107(d) of the act, 42 U.S.C. 7407(d). EPA has published several notices about what constitutes an acceptable Part D plan revision. *See* 43 FR 21673 (May 19, 1978), 44 FR 8311 (February 9, 1979), 44 FR 20372 (April 4, 1979), 44 FR 25243 (April 30, 1979), 44 FR 38583 (July 2, 1979). In situations where a Part D plan was not due by July 1, 1979, the offset ruling continues to apply (*e.g.*, where a violation of an ambient standard is discovered in a designated attainment area, or where the deadline for a Part D plan for a secondary standard is postponed under section 110(b) of the Act, 42 U.S.C. 7410(b)).

Finally, for areas where Part D plans are due but where the plan either does not satisfy Part D or is not carried out in accordance with Part D, the Act in sections 110(a)(2)(I) and 173(4) provides for restrictions on major new source construction. 42 U.S.C. 7410(a)(2)(I) and 7503(4). On July 2, 1979, EPA issued a ruling implementing this restriction, and invited comment on additional language to clarify how the statutory restriction will apply. 44 FR 38471, 38583, (July 2, 1979), 44 FR 42195, 42246 (July 19, 1979).

The key aspect of these nonattainment requirements that is affected by *Alabama Power* involves the definition of the new and modified stationary sources that are subject to stringent preconstruction permitting conditions. In the January 16, 1979 revision to the offset ruling, EPA adopted virtually the same definitions of "major source" and "major modification" as were adopted in the PSD regulations and were overturned in *Alabama Power.* EPA stated in the preamble to the offset ruling that those definitions were also applicable to state permitting programs required under Part D. EPA also ruled that the definitions apply to the prohibition on construction under section 110(a)(2)(I) (except that the cut-offs to limit review of sources with low allowable emissions do not apply to section 110(a)(2)(I)). 44 FR at 3276 (col. 1).

Although the definitions were adopted as final action in the offset ruling, EPA invited additional comment.

The statutory language on which the "major source" and "major modification" definitions were based is very similar for the nonattainment programs as for PSD, and the reasoning in the June 18 *Alabama Power* decision generally appears to be applicable to both. The comments on the nonattainment definitions invited in the January 16 notice have therefore been rendered irrelevant by the court decision, and EPA is now proposing new definitions.

Those sections of this preamble which relate to the definitions of "major source" and "major modification" therefore discuss nonattainment requirements as well as the PSD regulations. Where the concepts and goals of nonattainment and PSD differ, we are proposing and seek comment on alternative approaches consistent with the distinctive goals of each. In addition, the discussion on "Geographic Applicability" addresses the nonattainment requirements. The court did not directly address the nonattainment requirements so EPA offers here two alternative approaches for comment.

Because of the importance of resolving these questions expeditiously, today's proposal does not have an accompanying economic impact evaluation. Such an evaluation will be performed and be made available for public comment prior to promulgation.

The discussion which follows first highlights the proposed PSD and nonattainment changes and then focuses in detail on each of them.

II. Highlights

A. *Proposed Regulations Affecting New Source Review in Both Nonattainment and PSD Areas:*

1. *Potential to Emit:* The regulations proposed today would again make major construction projects subject to new source review (NSR) on the basis of increased potential to emit. Under the proposal the annual emission potential of a source would be determined after the application of air pollution controls rather than before as was generally done under the existing regulations. In calculating annual potential emissions of a source, maximum annual rated capacity, year-round hours of operation, and any enforceable permit conditions on the type of materials combusted or processed will be used.

2. *Fugitive Emissions:* Fugitive emissions, as proposed, means those emissions released directly into the atmosphere without passing through a stack, chimney, vent or other functionally equivalent opening. Fugitive emissions are proposed not to be considered when determining the annual emissions potential of a stationary source except when such emissions come from specified industry types.

3. *Source:* Source means any building structure, facility, or installation which emits or may emit any regulated pollutant. "Building, structure, facility or installation" means plant in PSD areas and in nonattainment areas except where the growth prohibitions would apply or where no adequate SIP exists or is being carried out. "Building, structure, or facility" means plant and "installation" means the individual emission unit within the plant for these nonattainment review situations. The manner in which source is defined places a vital role in determining when NSR would apply. When installation is defined differently than facility, more changes at major stationary sources would be subject as major modifications (see below).

4. *Major Modification:* The proposal would subject changes in the design or operation of a major stationary source to NSR only if (1) a significant net increase in the potential emissions of a pollutant for which the source is major would occur, or (2) cumulative net increases in the potential emissions of a pollutant regulated under the Act occur

at the same source after the applicable NSR time of concern that in total would exceed the applicable 100/250-ton threshold. The proposal, unlike the existing regulations, would allow certain emission reductions occurring at the same source to offset any increases due to proposed construction and avoid review. If a source has the potential to emit more than it is legally allowed to emit, no offset credit could be taken by a source for reducing its potential emissions down to the allowed level.

5. *No Tiered Review:* Under the existing regulations, only those sources and modifications which have large uncontrolled emission potential and also increased allowable emissions equal to or greater than 50 tons per year would receive a detailed review. All major sources and major modifications are now fully covered as discussed elsewhere.

6. *Preconstruction Notice:* Under the proposed regulations, an owner or operator of certain sources would be required to give written preconstruction notice to the applicable reviewing authority in lieu of getting a permit. This requirement would apply to (1) construction not qualifying as major modifications due to sufficient offsetting emission reductions, (2) emission reductions to be used for future offset credit in (1), and (3) construction not qualifying as major stationary sources due to application of air pollution controls not generally required by the SIP or 40 CFR Parts 60 and 61. The notice would contain a schedule of the applicable emissions changes and a demonstration that the proposed reductions are or would be sufficient and enforceable.

B. *Proposed Changes Specific to Nonattainment Requirements.*

1. *Major Modification:* The same basic definitional structure for "major stationary source" and "major modification" is being proposed for both nonattainment requirements and PSD requirements. The principal difference is the extent to which emission decreases may be used to offset increases at the same major stationary source to determine whether the source is "modified" and needs a permit.

a. *Emissions Baseline for Modification:* The proposed regulations would generally subject a change at a major source to review only if a significant net increase in the potential to emit a nonattainment pollutant for which the source is major. An exception is that no credit may be taken for reducing those potential emissions which are greater than allowable emissions. In nonattainment areas where the offset ruling or Part D NSR would apply, the applicable SIP would generally define the allowable emissions baseline for reduction credit. b. *"Bubble" Exemption:* The use of offsets inside the same source is called the "bubble." EPA proposes use of the definition of "source" (see above) to limit the use of the bubble under nonattainment requirements in the following respects:

i. Part D SIPs that include all requirements needed to assure reasonable further progress and attainment by the deadline under section 172 and that are being carried out need not restrict the use of a plantwide bubble, the same as under the PSD proposal.

ii. Part D SIPs that do not meet the requirements specified must limit use of the bubble by including a definition of "installation" as an identifiable piece of process equipment. New or modified major-source installations would require NSR permits regardless of any offsetting emission reductions elsewhere in the facility. A change or a series of changes that do not result in a significant net increase in the installation's potential to emit, and do not constitute a reconstruction of the installation, will not be subject to NSR permitting requirements.

iii. The offset ruling is proposed to also include a definition of "installation" with the effect described in paragraph ii.

iv. The restriction on construction for inadequate Part D SIPs (or failure to carry out the same) under section 110(a)(2)(1) is proposed to include a definition of "installation". However, unlike the situation described in paragraph ii, no bubble will apply, and any significant increase in the nonattainment pollutant for which the source is major would be subject.

2. *Regulatory Transition:* EPA intends to promulgate regulations within 90 days after issuance of the final *Alabama Power* opinion by the U.S. Court of Appeals. Such changes would generally apply to any future permitting situations after promulgation, but sources compelled to meet more restrictive requirements under the old regulations may apply to the applicable permitting authority to reevaluate such requirements. A change in a permit which would make the SIP no longer adequate to demonstrate attainment would require an accompanying SIP revision to ensure attainment would not be jeopardized.

The proposed changes also affect how state adopted NSR programs may be approved for designated nonattainment areas. EPA generally proposes to approve any state plan that would meet the existing SIP approval criteria or the criteria proposed today. Restrictions on growth would be implemented using the existing definitions affecting source applicability until today's regulations are promulgated.

3. *Geographic Applicability:* The proposed regulations would apply the applicable nonattainment NSR requirements throughout the area designated as nonattainment. The existing regulations now allow a source within a designated nonattainment area to demonstrate that it would construct in a clean portion and affect significantly no dirty portion of the nonattainment area. Growth prohibitions, Part D, or the offset ruling would also apply when a proposed major source or major modification in a clean area would significantly impact a nonattainment area.

C. *Proposed Changes Specific to PSD Requirements.*

1. *Baseline Concentration:* The term "baseline concentration" is used in an abstract sense to establish the starting point for defining significant deterioration occurring from area and minor sources of PM and SO_2. Under the existing regulations, a uniform August 7, 1977 baseline date was established for all PSD areas of the country. Today's proposal would establish the baseline date as the time after August 7, 1977 that the first permit application by a proposed major source or major modification (subject to the regulations as promulgated is filed for a clean area designated under section 107(d)(1)(D) or (E). The baseline date once established for any designated clean portion of an Air Quality Control Region (AQCR) would apply to all clean parts of the AQCR designated under section 107(d)(1)(D) or (E) for PM and SO_2.

2. *Best Available Control Technology (BACT):* The regulations today propose that the BACT requirements apply to all pollutants regulated under the Act for which the major construction would create significant net emission increases. The existing requirements require BACT only for those pollutants for which the proposed construction would be major.

3. *Ambient Monitoring:* The proposed regulations generally will call for more extensive ambient monitoring both before and after construction. The proposal would extend the preconstruction requirement for an analysis of the air quality existing at the areas affected by the proposed construction to all pollutants regulated under the Act and not just criteria pollutants as the existing PSD regulations require. The new monitoring requirements apply to any pollutants regulated under the Act without regard to whether such pollutant emissions individually qualify the proposed construction as being major. Under today's proposal, PM and SO_2 data as required would be used to improve modeling predictions of increment availability to future sources. Regulations governing the adoption of acceptable PSD SIPs are also proposed to be revised to indicate when state authorities can accept less than one year's continuous air quality data for a criteria pollutant.

4. *"De Minimis" Cutoffs:* The regulations proposed today would exempt on a pollutant specific basis major modifications from all permit requirements and new major sources on a pollutant specific basis from all requirements when emissions of the particular pollutant are below a specified *de minimis* or significant emission rate. *De minimis* air quality levels are also proposed as guidance for exempting from PSD monitoring requirements on a pollutant specific basis a major new source or major modification with net emission increases that cause air quality impacts below the specified values.

5. *Major Modification:* In determining whether a "no net increase" in emissions would occur for purposes of PSD, the regulations as proposed would no longer credit emission reductions on the basis of how the emissions being reduced would affect the available PSD increment. Today's PSD regulations would parallel nonattainment NSR in that the emissions baseline for determining a no net increase would be the lesser of potential emissions or allowable emissions.

Use of a plant wide "bubble" is permitted under PSD in determining if a significant increase would occur in the potential to emit a pollutant for which the source is major.

6. *Regulatory Transition:* As discussed above in the case of nonattainment permit reviews, the proposed changes would generally be prospective with regard to future PSD permits. EPA expects that when the regulations as proposed become final, sources that obtained PSD permits under the existing PSD regulations would have 90 days to have their permits reevaluated under the new rules.

The proposed changes also affect how PSD SIPs may be approved. EPA proposes to approve any state plan that would meet the existing 40 CFR Part 51 regulations or the revised regulations proposed today, but states will have to revise their plans to conform to the regulations as promulgated. The revised definitions for baseline and major construction will be retroactive for purposes of increment consumption.

7. *Geographic Applicability:* The proposed regulations would generally apply the requirements of PSD review to all areas designated under section 107(d)(1)(D) or (E). However, even where an area is designated as nonattainment under section 107, PSD review would apply when a proposed source would have a significant impact on a clean area in another state. EPA has petitioned the court to restore the existing PSD requirements which protected clean areas from new source emissions regardless of the location of the source.

III. Transition

A. *PSD Part 52 Regulations.* As described above in the background information of this preamble, the court in *Alabama Power Company* v. *Costle* communicated its decisions on the PSD regulations in the form of a summary opinion. Simultaneously, it stayed the effect of those decisions until it had considered any petition for reconsideration and issued supplemental opinions explaining the decisions and disposing of any petitions.[1] The court adopted this unusual procedure partly to allow EPA to begin as soon as possible to overhaul the regulations. The procedure, however, has raised many questions about what rules should govern PSD preconstruction review and for how long. What follows are EPA's answers to those questions.

First, EPA is proposing a set of amendments which would replace, or delete entirely, each of the provisions the court has declared invalid. EPA intends to promulgate the amendments in final form as soon as possible after the issuance of the supplemental opinions. EPA may be able to promulgate some amendments sooner than others, since the supplemental opinions of the court may well leave little or no room for discretion on certain issues. An example of such an issue is whether Congress intended the key phrase "potential to emit" in the statutory definition of "major emitting facility" to refer to controlled emissions. On some issues, though, the Agency will have more room for discretion. For example, the court has ruled that EPA has broad discretion to define the term "facility" through legislative rulemaking. 13 ERC at 1229. Since such rulemaking may result in extensive public comment, it may take EPA longer to promulgate a definition of "facility" than a new definition of "potential to emit."

Next, to avoid any moratorium on permitting, the Agency is treating the existing regulations as being in effect now. It is therefore continuing to process applications for permits under them. EPA intends to continue operating under the existing regulations for so long as, and to the extent that, they remain unchanged. To make this possible, it has moved the court for a further stay of the effect of its decisions. If granted, the stay would last until EPA completes this rulemaking or until 90 days after the issuance of the supplemental opinions, whichever comes first. If EPA requires more than the extra 90 days on some issues, it will move the court for additional time.

EPA intends to put the replacement provisions governing PSD applicability into effect immediately upon promulgation. Each would then apply to any proposed source or modification which had not filed a complete PSD application by the time of the promulgation of the provision.[3] Making the regulations immediately effective would eliminate the delay and expense of the permitting process for sources not covered by the regulation.[3] Examples of the provisions that EPA intends to make effective immediately upon promulgation are the definitions of "potential to emit," "stationary source," "facility," and "modification."

Many PSD permits will have been issued by the time EPA completes its overhaul of the regulations. EPA is proposing here that such permits would remain in effect, but would be rescinded upon a showing that a source or modification would not need a permit under the new regulations. See proposed § 52.21(w). A permittee would have only 90 days from the time the overhaul is complete to make that showing. In this way, projects which Congress never intended to undergo PSD review could obtain relief from the constraints of their PSD permit. At the same time, EPA would be able to evaluate individual decisions on applicability and keep its records straight. It should be noted that,

[1] EPA has petitioned the court for reconsideration of its decision on geographic applicability. Industry petitioners have petitioned as to the decision on the definition of "modification," on the regulation of pollutants other than sulfur dioxide and particulate matter, and on the modeling of stack heights. Where relevant these decisions are described in later sections of this preamble.

[2] When an applicant can show a reasonable and good faith effort to submit all information necessary for permit issuance, the permitting authority may consider an application as being complete for purposes of avoiding the new more restrictive requirements of the final PSD or nonattainment NSR regulations, as applicable.

[3] If an applicant believed the new regulations would exclude his facility, he could withdraw his application at any time. Alternatively, he could ask EPA to delay the processing of it. In either case, EPA would not reserve increment for the applicant.

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if a source or modification were later found to be causing or contributing to an increment violation, additional controls might be necessary. *See* 40 CFR 51.24(a)(3) (1978).

The proposed definition of "major modification" except where the growth sanctions would apply defines that term as *any* significant net increase in potential emissions at a major stationary source. In contrast, the existing definition defines it as any gross increase in potential (uncontrolled) emissions above 100 or 250 tons per year, depending on source type. 40 CFR 52.21(b)(2) (1978). The proposed definition may sweep into PSD review some modifications that the existing definition would not. That would occur if a particular gross increase at the site of an existing major stationary source would be under the 100/250-ton threshold, but would not be offset by sufficient contemporaneous emission reductions at the same site. In addition, under the existing regulations the potential to emit calculation can account for limited hours of operation whereas it cannot under today's proposal. EPA believes that such modifications and sources with limited operating hours can be grandfathered from all future permitting requirements. It is therefore proposing an amendment to § 52.21(i) which would provide that preconstruction review does not apply to any new or modified source obtaining all necessary approvals under the SIP before the date the proposed definitions of "major modification" and "potential to emit" come into effect and on which physical construction would commence within 18 months of this date (or any earlier time required under the SIP) if it would not have been a major modification or major stationary source under the existing regulations. See proposed § 52.21(i)(7).

Aside from the new provisions which would govern PSD applicability, EPA is proposing provisions which would establish new substantive requirements. Examples are the provisions which would require any major stationary source to perform air quality analysis and to have BACT for any regulated pollutant that it emits in significant amounts. See proposed paragraphs (n)(1) and (j)(2) of § 52.21. EPA intends to make such provisions effective upon final promulgation and to apply them only to construction projects whose applications for a permit were not complete before this time. In addition, special interim rules apply during the first year that the new regulations would be effective to the pollutant specific collection of continuous monitoring data when it would not have been required under the existing regulations. The Administrator generally will require less than a year's worth of data on a prorated basis. An affected source would be required to gather data over the time period from the effective date of the new regulations until the date that the source would file an otherwise complete PSD application.

Finally, in some cases the proposed definitions would redefine the baseline date, which marks the time that area and minor source growth would consume the available PSD increment. Consequently emissions from some sources which consumed increment under the existing regulations would now be counted as baseline emissions. (See discussion on "Baseline Concentration.")

The existing regulations contain various rules for the grandfathering of major stationary sources and major modifications. In essence, they generally provide that the existing regulations do not apply to a source or modification which received certain permits by March 1, 1978, and commenced construction by March 19, 1979. *See* 40 CFR 52.21(i) (2)–(4) (1978). The proposals in this notice would not affect the substance of those grandfather provisions. Also, it should be noted that EPA proposed in a recent *Federal Register* notice to amend the deadlines for "commencing" construction in those provisions. *See* 44 FR 42722 (July 16, 1979). EPA will probably promulgate the proposed amendment before it completes this rulemaking.

To the existing grandfather provisions, EPA is proposing to add two new provisions to make explicit principles that are merely implicit now. One would state that a source or modification to which the regulations apply must have a PSD permit before construction on it may begin. See proposed § 52.21(i) (1) and (2). The other would state that the existing preconstruction requirements do not apply to any source or modification on which construction commenced before August 7, 1977, the date of enactment of the Clean Air Act Amendments of 1977. This provision would merely put into the regulations what section 168(b) of the Act already provides. *See* 42 U.S.C 7478(b).

B. *Nonattainment NSR Regulations.* For implementation of the offset ruling and the restrictions on new sources under sections 110(a)(2)(I) and 173(4) of the Act, EPA proposes to advise the states to require generally the same transition principles as for PSD. Provisions of the final regulations which will be more stringent than existing requirements would apply to all applications not complete by the time the final regulations appear in the **Federal Register.** Provisions of the final regulations which will be less stringent than existing requirements could apply (unless the state has in the attainment demonstration relied upon more stringent requirements) to all sources and modifications which had not received a permit before the final regulations are promulgated.

Unlike the case of PSD, the Administrator does not believe that EPA should be directly involved in any efforts by individual sources to overturn certain more restrictive aspects of permits issued under the existing requirements. First, air quality levels worse than those judged adequate to safeguard public health and welfare are involved. Rescinding of permits in such areas might jeopardize the applicable attainment strategy approved in the plan or at least consume in part the growth allowance identified in the attainment demonstration. Therefore, any action taken to rescind a permit must be accompanied by a formal revision to the SIP so as to adjust the attainment demonstration. Next, the plan can use various control methods and strategies in demonstrating attainment by the prescribed date. This, at the state's option, can include a more restrictive NSR policy in order to comply with the attainment mandate. Finally, states have generally issued the permits, not EPA. Permitted sources that want relief from the conditions of permit issued under the existing regulations should, therefore, apply to the applicable state reviewing authority for a reevaluation. Such sources should remember that for several reasons the state may not be able to rescind a permit.

C. *PSD and Nonattainment SIP Revisions.* As discussed above, the review of permit applications will be governed by the existing regulations until the regulations are amended. However, a more flexible approach is needed for review and approval of SIP revisions. In brief, EPA proposes for now to approve a SIP revision if it satisfies either the existing EPA regulations or the regulations proposed in this notice.

It is essential that states adopt and EPA approve new source review programs without delay. The July 1, 1979 deadline creates particular urgency for nonattainment plans, and the Act and EPA policy call for prompt state adoption of PSD plans as well. Most state plans already prepared have been designed to satisfy EPA's existing regulations. To avoid delay in getting

state plans submitted and approved, EPA proposes to accept for the time being any plan that satisfies EPA's existing regulations, even if the plan does not satisfy all requirements as interpreted in *Alabama Power.* This approach is legally acceptable because the court's mandate is stayed and section 406(d) of the 1977 Amendments establishes that states have time to come into compliance after EPA regulations are altered.

Plans developed to satisfy existing regulations will in some respects be more stringent than the court has ruled are required by law. To encourage prompt submittal and approval of plans that have already been developed, EPA will take a realistic approach toward subsequent relaxation of such plans. EPA proposes to approve any state-submitted relaxation so long as the revised SIP meets all requirements proposed in this rulemaking. This proposal approval would apply to only plans that would meet, as a minimum, the proposed regulations and not the more lenient alternative approaches discussed in the preamble. The Administrator does reserve the option to approve SIPs where the decision may depend upon the final court opinion with the understanding that the state will have to revise its plan to comply with EPA's final regulations. If EPA's final regulations are in any respect less stringent than the proposed regulations, EPA will then permit further relaxation if a state so wishes.

In some respects EPA's final regulations implementing *Alabama Power* will be more stringent than the existing regulations, and may be more stringent than the regulations now being proposed. States will have additional time after EPA promulgates final regulations to submit revisions making the SIPs at least as stringent as the EPA regulations then required.

Even during the interim period, however, a plan will not be acceptable if it meets a combination of old and new requirements in such a way that it is less stringent than would be allowed under either the old or new set of requirements. For example, in determining what modifications need permits, the proposed new requirements are more stringent than the old ones in setting the level of emissions (significant net increase), but are more lenient in allowing contemporaneous reductions to be considered (the "bubble") in determining whether that level of emissions is surpassed. It would not be acceptable for a plan to apply the old, generally more lenient emission level in combination with the new more lenient bubble.

Over the past several months, EPA has invited comment on the proposed approval of individual SIP revisions designed to satisfy requirements for PSD or nonattainment, or both. Additional proposals will be published in the period before final regulations are published implementing *Alabama Power.* EPA intends to take final action on individual SIP submittals prior to the time it can complete its review of comments solicited by this notice. Therefore, this notice may be considered a part of the notice. of proposed rulemaking applicable to each individual SIP submittal. To the extent issues dicussed here are relevent to whether a particular plan submittal should be approved, commenters may address those issues in comments on the particular plan submittal. Comments on a particular plan may be submitted to the appropriate EPA Regional Office during the comment period established in the proposed rulemaking on the particular plan submittal. If the discussion published today requires alteration of any comments on a plan for which the comment period has already ended, the commenter should contact the appropriate EPA Regional Office immediately so that the issue can be appropriately dealt with.

In summary, EPA proposes to find SIPs now approvable if they meet the minimum requirements of either existing EPA regulations, or the regulations now being proposed. EPA strongly urges that, where a state has prepared a plan that satisfies existing requirements but has not yet submitted it to EPA for approval, the state should submit it without delay. There will be opportunity later to revise the plan in accordance with *Alabama Power.*

IV. Potential To Emit

The preconstruction review requirements of section 165 of the Act apply to any "major emitting facility." 42 U.S.C. 7475. Under section 169(1), that term means any stationary source which emits or has "the potential to emit" 100 tons per year or more of any pollutant and comes within any of 28 specified categories. It also includes any other source with "the potential to emit" 250 tons per year or more of any pollutant. 42 U.S.C. 7479(1).

The scope of the category "major emitting facility" obviously depends largely on the meaning of the phrase "potential to emit." Many more sources would fall into the category if the phrase referred to the amount of pollution that a source would emit without pollution controls than if it referred to the amount a source would emit with such controls.

In the PSD regulations promulgated on June 19, 1978, EPA defined "potential to emit" in general as "the capability at maximum capacity to emit a pollutant *in the absence* of air pollution control equipment." 40 CFR 51.24(b)(3), 52.21(b)(3) (1978) (emphasis added). The court in *Alabama Power Company* v. *Costle* rejected EPA's interpretation. In its view Congress intended "potential to emit" to refer to controlled emissions:

> We think the fairly discernible meaning of the statute * * * is that an emitting facility is "major" within the meaning of section 169(1), only if it either (1) actually emits the specified annual tonnage of any air pollutant, or (2) has the potential, when operating at full design capacity, to emit the statutory amount * * *. In our view the design capacity of the facility takes into account not only its maximum production capacity (which EPA uses) but also the design controls on emissions. (13 ERC at 1228.)

In response to the court's decision, EPA is proposing to amend the definitions of "potential to emit" in the existing PSD regulations. As proposed, the new definitions would provide that the term means "the capability at maximum capacity to emit a pollutant *after the application* of air pollution control equipment." *See* proposed §§ 51.24(b)(3) and 52.21(b)(3) (emphasis added). Thus, whether a source is "major" would depend primarily upon what control equipment has been incorporated into its design.

The existing defintion of "potential to emit" also states:

> Annual potential shall be based on the maximum annual rated capacity of the source, unless the *source is subject to enforceable permit conditions which limit the annual hours of operation.* (40 CFR 51.24(b)(3), 52.21(b)(3) (1978) (emphasis added).)

Under that sentence, a source can escape PSD reviews, if the person proposing the source binds himself in a state NSR permit to limit sufficiently the hours of operation, that is, to operate at less than full design capacity. In *Alabama Power,* the court plainly thought that the calculation of a source's "potential to emit" should be based on its *full* design capacity 13 ERC at 1228. EPA therefore is proposing to delete the "unless" clause. It intends to rule out the possibility of a source escaping PSD review merely because of a voluntary limitation on hours of operation. This action also makes it possible to minimize stress placed on the short term increments by sources of intermittent operation with low annual but high daily emissions. EPA would therefore generally presume that a source can

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physically operate 24 hours per day, 365 days per year. The Administrator asks for comment on the need to adjust this assumption to the extent that new sources would have limited hours of operation due to physical incapability of operating 24 hours a day year round. Such an exemption would follow the Administrator's proposal to discount the amount of credit that can be claimed for reductions at existing sources because of physical incapability on the part of the affected emission unit(s) (see discussion in "Modification").

The existing definition recognizes not only limitations on hours of operation, but also limitations on the amount of material to be combusted or processed:

> Enforceable permit conditions on the type *or amount* of material combusted or processed *may be used in determining the potential emission rate of a source.* (40 CFR 51.24(b)(3), 52.21 (b) (3) (1978) (emphasis added).)

For the same reasons that EPA is proposing to delete the clause relating to hours of operation, it is proposing to delete the words "or amount" in the sentence quoted above.

In calculating a source's "potential to emit" under the proposed definition many other variables would have to be considered. Among them are the efficiency of the proposed control equipment, the sulfur content of any coal to be burned at the source, and the applicability of fugitive emissions. First, in line with the court's opinion, EPA will assume that the "air pollution control equipment incorporated into the design of the facility will function to control emissions *in the manner reasonably anticipated* when the calculation is made." 13 ERC at 1228 (emphasis added). Second, with respect to the sulfur content of any coal to be burned, EPA generally intends to use a long-term, nominal average. For determining increment consumption, however, it typically will use a 30-day average. Finally, how EPA intends to deal with the problem of fugitive emissions is discussed in a subsequent section of this notice.

The definition of "potential to emit" is important not only to PSD preconstruction review, but also to NSR under the offset ruling, 44 FR 3274, and under the statutory requirements for nonattainment areas. It is also important to the determination of what sources and modifications are subject to the restrictions on construction in sections 110(a)(2)(I) and 173(4) of the Act. EPA is proposing for each of those nonattainment programs the same definition of "potential to emit" that it is proposing for the PSD program. EPA also intends that definition to be implemented for those programs in the same way as for PSD.

EPA has traditionally distinguished for the purposes of NRS review between the direct emissions of a source and its "secondary emissions." (See discussion on "Additional Issues.") In revising the offset ruling in January 1979, the Agency added a definition of "secondary emissions" and a provision describing for what purposes and under what circumstances those emissions are to be taken into account. *See* FR 3281, 3283, 3283–84 (January 16, 1979). EPA is proposing to add a definition of that term to the PSD regulations and to the proposed nonattainment provisions relating to SIP revisions and restrictions on construction. The Agency is also proposing to add to each the definitions of "potential to emit" in those sets of provisions a statement that "secondary emissions" are to be excluded in determining whether a source or modification is "major." How the Agency would treat those emissions for other purposes, including PSD air quality impact analysis, is described below.

V. 50-Ton Exemption

In the existing PSD regulations, EPA in general exempts from full PSD review any major stationary source or major modification which would have allowable emissions for each of its pollutants of less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is more restrictive (hereinafter, a "50-ton source"). Specifically, an applicant for a permit for a 50-ton source does not have either to show that the source would have BACT or to provide an ambient impact assessment. *See* 40 CFR 51.24(j)(2), (k), 52.21(j)(2), (k) (1978). The exemption does not apply in certain narrow circumstances, *Id.*

In *Alabama Power,* the court thought that its ruling on "potential to emit" made a ruling on the 50-ton exemption "academic," since no 50-ton source would ever be "major" if "potential to emit" referred to controlled emissions. 13 ERC at 1228–29. Nevertheless, it remanded the exemption to the Agency for reconsideration and noted that the Agency had exceeded its authority in establishing the exemption. *Id.* In response, EPA is proposing to delete the provisions which embody the exemption. It is also proposing to delete parallel provisions in the offset ruling, 44 FR 3274.

EPA, however, is proposing to add to the PSD regulations another similar exemption for certain modifications. This exemption would track section 165(b) of the Act closely. See 42 U.S.C. 7475(b). Essentially a source qualifying for the exemption would face a limited air quality review for SO_2 and PM, including insulation from the monitoring requirement. Use of the exemption would be restricted to those 50 tons or less modifications of SO_2 or PM after application of BACT which would impact no Class I area and would not interfere with the attainment of PM and SO_2 standards. In addition, the exemption, as proposed, would be applicable to the cumulative total of net emission increases occurring since August 7, 1977, at a plant existing on that date.

VI. Fugitive Emissions

In determining under the existing PSD and nonattainment NSR regulations whether a stationary source or modification has the potential to emit 100 or 250 tons per year of a pollutant, EPA commonly takes into account all of the emissions of that pollutant, at least to the extent that they are reasonably quantifiable. Whether or not the emissions would be "fugitive" has so far been immaterial in requiring permits. For example, EPA has generally regarded strip mines as candidates for PSD review, since it would include the dust from the haul roads, storage piles, and other surfaces at such a mine in determining whether it is "major." *See* 43 FR 26395 (June 19, 1978).

In *Alabama Power,* the court held that "fugitive emissions" are to be included in determining whether a source or modification is "major" "only if and when EPA issues an appropriate legislative rule." 13 ERC 1231. The court did state, however, that once the permitting requirements otherwise applied, then fugitive emissions and nonfugitive emissions at the same source were to be considered in performing the permit analysis. In so holding, the court indicated that EPA had not yet gone through the requisite rulemaking. With respect to the meaning of the term "fugitive emissions," the court recognized that the Act nowhere defines it. *Id.* at 1230 n.18. Nevertheless, it discerned that Congress intended "fugitive emissions" to refer to those emissions which emanate from other than a point, such as a stack or chimney. *Id.* at 1230 n. 14. "Fugitive dust," the court thought, refers to fugitive emissions of particulate matter. *Id.* at 1230 n.14. It should be noted that those meanings differ from the ones EPA has traditionally given the two terms. *See, e.g.,* 41 FR 55560 n.3 (December 21, 1976).

In response to the court's holdings, EPA is proposing that certain industrial fugitive emissions, to the extent reasonably quantifiable, may be included in determining whether a source of modification is "major." The actions described below apply to regulations both PSD and nonattainment NSR.

First, EPA is proposing to define "fugitive emissions" as those emissions which do not pass through an opening which the owner or operator uses for ventilation, such as a stack, chimney, roof vent or roof monitor. *See* proposed §§ 51.24(b)(20) and 52.21(b)(20). EPA would also delete the existing definition of "fugitive dust" at 40 CFR 51.24(b)(6) and 52.21(b)(6) (1978).

Second, EPA is proposing to incorporate into the existing regulations the principle that rulemaking must precede the inclusion of "fugitive emissions" in an applicability determination by adding the following line to the definitions of "potential to emit": "Fugitive emissions shall not be included in determining potential, except with respect to the following stationary sources: * * *."

Finally, the Agency is proposing to list the following stationary sources whose fugitive emissions are to be taken into account: (1) Coal cleaning plants, (2) kraft pulp mills, (3) portland cement plants, (4) primary zinc smelters, (5) iron and steel mill plants, (6) primary aluminum ore reduction plants, (7) primary copper smelters, (8) municipal incinerators, (9) hydrofluoric, sulfuric, or nitric acid plants, (10) petroleum refineries, (11) lime plants, (12) phosphate rock processing plants, (13) coke oven batteries, (14) sulfur recovery plants, (15) carbon black plants, (16) primary lead smelters, (17) fuel conversion plants, (18) sintering plants, (19) secondary metal production plants, (20) chemical process plants, (21) fossil fuel-fired boilers, (22) petroleum storage and transfer units, (23) taconite ore processing plants, (24) glass fiber processing plants, (25) charcoal production plants, (26) fossil fuel-fired steam electric plants, and any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act.

EPA believes that there is no reason why a source of a particular pollutant regulated under the Act should escape review because the emissions of the pollutant are fugitive, when a source of the same pollutant has to get a permit if the emissions are not fugitive. In both cases, the emissions would deteriorate air quality regardless of how they emanate. Thus, it serves the purposes of NSR to scrutinize the one as well as the other. EPA is focusing first on the sources listed above because its experience in quantifying the "fugitive emissions" from such sources is, in general, greater than its experience in quantifying such emissions from other sources. *See, e.g.,* U.S. EPA, *Compilation of Air Pollutant Emission Factors* (AP–42) (3d ed., August 1977). The Administrator over the next several months will consider the need for additional source types to be added to the list beyond those which would be newly regulated under 40 CFR Parts 60 and 61, including strip mines.

VII. Fugitive Dust Exemption

The existing PSD regulations provide that any "fugitive dust" from a major stationary source or major modification is to be ignored in determining what the effect of the source or modification on air quality would be. 40 CFR 51.24(k)(5), 52.21(k)(5) (1978). Because of its decision on "fugitive emissions" and apparently because it thought EPA had no authority to establish the exemption, the court remanded it to the Agency for further consideration. 13 ERC at 1231. In response, EPA is proposing to delete the provisions which embody the exemption. The Agency is also proposing to delete a parallel provision in the offset ruling, 44 FR 3274.

VIII. Source/Facility Installation

A. *Definition of "Source".* In its existing PSD regulations and the offset ruling, EPA has defined "stationary source" as "any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control)." EPA also defined "facility" as an "identifiable piece of process equipment." 40 CFR 51.24(b)(4), (5), 52.21(b)(4), (5); 40 CFR Part 51, Appendix s, sections II.A.1 and 2, as amended 44 FR 3282.

In *Alabama Power* the court said that the definition of "stationary source" in section 111(a)(3) governs PSD review. Slip op. at 11. Section 111(a)(3) defines "stationary source" as "any building, structure, facility, or installation which emits or may emit any air pollutant." 42 U.S.C. 7411(a)(3). The court stated that EPA may not add items to this list, Slip op. at 11. In conformance with the court's opinion EPA is proposing to delete the terms "equipment", "operation" and "combination thereof" from the definition of stationary source in both the PSD and nonattainment regulations. The court also found that EPA exceeded its statutory authority in the way in which it tried to apply preconstruction review to both a *single* building, structure, facility or installation, which is permitted by section 111(a)(3), and a *combination* of such units. Slip op. at 12. EPA therefore proposes to delete the term "combination thereof" from the definition of stationary source.

The court did, however, state that EPA has substantial discretion to define the terms in the definition of source—that is, building, structure, facility, or installation—to include a wide range of pollution-emitting sources. Slip op. at 11. The components of "source" could be defined differently for PSD purposes than for the purposes of other provisions of the Act. Slip op. at 12, note 13. The key constraint on EPA's discretion is that "the definitions applicable to each set of provisions must be reasonably appropriate for the purposes of those sections." *Id.* The same court has earlier stated that, in defining the components of source, "EPA is guided by a reasoned application of the terms of the statute it is charged to enforce, not by an abstract 'dictionary' definition." *ASARCO, Inc.* v. *EPA,* 578 F.2d 319, 324 note 17 (D.C. Cir. 1978). These two court opinions instruct the Agency to analyze the statutory purposes of the various PSD and nonattainment NSR provisions and define the terms "building," "structure," "facility," and "installation" to carry out best the statutory intent of the provisions.

B. *Sources Subject to PSD Requirements.* One of the fundamental purposes of PSD is to maintain air quality better than the ambient standards. This purpose can best be served if NSR applies to the largest industrial grouping that, as a practical matter, industry and the reviewing authorities can reasonably deal with as a single unit. EPA believes the appropriate grouping is all emitting activities on contiguous or adjacent property and under common control—typically an industrial plant.

For PSD, EPA believes that a large industrial grouping is the appropriate unit for review of both construction of new plants and new and modified pieces of process equipment at existing plants. Applying PSD review to large groupings rather than separate pieces of process equipment ensures adequate review of new plants. EPA believes that unit-by-unit review, without plant-wide review, would fail to protect air quality standards and increments. Large new plants could be constructed at one site as a collection of individual process units, each below the potential-to-emit threshold, and thereby escape review altogether. If clustering of new growth were permitted without preconstruction

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review, increments and even standards could easily be violated.

While increased protection of air quality might be achieved by reviewing groupings even bigger than a plant, review of larger groupings is infeasible. New units not on adjacent property or under common control would be an awkward grouping to evaluate and regulate. Therefore, PSD review will apply to groupings of new construction no larger than a plant.

Plant-wide review also serves the basic purposes of PSD when pieces of equipment are being built or modified at existing plants. With plant-wide review, industry can construct new and modified equipment without a permit, by reducing emissions enough that net emissions at the plant do not increase. (Allowing use of offsetting emission reductions within the source to avoid NSR is called the "bubble" approach. For discussion of the bubble, see "Modification"). The purposes of PSD are served, because assuring that there will be no net increase in emissions from the plant also assures that the construction will not interfere with maintaining good air quality.

Permitting offsets only within individual process units would go beyond maintaining the status quo. While additional emission reductions beyond existing levels are needed to attain standards in nonattainment areas (see discussion in the next section), such reductions are ordinarily unnecessary to meet the purposes of the PSD program. In addition, the review itself would not make sense relative to RSD goals, if new units at sources with offsetting plant-wide decreases were forced to undergo review. Sources might be required to model and monitor increment consumption when air quality is expected to improve or stay the same. In addition, application of the bubble on a plant-wide basis encourages voluntary upgrading of equipment, and growth in productive capacity.

Since obtaining offsets is often less expensive and less time-consuming than obtaining a PSD permit, providing industry with the offset option will facilitate upgrading of production capacity, and encourage application of improved controls to obtain offsets. Permitting plant-wide use of offsets provides the greatest opportunity for both of these desirable results. Thus, plant-wide review is the preferred approach under PSD for reviewing construction of both new plants, and new and modified pieces of equipment at existing plants.

For these reasons, EPA proposes that PSD review apply to a large grouping of pollutant-emitting activities, like an industrial plant. To accomplish this, EPA proposes to define "building, structure, facility, or installation" to mean a grouping of activities on contiguous or adjacent properties and under common control. The term "grouping" is intended to include a plant consisting of a single isolated activity, as well as a plant consisting of many activities.

C. *Sources Subject to Nonattainment Requirements.*

1. *Purpose to be Served by Nonattainment NSR Definitions.* Unlike the PSD provisions, the nonattainment provisions are primarily intended not merely to prevent excessive increases in emissions, but to reduce emissions. This fundamental difference in purpose requires a different approach to defining the sources that will be subject to NSR. To assure adequate review, EPA believes that both entire plants and individual pieces of equipment must be subject to NSR. The one exception under EPA's proposal is for areas subject to fully complete SIPs satisfying Part D requirements. In these areas, where attainment is assured, NSR need apply only to entire plants.

To assure adequate review of new plants, a large grouping must be subject to nonattainment NSR for the reasons discussed above for PSD. To do otherwise would allow a new plant that is divided into separate process units, each below the potential emission threshold, to escape review. New emissions could thus be added to the existing violation, without review, making attainment virtually impossible. Therefore, EPA believes that nonattainment programs, like PSD programs, must apply NSR to entire plants.

EPA believes that pieces of process equipment within plants should also be subject to NSR under nonattainment programs. This would prevent use of plant-wide offsets for increases from construction or modification of major pieces of process equipment. The plant-wide bubble is less appropriate for nonattainment programs than for PSD programs because it only holds emissions constant. Nonattainment programs, in contrast to PSD programs, must positively reduce emissions.

If increases from construction of new or modified pieces of process equipment could be offset on a plant-wide basis the construction would make attainment of the standards substantially more difficult. For each nonattainment area, there are only a limited number of cost-effective ways to reduce existing emissions enough to attain standards. If the cost-effective opportunities to reduce emissions are used to offset equally large increases from new construction, then other, less cost-effective ways to reduce emissions must be found to achieve attainment.

Therefore, to ensure that construction within existing plants does not make attainment of the standards more difficult, nonattainment programs must provide for NSR new and modified pieces of equipment. The NSR requirements will assure that the most stringent controls are applied to new and modified equipment, and that more than offsetting reductions in existing emissions are obtained to assure adequate continued progress toward attainment. The nonattainment requirements also ensure that other sources in the state, owned or operated by the same owner, are in compliance with SIP requirements needed for attainment.

This policy argument is strongly supported by the legislative history. Even where demolition of obsolete equipment reduces emissions, Congress indicated that construction of replacement equipment should be subject to NSR under nonattainment programs without regard to the offsetting reductions:

> Thus, [under the offset ruling and Part D NSR requirements,] a new source is still subject to such requirements as "lowest achievable emission rate" even if it is constructed as a replacement for an older facility resulting in a net reduction from previous emission levels.[4] [Statement of Senator Muskie, 123 Cong. Rec. at S 13702 col. 2 (daily edition, August 4, 1977)].

2. *Proposed Definitions.* To implement this specific expression of Congressional intent, as well as the general purposes of the nonattainment provisions discussed above, EPA is proposing to define "source" to include not only plant-wide groupings of activities, but also individual pieces of process equipment. "Building, structure or facility" [5] would be defined as a large grouping of activities (a plant) and "installation" would be defined as an "individual piece of process equipment."

These definitions would prevent use of plant-wide bubble for all new and modified major pieces of process equipment. ("Major" means having high enough potential emissions to be a major stationary source. "Minor" means having less than that.) The plant-wide bubble would still serve to avoid NSR, when emissions from a new or modified *minor* piece of equipment (or from some activity like a coal pile that is not an installation) are offset by enough

[4] Then, as now, "facility" was defined in EPA's offset ruling as a piece of process equipment.

[5] Referred to hereafter as "facility."

reductions at the plant so that there is no net increase in emissions at the plant. Furthermore, in accordance with the Congressional intent noted above, a replacement of an older piece of equipment would be treated as a new installation, regardless of any reductions from previous emission levels. A "reconstruction" would be treated in the same way as a replacement, when the capital cost of the new improvements exceeds 50% of a comparable replacement.

The proposed definitions tend to limit applications of the bubble, by defining certain large kinds of sources and certain small kinds of sources, and recognizing that some small sources are included within the boundaries of large sources. This approach is consistent with both the language of the Act and the interpretation in *Alabama Power.*

Congress, in defining "source" as any "structure, building, facility, or installation" must have contemplated that some of these components could be defined to be smaller than others and that the small components could be found within the large components. Defining some sources as small enough to be within the boundaries of larger-defined sources is also consistent with the court's instruction not to define source as a "combination" of facilities, installations, or other single source units. The proposed regulations define "facility" not as a combination of narrowly-defined sources, but rather as an independently-defined enitity. This single entity is composed of a grouping of emitting activities (which individually may or may not be sources)[6] meeting requirements of common control and adjacency. This plant definition is exactly the sort of "common sense industrial grouping" that the court said is a proper subject for NSR. Slip op. at 12.

The court stated that the same definitions of facility, building, structure, and installation, must govern the determination of not only whether there is a new major stationary source subject to NSR, but also whether there is a *modified* major stationary source subject to NSR. Slip op. at 21. EPA's definitions adhere strictly to this principle. Major facilities and major installations constitute both the new sources and the modified sources subject to NSR. Under these definitions, construction that is neither a new nor a modified major facility may be a new or modified installation, and vice versa. Congress, in defining "source" to include several items in the alternative, provided for such a result where necessary to achieve the purposes of the Act.

The following illustrates how the nonattainment NSR definitions would work. Suppose a firm proposed to construct three pieces of process equipment on a single plant site. Each piece of equipment would be an "installation," and the entire plant would be a "facility". Each installation would be a "source" and the entire facility would be a "source." If the installations would have annual potential emissions of 40, 190, and 150 tons per year, respectively, the facility would have potential emissions of 380 tons per year:

Installation (A)—40 tons per year (minor source).

Installation (B)—190 tons per year (major source).

Installation (C)—150 tons per year (major source).

Facility (A)—380 tons per year (major source).

Permits would be needed for the three major sources: Installation (B), Installation (C), and Facility (A). Since the permit for Facility (A) would, as a practical matter, cover all three installations, only a single permit application would be needed.

Suppose next that the firm proposed to modify Installation (C) to increase emissions by 70 tons, and decrease contemporaneously the emissions of Installation (B) by the same amount. There would be no modification of Facility (A), whose total emissions woud remain the same, but there would be a modification of Installation (C), whose emissions would increase by 70 tons. A permit would be needed for the modification of Installation (C).

If installation (B) were then modified to increase its emissions by 50 tons, but there were contemporaneous reductions of the same amount at the same Installation (B), no net increase in emissions would occur at either Installation (B) or at Facility (A) (technically, there would be no "modification"), and no permit would be needed. If there were a 20-ton increase at Installation (A) and a contemporaneous 25-ton decrease at Installation (C), there would be a modification of minor Installation (A), whose net emissions increased, but no modification of major Facility (A), whose net emissions decreased, and no permit would be needed.

3. *Nonattainment Programs to Which the Proposed Definitions Apply.* The definitions described above are to apply to sources subject to the offset ruling and to restrictions on construction under sections 110(a)(2)(1) and 173(4) of the Act. EPA also proposes that these definitions apply to "incomplete" state plans under Part D of the Act. Incomplete plans are those that do not yet show reasonable further progress and attainment of the ambient standards, based exclusively on currently adopted, approved, and enforceable requirements. Incomplete plans therefore include any plan where approval under part D is conditioned on submission of additional material by the state, any plans containing state-adopted schedules for submission of additional material,[7] and any plans where additional submissions are needed by July 1, 1982, as required by section 129(c) of the 1977 Amendments (note under 42 U.S.C. 7502). Since incomplete plans do not yet include all requirements needed for attainment, EPA believes that the definitions described above, including the definition of "installation," are needed for the reasons discussed above.

However, EPA believes that complete Part D SIPs, which contain adopted and enforceable requirements sufficient to assure attainment, may apply the approach proposed above for PSD, with plant-wide review but no review of individual pieces of equipment. Use of only a plant-wide definition of source will permit plant-wide offsets for avoiding NSR of new or modified pieces of equipment. However, this is only appropriate once a SIP is adopted that will assure the reductions in existing emissions necessary for attainment. *See* 44 FR 3276 col. 3 (January 16, 1979). If the level of emissions allowed in the SIP is low enough to assure reasonable further progress and attainment, new construction or modifications with enough offset credit to prevent an emission increase should not jeopardize attainment. Protection of attainment under the SIP is also assured by not permitting offset credit for emission reductions required by the approved SIP (see "Modification").

However, for sources subject to restrictions on construction in sections 110(a)(2)(I) and 173(4), EPA believes that no offsets should be permitted.[8] EPA

[6] For example, a coal pile is not a piece of process equipment, and is, therefore, not an "installation" under the proposed definitions. However, it is an emitting activity, and can therefore be part or a "facility" under the proposed definitions. The Agency recognizes that the emissions from the coal pile would be fugitive emissions and subject to regulation as discussed in the section on "Fugitive Emissions."

[7] For a discussion of conditional approvals and schedules, see 44 FR 20372 (April 3, 1979) and 44 FR 38583 (July 2, 1979).

[8] Reconstructed major installations, regardless of whether they are considered "modifications" even under the restrictive definition of major modification, are new major sources subject to the restrictions on construction.

proposes to accomplish this through the definition of "major modification," rather than the definition of the components of "source." This is discussed in the section on "Modification".

EPA is considering one other approach for nonattainment areas. Under this approach, all components of "source" would be defined as pieces of process equipment, and none would be defined as plants. NSR would apply to new pieces of equipment, regardless of offsets elsewhere in the plant. For modifications of existing pieces of equipment, offsetting reductions within the same piece of equipment could be considered in determining whether there is a significant net increase in emissions. However, under this alternative approach, new or modified minor installations would never be subject to review, regardless of whether they are part of a major plant.

Since numerous individual pieces of process equipment typically have less than 100 tons per year potential, and would escape preconstruction review even though they are part of a single plant with over 100 tons potential emissions, this approach would allow much new construction to take place without preconstruction review. This problem could be counteracted somewhat, by requiring that state plans provide for close tracking of new minor source construction. However, as discussed above, EPA believes that failing to review entire new plants would create enough risk of massive new emissions that this approach is undesirable.

D. *Summary.* In summary, EPA is proposing two different ways to define source for different kinds of NSR programs:

(1) For PSD and complete Part D SIPs, review would apply only to plants, with an unrestricted plant-wide bubble.

(2) For the offset ruling, restrictions on construction, and incomplete Part D SIPs, review would apply to both plants and individual pieces of process equipment, causing the plant-wide bubble not to apply for new and modified major pieces of equipment.

In addition, for the restrictions on construction, EPA is proposing to define "major modification" so as to prohibit the bubble entirely. Finally, an alternative discussed but not favored is to have only pieces of process equipment reviewed, resulting in no plant-wide bubble and allowing minor pieces of equipment to escape NSR regardless of whether they are within a major plant.

EPA invites comment generally on what approach should be used for each type of program.

IX. Modification

A. *No Net Increase.* Under current EPA regulations, a modification is "major" if potential emission increases from the modification would equal or exceed the applicable 100/250-ton threshold. The court in *Alabama Power* rejected this approach. It held that a change in a major stationary source is subject to PSD review if it results in a net increase in the source's potential to emit. The court also held that any emission increase which is entirely offset by contemporaneous emission reductions at the source would not be considered a modification. Slip op. 20–22. These rulings are incorporated into the proposed regulations for both PSD and nonattainment NSR provisions. The one exception is construction restrictions under sections 110(a)(2)(I) and 173(4), for which EPA proposes not to consider offsetting reductions in determining whether there is a modification.

While the court addressed the *amount* of increase that triggers review, it did not address *which* pollutants must be increased to trigger review. The court, thus, did not object to EPA's current approach of requiring preconstruction review only if the increase in potential emissions is for a pollutant for which the source is a major source. Nor did the court object to EPA's current approach of aggregating small increases in emissions occurring after the time of program concern (e.g., August 7, 1977 for PSD) to determine whether they add up to enough in total to make the source a major source subject to preconstruction review. Therefore, these two aspects of existing regulations are being retained.

The fact that review is necessary only if there is an increase for a pollutant for which the source is a major source is not inconsistent with the Act's instructions that PSD requirements apply to all pollutants emitted. If any one pollutant initiates PSD review, then review is required for all pollutants emitted in greater than *de minimis* amounts but if no one pollutant triggers review, then review is not required for any pollutant emitted.

The court's ruling requires additional guidance on how the new definition of modification will be implemented, what "contemporaneous" change means, what emission offsets are creditable, and how "net increase" is calculated. It should be noted that the topic of net emission increases is distinct from the more general topic of emission offset banking, although they are closely related. Banking is discussed in the Federal Register notice regarding EPA's offset ruling, 44 FR 3274 (January 16, 1979).

1. *Implementation.* The regulations proposed today would require that any emission increases at a stationary source which would qualify as a major modification, were it not for sufficient contemporaneous emission reductions occuring within the source, must be reported to the Administrator or reviewing authority (the state governmental body responsible for issuing permits is called the reviewing or permitting authority). In addition, a source must report emission decreases which it wishes to use as future offset credit. EPA intends the reporting requirement to fill a need for preconstruction notice and not to act as a time-consuming substitute for a permitting program. For more discussion of the preconstruction notice requirements, see the section of this preamble entitled "Notification."

2. *Contemporaneous Reductions.* Under the court decision, a modification is a change, or series of contemporaneous changes, that results in a net increase in potential to emit. The term "change" derives from the definition of "modification" under section 111(a)(4), and means "any physical change in, or change in the method of operation of, a stationary source." Only an actual physical change in, or change in the method of operation of, a major stationary source may be considered in calculating contemporaneous decreases. In addition, because a source's potential to emit is calculated based on full design capacity assuming year-round, 24-hour-a-day operation, only an actual change that reduces design capacity can be credited as an offset in calculating whether a net increase has occurred. For example, imposition of a legal obligation to reduce operating hours or operating loads will not, by itself, qualify as an actual change decreasing potential to emit. In contrast, an actual change that permanently reduces the source's maximum production capacity, such as disconnecting an entire process, would qualify for credit.

The proposal would exempt an emissions increase from PSD review if equal reductions in emissions occur at the same source contemporaneously with the emissions increase. In the court's view, this exemption has the advantage of deferring or avoiding the cost of review while providing an incentive to industry to upgrade air pollution control equipment.

A narrow interpretation of the term "contemporaneous" would restrict creditable emission reductions to those occurring at the same time as the emission increases being offset. This, however, would undercut the incentive to upgrade controls, since it is not always possible for a source owner to effect the necessary reductions at exactly the right time. Although the term "contemporaneous" appears to preclude a formal, open-ended banking system for previously-achieved emission reductions at the same source, it is not so limited as to require simultaneous offsetting. Requiring sources to continue operation of obsolete equipment, simply to preserve offset credit, makes little economic or air quality sense.

To provide some latitude for crediting emission reductions, EPA is proposing to credit any reported reduction that would occur after the effective date of the promulgated regulations but before the proposed emission increases are scheduled to occur. For shutdowns and curtailments occurring before these regulations are promulgated, offset credit may be retained if the source files a notice within 90 days after promulgation recording the previous shutdown or curtailment. A follow-up notice would also be required to document the construction schedule for the increase to be offset and to ensure that the applicable offsets are enforceable under the SIP. Failure to identify such a timetable or to comply with it will prevent use of the earlier emission reductions to offset that increase. This, in turn, may require the affected owner or operator to obtain a NSR permit.

3. *Emission Offset Baseline.* Additional guidance is necessary on how to determine if proposed emission reductions at a stationary source are sufficient in type and amount to offset prospective emission increases at the same source, assuming the changes are contemporaneous. The basic rule contained in the regulations is that a new increase in a source's potential to emit occurs whenever the sum of increases minus the sum of the decreases is greater than zero. The size of the increase or decrease for a particular emission unit is generally determined by the difference between the unit's potential to emit before and after the change or series of changes.

As mentioned in "Potential To Emit," the Administrator believes that potential emissions of an existing source can be no greater than its actual emission capacity. If a source is no longer physically able to operate at its maximum design capacity, its potential to emit is limited accordingly. For a source physically constrained from operating at maximum capacity, offset credit will be based on its potential emissions, taking into account physical constraints on operation at maximum capacity. For example, an obsolete unit which has been shut down for several years due to severe operational difficulties would not offer any offset credit to new construction. If potential emission calculations did not account for physical incapabilities inherent in the operation of existing sources, a source could offset new usable production capacity with old unusable production capacity and thereby avoid preconstruction review. A common result would be significant and unreviewed increases in actual emissions. If this were permitted, increments and standards could be severely impacted or even exceeded.

This policy continues a philosophy which was implicit in several requirements of the existing PSD regulations and offset ruling. For example, under existing regulations and today's proposal, a source's operation over a one- to two-year period is considered in calculating the size of an emission reduction. If a source has not been operating at full capacity for a significant part of the one- to two-year period, it is considered to be physically incapable of operating at full capacity and its emission reduction credit will be calculated based on its operation for the one- to two-year period. A source owner or operator may overcome the presumption of physical incapability if he shows that it was not physical incapability that caused the low production rates.

Physical incapability includes situations where one part of an existing source cannot be used at its full capacity because its capacity is larger relative to the rest of the associated units, and therefore its output is limited by the capacity of the other units. In addition, if a plan is unsafe for a certain level of operation or has obsolete or worn-out components which cannot be routinely replaced, its potential to emit would be limited by these conditions.

Under the proposal, emission reductions must be reported to the permitting authority to receive future offset credit (see "Notification"). EPA would accordingly allow full credit for a systematic phase-down or production curtailment at a source if it is reported in advance to the permitting authority. Industry would be allowed to phase in orderly growth without running highly polluting, obsolete units at full operation, simply to accrue maximum offset credit.

An adjustment to the potential emissions rule is needed in a case where potential emissions are greater than allowable emissions. In such a case, no credit may be taken for reducing potential emissions down to allowable emissions. This adjustment is needed to implement Congress' intent, as interpreted in *Alabama Power*, that offsets should be permitted as an incentive to upgrade air pollution controls. Slip op. at 21. Where the improvement in control technology would be legally required under the SIP, the source should not be permitted to take credit for making the legally required decrease. This approach appears in the offset ruling, which was endorsed by Congress. The 1977 Amendments provide that the emissions baseline for calculating offsets under the ruling must be the state plan requirement in effect at the time the source applies for a permit. See section 129(a)(1) of the 1977 Amendments (note under 42 U.S.C. 7502(a)(1)).

In addition, allowing offset credit for independently required reductions would make it difficult for the SIP to reduce total emissions in an area where standards or increments are violated. If such offsets were allowed, a source that came into compliance with a required emission limitation could then use the same reduction to offset increases in emitting capacity such that no net increase would occur. Total emissions for the source would remain the same and the violation would still exist. The proposed regulations would avoid this unacceptable result by prohibiting the source from taking credit for such a reduction.

"Allowable emissions" are defined as the most stringent of (1) any new source performance standard or standard for hazardous pollutants applicable to the construction under review,[9] (2) applicable SIP emission limits, or (3) the emission rate specified as an enforceable permit condition. Where there are any enforceable emission limits that must be complied with in the future, and which are different from the limit currently required, the most stringent of the present and future emission limitations is used in determining the allowable emissions.

To continue existing regulations and policies, the Administrator intends that each candidate reduction meet all of the following criteria:

(1) It must be enforceable under the applicable SIP, either through a SIP

[9] Here the applicable performance standard or standard for hazardous pollutants refers to the standard that a particular source is subject to and not new standards or revisions of existing standards which affect the relevant source category but that would not apply to the particular source.

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revision or an alteration of the source's permit.

(2) It must be for the same pollutant as the emission increase and have comparable impacts to health and welfare. Section IV.C.4. of the offset ruling, involving credit for hydrocarbon substitution, should apply. The criteria outlined in the proposed policy statement on state implementation of the "bubble" concept for existing sources (44 FR 3743 col. 1) January 16, 1979, would also apply. Accordingly, reductions of pollutants within the same pollutant categories but with different health or ambient air impacts cannot be traded against each other.

(3) It must not have been already committed to in the SIP.

(4) Air quality need not improve or stay the same at every location affected by the proposed construction, but on balance the affected area should not be adversely impacted.

The Administrator recognizes a problem associated with crediting offsets as defined. Under today's proposal there is a possible incentive to seek a loose BACT requirement when undergoing PSD review in order to lay an early claim to an excess amount of the increment. If an applicant obtains approval of proposed construction under a loose BACT requirement, he could then alter the proposal to provide for the installation of the better controls so as to offset a future expansion at the same site without full PSD review. The Administrator asks for comments on how best to address this problem.

B. *Restrictions on Construction.* EPA is proposing that the bubble should not apply at all for areas subject to construction restrictions under section 110(a)(2)(I) or 173(4). For these provisions, EPA is proposing to define "major modification" as any change in, or change in the method of operation of a major stationary source that results in *any increase* in the potential to emit of a pollutant for which the source is major if the increase exceeds the *de minimis* cutoff for the pollutant. (See *"De Minimis* Exemptions").

EPA believes that the *Alabama Power* decision, establishing that internal offsets must be permitted in determining applicability of PSD to modifications, does not apply to section 110(a)(2)(I) or 173(4) restrictions on construction. The offset ruling was essentially an interim policy to allow some further growth while adequate plan revisions were developed. EPA believes that in termining the offset ruling on June 30, 1979, and restricting further major construction until Part D plans are approved and implemented, Congress intended to terminate not only offset transactions between different sources but also those within the same plant. In light of this intent, not permitting internal offsets is particularly important because most offset transactions permitted under the offset ruling have involved offsets inside the same source.

This interpretation is also required to avoid undermining the purpose of the restrictions on construction. As discussed in the "Source/Facility/Installation" section of the preamble, when a source matches an emission reduction with an equal amount of increased emissions from new construction, the nonattainment problem gets harder to solve. This is especially true where there is no adequate SIP that demonstrates attainment. EPA believes that the restriction on construction was designed to stop the problem from becoming worse and provide an incentive for states to submit and carry out corrective SIPs. Allowing offset credit for reductions would instead provide an incentive for sources to seek delays in the adoption of acceptable state plans. Delay would allow sources more time to convert reductions into offsets before a plan requiring those reductions can be adopte and approved.

An alternative to prohibiting the bubble outright may be to allow no offset credit for reducing potential emissions down to the level that would be required if reasonably available control technology (RACT) were applied. Since RACT is required in approvable Part D SIPs, the effect would be to discount credit for reductions that would be legally required if an approvable SIP were in place. Such a policy would preserve the incentive to submit adequate SIP revisions for affected areas.

While Congress removed a similar RACT baseline from the offset ruling, in section 129(a) of the 1977 Amendments, EPA does not believe that Congress prohibited a similar approach where areas do not have, or have failed to implement, acceptable Part D plans. A major drawback to this approach, however, is that RACT may be difficult to define in the absence of a full regulatory proceeding, such as those required for SIP submission and approvals. Therefore, EPA is proposing instead to prohibit internal offsets in areas subject to construction restrictions. However, EPA also invites comment on the alternative approach of permitting offset credit in areas where the growth prohibitions apply if RACT were first applied.

C. *Accumulation.* As noted above, EPA proposes to continue the current policy of requiring NSR for a source when aggregate new emissions from individually minor units at the same site, after an applicable date, are sufficient to qualify the series of changes as a major modification. For PSD review, the date from which emissions increases are aggregated is August 7, 1977, (40 CFR 51.24(b)(2), 40 CFR 52.21(b)(2)) and for sources subject to the offset ruling, December 21, 1976, 44 FR 3283, col. 1 (January 16, 1979). These dates continue current EPA policy. For sources subject to Part D plans and restrictions on construction affecting designated nonattainment areas, the applicable date for accumulation will also be December 21, 1976. Accumulating net emission increases from that date forward ensures that modifications resulting in emissions which Congress defined as major will be subject to review under a Part D plan or else to the restrictions on growth. In addition, these sources received notice as of December 21, 1976 that accumulation could later subject them to nonattainment review.

EPA is proposing one change to tis existing accumulation provision to conform it to the court's decision. The current accumulation regulation aggregates emission increases after an applicable date, with no credit given for contemporaneous emission decreases. The court, however, defined modification as a net increase in potential to emit. To make the accumulation provision consistent with this definition, EPA is proposing that a source be subject to NSR when the aggregate *net* increase in its potential to emit after the applicable date qualifies it as a major stationary source. As in the existing regulations, only net emission increases after August 7, 1977 for PSD sources, and December 21, 1976 for sources subject to nonattainment requirements will be considered in determining if a source is subject to NSR.

Under this approach, if a modification at a minor source results in a net increase in emissions, such that its aggregate net increases in potential emissions since the date of concern exceeds the applicable 100/250-ton threshold, the modification will be subject to review. This approach requires review for a single modification to a minor source constructed before the applicable date when the modification results in a net increase in potential emissions of over the applicable 100/250-ton threshold.

Once a series of individual minor changes accumulates to a major modification, questions arise concerning the degree of review that would apply to the earlier emission increases. In general, today's proposal would focus

the requirement to apply BACT or LAER on only that emissions increase which makes the source subject to review. On the other hand, total aggregated emissions from the source will be of concern when performing air quality tests. Such tests include increment analysis for PSD sources and those relevant to emission offsets for sources subject to nonattainment NSR. Any subsequent modification at the source resulting in a net increase in potential to emit that exceeds the *de minimis* cutoff will be subject to NSR.

The accumulation approach as modified to conform with the court's decision closes a loophole in EPA's current regulations. Previously, a modification was not subject to review unless it increased a source's potential emissions by 100 or 250 tons per year, whichever was applicable. Under both the existing and proposed accumulation provision, a power plant constructed after the date of concern which emits 90 tons of SO_2 and then adds a new 50 ton SO_2 boiler, would be subject to control technology requirements for the 50-ton unit and to air quality review for the entire facility. Under the existing provision, if the plant then added another 90-ton boiler, however, the boiler would not be subject to existing review requirements because it would not meet the 100-ton threshold. This is true because the current regulations allow the accumulation slate to be wiped clean after a permit was obtained. Under the approach proposed today, any net increase in potential to emit after the source becomes major is subject to review. Consequently, the next 90-ton increase would be subject to review, unless there were sufficient contemporaneous emission decreases.

The *de minimis* exemption, as discussed more fully in the section on "*De Minimis* Exemptions," would also apply to emissions from major modifications on a cumulative basis. Once a minor source is subject to review because its aggregate potential emissions make it major, any future net emission increase will also be reviewed unless it qualifies as a *de minimis* increase. However, any future *de minimis* net increase from a modification will be cumulated with net increases from subsequent modifications to determine if total net increases exceed the applicable *de minimis* cutoff.

Finally, if a minor source becomes major through accumulation of its emissions and the source is located in a PSD area where no baseline date applies, that source's application for a major modification permit will trigger a baseline date for the area. The baseline date would be the date a complete application for the major modification is filed and not the date on which the first unit of the then-minor source was constructed.

X. "De Minimis" Exemption

In the *Alabama Power* decision, the court provided that EPA may exempt from review those situations determined to be *de minimis*. Specifically, the court stated: "The Agency does possess authority, inherent in the statutory scheme, to overlook circumstances that in context fairly may be considered *de minimis*." Slip op. at 10. The court spoke of the administrator's ability to exempt from review modifications with small net increases and to dispense with the BACT and monitoring requirements through the application of *de minimis* thresholds for those pollutants emitted by an otherwise subject source. The court did limit the Administrator's discretion in formulating such exemption cutoffs by stating that a cost-effectiveness rationale would not be appropriate.

The Administrator is today proposing to exercise this authority by establishing a pollutant specific exemption system that excludes or limits review of proposed construction having emissions or air quality impacts below certain values. Table 1 contains for each pollutant regulated under the Act an emission cutoff that would be considered insignificant or *de minimis*. Table 1 would have two principal uses. First, it would be used to show that the net increase associated with a modification would be *de minimis* for all pollutants for which the source is major. In nonattainment areas, this demonstration would involve only the nonattainment pollutant(s), while a showing for all regulated pollutants for which the source is major would be required of modifications at major stationary sources in PSD areas. A successful showing would exempt a modification from PSD and nonattainment permit requirements. However, such a source would be required to provide notice to the Administrator and, therein, make the *de minimis* demonstration (see section on "NOTIFICATION"). The proposed regulations incorporate the *de minimis* concept by requiring that major modifications have a significant net increase in potential emissions.

Table 1—Guidelines for Significant Emission Rates

Pollutant and Emission Rate

Carbon monoxide—100 tons per year.
Nitrogen dioxide—10 tons per year.
Total Suspended particulates—10 tons per year.
Sulfur dioxide—10 tons per year.
Ozone—10 tons per year of volatile organic compounds.
Lead—1 ton per year.
Mercury—.2 tons per year.
Beryllium—0.004 ton per year.
Asbestos—1 ton per year.
Fluorides—0.02 ton per year.
Sulfuric acid mist—1 ton per year.
Vinyl chloride—1 ton per year.
Total Reduced Sulfur:
  Hydrogen sulfide—1 ton per year.
  Methyl mercaptan—1 ton per year.
  Dimethyl sulfide—1 ton per year.
  Dimethyl disulfide—1 ton per year.
Reduced Sulfur Compounds:
  Hydrogen sulfide (see above).
  Carbon disulfide—10 tons per year.
  Carbonyl sulfide—10 tons per year.

Even if a modification cannot be shown to be minor, Table 1 can be used to limit the pollutants for which BACT must be applied or an air quality analysis done. If a modification to a source is subject to review because it results in a significant net increase in potential emissions of a pollutant for which the source is major, or a new source is subject to review because it will have the potential to emit a regulated pollutant in major amounts, the source may still avoid BACT or an air quality analysis for other pollutants it emits if it emits such pollutants in *de minimis* amounts. Table 1 identifies the emission cutoffs that would trigger the need for control technology and ambient review for those other pollutants. Thus, when a major stationary source or modification is subject to PSD review because of potential emissions of one or more pollutants the review would apply to only those other pollutants which the source would have the potential to emit in amounts above those proposed in Table 1. No notice requirement is necessary for these pollutants since the source or modification would make the *de minimis* demonstration as part of its permit application.

Table 2 is proposed as an additional mechanism to limit the air quality review for certain pollutants which the source would have the potential to emit in significant amounts but which have an insignificant ambient impact. This may occur frequently since many of the emission values in Table 1 were derived from the air quality levels in Table 2 in a preliminary analysis that used very conservative modeling assumptions. The values in Table 2 represent a small fraction of those ambient levels deemed to be protective of public health and welfare. Table 2 does not apply to pollutants for which a new major source would emit in excess of the applicable 100/250-ton threshold nor does it apply

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to major construction that would locate in a nonattainment area or would adversely impact a Class I area.

Table 2—Guidelines for Significant Ambient Air Quality Impacts

Pollutant and Air Quality Impact

Carbon monoxide—500 μg/m³, 8-hour avg.
Nitrogen dioxide—1μg/m³, annual.
Total suspended particulates—5 μg/m³, 24-hour.
Sulfur dioxide—5 μg/m³, 24-hour.
Ozone—[10].
Lead—.03 μg/m³, 3-month.
Mercury—0.1 μg/m³, 24-hour.
Beryllium—.005 μg/m³, 24-hour.
Asbestos—1 μg/m³, 1-hour.
Fluorides—.01 μg/m³, 24-hour.
Sulfuric acid mist—1 μg/m³, 24-hour.
Vinyl chloride—1 μg/m³, maximum value.
Total reduced sulfur:
  Hydrogen sulfide—1 μg/m³, 1-hour.
  Methyl mercaptan—.5 μg/m³, 1-hour.
  Dimethyl sulfide—.5 μg/m³, 1-hour.
  Dimethyl disulfide—2 μg/m³, 1-hour.
Reduced sulfur compounds:
  Hydrogen sulfide (see above).
  Carbon disulfide—200 μg/m³, 1-hour.
  Carbonyl sulfide—200 μg/m³, 1-hour.

In order to utilize Table 2, sources are required to use a preliminary screening technique to determine if their air quality impact will exceed the acceptable *de minimis* guidelines. The screening technique is set forth in *Guidelines for Air Quality Maintenance Planning and Analysis Vol. 10 (Revised); Procedures for Evaluating Air Quality Impact of New Stationary Sources* (October 1977, U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711). If a source's ambient impacts are expected to exceed the *de minimis* guidelines using this conservative technique, it may elect to do a more sophisticated modeling analysis to demonstrate a *de minimis* impact. Upon a showing that the anticipated impact of a regulated pollutant would be less than significant, a major stationary source or major modification would not face the detailed ambient impact analyses of PSD for that pollutant (subject to the exceptions noted above). Thus, such a source would not be required to do an analysis for its impact on increments and standards. Nor would such a source be required to analyze its effect on soils, vegetation, and visibility or to conduct any ambient monitoring studies.

The following is an example of how the proposed dual *de minimis* approach would work. Suppose a new source subject to PSD would emit 275 tons of SO_2 but only 5 tons per year of PM and 50 tons per year of both nitrogen dioxide (NO_x) and volatile organic compounds (VOC). A BACT analysis would be necessary for SO_2, NO_x, and VOC but not for PM. An ambient air quality analysis would be required for SO_2. The source could do a screening analysis to determine if an ambient analysis is also required for NO_x. No ambient analysis would be required for the VOC emissions because the potential VOC emissions are under 100 tons per year.

The numbers proposed in Table 2 for criteria pollutants reflect the levels of significant impact promulgated in the existing PSD regulations on June 9, 1978 (43 FR 26398), while the *de minimis* air quality guidance proposed for beryllium, fluorides, and mercury has been derived from health effects data contained in the report entitled "Effects of Trace Contaminants from Coal Combustion"—proceedings of an ERDA workshop conference August 2–6, 1976. The remaining *de minimis* air quality guidance was formulated following a review of state ambient air quality standards, state emission regulations, and background documents used to develop standards under 40 CFR Parts 60 and 61. The one exception to this pattern in Table 2 is ozone. The Administrator here is proposing the major source cutoff of 100 tons per year as the value to trigger ambient concern after BACT has been applied. A background document will be issued by EPA providing the methodology, data, and references used in developing both Table 1 and 2.

The Administrator would like to point out that the proposed *de minimis* numbers, particularly the air quality values, may be too high or too low. Because of the urgency associated with today's proposal, the numbers identified in Tables 1 and 2 are not supported by extensive analysis. Public comment or followup investigations may result in changes in the numbers in the final package.

Although the values in Table 1 and Table 2 are subject to change, the Administrator believes that *de minimis* guidelines are necessary. EPA believes that these exemptions are not only justified by the associated insignificant air quality impacts but also by administrative necessity. The potential administrative burden of processing permits for nearly every minor change at a major stationary source appears unmanageable. For example, if no *de minimis* exemption were provided, any new element in an oil refinery, including a valve or small space heater, would be subject to NSR. In the Agency's view, neither air quality nor efficient administrative operation are served by requiring preconstruction review for such changes, or for new sources with a comparable impact.

In addition to requesting comments on the proposed values in Tables 1 and 2, the Administrator solicits comments regarding the need for both air quality and emission *de minimis* numbers and the need to put either directly into the regulations.

XI. Geographic Applicability

This section addresses issues raised by the court's interpretation of the geographic applicability of the PSD regulations. Four major topics are discussed: (1) sources constructing in designated nonattainment areas, (2) sources constructing in designated attainment or unclassifiable areas, (3) VOC source considerations, and (4) interstate pollution.

A. *Designated Nonattainment Areas.* In the *Alabama Power* decision, the court held that the PSD provisions apply only to major sources either locating in areas specifically designated as attainment or unclassifiable under section 107 ("clean air areas"), or locating in any area from which the source would substantially impact a clean air area in another state.

EPA has filed a petition for reconsideration regarding the court's restriction of the geographic applicability of the PSD provisions of the Act. In the petition, EPA argues that Congress intended PSD review to apply to major construction, whether located inside or outside a designated nonattainment area, that would significantly impact any clean area. The Agency argued further that, even if the court does not accept EPA's entire position, the court should rule that the PSD provisions should apply to any major construction that would impact a Class I area or a tribal reservation. The Administrator believes that as much as 40 percent of the total acreage of the mandatory Class I areas is located in or adjacent to formally designated nonattainment areas, and must be protected against the impact of new construction in the nonattainment areas.

Today's proposal conforms to the court's June 18, 1979 opinion. EPA would require permits only for major construction occurring in designated attainment or unclassifiable areas or for construction in a designated nonattainment area that would significantly impact a clean air area in another state. If the court alters its opinion as EPA asked it to do, EPA will have to reconsider this proposal.

[10] No *de minimis* air quality level is proposed for ozone. However, any net increase of 100 tons per year of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

EPA is also proposing to extend NSR under section 173 and the offset ruling, and the Part D restrictions on growth, to cover major sources everywhere in the designated nonattainment area. This rule would apply regardless of whether the source could demonstrate that it would not significantly impact the specific point(s) of violation. This would be a change to the current policy, which now allows a source to be exempt from nonattainment requirements if it makes such a demonstration.

The above change is needed to overcome a very significant shortcoming that would otherwise be created in the regulatory system. Under the current regulations, proposed major sources in designated nonattainment areas with no significant impact on the violations could be exempted from nonattainment requirements because they are made subject to PSD preconstruction review requirements. But, under *Alabama Power* and the regulations now being proposed, such major sources would usually not be subject to PSD requirements. It would be inequitable and contrary to the apparent statutory purpose to allow such major sources to be totally exempt from any preconstruction review permit requirements, including no minimum emission control requirement and no evaluation of air quality impact. Therefore, EPA proposes to eliminate the shortcoming by extending nonattainment requirements to all major sources constructing in designated nonattainment areas. If the court accepts EPA's petition for rehearing, and extends PSD requirements to more sources in designated nonattainment areas, EPA may reconsider this proposal.

B. *Designated Attainment and Unclassifiable Areas.* The court's decision in the *Alabama Power* case addressed only the issue of whether the PSD requirements of the Act apply to sources in designated nonattainment areas. The court did not address the issue of whether the Agency may apply the nonattainment preconstruction permit requirements of the Act to sources locating in areas designated attainment or unclassifiable.

Currently, major sources in designated attainment or unclassifiable areas that would cause or contribute to a violation of a standard anywhere, are required to meet all applicable nonattainment requirements. These include state plan requirements adopted to meet Part D of the Act for neighboring designated nonattainment areas, and offset ruling requirements for newly discovered violations in areas designated attainment or unclassifiable.[11] In addition, EPA has proposed that the restriction on construction for a designated nonattainment area with an inadequate (or inadequately implemented) Part D plan should apply to major construction outside of the area, if it would significantly impact on any point(s) of violation in the area. (44 FR 38585, July 2, 1979.)

Although specific regulatory language is not being proposed, EPA is considering changing its policy on the applicability of nonattainment requirements to sources in designated clean areas. Under the approach being considered, nonattainment requirements would only apply to proposed major construction either inside a designated nonattainment area, or proposed in a designated clean area for a site where an ambient standard is actually violated. State plan requirements providing for NSR under section 173 of the Act would apply only to major construction within the designated nonattainment area. Likewise, the restrictions on construction for failure to have or carry out a Part D plan would apply to major construction only within the designated nonattainment area. The offset ruling would apply to major source construction at a site where the standard is violated within a designated clean area.

Major construction that would have a significant impact on a violation of a standard anywhere, but locating where the standard is attained, would still have to reduce its imapct enough so that it would not cause or contribute to the violation. The source could reduce its impact the needed amount by applying more emission controls, by obtaining offsets, or both.

EPA has earlier proposed the legal argument that the existing, more restrictive approach is required by section 165(a)(3)(B). This section states that no source subject to PSD review may be constructed unless the permit applicant demonstrates that the source will not cause or contribute to air pollution in excess of any national ambient air quality standard in any air quality region. In the earlier proposal, EPA stated the view that this provision applies to any source whose own emissions, irrespective of offsets, causes or contributes to the violation, 44 FR 38584 (July 2, 1979). In the proposal, EPA interpreted the literal language of section 165(a)(3)(B) as forbidding any such source to construct at all. EPA saw this prohibition overridden only if the source satisfied all conditions of the offset ruling or a state plan program under section 173. If no Part D plan were in effect and carried out after the deadline for having such a plan, EPA then proposed that the restrictions on construction described in sections 110(a)(2)(1) and 173(4) would apply, through strict application of the language of section 165(a)(3)(B). EPA invites comment on whether the more relaxed approach now under consideration would satisfy the requirements of section 165(a)(3)(B).

This change in approach is not required by the court's opinion in *Alabama Power*. The court's decision was based on its interpretation of the phrase "any area to which this part applies" in section 165 and a review of other provisions in the Act. In contrast, section 172(b)(6) simply states that nonattainment preconstruction review should apply to "new and modified major stationary sources." There is no language limiting Part D review to sources in any particular area. Likewise, the offset ruling which was ratified by Congress in section 129 of the 1977 Amendments, applies by its terms to all sources wherever located, that cause or contribute to an ambient violation. Finally, section 165 requires that prior to construction a source cannot create a violation anywhere. There is no comparable language in Part D saying that Part D sources must protect PSD increments. All of these factors tend to distinguish the nonattainment program from the PSD program, so that *Alabama Power* should not be viewed as governing geographic applicability of nonattainment requirements.

Although neither the court's opinion nor the statute prohibit the application of nonattainment requirements to PSD sources, EPA believes that there may be significant policy and administrative reasons for limiting the applicability of nonattainment NSR in this way. The PSD requirement of BACT and air quality offsets (i.e., an impacting source must offset its contribution to a violation anywhere) provides sufficient air quality protection for an area that is neither designated nonattainment nor is actually violating the standard. Application of all nonattainment requirements to PSD sources will be burdensome to both the permitting authority and the permit applicant.

On the other hand, there may be important program reasons for having the offset ruling continue to apply, along with PSD requirements, to proposed construction at a site designated as clean but where there is a violation of the standard. Construction at a site where there is a violation ordinarily has the greatest impact on the violation, and

[11] *See* 44 FR 3275 col. 4, January 16, 1979.

is therefore most in need of stringent nonattainment controls. In addition, retaining offset ruling requirements for construction at sites with ambient violations would reduce any incentive states and sources might otherwise have to include too much territory within the boundaries of designated clean areas. This approach is legally permissible because, as explained above, EPA believes nonattainment requirements including the offset ruling may apply regardless of the applicable designation. However, EPA also invites comment on whether such construction should be totally exempt from nonattainment requirements including the offset ruling, as is proposed for other construction in designated clean areas.

In addition, if EPA should adopt this applicability approach, EPA seeks comments on whether states should be allowed time to consider adjusting boundaries of existing area designations before EPA changes its policy.

C. *Geographic Applicability for VOC Sources.* Whatever approach is taken on the legal and policy issue discussed above, it will be necessary to determine, as a factual matter, whether a standard is violated at any particular site, and whether a major source at that site would significantly contribute to a violation elsewhere. This raises particular difficult issues for sources of volatile organic compounds.

On publishing its offset ruling on January 16, 1979, the Agency sought public comment on applicability issues specific to sources of volatile organic compounds (VOC) that would impact an area of ozone NAAQS violation. Atmospheric simulation techniques are generally not available to estimate the air quality impact of an individual VOC source. In the offset ruling, the Agency proposed the policy that, in lieu of modeling, a major VOC source would be subject to review, as significantly contributing to the violation, if it proposed construction within 36 hours travel time of a nonattainment monitor, under wind conditions associated with the ozone concentrations found to exceed the NAAQS for ozone.

Comments were solicited on the final establishment of the "36 hour rule." Industry comments have raised significant questions on the technical basis for the rule. Also, states with thorough ozone monitoring networks commented that the rule gave a competitive economic advantage to states with less sufficient monitoring systems. Other comments noted that the 36 hour rule presents an all-or-nothing situation requiring full or no offsets. The requirement for full offsets at potentially long distances from a nonattainment monitor was considered inequitable treatment of VOC sources which (1) would not be able to avoid the nonattainment requirements by reducing emissions so that the impact is less than significant, (2) would be subject to offset requirements even if the source is significantly farther away from the violation than would be required for particulate or sulfur dioxide sources that impact on PM or SO_2 violations, and (3) would be subject to offset requirements based on less rigorous technical estimates than required for PM and SO_2 sources.

In response to the comments received, the Agency proposes to eliminate the 36 hour rule as a criterion for determining whether or not a VOC source will impact a nonattainment area. Under the proposal, EPA would assume that proposed construction would have a significant impact on an ozone violation only if the source is physically within the boundaries of a designated nonattainment area or is at a site in another area where the ozone standard is actually violated. If a source were in a designated attainment or unclassifiable area at a site where there is no violation of the ozone standard, EPA proposes to treat the source as having no significant impact on any ozone violation anywhere.

The monitoring required for a PSD permit would in most cases indicate whether the particular site attains the ozone standard.[12] However, in some cases, a source located in a designated clean area with potential emissions over 100 tons but less than 250 tons will not be subject to PSD review but may be subject to review under the offset ruling.[13] Unlike PSD, the offset ruling does not require monitoring. For any sources covered by this ruling, but not PSD, it may therefore be necessary to determine, without monitoring of the particular site, whether the ozone standard is violated. To simplify such determinations, EPA is considering whether a violation measured at one monitor should be presumed to extend throughout the entire county where the monitor is located, or to some other area around the monitor thought to be representative of air quality. Comment is invited on the question of how far around a monitored violation the standard violation should be presumed to extend. In the absence of monitoring data, there would be a presumption that the standard is attained throughout an area designated as attainment.

The Agency is of the opinion that exceedances of the ozone standard can be found in all directions from a major city. Thus, a source proposing to locate upwind of a nearby city should expect to find ozone NAAQS exceedances when monitoring according to EPA's monitoring procedures found in *Ambient Air Monitoring Guidelines for Prevention of Significant Deterioration.* OAQPS No. 1.2-096, U.S. EPA, Research Triangle Park, North Carolina 27711. A policy memorandum outlining the background data for this decision has been made a part of the Docket.[14]

D. *Interstate Pollution.* The court's discussion of the geographic applicability of PSD raises issues concerning interstate pollution. The court in *Alabama Power* gave new emphasis to protection against interstate pollution of PSD areas, pointing to sections 160(4) and 110(a)(2)(E)(i) of the Act as prohibiting emissions that would interfere with another state's PSD plan. *Alabama Power,* Slip op. at 26-27. The Agency seeks comment on when a source shuld be subject to review because of its interstate impacts and how to set emission limits necessary to protect against pollution that interferes, or may interfere, with another state's PSD measures.

The Agency intends to continue using the already established levels of significance for determining whether an impact on a Class II or III area warrants review. See, e.g. 43 FR 26398 (June 19, 1978). EPA also proposes to maintain its current policy of allocating increment consumption equally at state lines in cases of interstate disputes. Comments are sought on this approach. Finally, EPA is considering whether interference with another state's PSD program is adequately prevented by permitting sources located in one state but impacting on another state, to use one-half of the remaining increment at the points of impact in the other state. EPA solicits comments on whether interstate protection should be broadened to require compliance with emission limitations or other PSD requirements contained in the plan of the substantially impacted state.

XII. Pollutant Applicability

The regulations proposed today would maintain the practice of determining pollutant by pollutant whether a source is subject to PSD review, nonattainment review or both. However, in accordance with the *Alabama Power* decision, once a source is subject to PSD review, it must meet the applicable control technology and air quality analysis requirements for each pollutant. For nonattainment NSR, only emissions of the nonattainment pollutant are subject to the applicable review requirements.

Under today's proposal, a modification would be subject to PSD if it would result in a significant net increase in the emissions of any regulated pollutant for which the source is major. In addition, the area must be designated attainment or unclassifiable for the pollutant, or designated nonattainment if the source impacts a PSD area in another state. In contrast, the NSR requirements of section 173, the offset ruling, or the section 110(a)(2)(I) construction restrictions would apply only to a modification which would result in a significant net increase in the amount of the nonattainment pollutant which the source already emits in major amounts (i.e., 100 or more tons per year). A large addition or a series of small additions since the applicable time of concern at an existing "minor" source would be treated as a "major modification": *Provided,* That the net emissions resulting from the addition or additions, in conjunction with the emissions from the existing minor source would exceed the applicable threshold for a major stationary source (see discussion on "Accumulation" in "Modification").

The applicability of the proposed regulations to new sources is more straightforward. For PSD, a new source is subject to review if its potential to emit any pollutant regulated under the Act would make it a major stationary source. Nonattainment review applicability again requires that the nonattainment pollutant be potentially emitted in major amounts.

Examples of the proposed applicability follow:

(1) Construction of a new plant with potential emissions of 500 tons per year (tpy) SO_2 and 50 tpy hydrocarbons (HC) locating in an area designated attainment for SO_2 but nonattainment for ozone would be subject to PSD preconstruction review for both pollutants. PSD review (BACT and air quality analysis requirements) applies to any pollutant emitted by the source once the source is subject to review for one pollutant.

(2) Construction of the same plant described in example (1) in a nonattainment area for both SO_2 and ozone would be subject solely to applicable nonattainment provisions for SO_2. No PSD or nonattainment requirements would be applicable for HC because nonattainment requirements apply only to pollutants for which the source is major. This assumes that the source would affect no clean air area in another state.

(3) A modification to the example (1) plant which would cause a significant net increase in both SO_2 emissions and HC emissions would be subject to PSD review for SO_2 as well as HC. Nonattainment review for the net HC emission increase would not be applicable unless the new construction would itself qualify as a major modification.

(4) Modification at an existing source of 50 tpy SO_2 emissions, itself constructed since December 21, 1976, in a nonattainment area for SO_2, adding a new unit with 90 tpy SO_2 emissions, would subject the source to nonattainment requirements.

(5) Construction of a new source with potential emissions of 500 tpy HC and 50 tpy SO_2 locating in an ozone nonattainment area would subject the source only to nonattainment review. Since the source is not major for other pollutants regulated under the Act for which the area is designated unclassifiable or attainment, PSD would not apply.

(6) Modification to a source with emissions of 500 tpy SO_2 and 50 tpy HC in an area designated nonattainment for both SO_2 and ozone, resulting in 20-ton net increases in the level of emissions for both pollutants, would subject the source to applicable nonattainment provisions only for the SO_2 emission increase. There is no requirement in the nonattainment provisions of the Act, comparable to the requirement in the PSD provisions, that subjects a source to review for all regulated pollutants it emits once it is subject to review for one pollutant.

(7) A new source with potential emissions of 150 tpy of PM located in an area designated attainment for PM but impacting on a violation in a designated nonattainment area to which a Part D plan applies. Under the regulations proposed today, the source would be subject to both PSD and nonattainment requirements (see "Geographic Applicability" discussion). This would include application of LAER, certification of statewide compliance by other sources owned or operated by the source owner or operator, sufficient offsets to insure reasonable further progress in the nonattainment area, preconstruction monitoring and increment analysis.

(8) A new plant which would be a 50-tpy source of both SO_2 and HC proposes to construct in an area designated nonattainment for SO_2 and ozone. Neither PSD nor any nonattainment NSR under section 173, the offset ruling, or the section 110 restrictions on construction would apply.

XIII. Baseline Concentration

The term "baseline concentration" generally means the actual ambient concentration levels of pollutants in an area as of the applicable baseline date. This term is applicable only for sources of SO_2 and PM. The baseline concentration of an area is important because all emissions not counted in the baseline concentration count against allowable increments.

EPA's current regulations set a uniform baseline date of August 7, 1977 (40 CFR 51.24(b)(11), 52.21(b)(11) (1978)) as explained at 43 FR 26400 (June 19, 1978). The court in *Alabama Power* found that this uniform baseline date deviated impermissibly from section 169(4) of the Act, which generally defines baseline in terms of the ambient concentration existing at the time of the first application for a permit in an area. Slip op. at 37.

As a consequence of the court's decision, EPA proposes to remove the uniform baseline date of August 7, 1977, and set the baseline concentration at the time after August 7, 1977, "of the first application for a permit in an area subject to this part." Section 169(4), 42 U.S.C. 7479(4).

In order to implement the mandate expressed in section 169(4), EPA generally intends to define "area subject to this part" on the basis of AQCRs. When a major stationary source or major modification for any pollutant regulated under the Act applies for a PSD permit in a part of an AQCR designated as unclassifiable or attainment under section 107(d)(1) (D) or (E) ("clean air areas"), it establishes the baseline date for both PM and SO_2 in all parts of the AQCR that are designated attainment or unclassified for these pollutants.

As mentioned in the section entitled "Transition," the new definitions of major stationary source and major modification would be used to trigger baseline dates after August 7, 1977. The baseline date would be the time that an application for such major construction was filed which was substantially complete for purposes of complying with the applicable PSD regulations. Therefore, sources applying for PSD permits under the existing regulations which would not qualify as major construction under the final regulation,

[12] The Agency currently allows a source to subject itself to the full offset ruling requirements without preconstruction VOC monitoring to allow immediate commencement of construction, so long as post-construction monitoring is undertaken to determine whether there is a violation requiring a SIP revision under Part D.

[13] The offset ruling applies to all sources with potential emissions of 100 tons or more, while for PSD some kinds of sources are not subject to review unless potential emissions are 250 tons or more.

[14] June 28, 1979, memorandum from Walter C. Barber to David G. Hawkins regarding Policies for New or Modified VOC Sources.

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would not trigger the baseline date. Similarly, sources that were not subject to the existing regulations but would be under the final ones would not have triggered the baseline date since no PSD application was filed. This definition is proposed to conform to the court's mandate, to minimize administrative and technical problems, and to preserve future growth options to the states.

The phrase "area to which (the PSD) part applies" in section 165 includes clean air areas and those nonattainment areas for which major construction is proposed that would have a substantial impact on a clean air area in another state. Clean air areas must be AQCR's or portions thereof. Section 107, 42 U.S.C. 7407. EPA's proposed definition of "area" for purposes of the section 169(4) baseline date thus comports with the term "area" as used in sections 107 and 165. EPA, however, has asked the court to reconsider and broaden its interpretation of "area" in section 165 and should the court do so, EPA's proposal under 169(4) might be affected.

In formulating its proposed definition of "area subject to (the PSD) part," EPA weighed the ease of administration under competing interpretations. The courts have recognized that a policy of regularity and simplicity in regulation should be respected. See, e.g., *Hercules, Inc.* v. *EPA*, 12 ERC 1376, 1394 (1978). Under EPA's proposal, the baseline date is uniform for all clean air areas throughout an AQCR. This minimizes the administrative problems that would result from the profusion of different baseline starting points in the same AQCR. For example, if "area" was defined by a source's area of impact, cumbersome recordkeeping procedures would be required. As more sources applied for PSD permits, areas of source impact would begin to overlap and the system would grow more complex. Such a system would be difficult for EPA to implement at a national level.

The Administrator does recognize that the AQCR proposal as the baseline area would also have some potential for implementation problems. Consider the case where a PSD source would locate in one AQCR but would also impact significantly a neighboring AQCR in the same state. Under today's proposal, such a source would trigger only the baseline date in the AQCR of location although it would consume increment in the adjacent AQCR. The Administrator specifically requests comment on the idea that only one baseline date should be established in the above example.

The proposal also reflects the Administrator's continuing concern that EPA's temporary implementation of the PSD program preserve future growth options of the state. 43 FR 26401 (June 19, 1978). Many states have, in some cases, designated clean air areas more narrowly than by AQCR. If a state can in its revised SIP define "area" for purposes of baseline concentration as narrowly as a designated portion of an AQCR this might have the effect of establishing a later baseline date for some areas and increasing the amount of increment available for growth. This might be attractive to a state, especially if it feels the administrative and technical problems caused by proliferating baseline dates could be overcome. However, if EPA were to define "area" as each clean air area designation or source impact area, a state that wanted to expand the definition to AQCR-wide or statewide to ease administrative or technical problems might feel constrained from doing so. This is because the expansion of "area" might result in an earlier baseline date such that less increment would be available for future growth. See the additional discussion in "PSD SIP REVISIONS." Therefore, EPA is proposing to allow states some flexibility in defining "area" to which a baseline date applies.

EPA specifically solicits comments on its proposed definition of "area subject to (the PSD) part." Commenters are urged to address the legal, administrative and technical effect of any other definition, as well as the effect on future growth options of the states.

Finally, EPA generally intends to continue the actual emissions concept (explained at 43 FR 26400 (June 19, 1978)) in calculating baseline concentration as of the applicable baseline date. In the June 19, 1978 promulgation, EPA outlined certain exceptions to a strict use of an actual emissions concept made necessary by certain real world concerns. For example, sources that would increase actual emissions by expanding hours of operation (allowed under the SIP) or as a result of a SIP relaxation pending on or before the baseline date, were granted relief under the current regulations. The Administrator is proposing to continue such exemptions and believes that another situation may require similar attention.

Specifically, large groups of gas-fired boilers in the Gulf Coast area have been permitted to burn oil due to a possible natural gas shortage in the future. The affected units involve burners that could have accommodated such a fuel-switch before January 6, 1975 as well as some that were altered to accommodate the alternate fuel after this date.

XIV. Best Available Control Technology

Section 165(a) of the Act provides in part that any "major emitting facility" to be constructed in a PSD area must apply best available control technology (BACT) "for each pollutant subject to regulation under this Act emitted from, or which results from, such facility." 42 U.S.C. 7475(a)(4). In the existing PSD regulations, EPA limited the BACT requirement to each pollutant for which a major stationary source or major modification would be "major." 40 CFR 51.24(i)(1), 52.21(i)(1) (1978). For example, if a major stationary source in one of the 28 categories would emit only 50 tons per year of carbon monoxide, it would not have to apply BACT for that pollutant.

In *Alabama Power*, the court held that EPA had no authority to limit the BACT requirement in that way. Slip op. at 31. It did hold, though, that EPA has authority to apply *de minimis* thresholds to the BACT requirement, as long as they are "formulated with reasoned consideration for their context, with attention to the nature of the pollutant involved." *Id.*

In response to the court's decision, EPA is proposing to require a major stationary source or major modification to apply BACT for each regulated pollutant that it would emit. *See* proposed §§ 51.24(j)(1) and 52.21(j)(1).

Section 165(a) of the Act provides in part that any "major emitting facility" to be constructed in a PSD area must apply best available control technology (BACT) "for each pollutant subject to regulation under this Act emitted from, or which results from, such facility." 42 U.S.C. 7475(a)(4). In the existing PSD regulations, EPA limited the BACT requirement to each pollutant for which a major stationary source or major modification would be "major." 40 CFR 51.24(i)(1), 52.21(i)(1) (1978). For example, if a major stationary source in one of the 28 categories would emit only 50 tons per year of carbon monoxide, it would not have to apply BACT for that pollutant.

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In response to the court's decision, EPA is proposing to require a major stationary source or major modification to apply BACT for each regulated pollutant that it would emit. *See* proposed §§ 51.24(i)(1) and 52.21(i)(1).

As noted in the section on "Transition," this new requirement would apply only to a source or modification whose application for a PSD permit is not complete before the requirement comes into effect.

EPA believes that closely tailored *de minimis* exemptions may be unnecessary, since in setting BACT, the permitting authority may take into account the relative cost of the various control alternatives. *See* sections 169(3), 42 U.S.C. 7479(3); 40 CFR 51.24(b)(10) (1978). Except where a standard of performance for new sources imposed a minimal level of stringency, the authority could decide that BACT for a pollutant emitted in "minor" amounts was no control at all, in view of the high cost of any control. Nevertheless, the Administrator has proposed *de minimis* emission rates (see section on "*De Minimis* Exemptions") which would apply to the applicable BACT and LAER requirements. The reader is asked to comment on the need for the proposed *de minimis* levels.

XV. Ambient Monitoring

In upholding the environmental petitioners' challenges to EPA's PSD monitoring regulations (40 CFR 51.24(n)), 52.21(n) (1978)), the court identified three areas where the regulations fell short of the statutory mandate in section 165(e) of the Act: The pollutants for which monitoring is required; required uses of monitoring data; and guidelines for state exemption authority. Therefore, EPA is proposing to amend its PSD regulations to correct shortcomings in the existing monitoring requirements. In addition, EPA is proposing the use of certain *de minimis* criteria which would govern the requirement for monitoring data as part of an air quality analysis. The *de minimis* criteria are discussed in the "*De Minimis* Exemptions" section of the preamble. Discussion of the state exemption guidance is found in the preamble under "PSD SIP REVISIONS."

A. *Preconstruction Monitoring.* The court held that section 165(e)(1) of the Act requires an ambient air quality analysis "for each pollutant subject to regulation under the Act" prior to applying for a PSD permit. Presently, EPA's regulations require monitoring only for pollutants for which national ambient air quality standards exist (criteria pollutants). There are a number of pollutants for which no national standards exist (noncriteria and hazardous pollutants), but which are regulated under new source performance standards (40 CFR Part 60) and national emission standards for hazardous pollutants (40 CFR Part 61).

EPA intends to comply with the court's ruling by requiring an ambient air quality analysis for all regulated pollutants. The analysis generally will be required to include ambient monitoring data. To meet the monitoring requirement, a proposed source will have to establish an appropriate monitoring network prior to applying for a PSD permit, or will have to gather and analyze representative air monitoring data resulting from ongoing monitoring activities.

Preconstruction monitoring data will not be required where the estimated impact of a pollutant emitted from a proposed source, as determined by modeling, is lower than the *de minimis* air quality level and the source is not a major stationary source for the pollutant. An explanation of how the *de minimis* exemption applies to monitoring requirements is in the preamble section of *"De Minimis* Exemptions."

EPA will perform a case-by-case analysis of a proposed source which impacts a Class I area, even though a proposed source may demonstrate that its impact falls below the *de minimis* level. In such cases, monitoring data may be required where it is determined that the proposed source will significantly impact the Class I area. Guidance on this and other monitoring situations addressed in today's proposal will be further described in a revised version of the *Ambient Monitoring Guidelines for Prevention of Significant Deterioration (PSD)*, OAQPS 1.2–096, U.S. environmental Protection Agency, Office of Air Quality Planning and Standards, Research triangle Park, N.C. 27711, originally published in May 1978. Copies of this revised guideline may be obtained for review and comment by writing to EPA's Monitoring and Data Analysis Division (MD–14) at the above address.

For certain noncriteria pollutants, including sulfuric acid mist, carbon disulfide, carbonyl sulfide, methyl mercaptan, and dimethyl disulfide, EPA currently lacks acceptable measurement methods, reference materials, and internal quality control procedures to perform or evaluate monitoring. EPA recognizes its obligation under the court's decision to make a good-faith effort to develop monitoring techniques for these pollutants, as well as to improve existing techniques for other pollutants. Therefore, the Agency will begin work on developing reliable ambient measurement techniques for these pollutants. Until such time as appropriate monitoring techniques are available, EPA will require use of modeling to estimate the air quality impact of these pollutants. As monitoring techniques are developed, notices of availability will be published in the **Federal Register** and sources will be required to apply these techniques.

In meeting the requirements for preconstruction monitoring, representative air quality data, as determined through modeling, may be appropriate for some sources. In particular, representative data may be adequate for isolated sources, where few, if any other sources, would affect background concentrations in the source's area of impact. EPA solicits comment on the use of representative air quality data in general and specifically for isolated sources.

Aside from the listed noncriteria pollutants, monitoring techniques are available and monitoring requirements will be phased in as discussed in the "Transition" section. EPA recognizes, however, that currently available monitoring techniques for some of these pollutants may be experimental in nature. In addition, as to some pollutants, other components of an acceptable monitoring system, including standard reference materials, internal and external quality control procedures, and network and siting criteria, may not be fully developed. With these limitations in mind, EPA intends to implement noncriteria and hazardous pollutant monitoring requirements on a case-by-case basis. The Agency will consider the state-of-the-art and the reliability of data in determining what techniques will be required.

B. *Post-construction Monitoring.* In addition to the pre-application monitoring requirements already described, today's proposal includes discretionary authority for EPA to require post-construction monitoring to determine the effects of source emissions on allowable increments. In addition, post-construction monitoring can be particularly useful in validating increment consumption predictions made through modeling. Accordingly, EPA intends to require post-construction monitoring from large sources of particulate matter and sulfur dioxide, such as power plants, smelters, refineries, and iron and steel mills, to help assess actual increment consumption. Other sources whose emissions are estimated to result in air quality levels approaching and allowable increment or a national ambient air quality standard may also be required to submit post-construction monitoring data.

C. *Required Use of Monitoring Data.* The court ruled that EPA's current regulations are incomplete, since they

require monitoring only to determine whether an applicable national ambient standard will be exceeded. The court noted that section 165(e)(2) provides that continuous air quality monitoring data must also be used to determine whether increments will be exceeded. The court recognized that modeling techniques would be the principal device relied upon for the projection of the impact on air quality emissions from a regulated source, but they envisioned that monitoring would "impose a certain discipline on the use of modeling techniques." Moreover, the court indicated that the widespread use of monitoring would enhance the development of sophisticated monitoring techniques and the collection of a data base for each pollutant.

EPA agrees that monitored ambient data is valuable for such purposes as validating and refining models and, in some cases, providing a direct measure of increment consumption. In accordance with the court's opinion, EPA plans to place a greater emphasis on the development and use of monitoring data.

However, use of monitoring data will always be limited to some degree. First, air quality impacts of a proposed source must necessarily be based on modeling, not monitoring. Second, several actual emission changes that would be detected by an ambient monitor are not considered to consume increment. For example, emissions from any source commencing construction prior to January 6, 1975, but completed at some later date, do not count against increments. Third, a state may exempt certain emission changes which otherwise would be counted against increment. Potential exemptions include federally ordered fuel switches, temporary emissions, and new sources outside the United States. Finally, with limited exceptions, section 123 prohibits a source from receiving credit for the dispersive effects of a stack height which exceeds good engineering practice. Consequently, if a source's emissions are counted against increment and its stack height exceeds good engineering practice, its emissions must be calculated as though emitted from a good engineering practice height. A monitor will reflect air quality impacts based on actual stack height.

In view of these limitations, EPA believes that, for the present, monitoring data will be most productive in checking the accuracy of models. To some extent, monitoring data may be used to measure increment consumption, particularly in cases where there are few or no other sources in the area of a proposed new source or modification, or where all sources located in the area of concern have emissions which count against the increment. In any case, where an applicant or other party believes that a model required by EPA has either overpredicted or under predicted the air quality impact of a source, monitoring data will be evaluated to the extent possible to determine whether modeling adjustments are necessary.

Over time, the development of more sophisticated monitoring techniques may permit increased use of monitoring data to track increment consumption and establish ambient baselines, as well as improve the level of confidence in modeling.

XVI. Notification

Each person who plans to construct a source or modification must determine initially whether it is "major." Currently, EPA does not actively police these negative determinations. In particular, the Administrator does not require any notice of the construction of any source or modification which is indeed not "major." As a result, if an owner or operator believes that his construction would not be "major," he is free to construct the source or modification without a construction permit and without notifying the appropriate permitting authority. Undoubtedly, few persons making a negative determination would give any notice of construction to the reviewing authority.

In view of the new definitions of "potential to emit" and "modification" proposed today, the Administrator believes preconstruction notice is now necessary for certain sources. Since "potential to emit" refers to controlled emissions and "major modifications" to net increases only, the scope of PSD preconstruction review will shrink dramatically with many more sources having the opportunity to construct or modify without preconstruction review. In EPA's judgment, the borderline cases where mistakes or evasion could occur will increase sufficiently to justify scrutiny.

Based on the Administrator's authority under section 114 to require any owner or operator to provide information and make reports as the Administrator may reasonably require, EPA is proposing a preconstruction notice requirement to review source determinations of inapplicability. The notice requirement would appear in entirely new paragraphs, §§ 51.24(v) and 52.21(v) for PSD and in subparagraph H of section II of EPA's offset ruling.

Under the proposed regulations, an owner or operator of certain sources would be required to give written preconstruction notice to the Administrator 90 days in advance of beginning on-site construction. The notice requirement would apply to (1) emission changes not qualifying as major modifications due to suffient emission reductions, and (2) sources not qualifying as major stationary sources due to application of air pollution controls not generally required by the applicable SIP or 40 CFR Parts 60 and 61. The notice must state specifically the nature and timing of the applicable emission changes and contain a demonstration that the proposed reductions are sufficient, enforceable, and contemporaneous with increases. After an owner or operator would provide an acceptable notice, no construction permit would be required.

The Administrator is also proposing that if a proposed construction project either fails to provide the required notice or to construct in accordance with information within the notice, it would be considered to be in violation of the applicable SIP. Sections 52.21(s) and 51.24(s). Merely providing notice should not be construed as satisfying all other applicable responsibilities under the Act, and a source which improperly constructs would do so in violation of the SIP.

Difficulty may arise in determining when contemporaneous intrasource emission tradeoffs have occurred or will occur. The Administrator, therefore, is also proposing to require written notice from source owners intending to take future offset credit from soon-to-occur shutdowns or cleanup. Such notice would be given at the time the emission reductions would be accomplished and would give details as to what emissions are being reduced. With this approach the source owner will add certainty to his ability to claim reductions, and less review time will be needed by the reviewing agency to verify the credibility of controversial emission reductions.

Finally, for nonattainment areas with an approved, enforceable SIP, the Administrator is considering the notice mechanism to implement the intrasource compliance requirement under section 173. Under this approach, in addition to determining if no net increase would occur at a facility (plant), the source would have to notify the reviewing authority that all emission units at that plant are in compliance with the applicable SIP. The Administrator solicits comment on this porposal.

XVII. PSD SIP Revisions

Comments are solicited on three issues concerning the development of acceptable PSD plans by states. The

issues are: (1) The ability of states to submit different but effective PSD programs, (2) the flexibility that states have to define the baseline area for PSD, and (3) the state monitoring exemption.

A. *Equivalent State Programs.* During the past year, states have submitted PSD portions of their SIP's that deviate considerably from the existing 40 CFR 51.24 regulations. Under existing regulations, the Administrator can only approve different PSD requirements submitted by states that individually are more stringent than the corresponding 40 CFR Part 51 regulations. As a result, few opportunities are left for approval of different, but effective, state PSD programs. Today the Administrator is requesting comment on the existing approach.

While Part C is quite specific on the type of PSD program that would be acceptable, portions of the Act may allow the states to use equivalent methods to meet statutory objectives (such as section 110(a)(2)(D)). The Administrator believes some flexibility in approving state plans should also apply to the PSD program. In addition, there are policy reasons for permitting equivalent state PSD programs. States should be allowed some latitude to develop PSD programs more closely tailored to their individual goals and needs: *Provided,* That the state PSD program would uphold the objectives of Part C. Such programs would conceivably identify several potential improvements in terms of administrative ease and some opportunities for additional emissions control.

The Administrator is today specifically seeking comments on what provisions under 40 CFR 51.24 allow any flexibility for innovative state programs and whether allowing such flexibility would undercut the need for consistent nationwide implementation of PSD review. Comment is also solicited on how EPA can verify whether a proposed state program will offer an equivalent or improved system for implementing PSD.

To facilitate comment, the Administrator is asking for response on an approach which would permit variation in state plans for certain requirements. Under this approach, states could not satisfy the following requirements of 40 CFR 51.24 with alternative regulations:

a. Maximum allowable increments.
b. Modeling techniques.
c. Class I area protection.
d. Notice to the Administrator or the applicable Federal Land Manager for significant actions.
e. New (grass roots) major stationary source applicability.
f. NSPS, NESHAPS minimum requirements for BACT determinations.

States would be permitted to meet the following requirements of 40 CFR 51.24 with different but equivalent state regulations or implement them with considerable discretion:

a. BACT determinations.
b. Design and amount of data needed for monitoring purposes.
c. Establishing *de minimis* levels for BACT and air quality review.
d. Temporary exclusions from increment consumption.
e. Banking of emissions for future offsets.
f. Source information and analysis required of the applicant.
g. Public participation after providing the opportunity for public hearing.

In determining if a state program with several requirements differing substantively from 40 CFR 51.24 satisfy those requirements, overall program equivalence would be based on the ability of the state system to capture as many emissions as would the 40 CFR 51.24 regulations.

B. *Baseline Area.* A more specific issue related to state flexibility in developing PSD plans involves the definition of the area affected by the baseline date. Under the proposed amendment, the Part 51 regulations, like the Part 52 regulations, would define "area subject to this part" on the basis of AQCRs. Under that definition, the baseline date would be set for every part of an AQCR designated unclassifiable or attainment under section 107(d)(1) (D) or (E), 42 USC 7407(d)(1) (D) or (E), when the first major stationary source locating in any such part of the same AQCR applies for a PSD permit. (See "BASELINE CONCENTRATION").

This definition is proposed to minimize administrative and technical problems and to preserve future growth options of the states. As discussed in "BASELINE CONCENTRATION," EPA believes that a state may in its revised SIP define "area" for purposes of baseline concentration to be any specific AQCR portion that it had designated as attainment or unclassifiable. Conversely, a state for administrative reasons could define "area" as being the entire state.

EPA specifically solicits comments on its proposed regulatory guidance to states for defining "area subject to this part" in section 169(4). Comments should address the legal, asministrative, and technical effects of other proposals, as well as effects on future growth options of the states.

C. *State Monitoring Exemption.* In the court's ruling, it was indicated that EPA did not provide the states with adequate guidance to determine when less than one calendar year of data may be used to perform a complete and adequate analysis of continuous air quality monitoring data. Subsection 165(e)(2) stipulates that such partial exemptions from monitoring shall be applied "in accordance with regulations promulgated by the Administrator." Guidance addressing shorter periods of time was included in the *Air Monitoring Guidelines for Prevention of Significant Deterioration* (section 2.7, Duration of Monitoring). To comply with the court ruling, EPA proposes to promulgate the appropriate material in the PSD regulations.

Under this proposal states would be allowed to accept less than one calendar of data for PM, SO_x, CO, and NO_x monitoring if the applicant demonstrates that data obtained during a shorter time period, but no less than four months, account for the maximum air quality levels that can be expected. In the case of ozone, monitoring requirements must account for those months in which the average daily maximum temperatures exceed 20° C (68° F) in the area under study, or for the four months of the year with the warmest average maximum temperature for areas where there are not at least four months with average maximum temperatures greater than 20° C (68° F).

It should be noted that this amendment applies only to pollutants for which a national ambient air quality standard exists since section 165(e)(2) does not apply to noncriteria pollutants. Guidance on the amount of monitoring data required for noncriteria pollutants will be added to the *Air Monitoring Guidelines for Prevention of Significant Deterioration* at the same time that the guideline is revised to address other monitoring criteria.

XVIII. Additional Issues

The Administrator is today proposing certain regulatory changes which are not required by the *Alabama Power* decision. These changes are minor corrections considered necessary to make the PSD regulations as consistent as possible with the nonattainment requirements for NSR. The specific changes proposed today involve: (1) Use of the section 111(j) waiver for innovative control technology to meet BACT; (2) new source review requirements to modify existing construction permits; (3) applicability of PSD review to modified nonprofit health or educational facilities; (4) amount of notice required from relocating PSD sources; and (5) applicability of PSD to secondary emissions. In addition, this

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section contains discussions on the economic impact of the proposed regulations and how to comment on this rulemaking.

A. *Innovative Control Technology.* Section 111(j) of the Act provides for the issuance of waivers to sources which propose use of control technology the Administrator determines to be innovative. Under section 111(j), one or more waivers from the new source performance standards (NSPS) may be issued for a period of up to seven (7) years. A waiver may be issued if the Administrator determines that:

(1) The innovative technology has not been adequately demonstrated;

(2) The innovative technology has a substantial likelihood of meeting the NSPS at lower cost in terms of energy, economic, or non-air quality environmental impacts;

(3) The source would not cause or contribute to an unreasonable risk to public health, welfare or safety; and

(4) An excessive number of such waivers, as determined by the Administrator, have not been granted.

The waiver is to include conditions necessary to assure that the source will not prevent attainment and maintenance of ambient standards and to assure that the authorized system will function properly.

The Act offers no indication as to how a source that obtains a section 111(j) waiver should be treated for purposes of PSD review. Since a large number of NSPS sources are also subject to PSD, the Administrator is concerned that failure to accommodate section 111(j) sources under PSD would tend to discourage the development of newer, more effective control technologies.

In the June 19, 1978 **Federal Register**, the Administrator solicited comment on making the innovative control waiver aplicable to BACT determinations under the PSD program. Since no adverse comments were received, the Administrator is today proposing specific regulatory language defining how the section 111(j) waiver applies to BACT determinations. Today's amendments to the PSD regulations provide that BACT for a source with a section 111(j) waiver would be defined as the innovative control equipment for which the waiver has been granted and would include an emission limitation and a schedule for meeting that limitation. Paragraph (u) as proposed specifies that a section 111(j) source may satisfy the air quality analysis requirement by modeling its projected emissions after the 111(j) controls are installed. Any increased level of emissions which might occur during the waiver period would be treated as temporary and as having an insignificant impact on air quality. The Administrator specifically solicits comments on EPA's authority to allow temporary violations of increments, especially in Class I areas, due to 111(j) waivers while not allowing temporary violations of the ambient standards.

In addition, the Administrator proposes to modify 40 CFR 52.21 to accommodate PSD sources which propose to use innovative control technology, but which are not subject to NSPS and therefore not eligible for section 111(j) waivers. Under the proposal, these sources would receive the same treatment as sources eligible for section 111(j) waivers. Subparagraph (u)(2) outlines criteria by which the Administrator may determine whether a proposed PSD source's control technology is "innovative." The criteria track the requirements established for section 111(j) waivers.

Once a proposed technology is determined to be innovative, the Administrator must establish a schedule for meeting the BACT emission limit. The schedule, which will be specified as part of the BACT requirement, should take into consideration the design, installation, and capital cost of the technological system or systems being used. In no case may the schedule (including any extension) extend beyond seven years after PSD permit issuance, or 111(j) waiver issuance, or four years after the source commences operation, whichever is earlier.

The regulations include a provision for bringing into compliance any source whose waiver is terminated because it has failed to achieve BACT with the innovative system or failed to demonstrate that the system will not cause or contribute to an unreasonable risk of public health, welfare or safety. Such a source will be granted an extension for whatever minimum period of time the Administrator feels is necessary to achieve BACT. The extension may not exceed three years.

B. *Modified Permits.* The Administrator is also proposing to add a new paragraph (t) which would require that PSD-permitted sources obtain, under certain circumstances, modified or new PSD permits. Similarly, subsection H is proposed to be added to section II of the offset ruling. The new requirements are intended to resolve the current uncertainty regarding the obligations of a source and a reviewing authority when changes are necessary in an approved construction permit.

Under today's proposal, a permitted source would be required to modify its permit if it obtained a permit and then, prior to commencement of operation, altered its design capacity such that emissions increased significantly but less than the applicable 100/250 tons threshold. Here the term significantly refers to that pollutant-specific emission rate which would equal or exceed the rate identified in Table 1 (see section on *"De Minimis* Exemptions"). In addition, if design capacity and potential emissions were decreased prior to commencement of operation, the permit should be modified to reflect the change. Such information is vital for tracking the PSD increment that is available to other new sources.

A source would also be required to obtain a modified permit when, prior to commencement of operation, it proposed changes in the nature of its process equipment such that the potential emissions from the newly planned equipment would not equal or exceed the applicable 100/250 tons threshold. Finally, a modified permit would be required for a source that obtained a permit under the existing regulations which limited its hours of operation and then later, decided to increase its operating hours.

Proposed sources which increase design capacity such that net potential emissions would increase by greater than 100/250 tons per year and proposed sources which plan new process equipment, potentially emitting 100/250 tons per year, must obtain new permits. Such sources would likely require a more extensive review, possibly requiring more than 90 days for completion.

The Administrator wishes to point out that during the time of application for a modified permit the affected source would retain increment rights only for those specific points of emissions which were permitted originally. For example, consider a source that obtains a permit to build a 1600 tons/day (dry pulp) lime kiln and then decides to scale down the final construction to 1500 tons/day and build a 20 megawatt steam generator as well. Assume the potential emissions of each pollutant emitted by the steam generator would be less than 100 tons per year. The source would need a modified permit to reflect the addition of the generator and the decrease in the size of the lime kiln. The generator emissions would have to be evaluated against the available increment at the time of the proposed permit modification after all other complete applications filed before this time. The fact that the lime kiln's increment usage would be reduced does not mean that any increment rights are transferable to the steam generator, because the generator would not be an originally permitted emission point. If the generator's emissions were over 100 tons per year, the source would require a new permit.

C. *Nonprofit Institutions.* Under the existing regulations, upon written request by the Governor of a state, the PSD permitting requirements would not apply to a nonprofit health or educational institution to be located in that state. The Administrator is proposing that this exemption apply to modified nonprofit health or educational institutions as well as those newly constructed.

D. *Portable Facilities.* Under existing regulations, previously permitted PSD sources which propose to relocate must provide a thirty (30) day notice. Based on experience in implementing these regulations, the Administrator is proposing to change the thirty (30) day notice to one which reflects a reasonable amount of time, to be not less than ten (10) days. This would enable sources with extremely short time delays between construction projects, such as portable asphalt batch plants, to better comply with the intent of the regulations.

E. *Secondary Emissions.* The Administrator is today incorporating into the PSD regulations the definition of secondary emissions in the offset ruling (44 FR 3274). Under this proposal, secondary emissions would mean emissions from new or existing sources which occur as a result of the construction and/or operation of a major source or major modification, but do not necessarily come from the source itself. Secondary emissions would include, but would not be limited to:

(*a*) Emissions from ships or trains coming to or from a source or modification, or

(b) Emissions from off-site support sources which would be constructed or would otherwise increase emissions as a result of the construction of a major source.

Under today's proposal, secondary emissions would not count in determining the potential to emit of a source. In addition, when the source is otherwise subject to PSD review, the BACT requirement would not apply to secondary emissions. However, secondary emissions, where well-known and quantifiable, would be taken into account in assessing if an otherwise subject source would cause or contribute to a violation of any applicable increment or standard.

F. *Economic Impact Assessment.* Section 317 of the Act requires an economic impact assessment for regulations and revisions to regulations issued under Part C. Executive Order 12044 similarly requires an impact assessment for significant regulatory actions. The Agency has not yet conducted either assessment for several reasons. First, a preliminary assessment suggests that many fewer sources will be subject to review under the new definition of potential to emit. As many as three-quarters of the sources subject to review under the existing regulations will not require permits under the regulations proposed today. Moreover, the application of a plant-wide definition of source for PSD would allow replacements and reconstructions at existing units to ofter escape review. While many fewer sources may be subject to review, the impact of certain new requirements, such as PSD monitoring for other pollutants, remains to be assessed. The Administrator believes that such additional costs under today's proposal would, on balance, be more than offset by the reduced economic impacts associated with the issuance of fewer permits.

Second, the Administrator has determined to propose regulations without an economic impact assessment to replace as quickly as possible the regulations struck down by the *Alabama Power* decision. The court stated that its purpose in issuing its summary opinion was "to enable EPA to proceed as soon as possible to commence rulemaking or other proceedings necessary to promulgate those revisions in the PSD regulations required by our rulings, and to take other prudent action to effectuate congressional policies." Slip op. at 7. In view of the court's directive and the need, identified both by industry and EPA in papers filed with the court, to maintain an ongoing PSD permit program, it is the judgment of the Administrator that this proposed rulemaking not be postponed until an economic impact assessment is prepared.

Finally, the Agency believes that the court's supplemental opinion may clarify which of several options proposed today should be adopted. Given the limited time and resources of the Agency, the Administrator believes that better use will be made of the Agency's resources if the economic assessment is performed after issuance of the court's supplemental opinion, and further clarification of which options the Agency will adopt. Consequently, the Administrator intends to prepare the required economic impact assessment after issuance of the court's supplemental opinion. This analysis will be made available for public comment upon completion and such comment will be taken into account in the promulgated regulations.

G. *Comments.* This rulemaking is proposed under authority of section 307(d) of the Act, 42 U.S.C. 7607(d). EPA solicits written comments on the porposals in this notice. The period for comment ends October 5, 1979. Comments should be sent, in triplicate if possible, to the Central Docket Section, EPA, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A–79–35. EPA plans to hold public hearings on the proposals in September 1979 in San Francisco, California, and Washington, D.C. The hearings will be informal and legislative in nature. Transcripts will be taken. EPA will announce the exact time and place for the hearings in the near future. The written comments, transcripts of hearings, and other relevant documents will be available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, in the Central Docket Section.

(Secs. 101(b)(1), 110, 114, 160–69, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7470–79, and 7601(a).)

Dated: August 22, 1979.

Douglas M. Costle,

Administrator.

Requirements for State PSD Plans

1. Title 40, Part 51 of the Code of Federal Regulations is proposed to be amended as follows:

In § 51.24 paragraphs (b)(1)–(6) and (11) are revised; (b)(18) is deleted; existing paragraphs (b)(12)–(17) are renumbered as (13)–(18); new (b)(12) and (20)–(23) are added; paragraphs (i)–(k) and (n) are revised; (t)–(v) are added. As revised and added those paragraphs read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(b) *Definitions.* For the purposes of this section:

(1) "Major stationary source" means: (i) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any pollutant regulated under the Clean Air Act (the "Act"): Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants,

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carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capability exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(ii) Notwithstanding the stationary source sizes specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant regulated under the Act.

(2)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source, or series of contemporaneous physical changes in or changes in the method of operation of a major stationary source, that would result in a significant net increase in that source's potential to emit the pollutant for which the stationary source is major (or that would make the stationary source major taking into account all accumulated net inceases in potential emissions occurring at the source, including any initial construction since August 7, 1977). The term "major modification" serves as the definition of "modification" or "modified" when used in the Act in reference to a major stationary source.

(ii) A physical change shall not include routine maintenance, repair and replacement.

(iii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(*a*) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), a prohibition under the Power Plant and Industrial Fuel Use Act of 1978 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*b*) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Change in ownership of the stationary source; or

(*e*) Use of refuse derived fuel generated from municipal solid waste.

(iv) Changes are "contemporaneous" only if reductions occur after a notice is filed pursuant to paragraph (v)(4) and before operation of the emission unit or units that will result in emission increases. Also, to be "contemporaneous" all of the emission reductions must be completed and enforceable under the state plan before operation of the emission unit or units that will result in any emission increase. Where the new emission unit is a replacement for an emission unit that is being shut down in order to provide the necessary reductions, the reviewing authority may allow up to 180 days for shakedown of the new emission unit before the existing emission unit is required to cease operation.

(v) For a series of changes in a stationary source to satisfy the requirement of "no net increase," all of the following must be satisfied:

(*a*) All reductions and all increases must be for the same pollutant;

(*b*) The sum of all decreases must be greater than or equal to the sum of all increases;

(*c*) On balance the air quality of the affected area must not be adversely impacted.

(vi) In performing the calculation in paragraph (b)(2)(v) of this section to determine whether the sum of all decreases is greater than or equal to the sum of all increases) the following rules shall apply:

(*a*) Subject to the following adjustments, the size of an increase or decrease is determined by the difference between the potential to emit of the change of emissions unit before and after the change.

(*b*) If potential to emit for a changed emission unit was initially higher than allowable emissions, then no offset credit may be taken for decreasing potential to emit down to allowable emissions.

(*c*) The requirement of 40 CFR Part 51, Appendix S, sections IV. C. 2 and 4 shall apply involving the amount of credit permissible for changing fuels and for replacing one hydrocarbon compound with another of lesser reactivity.

(3) "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year round operation. Enforceable permit conditions on the type of materials combusted or processed may be used in determining the annual potential. Secondary emissions do not count in determining annual potential. Fugitive emissions also do not count, except with respect to the following stationary sources and then only to the extent quantifiable:

(i) Coal cleaning plants
(ii) Kraft pulp mills
(iii) Portland cement plants
(iv) Primary zinc smelters
(v) Iron and steel mill plants
(vi) Primary aluminum ore reduction plants
(vii) Primary copper smelters
(viii) Municipal incinerators
(ix) Hydrofluoric, sulfuric, or nitric acid plants
(x) Petroleum refineries
(xi) Lime plants
(xii) Phosphate rock processing plants
(xiii) Coke oven batteries
(xiv) Sulfur recovery plants
(xv) Carbon black plants
(xvi) Primary lead smelters
(xvii) Fuel conversion plants
(xviii) Sintering plants
(xix) Secondary metal production plants
(xx) Chemical process plants
(xxi) Fossil fuel-fired boilers
(xxii) Petroleum storage and transfer units
(xxiii) Taconite ore processing plants
(xxiv) Glass fiber processing plants
(xxv) Charcoal production plants
(xxvi) Fossil fuel-fired steam electric plants
(xxvii) Any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act.

(4) "Stationary source" means any structure, building, facility or installation which emits or may emit any air pollutant regulated under the Act.

(5) "Structure, building, facility or installation" means any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control).

(6) "Emission unit" means any part of a stationary source which emits or has the potential to emit any pollutant regulated under the Act.

* * * * *

(11) "Baseline concentration" means that ambient concentration level which exists at the time of the applicable baseline date, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(i) The actual emissions of other sources in existence on the applicable baseline date, except that contributions from such existing sources to the extent

that a plan revision proposing less restrictive requirements affects such sources was submitted on or before the baseline date and was pending action by the Administrator on that date shall be determined from the allowable emissions under the plan as revised; and

(ii) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(12) "Baseline date" means, for every part of an Air Quality Control Region (AQCR) designated as unclassifiable or attainment under section 107(d)(1) (D) or (E) of the Act the date of the first complete application after August 7, 1977 for a permit under this section for any major stationary source or major modification in any part of the AQCR.

* * * * *

(20) "Secondary emissions" means emissions which occur or would occur as a result of the construction or operation of a major stationary source or major modification, but do not necessarily come from the major stationary source or major modification itself. For purposes of this section, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include but are not limited to:

(i) Emissions from ships or trains coming to or from the stationary source or modification; and

(ii) Emissions from any offsite support source which would be constructed or would not otherwise increase its emissions.

(21) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emission reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(22) "Fugitive emissions" mean those emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(23) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the Act, shall not be considered reconstruction. In determining best available control technology for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such stationary source.

* * * * *

(i) *Review of Major Stationary Sources and Major Modifications—Source Applicability and General Exemptions.*

(1) The plan shall provide that no major stationary source or major modification shall be constructed unless, as a minimum, requirements equivalent to those contained in the paragraphs (j), (l), (n), (p), (r), (t), (v) of this section have been met.

(2) The plan shall provide as follows:

(i) The requirements of paragraphs (j) through (u) shall apply to any major stationary source or major modification that:

(*a*) Would be constructed in an area which is designated under section 107 as attainment or unclassifiable for a pollutant for which the source or modification would be major; or

(*b*) Would significantly impact an area in another state which is designated under section 107 as attainment or unclassifiable for a pollutant for which the source or modification would be major.

(ii) A major stationary source or major modification that is major for violatile organid compounds is also major for ozone.

(3) The plan may provide that requirements equivalent to those contained in paragraphs (j) through (u) of this section do not apply to any major stationary source that would be a nonprofit health or education institution or to any major modification that would occur at such an institution.

(4) The plan may provide that a portable stationary source which has received a permit under requirements equivalent to those contained in the subparagraphs of paragraph (j) through (u) of this section, as applicable, may relocate without again being subject to those requirements, if—

(i) Emissions from the stationary source would not exceed its allowable emissions;

(ii) Emissions from the stationary source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iii) Reasonable notice, not to be less than 10 days, is given to the reviewing authority prior to the relocation identifying the proposed new location and the probable duration of operation at the new location.

(j) *Control Technology Review.* The plan shall provide that—

(1) A major stationary source or major modification shall meet each applicable emission limitation under the State Implementation Plan plus each applicable emission standard and standard of performance under 40 CFR Parts 60 and 61.

(2) A major stationary source or major modification shall apply best available control technology for each pollutant regulated under the Act that it would emit in a significant amount.

(3) In the case of a major modification, the requirement for best available control technology shall apply only to each new or modified emission unit.

(4) For phased construction projects the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time prior to commencement of construction of each independent phase of construction.

(k) *Exemptions from Impact Analyses.*

(1) The plan may provide that with respect to a particular pollutant the requirements of paragraphs (l), (n) and (p) shall not apply to a proposed major stationary source or major modification if—

(i) The increase in allowable emissions of that pollutant from the stationary source or modification would impact no Class I area and no area where an applicable increment is known to be violated; and

(ii) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration.

(2) The plan may provide that with respect to sulfur dioxide or particulate matter the requirements of paragraphs (l), (n) and (p) of this section shall not apply to a modification of a major stationary source which was in existence on August 7, 1977, if—

(i) Any increase in allowable emissions of either of those pollutants after the application of best available

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control technology would impact no Class I area;

(ii) Any such increase would cause or contribute to no violation of any national ambient air quality standard; and

(iii) Any increase in allowable emissions of any air pollutant regulated under the Act after application of best available control technology would be less than 50 tons per year.

(3) The requirements of paragraphs (l), (n), and (p) of this section shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if

(i) The increase or net increase in emissions would impact no Class I area;

(ii) The increase or net increase in emissions is not significant or would cause no significant air quality impact; and

(iii) The increase or net increase in emissions would be less than 100 tons per year for stationary sources listed under (b)(1)(i) or 250 tons per year for other stationary sources.

* * * * *

(n) *Monitoring*—(1) Preapplication monitoring. (i) The plan shall provide that any application for a permit under this section shall contain an analysis of ambient air quality in the area the proposed stationary source or modification would affect for each pollutant regulated under the Act which the stationary source or modification would emit in a significant amount.

(ii) The plan shall provide that as necessary to determine whether emissions from the proposed stationary source or modification would cause or contribute to a violation of any maximum allowable increase or national ambient air quality standard in any area, the analysis required under paragraph (n)(1) of this section shall include continuous air quality monitoring data for any pollutant emitted by the stationary source or modification for which a national ambient air quality standard exists, except non-methane hydrocarbons.

(iii) The plan shall provide that the continuous air monitoring data required under paragarph (n)(1)(ii) of this section shall relate to, and shall have been gathered over the year preceding receipt of the complete application.

(iv) Notwithstanding paragraph (n)(1)(iii) of this section, the plan may provide that the owner or operator may submit less than one year of continuous air quality monitoring data for the analysis required under paragraph (n)(1) of this section, if—

(*a*) The owner or operator of a proposed stationary source or modification demonstrates for total suspended particulates, sulfur dioxide, carbon monoxide, and nitrogen dioxide through historical data or dispersion models that the data for such shorter period of time, but not less than four months, will be obtained during a time period when maximum air quality levels can be expected.

(*b*) The data for ozone will be obtained for those months in which the average daily maximum temperatures exceed 20 degrees Celsius (68 degrees Fahrenheit) in the area under study, or for the four months of the year with the warmest average maximum temperatures for areas where there are not at least four months with average maximum temperatures greater than 20 degrees Celsius (68 degrees Fahrenheit). For calculating the daily maximum temperatures, a climatic record of at least ten years shall be used except where no record of that length which can be considered representative of the area exists.

(v) The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all condition of 40 CFR Part 51, Appendix S, section IV. A may provide post-construction monitoring data for ozone in lieu of providing preconstruction data for ozone as required under paragraph (n)(1)(i) of this section.

(2) Post-construction monitoring. The plan shall provide that the owner or operator of a proposed stationary source or modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the reviewing authority determines may be necessary to determine the effect emissions from the stationary source or modification may have, or are having an air quality in any area.

(3) Operation of monitoring stations. The plan shall provide that the owner or operator shall meet the requirements of appendix B to Part 58 of this chapter during the operation of monitoring stations for purposes of paragraph (n) of this section, as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

* * * * *

(t) *Modified Permits.* (1) The owner or operator of a major stationary source or a major modification who obtains a permit under regulations developed pursuant to this section shall obtain a modified permit prior to beginning construction of any emission unit not authorized by the existing permit if:

(i) Prior to commencement of operation, the owner or operator would propose a change in design capacity of an emission unit or emission units which would significantly increase net potential emissions but not as much as 100 tons per year for stationary sources listed under paragraph (b)(1)(i) of this section or 250 tons per year for other stationary sources;

(ii) Prior to commencement of operation, the owner or operator would propose fundamental changes in the nature of the process equipment used such that the potential emissions from the changed emission unit or emission units would be significant but less than 100 tons per year for stationary sources listed in paragraph (b)(1)(i) of this section or less that 250 tons per year for other stationary sources; or

(iii) After obtaining a permit under this section which limits the hours of operation, the owner or operator proposes to increase the hours of operation.

(2) The owner or operator of a major stationary source or a major modification who obtains a permit under this section shall obtain a new permit prior to beginning any construction not authorized by the existing permit if, prior to commencement of operation, the owner or operator proposes:

(i) An increase in design capacity of one or more emission units which would increase net potential emissions of the stationary source by 100 tons or more per year for stationary sources listed in paragraph (b)(1)(i) of this section or by 250 tons or more per year for other stationary sources; or

(ii) Fundamental changes in the nature of the process equipment used such that the potential emissions from the changed emission unit or emission units would be 100 tons per year or more for stationary sources listed in paragraph (b)(1)(i) of this section or 250 tons or more per year for other stationary sources.

(3) The application for permit modification shall include:

(i) A demonstration that the requirements of paragraph (j) would be met, and

(ii) A demonstration that the increase in allowable emissions would not cause or contribute to a violation of any maximum allowable concentration or maximum allowable increase.

(4) The reviewing authority may approve the application, if

(i) He finds that the proposed construction will satisfy requirements substantially equivalent to those in paragraphs (j) through (r) of this section are met; and

(ii) No demonstration is made by a Federal Land Manager of an adverse impact on the air quality—related values (including visibility) of a Class I area to which he is charged with direct responsibility for management, unless the construction would be approved under procedures substantially equivalent to paragraph (q)(4), (5), (6), or (7) of this section.

(5) The reviewing authority shall approve or deny a complete application within 90 days of its receipt.

(u) *Innovative Control Technology.* (1) The plan may provide that an owner or operator of a proposed major stationary source or major modification may request of the reviewing authority to employ a system of innovative control technology.

(2) The plan may provide that the reviewing authority shall with the consent of the Administrator and the Governor of other affected state(s) determine that a stationary source or modification may employ a system of innovative control technology, if:

(i) The proposed control system has not been demonstrated and will not cause or contribute to an unreasonable, risk to public health, welfare, or safety in its operation, function, or malfunction;

(ii) The owner or operator agrees to achieve a level of continuous emission reduction equivalent to that which would have been required under paragraph (j)(2) of this section by a date specified by the reviewing authority. Such date shall not be greater than 4 years from the time of startup unless an extension under regulations substantially equivalent to those of paragraph (u)(4) of this section would be obtained;

(iii) The proposed construction would meet all requirements under this section based on the emission rate that the stationary source employing the system of innovative control technology would meet on the date specified by the reviewing authority; and

(iv) The proposed construction would not cause or contribute to the violation of any applicable national ambient air quality standard before the date specified by the reviewing authority.

(3) The plan shall provide that the reviewing authority shall disallow any approval to employ a system of innovative control technology made under requirements equivalent to those of this paragraph, if:

(i) The proposed system fails by the date specified to achieve the required continuous emission reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

(4) The plan may provide that if a stationary source or modification fails to meet the required level of continuous emission reduction within the specified time or the approval is withdrawn in accordance with paragraph (u)(3) of this section, the reviewing authority may grant an extension of the requirements equivalent to those of this paragraph for such minimum period as may be necessary to comply with the requirement in paragraph (j) of this section. Such period shall not extend beyond the date three years after the termination of the time period specified in paragraph (u)(2)(ii) or (u)(3), of this section, whichever is applicable.

(v) *Preconstruction Notice.* The plan shall provide that:

(1) The owner or operator of a major stationary source or major modification shall notify the reviewing authority in writing of the date on-site construction will begin at least 90 days before it begins.

(2) The owner or operator of a proposed construction activity, who believes that the activity is not subject to regulations developed pursuant to 40 CFR 51.24 shall also so notify the reviewing authority, if such construction would be considered:

(i) A major modification but for sufficient contemporaneous emission reductions; or

(ii) A major stationary source but for reductions in the potential emissions of the source through the application of air pollution control equipment not generally required under the State Implementation Plan or any applicable standards as set forth in 40 CFR Parts 60 and 61.

(3) The notice required by paragraph (v)(2) of this section shall contain:

(i) The name and address of the owner or operator;

(II) The nature and location of the stationary source or modification;

(iii) The potential to emit and allowable emission rates of any pollutant regulated under the Act for all emission units within the new or modified stationary source;

(iv) A schedule of when each change in the emission of any pollutant regulated under the Act would occur;

(v) Calculations of how any contemporaneous emission reductions identified pursuant to (v)(4) would adequately offset any emission increases for any pollutant regulated under the Act;

(vi) A demonstration that each such emission reduction identified pursuant to paragraph (v)(4) would be enforceable under the State Implementation Plan; and

(vii) Any other information the reviewing authority reasonably needs to determine whether the requirements substantially equivalent to paragraphs (j) through (r) of this section would apply.

(4) The owner or operator who would accomplish contemporaneous emission reductions shall notify the reviewing authority at the time such reductions would occur, if credit is to be taken for such reductions pursuant to paragraph (v)(2)(i).

(5) The notice required by paragraph (v)(4) shall contain:

(i) The name and address of the owner or operator;

(ii) The type and amount of each contemporaneous emission decrease and the affected emission unit;

(iii)A schedule of when each emission reduction would occur or has occurred; and

(iv) Any other information that the reviewing authority reasonably needs to determine if the proposed emission would be acceptable.

Requirements for Federally Promulgated PSD Programs

2(a) Title 40, Part 52 of the Code of Federal Regulations is proposed to be amended as follows:

In § 52.21, paragraphs (b)(1)–(6) and (11) are revised; (b)(17) is deleted; existing (b)(12)–(16) are renumbered as (13)–(17); new (b)(12) and (20)–(24) are added; (i)–(k), (n) and (s)(1) are revised; (t)–(v) are relettered as (x)–(z); new (t)–(w) are added. Those paragraphs read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(b) *Definitions.* For the purposes of this section:

(1) "Major stationary source" means:

(i) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any pollutant regulated under the Clean Air Act (the "Act"): Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants,

carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capability exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(ii) Notwithstanding the stationary source sizes specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant regulated under the Act.

(2)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source, or series of contemporaneous physical changes in or changes in the method of operation of a major stationary source, that would result in a significant net increase in that source's potential to emit the pollutant for which the stationary source is major (or that would make the stationary source major, taking into account all accumulated net increases in potential emissions occurring at the source, including any initial construction, since August 7, 1977). The term "major modification" serves as the definition of "modification" or "modified' when used in the Act in reference to a major stationary source.

(ii) A physical change shall not include routine maintenance, repair and replacement.

(iii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(*a*) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, (or any superseding legislation), a prohibition under the Power Plant and Industrial Fuel Use Act of 1978 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*b*) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Change in ownership of the stationary source; or

(*e*) Use of refuse derived fuel generated from municipal solid waste.

(iv) Changes are "contemporaneous" only if reductions occur after a notice is filed pursuant to paragraph (v)(4) and before opertion of the emission unit or units that will result in emission increases. Also, to be "contemporaneous" all of the emission reductions must be completed and enforceable under the state plan before operation of the emission unit or units that will result in any emission increase. Where the new emission unit is a replacement for an emission unit that is being shut down in order to provide the necessary reductions, the Administrator may allow up to 180 days for shakedown of the new emission unit before the existing emission unit is required to cease operation.

(v) For a series of changes in a stationary source to satisfy the requirement of "no net increase," all of the following must be satisfied:

(*a*) All reductions and all increases must be for the same pollutant;

(*b*) The sum of all decreases must be greater than or equal to the sum of all increases,

(*c*) On balance, the air quality of the affected area must not be adversely impacted.

(vi) In performing the calculation in paragraph (b)(2)(v) (to determine whether the sum of all decreases is greater than or equal to the sum of all increases) the following rules shall apply:

(*a*) Subject to the following adjustments, the size of an increase or decrease is determined by the difference between the potential to emit of the changed emissions unit before and after the change.

(*b*) If potential to emit for a changed emission unit was initially higher than allowable emissions, then no offset credit may be taken for decreasing potential to emit down to allowable emissions.

(*c*) The requirement of 40 CFR Part 51, appendix S, sections IV.C.2 and 4 shall apply, involving the amount of credit permissible for changing fuels and for replacing one hydrocarbon compound with another of lesser reactivity.

(3) "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year round operation. Enforceable permit conditions on the type of materials combusted or processed may be used in determining the annual potential. Secondary emissions do not count in determining annual potential. Fugitive emissions also do not count, except with respect to the following stationary sources and then only to the extent quantifiable:

(i) Coal cleaning plants.
(ii) Kraft pulp mills.
(iii) Portland cement plants.
(iv) Primary zinc smelters.
(v) Iron and steel mill plants.
(vi) Primary aluminum ore reduction plants.
(vii) Primary copper smelters.
(viii) Municipal incinerators.
(ix) Hydrofluoric sulfuric, or nitric acid plants.
(x) Petroleum refineries.
(xi) Lime plants.
(xii) Phosphate rock processing plants.
(xiii) Coke oven batteries.
(xiv) Sulfur recovery plants.
(xv) Carbon black plants.
(xvi) Primary lead smelters.
(xvii) Fuel conversion plants.
(xviii) Sintering plants.
(xix) Secondary metal production plants.
(xx) Chemical process plant.
(xxi) Fossil fuel-fired boilers.
(xxii) Petroleum storage and transfer units.
(xxiii) Taconite ore processing plants.
(xxiv) Glass fiber processing plants.
(xxv) Charcoal production plants.
(xxvi) Fossil fuel-fired steam electric plants.
(xxvii) Any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act.

(4) "Stationary source" means any structure, building, facility or installation which emits or may emit any air pollutant regulated under the Act.

(5) "Structure, building, facility, or installation" means any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control).

(6) "Emission unit" means any part of a stationary source which emits or has the potential to emit any pollutant regulated under the Act.

* * * * *

(11) "Baseline concentration" means that ambient concentration level which exists at the time of the applicable baseline date, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(i) The actual emissions of other sources in existence on the applicable baseline date, except that contributions from such existing sources to the extent

that a plan revision proposing less restrictive requirements affects such sources was submitted on or before the baseline date and was pending action by the Administrator on that date, shall be determined from the allowable emissions under the plan as revised; and

(ii) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(12) "Baseline date" means, for every part of an Air Quality Control Region (AQCR) designated as unclassifiable or attainment under section 107(d)(1) (D) or (E) of the Act, the date of the first complete application after August 7, 1977, for a permit under this section for any major stationary source or major modification in any part of the AQCR.

* * * * *

(20) "Secondary emissions" means emissions which occur or would occur as a result of the construction or operation of a major stationary source or major modification, but do not necessarily come from the major stationary source or major modification itself. For purposes of this section, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general area as the stationary source or modification which causes the secondary emission. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the stationary source or modification; and

(ii) Emissions from any offsite support facility which would be constructed or would not otherwise increase its emissions.

(21) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emission reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(22) "Fugitive emissions" means those emissions which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(23) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(*f*)(1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the act, shall not be considered reconstruction. In determining best available control technology for a reconstructed stationary source, the provisions of 40 CFR 60.15(*f*)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such stationary source.

(24) "Complete application" means an application submitted to the Administrator by the owner or operator of a proposed major stationary source or major modification which represents a reasonable and good faith effort to submit all information necessary for permit issuance.

* * * * *

(i) Review of Major Stationary Sources and Major Modifications—Source Applicability and General Exemptions. (1) No stationary source or modification to which the requirements of paragraphs (j) through (u) of this section apply shall be constructed without a permit which states that the stationary source or modification would meet those requirements. The Administrator has authority to issue any such permit.

(2) The requirements of paragraphs (j) through (u) of this section apply to any major stationary source and any major modification with respect to each pollutant regulated under the Act that it would emit, except as this section otherwise provides.

(3) The requirements of paragraphs (j) through (u) of this section do not apply to any major stationary source or any major modification on which construction commenced before August 7, 1977. The regulations at 40 CFR 52.21 which were in effect before August 7, 1977 shall govern the review and permitting of any such stationary source or modification.

(4) The requirements of paragraphs (j) through (u) of this section do not apply to any major stationary source or major modification that was subject to the review requirements of 40 CFR 52.21(d)(1) for the prevention of significant deterioration as in effect before March 1, 1978, if the owner or operator—

(i) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(ii) Commenced construction before March 19, 1979; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(5) The requirements of paragraphs (j) through (u) of this section do not apply to any major stationary source or major modification that was not subject to 40 CFR 52.21 as in effect before March 1, 1978, if the owner or operator—

(i) Obtained all final federal, state and local preconstruction permits necessary under the applicable State Implementation Plan before March 1, 1978;

(ii) Commenced construction before March 19, 1979; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(6) The requirements of paragraphs (j) through (u) do not apply to a major stationary source or major modification that was subject to 40 CFR 52.21 as in effect before March 1, 1978, if review of an application for approval for the stationary source or modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such a case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978.

(7) The requirements of paragraphs (j) through (u) of this section do not apply to any major stationary source or major modification that was not subject to 40 CFR 52.51 as in effect on June 19, 1978, if the owner or operator:

(i) Obtained all final federal, state and local preconstruction permits necessary under the applicable State Implementation Plan before (date of promulgation);

(ii) Commenced construction before the [date of promulgation] or any earlier time required under the applicable State Implementation Plan; and

(iii) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(8)(i) The requirements of paragraphs (j) through (u) of this section shall apply to any major stationary source or major modification that—

(*a*) Would be constructed in an area which is designated under section 107 as

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attainment or unclassifiable for a pollutant for which the stationary source or modification would be major; or

(*b*) Would significantly impact an area in another state which is designated under section 107 as attainment or unclassifiable for a pollutant for which the source or modification would be major.

(ii) A major stationary source or major modification that is major for volatile organic compounds is also major for ozone.

(9) The requirements of paragraphs (j) through (u) of this section do not apply to any major stationary source that would be a nonprofit health or educational institution or to any major modification that would occur at such an institution, if the Governor of the state in which the stationary source or modification would be located requests that it be exempt from those requirements.

(10) A portable stationary source which has received a permit under this section may relocate without again being subject to this section, if:

(i) Emissions from the stationary source would not exceed its allowable emissions;

(ii) Emissions from the stationary source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iii) Reasonable notice, not to be less than 10 days, is given to the Administrator prior to the relocation identifying the proposed new location and the probable duration of operation at the new location.

(j) *Control Technology Review.* (1) A major stationary source or major modification shall meet each applicable emission limitation under the State Implementation Plan plus each applicable emission standard and standard of performance under 40 CFR Parts 60 and 61.

(2) A major stationary source or major modification shall apply best available control technology for each pollutant regulated under the Act that it would emit in a significant amount. The requirement that a stationary source or modification apply best available control technology for each pollutant for which it would not be major shall apply to no stationary source or modification whose application for a permit under this section was complete before the date that requirement came into effect.

(3) In the case of a modification, the requirement for best available control technology shall apply only to each new or modified emission unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time prior to commencement of construction of each independent phase of construction.

(k) *Exemptions from Impact Analyses.* (1) The requirements of paragraphs (l), (n) and (p) of this section shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if:

(i) The increase in allowable emissions of that pollutant from the stationary source or modification would impact no Class I area and no area where no applicable increment is known to be violated; and

(ii) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration.

(2) The requirements of (l), (n) and (p) of this section shall not apply with respect to sulfur dioxide or particulate matter to a modification of a major stationary source which was in existence on August 7, 1977, if:

(i) Any increase in allowable emissions of either of those pollutants after the application of best available control technology would impact no Class I area;

(ii) Any such increase would cause or contribute to no violation of any national ambient air quality standard; and

(iii) Any increase in allowable emissions of any air pollutant regulated under the Act after the application of best available control technology would be less than 50 tons per year.

(3) The requirements of paragraphs (l), (n) and (p) shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if:

(i) The increase or net increase in emissions would impact no Class I area; and

(ii) The increase or net increase in emissions is not significant or would cause no significant air quality impact; and

(iii) The increase or net increase in emissions would be less than 100 tons per year for stationary sources listed under paragraph (b)(1)(i) or 250 tons per year for other stationary sources.

* * * * *

(n) *Monitoring*—(1) *Preapplication monitoring.* (i) Any application for a permit under this section shall contain an analysis of ambient air quality in the area the proposed stationary source or modification would affect for each pollutant regulated under the Act which the stationary source or modification would emit. The requirement that a stationary source or modification conduct a preconstruction analysis of the ambient air quality for each pollutant for which it would not be major shall apply to no stationary source or modification whose application for a permit under this section was complete before the date that requirement came into effect.

(ii) As necessary to determine whether emissions from the proposed stationary source or modification would cause or contribute to a violation of any maximum allowable increase or national ambient air quality standard in any area, the analysis required under paragraph (n)(1) shall include continuous air quality monitoring data for any pollutant emitted by the stationary source or modification for which a national ambient air quality standard exists, except non-methane hydrocarbons.

(iii) The continuous air monitoring data required under paragraph (n)(1)(ii) of this section, shall relate to, and shall have been gathered over, the year preceding receipt of the complete application, unless the Administrator determines that a complete and adequate analysis may be accomplished in a shorter period. The requirement to gather data over the year preceding receipt of a complete application for each pollutant for which a national ambient standard exists but for which the stationary source or modification would not be major shall apply to no stationary source or modification whose application for a permit under this section was complete before the date that requirement came into effect. Instead such stationary source or modification shall gather data over the time period from the date that the requirement came into effect and the date that such stationery source or modification would file an otherwise complete application under this section.

(iv) If the owner or operator of a proposed stationary source or modifIcation of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, appendix S, section IV.4 may provide post-construction monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (n)(1).

(2) *Post-construction monitoring.* The owner or operator of a proposed stationary source or modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Administrator determines may be necessary to determine the effect emissions from the stationary source or modification may have, or are having on air quality in any area.

(3) Operation of monitoring stations. The owner or operator shall meet the requirements of appendix B to Part 58 of this chapter during the operation of monitoring stations for purposes of paragraph (n) of this section as follows:

(i) No later than January 1, 1980, for existing stations, or

(ii) For new stations, at the time the station is put into operation.

* * * * *

(s) *Source Obligation.* (1) Any owner or operator who constructs or operates a stationary source or modification not in accordance with the application or notice submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a major stationary source or major modification who begins construction on the stationary source or modification without providing preconstruction notice or applying for and receiving approval hereunder, as applicable, shall be considered to be in violation of the applicable State Implementation Plan.

* * * * *

(t) *Modified Permits.* (1) The owner or operator of a major stationary source or a major modification who obtains a permit under regulations developed pursuant to this section shall obtain a modified permit prior to beginning construction of any emission unit not authorized by the existing permit if:

(i) Prior to commencement of operation the owner or operator would propose a change in design capacity of an emission unit or emission units which would significantly increase net potential emissions but not as much as 100 tons per year for stationary sources listed under paragraph (b)(1)(i) or 250 tons per year for other stationary sources; or

(ii) Prior to commencement of operation the owner or operator would propose fundamental changes in the nature of the process equipment such that the potential emissions from the changed emission unit or emission units would be significant but less than 100 tons per year for stationary sources listed under paragraph (b)(1)(i) or 250 tons per year for other stationary sources.

(iii) After obtaining a permit under 40 CFR 52.21 (1978) which limits the hours of operation the owner or operator proposes to increase the hours of operation.

(2) The owner or operator of a major stationary source or a major modification who obtains a permit under this section shall obtain a new permit prior to beginning any construction not authorized by the existing permit if prior to commencement of operation, the owner or operator proposes:

(i) An increase in design capacity of one or more emission units which would increase net potential emissions of the stationary source by 100 tons or more per year for stationary sources listed in paragraph (b)(1)(i) or by 250 tons or more per year for other stationary sources; or

(ii) Fundamental changes in the nature of the process equipment used such that the potential emissions from the changed emission unit or emission units would be 100 tons per year or more for stationary sources listed in paragraph (b)(1)(i) or 250 tons or more per year for other stationary sources.

(3) The application for permit modification shall include:

(i) A demonstration that the requirements of paragraph (j) would be met, and

(ii) A demonstration that the increase in allowable emissions would not cause or contribute to a violation of any maximum allowable concentration or maximum allowable increase.

(4) The Administrator may approve the application if:

(i) He finds that the proposed construction will satisfy the requirements of paragraphs (j) through (u) are met; and

(ii) No demonstration is made by a Federal Land Manager of an adverse impact on the air quality related values (including visibility) of a Class I area to which he is charged with direct responsibility for management, unless the construction would be approved under procedures substantially equivalent to those of paragraph (q)(4), (5), (6), or (7).

(5) The Administrator shall approve or deny a complete application within 90 days of its receipt.

(u) *Innovative Control Technology.* (1) An owner or operator of a proposed major stationary source or major modification may request of the Administrator to employ a system of innovative control technology.

(2) The Administrator shall with the consent of the Governor(s) of the affected state(s) determine that a stationary source may employ a system of innovative control technology, if:

(i) The proposed control system has not been demonstrated and will not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction;

(ii) The owner or operator agrees to achieve a level of continuous emission reduction equivalent to that which would have been required under paragraph (j)(2) by a date specified by the Administrator. Such date shall not be greater than 4 years from the time of startup unless an extension under paragraph (u)(4) would be obtained;

(iii) The proposed construction would meet all requirements under this section based on the emission rate that the stationary source employing the system of innovative control technology would meet on the date specified by the Administrator;

(iv) The proposed construction would not cause or contribute to the violation of applicable national ambient air quality standard before the date specified by the Administrator.

(v) All other applicable requirements including those for public participation have been met.

(3) The Administrator shall disallow any approval to employ a system of innovative control technology made under this section, if:

(i) The proposed system fails by the specified date to achieve the required continuous emission reduction rate, or

(ii) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety in its operation, function, or malfunction.

(4) If a stationary source fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with paragraph (u)(3), the Administrator may grant an extension of the requirements of this paragraph for such minimum period as may be necessary to comply with the requirement in paragraph (j). Such period shall not extend beyond the date three years after termination of the time period specified in paragraph (u)(2)(ii) or (u)(3), whichever is applicable.

(v) *Preconstruction Notice.* (1) The owner or operator of a proposed construction activity subject to 40 CFR 52.21 shall notify the Administrator in writing of the date on site construction will begin as least 90 days before it begins.

(2) The owner or operator of a proposed construction activity, who believes that the activity is not subject to 40 CFR 52.21, shall notify the Administrator, if such construction would be considered:

(i) A major modification but for sufficient contemporaneous emission reductions; or

(ii) A major stationary source but for reductions in the potential emissions of the source through the application of air pollution control equipment not generally required under the State Implementation Plan or any applicable standards as set forth in 40 CFR Parts 60 and 61.

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(3) The notice required by paragraph (v)(2) shall contain:

(i) The name and address of the owner of operator;

(ii) The nature and location of the stationary source or modification;

(iii) The potential to emit and allowable emission rates of any pollutant regulated under the Act for all emission units within the new or modified stationary source;

(iv) A schedule of when each change in the emission of any pollutant regulated under the Act would occur;

(v) Calculations of how any contemporaneous emission reductions identified pursuant to paragraph (v)(4) would adequately offset any emission increases for any pollutant regulated under the Act;

(vi) A demonstration that each such emission reduction identified pursuant to paragraph (v)(4) would be enforceable under the State Implementation Plan; and

(vii) Any other information the Administrator reasonably needs to determine whether the requirements of paragraphs (j) through (u) of this section would apply.

(4) The owner or operator who would accomplish contemporaneous emission reductions shall notify the Administrator at the time such reductions would occur, if credit is to be taken for such reductions pursuant to paragraph (v)(2)(i).

(5) The notice required by paragraph (v)(4) shall contain:

(i) The name and address of the owner or operator;

(ii) The type and amount of each contemporaneous emission decrease and the affected emission unit.

(iii) A schedule of when each emission reduction would occur or has occurred; and

(iv) Any other information that the Administrator reasonably needs to determine if the proposed emission decreases would be acceptable.

(w) *Permit rescission.* (1) Any permit issued under 40 CFR 52.21 (1978), or any amendment of those regulations, shall remain in effect, unless and until it expires under paragraph(s) of this section or is rescinded.

(2) The owner or operator of a stationary source issued a permit under 40 CFR 52.21 (1978) may request that the permitting authority rescind the permit if:

(i) The application for rescission is complete within 90 days after this paragraph is in effect; and

(ii) The owner or operator believes that this section would not apply to the stationary source or modification.

(3) The permitting authority may approve a request submitted in accordance with paragraph (w)(2) if he determines on the basis of the application that this section would not apply to the stationary source or modification.

(4) Any authority which rescinds a permit under this paragraph shall give the public adequate notice of the rescission. Publication of an announcement of a rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

2(b). In § 52.60 (AL), § 52.96 (AK), § 52.144 (AZ), § 52.181 (AR), § 52.270 (CA), § 52.343 (CO), § 52.383 (CT), § 52.432 (DE), § 52.499 (DC), § 52.530 (FL), § 52.581 (GA), § 52.632 (HI), § 52.683 (ID), § 52.738 (IL), § 52.793 (IN), § 52.833 (IA), § 52.884 (KS), § 52.931 (KY), § 52.986 (LA), § 52.1029 (ME), § 52.1116 (MD), § 52.1165 (MA), § 52.1180 (MI), § 52.1234 (MN), § 52.1280 (MS), § 52.1339 (MO), § 52.1382 (MT), § 52.1436 (NB), § 52.1485 (NV), § 52.1529 (NH), § 52.1603 (NJ), § 52.1634 (NM), § 52.1689 (NY), § 52.1778 (NC), § 52.1829 (ND), § 52.1884 (OH), § 52.1929 (OK), § 52.1987 (OR), § 52.2058 (PA), 52.2083 (RI), § 52.2131 (SC), § 52.2178 (SD), § 52.2233 (TN), § 52.2303 (TX), § 52.2346 (UT), § 52.2380 (VT), § 52.2451 (VA), § 52.2497 (WA), § 52.2528 (WV), § 52.2581 (WI), § 52.2630 (WY), § 52.2676 (GU), § 52.2729 (PR), § 52.2779 (VI), and § 52.2827 (AmS), paragraph (b) is revised to read as follows:

§ ——— Significant deterioration of air quality.

* * * * *

(b) Regulations for preventing significant deterioration of air quality. The provisions of 52.21 (b) through (z) are hereby incorporated and made a part of the applicable state plan for the State of ———.

Emission Offset Interpretative Ruling

3. Section II of the Emission Offset Interpretative Ruling, 40 CFR Part 51, Appendix, Appendix S, as revised 44 FR 3283 (January 16, 1979), is proposed to be amended as follows:

3.a. By revising section II, subsection A, subsections (1) through (9) and (11) and by adding a new subsection 13 to read as follows:

II. Initial screening analyses and determination of applicable requirements.

A. *Definitions.* For purposes of this ruling:

1. "Stationary source" means any structure, building, facilty or installation which emits or may emit any air pollutant regulated under the Act.

2. "Structure, building, or facility" means any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control).

3. "Installation" means an identifiable piece of process equipment. This definition does not apply to 40 CFR 51.24 or 52.21.

4. "Potential to emit" means the capability at maximum design capacity to emit a pollutant after the application of air pollution control equipment. Annual potential shall be based on the maximum annual rated capacity of the stationary source assuming continuous year round operation. Enforceable permit conditions on the type of materials combusted or processed may be used in determing the annual potential. Secondary emissions do not count in determining annual potential. Fugitive emissions also do not count, except with respect to the following stationary sources and then only to the extent quantifiable:

(i) Coal cleaning plants;
(ii) Kraft pulp mills;
(iii) Portland cement plants;
(iv) Primary zinc smelters;
(v) Iron and steel mill plants;
(vi) Primary aluminum ore reduction plants;
(vii) Primary copper smelters;
(viii) Municipal incinerators;
(ix) Hydrofluoric, sulfuric, or nitric acid plants;
(x) Petroleum refineries;
(xi) Lime plants;
(xii) Phosphate rock processing plants;
(xiii) Coke oven batteries;
(xiv) Sulfur recovery plants;
(xv) Carbon black plants;
(xvi) Primary lead smelters;
(xvii) Fuel conversion plants;
(xviii) Sintering plants;
(xix) Secondary metal production plants;
(xx) Chemical process plants;
(xxi) Fossil fuel-fired boilers;
(xxii) Petroleum storage and transfer units;
(xxiii) Taconite ore processing plants;
(xxiv) Glass fiber processing plants;
(xxv) Charcoal production plants;
(xxvi) Fossil fuel-fired steam electric plants;
(xxvii) Any other stationary source category which, at the time of the applicability determination, is being regulated under section 111 or 112 of the Act.

5. "Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons per year or more of any air pollutant regulated under the Act.

6.(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source, or series of contemporaneous physical changes in or changes in the method of operation of a major stationary source, that would result in a significant net increase in that stationary source's potential to emit the pollutant for which the stationary source is major (or that would make the stationary source major, taking into account all accumulated net increases in potential emissions occurring at the stationary source, including any initial construction, since December 21, 1976). The term "major modification" serves as the definition of "modification" or "modified" when used in the Act in reference to a major stationary source.

(ii) A physical change shall not include routine maintenance, repair and replacement.

(iii) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(*a*) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), a prohibition under the Power Plant and Industrial Fuel Use Act of 1978 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(*b*) Use of an alternative fuel or raw material, if prior to December 21, 1976, the source was capable of accommodating such fuel or material;

(*c*) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(*d*) Change in ownership of the stationary source; or

(*e*) Use of refuse derived fuel generated from municipal solid waste.

(iv) Changes are "contemporaneous" only if reductions occur after a notice is filed pursuant to paragraph I.4. and before operation of the emission unit or units that will result in emission increases. Also, to be "contemporaneous" all of the emission reductions must be completed and enforceable under the state plan before operation of the emission unit or units that will result in any emission increase. Where the new emission unit is a replacement for an emission unit that is being shut down in order to provide the necessary reductions, the reviewing authority may allow up to 180 days for shakedown of the new emission unit before the emission unit is required to cease operation.

(v) For a series of changes in a stationary source to satisfy the requirement of "no net increase," all of the following must be satisfied:

(*a*) All reductions and all increases must be for the same pollutant;

(*b*) The sum of all decreases must be greater than or equal to the sum of all increases; and

(*c*) On balance the air quality of the affected area must not be adversely impacted.

(vi) In performing the calculation in paragraph (v) (to determine whether the sum of all decreases is greater than or equal to the sum of all increases) the following rules shall apply:

(*a*) Subject to the following adjustments, the size of an increase or decrease is determined by the difference between the potential to emit of the changed emission unit before and after the change.

(*b*) If potential to emit for a changed emission unit was initially higher than allowable emissions, then no offset credit may be taken for decreasing potential to emit down to allowable emissions.

(*c*) The requirements of sections IV.C.2 and 4 of this ruling shall apply involving the amount of credit permissible for changing fuels and for replacing one hydrocarbon compound with another of leser reactivity.

7. "Lowest achievable emission rate" means, for any source, that rate of emissions based on the following, whichever is more stringent:

(i) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator or the proposed stationary source demonstrates that such limitations are not achievable; or

(ii) The most stringent emission limitation which is achieved in practice by such class or category of stationary source.

This term, applied to a modification, means the lowest achievable emission rate for the new or modified emission units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

8. "Emission unit" means any part of a stationary source, which emits or has the potential to emit any pollutant regulated under the Act.

9. "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital of a comparable entirely new stationary source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)–(3). A reconstructed stationary source will be treated as a new stationary source for purposes of this ruling, except that use of an alternative fuel or raw material by reason of an order in effect under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the Act, shall not be considered reconstruction.

In determining lowest achievable emission rate for a reconstructed stationary source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.

11. "Secondary emissions" means emissions which occur or would occur as a result of the construction or operation of a major stationary source or major modification, but do not necessarily come from the major stationary source or major modification itself. For purposes of this ruling, secondary emissions must be specific and well defined, must be quantifiable, and must impact the same general nonattainment area as the stationary source or modification which causes the secondary emission. Secondary emissions may include, but not limited to:

(i) Emissions from ships or trains coming to or from the stationary source or modifications; and

(ii) Emissions from any off-site support source which would be constructed or would not otherwise increase its emissions.

13. "Fugitive emissions" mean those which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

3.b. By amending section II, subsection C by deleting footnote 2 and the second paragraph, and revising the first paragraph to read as follows:

C. *Review of Specified Sources for Area Designation or Air Quality Impact.* In addition, the reviewing authority must determine whether the major stationary source or major modification would either (i) be constructed in an area designated in 40 CFR 81.300–81.356 as nonattainment for a pollutant for which the stationary source or modification is major; or (ii) cause or contribute in any area to a violation of a NAAQS for a pollutant for which the stationary source or modification is major. A major stationary source or major modification that is major for volatile organic compounds is also major for ozone.

3.c. By adding to section II, a new subsection H as follows:

H. *Modified Permits.* (1) The owner or operator of a major stationary source or a major modification who obtains a permit under this ruling shall obtain a modified permit prior to beginning construction of any emission unit not authorized by the existing permit if:

(i) Prior to commencement of operation, the owner or operator proposes a change in design capacity of an emission unit or emission units which would significantly increase net potential emissions but not as much as 100 tons per year; or

(ii) After obtaining a permit under 40 CFR 52.21 (1978) which limits the hours of operation, the owner or operator proposes to increase the hours of operation.

(2) The owner or operator of a major stationary source or a major modification who obtains a permit under this ruling shall obtain a new permit prior to beginning any construction not authorized by the existing permit if, prior to commencement of operation, the owner or operator proposes.

(i) An increase in design capacity of one or more emission units which would increase net potential emissions of the stationary source by 100 tons or more per year; or

(ii) Fundamental changes in the nature of the process equipment used such that the potential emissions from the changed emission unit or emission units would be 100 tons or more per year.

(3) The application for permit modification shall include:

(i) A demonstration that the requirements of conditions 1 of section IV would be met; and

(ii) A demonstration that the increase in allowable emissions would not cause or contribute to a violation of any NAAQS in any air Quality Control Region.

(4) The reviewing authority shall approve or deny the application within 90 days after requirements substantively equivalent to paragraphs (c), (g), and (h) of 40 CFR 51.18, and section V of this ruling, have been met.

3.e. By adding to section II, a new subsection I as follows:

I. *Preconstruction Notice.* 1. The owner or operator of a proposed construction activity subject to this ruling shall notify the reviewing authority in writing of the date on-site construction will begin at least 90 days before it begins.

2. The owner or operator of a proposed construction activity, who believes that the activity is not subject to this ruling shall also notify the reviewing authority, if such construction would be considered:

(i) A major modification but for sufficient contemporaneous emission reductions; or

(ii) A major stationary source but for reductions in the potential emissions of the source through the application of air pollution control equipment not generally required under the State Implementation Plan or any applicable standards as set forth in 40 CFR Parts 60 and 61.

3. The notice required by paragraph I.2. shall contain:

(i) The name and address of the owner or operator;

(ii) The nature and location of the stationary source or modification;

(iii) The potential to emit and allowable emission rates of any applicable pollutant for all emission units within the new or modified stationary source;

(iv) A schedule of when each change in the emission rate of any applicable pollutant would occur;

(v) Calculations of how any contemporaneous emission reductions identified pursuant to paragraph I.4 would adequately offset any emission increases for any pollutant regulated under the Act;

(vi) A demonstration that each such emission reduction identified pursuant to paragraph I.4 would be enforceable under the State Implementation Plan; and

(vii) Any other information the reviewing authority reasonably needs to determine whether the requirements of this ruling would apply.

4. The owner or operator who would accomplish contemporaneous emission reductions shall notify the reviewing authority at the time such reductions would occur if credit is to be taken for such reductions pursuant to paragraph I.2.

5. The notice required by paragraph I.4 shall contain: (i) The name and address of the owner or operator;

(ii) the type and amount of each contemporaneous emission decrease and the affected emission unit;

(iii) A schedule of when each emission reduction would occur or has occurred; and

(iv) Any other information that the reviewing authority reasonably needs to determine if the proposed emission reduction would be acceptable.

3.f. By revising the first paragraph of section IV.A to read as follows:

A. *Conditions for Approval.* If the reviewing authority finds that the major stationary source or major modification would either (i) be constructed in an area designated in 40 CFR 81.300–81.356 as nonattainment for a pollutant for which the stationary source or modification is major; or (ii) would cause or contribute in any area to a violation of a NAAQS for a pollutant for which the stationary source or modification is major, approval may be granted only if the following conditions are met:

* * * * *

3.g. By deleting the second sentence of the fifth paragraph of section II.C.

State Plans for Nonattainment Areas

4. 40 CFR 51.18 is proposed to be amended by adding the following subsection (j):

§ 51.18 Review of new stationary sources and modifications.

* * * * *

(j) State Implementation Plan provisions satisfying sections 172(b)(6) and 173 of the Act must meet the following conditions:

(1) Definitions. All such plans shall use the following definitions. Deviations from the following wording will be approved only if the state specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definition below:

(i) "Stationary source"—the definition set forth in section II.A.1. of appendix S to this part (the Emission Offset Interpretative Ruling).

(ii)(*a*) Plans that show attainment by the deadline under section 172, and reasonable further progress in the interim, based exclusively on currently adopted, approved, and enforceable requirements, will be referred to as "complete." None of the following plans qualify as complete: any plan where approval under Part D of Title I of the Act is conditioned on submission of additional material by the state; any plan containing state-adopted schedules for submission of additional material required under Part D; and any plan where additional submissions are needed by July 1, 1982, as required by section 129(c) of the 1977 amendments to the Act (note under 42 USC 7502). Complete plans must use either the definition of "building, structure, facility or installation" set forth in section 51.24(b)(5), or (at the option of the state) the more stringent definitions required in subsection (ii)(*b*) for plans that are not complete.

(*b*) Plans that are not complete must use the definitions of "building, structure, or facility," and of "installation," set forth in sections 11.A.2 and 3, respectively, of appendix S to this point.

(iii) "Potential to emit"—the definition set forth in section II.A.4. of appendix S to this part.

(iv) "Major stationary source"—the definition set forth in section II.A.5. of appendix S to this part.

(v) "Modification" or "modified," when referring to a major stationary source—the definition set forth in section II.A.6. of appendix S to this part.

(vi) "Reconstruction" and "fixed capital cost"—the definitions set forth in section II.A.9. and 10 of appendix S to this part.

(vii) "Secondary emissions"—the definition set forth in section II.A.11. of appendix S to this part.

(viii) "Fugitive emissions"—the definition set forth in section II.A.13. of appendix S to this part.

(ix) "Emission unit"—the definition set forth in section II.A.8. of appendix S to this part.

(x) "Allowable emissions"—the definition set forth in section II.A.6. of appendix S to this part.

(2) Preconstuction Notice. The plan shall provide that:

(i) The owner or operator of a major stationary source or major modification shall notify the reviewing authority in writing of the date on-site construction will begin at least 90 days before it begins.

(ii) The owner or operator of a proposed construction activity, who believes that the activity is not subject to regulations developed pursuant to sections 172(b)(6) and 173 of the Act and this section 51.18(j) shall also so notify the reviewing authority, if such construction would be considered:

(*a*) A major modification but for sufficient contemporaneous emission reductions; or

(*b*) A major stationary source but for reductions in the potential emissions of the source through the application of air pollution control equipment not generally required under the State Implementation Plan or any applicable standards as set forth in 40 CFR Parts 60 and 61.

(iii) The notice required by paragraph (j)(2)(ii) shall contain:

(*a*) The name and address of the owner or operator;

(*b*) The nature and location of the source or modification;

(*c*) The potential of the new or modified stationary source and allowable emission rates of the applicable pollutant for all emission units within the stationary source;

(*d*) A schedule of when each change in the emissions of the nonattainment pollutant would occur;

(*e*) Calculations of how any contemporaneous emission reductions identified pursuant to paragraph (j)(2)(iv) would adequately offset any emission increases for the nonattainment pollutant;

(*f*) A demonstration that each such emission reduction identified pursuant to paragraph (j)(2)(iv) would be enforceable under the State Implementation Plan; and

(*g*) Any information the reviewing authority reasonably needs to determine whether the regulations referred to in paragraph (j)(2)(ii) would apply.

(iv) The owner or operator who would accomplish contemporaneous emission reductions shall notify the reviewing authority at the time such reductions would occur, if credit is to be taken for such reductions pursuant to paragraph (j)(2)(ii)(*a*).

(v) The notice required by paragraph (j)(2)(iv) shall contain:

(*a*) The name and address of the owner or operator;

(*b*) The type and amount of each contemporaneous emission decrease and the affected emission unit;

(*c*) A schedule of when each emission reduction would occur or has occurred; and

(*d*) Any other information that the reviewing authority reasonably needs to determine if the proposed emission decreases would be acceptable.

(3) A preconstruction review program, adopted to satisfy the requirements of sections 172(b)(6) and 173 for any area designated as nonattainment for any national ambient air quality standard under 40 CFR 81.300–81.356, shall apply to any new or modified major stationary source that is major for the pollutant for which the area is designated nonattainment, if the stationary source or modification would either (i) locate in the designated nonattainment area; or (ii) cause or contribute to a violation of the ambient standard within the designated nonattainment area. A new or modified major stationary source that is major for volatile organic compounds is also major for ozone.

Restrictions on Construction for Nonattainment Areas

5. It is proposed that 40 CFR 52.24(e), which was proposed at 44 FR 38585 (July 2, 1979), be added to read as set forth in the earlier proposal, except that the first sentence would read as follows:

§ 52.24 Statutory restriction on new stationary sources.

* * * * *

(e) For any area designated as nonattainment for any national ambient air quality standard, the restrictions in paragraphs (a) and (b) shall apply to any new or modified major stationary source that is major for the pollutant for which the area is designated nonattainment, if the stationary source or modification would either (1) be constructed in the designated nonattainment area; or (2) cause or contribute to a violation of the ambient standard within the designated nonattainment area. A new or modified major stationary source that is major for volatile organic compounds is also major for ozone.

* * * * *

6. It is proposed that 40 CFR 52.24, as added at 44 FR 38473 (July 2, 1979), be amended by adding new paragraphs (f) and (g) to read as follows:

* * * * *

(f) The following definitions shall apply under this section:

(1) "Stationary source"—the definition set forth in section II.A.1 of 40 CFR Part 51, appendix S (the "offset ruling").

(2) "Building, structure, or facility," and "installation"—the definitions set forth in sections II.A.2 and 3, respectively, of the offset ruling.

(3) "Potential to emit"—the definition set forth in section II.A.4 of the offset ruling.

(4) "Major stationary source"—the definition set forth in section II.A.5 of the offset ruling.

(5) "Modification" or "modified", as used in this section with reference to a major stationary source, means any physical change in or change in the method of operation of a major stationary source that would result in a significant increase in that stationary source's potential to emit the pollutant for which the stationary source is major, without regard to any other changes in or changes in the method of operation of the major stationary source (or that would make the stationary source major, taking into account all accumulated net increases in potential emissions occurring at the stationary source, including any initial construction, since December 21, 1976). The additional conditions set forth in sections II.A.6(ii) and (iii) of the offset ruling shall apply under this definition.

(6) "Reconstruction" and "fixed capital cost"—the definitions set forth in sections II.A.9 and 10 of the offset ruling.

(7) "Fugitive emissions"—the definition set forth in section II.A.13 of the offset ruling.

(8) "Emission unit"—the definition set forth in section II.A.8 of the offset ruling.

(9) "Allowable emissions"—the definition set forth in section II.A.6 of the offset ruling.

(g) *Preconstruction Notice.* (1) The owner or operator of a proposed construction activity, who believes that the activity is not subject to paragraphs (a) or (b) of this section, shall notify the Administrator, if such construction would be considered:

(i) A major stationary source but for reductions in the potential emissions of the source through the application of air pollution control equipment not generally required under the State Implementation Plan or any applicable standards as set forth in 40 CFR Parts 60 and 61.

(2) The notice required by paragraph (g)(1) shall contain:

(i) The name and address of the owner or operator;

(ii) The nature and location of the stationary source or modification;

(iii) The potential to emit and allowable emission rates of the nonattainment pollutant(s) for all emission units within the new or modified stationary source;

(iv) A schedule of when such change in the emission of the nonattainment pollutant(s) would occur;

(v) Any other information the Administrator reasonably needs to determine whether the restrictions of paragraphs (a) or (b) of this section would apply.

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Part V

Federal Election Commission

Contributions to and Expenditures by Delegates to National Party Nominating Conventions: Advance Notice of Proposed Rulemaking

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FEDERAL ELECTION COMMISSION

[11 CFR Ch. I]

Contributions to and Expenditures by Delegates

AGENCY: Federal Election Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Commission requests comments on rules to govern the application of the Federal Election Campaign Act of 1971, as amended, to contributions to and expenditures by delegates and candidates for delegate to national party nominating conventions. Previous Commission guidelines distinguished between "authorized" and "unauthorized" delegates and set forth the reporting obligations, contribution and expenditure restrictions, and other provisions applicable to each type of delegate. These guidelines are summarized below under supplementary information.

DATES: Comments must be received on or before October 5, 1979.

ADDRESSES: Address comments to Office of General Counsel, Federal Election Commission, 1325 K Street, Northwest, Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel for Legislation and Regulations, (202) 523–4143.

SUPPLEMENTARY INFORMATION: During 1976 the Commission published two policy statements relating to delegate selection. The first was published in Vol. 2, No. 3 of the FEC Record for April 1976 and set forth rules governing application of the contribution and expenditure limitations of the Federal Election Campaign Act, as well as the reporting requirements of the Act, to delegates and candidates for delegate to the national party nominating conventions. A second policy statement relating specifically to the payment of delegates' travel and subsistence expenses during national nominating conventions was published in the **Federal Register** on Wednesday, June 16, 1976, at 41 FR 24513.

The policy set forth in the two statements is summarized below. The Commission specifically solicits comments as to the advisability of adopting a similar approach to the application of the FECA to delegate selection in the drafting of proposed rules to govern delegate activity during the 1980 election. The Commission would be especially interested in suggestions of alternative approaches that would be compatible with the requirements of the FECA.

Senate Proposal

In this regard, it should also be noted that legislation is now pending before the Senate which would alter the current requirements of the FECA regarding delegates. An original bill, which the Senate Rules and Administration Committee has ordered reported, would exclude from the definitions of contribution and expenditure any unreimbursed payments made by a delegate or candidate for delegate, including unreimbursed payments for travel and subsistence, in connection with the activities of such individual as a delegate or as a candidate for delegate, as well as any funds given by a political committee of a political party to a delegate or candidate for delegate to defray the aforementioned costs. The bill also excludes any payment of expenses incurred by a state or local political party in sponsoring a party meeting, caucus, or convention held for the purpose of selecting delegates to a national nominating convention. In addition, the bill would establish a $2500 threshold before a delegate or candidate for delegate would be required to report contributions received or expenditures made (exclusive of travel and subsistence costs) with respect to a nominating convention or caucus.

1976 Delegate Selection Policy

I. Scope

The 1976 policy statements applied to all levels of the delegate selection process: local, district, and State nominating conventions, caucuses, or primaries. The term "delegate" also means a candidate for delegate at any stage of the selection process.

II. General Contribution, Expenditure and Reporting Provisions

A. *Authorized Delegates.* The 1976 policy statements distinguished between "authorized" and "unauthorized" delegates. An authorized delegate was defined as a delegate (1) who was authorized or requested by a Presidential candidate (or the candidate's committee or agent) to receive contributions or make any expenditure on behalf of the Presidential candidate, (2) who was reimbursed by a Presidential candidate for any expenditures made on behalf of the Presidential candidate; or, (3) whose own delegate fundraising or spending was subject to direct or indirect control by the Presidential candidate.

Under 1976 guidelines, financial authorization of a delegate by a Presidential candidate was separate and distinct from any other authorization or approval which may be required under party rules or State law. The fact that a delegate had to secure the approval of the Presidential candidate before he or she could appear as a "Jones delegate" on the primary ballot did not, by itself, constitute financial authorization by the candidate.

Examples of actions which would constitute authorization of a delegate included:

(1) The Presidential campaign transfers funds to the delegate for use in the Presidential candidate's or the delegate's campaign.

(2) The Presidential campaign publicly or privately solicits contributions to a specific delegate or slate.

(3) The Presidential campaign guarantees loans to or for a delegate.

(4) The Presidential campaign directs or the Presidential candidate and delegate jointly plan fundraising, advertising, or other campaign activities.

(5) A delegate is authorized by a Presidential candidate to raise or spend funds on behalf of that candidate.

The 1976 guidelines placed no limit on expenditures by authorized delegates, unless the authorizing Presidential candidate accepted public matching funds. In such a case, the authorized delegate's expenditures, excluding travel to and subsistence during the convention, would count toward the authorizing Presidential candidate's national and State expenditure limits.

Furthermore, since an authorized delegate acts, in effect, as an "agent" of the Presidential candidate, such a delegate could not make any expenditures which were not specifically authorized, reimbursed or otherwise directed by the Presidential candidate or the candidate's committee. Any campaign expenditure by an authorized delegate (or on his or her behalf) had to be made: (1) By a check drawn on an account in the Presidential candidate's campaign depository; or, (2) in the case of any expenditure to one person for $100 or less in connection with a single transaction, from the Presidential committee's petty cash fund.

Contributions to an authorized delegate were considered contributions to the authorizing Presidential candidate and therefore subject to the applicable $1,000 or $5,000 contribution limit. Such contributions also counted toward the individual contributor's overall limit of $25,000 during a calendar year to all candidates for Federal office. The prohibitions on contributions by corporations, labor organizations, national banks, and government contractors, on cash contributions over $100, and on contributions by foreign nationals also applied to contributions to authorized delegates.

In order to qualify for matching funds, a contribution to an authorized delegate had to be made by check payable to the Presidential candidate.

An authorized delegate could not make independent expenditures under the 1976 guidelines.

An authorized delegate was required to report all financial transactions to the authorizing candidate's campaign committee in sufficient detail to enable the campaign committee to meet the recordkeeping and reporting requirements of the FECA.

B. *Unauthorized Delegates.* The 1976 policy statements defined an "unauthorized" delegate as a delegate who had not been financially authorized by a Presidential candidate as noted above. As long as the delegate was not authorized, it did not matter whether he or she was declared as favoring a particular Presidential candidate.

An unauthorized delegate was not subject to any expenditure ceiling. Expenditures by an unauthorized delegate did not count against any Presidential candidate's national or State expenditure limit. In addition, an unauthorized delegate's expenditures did not count as contributions to any Presidential candidate so that such a delegate could still make an individual contribution of $1,000 to a particular Presidential campaign.

Contributions to unauthorized delegates did not count toward the limits on the amount a contributor could contribute directly to the Presidential candidate supported by such delegate. Such contributions did count, however, toward the individual's annual contribution limit of $25,000 to all Federal candidates.

Again, the general prohibitions on contributions by corporations, labor organizations, national banks and government contractors, on cash contributions over $100, and on contributions by foreign nationals applied to contributions to unauthorized delegates.

An unauthorized delegate could make independent expenditures, however, an unauthorized delegate who spent more than $100 for campaign communications expressly advocating the election or defeat of a clearly identified candidate was required to report such expenditures directly to the Commission.

III. Travel and Subsistence Expenses

Both authorized and unauthorized delegates could finance out-of-pocket the cost of travel to and subsistence during the nominating convention. Such payments were considered to be neither contributions to a particular Presidential candidate by the individual delegate nor campaign expenditures counting against any candidate's primary election spending limits.

A national or State political party committee could finance the travel and subsistence of authorized delegates to a national nominating convention. Such disbursements were considered to be in-kind contributions to the authorizing candidate subject to applicable contribution limits and reportable in accordance with 2 U.S.C. 434.

A national or State political party committee could finance the travel and subsistence expenses of unauthorized delegates provided it abided by certain requirements. Expenditures on behalf of any slate or group of unauthorized delegates which had become a political committee were limited to $5,000 per year and were reportable as in-kind contributions pursuant to 2 U.S.C. 434. Expenditures for travel and subsistence by a national or State party committee on behalf of an individual unauthorized delegate were unlimited, although they did have to be reported to the Commission.

Under current regulations, a national political party committee may not defray delegate travel and subsistence expenses with public funds. The amount of private funds expended for such purpose, either by a delegate, a party committtee or a Presidential candidate does not count toward the party's $2 million convention expenditure limitation nor does such amount diminish the party's public fund entitlement.

Any delegate could solicit and receive contributions from any person, except as prohibited by the general contribution prohibitions noted above, to defray costs of travel and subsistence. Contributions received by an authorized delegate had to be deposited in the authorizing Presidential candidate's campaign depository and reported by that candidate's campaign committee. Contributions to any slate or group of unauthorized delegates which was a political committee were limited to $5,000 per calendar year and contributions to any individual unauthorized delegate, although unlimited in amount, were subject to the contributor's overall contribution limitation of $25,000 per calendar year. Also, "independent contributions" to unauthorized delegates aggregating over $100 had to be reported directly to the Commission.

IV. Local, County, District and State Party Committees

Local, county, district and State party committees were not required to report administrative expenses incurred in connection with the sponsoring of conventions or caucuses at which delegates were chosen to attend either the next stage in the State's delegate selection process or the national nominating convention.

Dated: August 29, 1979.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 79–27384 Filed 9–4–79; 8:45 am]

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Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
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DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

40695 7–13–79 / Animals destroyed because of scrapie; comments by 9–11–79

Food and Nutrition Service—

41076 7–13–79 / Food stamp program, points and hours of certification and issuance services; comments by 9–11–79

Food Safety and Quality Service—

47098 8–10–79 / Proteolytic enzymes; usage; comments by 9–10–79

Forest Service—

47110 8–10–79 / Plumas National Forest, Calif., et al, permits for raft trips; comments by 9–10–79

44555 7–30–79 / Sale and disposal of timber; comments by 9–10–79

Rural Electrification Administration—

40321 7–10–79 / Telephone Carrier System specifications; comments by 9–10–79

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

40842 7–12–79 / Export findings for bobcat, lynx, river otter, Alaskan brown bear and Alaskan gray wolf, 1979–80 season; comments by 9–10–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

43176 7–23–79 / Powerplant and Industrial Fuel Use Act of 1978; existing facilities; criteria for petitions for exemptions; comments by 9–15–79

Federal Energy Regulatory Commission—

48262 8–17–79 / Jurisdictional agency determinations; Commission review and determinations; comments by 9–15–79

48171 8–17–79 / Procedures for seeking interpretations and declaratory orders under Natural Gas Policy Act of 1978; comments by 9–12–79

49468 8–23–79 / Special relief under certain sections of the Natural Gas Policy Act of 1978; procedures governing applications; comments by 9–14–79

ENVIRONMENTAL PROTECTION AGENCY

47777 8–15–79 / Air pollution; State implementation plans; Nebraska; comments by 9–14–79

47778 8–15–79 / Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations—California; comments by 9–14–79

46895 8–9–79 / Approval and promulgation of implementation plans; New Mexico plan for nonattainment areas; comments by 9–10–79

46893 8–9–79 / Approval and promulgation of Ohio implementation plans; comments by 9–10–79

34346 6–14–79 / Draft application forms for EPA programs (notice); comments by 9–12–79

46892 8–9–79 / District of Columbia State implementation plan; comments by 9–10–79

47557 8–14–79 / Implementation plans; Georgia; plan revisions; comments by 9–13–79

42246 7–19–79 / Interim primary drinking water regulations; amendments; comments by 9–12–79

34393 6–14–79 / National Pollutant Discharge Elimination System; comments by 9–12–79

47777 8–15–79 / Pesticide Programs; Guidelines for Registering Pesticides in the United States; Notification to the Secretary of Agriculture of a proposed regulation; comments period extended to 9–14–79 [originally published at 44 FR 34840, June 15, 1979]

40359 7–10–79 / 1977 Clean Air Act, stack heights; fluid modeling guidance; comments by 9–10–79

47778 8–15–79 / Standards of performance for new stationary sources; glass manufacturing plants; comments extended to 9–14–79 [originally published at 44 FR 34840, June 15, 1979]

34167 6–14–79 / Toxic Substances Control Act; fully halogenated chlorofluorocarbons; comments by 9–12–79

47113 8–10–79 / Water pollution from chemicals manufacturing and plastics industries; comments by 9–10–79

23736 4–20–79 / Water programs; State underground injection control programs; comments by 9–12–79 [corrected at 44 FR 40532, 7–11–79]

FEDERAL COMMUNICATIONS COMMISSION

47118 8–10–79 / Aeronautical radio stations; RF signals, brief keyed for control of airport lights; comments by 9–10–79

44184 7–27–79 / Domestic public message services by entities other than Western Union; regulatory policies; reply comments by 9–14–79

38917 7–3–79 / FM broadcast station in Homosassa Springs, Fla.; reply comments by 9–10–79

37518 6–27–79 / FM broadcast station in Mountain Home, Ark., proposed changes in table of assignments; reply comments by 9–10–79

45227 8–1–79 / Improvements to UHF television reception; order setting deadline for filing reply comments by 9–14–79

[Originally published at 44 FR 3656, Jan. 17, 1979]

46493 8–8–79 / Inquiry into high seas public coast station operations, services and industry, comments by 9–10–79

49704 8–24–79 / One-way radio paging in the special emergency radio service; comments by 9–14–79

48299 8–17–79 / Operation of wireless inflight entertainment system; comments by 9–14–79

43495 7–25–79 / Television broadcast station in Vancouver, Wash.; changes in table of assignments; comments by 9–15–79

FEDERAL MEDIATION AND CONCILIATION SERVICE

40354 7–10–79 / Mediation assistance in the Federal sector, comments by 9–10–79

FEDERAL RESERVE SYSTEM

46432 8–8–79 / Reimbursement to financial institutions for assembling or providing financial records; comments by 9–10–79

FEDERAL TRADE COMMISSION

47099 8–10–79 / Premerger notification, reporting exemptions; minimum dollar value; comments by 9–10–79

HEALTH, EDUCATION AND WELFARE DEPARTMENT

Food and Drug Administration—

28331 5–15–79 / Canned asparagus; standards of identity and quality; comments by 9–14–79

40336 7–10–79 / Canned pineapple, standard of quality; comments by 9–10–79

42714 7–20–79 / Oral hypoglycemic drugs; labeling requirements; comments by 9–14–79

48986 8–21–79 / Sodium stearoyl-2-Lactylate; revision of food additive provisions; coments extended to 9–17–79

[Originally published at 44 FR 23539, Apr. 20, 1979]

36421 6–22–79 / Vitamin and mineral drug products for over-the-counter human use; reply comments extended to 9–14–79

[Originally published at 44 FR 16126, Mar. 16, 1979]

Social Security Administration—

41222 7–16–79 / Employment, wages, self-employment, and self-employment income insurance; revision and simplification; comments by 9–14–79

40526 7–11–79 / Federal old-age survivors, and disability insurance; quarters of coverage and insured status; comments by 9–10–79

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

46881 8–9–79 / User fee for examinations and enrollment of actuaries; comments by 9–10–79

MARINE MAMMAL COMMISSION

47123 8–10–79 / Information Security; implementing regulations; E.O. 12065; comments by 9–10–79

PERSONNEL MANAGEMENT OFFICE

40894 7–13–79 / Nepotism; children of civil service employees and uniformed services; summer employment; comments by 9–11–79

40313 7–10–79 / Optional life insurance; cancellation of declination of certain Postal Service employees; comments by 9–10–79

POSTAL SERVICE

47556 8–14–79 / Articles mailed abroad by or in behalf of senders in the U.S.; comments by 9–12–79

47959 8–16–79 / Enclosures in controlled circulation publications; comments by 9–15–79

SMALL BUSINESS ADMINISTRATION

47098 8–10–79 / Federal coal land set-aside leases; firm size standards; comments by 9–10–79

50046 8–27–79 / Small business size standards for procurement purposes; comments by 9–11–79

TRANSPORTATION DEPARTMENT

Coast Guard—

47349 8–13–79 / Puget Sound; tank vessel operations; comments by 9–14–79

National Highway Traffic Safety Administration—

33441 6–11–79 / Plastic fuel tank; integrity; comments by 9–11–79

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

40351 7–10–79 / Determination of color in white wine, and treatment of sherry; comments by 9–10–79

VETERANS ADMINISTRATION

46891 8–9–79 / Veterans benefits; character of discharge; comments by 9–10–79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

49283 8–22–79 / Agency Decisional Processes Committee, Washington, D.C. (open), 9–4–79

50381 8–28–79 / Agency Organization and Personnel Committee, Washington, D.C. (open) 9–12–79

50381 8–28–79 / Rulemaking and Public Information Committee, Washington, D.C. (open), 9–12–79

AGRICULTURE DEPARTMENT

Forest Service—

49481 8–23–79 / Los Padres National Forest Grazing Advisory Board, Galeta, Calif. (open), 9–14–79

Science and Education Administration—

46909 8–8–79 / Animal Health Science, Research Advisory Board, Washington, D.C. (open), 9–13 and 9–14–79

50387 8–28–79 / Committee of Nine, Baileys Harbor, Wisc. (open), 9–12–79

50621 8–29–79 / Joint Council on Food and Agricultural Science Executive Committee, Washington, D.C. (open), 9–12–79

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ARMS CONTROL AND DISARMAMENT AGENCY

49286 8–22–79 / General Advisory Committee, Washington, D.C. (closed), 9–13 and 9–14–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

49525 8–23–79 / Humanities Panel Advisory Committee, Wash., D.C. (closed), 9–10, 9–14 and 9–15–79

50663 8–29–79 / Humanities Panel, Washington, D.C. (closed), 9–13 and 9–14–79

49316 8–22–79 / Museum Advisory Panel, Washington, D.C. (closed), 9–10 and 9–11–79

CIVIL RIGHTS COMMISSION

50622 8–29–79 / District of Columbia Advisory Committee, Washington, D.C. (open), 9–14–79

49708 8–24–79 / Mississippi Advisory Committee, Jackson, Miss. (open), 9–12–79

49287 8–22–79 / New Hampshire State Advisory Committee, Manchester, N.H. (open), 9–11–79

49709 8–24–79 / New Jersey Advisory Committee, New Brunswick, N.J. (open), 9–13–79

48309 8–17–79 / New Mexico Advisory Committee, Portales, N.M. (open), 9–14–79

47970 8–16–79 / Pennsylvania Advisory Committee; Harrisburg, Pa. (open), 9–14–79

45656 8–3–79 / Vermont Advisory Committee, Montpelier, Vt. (open), 9–12–79

49709 8–24–79 / Washington Advisory Committee, Seattle, Wash. (open), 9–14–79

COMMERCE DEPARTMENT

Bureau of the Census—

49487 8–23–79 / Census Advisory Committee of the American Statistical Association, Suitland, Md (open) 9–13 and 9–14–79

Industry and Trade Administration—

49709 8–24–79 / Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 9–10–79

49710 8–24–79 / Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, Washington, D.C. (open), 9–10–79

50076 8–27–79 / Foreign Availability Subcommittees of the Computer Systems Technical Advisory Committee and Computer Peripherals, Component and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially open), 9–11–79

47781 8–15–79 / Subcommittee on Export Administration of the President's Export Council, Washington, D.C. (open), 9–10–79

National Oceanic and Atmospheric Administration—

47972 8–16–79 / Mid-Atlantic Fishery Management Council, Philadelphia, Pa. (open), 9–12 thru 9–14–79

46910 8–9–79 / Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee, Philadelphia, Pa. (open); 9–10–79

49004 8–21–79 / Pacific Fishery Management Council's Groundfish Advisory Subpanel, Portland, Oreg. (open), 9–12 and 9–13–79

[Meeting location changed at 44 FR 50393, Aug. 28, 1979]

50080 8–27–79 / Pacific Fishery Mangement Council, Portland, Ore. (partially open), 9–13 and 9–14–79

[Originally published at 44 FR 46502, Aug 8, 1979]

Office of the Secretary—

47393 8–13–79 / Economic Advisory Board, Washington, D.C., (open), 9–11–79

COST ACCOUNTING STANDARDS BOARD

50847 8–30–79 / Public Meeting, Promulgation of Standards, Washington, D.C. (open), 9–14–79

DEFENSE DEPARTMENT

Air Force Department—

47975 8–16–79 / USAF Scientific Advisory Board, Langley Air Force Base, Va. (closed), 9–11 and 9–12–79

48742 8–20–79 / USAF Scientific Advisory Board Ad Hoc Committee on Scientific and Engineering Manpower Shortfalls Within the Air Force, Washington, D.C. (closed), 9–11 and 9–12–79

Army Department—

48316 8–17–79 / Army Science Board, Ft. Monroe, Va. (partially closed), 9–10 and 9–11–79

Navy Department—

46314 8–7–79 / Chief of Naval Operations Executive Panel Advisory Committee, Washington, D.C. (closed), 9–12 and 9–13–79

Office of the Secretary—

43505 7–25–79 / Wage Committee Washington, D.C. (closed), 9–11–79

EDUCATIONAL RESEARCH, NATIONAL COUNCIL

24244 4–24–79 / Meeting, Washington, D.C., 9–14–79

ENERGY DEPARTMENT

Conservation and Solar Applications Office—

48742 8–20–79 / Food Industry Advisory Committee and Subcommittees, Washington, D.C. (open), 9–13–79

ENVIRONMENTAL PROTECTION AGENCY

49300 8–22–79 / Motor vehicle pollution control; waiver of carbon monoxide emission standards, Washington, D.C. 9–12 and 9–13–79

49303 8–22–79 / Science Advisory Board, Environmental Health Committee, Washington, D.C. (open), 9–12–79

49509 8–23–79 / Science Advisory Board Technology Assessment and Pollutation Control Committee, Research Triangle Park, N.C. (open), 9–10 through 9–12–79

49010 8–21–79 / State-FIFRA Issues Research and Evaluation Group (SFIREG); Working Committee on Enforcement. Seattle, Wash. (open), 9–12 and 9–13–79

FEDERAL TRADE COMMISSION

48708 8–20–79 / Preservation of consumers' claims and defenses; amendment to trade regulation rule, Washington, D.C., 9–12–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Center for Disease Control—

47811 8–15–79 / Forecasting Influenza Activity, Atlanta, Ga. (open), 9–10–79

49012 8–21–79 / Mine Health Research Advisory Committee, Rockville, Md. (partially open), 9–13–79

[Corrected at 44 FR 50407, Aug. 28, 1979]

Education Office—

50660 8–29–79 / Education of Disadvantaged Children National Advisory Council, Washington, D.C. (open), 9–14 and 9–15–79

49794 8–24–79 / National Advisory Council on Adult Education, Reno, Nevada (open), 9–11 and 9–12–79

47988 8–16–79 / National Advisory Committee on Black Higher Education and Black Colleges and Universities, Silver Spring, Md. (open), 9–10 and 9–11–79

48825 8–20–79 / Women's Educational Programs National Advisory Council, Washington, D.C., 9–9 through 9–11–79

Food and Drug Administration—

44942 7–31–79 / Consumer exchange, Detroit, Mich. (open), 9–11–79

47620 8–14–79 / Consumer exchange meeting, Philadelphia, Pa. (open), 9–12–79

47619 8–14–79 / Consumer exchange meeting, Cleveland, Ohio (open), 9–13–79

50408 8–28–79 / Consumer participation, Little Rock, Ark. (open), 9–13–79

44276 7–27–79 / RAST Inhibition and isoelectric focussing workshop, Bethesda, Md. (open), 9–10–79

Health Resources Administration—

49307 8–22–79 / Health Planning and Development National Council, Washington, D.C. (open), 9–14–79

49307 8–22–79 / Implementation and Administration on Health Planning and Development, Washington, D.C. (open), 9–13–79

49793 8–24–79 / National Advisory Council on Health Professions Education, Hyattsville, Md. (partially open), 9–10—9–11–79

49307 8–22–79 / National Guidelines, Goals, Priorities, and Standards Subcommittee, Washington, D.C. (open), 9–13–79

49307 8–222–79 / Technology and Productivity Subcommittee of the National Council on Health Planning and Development (open), 9–13–79

National Institutes of Health—

45765 8–3–79 / Estrogen Use in Postmenopausal Women, Bethesda, Md. (open), 9–13 and 9–14–79

45275 8–1–79 / National Heart Lung and Blood Advisory Council and its Manpower Subcommittee and Research Subcommittee, Bethesda, Md. (partially open) 9–13 through 9–15–79

Office of the Secretary—

38605 7–2–79 / Child day care regulations, Washington, D.C., 9–12–79

[Originally published at 44 FR 34780, June 15, 1979]

45252 8–1–79 / Ethics Advisory Panel, Washington, D.C. (open), 9–14 and 9–15–79

47619 8–14–79 / Preparation of an environmental impact statement regarding facility to be built in Beltsville, Md. (open), 9–12–79

Social Security Administration—

49311 8–22–79 / Social Security Advisory Council, Washington, D.C. (open), 9–21–79

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51965 **Levels IV and V of the Executive Schedule** Executive Order

51999 **Federal Loans for Property Rehabilitation** HUD/CPD notifies intent to issue and solicits public views on program regulations; comments by 11-5-79

51993 **Fuel for Essential Agricultural Use** DOE/FERC proposes rules regarding availability and practicability of fuels as alternatives to natural gas

52152 **Riots or Civil Disorders** FIA/FEMA makes notice of offer to provide reinsurance against excess aggregate loss resulting from (Part VII of this issue)

52104 **Railroad Track Safety Standards** DOT/FRA proposes to amend rules, comments by 11-30-79 (Part IV of this issue)

52076 **Airport Noise Abatement Plans** DOT/FAA publishes petition for rulemaking, comments by 11-5-79 (Part II of this issue)

52014 **Sugar** USDA makes adjustment of import fees; effective 9-1-79

52140 **Electric and Hybrid Vehicles** DOE proposes to amend minimum performance standards, comments by 11-5-79, hearing on 10-16-79 (Part V of this issue)

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51988 **Alaska Salmon Fishery** Commerce/NOAA issues rules effective 8–31–79

52098 **Surface Coal Mining and Reclamation Operations** Interior/SMREO issues notice of intent concerning performance bonding (Part III of this issue)

52046 **Kraft Condenser Paper From Finland and France** ITC makes determination of injury

52046 **Countertop Microwave Ovens From Japan** ITC solicits comments by 9–14–79; hearing on 9–12–79

52002 **Dry Bulk Cargo Vessels** Commerce/MA proposes rules governing payment of operating-differential subsidy to operators, comments by 10–29–79

52010 **Pilots—Great Lakes** DOT/CG proposes further changes in training and experience requirements, comments by 10–5–79

51980 **American Alligator** Interior/FWS amends special rule; effective 9–6–79

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Title 3—

The President

Executive Order 12154 of September 4, 1979

Levels IV and V of the Executive Schedule

By the authority vested in me as President by Section 5317 of Title 5 of the United States Code it is hereby ordered as follows:

1–1. *Executive Schedule Positions.*

1–101. The following positions are placed in level IV of the Executive Schedule:

(a) Senior Adviser to the Secretary, Department of State.

(b) Deputy Under Secretary for International Labor Affairs, Department of Labor.

(c) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health, Education, and Welfare.

(d) Special Assistant to the Special Representative for Trade Negotiations, Office of the Special Representative for Trade Negotiations.

(e) Deputy Adviser for Labor-Management, Council on Wage and Price Stability.

(f) Deputy Adviser for Congressional Affairs, Council on Wage and Price Stability.

(g) Deputy Adviser for Government Operations, Council on Wage and Price Stability.

(h) Deputy Adviser for Regulatory Policies, Council on Wage and Price Stability.

1–102. The following positions are placed in level V of the Executive Schedule:

(a) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.

(b) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor.

(c) Executive Assistant and Counselor to the Secretary of Labor, Department of Labor.

(d) Commissioner on Aging, Department of Health, Education, and Welfare.

1–2. *General Provisions.*

1–201. Nothing in this Order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in Section 1–1 of this Order who was the occupant of that position immediately prior to the issuance of this Order.

1–202. Executive Order No. 12076, as amended, is hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
September 4, 1979.

[FR Doc. 79–27999
Filed 9–4–79; 5:08 pm]
Billing code 3195–01–M

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UMI

Rules and Regulations

Federal Register
Vol. 44, No. 174
Thursday, September 6, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegation of Authority by the Secretary of Agriculture and General Officers of the Department; Emergency Conservation Program

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule delegates the authority of the Secretary of Agriculture for carrying out Section 403 of Pub. L. 95–334, 16 U.S.C. 2201, the Emergency Conservation Program, to the Assistant Secretary of Agriculture for Natural Resources and Environment. This rule also contains a redelegation to the Administrator, Soil Conservation Service, to administer the program.

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Victor H. Barry, Jr., Deputy Administrator for Programs, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202–447–7245).

SUPPLEMENTARY INFORMATION: Section 403, Pub. L. 95–334, 16 U.S.C. 2201, authorizes the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention, in cooperation with landowners, and land users, as he deems necessary to safeguard lives and property from floods, drought, and products of erosion on any watershed wherever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.19 is amended by revising the heading and preamble and by adding a new paragraph (f)(4)(vii) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Natural Resources and Environment:

* * * * *

(f) * * *

(4) * * *

(vii) The Emergency Conservation Program under Section 403 of Pub. L. 95–334, 16 U.S.C. 2201.

* * * * *

2. The heading for Subpart G is amended to read as follows:

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment

3. Section 2.62 is amended by deleting the term "Assistant Secretary for Conservation, Research, and Education" in paragraphs (a) and (b) and substituting in lieu thereof the term "Assistant Secretary for Natural Resources and Environment" and by adding a new paragraph (a)(4)(vii) to read as follows:

§ 2.62 Administrator, Soil Conservation Service.

(a) * * *

(4) * * *

(vii) The Emergency Conservation Program under Section 403 of Pub. L. 95–334, 16 U.S.C. 2201.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953).

For subpart C.

Dated: August 30, 1979.

Bob Bergland,
Secretary of Agriculture.

For subpart G.

Dated: August 30, 1979.

M. Rupert Cutler,
Assistant Secretary of Agriculture for Natural Resources and Environment.

[FR Doc. 79–27820 Filed 9–5–79; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 628]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 7–13, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on September 4, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia Oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 908.928 Valencia Orange Regulation 528.

Order. (a) The quantities of Valencia oranges grown in Arizona and Californa which may be handled during the period September 7, 1979, through September 13, 1979, are established as follows:

(1) District 1: 331,000 cartons;

(2) District 2: 294,000 cartons;

(3) District 3: Unlimited;

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 5, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-28028 Filed 9-5-79 11:41 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-EA-34; Amdt. 39-3551]

Airworthiness Directives; Bellanca Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to Bellanca 14–13 type airplanes which requires an inspection of the aileron controls for reversal of the rigging. It appears that some aircraft have reported misrigging of such controls and the Bellanca 14–13 Handbook improperly shows the rigging. This type of misrigging could result in an accident.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA–212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: In view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Bellanca: Applies to all Bellanca Model 14–13 aircraft, certificated in all categories.

Compliance required within the next 10 hours in service after the effective date of this AD, unless already accomplished.

Inspect the aileron control system for correct rigging and proper operation. If reversal of control system is detected, rerig the system correctly.

Note.—Do not use the Bellanca 14–13 Handbook for guidance in rigging procedure as the aileron system depicted on page 14, Figure 11, is shown in reverse.

Effective Date: This amendment is effective September 10, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on August 27, 1979.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 79-27490 Filed 9-5-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 79-EA-22]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Temproary Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate temporary restricted areas identified as R–5201A, R–5201B, R–5201C and R–5201D in the vicinity of Ft. Drum, N.Y., to contain a military joint readiness exercise called "EMPIRE GLACIER 80." These actions provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the areas during their time of designation.

EFFECTIVE DATE: November 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On June 28, 1979, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary restricted areas in the vicinity of Ft. Drum, N.Y., to contain a military exercise (44 FR 37630). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposals to the FAA. The comments received expressed no objection. Section 71.151 of Part 71 and § 73.52 of Part 73 were republished in the **Federal Register** on January 2, 1979, (44 FR 344 and 705). These amendments are the same as proposed in the notice.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations designate temporary restricted areas identified as R–5201A, R–5201B, R–5201C and R–5201D in the vicinity of Ft. Drum, N.Y., to contain a military joint readiness exercise called "EMPIRE GLACIER 80." These areas are included in the continental control area for the duration of their time of designation and are designated joint use for IFR/VFR operations that may be authorized by the controling ATC facility when they are not being utilized by the using agency. The controlling agency for R–5201A/B/C and D is the FAA Boston ARTCC and the using agency is the 9th Air Force/DOX, Shaw AFB, Sumter, S.C. The United States Air Force has stated that the requirements of the National Environmental Policy Act have been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 705) are amended, effective 0901 GMT, November 2, 1979, as follows:

In § 71.151 the following temporary restricted areas are added for the duration of their times of designation from 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980:

R–5201A Fort Drum, N.Y.
R–5201B Fort Drum, N.Y.
R–5201C Fort Drum, N.Y.
R–5201D Fort Drum, N.Y.

In § 73.52 the following temporary restricted areas are added:

R–5201A Fort Drum, N.Y.
Boundaries. Beginning at Lat. 44°10′00″ N., Long. 75°39′30″ W.; to Lat. 44°28′00″ N., Long. 75°21′00″ W.; to Lat. 44°28′00″ N., Long. 75°13′00″ W.; to Lat. 44°26′00″ N., Long. 75°09′00″ W.; to Lat. 44°20′00″ N., Long. 75°15′00″ W.; to Lat. 44°11′00″ N., Long. 75°17′00″ W.; to Lat. 44°03′00″ N., Long. 75°33′30″ W.; to Lat. 44°11′15″ N., Long. 75°25′00″ W.; to Lat. 44°15′15″ N., Long. 75°31′00″ W.; to point of beginning.
Designated altitudes. 100 feet AGL up to but not including FL 180.
Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.
Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R–5201B Fort Drum, N.Y.
Boundaries. Beginning at Lat. 44°03′00″ N., Long. 75°33′30″ W.; to Lat. 43°51′15″ N., Long. 75°33′30″ W.; to Lat. 43°51′15″ N., Long. 75°47′07″ W.; to Lat. 44°05′47″ N., Long. 75°44′30″ W.; to Lat. 44°03′25″ N., Long. 75°39′30″ W.; to Lat. 44°00′45″ N., Long. 75°37′25″ W.; to point of beginning.
Designated altitudes. 6,000 feet MSL up to but not including FL 180.
Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.
Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R–5201C Fort Drum, N.Y.
Boundaries. Beginning at Lat. 44°33′00″ N., Long. 75°21′00″ W.; to Lat. 44°36′00″ N., Long. 74°40′00″ W.; to Lat. 43°53′30″ N., Long. 74°41′00″ W.; to Lat. 43°45′00″ N., Long. 74°46′50″ W.; to Lat. 43°45′00″ N., Long. 75°48′00″ W.; to Lat. 43°51′15″ N., Long. 75°47′07″ W.; to Lat. 43°51′15″ N., Long. 75°33′30″ W.; to Lat. 44°03′00″ N., Long. 75°33′30″ W.; to Lat. 44°11′00″ N., Long. 75°17′00″ W.; to Lat. 44°20′00″ N., Long. 75°15′00″ W.; to Lat. 44°26′00″ N., Long. 75°09′00″ W.; to Lat. 44°28′00″ N., Long. 75°13′00″ W.; to Lat. 44°28′00″ N., Long. 75°21′00″ W.; to Lat. 44°10′00″ N., Long. 75°39′30″ W.; to Lat. 44°05′47″ N., Long. 75°44′30″ W.; to point of beginning.
Designated altitudes. 3,000 feet MSL up to but not including FL 180.
Time of designation. Continuous 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.
Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

R–5201D Fort Drum, N.Y.
Boundaries. Beginning at Lat. 44°36′00″ N., Long. 74°40′00″ W.; to Lat. 44°36′00″ N., Long. 74°34′00″ W.; to Lat. 44°21′30″ N., Long. 74°30′00″ W.; to Lat. 44°08′00″ N., Long. 74°30′00″ W.; to Lat. 43°53′30″ N., Long. 74°41′00″ W.; to point of beginning.
Designated altitudes. 13,000 feet MSL up to but not including FL 180.
Time of designation. Continuous, 0001 January 16, 1980, through 2400 hours, local time, January 24, 1980.
Controlling agency. Federal Aviation Administration, Boston ARTCC.
Using agency. 9th Air Force/DOX, Shaw AFB, Sumter, S.C.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on August 29, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-27401 Filed 9-5-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 19482; Amdt. No. 95-287]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION:

This amendment to Part 95 of the Federal Aviation Regulations [14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these

regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Issued in Washington, D.C., on August 29, 1979.

John S. Kern,

Acting Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

REVISION TO IFR ALTITUDES & CHANGEOVER POINTS TO PART 95

§95.48 GREEN FEDERAL AIRWAY 8
is amended to read in part:

FROM	TO	MEA
Dutch Harbor, Alas. NDB (HF Communication required)	Elfee, Alas. NDB	9000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Avenal, Calif. VOR *6700-MOCA	San Jose, Calif. VOR	*18000 MAA-39000
Gaviota, Calif. VORTAC	San Luis Obispo, Calif. VORTAC	18000 MAA-41000
Avenal, Calif. VOR	Salinas, Calif. VOR COO 43 AVE	18000 MAA-39000
Bakersfield, Calif. VOR *2500-MOCA	Pelican INT, Calif.	*3000 MAA-35000
Colli INT, Calif.	Travis, Calif. VOR	4000
Fortuna, Calif. VORTAC	North Bend, Ore. VORTAC	18000
Fortuna, Calif. VORTAC	Rome, Ore. VORTAC	#31000 MAA-45000
#MEA is established with a gap in navigation signal coverage.		
Fresno, Calif. VORTAC	Lake Tahoe, Calif. VORTAC	28000 MAA-45000
Kwang INT, Calif.	Camarillo, Calif. VOR	3600
Julian, Calif. VOR	Int. 242 M rad Julian VOR & 106 M rad Oceanside VOR	8000
Julian, Calif. VOR *8400-MOCA	U.S. Mexican Border	*11000 MAA-41000
*Camarillo, Calif. VOR *3600-MCA Camarillo VOR, E-bound	Santa Monica, Calif. VOR	5000
Int. 242 M rad Julian VOR & 106 M rad Oceanside VOR	Int. 242 M rad Julian VOR & 162 M rad Oceanside VOR	
	W-bound	3500
	E-bound	5000
Linden, Calif. VOR *14400-MOCA	Coaldale, Nev. VOR	*18000 MAA-39000
Mission Bay, Calif. VOR Via SAN 110 rad	U.S. Mexican Border	5600
Mission Bay, Calif. VOR Via SAN 120 rad	U.S. Mexican Border	4600
Mission Bay, Calif. VOR Via SAN R-360 & ONT R-130 *5100-MCA Ontario VOR, SE-bound **6700-MOCA	*Ontario, Calif. VOR	**7000
Mission Bay, Calif. VOR 6300-MOCA Ontario VOR, SE-bound	*Ontario, Calif. VOR	7700 COP 47 SAN
Mission Bay, Calif. VOR	U.S. Mexican Border Via SAN 125 rad	2400
Oakland, Calif. VORTAC	Ukiah, Calif. VORTAC	18000 MAA-45000
Oceanside, Calif. VOR *5900-MOCA	U.S. Mexican Border Via OCN 122 rad	*6000
Oceanside, Calif. VOR	Int. 106 M rad Oceanside VOR & 242 M rad Julian VOR	
	NW-bound	4000
	SE-bound	5000
Ontario, Calif. VORTAC *12900-MOCA	Peach Springs, Ariz. VORTAC	*#23000
#MEA is established with a gap in navigation signal coverage		
Peach Springs, Ariz. VORTAC COP 115 PGS	Cortez, Colo. VOR	#18000 MAA-45000
#MEA is established with a gap in navigation signal coverage		
Pelican INT, Calif. *5000-MRA	Panoche, Calif. VOR (Gulf Route 26)	5500
Richmond INT, Calif.	Oakland, Calif. VOR	5000
Salinas, Calif. VORTAC	Woodside, Calif. VOR	5000 COP 33 SNS
San Luis Obispo, Calif. VORTAC	Big Sur, Calif. VORTAC	18000 MAA-41000
Santa Catalina, Calif. VORTAC	Santa Barbara, Calif. VORTAC	6000
Stinson Beach INT, Calif.	Napa, Calif. VORTAC	4600
Travis, Calif. VOR	Sablo INT, Calif.	3500
Ukiah, Calif. VORTAC	Fortuna, Calif. VORTAC	18000 MAA-45000
Int. 310 M rad Ventura VOR & 153 M rad Panoche, VOR	Panoche, Calif. VOR	18000 MAA-29000
Woodside, Calif. VORTAC	San Luis Obispo, Calif. VORTAC	18000 MAA-31000
Cape Sarichef, Alas. LF RBN	Fort Randall, Alas. LF/RBN	11000

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
DeLancey, N.Y. VOR	Int. 051 M rad DeLancy VOR & 269 M rad Albany VOR	*5000
Hyannis, Mass. VOR *1500-MOCA	Tonni INT, Mass.	*2500

§95.1001 DIRECT ROUTES—U.S.
is amended to read in part:

FROM	TO	MEA
Bangor, Me. VOR *5000-MOCA	Patta INT, Me.	*8000
Allegheny, Pa. VOR	Homee INT, Pa.	4000
Homee INT, Pa.	Revloc, Pa. VOR	4000
Homee INT, Pa.	Johnstown, Pa. VOR	4200

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Bismarck, N.D. VOR Var N alter. *4100-MRA	*Reggy INT, N.D. Via N alter.	3900
Reggy INT, N.D. Via N alter. *4500-MRA	*Tovar INT, N.D. Via N alter.	3900

§95.6008 VOR FEDERAL AIRWAY 8
is amended to delete:

FROM	TO	MEA
Seal Beach, Calif. VOR	Olive INT, Calif.	3000
*Olive INT, Calif. *4100-MCA Olive INT, NE-bound	Ontario, Calif. VOR	5000
Ontario, Calif. VOR	Rialto INT, Calif.	4500
*Rialto INT, Calif. *8800-MCA Rialto INT, NE-bound #9300-Lucer INT, SW-bound	Lucer INT, Calif.	10500

§95.6008 VOR FEDERAL AIRWAY 8
is amended by adding:

FROM	TO	MEA
Seal Beach, Calif. VOR	Ollie INT, Calif.	3000
*Ollie INT, Calif. *4100-MCA Ollie INT, NE-bound	Paradise, Calif. VOR	5000
Paradise, Calif. VOR	*Rialo INT, Calif. *8800-MCA Rialo INT, NE-bound	4500
Rialo INT, Calif. *9300-MCA Lucer INT, SW-bound	*Lucer INT, Calif.	10500

§95.6012 VOR FEDERAL AIRWAY 12
is amended to read in part:

FROM	TO	MEA
Allegheny, Pa. VOR	Milwa INT, Pa.	4000
Milwa INT, Pa.	Johnstown, Pa. VOR	4900

§95.6015 VOR FEDERAL AIRWAY 15
is amended to delete:

FROM	TO	MEA
Scurry, Tex. VOR	Blue Ridge, Tex. VOR	
Via E alter.	Via E alter.	2600

§95.6016 VOR FEDERAL AIRWAY 16
is amended to delete:

FROM	TO	MEA
Prado INT, Calif.	Ontario, Calif. VOR	4000
Ontario, Calif. VOR	Seter INT, Calif.	*5500
*5200-MOCA		
Acton, Tex. VOR	Scurry, Tex. VOR	
Via S alter.	Via S alter.	*2800
*2200-MOCA		

§95.6016 VOR FEDERAL AIRWAY 16
is amended by adding:

FROM	TO	MEA
Prado INT, Calif.	Paradise, Calif. VOR	4000
Paradise, Calif. VOR	Seter INT, Calif.	*5500
*5200-MOCA		

§95.6016 VOR FEDERAL AIRWAY 16
is amended to read in part:

FROM	TO	MEA
Seal Beach, Calif. VOR	*March, Calif. VOR	
Via S alter.	Via S alter.	8000
*11200-MCA March VOR, NE-bound		
Millsap, Tex. VOR	Acton, Tex. VOR	*2800
*2300-MOCA		

§95.6017 VOR FEDERAL AIRWAY 17
is amended to read in part:

FROM	TO	MEA
McAllen, Tex. VOR	Eliza INT, Tex.	2500
Eliza INT, Tex.	*Lee INT, Tex.	**4000
*5500-MRA		
**1800-MOCA		
Lee INT, Tex.	Laredo, Tex. VOR	2500
McAllen, Tex. VOR	Laredo, Tex. VOR	
Via W alter.	Via W alter.	*5000
*1900-MOCA		

§95.6021 VOR FEDERAL AIRWAY 21
is amended to delete:

FROM	TO	MEA
Seal Beach, Calif. VOR	Olive INT, Calif.	3000
*Olive INT, Calif.	Ontario, Calif. VOR	5000
*4100-MCA Olive INT, NE-bound		
Ontario, Calif. VOR	Rialto INT, Calif.	4500
*Rialto INT, Calif.	#Lucer INT, Calif.	10500
*8800-MCA Rialto INT, NE-bound		
#9300-MCA Lucer INT, SW-bound		

§95.6021 VOR FEDERAL AIRWAY 21
is amended by adding:

FROM	TO	MEA
Seal Beach, Calif. VOR	Ollie INT, Calif.	3000
*Ollie INT, Calif.	Paradise, Calif. VOR	5000
*4100-MCA Ollie INT, NE-bound		
Paradise, Calif. VOR	*Rialo INT, Calif.	4500
*8800-MCA Rialo INT, NE-bound		
Rialo INT, Calif.	*Lucer INT, Calif.	10500
*9300-MCA Lucer INT, SW-bound		

§95.6044 VOR FEDERAL AIRWAY 44
is amended to delete:

FROM	TO	MEA
Atlantic City, N.J. VOR	Murth INT, N.J.	
Via S alter.	Via S alter.	1800
*2000-MOCA		
Murth INT, N.J.	Gamby INT, N.J.	
Via S alter.	Via S alter.	*8000
*2000-MOCA		
Gamby INT, N.J.	Sates INT, N.J.	
Via S alter.	Via S alter.	*6000
*2000-MOCA		
Sates INT, N.J.	Deer Park, N.Y. VOR	
Via S alter.	Via S alter.	*4000
*2000-MOCA		

§95.6044 VOR FEDERAL AIRWAY 44
is amended by adding:

FROM	TO	MEA
Atlantic City, N.J. VOR	Murth INT, N.J.	
Via E alter.	Via E alter.	1800
Murth INT, N.J.	Beams INT, N.J.	
Via E alter.	Via E alter.	*8000
*2000-MOCA		

§95.6055 VOR FEDERAL AIRWAY 55
is amended by adding:

FROM	TO	MEA
Grand Forks, N.D. VOR	*Reggy INT, N.D.	**8000
*4100-MRA		
**3400-MOCA		
Reggy INT, N.D.	Bismarck, N.D. VOR	3900

§95.6066 VOR FEDERAL AIRWAY 66
is amended to delete:

FROM	TO	MEA
Bridgeport, Tex. VOR	Lake Kiowa INT, Tex.	
Via N alter.	Via N alter.	*2900
*2300-MOCA		
Lake Kiowa INT, Tex.	Blue Ridge, Tex. VOR	
Via N alter.	Via N alter.	*2500
*2100-MOCA		

§95.6069 VOR FEDERAL AIRWAY 69
is amended to read in part:

FROM	TO	MEA
*Hille INT, Ark.	Walnut Ridge, Ark. VOR	**3500
*4000-MRA		
**3000-MOCA		

§95.6076 VOR FEDERAL AIRWAY 76
is amended to read in part:

FROM	TO	MEA
Austin, Tex. VOR	Elate INT, Tex.	
Via N alter.	Via N alter.	*2500
*2000-MOCA		
Elate INT, Tex.	Podds INT, Tex.	
Via N alter.	Via N alter.	*2500
*1800-MOCA		
Podds INT, Tex.	Industry, Tex. VOR	
Via N alter.	Via N alter.	*2500
*1900-MOCA		

§95.6081 VOR FEDERAL AIRWAY 81
is amended by adding:

FROM	TO	MEA
U.S. Mexican Border	Marfa, Tex. VOR	10000
Marfa, Tex. VOR	Fort Stockton, Tex. VOR	9000
Fort Stockton, Tex. VOR	Midland, Tex. VOR	4500

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

FROM	TO	MEA
Trees INT, Colo.	*Chilt INT, Colo.	
	SW-bound	16000
	NE-bound	13600
*12600-MCA Chilt INT, SW-bound		
Derma INT, N.M.	Farmington, N.M. VOR	
	NE-bound	8000
	SW-bound	*7000

§95.6129 VOR FEDERAL AIRWAY 129
is amended to read in part:

FROM	TO	MEA
Dubuque, Iowa VOR	Waukon, Iowa VOR	
Via W alter.	Via W alter.	3000

§95.6186 VOR FEDERAL AIRWAY 186
is amended to delete:

FROM	TO	MEA
Van Nuys, Calif. VOR	Ontario, Calif. VOR	5000

§95.6186 VOR FEDERAL AIRWAY 186
is amended by adding:

FROM	TO	MEA
Van Nuys, Calif. VOR	Paradise, Calif. VOR	5000

§95.6187 VOR FEDERAL AIRWAY 187
is amended to read in part:

FROM	TO	MEA
Pedra INT, N.M.	Otins INT, N.M.	
Via E alter.	Via E alter.	*13000
*10000-MOCA		
Otins INT, N.M.	Farmington, N.M. VOR	
Via E alter.	Via E alter.	9000

§95.6197 VOR FEDERAL AIRWAY 197
is amended to delete:

FROM	TO	MEA
Ontario, Calif. VOR	Pomona, Calif. VOR	4500

§95.6197 VOR FEDERAL AIRWAY 197
is amended by adding:

FROM	TO	MEA
Paradise, Calif. VOR	Pomona, Calif. VOR	4500

95.6229 VOR FEDERAL AIRWAY 229
is amended to read in part:

FROM	TO	MEA
Atlantic City, N.J. VOR	Murth INT, N.J.	1800
Murth INT, N.J.	Kennedy, N.Y. VOR	*4500
*2000-MOCA		MAA-7000

§95.6264 VOR FEDERAL AIRWAY 264
is amended to delete

FROM	TO	MEA
Prado INT, Calif.	Ontario, Calif. VOR	
Via S alter.	Via S alter.	4000
Ontario, Calif. VOR	Moreno INT, Calif.	
Via S alter.	Via S alter.	*5500
*5200-MOCA		
*Moreno INT, Calif.	Banning INT, Calif.	
Via S alter.	Via S alter.	
	E-bound	13000
	W-bound	9000
*12000 MCA Moreno INT, E-bound		

§95.6264 VOR FEDERAL AIRWAY 264
is amended by adding:

FROM	TO	MEA
Prado INT, Calif.	Paradise, Calif. VOR	
Via S alter.	Via S alter.	4000
Paradise, Calif. VOR	Seter INT, Calif.	
Via S alter.	Via S alter.	*5500
*5200-MOCA		
*Seter INT, Calif.	Bands INT, Calif.	
Via S alter.	Via S alter.	
	E-bound	13000
	W-bound	9000
*12000-MCA Seter INT, E-bound		

§95.6297 VOR FEDERAL AIRWAY 297
is amended to read in part:

FROM	TO	MEA
Johnstown, Pa. VOR	Talls INT, Pa.	4200
Talls INT, Pa.	Akron, Ohio VOR	3600

§95.6362 VOR FEDERAL AIRWAY 362
is amended to read in part:

FROM	TO	MEA
Alma, Ga. VOR	Vienna, Ga. VOR	3000

§95.6367 VOR FEDERAL AIRWAY 367
is amended to read in part:

FROM	TO	MEA
International Falls, Minn. VOR	U.S. Canadian Border	*9000
*2400-MOCA		

§95.421 VOR FEDERAL AIRWAY 421
is amended by adding:

FROM	TO	MEA
Gallup, N.M. VOR	Derma INT, N.M.	
Via W alter.	Via W alter.	*13000
*11300-MOCA		
Derma INT, N.M.	Farmington, N.M. VOR	
Via W alter.	Via W alter.	
	NE-bound	8000
	SW-bound	13000

§95.6429 VOR FEDERAL AIRWAY 429
is amended to read in part:

FROM	TO	MEA
Cape Girardeau, Mo. VOR	Marion, Ill. VOR	*3000
*2200-MOCA		

§95.6442 VOR FEDERAL AIRWAY 442
is amended to delete:

FROM	TO	MEA
Ontario, Calif. VOR	Aples INT, Calif.	7700

95.6442 VOR FEDERAL AIRWAY 442
is amended by adding

FROM	TO	MEA
Paradise, Calif. VOR	Aples INT, Calif.	7700

§95.6484 VOR FEDERAL AIRWAY 484
is amended to read in part:

FROM	TO	MEA
Woden INT, Ida.	Switz INT, Utah	*16000
*11900-MOCA		

§95.6491 VOR FEDERAL AIRWAY 491
is added to read

FROM	TO	MEA
Big Lake, Alas. VOR	Talkeetna, Alas. VOR	3000

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§95.7010 JET ROUTE NO. 10 is amended to delete:

FROM	TO	MEA	MAA
Gunnison, Colo. VORTAC	Acree INT, Colo.	18000	45000
Acree INT, Colo.	Shrew INT, Colo.	18000	45000
Shrew INT, Colo.	Denver, Colo. VORTAC	18000	15000

§95.7010 JET ROUTE NO. 10 is amended by adding:

FROM	TO	MEA	MAA
Gunnison, Colo. VORTAC	Denver, Colo. VORTAC	19000	45000

§95.7025 JET ROUTE NO. 25 is amended to delete:

FROM	TO	MEA	MAA
Tulsa, Okla. VORTAC	Butler, Mo. VORTAC	18000	45000
Butler, Mo. VORTAC	Des Moines, Iowa VORTAC	18000	45000

§95.7025 JET ROUTE NO. 25 is amended by adding:

FROM	TO	MEA	MEA
Tulsa, Okla. VORTAC	Kansas City, Mo. VORTAC	18000	45000
Kansas City, Mo. VORTAC	Des Moines, Iowa VORTAC	18000	45000

§95.7042 JET ROUTE NO. 42 is amended by adding:

FROM	TO	MEA	MAA
U.S. Mexican Border	Fort Stockton, Tex. VORTAC	18000	45000
Fort Stockton, Tex. VORTAC	Abilene, Tex. VORTAC	18000	45000
Abilene, Tex. VORTAC	Dallas-Fort Worth, Tex. VORTAC	18000	45000

§95.7050 JET ROUTE NO. 50 is amended to delete:

FROM	TO	MEA	MAA
Bakersfield, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000

§95.7050 JET ROUTE NO. 50 is amended by adding:

FROM	TO	MEA	MAA
Bakersfield, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000

§95.7060 JET ROUTE NO. 60 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000

§95.7060 JET ROUTE NO. 60 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000

§95.7064 JET ROUTE NO. 64 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000

§95.7064 JET ROUTE NO. 64 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000

§95.7074 JET ROUTE NO. 74 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7074 JET ROUTE NO. 74 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000
Paradise, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7078 JET ROUTE NO. 78 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000
Paradise, Calif. VORTAC	Parker, Calif. VORTAC	18000	45000

§95.7093 JET ROUTE NO. 93 is amended to delete:

FROM	TO	MEA	MAA
Ontario, Calif. VORTAC	Stockton, Calif. VORTAC	18000	45000

§95.7093 JET ROUTE NO. 93 is amended by adding:

FROM	TO	MEA	MAA
Paradise, Calif. VORTAC	Julian, Calif. VORTAC	18000	45000

§95.7107 JET ROUTE NO. 107 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000.	45000
Ontario, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000

§95.7107 JET ROUTE NO. 107 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000
Paradise, Calif. VORTAC	Hector, Calif. VORTAC	18000	45000

§95.7128 JET ROUTE NO. 128 is amended to delete:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Ontario, Calif. VORTAC	18000	45000
Ontario, Calif. VORTAC	Peach Springs, Calif. VORTAC	25000	45000

§95.7128 JET ROUTE NO. 128 is amended by adding:

FROM	TO	MEA	MAA
Los Angeles, Calif. VORTAC	Paradise, Calif. VORTAC	18000	45000
Paradise, Calif. VORTAC	Peach Springs, Calif. VORTAC	25000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-8 is amended to delete:			
Seal Beach, Calif. VOR	Ontario, Calif. VOR	12	Seal Beach
Ontario, Calif. VOR	Hector, Calif. VOR	44	Ontario
V-8 is amended by adding:			
Seal Beach, Calif. VOR	Paradise, Calif. VOR	12	Seal Beach
Paradise, Calif. VOR	Hector, Calif. VOR	44	Paradise

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V-12 is amended by adding:			
Allegheny, Pa. VOR	Johnstown, Pa. VOR	30	Allegheny
V-16 is amended to delete:			
Los Angeles, Calif. VOR	Ontario, Calif. VOR	25	Los Angeles
Ontario, Calif. VOR	Palm Springs, Calif. VOR	34	Ontario
V-16 is amended by adding:			
Los Angeles, Calif. VOR	Paradise, Calif. VOR	25	Los Angeles
Paradise, Calif. VOR	Palm Springs, Calif. VOR	34	Paradise
V-21 is amended to delete:			
Seal Beach, Calif. VOR	Ontario, Calif. VOR	12	Seal Beach
Ontario, Calif. VOR	Hector, Calif. VOR	44	Ontario
V-21 is amended by adding:			
Seal Beach, Calif. VOR	Paradise, Calif. VOR	25	Los Angeles
Paradise, Calif. VOR	Hector, Calif. VOR	44	Paradise
V-186 is amended to delete:			
Van Nuys, Calif. VOR	Ontario, Calif. VOR	33	Ontario
V-186 is amended by adding:			
Van Nuys, Calif. VOR	Paradise, Calif. VOR	18	Van Nuys
V-264 is amended to delete:			
Los Angeles, Calif. VOR Via S alter.	Ontario, Calif. VOR Via S alter.	25	Los Angeles
Ontario, Calif. VOR Via S alter.	Palm Springs, Calif. VOR Via S alter.	34	Ontario
V-264 is amended by adding:			
Los Angeles, Calif. VOR Via S alter.	Paradise, Calif. VOR Via S alter.	25	Los Angeles
Paradise, Calif. VOR Via S alter.	Palm Springs, Calif. VOR Via S alter.	34	Paradise

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM
J-128 is amended to delete:		
Ontario, Calif. VORTAC	Peach Springs, Ariz. VORTAC	103 Ontario
J-128 is amended by adding:		
Paradise, Calif. VORTAC	Peach Springs, Ariz. VORTAC	103 Paradise

[FR Doc. 79-27761 Filed 9-5-79; 8:45 am]
BILLING CODE 4910-13-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1313-5]

Approval and Promulgation of State Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves revisions to the Montana State Implementation Plan (SIP) submitted by the Governor of Montana on January 26, 1978, and published as a proposed rulemaking on May 9, 1979. No comments were received and no new issues have been raised subsequent to the notice of proposed rulemaking.

The revisions include a stipulation between the Montana Department of Health and Environmental Sciences (DHES) and the Farmers Union Central Exchange (CENEX), relating to reductions in ambient concentrations of sulfur dioxide in the vicinity of the CENEX refinery. The EPA analysis of the sulfur dioxide control measures proposed by CENEX in the stipulations indicates that the National Ambient Air Quality Standards for sulfur dioxide will be met in the existing nonattainment area, when the control measures proposed by CENEX are implemented.

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Harris, Air Quality Control Specialist, United States Environmental Protection Agency, Montana Office, 301 South Park, Drawer 10096, Helena Montana 59601, (406) 449-3454.

SUPPLEMENTARY INFORMATION: The stipulation between DHES and CENEX requires CENEX to install the following facilities:

Project	Scheduled completion date	Status
FCC Heat Exchanger	December 1978.	Complete
Asphalt Loading Heater	August 1978.	Complete
Continuous O_2 Analyzers	May 1978	Complete
Insulation of Asphalt Tanks	December 1978.	Complete
FCC Gas Compressor Electrification.	December 1980.	To be completed approximately May 1979
Crude Main Air Preheat System.	December 1979.	To be completed approximately May 1979
Spare Sulfur Reactor System and Stack.	December 1979.	Complete

In addition, CENEX agreed to raise the existing sulfur plant reaction system stack from its existing height of approximately 100 feet to a new height of 199 feet, said stack to service both the existing sulfur plant and the new sulfur plant. CENEX further agreed to eliminate the two 50 foot high stacks on part of the crude main heater preheat system and install a single stack of 199 feet in their stead.

The increase in the height of these stacks required an evaluation of the compatibility of the emission limitations for the CENEX facilities with section 123 of the Clean Air Act. This statute places a limit on the creditable stack height based on Good Engineering Practices (GEP) that can be used to demonstrate attainment with National Ambient Standards. Since EPA's analysis of attainment was based on existing facility stack heights which are less than GEP as defined by Section 123, it is conservative. The same emissions from a GEP stack height (greater than the existing stack) have less ambient impact.

Other companies named in the stipulation are as follows:

Exxon Company U.S.A., a division of Exxon Corporation; the Continental Oil Company, Billings Refinery; the Montana Power Company, Billings Montana; the Great Western Sugar Company, Billings, Montana; and the Montana Sulfur and Chemical Company, Billings, Montana. These companies have agreed to undertake certain activities which are much less extensive but which will complement the action taken by CENEX.

It should be noted that the area surrounding the CENEX facility was designated as a nonattainment area pursuant to section 107 of the Clean Air Act. The plan submitted on January 26, 1978, was not intended to meet the requirements of Part D of the Act for a nonattainment SIP and was not reviewed by EPA with respect to those requirements. Therefore, today's approval does not include Part D and the Part D review will be treated in a separate notice.

This rulemaking, pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, revises the Montana SIP.

Dated: August 30, 1979.

Douglas Costle,
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.1370 paragraph (c)(6) is added as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(6) Sulfur oxides control strategy for the Billings and Laurel areas and schedule of Compliance for the Farmers Union Central Exchange (CENEX) refinery in Laurel submitted by the Governor on January 26, 1978.

[FR Doc. 79-27826 Filed 9-5-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1313-4]

Approval and Promulgation of State Implementation Plans; Approval of PSD Plan for Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve the State Implementation Plan (SIP) revision for Wyoming which was received by EPA on January 26, 1979. This plan revision was prepared by the State to meet the requirements of Part C (Prevention of Significant Deterioration (PSD) of air quality), Part D (Plan requirements for nonattainment areas) and various sections of the Clean Air Act, as amended in 1977. On April 13, 1979 (44 FR 22127), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, discussed certain provisions which in EPA's judgment did not comply with the requirements of the Act, and requested public comment. No public comments were received. However, on May 16, 1979, EPA received clarification from the State on the issues raised in the April 13, 1979, notice. On July 2, 1979 (44 FR 38473), EPA published a final action which approved the SIP revision with respect to all of the requirements of the Clean Air Act that were addressed by the State, except Part C. This notice addresses the issues involved in approving the PSD program adopted by the State of Wyoming.

EFFECTIVE DATE: September 6, 1979.

ADDRESSES: Copies of the SIP revision, EPA's evaluation report, and the supplemental submission received on May 16, 1979, are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

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SUPPLEMENTARY INFORMATION: On January 26, 1979, EPA received the revised SIP for the State of Wyoming. That revision addressed both the Clean Air Act requirements for a nonattainment SIP (Part D) and some of the general requirements for a statewide SIP, including the Part C requirements for prevention of significant deterioration.

On March 16, 1979 (44 FR 16024), EPA published an advance notice of availability of the Wyoming SIP revision and invited the public to comment on its approvability. In addition, on April 13, 1979 (44 FR 22127), EPA published a notice of proposed rulemaking which described the nature of the SIP and the results of EPA's review with respect to the requirements of the Clean Air Act, and requested public comment. No comments were received.

The April 13, 1979, notice raised several issues which in EPA's judgment, required either clarification by the State or additional revisions to the SIP. On May 16, 1979, EPA received supplementary information from the State which addressed each of these issues.

On July 2, 1979 (44 FR 38473), EPA published a final rulemaking action which approved the Wyoming SIP revision with respect to the requirements of the Part D and various other sections of the Clean Air Act. However, that action did not include the portion of the SIP which addressed PSD.

The following discussion describes the Part C requirements for PSD, the issues raised in EPA's notice of proposed rulemaking of April 13, 1979 (44 FR 22127), the State's response to those issues, and several additional issues that surfaced since the April notice.

Section 110(a)(2)(D) and Part C of the Clean Air Act establish specific requirements for the prevention of significant deterioration of air quality in areas where ambient levels are lower than the national standards. The Act defines the amount of deterioration that can be tolerated in an area in terms of maximum allowable increases in ambient air quality concentrations (increments). These increments vary and are a function of the classification of an area. There are three applicable classifications under this program: (a) Class I where the increments are very stringent and practically no deterioration is allowed, (b) Class II where moderate, well controlled growth is allowed, and (c) Class III where a considerable amount of growth is allowed. While the Act established several mandatory Class I areas, most of the nation is now Class II, and the Act gives redesignation authority to state Governors and Indian governing bodies.

The principal means of protecting the increments are the review and regulation of major new stationary sources and modifications, the tracking of minor source growth, and the periodic review of increment consumption. At present, EPA is implementing the program by a federal permit system designed to meet the requirements of Part C. In that program, operators of major new sources and major modifications must obtain a permit before commencing construction and the permit will be granted if, among other things; (a) the increments for the area are protected, and (b) best available control technology will be employed.

As indicated above, this program is presently implemented by EPA through regulations promulgated in 40 CFR 52.21 on June 19, 1978 (43 FR 26388). On that same date EPA promulgated requirements for state PSD programs at 40 CFR 51.24.[1]

The regulations submitted by the State of Wyoming were designed to meet those requirements through the review of major stationary source growth throughout the State.[2] When combined with existing permit requirements (section 21), a new section 24 of the Wyoming Air Quality Standards and Regulations will prohibit new source construction in clean areas unless best available control technology is employed and a demonstration is made that the increments are being protected.

With two exceptions, the provisions of new section 24 (when combined with existing section 21) are, in all major respects, identical to the Agency regulations and are approved herein. The two exceptions which were raised in EPA's April 13, 1979, notice are:

(1) The Wyoming program does not meet the requirements of 40 CFR 51.24(r) in that it fails to provide that public comments on a proposed permit application and the State's notification of its final determination are to be made available for public inspection. The State's response included a commitment to fill this gap by making the necessary amendment to its regulation at the next public hearing and to comply with the requirement in the interim. In any event, EPA regards the relevant provisions of 40 CFR 52.21(r) as filling the gap during that period.

(2) The Wyoming PSD regulations are somewhat ambiguous in their treatment of temporary emissions, raising a question of whether temporary emissions of sulfur dioxide were improperly excluded from increment consumption. While EPA's regulation for State PSD programs (40 CFR 51.24(k)(1)(iii)) allows an exemption from impact analysis for *all* temporary emissions if they would not have an impact upon Class I area or an area of known increment violation, section 163(c) of the Act and 40 CFR 51.24(f)(1)(iii) allow only temporary *particulate* emissions to be excluded from increment consumption. Wyoming's response included assurances that temporary sulfur dioxide emissions will, henceforth, be considered to consume the increment and a commitment to revise the State regulation to clarify this at the next public hearing.

With the commitments and clarifications offered by the State, EPA is satisfied that the requirements of Part C of the Act and 40 CFR Part 51 are met and approves the Wyoming PSD program with the conditions discussed below.

Delegation of Enforcement Authority

EPA has issued approximately 20 permits under 40 CFR 52.21 to major stationary sources in Wyoming. The State has requested delegation of authority to enforce the conditions placed in those permits. EPA intends to delegate that authority and the delegation will be handled in a separate **Federal Register** notice.

Existing Permit Applications

The Wyoming PSD program set forth in section 24 of the Wyoming Regulations became effective on January 25, 1979, and is applicable to proposed major stationary sources and modifications that had not received an air quality permit from the State under section 21 of the Regulations by that date. However, there are several proposed operations which are subject to the requirements of 40 CFR 52.21 which were permitted by the State prior to this approval of the Wyoming program. Therefore, such major stationary sources and modifications that received permits from the State prior to the date of this approval must apply for and receive a permit from EPA in accordance with the requirements of 40 CFR 52.21(b).

Indian Reservations

The Wyoming SIP does not specifically address whether its PSD regulations apply to Indian Reservations within the State. EPA interprets this to mean that the State does not intend to exercise any permitting authority over sources proposing to locate on Indian Reservations. Therefore, the EPA is retaining the federal PSD permitting program (40 CFR 52.21) on Indian Reservations in Wyoming.

Class I Designations

Section 162 of the Clean Air Act established as mandatory Class I areas all wilderness areas which exceed 5,000 acres in size and were in existence on the date of enactment (August 7, 1977). Section 24c of the Wyoming regulations contains a similar provision but includes all wilderness areas in existence on the effective date of the regulations (January 25, 1979). In the interim (February 24, 1978), the Wilderness Omnibus Act (Pub. L. 95–237) was enacted and designated a new wilderness area in the Medicine Bow Mountains called the Savage Run Wilderness Area (14,000 acres). As a result, the Wyoming regulation has effectively redesignated that area from the Class II designation, given in the Clean Air Act, to Class I. However, the procedural requirements set forth in section 164 for area redesignations were not followed. Consequently, EPA cannot approve the Class I designation of the Savage Run Wilderness Area. It should be noted that section 116 of the Clean Air Act provides that the State retains the authority to enforce any air pollution abatement requirement which is more stringent than necessary under the Act. Therefore, even though the Class I designation is not part of the federally enforceable SIP, the State retains the authority to enforce the designation and the associated limitations for that area. Although this issue was not raised in the notice of proposed rulemaking of April 13, 1979, it is EPA's judgment that no further comment is required on this action because the procedural requirements of section 164 of the Clean Air Act are quite specific.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of section 110 of the Clean Air Act, as amended.

Dated: August 30, 1979.

Douglas M. Costle,
Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.2620, paragraph (c)(10) is amended to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(10) Provisions to meet the requirements of Parts C and D and sections 110, 126, and 127 of the Clean Air Act, as amended in 1977 were submitted on January 26, 1979.

2. Section 52.2630 is revised to read as follows:

§ 52.2630 Prevention of significant deterioration of air quality.

(a) The Wyoming plan, as submitted, is approved as meeting the requirements of Part C of the Clean Air Act except that designation of the Savage Run Wilderness Area, as established in Pub. L. 95–237, from Class II to Class I is disapproved.

(b) *Regulation for preventing significant deterioration of air quality.* The Wyoming plan, as submitted does not apply to certain sources in the State. Therefore, the provisions of § 52.21(b) through (v) are hereby incorporated by reference and made a part of the State Implementation Plan for the State of Wyoming and are applicable to the following proposed major stationary sources or major modifications:

(1) Sources proposing to construct on Indian Reservations in Wyoming; and

(2) Sources that received an air quality permit from the Wyoming State Department of Environmental Quality prior to September 6, 1979.

[FR Doc. 79–27827 Filed 9–5–79; 8:45 am]

BILLING CODE 6560–01–M

[1] On June 18, 1979, the United States Court of Appeals for the District of Columbia Circuit issued a decision that upheld some portions of 40 CFR 52.21 and 51.24 and overturned others. See *Alabama Power Company v. Costle*, 13 ERC 1225. The court's opinion gave only a summary of its conclusions, invited petitions for reconsideration, and promised supplemental opinions explaining the conclusions and disposing of any petitions. An order issued with the summary opinion stayed the effect of the decision until the issuance of the supplemental opinions. EPA has moved for a further stay to obtain adequate time to replace the overturned provisions. A notice specifying proposed replacement provisions will appear in the **Federal Register** in the near future. Until EPA promulgates replacement provisions or the court's decision comes into effect, it is continuing to operate under the existing regulations.

[2] By a letter dated August 1, 1979, Wyoming has confirmed that (1) it is aware of *Alabama Power Company* v. *Costle*, (2) it nevertheless wants EPA to continue to consider its PSD SIP revision as previously submitted, and (3) it recognizes that *Alabama Power* may require revisions in the future.

40 CFR Part 65

[FRL 1310–6]

Approval of a Delayed Compliance Order Issued by the State of Louisiana, Air Control Commission, to Tenneco Oil Co.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the State of Louisiana to Tenneco Oil Company, Chalmette, Louisiana. The Order requires the company to bring air emissions from its refinery in Chalmette, Louisiana, into compliance with certain regulations contained in the federally-approved Louisiana State Implementation Plan (SIP). Because of the Administrator's approval, Tenneco Oil Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation(s) of the SIP regulation covered by the Order during the period the Order is in effect.

EFFECTIVE DATE: September 6, 1979.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region 6, Air Compliance Branch, Enforcement Division, First International Building, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: James Veach, Legal Branch, Enforcement Division, U.S. Environmental Protection Agency, Region 6, First International Building, 1201 Elm Steet, Dallas, Texas 75270, telephone number: (214) 767–2760.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Regional Administrator of EPA's Region 6 office published in the **Federal Register**, 44 FR 1193 (1979), a notice proposing approval of a delayed compliance order issued by the State of Louisiana to Tenneco Oil Company. The notice asked for public comments by February 5, 1979, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice. Therefore, the delayed compliance order issued to Tenneco Oil Company is approved by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Tenneco

Oil Company on a schedule to bring its refinery in Chalmette, Louisiana, into compliance as expeditiously as practicable with Section 24 of the Louisiana Air Control Commission Regulations, a part of the federally-approved Louisiana State Implementation Plan. The Order also imposes interim requirements which meet sections 113(d)(1)(c) and 113(d)(7) of the Act. The Louisiana Air Control Commission decided not to impose emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Tenneco Oil Company to delay compliance with the SIP regulations covered by the Order until June 30, 1979. The facility was unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Tenneco Oil Company on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Louisiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: August 30, 1979.

Douglas M. Costle,

Administrator.

In the consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.231 to read as follows:

§ 65.231 EPA approval of state delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposed	Final compliance date
•	•	•	•	•	•
Tenneco Oil Co	Chalmette, La	DCO–79–1	§ 24 LACCR	Jan. 4, 1979	June 30, 1979.
•	•	•	•	•	•

[FR Doc. 79–27825 Filed 9–5–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Changes to the Special Rule Concerning the American Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The special rule concerning the American alligator, *Alligator mississippiensis,* found at § 17.42(a) is amended to authorize the taking of American alligators in the State of Louisiana in those twelve parishes in which the American alligator is listed under § 17.11 as threatened-similarity of appearance (Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines), provided that the hides of such alligators are only sold or offered for sale to persons holding a valid Federal permit to buy hides issued under the special rule and the meat or other parts, except hides, of such alligators are sold only in the State of Louisiana in accordance with the laws and regulations of that State.

DATES: This rule is effective on September 6, 1979.

FOR FURTHER INFORMATION CONTACT: Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, (202) 343–9242, or Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202) 343–4646.

SUPPLEMENTARY INFORMATION

Background

On October 2, 1978 (43 FR 45513–45517), the Service published a proposed reclassification of the American alligator under § 17.11 from threatened to threatened-similarity of appearance in nine additional parishes in Louisiana (Iberia, St. Mary, Terrebonne, Lafourche, St. Charles, St. Bernard, Jefferson, Plaquemines, and St. Tammany) and proposed changes to the special rule concerning the American alligator, § 17.42(a), which included authorization to conduct a controlled harvest of American alligators in those twelve parishes in Louisiana where the alligator is classified as threatened-similarity of appearance. On June 25, 1979 (44 FR 37130; correction made in 44 FR 42911, July 20, 1979), the Service published a final rule reclassifying the American alligator in those nine additional parishes. On July 18, 1979 (44 FR 41894–41899), the Service proposed changes to the special rule concerning the American alligator which again included authorization to conduct a controlled harvest in Louisiana. Final rules will be published and become effective in mid-September, at least sixty days after publication of the proposed rules in the **Federal Register,** as required by the Endangered Species Act of 1973. The Service's consistent intent throughout these rulemakings has been to classify the American alligator in twelve Louisiana parishes as threatened-similarity of appearance and to authorize a controlled harvest in these areas subject to state and federal law. *See* 43 FR 45516 (October 2, 1978) and 44 FR 37131 (June 25, 1979). However, the special rule in its present form specifically authorizes a controlled harvest in three parishes only, despite the fact that the American alligator has been listed as threatened-similarity of appearance in nine additional parishes. *See* 50 CFR § 17.42(a)(1)(i)(E). This final rule would clarify that a controlled harvest is authorized under federal law in all twelve parishes where the American alligator is listed threatened-similarity of appearance.

This rule also amends the existing special rule by authorizing the sale of meat and other parts, except hides, within Louisiana subject to the laws and regulations of that state. This amendment was proposed in the October 2, 1978 rulemaking. *See* 43 FR 45515–45516.

Summary of Comments

In the October 2, 1978 **Federal Register** proposal (43 FR 45513–45517) and the accompanying September 29, 1978 press release, the general public, State, Federal and other interested parties were asked to submit comments on any aspect of the proposal. The Service also requested comments during a reopened public comment period (May 10–June 5, 1979) and received comments on the proposal at public hearings held on May 25, 1979 at Morgan City, Louisiana and May 29, 1979 at Tallahassee, Florida. The Service has carefully considered these comments. Those comments relating to the reclassification of the American alligator in the nine additional Louisiana parishes as threatened-similarity of appearance and authorization for a controlled harvest in these areas were summarized in the June 25, 1979 rulemaking and will not be repeated. *See* 44 FR 37130–37131. The Service has determined that a controlled harvest of the American alligator listed as threatened-similarity of appearance is consistent with their conservation.

The Service received six written comments concerning the question of the sale of American alligator meat and parts other than hides. Five written comments generally supported the Service's proposal and one opposed it. These comments are summarized below.

The State of Louisiana (Governor Edwin Edwards) and the Florida Game and Freshwater Fish Commission (Colonel Robert Brantly) supported the sale of meat and other parts, but urged the Service to allow interstate commerce in these items as well. This position was based on the rationale that meat would be wasted if it could be legally sold only in the state of taking and that the Service's proposal would unnecessarily restrict the sale of educational materials by biological supply houses.

Little Pecan Wildlife Management Area (Robert A. Koll) favored the proposal on the ground that it would prevent the waste of American alligator meat and would stimulate the local economy.

The Southwest Florida Regional Alligator Association (SFRAA) opposed the sale of meat without explanation.

At the Morgan City, Louisiana public meeting, a number of oral comments were presented. Only three statements were made addressing the sale of meat and other parts. All three were from governmental representatives.

Mr. Richard Yancey (Assistant Secretary, Louisiana Department of Wildlife and Fisheries) urged the Service to allow the sale to occur outside the State of Louisiana. Reasons given to support his position paralleled those raised by the Governor of Louisiana, which have been discussed above.

State Senator Jesse Knowles, Vice Chairman of the Resources Committee of the Senate for the State of Louisiana, suggested alligator meat be available as a food source for the entire country, noting that such a program would provide additional economic benefit for trappers in Louisiana.

Mr. Doyle C. Berry (Chairman, Louisiana Wildlife and Fisheries Commission) supported the export of meat so profits could be used to further substantiate the state program.

At the Tallahassee, Florida public meeting, two participants discussed the sale of meat.

Mr. Alan Egbert (Florida Game and Freshwater Fish Commission) supported the sale of meat within the state of origin and argued that workable regulations could be promulgated to allow both interstate and foreign commerce in legally taken alligator meat.

Mr. J. Don Ashley (Director, Southeastern Alligator Association) supported the sale of meat under regulation and with the imposition of licensing and record-keeping requirements.

The Service has reviewed all the applicable comments and the Director has determined that the sale of meat or other parts, except hides, from American alligators taken lawfully in the State of Louisiana would prevent the wasting of a valuable resource. However, the meat and other parts, except hides, may be sold only in the State of Louisiana in accordance with state laws and regulations. Licensing and record-keeping requirements imposed by the State of Louisiana have facilitated effective enforcement with respect to the sale of American alligator meat and other parts within Louisiana. However, no regulatory scheme exists which would provide effective enforcement outside of states with such licensing and record-keeping systems.

Effect of the Rulemaking

The effect of this final rulemaking is to amend § 17.42(a)(1)(i)(E) to immediately authorize, subject to two conditions (see below), the taking of American alligators in accordance with the laws and regulations of the State of Louisiana in those twelve parishes in which the American alligator is listed under § 17.11 as threatened-similarity of appearance (Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jeffferson, St. Tammany, and Plaquemines). As a result, the State of Louisiana now has clear authority to conduct a controlled harvest starting on September 7, 1979, as scheduled, in each of the twelve parishes where the American alligator is listed as threatened-similarity of appearance and which are enumerated in the special rule.

This rule also authorizes the sale of meat and other parts, except hides, only within the State of Louisiana subject to the laws and regulations of that State. Although commerce in these items is not generally allowed outside the State of Louisiana, permits available under § 17.32 may authorize otherwise prohibited activities with these items outside the State if undertaken for one of the following purposes: scientific purposes, or the enhancement of propogation or survival; economic hardship; zoological exhibition; educational purposes; or special purposes consistent with the purposes of the Act.

Effective Date of This Rule

The Service has found good cause, as required by 5 U.S.C. 553(d)(3), for making this rulemaking effective immediately. The State of Louisiana has scheduled a controlled harvest of the American alligator to begin on September 7, 1979, in those twelve parishes in which the alligator is listed under § 17.11 as threatened-similarity of appearance and delay in the effective date of this rule could result in the postponement of such a season.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Division of Law Enforcement, 1375 K Street, N.W., Washington, D.C. 20005, and may be examined during regular business hours. This assessment forms the basis for the decision that this is not a major Federal action which would significantly affect the quality of the human environment within the remaining of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Mr. John T. Webb, Paralegal Specialist, Division of Law Enforcement, (202) 343–9242.

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

§ 17.42 (Amended)

1. Paragraph (a)(1)(i)(E) of § 17.42 is revised to read as follows:

(a) * * *

(1) * * *

(i) * * *

(E) Any person may take American alligators in Cameron, Vermilion, Calcasieu, Iberia, St. Mary, Terrebonne, St. Bernard, St. Tammany, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

(1) That hides of such alligators are only sold or offered for sale to a person holding a valid Federal license to buy

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hides, issued under this subsection, as a buyer of hides;

(2) The meat and other parts are sold only in the State of Louisiana, and only in accordance with the laws and regulations of that State.

2. Paragraph (a)(2)(iv) is amended by adding the following words after the words "occurring in the wild in * * *":

(a) * * *

(2) * * *

(iv) * * * Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines * * *

The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: August 31, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-27765 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Parker River National Wildlife Refuge, Massachusetts, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Parker River National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1979, through January 31, 1980.

FOR FURTHER INFORMATION CONTACT: George Gavutis, Parker River National Wildlife Refuge, Northern Blvd., Plum Island, Newburyport, Massachusetts 01950, Telephone No. 617-465-5753.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Parker River National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of waterfowl and coots on the Parker River National Wildlife Refuge, Massachusetts, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,900 acres, and known as the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C), and the Youth Hunting Area (Area D), are delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl and coots, subject to the following special conditions:

1. Hunters will be required to have taken and passed the refuge open book Waterfowl Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it upon request. Hunters who are convicted of a violation of refuge regulations are subject to having their exam certification card revoked.

2. The number of hunters on the Pine Island Area will be limited to 75 each day, Parker River Area to 25 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis. Hunters using Area B must each bring and set out at least two (2) waterfowl decoys and waterfowl only may be hunted within 50 yards of these set decoys.

3. Hunters on all three areas may not fire or possess more than 15 shotshells per day. Steel shot is required for all 12-gauge shotguns. Persons using 12-gauge shotguns may not have in their possession lead shotshells. Lead shotshells may be used in shotguns other than 12-gauge.

4. Hunters when requested by federal or state enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

5. The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days except Sundays under the provisions of this special program. Literature describing this program is available at the refuge headquarters.

6. Boat access is prohibited on Area C and required on Area A. Boats may be landed only during the open season on waterfowl and by persons authorized to participate in refuge hunting programs. Access to Area B is permitted by foot from the refuge parking lot off of Marsh Avenue or via boat from the refuge launching ramp on Plum Island, or from off-refuge sites. Access to Area C must be from the refuge parking lot on Stackyard Road.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1980. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27779 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Opening of Certain National Wildlife Refuges in Arizona, California and New Mexico.

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determine that the opening to hunting of upland game on certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Arizona, California and New Mexico.

DATES: Effective from September 1, 1979 through February 28, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Albert W. Jackson, Area Office Manager, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix AZ 85017. Telephone: 602-261-6833.

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, CA 92225. Telephone: 714-922-2129.

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, CA 92363. Telephone: 714-326-2853.

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, AZ 85364. Telephone: 602-783-3400.

LeMoyne B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201. Telephone: 505-622-6755.

Ronald L. Perry, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801.

SUPPLEMENTARY INFORMATION:

General

Hunting of upland game and/or predators on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Vehicular travel is restricted to designated roads and trails on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Listed upland game and predator species may be hunted on the following refuges:

Arizona

Kofa National Wildlife Refuge.

Quail, cottontail rabbits, coyotes, gray fox and bobcat.

Special conditions: (1) The open season for hunting quail and cottontail rabbits on the refuge extends from October 1, 1979 to January 31, 1980. Hunting of quail and cottontail rabbits permitted by shotguns only. (2) The open season for hunting coyotes, gray fox and bobcat on the refuge extends from October 1, 1979 through February 28, 1980. The refuge is closed to the taking of predators during the deer season, except that a hunter with a valid deer permit in the units of the Kofa Refuge may take predators until a deer is taken.

Note.—Kit (swift) fox may not be taken on the Kofa Refuge.

(3) Possession of any loaded or uncased firearm on or within any vehicle is prohibited. A loaded firearm shall mean any firearm containing a cartridge in its chamber or magazine. An uncased firearm shall mean any firearm not encased in a holster, scabbard, or gun case (soft or hard). (4) Possession of all rimfire firearms on the Kofa Refuge is prohibited. (5) Hunting is not permitted in the area known as the Crystal Hill Campground.

Arizona and California

Cibola National Wildlife Refuge.

Quail and Cottontail rabbits.

Special conditions: (1) Arizona—quail and cottontail rabbits, from October 1, 1979 through January 31, 1980. California—quail, from October 20, 1979 through January 27, 1980; cottontail rabbits, from October 1, 1979 through January 27, 1980. (2) Hunting is prohibited within one-fourth mile of any occupied dwelling, 250 yards of any farm worker, or within 50 yards of any road or levee. (3) Pits or permanent blinds may not be built. (4) Only shotgun firearms may be used to take quail and cottontail rabbits. (5) Possession of all handguns and all .22 caliber rimfire firearms is prohibited. (6) No more than two (2) dogs per hunter is permitted for the purpose of legal bird hunting.

Havasu National Wildlife Refuge.

Quail, cottontail rabbits and jackrabbits.

Special conditions: (1) Arizona—quail and cottontail rabbits and jackrabbits, from October 1, 1979 through January 31, 1980. California—quail, from October 20, 1979 through January 27, 1980; cottontail rabbits and jackrabbits, from September 1, 1979 through January 27, 1980. (2) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation. (3) Shotguns only are permitted, not larger than 10 gauge and incapable of holding more than three shells. (4) Shooting hours will be from one-half hour before sunrise to sunset. (5) Two dogs per hunter are allowed for quail hunting only, and neither hunters nor dogs may enter closed areas to retrieve game. (6) Hunters must enter the Topock Marsh hunting areas by way of parking lots only. (7) The portion of Topock Marsh known as Pintail Slough Management Unit will be open to hunting only on Fridays, Saturdays and Sundays. This unit comprises all refuge land north of the north dike. (8) The open portion of the Bill Williams Unit is all refuge land south of the Planet Ranch Road.

Imperial National Wildlife Refuge.

Quail and cottontail rabbits.

Special conditions: (1) Arizona—quail and cottontail rabbits, from October 1, 1979 through January 31, 1980. California—cottontail rabbits, from October 1, 1979 through January 27, 1980; quail, from October 20, 1979 through January 27, 1980. (2) quail and rabbits may be taken with shotguns only. (3) Possession of .22 caliber rimfire firearms is prohibited. (4) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving.

New Mexico

Bitter Lake National Wildlife Refuge.

Quail, ring-necked and white-winged pheasants and cottontail rabbits.

Special conditions: (1) Steel (iron) shot shotgun ammunition only may be used for the taking of pheasants, quail and rabbits on the South Refuge Unit (area C) during any waterfowl season. Possession of shotgun ammunition other than that loaded with steel (iron) shot is prohibited in this unit during waterfowl seasons.

Bosque del Apache National Wildlife Refuge.

Quail and rabbits.

Special conditions: (1) Rabbits may be taken on the refuge only on those areas

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designated by sign and delineated on maps from September 1, 1979 through January 31, 1980. (2) The refuge is open to public access from one-half hour before sunrise to one-hour after sunset only. (3) Shotguns, bows and arrows, and .22 caliber weapons may be used for rabbits, except .22 caliber weapons may not be used from the railroad tracks west to the power lines and from the low-flow channel east to the pipeline.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A–107.

Albert W. Jackson,

Area Manager, U.S. Fish and Wildlife Service, Phoenix, AZ.

August 28, 1979.

[FR Doc. 79–27594 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 32

Hunting; Opening of Certain National Wildlife Refuges in Arizona, California and New Mexico

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of migratory game birds on certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Arizona, California and New Mexico.

DATES: Effective from September 1, 1979 through January 31, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Albert W. Jackson, Area Office Manager, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix, AZ 85017. Telephone: 602–261–6833.

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, CA 92225. Telephone: 714–922–2129.

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, CA 92363. Telephone: 714–326–3853.

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, AZ 85364. Telephone: 602–783–3400.

LeMoyne B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201. Telephone: 505–622–6755.

Ronald L. Perry, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone: 505–835–1828.

Ronald L. Perry, Refuge Manager, San Andres National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone: 505–835–1828.

Ronald L. Perry, Refuge Manager, Sevilleta National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone: 505–835–1828.

SUPPLEMENTARY INFORMATION:

General

Hunting of migratory game birds on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps available at the above addresses. Vehicular travel is restricted to designated roads and trails.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Listed migratory game bird species may be hunted on the following refuges:

Arizona and California

Cibola National Wildlife Refuge

Mourning and white-winged doves.

Special conditions: (1) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (2) Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards from any farm worker. Hunting is also prohibited within 50 yards of any road or levee. (3) Vehicles are prohibited from driving across farm fields or through any undefined trail or road. All off-road vehicles are prohibited. (4) In Arizona, both Zone I and Zone III are closed to hunting. (5) Construction of pits or permanent blinds is prohibited. (6) Camping overnight on the refuge is prohibited. (7) Possession of all handguns and all .22 caliber rimfire firearms is prohibited.

Havasu National Wildlife Refuge.

Mourning and white-winged doves.

Special conditions: (1) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation. (2) Hunting at Pintail Slough will be permitted only on Fridays, Saturdays, and Sundays. Pintail Slough is comprised of all refuge lands north of the north dike. (3) Hunting at the Bill Williams Unit is only permitted on refuge land which lies south of the Planet Ranch Road. (4) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game. (5) Neither hunters nor dogs may enter areas closed to hunting to retrieve game. (6) Pits may not be dug, and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on the refuge for blind construction must be removed at the end of each hunt.

Imperial National Wildlife Refuge.

Mourning and white-winged doves.

Special conditions: (1) In both Arizona and California, hunting will be only during the second (last) segment of the hunting season. (2) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (3) Pits and/or permanent blinds are prohibited.

New Mexico

Bitter Lake National Wildlife Refuge.

Mourning and white-winged doves and teal ducks.

Special conditions: (1) Steel (iron) shot shotgun ammunition only may be used for the taking of doves on the South Refuge Unit (area C) during any period when a duck or waterfowl season runs concurrently with a dove season. (2) Steel (iron) shot shotgun ammunition only may be used for the taking of teal ducks on the South Refuge Unit (area C) and it will not be permissible to possess shotgun ammunition containing other than steel (iron) shot in this unit during any waterfowl season. (3) Up to two (2) dogs per hunter may be used for the purpose of hunting and retrieving. (4) Pits and/or permanent blinds are prohibited. (5) Entrance into closed areas by hunters or dogs for retrieving of game or for any other reason is prohibited.

Bosque del Apache National Wildlife Refuge.

Mourning and white-winged doves.

Special conditions: (1) The refuge is open to public access from one-hour before sunrise to one-half hour after sunset only.

Sevilleta National Wildlife Refuge.

Mourning and white-winged doves and teal ducks.

Special conditions: (1) No camping is permitted. (2) Parking will be limited to areas as posted and designated on hunt map. (3) There will be no entry to the hunt area earlier than 2 hours before sunrise. (4) Pits and/or permanent blinds are prohibited. (5) All hunters must be out of the hunt area by 2 hours after shooting hours. (6) Fires of any type are prohibited. (7) Unloaded firearms that are dismantled or cased may be transported through the closed area over posted routes of travel.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A–107.

Albert W. Jackson,

Area Manager, U.S. Fish and Wildlife Service, Phoenix, AZ.

August 28, 1979.

[FR Doc. 79–27595 Filed 9–5–79; 8:45 am]

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50 CFR Part 32

Hunting; National Wildlife Refuges in Alabama, Arkansas, Louisiana, and Mississippi

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Alabama, Arkansas, Louisiana, and Mississippi is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. In addition, managed big game hunts are designed to keep population levels compatible with habitat capabilities. This document establishes special regulations effective for the upcoming hunting seasons for certain migratory birds, upland game, and big game species.

DATES: Period covered—September 1, 1979 to May 30, 1980. See State regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Area Manager, U.S. Fish and Wildlife Service, 200 East Pascagoula Street, Suite 300, Jackson, Mississippi 39201, Telephone (601) 969–4900.

Refuge Manager, Eufaula National Wildlife Refuge, Route 2, Box 97–B, Eufaula, Alabama 36027, Telephone (205) 687–4065.

Refuge Manager, Wheeler National Wildlife Refuge, Box 1643, Decatur, Alabama 35602, Telephone (205) 353–7243.

Refuge Manager, Big Lake National Wildlife Refuge, Box 67, Manila, Arkansas 72442, Telephone (501) 564–2429.

Refuge Manager, Holla Bend National Wildlife Refuge, Box 1043, Russellville, Arkansas 72801, Telephone (501) 968–2800.

Refuge Manager, Wapanocca National Wildlife Refuge, P.O. Box 279, Turrell, Arkansas 72384, Telephone (501) 343–2595.

Refuge Manager, White River National Wildlife Refuge, Box 308, DeWitt, Arkansas 72042, Telephone (501) 946–1468.

Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, Louisiana 71342, Telephone (318) 992–5261.

Refuge Manager, Lacassine National Wildlife Refuge, Route 1, Box 186, Lake Arthur, Louisiana 70549, Telephone (318) 774–2750.

Refuge Manager, Sabine National Wildlife Refuge, MRH Box 107, Hackberry, Louisiana 70645, Telephone (318) 762–5135.

Refuge Manager, Hillside National Wildlife Refuge, P.O. Box 107, Yazoo City, Mississippi 39194, Telephone (601) 746–8511.

Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739, Telephone (601) 323–5548.

Refuge Manager, Yazoo National Wildlife Refuge, Route 1, Box 286, Hollandale, Mississippi 38748, Telephone (601) 839–2638.

Supplementary Information:

General Conditions

1. Hunting is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 32, all applicable state regulations, the general conditions, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) That funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November, 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of special conditions applying to individual refuge hunts and a map of the hunt area(s) are available at refuge headquarters. Portions of refuges which are closed to hunting are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specified areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

4. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any gauge is prohibited during such hunts.

5. Persons under age 16 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his supervision.

6. Retriever dogs are allowed during waterfowl hunts but they must be under the control of the handler at all times. Unless otherwise specified, dogs are not permitted on refuge areas during hunts.

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§ 32.12 Special Regulations; Migratory game bird hunting for individual wildlife refuge areas.

Alabama

Eufaula National Wildlife Refuge; Migratory Waterfowl Hunting

(1) Hunting will be permitted on areas comprising approximately 450 acres (Alabama unit), and 770 acres (Georgia unit), which have been designated as being open to public waterfowl hunting.

(2) Hunts will be held from 30 minutes prior to sunrise until 11:30 A.M., Central Standard Time for Alabama unit and Eastern Standard Time for Georgia unit, on alternating Saturday and Wednesday mornings of the respective State waterfowl seasons.

(3) Hunters must hunt only from designated blind areas located by refuge personnel. Shooting is not permitted outside designated blind zone.

(4) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(5) Applications for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Alabama, prior to 12 noon, Friday, October 26, 1979. Successful applicants will be determined by an impartial drawing on Monday, October 29, 1979. Permits are nontransferable.

Mourning Dove Hunting

(1) Dove hunting will be permitted on areas comprising approximately 300 acres which have been designated as being open to public dove hunting from 12 noon until sunset (Central Standard Time) on September 29, 1979, October 27, 1979, and January 5, 1980.

(2) Hunters must check in and out of the refuge at the designated checking stations and are not permitted within hunting areas before 11:45 A.M. on hunt days.

(3) Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.

Arkansas

Holla Bend National Wildlife Refuge

(1) Dove hunting will be permitted only in the approximately 500 acre area which has been designated as being open to public dove hunting from 12 noon until sunset on September 1, 1979, and September 8, 1979.

(2) A permit is required.

(3) Persons may enter the refuge when the entrance gate opens each morning (daylight), and must leave the refuge by the time posted at the entrance gate.

(4) Firearms must be cased or unloaded when outside the designated hunt area.

(5) Alcoholic beverages are not permitted in the hunt area.

Louisiana

Lacassine National Wildlife Refuge

(1) Public hunting for ducks, geese, and coots will be permitted on designated areas comprising approximately 6,400 acres. Waterfowl hunting will be allowed from one-half hour before sunrise until 11:00 a.m., Wednesday through Sundays, during the Louisiana western zone season, excluding the special teal season. Hunters may enter the hunting area no earlier than two hours before legal shooting time and must depart the refuge by 12:00 noon.

(2) Upon request hunters are required to exhibit a valid State hunting license, duck stamp, and all shells in possession to a designated refuge official prior to hunting and permit authorized Service personnel to inspect his person, equipment, and/or vehicle.

(3) Hunting parties may not hunt closer than 100 yards apart or closer than 50 yards from canals or waterways.

(4) Temporary blinds made of native vegetation are required. Blinds may not contain wire, lumber, netting, or poles. Portable blinds are permitted but must be removed from the refuge after each day's hunt.

(5) Firearms must be encased or dismantled when carried in transit through refuge waters.

(6) Airboats and all-terrain vehicles will not be allowed in the hunting area.

(7) Furbearing animals or trapping equipment present in the hunting area shall not be molested or disturbed by hunters.

Sabine National Wildlife Refuge

(1) Public hunting for ducks, geese, and coots will be permitted on designated areas comprising approximately 10,000 acres. Waterfowl hunting will be allowed from one-half hour before sunrise until 11:00 a.m., Wednesday through Sunday, during the regular Louisiana western zone duck season. Hunters may enter the hunting area no earlier than two hours before legal shooting time and must depart the refuge by 12:00 noon.

(2) Upon request hunters are required to exhibit a valid State hunting license, duck stamp, and all shells in possession to a designated refuge official prior to hunting and permit authorized Service personnel to inspect his person, equipment, and/or vehicle.

(3) Hunting parties may not hunt closer than 100 yards apart and must station themselves a minimum of 50 yards inland from refuge canals. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt.

(4) Temporary blinds made of native vegetation may be constructed or portable blinds may be carried in for each hunt.

(5) Firearms must be encased or dismantled when carried in transit through refuge canals.

(6) Furbearing animals or trapping equipment in the hunting area shall not be molested or disturbed by hunters.

(7) Hunters are required to check in at the hunt check station before entering the hunt area and must check out; this includes hunters who did not bag game. All waterfowl bagged must be checked through the check station after each hunt.

Mississippi

Noxubee National Wildlife Refuge

(1) Public hunting of ducks and coots will be permitted only on the areas designated as green-tree reservoirs numbers one and two.

(2) Hunting will be permitted only on Mondays, Wednesdays, and Saturdays from one-half hour before sunrise until 12 noon during the State waterfowl season.

(3) The use of boats with electric motors is permitted within the hunting area.

(4) The construction of blinds is not permitted.

(5) Hunters will not be permitted to enter the hunting area sooner than 45 minutes before legal shooting hours.

(6) No hunter may take more than 16 shotgun shells into the hunting area.

(7) No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

(8) All hunters are required to check in and out at the designated check station.

(9) Permit is required.

§ 32.22 Special Regulation: upland game hunting for individual wildlife refuge areas.

Alabama

Wheeler National Wildlife Refuge

(1) Upland game hunting is permitted on approximately 19,000 acres for squirrel, rabbit, fox, raccoon, and opossum.

(2) Seasons: squirrel and rabbit October 15, 1979, through October 27, 1979; fox mounted hunting only, no firearms October 1, 1979, through April 1, 1980; raccoon and opossum—February 4, 1980, through February 16, 1980, night hours only. Special rabbit hunt—February 16, 1980, through February 29, 1980, with shotguns and bows and arrows except in southwest portion of refuge where bows and arrows only are allowed; the use of beagles is permitted.

(3) Permits are required

Arkansas

Big Lake National Wildlife Refuge

(1) Species permitted: squirrel, rabbit, and beaver—October 1, 1979, through October 31, 1979; raccoon—November 9, 1979, through November 15, 1979, 4 P.M. until 12 midnight. Raccoon hunters must depart refuge by 1 A.M.

(2) One dog per hunter is required (only one permitted) for raccoon hunts; no dogs permitted during other species hunts.

(3) Firearms must remain unloaded during transportation to hunting sites.

(4) A permit is required for raccoon hunting.

(5) Hunters are required to check in and out at designated check stations.

Wapanocca National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 1, 1979, through October 31, 1979; beaver may be taken as an incidental species. Raccoon—October 15, 1979, through October 31, 1979, from 4 P.M. to 7 A.M.

(2) One dog per hunter is required (2 per hunter maximum) for raccoon hunts; no dogs allowed during other species hunts.

(3) Permit is required for raccoon hunting.

White River National Wildlife Refuge

(1) Species permitted: squirrel, rabbit, beaver—October 1, 1979, through October 20, 1979; north of Highway 1 season—October 1, 1979, through November 10, 1979. Raccoon—November 29, 1979, through December 1, 1979, and December 5, 1979, through December 8, 1979, 5 P.M. until 12 midnight. Raccoon hunters must depart refuge by 1 A.M.

(2) A permit is required for raccoon hunts.

(3) Horses are allowed for raccoon hunts only.

(4) Weapons: shotguns and .22 caliber rimfire rifles are permitted.

(5) Boats and off-road vehicles are not allowed during the raccoon hunts.

(6) Dogs are required for raccoon hunts; one dog per hunter maximum.

Louisiana

Catahoula National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 6, 1979, through November 2, 1979, on approximately 3,000 acres.

(2) Hours: one-half hour before to one-half hour after legal State shooting hours.

(3) No dogs permitted.

Mississippi

Hillside National Wildlife Refuge

(1) Upland game hunting is permitted on approximately 15,400 acres for quail, rabbit, squirrel, raccoon, and opossum. Beaver may be taken as an incidental species.

(2) Seasons: quail—December 17, 1979, through February 19, 1980; rabbit—October 6, 1979, through February 28, 1980; squirrel—September 29, 1979, through December 23, 1979; raccoon and opossum—January 21, 1980, through February 15, 1980.

(3) Hours for raccoon and opossum hunting are 4 P.M. until 7 A.M.

(4) Sunday hunting is prohibited.

(5) Dogs are permitted during the quail, raccoon, and opossum hunts. Only beagles are permitted during the February 16, 1980, through February 28, 1980, rabbit hunt.

(6) The use of citizens band radio devices to aid in the pursuit or taking of game animals is prohibited.

Noxubee National Wildlife Refuge

(1) Species permitted: squirrel and rabbit—October 13, 1979, through November 16, 1979, and December 17, 1979, through December 31, 1979; beaver may be hunted as an incidental species during the squirrel and rabbit hunts. Quail—December 17, 1979, through January 4, 1980 (closed December 25, 1979), and January 14, 1980, through February 19, 1980; rabbit may be hunted as an incidental species during the quail hunt. Raccoon and opossum—November 3, 1979, through November 15, 1979, and January 19, 1980, through February 28, 1980, only with .22 caliber rimfire weapons from 4 P.M. to 7 A.M.

(2) Refuge permits will be required for the raccoon and opossum hunts. No refuge permit will be required for squirrel, rabbit, or quail hunts. Permits can be obtained at refuge headquarters.

(3) Sunday hunting is prohibited.

(4) Dogs are permitted during the quail, raccoon, and opossum hunts only.

(5) The use of any citizens band radio device to aid in the pursuit or taking of game animals is prohibited.

Yazoo National Wildlife Refuge

(1) Species permitted: squirrel—September 29, 1979, through October 29, 1979; rabbit—October 6, 1979, through October 27, 1979; raccoon and opossum—December 1, 1979, through December 8, 1979, from 5 P.M. until midnight.

(2) Permits are required.

(3) No Sunday hunting is permitted.

(4) Upland game hunting of designated species is permitted on approximately 7,800 acres.

§ 32.32 Special regulations: big game hunting for individual wildlife refuges.

Alabama

Wheeler National Wildlife Refuge

(1) *Archery deer hunt:* October 29, 1979, through November 15, 1979; either sex.

(2) *Primitive weapons deer hunt* (archery and flintlock only): November 16, 1979, through November 24, 1979; either sex.

(3) *Redstone Arsenal deer hunt:* Contact Post Warden's Office for dates and regulations.

(4) Permits are required.

(5) Hunting is permitted on approximately 19,000 acres.

Arkansas

Holla Bend National Wildlife Refuge

(1) *Archery deer hunt:* October 1, 1979, through November 30, 1979, on approximately 6,367 acres.

(2) Persons may enter the refuge when the entrance gate opens each morning (daylight), and must leave the refuge by the time posted at the entrance gate.

(3) All hunters must register upon entering the refuge each day.

(4) A special permit is required to hunt on October 1, 1979.

(5) All deer bagged must be checked at the refuge check station before leaving the refuge.

(6) No hunting is permitted from any vehicle.

(7) Only portable tree stands bearing the hunter's name and address may be used. Stands must be removed from the refuge no later than December 5, 1979.

(8) Alcoholic beverages are not permitted in hunting areas.

White River National Wildlife Refuge

(1) *Archery hunt* (deer and turkey): October 11, 1979, through October 30, 1979, and January 22, 1980, through January 31, 1980. Season north of Highway 1—October 1, 1979, through October 30, 1979. Limit and sex: State regulations. Squirrel, rabbit, and beaver may be taken as incidental species.

(2) *Primitive weapons deer hunt:* October 25, 1979, through October 27, 1979. Limit: one deer of either sex (bonus deer).

(3) *Gun deer hunt:* November 12, 1979, through November 14, 1979. Limit: one legal buck (not a bonus deer).

(4) *Youth gun deer hunt:* November 1, 1979, through November 3, 1979. Limit: one deer of either sex (not a bonus deer).

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(5) *Turkey hunt:* Spring hunt dates to be announced.

(6) Permits are required for primitive weapons hunt, gun deer hunt, youth deer hunt, and turkey hunt.

(7) No loaded firearms allowed in boats, vehicles, on campgrounds, or in roadways used by vehicles.

(8) All deer taken in the gun deer hunt and the youth gun deer hunt must be checked at a designated check station.

(9) Horses are prohibited.

Louisiana

Catahoula National Wildlife Refuge

(1) *Archery deer hunt:* October 1, 1979, through November 2, 1979, and December 22, 1979, through December 30, 1979, on approximately 3,000 acres; either sex. Rabbit and squirrel may be taken as incidental species.

(2) *Gun deer hunt:* December 6, 1979, through December 8, 1979; bucks only.

(3) *Youth deer hunt:* November 3, 1979; either sex.

(4) A refuge permit will be required for all gun hunters.

(5) Hunting hours: one-half hour before sunrise until one-half hour after sunset. Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

(6) No permanent tree stands may be constructed.

(7) A minimum of 400 square inches of daylight fluorescent orange must be visibly worn above the waist during deer gun hunts.

(8) All bagged deer must be checked out at refuge headquarters.

Mississippi

Noxubee National Wildlife Refuge

(1) *Archery deer hunt:* October 6, 1979, through October 30, 1979, and November 1, 1979, through November 16, 1979; either sex.

(2) *Primitive weapons deer hunt:* December 4, 1979, through December 15, 1979; either sex.

(3) *Gun deer hunt:* November 17, 1979, through November 24, 1979, and January 5, 1980, through January 10, 1980; bucks only.

(4) *Turkey hunt:* March 22, 1980, through April 2, 1980, and April 4, 1980, through April 26, 1980, with shotguns only. Limit: two gobblers per year.

(5) All deer and turkey harvested must be checked at the refuge headquarters or designated check station.

(6) Weapons allowed for deer gun hunts are: centerfire rifles and 20 gauge or larger shotguns.

(7) Sunday hunting is prohibited.

(8) Horses are prohibited.

(9) Permits are required for all deer and turkey hunts.

(10) Man-drive deer hunting is prohibited.

(11) The use of any citizens band radio device to aid in the pursuit or taking of game animals is prohibited.

Yazoo National Wildlife Refuge

(1) *Archery deer hunt:* November 1, 1979, through November 16, 1979, and January 19, 1980, through January 26, 1980, on approximately 7,800 acres; either sex.

(2) *Primitive weapons deer hunt:* December 10, 1979, through December 15, 1979; either sex.

(3) *Gun deer hunt:* December 27, 1979, through December 29, 1979, and January 3, 1980, through January 5, 1980, and January 11 and 12, 1980; bucks only.

(4) Permits are required.

(5) Loaded firearms in vehicles are prohibited.

(6) Man-drive deer hunting is prohibited.

(7) All deer must be checked at refuge headquarters.

(8) No Sunday hunting permitted.

(9) A minimum of 500 square inches of fluorescent hunter orange must be visibly worn above the waist during deer gun hunts.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge areas and which are set forth in Title 50, *Code of Federal Regulations*, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 28, 1979.

Jim L. Killer,

Acting Area Manager.

[FR Doc. 79-27818 Filed 9-5-79; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

Alaska Salmon Fishery; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: The Assistant Administrator for Fisheries on May 15, 1979, approved, with the exception of one provision, the fishery management (FMP) for the "High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude" prepared by the North Pacific Fishery Management Council, pursuant to the Fishery Conservation and Management Act of 1976 (the Act), as amended. The FMP was published on June 8, 1979 (44 FR 33250). Proposed regulations implementing the approved portion of the FMP were published on May 18, 1979 (44 FR 29080), with a public comment period ending on July 18, 1979. In accordance with section 305(e) of the Act, the proposed regulations were made effective immediately on an emergency basis for 45 days. On July 11, the regulations were repromulgated to be effective for an additional 45-day period (44 FR 40519). Final regulations, which take into account comments received during the comment period, are now issued.

EFFECTIVE DATE: 0001 hours Alaska Standard Time (AST), August 31, 1979, and shall remain in effect until 2400 hours AST, April 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska, 99802. Telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP on an emergency basis were first published in the **Federal Register** on May 18, 1979 (44 FR 29080). The preamble to those regulations discussed several aspects of the FMP, and those explanatory statements are not repeated here. With the exception of incorporating a change to the regulations that was published on July 17, 1979 (44 FR 41467) and making certain changes to the moratorium provisions in section 674.4, these final regulations are identical to the emergency regulations first published.

The changes to section 674.4 are intended to clarify the operation of the one-year moratorium on issuance of commercial power troll permits to fish in the fishery conservation zone (FCZ). This moratorium was intended to complement the Alaska limited entry system, but several inconsistencies between the State system and section 674.4 have been identified. Most of the problems are resolved but some differences remain, primarily due to the involvement of two separate jurisdictions, State and Federal.

Briefly the changes to § 674.4 are as follows:

1. Correction of typographical errors in 674.4(b)(1)(i);

2. Rewording for clarity in § 674.4(b)(1)(ii);

3. Addition of three determinations the Regional Director must make prior to approving transfer of the FCZ authorization in § 674.4(c)(1)(ii), which

are that the transferee has access to gear, that the State is not seeking to revoke the permit because it was fraudulently obtained, and that the proposed transfer is not a lease;

4. Expansion of information available to the Regional Director in making his decision on requested transfers in § 674.4(c)(1)(ii)(A);

5. Elimination of confusion that might arise from the placement of § 674.4(c)(2) in the regulations;

6. Clarification of § 674.4(d)(4) that Alaska power troll permit holders may only come to the Regional Director for an emergency transfer after an emergency transfer has been denied by the State; and

7. Addition of a new paragraph (g) which limits the definition of "person" to human beings for purposes of § 674.4.

Response to Comments

The Alaska Commercial Fisheries Entry Commission (CFEC), which administers Alaska's limited entry system, submitted lengthy comments relating to § 674.4 of the regulations. These were the only comments received. Most of CFEC's arguments, some legal and some practical, relate to the possibility of an FCZ-only permit being "severed" from a State entry permit through a transfer approved by the Regional Director after the State has denied transfer of the State permit. CFEC's comments are summarized by topic below, together with agency responses.

1. *Arguments against § 674.4(c) allowing severance.*—a. *Corporate "persons".* Comment: The definition of "person" in § 674.2 is much broader than the State definition which is limited to natural persons (humans) only. This raises the possibility that when the State automatically denies a transfer to a corporation or other entity because it is not a natural person, the Regional Director would have to allow the transfer of the FCZ portion of the permit if the corporation could demonstrate the ability to actively participate in the fishery. Transfers of this type could result in numerous severances, with an undesired increase in the total number of units of gear operating in the salmon fishery.

Response: The FMP clearly did not intend to allow such increases in effort. Addition of the new paragraph (g) restricting the definition of "person" for purposes of § 674.4 will resolve this problem.

b. *Limited Entry Findings and Goals.* Comment: It is possible that, even after redefining "persons" to exclude corporations, severance of the State and Federal permits could occur if the State denies transfer of a State permit and the Regional Director grants transfer of the Federal permit. Allowing any severance is contrary to the findings and goals of the FMP that limited access is necessary to maintain the fishery without increasing present levels of effort.

Response: The agency anticipates that few, if any, severances would actually occur since very few transfers are denied by the CFEC, which means few applications for transfer will be submitted to the Regional Director. Moreover, the Regional Director will be making any such decisions on the basis of the same criteria as CFEC, and the results may often, though not always, be the same. Finally, the moratorium clearly is of limited duration and should not cause long-term problems that cannot be resolved by the limited entry system still to be developed in subsequent FMP's.

c. *Costly Enforcement.* Comment: Severance would lead to difficult and costly enforcement problems because of different kinds of permits.

Response: The regulations already provide for separate FCZ-only permits to be issued by the Regional Director in 674.4(b). The creation of a few more FCZ-only permits through severance will not significantly add to enforcement problems already existing.

d. *Administrative Difficulties.* Comment: Section 674.4(c)(1) would be difficult to monitor with regard to State permits which still have FCZ authorization and permits which have transferred that authorization.

Response: This raises valid administrative concerns, but the agency is confident they can be resolved through cooperation between CFEC and the Alaska Region, National Marine Fisheries Service.

e. *Uninformed Transferees.* Comment: Severance would create problems for persons purchasing Alaska permanent entry permits not knowing of a split of authorization that would preclude access to the FCZ.

Response: The agency believes that methods can be developed to warn innocent purchasers—notation of State permits, lists of severed permits—but also is confident that the courts can easily handle the few cases of misrepresentation, fraud or breach of contract that might arise in this regard.

f. *Diminished State Jurisdiction.* Comment: Contrary to section 306(a) of the Act, allowing severance to occur diminishes State jurisdiction by carving out of the "single use privilege" represented by a State entry permit, a "new" authorization to fish in the FCZ only. This reduces Alaska's control over the fishery by half, from 99 percent to 50 percent.

Response: The agency does not fully understand the thrust of this comment. The FCMA clearly establishes Federal jurisdiction over the FCZ, and to the extent that an FCZ-only permit is created through a severance, the State has not suffered any diminution within its boundaries of its jurisdiction over the remaining State permit. Although the State may have suffered reduced authority over the 15 percent of the fishery in the FCZ, this situation was an intentional consequence of the Act and not § 674.4(c). Furthermore, that a few FCZ-only permits might be issued does not cause Alaska to lose half of its control over the fishery; the approximately 950 units of gear are still under State control in State waters.

g. *No contravention of 306(a).* Comment: Section 306(a) of the Act does not require Federal overview of State denials of transfers because such decisions do not constitute "direct or indirect" regulation, or if they do, it is permitted because all the vessels concerned are "registered with the State."

Response: The agency simply disagrees with CFEC's argument that the State is not "directly or indirectly" regulating in the FCZ when it denies transfer of a permit, the FMP provides that for Federal purposes, the State permit suffices as a Federal permit. Therefore, a State decision to deny a transfer of the State permit effectively would deny transfer of the Federal permit, a decision the agency believes must be made a federal official. In this instance, the Regional Director. As far as the "vessels registered with the State" exception, the agency at this time is not prepared to conclude that 306(a) legally would permit the State to make decisions on transfer of Federal permits.

h. *Transferor's prerogative.* Comment: Section 674.4(c)(1)(ii) requires that the Regional Director shall approve a transfer of the FCZ portion of permit upon satisfaction of certain criteria. This derogates from the right of the transferor who may have no notice of the potential transferee's action under § 674.4(c), and may in fact object to it.

Response: Transfer of the FCZ authorization represented by the State permit would require a willing transferor. The regulations in no way force a State permit holder to sell his FCZ authorization if transfer of the State permit is denied. The rights of the parties in such cases would be determined by the provisions of any private agreement they have effected regarding the transfer.

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2. *Emergency Transfer under § 674.4(d).*—a. *Prerequisite of State denial.* Comment: If the intention is to allow the Regional Director to approve an emergency transfer only after the State denies one, the regulations do not so provide.

Response: Having had an emergency transfer denied by the State was intended to be a prerequisite to the authority of the Regional Director to approve an emergency transfer under § 674.4(d). The change to § 674.4(d)(4) will achieve this result.

b. *Notice.* Comment: CFEC regulations allow a potential emergency transferee to begin fishing under authority of a carbon copy of the transfer application as soon as the original is mailed. Can this be accommodated under the regulations?

Response: Section 674.4(d)(4) requires that the Regional Director be notified when the State approves an emergency transfer prior to the transfer becoming effective in the FCZ. Since mailing the application seems to constitute State approval, all the transferee would need to do is mail a copy to the Regional Director in order to satisfy the notice requirements. Language is added to paragraph (d)(4) to confirm this possibility.

CFEC also made comments regarding the clarity of two provisions, § 674.4(b)(1)(ii)(B) and § 674.4(c)(2). Both suggestions were incorporated as changes to the regulations.

A notice of availability of the final environmental impact statement for the FMP was published on January 29, 1979 (44 FR 5707).

Exemption from Executive Order 12044

Executive Order 12044 required that a regulatory analysis be prepared for regulations which may have major economic consequences for the general economy, individual industries, geographical regions, or levels of government. The NOAA Directive on Procedures for Development of Regulations (NDPR) requires a regulatory analysis for every new FMP and its implementing regulations. The NDPR, however, contains a provision (section 101(d)) that regulations issued in response to an emergency are exempt from the requirement that a regulatory analysis be prepared.

A draft regulatory analysis for the high seas salmon FMP has been prepared, but the final one is not yet completed. Delay in implementing the final regulations until a final regulatory analysis has been approved would be contrary to the public interest. Therefore, the Assistant Administrator for Fisheries, NOAA, recognizing the need to continue the management regime established by the interim emergency regulations, finds an emergency within the meaning of section 101(d) of the NDPR continues to exist. A failure to implement final regulations could lead to overfishing of the salmon stocks that the FMP was designed to protect. In addition, the depressed coho salmon runs protected by the field order closure of August 7, 1979, would be in danger of overfishing.

Dated this 31st day of August, 1979, at Washington, D.C.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

50 CFR Part 674 is amended as follows:

§ 674.4 [Amended]

1. Section 674.4(b)(1)(i) is corrected by changing the citation from (b)(i)(ii) to (b)(1)(ii), and by adding "area" after "management" in (B).

2. Section 674.4(b)(1)(ii) is amended by deleting the phrase "persons who have ever held a State of Alaska power troll permit under this paragraph (b) as a result of having fished that Alaska has not instituted proceedings to revoke the State permit because it was fraudulently obtained, and that the proposed transfer is not a lease."

4. Section 674.4(c)(1)(ii)(A) is amended by adding a second sentence: "The Regional Director may request additional information from the individual requesting transfer or from the State to aid in his consideration of the request."

5. Section 674.4(c)(2) is amended by changing the period to a comma and adding the phrase "except for emergency transfers under paragraph (d) of this section."

6. Section 674.4(d)(4) is amended to read: "Paragraphs (d) (2) and (3) of this section apply to a holder of an Alaska power troll permit only if the State has denied an emergency transfer of that State permit. If the State has authorized an emergency transfer of a State permit, the transferee must notify the Regional Director in writing before the emergency transfer is effective for purposes of paragraph (a)(1) of this section. Such notification may be accomplished by mailing to the Regional Director a copy of the Alaska emergency transfer request form."

7. Section 674.4 is amended by adding the following as a new subsection (g):

"(g) For purposes of this § 674.4, the definition of 'person' excludes corporations, partnerships, associations or other nonhuman entities."

[FR Doc. 79-27829 Filed 9-5-79; 8:45 am]

BILLING CODE 3510-22-M

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS

32 CFR Part 2700

Security Information Regulations; Implementation of Executive Order 12065

Correction

In FR Doc. 79-27435 published at page 51573 on Tuesday, September 4, 1979, the following corrections should be made:

1. In the first column on page 51574, the amendatory language appearing before the part heading is corrected to read as follows: "Title 32 of the Code of Federal Regulations is amended by establishing Chapter XXVII—Office for Micronesian Status Negotiations, and by adding a new Part 2700 to read as follows:".

2. Sections 2400.1–2400.52 are renumbered as 2700.1–2700.52, respectively. All internal references to sections in Part 2400 are changed to the appropriate sections in Part 2700.

BILLING CODE 6820-27-M

Proposed Rules

Federal Register
Vol. 44, No. 174
Thursday, September 6, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1030]

Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago Regional milk order be decreased temporarily by 5 percentage points for the months of October and November 1979. The action was requested by a cooperative association representing a portion of the producers supplying the market to prevent uneconomic shipments of milk.

DATE: Comments are due on or before September 17, 1979.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of October and November 1979.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than September 17, 1979. All documents filed should be in duplicate. The period for filing views is being somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during October. Further, the proposed change provides some relaxation of pooling standards and thus will not require extensive preparation or substantial alteration in method of operation for handlers.

All written submissions made pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be revised is the supply plant shipping percentages of 35 percent set forth in § 1030.7(b) that is applicable during the months of October and November.

Pursuant to the provisions of § 1030.7(b)(5), the supply plant shipping percentages set forth in § 1030.7(b) may be increased or decreased by up to 10 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to remove the need for milk shipments to such plants merely for purposes of qualifying a supply plant.

The National Farmers Organization, representing a portion of the producers supplying the Chicago Regional market, has requested that during October and November 1979 the supply plant shipping percentages be reduced 5 percentage points. The cooperative stated that the 35 percent shipping requirements for October and November would cause uneconomic shipments of milk.

There is a reduced demand for Class I milk and an increase in the milk supply for the market. Thus, there is a reduced demand for supply plant milk in Class I use and a reduction in required shipments may be appropriate. A reduction in the required shipments of supply plant milk during October and November would allow greater flexibility in obtaining milk from among the supply plants associated with the market. Also, the proposed reduction in shipping percentages may prevent uneconomic movements of milk merely for purposes of pool plant qualification.

Accordingly, it may be appropriate to reduce the pool supply plant shipping percentages for the months of October and November 1979.

Signed at Washington, D.C., on August 31, 1979.

H. L. Forest,

Director, Dairy Division.

[FR Doc. 79-27821 Filed 9-5-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 79-CE-26]

Transition Area—Fulton, Missouri; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Fulton, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Fulton, Missouri Municipal Airport which is based on the Non-Directional Radio Beacon (NDB) which the City of Fulton is installing on the airport.

DATES: Comments must be received on or before October 10, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

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SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before October 10, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Fulton, Missouri. To enhance airport usage by providing instrument approach capability to the Fulton Municipal Airport, the City of Fulton, Missouri is installing an NDB on the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transitional area at Fulton, Missouri at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules. (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by altering the following transition area:

Fulton, Missouri

That airspace extending upwards from 700 feet above the surface within a 5 mile radius of the Fulton Municipal Airport (latitude 38°50'22"N; logitude 92°00'17"W), and within 2 miles each side of the Hallsville, Missouri VORTAC 154°R; extending from the 5 mile radius area to 6 miles northwest of the Fulton Municipal Airport; and within 3 miles each side of the NDB 229° bearing; extending from the 5 mile radius area to 8.5 miles southwest of the NDB, excluding that portion which overlies the Columbia, Missouri 700-foot transition area.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

Note.—the FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 24, 1979.

Charles A. Whitefield,

Acting Director, Central Region.

[FR Doc. 79–27493 Filed 9–5–79; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

[16 CFR Part 440]

Hearing Aid Industry Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Scheduling of oral presentation before Commission.

SUMMARY: Pursuant to § 1.13(i) of its rules of practice, the Federal Trade Commission is reviewing the rulemaking record in the proposed Trade Regulation Rule for the Hearing Aid Industry to determine what form of rule, if any, it should promulgate. As part of this review process, the Commission will allow certain persons who have previously participated in the proceeding to make oral presentations at an open meeting of the Commission on September 27, 1979, at 1:00 p.m. in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. These presentations will be confined to information already in the rulemaking record.

DATE: Oral presentations will begin at 1:00 p.m., September 27, 1979.

ADDRESS: The presentations will take place at an open Commission meeting in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Robert L. Patterson, Attorney, 202–724–1497, or Donald Clark, Attorney, 202–724–3093, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Invitations to participate in this oral presentation have been extended to the following participants in this rulemaking: the American Speech-Language-Hearing Association; the Hearing Industries Associations; the National Retired Teachers Associaton/ American Association of Retired Persons; the National Hearing Aid Society; the National Council of Senior Citizens; and the Organization for the Use of the Telephone. The Commission is offering these parties the opportunity to make oral presentations as to various issues in the rulemaking because it believes that, based on their previous participation and the variety of their interests, they may assist the Commission in its deliberations. Each of the invitees has been notified of the issues to be addressed, the time (thirty minutes) being allowed for each presentation, and that the Commission may utilize any or all of this time for questioning. Each of them has also been provided with copies of the staff's Summary of Post Record Comments on the Proposed Trade Regulation Rule for the Hearing Aid Industry, the memorandum to the Commission setting forth the staff recommendation for modifications of the proposed Trade Regulation Rule for the Hearing Aid Industry, and a memorandum from the Director of the Commission's Bureau of Consumer Protection concerning the staff recommendation. These documents have been placed on the rulemaking record. Copies are available on request from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Approved: August 23, 1979.

By the direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 79–27617 Filed 9–5–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 281]

[Docket No. RM79–40]

Determination of Alternative Fuels for Essential Agricultural Users

Issued August 29, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Section 401(b) of the Natural Gas Policy Act provides that the Commission determine, in consultation with the Secretary of Agriculture whether alternative fuels are economically practicable or reasonably available for essential agricultural users to use in lieu of natural gas. This rule proposes to find that residual fuel oil and coal are economically available for those who have used such fuel at any time since 1973. If this rule is adopted, essential agricultural users who have alternate fuel available will be taken out of the Priority 2 curtailment category; they will be treated as they have been under the interstate pipeline's curtailment plan.

DATE: Written comments by September 28, 1979. Public Hearing on September 24, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D. C. 20426.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Office of the General Counsel, Room 8000, 825 North Capitol St., N.E., Washington, D. C. 20426, (202) 357–8455.

I. Background

On May 2, 1979, the Commission issued a notice of proposed rulemaking in the above referenced proceeding (44 FR 27894, May 9, 1979). The proposed rule would have established procedures for evaluating, on a facility-by-facility basis, the reasonable availability and economic practicability of alternative fuel for essential agricultural uses, as called for by section 401(b) of the Natural Gas Policy Act of 1978 (NGPA).

The proposed rule was opposed by most who submitted written comments. The position most strongly and convincingly argued was that the Commission should adopt a generic approach to determine the availability and practicability of various fuels as alternatives to natural gas by essential agricultural users. The Commission is persuaded by the comments and therefore proposes a rule different than the rule proposed in the Notice of May 2, 1979. Unlike the rule proposed in the earlier notice, the rule proposed herein is not limited to establishing procedures, but makes a substantive determination concerning the reasonable availability and economic practicability of certain alternative fuels to natural gas, for the immediate future.

A. Statutory Provisions

Under section 401(b) of the NGPA, the protection from curtailment required by section 401(a) does not apply to essential agricultural uses "[i]f the Commission, in consultation with the Secretary of Agriculture, determines, by rule or order, that use of a fuel (other than natural gas) is economically practicable and that the fuel is reasonably available as an alternative for any agricultural use of natural gas. . . ." The rule proposed in this notice provides for that determination for certain fuels.

Section 401 of the NGPA seeks to assure that natural gas required for essential agricultural uses will not be curtailed unless curtailment is required to protect the needs of certain enumerated high priority users. Section 401 of the NGPA establishes a curtailment scheme under which the Secretary of Agriculture determines the volumetric amounts required for essential agricultural uses, the Secretary of Energy establishes curtailment priorities, and the Federal Energy Regulatory Commission (Commission) establishes procedures under which the curtailment plans of interstate pipelines carry out the Congressional policy to provide agricultural users certain protections from curtailment.

Pursuant to section 403(b) of the NGPA and section 402(a)(1)(E) of the Department of Energy Organization Act, the Commission is charged with implementing the rules mandated by section 401 under its authority to establish, review, and enforce curtailments under the Natural Gas Act. On May 2, 1979, the Commission issued a rule carrying out its responsibilities under section 401(a) of the NGPA.[1] Under that rule, most customers of interstate pipelines are required to re-examine data used to determine base period volumes for curtailment plans in order to identify which volumes qualify for the newly defined Priority 1. In addition, pipelines are required to include in their curtailment plans a new Priority 2, which will contain requirements necessary to serve essential agricultural uses as defined by the Secretary of Agriculture.

As indicated above, however, the provisions of section 401(a), which protect deliveries of natural gas for essential agricultural uses, do not apply if the Commission determines, in consultation with the Secretary of Agriculture, that an alternative fuel is economically practicable and reasonably available. In order to give effect to this section, the Commission issued a notice of proposed rulemaking in this proceeding on May 2, 1979 and is reassessing this proposed rulemaking.

B. The First Proposed Rule

The rule proposed in the notice of May 2, 1979 would have established a procedure of case-by-case rulemaking applicable to certain essential agricultural establishments that use large amounts of natural gas as boiler fuel. To determine if alternative fuel is reasonably available and economically practicable for such uses, the proposed rule required an essential agricultural use establishment to file a petition for rulemaking and accompanying data if the establishment (1) requested to have natural gas used as boiler fuel classified as a Priority 2 entitlement by an interstate pipeline, (2) had the capacity to burn over 300 Mcf of gas on a peak day, and (3) had used a fuel other than natural gas for 60 consecutive days during 1976 through 1978. A rulemaking proceeding would then have been conducted to determine whether the alternative fuel was reasonably available and economically practicable for that essential agricultural use establishment.

C. Comments on the First Proposed Rule

The deadline for filing comments on the proposed rule was May 30, 1979. A public hearing was held on May 23, 1979. At the hearing, interested persons were given the opportunity to present their views to a panel consisting of three representatives of the Commission, a representative of the Economic Regulatory Administration, and a representative of the Department of Agriculture.

The overwhelming majority of those filing comments opposed the proposal for individual rulemakings. Some emphasized the administrative problems that would be created by such a plethora of individual rulemakings. Others maintained that the filing requirements were unduly burdensome. Many of the commentators suggested

[1] Order No. 29, Docket No. RM79–15. In a separate rulemaking the Commission promulgated an interim rule giving effect to Section 401 for the period of April 1, 1979, to October 31, 1979. (Docket No. RM79–13, March 6, 1979). The permanent rule of Order No. 29 affects deliveries of natural gas for the winter heating season of 1979–1980 and thereafter.

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that a generic determination of the reasonable availability and economic practicability of specific fuels would be preferable. Commentators urged that DOE has sufficient data available to make this determination with reference to certain fuels.

II. Basis of the New Proposal

Upon consideration of the comments addressing this issue, the Commission has decided to propose a different rule, providing for a generic determination rather than the case-by-case approach orginially suggested. Specifically, the rule proposed herein makes the substantive determination that, at present and over the next heating season, residual fuel oil and coal are generally economically practicable and reasonably available alternative fuels for any essential agricultural use establishment that has used either of those fuels in the past six years and retains the physical capability to use them now. In addition, the rule presumes that new boilers [2] capable of using more than 300 Mcf of gas per day have an economically practicable alternative fuel reasonably available.

The Commission recognizes that particular circumstances may warrant exception to the general rule. In cases where application of the rule would result in the situations sought to be avoided by Congress when it enacted section 401, agricultural users should file for an adjustment under section 502(c) of the NGPA and § 1.41 of the Commission's Rules of Practice and Procedure. The Commission's section 502(c) procedures will be discussed in more detail below.

The rule we are now proposing would affect only agricultural users that have demonstrated an ability to use certain alternative fuels in the past and that have retained the necessary physical capability to use those fuels in view of natural gas. The rule would also apply to new boilers installed after August 29, 1979 which are capable of using more than 300 Mcf of natural gas per day. The ability to use an alternative fuel does not, by itself, disqualify a particular agricultural establishment from Priority 2 classification. The particular alternative fuel that the establishment is capable of using must meet the two-pronged test of being economically practicable and reasonably available. The proposed rule makes the determination that at this time and at least for the forthcoming winter heating season, the data available establish that residual fuel oil and coal are economically practicable and reasonably available to all essential agricultural users capable of using these fuels.[3] The Commission believes it is not in a position at this time to make such a finding with respect to middle distillates.

In making the findings concerning relative availability of residual fuel oil and middle distillates, the Commission reaffirms the general position it took with respect to the Fuel Oil Displacement Rule, Order No. 30 and Rehearing, Order No. 30–A.[4] That rule allows the burning of excess natural gas that is surplus to a pipeline or distributor's current needs in boilers to displace the use of middle distillates and residual fuel oil. When that aspect of Order 30 that might result in displacement of residual fuel oil was challenged, the Commission on rehearing stated that Order 30 was not based upon a shortage of residual fuel oil *per se*.

> "First, there does appear to be excess deliverability of natural gas which may be utilized to displace fuel oil. According to Department of Energy estimates, even if all essential agricultural users are given 100% of their needs, 341 additional Mcf of natural gas deliverability remains.[9] Second, Order No. 30 is prompted by a shortage of middle distillate fuel oil.[10] The distillate shortage has been documented in the record established in Docket No. RM79–34.[11]
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> However, BUG's suggestion that Order No. 30 authorization be conditioned only upon middle distillate displacement must be rejected. While the objective of Order No. 30 centers upon displacing middle distillate fuel oil, this Commission is unable to determine that this objective would be best advanced by limiting authorization solely to transactions involving the direct displacement of middle distillate fuel oil with natural gas. The refinery and distribution of petroleum products is a vast and complex area with which the Commission has imperfect knowledge. Nonetheless, it is clear to us that transactions involving the displacement of residual fuel oil could in some instances have the same ultimate beneficial impact on middle distillate consumers as would a transaction involving the direct displacement of middle distillates. For example, displacing residual oil with natural gas will increase availability of residual fuel oil to other users. If such other users have the capability to burn either residual or middle distillates, the increased supply and/or lower price of residual fuel oil to these users may result in the displacement of middle distillate fuel oil with residual fuel oil.
>
> In addition, residual oil can often be further refined to produce additional distillate fuel oil. Some refiners may find it profitable to reduce yields of residual fuel oil and maximize yields of middle distillate fuel oil, if Order No. 30 reduces demand for residual fuel oil.
>
> These illustrations suggest that there is not a sharp division between residual fuel oil and middle distillate oil, either as to how such products are refined or how they are ultimately consumed. Transactions involving the displacement of residual fuel oil may, ultimately, have the same beneficial impact on distillate supplies as transactions involving the direct displacement of middle distillate fuel oil.
>
> Further, the objective of Order No. 30 is not only to displace middle distillate fuel oil, but also to reduce our dependence on imported oil. This dependence has created the need for the President to declare the previously mentioned National Energy Supply Shortage. Because roughly one million barrels per day of residual fuel oil is imported, the Order No. 30 program accordingly will directly reduce the petroleum imports. Accordingly, the Commission, concludes that any decision to narrow the scope of Order No. 30 to permit only direct displacement of middle distillates could inhibit rather than enhance the purposes of the program."

The Commission believes that this view of relative fuel availability remains pertinent. However, the purpose of Order 30 (oil displacement) is substantially different than the purpose of this proposed rule which is to establish gas curtailment priorities. Order 30 provides for the displacement of fuel oils by *excess volumes of natural gas*. In contrast, the purpose of this proposed rule is to determine which users can most readily and economically switch to some other fuel should there be a *shortage of natural gas*. The Commission believes that residual fuel oil is reasonably available as a substitute should users need to use it in the face of a shortage; middle distillates, on the other hand, are not available for such purposes at this time.

[2] New boilers are those boilers installed after August 29, 1979.

[3] The Commission hopes to make an alternative fuel rule effective for this winter heating season. The Commission has requested staff to do an environmental assessment of the proposed rule. Technical Staff has concluded on the basis of its environmental assessment that an environmental impact statement is not necessary. However, should the Commission determine an environmental impact statement is necessary it shall issue one for public comment before acting on a permanent curtailment rule. Nonetheless, it is possible that an interim rule on alternative fuel could be issued before completion of the environmental impact statement, should one be found necessary.

[4] Draft Order 30, approved in principle, August, 1979. Order 30–A, issued May 25, 1979, *Fed. Reg.* 30323.

[9] Further Comments of the Department of Energy submitted May 7, 1979, page 11.

[10] "[M] any residential, commercial and small industrial fuel oil customers will be particularly affected by high-priced and possibly inadequate distillate fuel oil. It is this Commission's responsibility to afford these users, who would be considered 'high-priority' if served by natural gas, relief within our discretion so long as this relief does not come at the expense of other high-priority users." Order No. 30 at page 7.

[11] Further Comments of the Department of Energy, submitted May 7, 1979, at page 2.

A. Reasonable Availability of Fuels. Official statistics indicate there are reasonably adequate supplies of coal and residual fuel oil. DOE's *Monthly Energy Review* for July 1979 indicates that residual fuel oil is in relatively plentiful supply. Stocks for December 1978 exceeded 90 million barrels,[5] well above the 67 million considered the munimum acceptable level for that time of year.[6] So far this year, stocks have continuously exceeded the minimum acceptable level.[7] As of the end of May this year, residual fuel oil stocks were 13.5 percent greater than for the same month a year ago.[8] Approximately 48 percent of all the residual fuel oil (domestic refinery production plus imports) consumed in the U.S. during 1978 was high sulfur residual fuel oil.[9] High sulfur oil, in general, sells for less than low sulfur oil. The following table shows domestic production and imports of high sulfur residual fuel oil plus end-of-month stocks for February 1979.

Source	Residual fuel oil (February 1979)[10]		
	High sulfur	Total	High sulfur
	(In millions of barrels)		(Percent)
U.S. refinery production	27,473	50,188	54.7
Imports	15,120	36,590	41.3
Subtotals	42,593	86,778	49.1
Stocks (end-of-month)	36,334	68,229	53.3
Grand total	78,927	155,007	50.9

[10] Energy Data Reports, Availability of Heavy Fuels Oils by Sulfur Levels, February 1979.

Compared to the same month a year ago, total residual stocks in February 1979 were 5.2 percent higher while high sulfur stocks were greater by 13.4 percent.[11]

Coal is also readily available to customers capable of using it. On an annual basis, production, not including imports, has historically exceeded domestic consumption. Additionally, stocks of bituminous and lignite coal at the end of April this year were 4.2 percent higher than they were twelve months earlier.[12]

The Commission has no information that would lead it to believe that supply situation of either residual fuel oil or coal is likely to change substantially in the forseeable future.

As discussed, the Commission has evaluated middle distillate availability in connection with Order No. 30 and has found that distillate fuel oil, including No. 4 fuel oil, is in short supply.[13] The nation's middle distillate supply as of the the end of July 1979, was about 165 million barrels. Although slightly above the minimum acceptable level for this time of year, it is 9% lower than one year ago.[14] (The Department of Energy estimates that distillate stocks must reach 240 million barrels to meet this coming winter heating season demand. Order No. 30–A at 4). Therefore the proposed rule does not contain a Commission determination that distillate fuel oil is reasonably available for essential argicultural uses at this time. It follows, therefore, that if an essential agricultural user can use only natural gas or middle distillates, the Commission would not consider such user to have a reasonably available alternative fuel.

As changes in the supply and demand of fuels occur, the Commission will have to consider from time to time the availability of various fuels and particularly the availability of middle distillates. However, the Commission does not intend to make such a reexamination until after the coming heating season. Also, any change in such determination would be made effective prospectively with a reasonable period for adjustment.

In sum, on the basis of the information available to it, the Commission proposes to find that residual fuel oil and coal are now, and will be during the coming winter heating season, reasonably available to essential agricultural use establishments capable of using either fuels. The Commission welcomes comment on the empirical support for its judgment that residual fuel oil and coal are readily available but middle distillates are not.

B. Economic Practicability

The Commission notes that the NGPA Conference Report provides some guidance on the meaning of "economic practicability". One of the reasons for the requirement is to avoid unnecessary increases in the cost of food.[15] Moreover, a fuel is not economically practicable if it would require a "switch to high-cost alternatives."[16]

The term "economically practicable" is also used as part of the alternative fuel test of section 402(b) (industrial process and feedstock uses). In discussing that section, the Conference Report says that "the term economically practicable" is intended to have the same meaning as the Commission's standard of economic feasibility under "extraordinary relief in curtailment cases."[17]

The Commission specifically requests comment on the "extraordinary relief" standard mentioned above. Is it an appropriate standard for determining economic practicability of alternative fuels under section 401(b) of the NGPA? If so, is it the only standard? How can it be applied? Does the phrase "economic feasibility" as used in the Conference Report apply only to the cost of converting a plant to the use of alternative fuel? Or does it apply to the cost of the fuel itself?[18] In other words, under the test of economic feasibility as used for extraordinary relief in curtailment cases, is a fuel other than

[5] *DOE Monthly Energy Review*, July, 1979 at 42.

[6] *DOE Weekly Petroleum Status Report*, August 3, 1979, at 9. Estimated minimum acceptable level is defined as the level to which stocks may fall without disruption of customer deliveries or the creation of spot shortages.

[7] *Id.* at 20.

[8] *DOE Monthly Energy Review*, July 1979, at 42.

[9] *See* Energy Data Reports, Availability of Heavy Fuel Oils by Sulfur Levels, December 1978. High sulfur residual fuel oil is that residual fuel oil which contains greater than 1 percent sulfur content by weight.

[11] *See* Energy Data Reports, Availability of Heavy Fuel Oils by Sulfur Levels, February 1978 at 2 and February 1979 at 3.

[12] *DOE Monthly Energy Review*, July 1979, at 58.

[13] Order No. 30, Docket No. RM79–34, Final Rule, May 17, 1979, at 7. See also, Order No. 30–A, Order on Rehearing.

[14] *DOE Weekly Petroleum Status Report*, August 3, 1979, at 17.

[15] The Conference Report does indicate that one of the reasons for the requirement is to avoid unnecessary increases in the cost of food. H.R. Report No. 95–1752, 95th Cong., 2d Sess., 114 (October 10, 1978) (hereinafter cited as Conference Report). Nevertheless, the rule proposed herein applies only to those establishments (other than new boilers) that have demonstrated some reliance on alternative fuel. It seems unlikely that continued reliance on such fuel would significantly increase food costs. If it would, the relevant information is in the hands of individual users, who can apply for adjustments under Section 502(c).

[16] *Id.*

[17] *Id.*

[18] *See, e.g.*, Texas Eastern Transmission Corporation (North Alabama Gas District) Docket No. RP74–39–8, order of February 26, 1975.

natural gas economically practicable if its cost is disproportionately high compared to the cost of natural gas?

Because we are of the opinion that middle distillates may not be readily available, it is unnecessary to address the economic practicability of these fuels.

Whatever standard is used, it would appear that coal should be deemed an economically practicable alternative fuel. On a Btu basis, it appears to be the least expensive fuel available. The average price of coal delivered to an electric utility plant was $1.17 per MMBtu ($25.15 per ton) in March, 1979.[19] This is less than half the average price of oil $2.61 per MMBtu delivered to electric utilities at that time, and 28 percent less than the comparable price for gas ($1.63 per MMBtu).[20] Thus, on an absolute basis coal is, in general, less expensive than natural gas. Although the cost of fueling industrial coal fired boilers may well differ from the average cost incurred by electric utilities, it seems reasonable to assume that the relative cost of fuels to the electric utility industry will be similar for all users in general.

It also appears that residual fuel oil should be considered economically practicable. The table below shows the average nationwide prices paid for residual fuel oil and interstate natural gas by industrial customers from 1976 through April 1979.

Prices Paid by Industrial Customers for Residual Fuel Oil and Interstate and Natural Gas

	Residual fuel oil price [21]		Interstate P/L gas price to industrials [23]	Differential—residual versus gas [24]	
	High sulfur [22]	Total		High sulfur	Total
	(Dollars per million Btu)		(Dollars per 1,000 ft³)	(Dollars per 1,000 ft³)	
Year and month:					
1976	1.66	1.83	0.97	0.69	0.86
1977	1.95	2.10	1.32	.63	.78
1978	1.86	2.03	1.54	.32	.49
1979:					
January	1.90	2.25	1.92	(.02)	.33
February	1.95	2.33	1.95	.00	.38
March	2.23	2.54	1.97	.36	.67
April	2.32	2.64	1.91	.41	.73

[21] *DOE Monthly Energy Review*, July 1979, at 88. The prices shown for residual fuel oil are retail prices converted from dollars per barrel to dollars per MMBtu. The conversion is based on a factor of 6,287,000 Btu/barrel. *Id.* at 108.

[22] Greater than one percent sulfur content.

[23] *Energy Data Report*, Financial Statistics of Electric Utilities and Interstate Natural Gas Pipeline Companies, December 1977, December 1978 and the months indicated for 1979. One Mcf of gas is the approximate equivalent of one MMBtu.

[24] Residual fuel oil prices less interstate gas prices.

While the price data indicate that residual fuel oil is more expensive than natural gas on an absolute basis, on a *relative* basis, residual fuel oil has become *less* expensive as an alternative fuel in recent years. Thus, it appears that for customers with the installed physical capability, residual fuel oil, especially high sulfur oil, is economically practicable as an alternative fuel for natural gas. Admittedly the above fuel oil prices do not reflect the recent hike in OPEC crude oil prices set in June of this year. However, we will continue to monitor residual fuel oil prices as well as the prices of other fuels during and after this initial rulemaking proceeding. On the average low sulfur residual fuel oil was about 31 cents per MMBtu (16.5 percent) more expensive than high sulfure residual fuel oil during 1978. The difference between low sulfur and high sulfur residual fuel oil prices increased to 59 cents per MMBtu in April of this year.[25]

The proposed rule does not assume the conversion of any facilities not presently equipped to use alternative fuels. Nevertheless, it is a common knowledge that new boilers can be constructed with dual fuel capability relatively inexpensively. Consequently, the proposed rule presumes that boilers capable of using over 300 Mcf per day and installed after 1979, are able to use an alternative fuel that is reasonably available and economically practicable.[26]

The proposed rule would measure a boiler's capacity on its manufacturer's nameplate rating, expressed in MMBtu's per hour for a 16 hour period. Although some boilers could be operated at a rate above or below the nameplate rating, the Commission believes that nameplate rating is the most objective, verifiable, administratively feasible standard to use in determining a boiler's capability. Generally, it is not considered efficient to limit a boiler's operation to an 8 hour day, but neither do all boilers operate 24 hours a day. The 16 hour period was selected, therefore, as a reasonable middle ground.

Some commentators on the rule first proposed in this docket argued that no fuel may be deemed economically practicable if it costs more than natural gas. These arguments were usually supported by a reference to the statement in the Conference Report that the "determination that an alternative fuel is 'economically practicable' shall not include a requirement to *switch* to *high* cost alternatives" (Emphasis added). The proposed rule applies only to new boilers with capacity in excess of 300 Mcf per day and to establishments already capable of using alternative fuels. Under this proposed rule, no agricultural use establishment will be required to switch fuels. Furthermore, the Commission does not believe that "higher cost" is the same as "high" cost.

Natural gas has long been and remains a relatively inexpensive fuel. Even so, may consumers have also used other fuels as a supplement to or in lieu of natural gas. We do not think that enactment of the NGPA suddenly made all higher cost fuels "economically impracticable". Nationwide the prices of alternative fuels relative to the price of natural gas have actually declined since 1974. See Appendix A.

As previously mentioned, the Commission is aware that the relative cost as well as availability of fuels is subject to change. The Commission will necessarily and of its own motion make new determinations on the basis of changes in circumstances. Nonetheless, any interested person may petition the Commission to initiate a rulemaking proceeding to make new determinations based upon changes in circumstances.

The Commission is aware that a generic rule on reasonable availability

[19] *Energy Data Report*, monthly report, Cost and Quality of Fuels for Electric Utility Plants, FPC Form No 423, March, 1979, at pages iii and v.

[20] *Id.* at iii.

[25] See *DOE Monthly Energy Review*, July 1979, at 88.

Note.—Low sulfur prices were estimated based on the simple average of retail prices shown for residual fuel oil with less than 1 percent sulfur content.

[26] In the proposed rule the term "boilers" does not include combustion turbines and diesels, since the alternative fuel for those facilities is usually No. 2 fuel oil, which in the Commission's present view is not reasonably available at present and for which we lack the basis to project reasonable availability for the forthcoming heating season.

and economic practicability will not be fitted to the particular and unique circumstances of every person. Accordingly, any person may file for an adjustment to this rule. Under Section 502(c) of the NGPA the Commission grants adjustments to prevent hardship, inequity and unfair distribution of burden. The Commission does not wish to make the seeking of an adjustment burdensome. Therefore, the Commission seeks comment on what types of data are readily available to essential agricultural users and which would be useful in seeking an adjustment. It also seeks comment on what standards should be used in making determinations concerning adjustments.

III. Discussion of the Proposed Rule

Section 281.301. This section describes the purpose of this new subpart M —— to determine the economic practicability and reasonable availability of alternative fuels as prescribed in section 401(b) of the NGPA.

Section 281.302. This section sets forth the essential agricultural users which are subject to this alternative fuel determination. To be subject to this alternative fuel rule, an essential agricultural user must (1) have requested that natural gas be classified as priority 2 and (2) have the ability to use an alternative fuel.

Section 281.303. Sets forth definitions used in the subpart. "Ability to use" a particular alternative fuel means that essential agricultural user has installed the physical capability to use the alternative fuel and that he has actually used the altenative fuel at some time beginning in 1974. "Alternative fuel" means coal or residual fuel oil. "Residual fuel oil" is defined as Nos. 5 and 6 fuel oil. "Coal" means lignite or any other rank of bituminous or anthracite coal. Other definitions include "boiler", "capacity", "combustion turbine", "diesel engine", "essential agricultural requirements", "essential agricultural use", and "Priority 2 entitlements".

Section 281.304. This section sets forth the general rule that the essential agricultural requirements of an essential agricultural user shall exclude volumes of natural gas for which it has the ability to use alternative fuel. The rule also provides that a new boiler with the capacity in excess of 300 Mcf of natural gas per day and that is put into use for the first time after August 29, 1979, is deemed to have the ability to use alternative fuel. For purposes of this rule, a boiler excludes combustion turbine engine or a diesel engine. The rule further requires that any essential agricultural user which has already requested Priority 2 classification for requirements for which under this rule he would have alternative fuel must amend its request for Priority 2 treatment and reduce the volume from which it request Priority 2 treatment to exclude volumes for which he has alternative fuel.

A sample calculation of reduction in Priority 2 entitlements may be helpful. Assume an essential agricultural user has requested 1000 Mcf per day priority 2 entitlements. Of that amount, 500 is used as feedstock for which no alternative fuel has ever been used. The remaining 500 is used in a boiler which has installed capability to use residual fuel oil and which has at some time since 1974 used an alternative fuel. The boiler has the capacity to use 700 Mcf per day of natural gas. Section 281.304(b) would require the essential agricultural user to reduce its priority 2 requirements by 500 Mcf per day—the volume for which it has alternative fuel and for which it has requested priority 2 entitlements. The rule further requires that each distribution company and interstate pipeline which receives amended request for Priority 2 treatment because of alternative fuel availability forward these in accordance with the provisions of subpart B.

Section 281.305. This section requires that each essential agricultural user that has requested Priority 2 treatment for natural gas in excess of 300 Mcf on a peak day for boilers, diesel engines and internal combustion engines submit a statement to its direct supplier indicating the uses of the natural gas for which it has sought Priority 2 entitlements. The local distribution companies and interstate pipelines that receive these statements in accordance with subpart B.

IV. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–40. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, September 28, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all timely comments before acting on matters proposed in this notice.

B. Public Hearings

A public hearing concerning this proposal will be held in Washington, D.C. on September 24, 1979. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided that a written request to participate is submitted to the Secretary of the Commission at the address given above at least seven days before the date the hearing is to be convened. Requests to participate should include a reference to Docket No. RM79–40, should indicate the hearing in which the person making the request wished to participate, should indicate the amount of time desired, and should include a telephone number where the person making the request may be reached. The presiding officer is authorized to limit oral presentations at the public hearings both as to length and as to substance. Persons participating in the public hearings should, if possible, bring 100 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM79–40, in the Commission's Office of Public Information.

(Natural Gas Act as amended, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Part 281, Chapter I of Title 18, Code of Federal Regulations, by adding a new Subpart C to Part 281 to read as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A.—*Prices Paid by Electric Utilities for Selected Fuels*

[1973–April 1979]

Type of fuel	1973	1974	1975	1976	1977	1978	1979 Jan.	1979 Feb.	1979 Mar.	1979 Apr.
	Cents per million Btu									
FUEL OIL [1]										
No. 2	114.9	217.3	215.5	235.1	264.3	271.9	293.8	309.0	320.9	369.1
All No. 6	79.2	190.6	201.1	195.3	219.8	211.8	227.8	240.3	259.0	263.6
High sulfur No. 6 [2]	61.7	164.5	170.5	168.7	199.9	186.7	189.8	199.4	227.5	232.3
Low sulfur No. 6 [2]	85.1	203.2	213.4	207.1	229.1	225.1	246.9	260.2	278.7	288.7
GAS [3]										
Firm	29.9	44.3	70.2	93.6	112.8	129.3	139.1	143.3	140.3	145.1
Interruptible	39.0	54.0	84.8	124.1	163.8	179.9	197.9	202.9	202.0	198.0
Weighted average	33.8	48.1	75.4	103.4	130.0	143.8	150.2	159.1	163.0	164.7
COAL [4]										
All grades	40.5	71.0	81.4	84.8	94.7	111.6	115.8	114.6	116.8	120.1
	Price Differentials—Fuel Oil and Coal v. Gas									
FUEL OIL v. GAS [5]										
No. 2	81.1	169.2	140.1	131.7	134.3	128.1	143.6	149.9	157.9	204.4
All No. 6	45.4	142.5	125.7	91.9	89.8	68.0	77.6	81.2	96.0	99.1
High sulfur No. 6	27.9	116.4	95.1	65.3	69.9	42.9	39.6	40.3	64.5	67.6
Low sulfur No. 6	51.3	155.1	138.0	103.7	99.1	81.3	96.7	101.1	115.7	124.0
COAL v. GAS [6]										
All types	6.7	22.9	6.0	(18.6)	(35.3)	(32.2)	(34.4)	(44.5)	(46.2)	(44.6)

[1] Weighted average prices of fuel oil delivered to steam electric plants. Excludes peaking fuel prices.
[2] Includes insignificant amounts of No. 4, and No. 5 oil, crude and topped crude. High sulfur oil has greater than 1 percent sulfur. Low sulfur oil less than 1 percent sulfur.
[3] Weighted average prices of gas delivered to steam electric plants. Excludes peaking prices. Includes small amounts of coke oven gas, refinery gas, and blast furnace gas.
[4] Weighted average price of all grades of coal delivered to electric utilities.
[5] Fuel oil prices less weighted average gas price.
[6] Coal price less weighted average gas price.

Source: FPC Form 423, *Annual Summary of Cost and Quality of Electric Utility Plant Fuels* (1973–1977). Data for 1978 and 1979 from FPC Form 423, Energy Data Reports, *Monthly Reports, Costs and Quality of Fuels for Electric Utility Plants*. Note: April 1979 data are preliminary.

1. Part 281 is amended in the Table of Contents by adding a new subpart C to read as follows:

PART 281—NATURAL GAS CURTAILMENT

* * * * *

Subpart C—Alternative Fuel Determination

Sec.
281.301 Purpose.
281.302 Applicability.
281.303 Definitions.
281.304 General Rule.
281.305 Filing Requirements.

2. Part 281 is amended by adding a new Subpart C to read as follows:

Subpart C—Alternative Fuel Determination

§ 281.301 Purpose.

The purpose of this subpart is to determine the economic practicability and reasonable availability of alternative fuels, as prescribed in Section 401(b) of the NGPA, for essential agricultural users that seek Priority 2 entitlements for natural gas.

§ 281.302 Applicability.

This subpart applies to each essential agricultural user that:

(a) Requests that natural gas be classified as Priority 2 entitlements by an interstate pipeline under § 281.207; and

(b) Has the ability to use alternative fuel.

§ 281.303 Definitions.

For purposes of this subpart:

(a) "Ability to use" a particular alternative fuel means that an essential agricultural user has installed the physical capability to use the alternative fuel and has used that alternative fuel (in any amount) at any time after 1973, for an essential agricultural use.

(b) "Alternative fuel" means coal or residual fuel oil.

(c) "Boiler" means a fuel burning device, other than a combustion turbine or diesel engine, used for generating steam or used for generating high temperature hot water that is used for space heating, manufacturing processess, or generating electricity.

(d) "Capacity" means the volumes of natural gas used if the boiler is operated at nameplate rated capacity for a continuous 16 hour period.

(e) "Coal" means lignite or any other rank of bituminous coal or anthracite coal.

(f) "Combustion turbine" means an external combustion engine that uses gaseous or liquid fuel other than residual fuel oil for generating shaft horsepower.

(g) "Diesel engine" means an internal combustion engine that uses gaseous or liquid fuels other than residual fuel oil for generating shaft horsepower.

(h) "Essential agricultural requirements" means volumes of natural gas certified by the Secretary of Agriculture and calculated in accordance with 7 CFR § 2900.4.

(i) "Essential agricultural use" means essential agricultural use as defined in § 281.203(a)(2).

(j) "Priority 2 entitlements" means essential agricultural requirements of an essential agricultural use establishment that an interstate pipeline classifies as Priority 2 in its curtailment plan in accordance with Subpart B.

(k) "Residual fuel oil" means Nos. 5 and 6 oil, Bunker C, and Navy Special as defined in the standard specification for fuel oils published by the American Society for Testing and Materials, ASTM, D396 [Nos. 5 and 6 oils].

§ 281.305 General rule.

(a)(1) The essential agricultural requirements of an essential agricultural user shall exclude volumes of natural gas for which it has the ability to use alternative fuel.

(2) Any boiler that has a capacity in excess of 300 Mcf of natural gas per day and that is put into service for the first time after August 29, 1979, shall be deemed to have alternative fuel.

(b) Any essential agricultural user which has requested Priority 2 classification for natural gas for which it has the ability to use alternative fuel shall reduce its essential agricultural requirements calculated under § 281.207 to reflect the exclusion of volumes of natural gas for which it has the ability to use alternate fuel as determined in § 281.304(a) and file an amended request for Priority 2 classification in accord with Subpart B.

(c) Each local distribution company and interstate pipeline which received amended requests for Priority 2 classification shall make filings and adjustments necessary under Subpart B.

§ 281.305 Additional filing requirements.

(a) *Essential agricultural users.* (1) No later than November 1, 1979, an essential agricultural user that has made, in accordance with § 281.211(b)(1) of subpart B, a request for classification of essential agricultural use entitlements in excess of 300 Mcf on a peak day as Priority 2 entitlements shall submit to the local distribution company supplier or the direct interstate pipeline supplier, as appropriate, a statement setting forth:

(i) The requirements of each boiler, (B) combustion turbine and (C) diesel engine that has a capacity in excess of 300 Mcf per day and for which Priority 2 entitlements have been requested.

(ii) Any fuel other than natural gas which has been used in the boiler, combustion turbine or diesel engine.

(2) The statement under this paragraph shall be signed by a responsible official of the essential agricultural user. The official shall swear or affirm that the statements are true to the best of his information, knowledge, and belief.

(b) *Local distribution companies.* Local distribution companies and interstate pipelines that receive statements under § 281.305(a) shall forward copies of all such statements to the interstate pipelines to whom requests for classification of Priority 2 entitlements were made under § 281.211(b)(a).

[FR Doc. 79-27547 Filed 9-5-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 290]

[Docket No. R-79-707]

Management and Disposition of HUD-Owned Multifamily Housing Projects

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 290—Management and Disposition of HUD-Owned Multifamily Housing Projects

This interim rule would amend the present interim rule on the disposition program published January 27, 1977. The interim rule represents significant changes in policy and procedure in the management and disposition of HUD-owned multifamily housing projects. The rule reflects HUD's commitment to maintain the stock of decent, safe and sanitary housing affordable by lower income tenants. The rule also reflects HUD's desire to administer the disposition program efficiently and to protect the financial integrity of the insurance funds.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 28, 1979.

Jay Janis,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79-27743 Filed 9-5-79; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 510]

[Docket No. R-79-706]

Property Rehabilitation Loans

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Section 312 of the Housing Act of 1964 authorizes the provision of direct Federal loans for the rehabilitation of properties in urban renewal, community development block grant, and other eligible areas. The handbook and other guidelines employed to administer the loan program have not been published as formal regulations. The promulgation of Executive Order 12044, Improving Government Regulations and 24 CFR Part 10, the Department's Rulemaking Policies, require that formal regulations be issued for the Section 312 Rehabilitation Loan Program. By this document, HUD (1) gives advance notice of its intent to issue regulations for the program and (2) solicits advice and information from interested parties prior to issuing more specific proposed rulemaking.

DATE: Comments must be received on or before November 5, 1979.

ADDRESS: Comment should be mailed or delivered to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Craig Nickerson, Director, Division of Rehabilitation Management, Office of Urban Rehabilitation and Community Reinvestment, CPD, Telephone—(202) 755-6973, Room 7162.

SUPPLEMENTARY INFORMATION: Section 312 of the Housing Act of 1964 (Pub. L. 88-560, Section 312; 42 U.S.C. 1452 (b)) authorizes the provision of direct Federal loans at up to 3 percent interest or more, depending on income, for terms up to 20 years for properties located in urban renewal, Federally-assisted code enforcement, community development block grant, urban homestead and other eligible areas. Contacts with property owners, assuring loan applications comply with Federal, State and local law, and general oversight of rehabilitation construction are the responsibility of the administering local public agency. The program provides funds for loans, but the administrative costs of local public agencies are not included, and they generally are drawn from local project or community development sources. Loans may be for residential (single and multifamily) or nonresidential properties. Priority is given to applications from low- and moderate-income (below 95 percent of median income) owner-occupants. Loans are limited to $27,000 per dwelling unit and $100,000 per nonresidential loan. The loans may be combined with grants or with funds borrowed from other sources to achieve more extensive rehabilitation.

As the initial thrust of the loan program was to support urban renewal projects, guidelines for Section 312 loans were first added to the handbooks that governed urban renewal. These were later consolidated into a single Rehabilitation Financing Handbook (7375.1) which has been amended and augmented by notices and memoranda. It is essential, therefore, to issue regulations to bring the loan program in line with administrative practices for other HUD programs.

HUD encourages comments and information from interested parties about how the loan program should be administered. The Department is especially interested in comments from local governments, housing officials, community development officials, contractors, private lenders (whose loans may be combined with section 312 funds to reach a larger number of borrowers), neighborhood organizations, borrowers and other individuals and groups with knowledge of the section 312 loan program.

Commenters may wish to address the following issues, among others, which are of special interest to the Department:

1. What roles should Federal and local agencies play in the administration of the loan program? Under what circumstances should local agencies be given authority to approve loans and under what circumstances should that authority be withdrawn?

2. To what extent should loans be targeted to areas of concentrated neighborhood revitalization?

3. How should the priority for low- and moderate-income borrowers be established?

4. Under what circumstances should nonresidential rehabilitation be funded?

5. What terms and conditions should be applied to each loan?

6. What costs should be includable in loans? Under what circumstances should refinancing of an existing mortgage be allowed?

7. What rules should be applied to the range of interest rate authorization added by the Housing and Community Development Amendments of 1978?

8. What requirements should be imposed to avoid or minimize displacement?

Comments should be submitted in writing to the Rules Docket Clerk. Communications should identify the regulatory docket number.

(Section 7(d) of the Department of HUD Act (42 U.S.C. 3543(d) and Section 312 of the Housing Act of 1964 (42 U.S.C. 1452(b))).

Issued at Washington, D.C., August 29, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-27744 Filed 9-5-79; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[24 CFR Part 510]

[Docket No. R-79-708]

Section 312 Rehabilitation Loan Program (Corporate Liability)

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 510—Section 312 Rehabilitation Loan Program (Corporate Liability)

This interim rule will amend the Section 312 Rehabilitation Loan Program regulations to redefine when personal liability is required in the case of corporate or partnership borrowers in connection with a Section 312 loan.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. August 30, 1979.

Jay Janis,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 79-27788 Filed 9-5-79; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

(FRL 1312-7)

Approval and Promulgation of Implementation Plans; Request for 18-month Extension: Florida, North Carolina, and Tennessee

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: It is proposed to grant an 18-month extension of the January 1, 1979, statutory deadline for the submittal of implementation plan revisions providing for the attainment of the secondary national ambient air quality standard for particulate matter, as required under Part D of Title I of the Clean Air Act, in the following areas: Jacksonville and Tampa, Florida; Spruce Pine, North Carolina; Columbia, Kingsport, Memphis, Nashville and Chattanooga, Tennessee. The States have submitted information showing that none of these areas can attain the secondary standard through the application of reasonably available control technology (RACT). The public is invited to submit written comment on the proposed extensions

DATE: To be considered, comments must be received on or before October 9, 1979.

ADDRESSES: Comments should be addressed to Winston A. Smith, Chief, Air Programs Branch, EPA Region IV (see address just below). Copies of the materials submitted by the states in support of the 18-month extension requests may be examined during normal business hours at the following locations:

Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia. 30308.

Public Information Reference Unit, Library Systems Branch, EPA, 401 M Street, SW., Washington, D.C., 20460.

In addition, the materials relating to each request may be examined in the offices of the respective State air pollution control agency.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Bishop, Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland St., NE, Atlanta, GA 30308, (404) 881-3286, or FTS 257-3286.

SUPPLEMENTARY INFORMATION: The Florida Department of Environmental Regulation, in its April 30, 1979, submittal of 1979 implementation plan revisions for non-attainment areas in the State, requested an extension of the deadline for submitting a secondary standard TSP plan for Jacksonville and Tampa and supplied supporting documentation. (The extension request had been the subject of a letter from the agency to EPA on January 16, 1979.) For both areas, the State provided a schedule for developing controls on nontraditional sources of particulate emissions, and showed that RACT alone was inadequate to assure attainment of the standard. In the case of Jacksonville, the State has notified the air pollution control agency of the adjoining State (Georgia) of the extension request since the nonattainment area is in an interstate Air Quality Control Region. Thus, all the requirements of 40 CFR 51.31 governing 18-month extensions have been met.

In the downtown Jacksonville nonattainment area, RACT is in effect for traditional sources of particulate emissions, and all major sources are in compliance with the embodying emission limits. To meet the secondary standard, fugitive dust controls must be devised on a case-by-case basis. Significant nontraditional sources in the area are motor vehicle traffic and sandblasting of ships.

In the downtown Tampa nonattainment area, RACT is in effect for traditional sources of particulates; all major sources are in compliance except the municipal incinerator, which will shut down in 1980. In addition, fugitive emissions from General Portland Cement and Florida Steel are now being controlled—in the latter case, under a Section 120 Delayed Compliance Order. To meet the secondary standard, controls on other nontraditional sources are needed, and an inventory of such sources must be developed. It is already known from microscopic filter analyses that traffice generated particulates contribute significantly to the problem.

On February 1, 1979, the North Carolina Division of Environmental Management submitted a request for an 18-month extension of the deadline for submittal of a plan to attain the secondary TSP standard in the Spruce Pine nonattainment area. The State had previously shown, in a draft plan revision for the area, that the nonattainment was largely due to fugitive emissions from unpaved roads. EPA concurs that RACT is in effect for all traditional sources in the area. Accordingly, it is proposed to grant the State's request for an extension.

On May 4, 9, and 17 and June 21, and 22, 1979, the Tennessee Division of Air Pollution Control requested an 18-month extension of the deadline for submitting plan revisions to assure attainment of the secondary TSP standard in Columbia, Kingsport, Nashville, Memphis and Chattanooga. In each case, it has been shown that RACT alone will not suffice to assure the attainment of the standard. In Columbia (Maury County) and Kingsport (Sullivan County), there are many mineral handling operations which contribute significantly to the particulate problem. In Nashville, Memphis and Chattanooga, reentrained particulate matter from traffic is contributing to the nonattainment problem. The air pollution control agencies of the adjoining states (Virginia, Mississippi, Arkansas and Georgia) have been notified of the extension request since the nonattainment areas are in interstate Air Quality Control Regions. The requirements of 40 CFR 51.31 having been satisfied, the Agency proposes to grant Tennessee's requests for extensions.

The public is invited to participate in this rulemaking by submitting written comments on the proposed extensions. After reviewing all pertinent comments received together with other information available to him, the Administrator will take final action on the extension requests.

(Section 110(b) of the Clean Air Act (42 U.S.C. 7410(b)))

Dated: August 8, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-27830 Filed 9-5-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1312-8]

Missouri; Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve several revised state air pollution control regulations as part of the Missouri State Implementation Plan (SIP). Approval means that the regulations will be enforceable against individual sources of air pollution by the federal government as well as by the state government. The EPA is also proposing not to take any formal approval or disapproval action on two additional regulation revisions. This proposal is published to advise the public of the receipt of these proposed revisions and to request comment on the proposal.

DATES: Comments must be received before November 5, 1979.

ADDRESS: Comments should be sent to William A. Spratlin, Jr., Chief, Air Support Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles W. Whitmore, 816-374-3791.

SUPPLEMENTARY INFORMATION: On August 28, 1978, the Missouri Department of Natural Resources (DNR) submitted proposed revisions to the Missouri SIP. These revisions were presented at public hearings March 26, 1975, in Jefferson City, Missouri; August 27, 1975, at the Lake of the Ozarks, Missouri; July 28, 1976, in St. Louis, Missouri; March 16, 1977, in St. Louis, Missouri; October 19, 1977, in Jeffereson City, Missouri; and December 8, 1977, in St. Louis, Missouri. The revisions were formally adopted by the Missouri Air Conservation Commission (MACC) and became effective state regulations as of July 10, 1975; December 29, 1975; October 11, 1976; July 11, 1977; February 11, 1978; and March 11, 1978.

Effective July 1, 1976, the State of Missouri revised the numbering system for all air pollution control regulations throughout the state. The state air regulations are now contained in Title 10, Division 10 of the Code of State Regulations, designated as 10 CSR 10. Neither title nor content of the regulations were changed by this renumbering.

A new chapter, "Chapter 6—Air Quality Standards, Definitions, and Reference Methods for the State of Missouri," has been added. This chapter contains the state ambient air quality standards, all definitions, and both source testing methods and ambient monitoring methods. With the exceptions discussed below, the contents of this chapter were transferred from other portions of the existing regulations. The ambient air quality standard for sulfur dioxide (SO_2) was revised to be consistent with the National Ambient Air Quality Standards (NAAQS). Regulation 10 CSR 10-6.030 is a new rule which defines the methods for emission testing of air pollution sources and adopts the EPA Reference Methods (40 CFR Part 60, Appendix A) for Methods 1 through 11. Regulation 10 CSR 10-6.040 is a new rule which provides reference methods for determining ambient air quality and contains the EPA Reference Methods (40 CFR Part 50, Appendices A through F), and methods for the determination of concentrations of hydrogen sulfide, sulfuric acid mist, and sulfur trioxide. The techniques for determining the heating value and sulfur content of fuels were also clarified.

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Regulations 10 CSR 10–2.030; 10 CSR 10–3.050; 10 CSR 10–4.030; and 10 CSR 10–5.050 which are process weight regulations for sources of particulates, have been revised to exclude cotton gins, quarries, and grain handling operations. Application of process weight regulations to cotton gins and grain handling operations is extremely difficult because of the multiple ducting, transfer points and control systems. Quarries do not have a stack which can be tested. The MACC determined these sources were being stringently controlled by the existing opacity regulations and that no increase in emissions would occur as a result of this exemption.

Regulations 10 CSR 10–2.190; 10 CSR 10–3.140; 10 CSR 10–4.180; and 10 CSR 10–5.280 adopt by reference the federal "Standards of Performance for New Stationary Sources," 40 CFR Part 60, as in effect on January 18, 1975.

Regulations 10 CSR 10–2.060; 10 CSR 10–3.080; 10 CSR 10–4.060; and 10 CSR 10–5.090 were revised to require the installation of continuous opacity monitors on certain coal-fired power plants, cement kilns and fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. These regulations appear to fulfil the requirements for continuous opacity monitoring and reporting of data from fossil fuel-fired steam generators and from fluid bed catalytic cracking unit catalyst regenerators as required by 40 CFR 51.19(e). There are no federal requirements for continuous opacity monitoring of Portland cement plants.

Regulation 10 CSR 10–5.140 has been rescinded. This regulation provided a method for the determination of settleable acid and alkaline mist. The intent was to identify sources of such mists. Attempts to use this technique proved unsatisfactory. Since no ambient air quality standard exists for these pollutants, the rescission would have no effect on allowable emissions of criteria pollutants.

Regulations 10 CSR 10–2.160; 10 CSR 10–3.100; and 10 CSR 10–4.150 were revised to remove that portion which provides for control of SO_2 emissions from indirect heating sources, and Regulations 10 CSR 10–2.200; 10 CSR 10–3.150; and 10 CSR 10–4.190 were adopted to control SO_2 emissions from indirect heating sources and include specific individual allowable emission rates for coal-fired power plants. The specified emission rates are based on the coal supplies currently used by the individual sources; thus, there is no relaxation of emission rates and no consumption of prevention of significant air quality deterioration increment. Available ambient air quality data demonstrate attainment of the NAAQS for SO_2 in all areas of the state which are impacted by these sources. Diffusion modeling does not predict any violations of the NAAQS. These regulations were developed because the existing regulations were of the "fenceline" type which allow consideration of atmospheric dispersion and are not consistent with the requirements of the Clean Air Act.

The decision to approve or disapprove these revisions will be based on whether or not they meet the applicable requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Submittal of State Implementation Plans."

For reasons stated in the discussion below, the EPA has determined that it would not be appropriate to take action on the following two regulation changes at this time. Regulation 10 CSR 10–5.220 provides for the control of gasoline vapors in the St. Louis Air Quality Control Region (AQCR). This regulation is consistent with the EPA guidelines for the control of gasoline vapors during transfer from refineries or pipelines to service stations (Stage I Vapor Recovery). This regulation is one of many which must be developed to attain the NAAQS for ozone. As such, the degree of air quality improvement to be expected will be discussed in a control strategy demonstration to be developed, and submitted with SIP revisions required by the Clean Air Act Amendments of 1977 for areas where the ambient air quality standards are not being attained.

Regulations 10 CSR 10–2.050; 10 CSR 10–3.070 and 10 CSR 10–5.100 limit particulate emissions from the handling, transporting and storage of materials. Visible emissions beyond the property line where the emissions originate are prohibited if the visible emissions beyond the property line contain particles of greater than 40 microns in size. These regulations have been amended to make them effective only when at least one complaint is filed with the executive secretary of the MACC.

No control strategy demonstration has been developed to support these regulation changes. The DNR stated that no control strategy was necessary because the method used to verify compliance only monitors particles of less than 40 microns and therefore, the regulation has no impact on ambient concentrations of a criteria pollutant.

The EPA believes that a control stategy demonstration is required. When the presence of at least one particle of greater than 40 microns is verified, the regulations prohibit all visible emissions beyond the property line, regardless of particle size. The regulations state that the size of the particulate matter "shall be determined by microscopy." Certainly, microscopy is not limited to a size of 40 microns or greater.

The reference method for determination of suspended particulates (40 CFR 50, Appendix B) collect particles in the range of 0.01 to 100 microns. The NAAQS for particulate matter are based on the determination of air quality using this reference method. Thus, particles of greater than 40 microns do impact on concentrations of a criteria pollutant. In addition, the regulations provide for control of all visible emissions, regardless of size. Therefore, these regulations do impact the attainment and maintenance of the NAAQS for particulate matter, and any change of such regulations requires an adequate control strategy demonstration, which must be subjected to appropriate public participation, prior to any EPA action on the proposed revision.

Copies of the proposal and supporting documents are available for public inspection at the office of EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106; Public Information Reference Unit, Library Systems Branch (PM–213), 401 M Street, SW., Washington, D.C. 20460; and the Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101.

(42 U.S.C. 1857c–5)

Dated: August 24, 1979.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 79–27831 Filed 9–5–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 254]

Operating-Differential Subsidy for Dry Bulk Cargo Vessels; Proposed Rulemaking

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed regulations.

SUMMARY: The proposed Part 254 sets forth regulations governing the payment of operating-differential subsidy to operators of dry bulk cargo vessels pursuant to Title VI of the Merchant Marine Act of 1936, as amended (the Act) (46 U.S.C. 1171–1180). Regulations promulgated by the Maritime Administration concerning the operation of bulk cargo vessels on the Great Lakes (46 CFR Part 279), the carriage of grain from the United States to the Union of Soviet Socialist Republics (46 CFR Part 294), and operating-differential subsidy for bulk cargo vessels engaged in worldwide services (46 CFR Part 252) remain in effect. Any specific provision of this Part relating to dry bulk vessels shall govern where inconsistent with any general provision in 46 CFR Part 252.

DATES: All comments received on or before October 29, 1979, will be considered in the formulation of final regulations.

ADDRESS: Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Frederick R. Larson, Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The proposed regulations provide for contracting and payment of subsidy to United States citizens who operate dry bulk cargo vessels, that are registered in the United States, in the essential services of the United States. Generally, a vessel is deemed to be in an essential service if it is probable that the vessel will be employed in the carriage of a significant volume of cargo in the U.S. foreign commerce during a substantial part of its economic life (§ 254.20). In making this determination, a vessel charter exceeding 5 years, that may be extended beyond 5 years, must be submitted to the Assistant Secretary for Maritime Affairs for approval. A charter of five years or less will not need approval.

The amount of subsidy payable shall be the excess of U.S. costs over the estimated foreign costs of the items of expense found by the Board to be eligible for subsidy pursuant to § 254.12. The amount of subsidy shall be determined at the beginning of the charter, but not more often than once a year, and shall remain in effect for the duration of the charter. Sections 254.50 and 254.51 describe the operational and financial reporting requirements. Forms and procedures for the billing of subsidy are provided in §§ 254.60 and 254.61. Finally, § 254.62 provides the operator with appeal procedures for audits and administrative determinations.

A determination has been made that the new proposed Part 254 does not meet any of the criteria for requiring a regulatory analysis that have been established pursuant to EO 12044 (43 FR 12661), Department of Commerce Administrative Order 218–7 and Maritime Administration procedures (44 FR 2082). Comments may be addressed, and data, views, and arguments concerning the proposed regulation may be submitted in duplicate to the Secretary, Maritime Administration, Washington, D.C. 20230. All material received on or before October 29, 1979, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

Accordingly, adoption of Part 254 Title 46 of the Code of Federal Regulations is proposed, to read as follows:

PART 254—REGULATIONS GOVERNING THE AWARD AND ADMINISTRATION OF OPERATING-DIFFERENTIAL SUBSIDY FOR DRY BULK CARGO VESSELS

Subpart A—Introduction

Sec.
254.1 Purpose.
254.2 Definitions.
254.3 Mailing Address.

Subpart B—Contract Grants

254.10 Eligibility.
254.11 Application forms.
254.12 Subsidizable items of expense.
254.13 Approval.
254.14 Contract.

Subpart C—Operation

254.20 Essential service requirement.
254.21 Carriage of Preference Cargoes.
254.22 Period of reduced crew, idleness, delay, or lay-up.
254.23 Determination of foreign-flag competition.

Subpart D—Calculation of Operating-Differential Subsidy

254.30 Authority.
254.31 Provisions of general application.
254.32 Estimating United States cost.
254.33 Foreign cost estimates.

Subpart E—Operational and Financial Reporting Requirements

254.50 Operational.
254.51 Financial.

Subpart F—Subsidy Payment and Billing Procedures

254.60 Payment of subsidy.
254.61 Subsidy billing procedures.
254.62 Appeal procedures.

Authority.—Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plan 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91–469 (84 Stat. 1036); Department of Commerce Organization Order 10–8 (38 FR 19707, July 23, 1973).

Subpart A—Introduction

§ 254.1 Purpose.

This part prescribes regulations implementing Title VI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1171–1176 and 1178–1181) with respect to the award and administration of operating-differential subsidy for dry bulk cargo vessels engaged in carrying dry bulk cargo in essential services in the foreign commerce of the United States.

§ 254.2 Definitions.

When used in this part:

(a) *Act* means the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294).

(b) *Board* means the Maritime Subsidy Board of the Maritime Administration, Department of Commerce.

(c) *Vessel* means a dry bulk cargo vessel built to carry solid commodities that in normal shipment are contained only by the vessel's structure.

(d) *Charter* means any agreement between two or more parties which governs the employment of the vessel.

(e) *Citizen of the United States* means a corporation, partnership, association or other legal entity that is deemed a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802) and section 905(c) of the Act.

(f) *Essential Service* means the dry bulk cargo services that qualify for payment to the operator of the amount of subsidy under the operating differential subsidy agreement as described in § 254.20.

(g) *Foreign-Flag Competition* means those foreign-flag vessels deemed by the Board to be competitive with the subsidized vessel in an essential dry bulk cargo-carrying service.

(h) *Operator* means any individual, partnership, corporation or association or other entity entitled to receive subsidy under an ODSA.

(i) *ODS* means operating-differential subsidy in accordance with Section 603(b) of the Act.

(j) *ODSA* means the operating-differential subsidy agreement entered into by an operator and the United States Government for the payment of ODS.

(k) *Normal Crew Complement* means the basic number of crew members of a U.S. flag vessel as established by collective bargaining with the unions involved. In cases where collective bargaining agreements provide that the crew may vary in number, the lower number will be the normal crew complement.

(l) *Subsidizable Crew Complement* for any existing vessel or proposed vessel construction or reconstruction means the crew complement approved by the Maritime Subsidy Board and incorporated in the ODSA.

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(m) *Reduced Crew Period* means any period when a vessel under an ODSA is in port and the Operator reduces the crew to save wage costs. The Reduced Crew Period shall begin the day that the vessel's normal crew complement is reduced by 4 or more and division of wages is not paid for the missing crew members. Such period shall end the day prior to the day that the vessel's crew complement is restored to a number not more than 3 less than the normal crew complement, or division of wages is paid for the missing crew members, or the vessel is temporarily or permanently withdrawn from subsidized service, whichever occurs first.

(n) *Region Director* means the Region Director of the Maritime Administration within whose region the principal office of the operator is located.

(o) *Assistant Secretary* means the Assistant Secretary of Commerce for Maritime Affairs.

§ 254.3 Mailing Address.

Reports required by these regulations, application forms, and requests for information shall be submitted to the appropriate office at the Maritime Administration, Department of Commerce, Washington, D.C. 20230.

Subpart B—Contract Grants

§ 254.10 Eligibility.

Any Citizen of the United States may apply to the Board for the payment of ODS for the operation of a Dry Bulk Cargo Vessel in an Essential Service.

§ 254.11 Application forms.

Application forms for the award of ODS may be obtained from the Secretary, Maritime Administration/ Maritime Subsidy Board, or from regional offices of the Maritime Administration.

§ 254.12 Subsidizable items of expense.

An applicant may receive ODS for the following expenses upon providing justification satisfactory to the Board that payment of subsidy for such items is necessary to make the applicant's vessel competitive with foreign flag vessels.

(a) *Wages of officers and crews.* This consists of the total employment cost of all items of expense required of the operator through collective bargaining or other agreements covering the employment of the subsidizable crew complement of the vessel, including payments required by law to assure old age pensions, unemployment benefits, or similar benefits and taxes or goverment assessments on crew payrolls. 46 CFR Part 282, Accounts 701, 703 and 708 include a partial listing of eligible costs. Expenses referred to in Account 704 are also eligible for subsidy if they are specifically approved by the Board.

(b) *Subsistence of officers and crews.* This shall include the cost of all edibles purchased in the United States and its Territories and possessions except the Virgin Islands, American Somoa, Wake Island, Midway Island, Kingman Reef, and the Island of Guam for passengers, officers, and crews of vessels.

(c) *Hull and machinery insurance premiums.* This consists of the net cost of hull and machinery, port risk, increased value and excess general average, salvage and collision liability insurance, including stamp taxes.

(d) *Protection and indemnity insurance premiums.* This consists of the net cost of protection and indemnity excess insurance, second seamen's insurance and cargo and pollution liability if excluded from the primary policy, including stamp taxes.

(e) *Protection and indemnity deductible absorptions.* This consists of the net cost of deductible absorptions for crew claims.

(f) *Stores, supplies and expendable equipment.* This consists of the cost of all consumable stores, supplies, and expendable equipment purchased in the United States as described in paragraph (b) of this section.

(g) *Maintenance and repair not compensated by insurance.* This is defined in 46 CFR Part 272, except for costs identified in § 272.11(c); a description of items included is contained in Part 282, Accounts 725 and 740.

(h) *Depreciation.* This consists of the actual construction cost, reconstruction cost or purchase cost depreciated on a straight-line basis over the economic life of the vessel after taking into account a residual value for the vessel of 2½ percent. This aid is available only to vessels built without the benefit of construction-differential subsidy.

(i) *Interest.* This consists of the actual interest expense for indebtedness incurred in connection with the construction, reconstruction or purchase of the vessel. This aid is available only to vessels built without the benefit of construction-differential subsidy.

§ 254.13 Approval.

The Board will approve an application for the payment of ODS only after it has determined that:

(a) The proposed service is an essential service as described in § 254.20;

(b) The operation of such vessel is required to meet foreign flag competition. For this purpose United States falg service will be deemed inadequate if the foreign flag competition carries more than 50% of the dry cargo tonnage in the U.S. foreign commerce on an annual basis;

(c) The vessel was built in the United States and is documented under the laws of the United States;

(d) The applicant owns or leases, or will build, purchase or lease a vessel or vessels of the size, type, speed and number, and with the proper equipment required to enable it to operate in an essential service in such manner as may be necessary to meet competitive conditions and to promote United States foreign commerce;

(e) The applicant possesses the ability, experience, financial resources and other qualifications necessary to enable it to conduct the proposed operation of the vessel to meet competitive conditions and promote United States foreign commerce;

(f) The granting of the aid applied for is necessary to make the proposed operations of the vessel competitive with the vessels of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of the Act;

(g) The vessel is of steel or other acceptable metal, is propelled by steam or motor, and is as nearly fireproof as practicable; and

(h) The vessel is constructed in accordance with plans and specification approved by the Board and Secretary of the Navy, with particular reference to enconomical conversion into an auxiliary naval vessel, or approved by the Board and Navy Department as otherwise useful to the United States in time of national emergency.

§ 254.14 Contract.

Upon approval of an application for ODS, the Board and the applicant will enter into an ODSA providing for the operation of a vessel(s) in the Essential Service and for the payment of ODS.

Subpart C.—Operation

§ 254.20 Essential service requirement.

(a) *General.* During any period of subsidized service a dry bulk cargo vessel operating without a charter shall be deemed to be operating in an essential service, within the meaning of sections 601(a), 603(a) and 211(b) of the Act, and the vessel operator shall be entitled to the full amount of subsidy payable under the operating differential subsidy agreement for such period, after any reduction due to the carriage of cargo in the coast wise, or intercostal trade, pursuant to section 605(a) of the Act.

(b) *Approval of charters.* Charters of dry bulk cargo vessels that exceed 5 years duration or that may be extended beyond 5 years duration by exercise of an option, either by terms of the charter or by provision contained in a separte agreement, shall be submitted to the Assistant Secretary for review and approval at least 30 days prior to execution of such charter. Charters exceeding 5 years shall be approved if the Assistant Secretary determines that the vessel will probably be employed during a substantial portion of its economic life in carrying a significant volume of cargo in the U.S. foreign commerce. When the Assistant Secretary has made this determination with respect to a vessel, its operation during any period of subsidized service while subject to that charter shall be deemed to be operation in an essential service, and the payment for such period shall not be reduced because of any amendment to this section made prior to expiration of the charter. Charters that do not exceed 5 years and do not provide for extensions beyond 5 years do not require approval by the Assistant Secretary, unless otherwise required by the operating differntial subsidy agreement. Charters previously approved under procedures of the Maritime Administration are deemed approved for purposes of this § 252.20.

(c) *Modification of requirement.* The Board shall have the authority to modify prospectively the provisions of this § 254.20 as future circumstances may dictate. However, any modification made by the Board shall apply only to prospective charters, regardless of duration, that are executed on or after the effective date of the Board's action. Such modification shall not be applicable to charters existing on the date of the Board's action which—

(1) Do not exceed 5 years duration and which contain no provisions for extension beyond five years, including sub-charters, during the period of such existing charter; or

(2) Do exceed 5 years duration, including sub-charters during the period of the approved charter, for which prior approval has been obtained.

§ 254.21 Carriage of Preference Cargoes. [Reserved]

§ 254.22 Period of reduced crew, idleness, delay or lay-up.

(a) *Report by operator.* The operator shall report to the Region Director all periods of reduced crew, idleness, lay-up or delay of the vessel providing the dates, facts and circumstances relating to such period. Such reports must be submitted monthly with the subsidy vouchers.

(b) *Approval.* The Region Director will review the operator's report and will make a finding whether the operator employed sound commercial practice in reducing the crew size to meet the existing circumstances. The Region Director shall approve the actual reduction or determine a reasonable reduction and shall notify the operator of his determination.

§ 254.23 Determination of foreign flag competition.

(a) *Tonnage groupings.* Foreign flag competition shall be determined as of January 1 each year by surveying a file known as "Merchant Fleets of the World" that is maintained by the Maritime Administration. Dry bulk vessels shall be sorted by tonnage ranges and flag of registry. The vessels shall be sorted into the following tonnage ranges:

(1) Range A—vessels of less than 25,000 tons;
(2) Range B—vessels of 25,000 but less than 40,000 tons;
(3) Range C—vessels of 40,000 but less than 55,000 tons;
(4) Range D—vessels of 55,000 but less than 75,000 tons;
(5) Range E—vessels of 75,000 but less than 100,000 tons.

(b) *Competitive foreign-flag.* The foreign flag having the most tonnage in the same tonnage range as the subsidized vessel shall be deemed to be the competitive foreign flag.

Subpart D.—Calculation of Operating-Differential Subsidy

§ 254.30 Authority. Section 603(b) of the Act sets forth the authority for determining the amount of ODS as follows:

"that the Secretary of Commerce (Board) may, with respect to any vessel in an essential bulk cargo carrying service as described in section 211(b), pay * * * such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign county."

§ 254.31 Provisions of general application.

(a) *Basis of Subsidy.* (1) Unless the operator and the Board shall agree to a lesser amount, the amount of operating-differential subsidy shall be the excess of United States costs over the estimated foreign costs of the items of expense found by the Board to be eligible for subsidy pursuant to § 254.12. Such items may include wages of officers and crew; subsistence of officers and crew; U.S. maintenance and repairs not compensated by insurance; vessel insurance; stores, supplies and expendable equipment; depreciation and interest.

(2) *Per Diem Subsidy.* The per diem subsidy is the daily amount of the excess of United States costs over the estimated foreign costs for the same items of expense.

(3) *Application of Per Diem Subsidy.* The per diem subsidy shall be payable for each approved day of subsidized service except for days of reduced crew periods.

(4) *Subsidy payable for reduced crew periods*—(i) *Periods of 30 days or less.* A man-day reduction amount will be used for determining subsidy payable for reduced crew periods. The man-day reduction amount is a per diem amount of subsidy for wages and subsistence. It is determined by dividing the per diem wage and subsistence subsidy by the subsidizable crew complement. For each day of a reduced crew period the man-day amount shall be multiplied by the number of crew members missing for that day; the resulting product shall be deducted from the per diem subsidy amount and the difference shall be the subsidy payable for such day.

(ii) *Periods in excess of 30 days.* For vessels having a reduced crew period in excess of 30 consecutive days, operating-differential subsidy shall not be payable for such entire period.

(b) *Frequency of determining per diem subsidy*—(1) *Voyage or time charters of one year or less.* For vessels operated on voyage or time charters not exceeding one year, the per diem subsidy shall be determined every year and the U.S. costs which are used to determine the wage portion of the per diem subsidy shall be subject to the index system described in § 254.32(b)(2).

(2) *Time or period charters of more than one year*—(i) *Frequency.* For vessels operated on time or period charters of more than one year, the per diem subsidy shall be determined at the written request of the operator, or upon notice from the Director, Office of Ship Operating Costs prior to fixing the vessel on charter and it shall not be redetermined during the life of the charter. A minimum of 15 days from the receipt of such request shall be allowed for determining the per diem subsidy.

(ii) *Responsibility of operator.* The operator shall notify the Director, Office of Ship Operating Costs, of intentions to charter the vessel, providing the particulars of the proposed charter.

(c) *Foreign-flag competition.* The foreign-flag competition in effect as of January 1 of the year for which the subsidy is determined shall be used to calculate the per diem subsidy. For time or period charters of more than one year the foreign flag competition will not be

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redetermined during the duration of the charter.

(d) *Operator review of per diem subsidy.* The operator shall have an opportunity to review the calculation of the per diem subsidy before it is presented to the Board for approval. If the operator disagrees with the amount of subsidy and the disagreement cannot be resolved, the Operator shall have 15 days in which to submit written comments to the Director, Office of Ship Operating Costs, for presentation to the Board with the per diem subsidy recommendation.

§ 254.32 Estimating United States cost.

(a) *Source of data.* The operator at the time of requesting a determination of the per diem subsidy amount, or upon request from the Director, Office of Ship Operating Costs, shall submit data described in § 254.32(k).

(b) *Wages of officers and crew.* When the per diem subsidy is redetermined annually, the United States wage cost used to determine the excess over foreign cost shall be the Subsidizable Wage Cost as defined in paragraph (b)(2) of this section. When the per diem subsidy is redetermined less often than annually, the United States wage cost used to determine the excess over foreign cost will be Collective Bargaining Cost as described in paragraph (b)(1) of this section.

(1) *Collective bargaining cost.* The collective bargaining cost shall be determined by pricing out for the subsidizable crew complement all fixed costs that are in effect as of January 1 and by adding to the per diem aggregate of such fixed costs a per diem aggregate of variable costs. The per diem aggregate of variable costs is determined by multiplying the per diem aggregate of base wage costs as of January 1 by a fraction, the numerator of which shall be the total variable costs for the preceding calendar year and the denominator of which shall be the total base wage costs for the preceding calendar year.

(i) *Fixed Costs.* Fixed costs are all costs that are stated in specific or determinable amounts per time period and do not vary based on operating experience. If a monthly amount is specified in the collective bargaining agreement, the daily amount shall be determined by multiplying the monthly amount by 12 and dividing the total by the number of days in the calendar year. Fixed costs include but are not limited to:

Base wages (including non-watch pay)
Vacation pay
Clothing and uniform allowances
Contributions to pension and welfare plans
Radio Operators allowances

(ii) *Variable Costs.* Variable costs are all regularly incurred employment costs which are not stated in specific or determinable amounts per time period since they vary with ship operating experience. Variable costs include but are not limited to:

Payroll taxes
Lodging allowances
Overtime and penalty pay
Transportation expenses and travel allowances
Payments to port relief officers and crews

(iii) *Example.* The following is an example calculation of collective bargaining cost.

ABC Steamship Company.—*Worldwide Dry Bulk Service*

[January 1, 1979, wages of officers and crew]

Subsidizable crew complement	25
Fixed costs as of January 1, 1979:	
Base wages	$1,179.88
Allowances (radio telephone, clothing, etc.)	$3.49
Vacation pay	$530.95
Pension, welfare, training, etc.	$590.95
Total fixed costs	$2,305.27
Variable costs as of January 1, 1979	
Variable cost factor (based on calendar year 1978 cost experience	83.56%
Total variable costs (January 1, 1979 base wages X variable cost factor).	$985.91
Collective bargaining cost as of January 1, 1979	$3,291.18

(2) *Subsidizable wage cost.* In any fiscal year other than a base period the subsidizable wage cost is the most recent base period cost indexed from January 1 of such base period to January 1 of such fiscal year by the index described in paragraph (b)(2)(iv) of this section; in a base period the subsidizable wage cost is the base period cost. The subsidizable wage cost in any fiscal year other than a base period shall not be less than 90 percent of the Collective Bargaining Cost as of January 1, of such fiscal year nor greater than 110 percent of such Collective Bargaining Cost.

(i) *Base period* means any fiscal year with respect to which a base period cost is established by the Board. The Board shall establish a new base period at intervals of not less than 2 years nor more than 4 years, and shall announce new base periods prior to the December 31 that would be included in the new base period.

(ii) *Base period cost.* In the initial base period of subsidized service, the base period cost is the per diem amount of collective bargaining cost as of January 1 of the most recent base period established by the Board.

(iii) *Subsequent base period cost.* In any subsequent base period, the base period cost is the average of the per diem amount of the collective bargaining cost as of January 1 of such base period, and the base period cost computed for the preceding base period indexed to January 1 of such base period by the index described in paragraph (b)(2)(iv) of this section. However, in no event shall the base period cost be less than a minimum nor more than a maximum percentage of the Collective Bargaining Cost computed for January 1 of such base period as follows:

Years elapsed since most recent base period:	Minimum percent	Maximum percent
2	97⅛	102⅛
3	96¼	103¾
4	95	105

(iv) *Index* means the index prepared by the Bureau of Labor Statistics (prescribed by 46 U.S.C. 1173) of the average annual change in wages and benefits placed into effect for employees covered by collective bargaining agreements with equal weight given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and the changes affecting employees in private non-agricultural industries other than transportation.

(c) *Subsistence.* The U.S. per diem cost for subsistence shall be based on the cost of food consumed by officers and crew of the subsidizable crew complement.

(d) *Hull and Machinery Insurance Premiums.* The per diem amount for hull and machinery insurance shall be the premium costs in effect for the vessel at the time the per diem subsidy is determined.

(e) *Protection and Indemnity Insurance.*—(1) *Premiums.* The per diem amount for protection and indemnity insurance premiums shall be the premium costs in effect for the vessel at the time per diem subsidy is determined.

(2) *Deductible absorptions.* The per diem amount for deductible absorptions shall be based on a fair and reasonable estimate of crew claims absorptions attributable to the crew claims deductible included in the operator's policy.

(f) *Stores, Supplies and Expendable Equipment.* The U.S. per diem cost for stores, supplies and expendable equipment shall be based on a fair and reasonable estimate of the cost of stores, supplies and expandable equipment.

(g) *Maintenance and repair not compensated by insurance.* The per diem amount for maintenance and repair will be based on the fair and reasonable estimate for the current special survey cycle.

(h) *Depreciation for owned vessel.* The per diem amount of depreciation shall be based on the actual construction cost, reconstruction cost or purchase cost of the vessel depreciated on a straight-line basis. The economic life of the vessel will be based on 25 years from the date of construction or 15 years from the date of major reconstruction. The residual value will be assumed to be 2½% of the original construction cost.

(i) *Interest for owned vessel.* The per diem amount of interest shall be based on the actual interest expense attributable to indebtedness incurred for the construction, reconstruction or purchase cost of the vessel. The daily average interest for the term of the per diem subsidy amount shall be used.

(j) *Depreciation and interest for leased vessel*—(1) *Primary method.* The per diem amounts of depreciation and interest for a leased vessel will be computed on the same basis as for owned vessels, provided the owner of such vessel makes the necessary data avaiable to the Maritime Administration.

(2) *Alternative method.* If the primary method cannot be used, the per diem amounts of depreciation and interest for a leased vessel shall be determined under the provisions governing financial accounting and reporting of capital and operating leases as prescribed in the *Statement of Financial Accounting Standards No. 13—Accounting for Leases,* issued by the Financial Accounting Standards Board. For leases not subject to the provisions of Standard No. 13, fair and reasonable estimates of depreciation and interest shall be determined.

(3) *Limitation.* Under either the primary or alternative method, the total of the per diem amounts of depreciation and interest shall not exceed the bareboat charter hire paid by the operator.

(k) *Data submission requirement.* The operator is required to submit the cost data applicable to the vessel. If a vessel has no operating experience, the operator may submit either cost data of a similar vessel in his employ or estimates of the costs for the vessel.

(1) Wages: Form MA–790, schedules A and B.

(2) Subsistence: The cost of food consumed per man per day during the previous calendar year.

(3) Hull and Machinery Insurance: Form MA–421 and the percentage of underwriter's absorptions for particular average portion claims.

(4) Protection and Indemnity Insurance; Forms MA–344 and MA–422 and a schedule showing the crew claims absorptions for the 3 preceding years.

(5) Stores, Supplies and Expendable Equipment: A schedule of expenses for stores, supplies and expendable equipment for the 3 preceding years.

(6) Maintenance and Repair: A schedule of the expenses for maintenance and repair not compensated by insurance for the 5 preceding years, identifying all items of costs in excess of $100,000.

Sample forms and reporting instructions can be obtained from the Office of Ship Operating Costs.

(l) *Verification of data*—(1) *Audit.* Vessel operating cost data submitted pursuant to this Part shall be subject to audit by the Maritime Administration.

(2) *Information necessary for audit.* If requested the operator shall make available at its place of business all information, records, papers and documentation in support of data submitted in accordance with paragraph (k) of this section. The supporting documentation shall include, but is not limited to:

(i) Voyage and port payrolls including overtime supports, individual pay vouchers, computation of payroll taxes and the various payroll contributions paid under terms of collective bargaining agreements with seafaring personnel.

(ii) Invoices showing costs of subsistence stores; stores, supplies and expendable equipment; maintenance and repair and other vessel expenses.

(iii) Insurance premium invoices; crew injury, illness and death claims records and files compiled in connection with costs absorbed under the deductible provisions of insurance policies; and general and particular average claim files.

(iv) Construction and purchase contracts and other supports of capitalized vessel costs.

(v) Loan and mortgage documents fixing the cost of interest on indebtedness incurred in the construction, reconstruction or purchase of the vessel.

§ 254.33 Foreign cost estimates.

(a) *Sources of data.* The Board will determine comparable operating costs of competitive foreign-flag vessels from data obtained from the operators of such vessels, unions, governmental agencies, insurance associations and other sources. The operator is required to submit all pertinent foreign cost data that it can obtain.

(b) *Wages of officers and crew*—(1) *Crew complement.* A foreign crew complement, in number and nationality, shall be constructed for the subsidized vessel, in the following manner:

(i) *Determination of normal foreign crew complement.* A normal foreign crew complement will be determined for a foreign vessel substantially similar to the subsidized vessel in age and size, using as sources of data the crewing scales and practices of the competitive foreign flag developed through an examination of: Crew manifests of such foreign flag vessels; payrolls; data obtained by the United States foreign Maritime Attaches; data submitted by or on behalf of operators; and other information that the Board determines, in its reasonable discretion, to be reliable.

(ii) *Adjustments to normal foreign crew complement.* Adjustments to the normal foreign crew complement shall be made for significant differences between the physical characteristics of the foreign flag vessel and the subsidized vessel, taking into account the physical characteristics of physically comparable departments on other vessels under the same foreign flag. The adjusted crew complement shall only include crew members required by reason of foreign law, collective bargaining agreement, or normal practice. In the event of conflict between foreign law and normal practice, normal practice shall take precedence. The adjustments shall be made department by department, taking due account of the effect of changes in one department on the other departments.

(iii) *Adjustments not feasible.* Where the foreign crew complement for a particular department of vessels under the registry of the competitive foreign country cannot be estimated or determined with reasonable substantiation, as provided above, so that the Board may exercise its reasonable discretion, the foreign manning complement for that department shall be deemed to be identical in number and rating with that of the subsidized vessel.

(2) *Method.* The wage costs of the competitive foreign-flag shall be estimated by the method provided in § 254.32(b) unless it is not possible to use the same method for a particular cost item because of the nature of the foreign data available. In those circumstances the United States cost for such items shall be determined by the same method which is used for the foreign cost and the ratio of the foreign cost to the United States cost shall be applied to the United States cost estimate determined in accordance with § 254.32(b) for purposes of constructing

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a comparable foreign cost. This procedure shall apply also to foreign cost items which are known to exist but which are not obtained.

(3) *Foreign currency exchange rates.* Foreign currencies shall be converted into United States currency equivalents at the average of the end-month foreign exchange rates as recommended by the United States Department of the Treasury, except when by contract or otherwise, an item of wage cost is paid to foreign seamen at a specified rate of exchange of United States dollars, the specified rate shall be used. The average of the exchange rates for the period commencing six months prior to and ending six months after the January 1 date used for comparing United States and foreign fixed wage costs shall be used.

(c) *Depreciation.* The per diem amount of depreciation shall be based on the cost of constructing or reconstructing the vessel in a representative foreign shipbuilding center or purchasing the vessel at world market price by assuming the same circumstances that actually apply to the vessel. The costs shall be depreciated on a straight-line basis over the same economic life actually used in the calculation of depreciation expense for the vessel and taking into account the same residual value used for the vessel.

(d) *Interest.* The per diem amount of interest shall be determined by assuming the same interest rate, repayment period and method of principal amortization as that which actually applied to the vessel. The interest payable for the foreign competitive vessel will be determined by assuming that the original amount of debt would be the same percentage of the foreign construction, reconstruction or purchase cost as the actual debt of the vessel was of its construction, reconstruction or purchase cost.

(e) *Other categories of expense.* Fair and reasonable estimates of foreign costs for subsistence of officers and crews; hull and machinery insurance premiums; protection and indemnity insurance premiums and deductible stores, supplies and expendable equipment; and maintenance and repairs not compensated by insurance will be based on the physical characteristics of the vessel as though such vessel were operated under the competitive foreign flag. For constructing the comparable foreign cost the Maritime Administration will use the operating practices and cost data of the same foreign flag vessels which are reviewed for the determination foreign wage costs under paragraph (b) of this section.

Subpart E—Operational and Financial Reporting Requirements

§ 254.50 Operational.

(a) *Vessel activity report.* The operator shall submit a monthly report to the Director, Office of Trade Studies and Statistics, which shall contain the following:

(1) Name of vessel.

(2) Voyage number, if applicable.

(3) Subsidy contract number.

(4) Vessel activity, such as:

(i) Ports of voyage commencement and termination, including dates.

(ii) Loading ports, including dates of arrival and departure and long tons of cargo loaded (specify commodities).

(iii) Discharge ports, including dates of arrival and departure and long tons of cargo discharged.

(iv) Ports of bunkering, emergency calls, etc., including dates of arrival and departure (specify reason for call).

(5) Reduced crew periods, periods of idleness, lay-up and delay.

(b) *Condition of vessels, inspection and repairs.* The operator shall comply with the requirements of 46 CFR Part 272, concerning the inspection of subsidized vessels.

(c) *Vessel insurance*—(1) *Cover notes.* Upon the binding of an insurance policy with respect to the vessel, the operator shall submit promptly for approval of the Director, Office of Marine Insurance, a signed copy of each cover note issued by the operator's brokers. To the extent applicable, the cover note shall set forth as to such vessel the amount covered by hull, increased value and other forms of total loss protection, as well as protection and indemnity insurance. Such cover notes shall include the rates, the amounts placed in the different markets, the participating underwriters, the amount underwritten by each underwriter, and the amounts of the deductibles. Upon request, copies of the policy shall be submitted to the Maritime Administration for examination.

(2) *Cancellation and policy changes.* The operator shall advise the Office of Marine Insurance promptly of the cancellation of any policy of insurance, any changes in the terms or underwriters of any policy of insurance, any period of lay-up that permits the collection of return premiums, and the occurrence of any major casualty or total loss covered by a policy of insurance.

§ 254.51 Financial.

The operator shall prepare the following financial statements and shall submit one copy to the Regional Director and two copies to the Director, Office of Financial Management.

(a) Copies of such portions of its monthly or periodic management reports that provide an estimate of its current operating results.

(b) Not later than 45 days after the close of the first, second and third quarters of the operator's fiscal year, a balance sheet and statement of income for the quarter, certified by a company official, and prepared in conformance with the Uniform System of Accounts, 46 CFR Part 282. The balance sheet shall be prepared as of the end of the fiscal quarter and the statement of income shall reflect net earnings from operations for the quarter and cumulative net earnings for the fiscal year.

(c) Not later than 105 days after the close of the operator's fiscal year, Form MA-172.

(d) Not later than 105 days after the close of the operator's fiscal year, a balance sheet and statement of income and retained earnings certified by an independent certified public accountant or by an independent licensed public accountant who was licensed prior to December 31, 1970 by a state, territory or insular possession of the United States or the District of Columbia.

Subpart F—Subsidy Payment and Billing Procedures

§ 254.60 Payment of Subsidy.

(a) *General.* ODS shall be payable monthly.

(b) *Submission of voucher.* At the close of each calendar month, the operator may submit a voucher, and include for payment in such voucher the amount of ODS accrued for the month.

§ 254.61 Subsidy billing procedures.

(a) *Subsidy voucher*—(1) *Form.* Requests for payment of ODS shall be submitted on a public voucher, Standard Forms 1034 and 1034A, which can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) *Copies.* The original and 3 copies of the voucher are to be submitted for payment to the Regional Director. The original and 2 copies must be supported by a schedule and affidavit. The third copy is the payee's copy and need not be supported. The payee's copy will be returned with the payment of ODS by the United States Department of the Treasury.

(b) *Schedule and Affidavit.* (1) The following schedule shall be used for calculating the amount of ODS payable each month:

[Operator]

Determination of ODS Payable for the Month of ——————, 19——

Vessel	Per diem amount[1]	Days this month	Accrued ODS	Total
		×	=	
		×	=	
		×	=	
		×	=	
Total accrued ODS				$——

Vessel	Reduced crew dates From	To	No. of reduced crew days	No. of crew reduced	Man-days	Man-day amount[1]	Man-day production	Total
			×	=	×	=		
			×	=	×	=		
			×	=	×	=		
			×	=	×	=		
Total man-day deduction								$(——)
Net ODS payable								$——

[1] Per diem/man-day amounts

(P.D.)	(M.D.)
$...../	$.....
$...../	$.....
$...../	$.....

Effective dates

From	To

(2) A notorized affidavit as shown below shall be signed by an official of the operator who is familiar with the ODSA, these regulations, the operation of the vessel and the accounts, books, records, and disbursements of the operator relating to such operation:

Affidavit

State of ——————
City of ——————
County/Parish of ——————

I, —————— being duly sworn, depose and say, that I am (title) —————— of the (operator) —————— (herein referred to as the "Operator"), and as such am familiar with (a) provisions of the Operating-Differential Subsidy Agreement, Contract No. ——————, dated as of ——————, as amended, to which the Operator is a party; and (b) the regulations governing the payment of operating-differential subsidy for bulk cargo vessels, Part 254, Title 46, CFR; and (c) the operation of the vessels covered by said Agreement and regulations; and (d) the accounts, books, records, and disbursement of the Operator relating to such operation.

Referring to the public voucher dated ——————, covering voyages terminated during the periods commencing —————— and ending ——————, and attached submitted by said Operator concurrent herewith for a payment on account in the sum of ——, under said Agreement, I further depose and say that, to the best of my knowledge and belief, the Operator has fully complied with the terms and conditions of said Agreement and regulations, applicable orders, rulings and provisions of the Merchant Marine Act, 1936, as amended, and is entitled, under the provisions of said Agreement and regulations, orders and rulings applicable thereto, to the amount of the payment on account requested; and further depose and say that the vessels named in the attached schedules were in authorized service for the voyages on which the payment on account is requested and has not included in the calculation of the amount of subsidy claimed in the attached voucher any costs of a character that the Maritime Administration, or Secretary of Commerce, acting by and through the Maritime Subsidy Board, or any predecessor or successor, had advised the Operator to be ineligible to be so included, or any costs collectible from insurance, or from any other source.

Payment by the Maritime Administration of all or part of the amount claimed herein shall not be construed as approval of the correctness of the amount stated to have been due, nor a waiver of any right of remedy the Maritime Administration, or Secretary of Commerce, acting by and through the Maritime Subsidy Board, or any predecessor or successor, may have under the terms of said Agreement, or otherwise.

I further depose and say that this affidavit is made for and on behalf and at the direction of the Operator for the purpose of inducing the Maritime Administration to make a payment on account pursuant to the provisions of the aforesaid Operating-Differential Subsidy Agreement, as amended.

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this —— day of ——————, 19——.

My commission expires ——————.
Notary Public ——————

(3) The operator shall furnish its own supply of the schedule and affidavit.

§ 254.62 Appeal procedures.

(a) *Appeals of audits.*—(1) *Policy.* An operator who disagrees with the findings, interpretation or decisions in connection with audit reports of the Maritime Administration and who cannot settle said differences by negotiation with the appropriate Region Director's office may submit an appeal from such findings, interpretations or decisions as follows:

(i) Appeals shall be made in writing to the Assistant Secretary within 6 months following the date of the document notifying the contractor of the audit findings, interpretations, or decisions of the appropriate Region Director's office. However, the Assistant Secretary may, at his discretion, extend this limitation in the case of extenuating circumstances.

(ii) The appellant will be notified, in writing, if a hearing is to be held or if additional facts are to be submitted in connection with the appeal.

(iii) After a decision has been rendered by the Assistant Secretary the appellant will be notified accordingly, in writing.

(2) *Finality of decisions.* A decision of the Assistant Secretary shall be final on all questions of fact involved in the appeal, unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

(b) *Appeals of administrative determinations—(1) Policy.* An operator who disagrees with the findings, interpretations or decisions of the Maritime Administration with respect to the administration of this part may submit an appeal from such findings, interpretations or decisions as follows:

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(i) Appeals shall be made in writing to the Secretary, maritime Subsidy Board and Maritime Administration, within 60 days following the date of the document notifying the operator of the administrative determination. In the appeal to the Secretary the operator shall indicate whether or not it desires a hearing.

(ii) The appellant will be notified in writing if in the discretion of the Board or Assistant Secretary a hearing is to be held and whether the operator is required to submit additional facts for consideration in connection with the appeal.

(iii) When a decision has been rendered by the Board or Assistant Secretary, the appellant will be notified in writing.

(2) *Review by the Secretary of Commerce.* An operator who disagrees with the findings and determinations of the Board may seek review of such findings and determinations by filing with the Secretary of Commerce, or delegatee, a written petition for review of the Board's action. The petition must be filed in accordance with Section 7, Department of Commerce Organization Order 10–8 (38 FR 19707).

(3) *Hearings.* The Rules of Practice and Procedure, Part 201, Subchapter A, will be followed for all hearings granted under this part.

(Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 114(b)); Reorganization Plan 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91–469 (84 Stat. 1036); Department of Commerce Organization Order 10–8 (38 FR 19707, July 23, 1973).)

Dated: August 29, 1979.

Robert J. Patton, Jr.,

Acting Secretary.

[FR Doc. 79–27778 Filed 9–5–79; 8:45 am]

BILLING CODE 3510–03–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 401 and 402]

[CGD 78–144b]

Great Lakes Pilotage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing further changes in the training and experience requirements for the registration of pilots. A review of the proposal published under this docket number in the Monday, April 2, 1979 **Federal Register** indicated that the original proposal was inadequate in some respects. The Coast Guard is thus proposing an additional experience requirement to insure that United States registered pilots have the necessary experience for safe operations on the Great Lakes. This supplemental notice is being published in order to provide an opportunity for public comment.

DATES: Comments must be received on or before: October 5, 1979.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/TP24) (CGD 78–144b), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G–CMC/TP24), Room 2418, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:
Mr. John J. Hartke (G–MVP–4/TP13), Room 1314, Department of Transportation, Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20590. (202) 755–8683.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the name and address of the person submitting the comment, identify this notice (CGD 78–144b) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons at the Marine Safety Council address noted above. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by anyone raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and LT Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

On Monday, April 2, 1979 the Coast Guard published in the **Federal Register** a Notice of Proposed Rulemaking (44 FR 19364). This document proposed changes in the Great Lakes Pilotage Regulations in Title 46 Code of Federal Regulations Parts 401 and 402.

This original proposal was prompted by the amendments to the Great Lakes Pilotage Act of 1960 (46 U.S.C. 216–216i) which were enacted on October 13, 1978 (Pub. L. 95–455). The amendments removed the prerequisite for an unlimited master's license for U.S. registered pilots on the Great Lakes. Congress substituted different minimum requirements for registration. The Coast Guard amended the regulations to conform to the statute in another document published in the same issue of the **Federal Register** (44 FR 19362).

The amendments to the statute also permitted the Secretary to require additional experience and training, beyond the statutory minimum, as he considered necessary. This was the purpose of the original Notice of Proposed Rulemaking. No comments were received on this Notice. However, further review by the Coast Guard has indicated that the proposal was inadequate in one respect. This Supplemental Notice proposes a change to correct this situation and solicits public input on the additional requirement.

The proposal follows the statutory requirements that applicants must have 24 months licensed service or "comparable experience". The Coast Guard proposed to define comparable experience as "experience that is similar to the experience obtained by serving as an officer on a vessel." This was amplified by noting that one month in a pilot training program of an authorized pilot organization would be considered equivalent to one month of officer service if the training included regularly scheduled trips on vessels over 4,000 gross tons in the company of a registered pilot.

In reviewing the proposal as originally written, it was noted that a person could qualify for registration without any licensed officer service at all (and without ever having served in a watch-standing capacity on board a vessel). The Coast Guard feels that licensed service is very important experience for individuals who will be entrusted with the navigation of vessels on the Great Lakes. This type of experience gives the individual the opportunity to understand and appreciate shipboard operations and watchstanding procedures under actual operating conditions. Of further importance is the fact that the individual must assume responsibility in a licensed capacity, he must exercise judgment and make decisions in the everyday course

of standing his watch. The Coast Guard believes that this experience is vital to preparing an individual to exercise the responsibility entailed in being a United States Registered Pilot.

Section 4(a) of the Great Lakes Pilotage Act was amended to include the following authority. "The Secretary may require such experience and training, in addition to the minimum required by this subsection, as he considers necessary." Under this authority the Coast Guard proposes to add the further requirement that an applicant for registration as a U.S. pilot must have at least 12 months experience in a licensed officer capacity. Accordingly, §§ 401.210 and 401.211 would be amended by adding the requirement that an individual must have a minimum of twelve months licensed service in order to qualify for registration as a U.S. registered pilot.

The Coast Guard does not intend this additional requirement to be overly burdensome. Thus, licensed service which fulfills the requirements for "Applicant Pilots" would be applied toward fulfilling the registration requirement as well. For example; an individual with 12 months licensed service and 12 months experience in a pilot training program would meet the required minimum for application and registration.

This proposal has been evaluated under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). No significant adverse environmental or economic consequences are anticipated.

This proposal is being implemented in order to reflect a statutory relaxation of pilot requirements contained in Pub. L. 95–455, (92 Stat. 1228). It is estimated that only 25 persons will be directly affected by the changes contained in this proposal. A final evaluation has been prepared and is contained in the public docket.

In consideration of the foregoing, it is proposed to amend Part 401 of Title 46 of the Code of Federal Regulations as follows:

1. By revising § 401.210(a)(1) to read as follows:

§ 401.210 Requirements and qualifications for registration.

(a) * * *

(1) The individual holds a license as a master, mate, or pilot, issued under the authority of the provisions of Title 52 of the Revised Statutes, and has acquired at least twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, of 4,000 gross tons, or over, operating on the Great Lakes or oceans. Those applicants qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes. Those applicants qualifying with comparable experience must have served a minimum of twelve months as a licensed deck officer.

* * * * *

2. By revising § 401.211(b) to read as follows:

§ 401.211 Requirements for training of Applicant Pilots.

(a) * * *

(b) For purposes of determining whether an applicant meets the experience requirements contained in § 401.210(a)(1), not more than twelve months of "comparable experience" may be used in fulfilling the twelve-four month experience requirement.

* * * * *

(Sec. 4, sec. 5, 74 Stat. 260 (46 U.S.C. 216(b), 216(c)) as amended by Pub. L. 95–455; sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4)); 49 CFR 1.46(a))

Dated: August 28, 1979.

R.H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79–27780 Filed 9–5–79; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 32 and 33]

Hunting/Sport Fishing; Opening of Certain National Wildlife Refuges to Hunting and Sport Fishing.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add Upper Ouachita National Wildlife Refuge, Louisiana, Panther Swamp National Wildlife Refuge, Mississippi, Swan River National Wildlife Refuge, Montana, and Sea Rim National Wildlife Refuge, Texas, to the refuge areas open for hunting. It also is proposed to add Aransas National Wildlife Refuge, Texas, to the refuge areas open for sport fishing. The Director has received information that this action would be in accordance with the provisions of all laws applicable to the areas, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the major purpose for which the refuges were established. Hunting and sport fishing, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before October 9, 1979.

ADDRESS: Comments may be addressed to the Director, (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:
Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is the primary author of this proposed rulemaking. Areas within the National Wildlife Refuge System are closed to hunting or sport fishing until officially opened by regulation. The Director may open refuge areas to hunting or sport upon a determination that such use is compatible with the major purposes for which such areas were established and that funds are available for the development, operation and maintenance of the permitted forms of recreation. This action will be in accordance with provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuges to hunting of migratory game birds, upland game, big game, and sport fishing. Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments have been prepared on each of these proposals and are available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail, addressing the Director at the address above. The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment. All relevant comments will be considered by the Department prior to the issuance of a final rulemaking.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to change 50 CFR Parts 32 and 33 by the addition of Upper Ouachita, Panther Swamp, Swan River, Sea Rim, and Aransas

National Wildlife Refuges by amending §§ 32.11, 32.21, 32.31 and 33.4 as follows:

§ 32.11 List of open areas, migratory game birds.

* * * * *

LOUISIANA

* * * * *

Upper Ouachita National Wildlife Refuge

* * * * *

MISSISSIPPI

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Panther Swamp National Wildlife Refuge

* * * * *

MONTANA

* * * * *

Swan River National Wildlife Refuge

* * * * *

TEXAS

* * * * *

Sea Rim National Wildlife Refuge

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§ 32.21 List of open areas; upland game.

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LOUISIANA

* * * * *

Upper Ouachita National Wildlife Refuge

* * * * *

MISSISSIPPI

* * * * *

Panther Swamp National Wildlife Refuge

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§ 32.31 List of open areas; big game.

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LOUISIANA

* * * * *

Upper Ouachita National Wildlife Refuge

* * * * *

MISSISSIPPI

* * * * *

Panther Swamp National Wildlife Refuge

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§ 33.4 List of open areas, sport fishing.

* * * * *

TEXAS

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Aransas National Wildlife Refuge

* * * * *

Dated: August 28, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-27815 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 44, No. 174

Thursday, September 6, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on September 20, 1979, at 7:30 pm, a public information meeting will be held at the Kirkman School Auditorium, 215 Chestnut Street, Chattanooga, Tennessee. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed replacement of the Walnut Street Bridge, Chattanooga, Tennessee, an undertaking assisted by the Federal Highway Administration that will adversely affect that property eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
II. A description of the undertaking and an evaluation of its effects on the property by the Federal Highway Administration.
III. A statement by the Tennessee State Historic Preservation Officer.
IV. Statement from local officials, private organizations, and the public on the effects of the undertaking on the property.
V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, (202) 254-3967.

Robert M. Utley,

Deputy Executive Director.

[FR Doc. 79-28001 Filed 9-5-79; 9:46 am]

BILLING CODE 4310-10-M

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on September 17, 1979, at 7:30 pm, a public information meeting will be held at the Louisville City Hall, Aldermanic Chambers, 601 West Jefferson Street, Louisville, Kentucky. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public, and private organizations, and interested citizens to receive information and express their views concerning the proposed Galleria Project. This is an undertaking assisted by the Department of Housing and Urban Development that will adversely affect the Will Sales Building, the Atherton Building, and the Republic Building, properties eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
II. A description of the undertaking and an evaluation of its effects on the properties by the City of Louisville.
III. A statement by the Kentucky State Historic Preservation Officer.
IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the properties.
V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, N.W., Washington, D.C. 20005/ (202) 254-3967.

Robert M. Utley,

Deputy Executive Director.

[FR Doc. 79-28001 Filed 9-5-79; 9:46 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Coconino National Forest Grazing Advisory Board; Meeting

The Coconino National Forest Grazing Advisory Board will meet at 1:30 p.m., October 1, 1979, at the Coconino National Forest Supervisor's Office, 2323 E. Greenlaw Lane, Flagstaff, Arizona.

The purpose of the meeting is to:

(1) Review minutes of May 15, 1979 meeting.

(2) Prepare written recommendations regarding:

(a) F.Y. 1982 Range Betterment Program

(b) Policy regarding grazing fee refunds

(c) Sedona Land Use Plan—Draft

(d) Review adjusted Allotment Management Plans to emphasize Verde River riparian recovery

The meeting is open to the public.

Dated: August 24, 1979.

Michael A. Kerrick,

Forest Supervisor.

[FR Doc. 79-27596 Filed 9-5-79; 8:45 am]

BILLING CODE 3410-11-M

Rapid Wild and Scenic River; Classification, Interim Management Plan and Boundaries; Correction

In FR Doc. 79-23280 appearing at page 44199 in the **Federal Register** of July 27, 1979, 3rd column, paragraph 7 appearing on page 44200 is corrected in the first line of that paragraph by adding, "The Administration of the river involves

coordination with various," immediately preceding the word, "Agencies."

August 29, 1979.

Douglas R. Leisz,

Associate Chief.

[FR Doc. 79-27805 Filed 9-5-79; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Section 22 Import Fees; Adjustment of Import Fees On Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to decrease by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05. 956.15, and 957.15) under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average of the daily spot price quotations for raw sugar for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, exceeds 16.0 cents. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 AM (local time at point of entry), September 1, 1979. (See supplementary information.)

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS Item 956.05, 956.15, and 957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for items 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent, or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. However, the fee may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .52 cents per pound.

The average of the daily spot price quotations for raw sugar (item 956.15) for the 10 consecutive market day period August 16–August 29, inclusive, within the third calendar quarter of 1979, adjusted as provided in headnote 4(c) to a United States delivered basis, plus the fee of 3.36 cents per pound now in effect for item 956.15 [12.68 + 3.36 = 16.04] exceeds 16 cents per pound. Accordingly, the fee of 3.36 cents per pound for item 956.15 is required to be decreased by one cent, resulting in a fee for item 956.15 of 2.36 cents per pound and a fee for items 956.05 and 957.15 of 2.88 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjusted fees to the Secretary of the Treasury and file notice thereof with the Federal Register within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4(c)(v) of part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fee made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in § 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the remainder of the third calendar quarter of 1979, unless subsequently adjusted pursuant to headnote 4(c), shall be as follows:

Item	Fee
956.05	2.88 cents per lb.
956.15	2.36 cents per lb.
957.15	2.88 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of headnote 4.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-27806 Filed 8-31-79; 4:00 pm]

BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

[Order 79-8-167; Docket 36424]

U.S.-Canada "Seat Sale" Fares Air Canada; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of August 1979.

By tariff revisions filed August 1, 1979, for effectiveness September 1, 1979, Air Canada has proposed new low "Seat Sale" excursion fares for U.S.-Canada markets of 1,000 miles or more. The "Seat Sale" fares, priced 46 to 66 percent below the comparable normal economy levels, would be available for travel originating between October 5 and November 23 and returning on or before December 14, 1979. The fares would require reservations at least 30 days before departure, payment and ticketing within seven days after reservations, and a minimum stay of seven days (maximum, 30 days); no stopovers would be permitted en route. The fares would also be subject to capacity restrictions, at the carrier's discretion, and a cancellation penalty of $20.

In Order 79-3-162, March 15, 1979, we reviewed similar "Seat Sale" fares proposed by Air Canada last spring, for travel between March 27 and May 7, 1979. We noted at the time that we had no objection to the "Seat Sale" concept *per se*—indeed, despite its restrictions and short duration, it offered the public significant new low-fare benefits in markets where such opportunities have been rather limited, compared to U.S. domestic service. The Canadian Government, however, had repeatedly blocked U.S. carriers' efforts to introduce similar innovative low fares in U.S.-Canada markets. We concluded that the public stood to gain much more over the long run from our firm defense of carriers' right to compete with a variety of fare options in response to market conditions, than from our unqualified approval of the short-lived spring "Seat Sale" fares. To safeguard the public's right to low, competitive fares in these markets, we considered it imperative to preserve our option to respond immediately with a suspension of Air Canada's "Seat Sale" fares if the Canadian authorities again rejected a reasonable low-fare proposal by a U.S. carrier. Accordingly, in Order 79-3-162 we issued a conditional suspension of the spring "Seat Sale" fares, stipulating that our suspension would not take effect unless the Canadian Government unreasonably took action to suspend or otherwise deny a *bona fide* competitive fare proposal by any U.S. air carrier.

We were not, in fact, forced to invoke that suspension authority last spring; the "Seat Sale" fares ran their course as proposed, and expired on May 7, 1979.

Air Canada has now filed a new "Seat Sale" proposal for the fall season, with fares and conditions similar to those in its previous filing.[1] In the interim, however, the Canadian authorities have once again rejected a number of low-fare proposals by U.S. carriers. Among the applications denied are: (1) Super Saver fares proposed by American Airlines, Inc. (American); (2) Super Saver fares proposed by United Air Lines, Inc. (United); (3) Tariff revisions to permit use of half-fare discount coupons for Canada-originating travel, proposed by American; [2] (4) Commuter Class fares proposed by Hughes Airwest (Airwest); and (5) APEX fares between Honolulu and Toronto, proposed by United. Of six recent low-fare applications by U.S. carriers, only one—Airwest's Leisure Class filing—has been permitted by the Canadian authorities.

On August 3 and 10, 1979, American and United filed complaints against Air Canada's proposed "Seat Sale" fares in Dockets 36290 and 36348, respectively.[3] Both carriers contend that the Canadian Government's actions directly contravene the Board's findings in Order 79-3-162 regarding the need for the Canadian authorities to be more receptive to U.S. carriers' competitive fare proposals. American maintains that, in keepting with Order 79-3-162, the Board must suspend Air Canada's "Seat Sale" fares until the Government of Canada demonstrates its willingness to permit reciprocal, competitive filings by withdrawing its rejection of American's Super Saver and discount coupon tariffs. United argues that under section 1002(j)(3) of the Federal Aviation Act of 1958, the Board has the authority and the duty to suspend a foreign carrier's tariff when the government of that carrier's country has suspended a properly filed and lawful tariff of a U.S. carrier; United's Super Saver fares have been thoroughly considered by the Board and are clearly advantageous to consumers; the fares have been suspended by the Canadian Transport Commission (C.T.C.) only because they do not incorporate an onerous cancellation penalty and restrictive reservations provision, neither of which is required by U.S. aviation policy; and the C.T.C.'s failure to reciprocate with the Board on fare policy "renders this a classic case for the use of section 1002(j)(3) retaliatory authority." Both carriers support the Board's conditional suspension of Air Canada's "Seat Sale" fares and both urge the Board to maintain its policies for the benefit of U.S.-Canada passengers with an immediate suspension of the present "Seat Sale" proposal.

In reply to American's complaint, Air Canada contends that the Board recognized last spring that the "Seat Sale" provided significant public benefits, and by allowing that filing to become effective in March, apparently deemed the "Seat Sale" to be in the public interest; the current proposal is substantially the same as the spring filing, will again provide significant public benefits, and continues to be in the public interest; to Air Canada's knowledge, the Canadian authoritits have expressed dissatisfaction not with the level of the proposed discount fares, but with their lack of adequate "fences" to preserve the distincition between scheduled and charter services;[4] given the Canadian Government's clearly stated position on discount fare conditions, the Canadian aeronautical authorities' adverse action against U.S. carriers' Super Saver fare proposal does not constitute unreasonable action to suspend or otherwise deny a *bona fide*, competitive fare proposal by any U.S. carrier; with respect to American's discount coupon filing, it would be premature to consider the proposal either approved or disapproved, pending the outcome of the C.T.C.'s appellate review; and it would indeed be unfortunate for both U.S. and Canadian air travelers if low-fare filings were to be rejected by either government on grounds other than the specific shortcomings of the proposed fares themselves. Air Canada therefore requests the Board to dismiss the complaint.

In keeping with our statutory responsibilities and our findings in Order 79-3-162, we will suspend the proposed fall-season "Seat Sale" fares unconditionally. Again, we have no objection to the "Seat Sale" on its merits; while the current filing is somewhat more restrictive than the American and United Super Savers and Air Canada's own spring "Seat Sale" in terms of advance-purchase provisions and other requirements, we believe that competitive carriers must be free to exercise their marketing judgment as they see fit. We insist, however, that such freedom apply equally to both Canadian and U.S. carriers.

Like the spring proposal, the current "Seat Sale" filing is designed to stimulate traffic during a period of traditionally low traffic demand for Air Canada. As we pointed out in Order 79-3-162, traffic cycles often vary with directional flows by route and by carrier; U.S. carriers' slack periods do not necessarily correspond to Canadian carriers', even on the same routes. Both, of course, should be free to respond to such cyclical demand patterns with innovative fare options in accordance with their own best marketing judgment, with a minimum of government interference. As long as the Canadian authorites continue to reject most low-fare initiatives by U.S. carriers, however, Canadian carriers are in a position to dictate fares in these markets in accordance with their own marketing needs, and U.S. carriers with different marketing needs and policies are not in a position to pursue them. The cost of the Canadian Government's failure to allow reciprocity is substantial, in terms of both consumer benefits and the efficient operation of air carriers serving these markets.

In these circumstances, we can only conclude with reluctance that suspension of the proposed "Seat Sale" fares is essential if we are to preserve U.S. carriers' right to compete and consumers' right to low, competitive fares in U.S.-Canada markets. The American and United Super Saver fares, in paraticular, would offer major consumer benefits; they would apply in

[1] The current proposal does include more restrictive advance-reservation and advance-purchase requirements, however: 30 and 23 days, respectively, compared to the seven-day advance-reservation and three-day advance-purchase provisions of the spring "Seat Sale".

[2] American has appealed the Canadian Air Transport Committee's rejection of its tariffs on the use of half-fare coupons; the Review Committee of the Canadian Transport Commission has not yet issued its decision.

[3] American and Eastern Air Lines, Inc., have also filed defensive tariffs to match Air Canada's "Seat Sale" filing.

[4] On May 31, 1979, the Canadian Department of External Affairs sent a diplomatic note to the U.S. Department of State, expressing support for low fare filings by both countries' carriers bue emphasizing that Canadian Government aviation policy requires adequate "fences" for discount fares. These "fences" were defined at a 30-day advance-booking period, a seven-day minimum stay reqwuirement, and publication of a cancellation compensation fee. Air Canada notes that its fall "Seat Sale" fare conditions meet these requirements.

a wide range of markets, without the rigid restrictions and limited duration of the "Seat Sale" fares. We believe that the public interest will be far better served by our firm support of competitive carriers' right to offer a variety of attractive fare choices which make air travel available to more consumers and expand the total market, then by our approval of the temporary and restrictive "Seat Sale" proposal.

We had hoped that our restraint in issuing only a conditional suspension of the earlier "Seat Sale" filing would convey to our Canadian friends an open-minded attitude toward permissive filings by all carriers. We continue to hope that discussions between out two governments will produce an open, competitive aviation environment, free of pervasive and arbitrary government intervention—an environment which allows any carrier on either side to offer market-responsive fares and provides the traveling public with the low fares they deserve. But in the absence of such an environment, we cannot allow consumer benefits and carrier pricing strategies to be dictated unilaterally by Canadian carriers and the Canadian Government.

Accordingly, under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 801 and 1002(j) thereof,

1. We shall institute an investigation to determine whether the fares and provisions set forth the Appendix A hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions, or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in Appendix A [5] and defer their use from September 1, 1979, to and including August 31, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, we dismiss the complaint of American Airlines, Inc., in Docket 36290 and the complaint of United Air Lines, Inc., in Docket 36348;

4. We shall submit this order to the President,[6] and it shall become effective on September 1, 1979; and

5. We shall file copies of this order in the aforesaid tariffs and serve them upon Air Canada, American Airlines, Inc., Eastern Air Lines, Inc., United Air Lines, Inc., and the Canadian Ambassador in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phillis T. Kaylor,

Secretary.

[FR Doc. 79-27783 Filed 9-5-79; 8:45 am]

BILLING CODE 6320-01-M

[5] Appendix A filed as part of the original document.

[6] This order was submitted to the President on August 21, 1979.

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on the Spanish Origin Population for the 1980 Census; Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C., app. (1976), notice is hereby given that the Census Advisory Committee on the spanish Origin Population for the 1980 Census will convene on Setember 28, 1979, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Committee is composed of 21 members appointed by the Secretary of Commerce. It was established in February 1975 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, developing definitions for classification of the Spanish-origin population, recommending subject content and tabulations of especial use to the Spanish-origin population, and expanding the dissemination of census results among present and potential users of census data in the Spanish-origin population.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m., is: (1) Introductory remarks by the Director of the Census Bureau, (2) current status of 1980 census planning, (3) testing and selection aids, (4) plans for the November 1979 Current Population Survey, (5) processing instructions for item 7 (Spanish/Hispanic Origin) on the 1980 questionnaire, (6) Affirmative Action Program report, (7) promotional plans for the 1980 census, (8) Committee discussion, and (9) Committee recommendations and plans for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Clifton S. Jordan, Deputy Chief, Decennial Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Maryland, Mailing address: Washington, D.C. 20233, Telephone (301) 763-5169.

Dated: August 31, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 79-27760 Filed 9-5-79; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session October 4–5, 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for October 4–5, 1979 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and Technology issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with 5 U.S.C. App. I sec. 10(d) (1976), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H.E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-27758 Filed 9-5-79; 8:45 am]

BILLING CODE 3810-70-M

U.S. Court of Military Appeals Nominating Commission; Meetings

The U.S. Court of Military Appeals Nominating Commission will meet in closed session at 10:00 a.m. on September 19, 1979, and October 3, 1979 in room 3E869, the Pentagon.

The duty of the Commission is to recommend to the President by October 16, 1979, the names of not more than five persons qualified to sit on the Court of Military Appeals. The Commission will consider any applicants for the seat presently held by the Honorable Matthew Perry. Applications may be requested from the Office of the General Counsel, Department of Defense, Washington, D.C. 20301. All applications must be received by September 17, 1979.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this meeting concerns matters listed in section 552b(c)(6) of title 5, United States Code, and therefore the meeting will be closed to the public.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

August 31, 1979.

[FR Doc. 79-27757 Filed 9-5-79; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Deletion of System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of system of records deletion.

SUMMARY: The Office of the Secretary of Defense is deleting a system of records from its inventory of record systems subject to the Privacy Act of 1974 which requires the publication of agency systems of records.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, ODASD(A), Room 5C-315, Pentagon, Washington, DC 20301. Telephone: 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of Secretary of Defense systems of records subject to the Privacy Act of 1974 (5 USC 552a), Pub. L. 93-579, have been published in the **Federal Register** as follows:

FR Doc. 77-28255 (42 FR 50731) September 28, 1977.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-34821 (43 FR 58405) December 14, 1978.
FR Doc. 78-35943 (43 FR 60331) December 27, 1978.
FR Doc. 79-8786 (44 FR 17780) March 23, 1979.
FR Doc. 79-11351 (44 FR 22143) April 13, 1979.
FR Doc. 79-15267 (44 FR 28706) May 16, 1979.
FR Doc. 79-17755 (44 FR 32724) June 7, 1979.
FR Doc. 79-20389 (44 FR 38967) July 3, 1979.
FR Doc. 79-22906 (44 FR 43505) July 25, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 30, 1979.

Deletion

DCOMP SP01

System name:

Office of the DASD (Security Policy) Personnel Files (ODASD (SP)) (42 FR 50752, September 28, 1977).

Reason:

The files in this system are no longer maintained. The Deputy Secretary of Defense approved the disestablishment of the Deputy Assistant Secretary of Defense (Security Policy), DASD(SP), Office of the Assistant Secretary of Defense (Comptroller), OASD(C), and the reassignment of the functions of the DASD(SP) and its subordinate Directorate for Industrial Security Clearance Review (DISCR), to the Assistant General Counsel for Fiscal Matters, AGC(FM), Office of the General Counsel (OGC) DoD.

[FR Doc. 79-27756 Filed 9-5-79; 8:45 am]

BILLNG CODE 3810-70-M

DEPARTMENT OF ENERGY

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; June 11 through June 15, 1979

Notice is hereby given that during the period June 11 through June 15, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 29, 1979.

Aminoil USA, Inc., Houston, Texas, Crude Oil, DEE-4213. Aminoil USA, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the California State Lease #425, Jones Zone, located in Orange County, California, at upper tier ceiling prices. On June 15, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's California State Lease #425, Jones Zone.

Cities Service Company, Seminole County, Oklahoma, Crude Oil, DEE-2086. Cities Service Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Walker A Lease located in Seminole County, Oklahoma, at upper tier ceiling prices. On June 14, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Walker A Lease.

Continental Oil Company, Houston, Texas, Crude Oil, DEE-3710. Continental Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Southeast Eureka Unit located in Alfalfa County, Oklahoma, at upper tier ceiling prices. On June 15, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part,

with respect to the applicant's Southeast Eureka Unit.

Croft Petroleum Company, Inc., Jackson, Mississippi, Crude Oil, DXE–5526. Croft Petroleum Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception releif previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Bedford 33–11 Lease for the benefit of the working interest owners at upper tier ceiling prices. On June 14, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Bedford 33–11 Lease.

Energy Consumers and Producers Association, Seminole, Oklahoma, Crude Oil, DEE–1856. Energy Consumers and Producers Association filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced for the benefit of the working interest owners from the Austin Chalk/Buda Trend formations located in the State of Texas at market prices. On June 13, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception application should be dismissed.

Rex Monahan, Sterling, Colorado, Crude Oil, DXE–2804. Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Subpart D. The exception request, if granted, would permit Monahan to sell the Crude oil produced from the Springen Ranch Unit at prices in excess of those permitted by the provisions of 10 CFR, Part 212. On June 13, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1 and the Interim Final Rule Which superseded it. The exception requests, if grantd, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company name, case number and location

Auto Row Texaco, DEE–4290, San Jose, California.
Bassett's 66 Service DEE–4510, Bartonville, Illinois.
J&B Automotive DEE–3783, Patchoque, New York.
John and Sharon Volk's Arco DEE–3760, Santa Ynez, California.
Peck's Arco Mini Mart DEE–5911, Livermore, California.
Publix Oil Co. DEE–5462, Washington, D.C.
Ray W. Reeves, DEE–3550, McDonough, Georgia
Gottlieb Corp. DEE–2289, Kansas City, Missouri.
Kelly's Exxon, DEE–3231, Tyler, Texas.
Rocket Oil Co., DEE–5056, Benton, Arkansas.

[FR Doc. 79–27592 Filed 9–5–79; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed with the Office of Hearings and Appeals; Week of July 30 through August 3, 1979

Notice is hereby given that during the week of July 30 through August 3, 1979, the Notices of Objection to Proposed Remedial Orders listed below were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before September 26, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described below must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before October 9, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

August 29, 1979.

Harvey J. Bean, Erie, Pennsylvania, DRO–0274; Motor Gasoline. On August 2, 1979, Harvey J. Bean, 471 West Arlington, Erie, Pennsylvania, 16509 filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Northeast District Office of Enforcement issued to him on July 2, 1979. In the IROIC the Northeast District found that Bean was charging prices for motor gasoline that exceeded lawful prices. The IROIC therefore directed Bean to reduce his selling prices immediately.

T & J Auto Laundry, Jersey City, New Jersey, DRO–0254, Motor Gasoline. On August 3, 1979, T & J Auto Laundry, 1 West Side Avenue, Jersey City, New Jersey, 07305 filed a Notice of Objection to (an Interim Remedial Order for Immediate Compliance) which the DOE New Jersey State Office of Enforcement issued to the firm on July 25, 1979. In the IROIC the State found that on July 6, 1979, T & J Laundry overcharged its customers for motor gasoline.

According to the IROIC the T & J Laundry's violation resulted in $6,760 of fines.

[FR Doc. 79–27591 Filed 9–5–79; 8:45 am]
BILLING CODE 6450–01–M

Economic Regulatory Administration

Alta Loma Oil Co. (Formerly Aikman Oil Co.); Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

EFFECTIVE DATE: August 2, 1979.

COMMENTS BY: October 9, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 W. Mockingbird Lane, P.O. Box 35228, Dallas, Texas, phone (214) 767–7745.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the Office of Enforcement of the ERA executed a Consent Order with Energy Resources Oil and Gas Corporation (Energy Resources) of Dallas, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Energy Resources wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Energy Resources effective as of the date of its execution by the DOE and Energy Resources.

I. The Consent Order

Energy Resources, with its home office located in Dallas, Texas, is a firm engaged in the production and sale of crude oil, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R., Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement, ERA, and Energy Resources entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through October 31, 1977, and it included all sales of crude oil to the Permian Corporation, General Energy Company, Inc., Mobil Oil Corporation, Skelly Oil Company, and Derby Refining Company.

2. Energy Resources improperly applied the provisions of 10 CFR Part 212, Subpart D when determining the prices to be charged for its crude oil; and as a consequence, some of the above firms were overcharged on some of their purchases.

3. Energy Resources agrees to refund to the DOE $294,617.21 plus interest within 36 months of the effective date of the Consent Order.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Energy Resources agrees to refund in full settlement of any civil liability with respect to actions which might be brough by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $294,617.21 within 36 months of the effective date of the Consent Order. The Refund shall be by certified check in thirty-six monthly installments, each monthly installment to equal at least 1/36th of the full amount of overcharges, plus interest, made payable to the Department of Energy and will be delivered to the Assistant Administrator for Enforcement ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily to the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of the potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager, Southwest District of Enforcement, Department of Energy, Economic Regulatory Administration, 2626 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Alta Loma Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, thirty days after publication. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 24th day of August, 1979.

Herbert F. Buchanan,

Deputy District Manager Southwest District of Enforcement.

[FR Doc 79–27593 Filed 9–5–79; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Montana Dakota Utilities, et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 27, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16506/6–79–215
2. 25–071–21670
3. 103
4. Southland Royalty Company
5. Bowdoin Federal 1–18–25NE
6. Bowdoin Dome
7. Phillips MT
8. 60.0 million cubic feet
9. August 15, 1979
10. Montana Dakota Utilities

1. 79–16507/6–79–214
2. 25–071–21664
3. 103
4. Southland Royalty Company
5. Bowdoin 1–16–12NE
6. Bowdoin Dome
7. Phillips MT
8. 61.0 million cubic feet
9. August 15, 1979
10. Kansas Nebraska Gas Company

1. 79–16508/6–79–202
2. 25–083–21298
3. 103
4. Phoenix Resources Company
5. McGinnis 2R–34
6. Middle Sioux Pass
7. Richland, MT
8. 53.0 million cubic feet
9. August 15, 1979
10. True Oil Company

1. 79–16509/4–79–193
2. 25–095–21101
3. 108
4. Pacer Resources Inc
5. Dannenberg 2–27
6. North Lake Basin
7. Stillwater MT
8. 15.3 million cubic feet
9. August 15, 1979
10. Montana-Dakota Utilities Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well Number
3. Section of NGPA

4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16492
2. 30-015-00000
3. 103
4. Black River Corporation
5. Cerro Com #1
6. South Carlsbad Morrow
7. Eddy NM
8. 54.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16493
2. 30-045-09046
3. 108
4. Texaco Inc
5. New Mexico Com B No 1
6. Blanco-Pictured Cliffs
7. San Juan NM
8. 14.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16494
2. 30-045-08929
3. 108
4. Texaco Inc
5. New Mexico Com F No 1
6. Blanco Pictured Cliffs
7. San Juan NM
8. 15.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16495
2. 30-045-20483-0000-1
3. 108
4. Southland Royalty Company
5. Decker #4
6. Basin Dakota
7. San Juan NM
8. 4.0 million cubic feet
9. August 15, 1979
10. Southern Union Gathering Company

1. 79-16496
2. 30-045-20483-0000-2
3. 108
4. Southland Royalty Company
5. Decker #4
6. Blanco Mesaverde
7. San Juan NM
8. .0 million cubic feet
9. August 15, 1979
10. Southern Union Gathering

1. 79-16497
2. 30-045-22975
3. 103
4. El Paso Natural Gas Company
5. Atlantic B #8A
6. Blanco Mesaverde
7. San Juan NM
8. 250.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16498
2. 30-015-22611
3. 103
4. Gulf Oil Corporation
5. Eddy Gr State Well No 1
6. Undesignated Morrow
7. Eddy NM
8. 240.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16499
2. 30-045-10776
3. 108
4. Dugan Production Corp
5. Cuccia #1
6. Basin-Dakota
7. San Juan NM
8. 12.5 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

1. 79-16500
2. 30-003-20644
3. 103
4. Moranco
5. Western Reserves 32 State #1
6. Tom-Tom (San Andres)
7. Chaves NM
8. 7.0 million cubic feet
9. August 15, 1979
10. Transwestern Pipeline Company

1. 79-16501
2. 30-025-26278
3. 103
4. Gulf Oil Corporation
5. Arnott-Ramsay (NCT-B) Well No 6
6. Langlie Mattix Queen
7. Lea NM
8. .0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Co

1. 79-16502
2. 30-025-26105
3. 103
4. Gulf Oil Corporation
5. Arnott-Ramsay (NCT-B) No 5
6. Langlie Mattix Queen
7. Lea NM
8. .0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Co

1. 79-16503
2. 30-041-20479
3. 103
4. Enserch Exploration Inc
5. Lambirth No 6
6. South Peterson (Fusselman)
7. Roosevelt NM
8. 58.0 million cubic feet
9. August 15, 1979
10. Natural Gas Pipeline Co of America

1. 79-16504
2. 30-025-00000
3. 103
4. Sabine Production Company
5. DeSoto State No 2
6. Tulk Penn
7. Lea NM
8. 18.3 million cubic feet
9. August 15, 1979
10. Warren Petroleum Company

1. 79-16505
2. 30-015-00000
3. 108
4. Great Western Drilling Company
5. Burton State Com #1
6. Burton Flat Morrow
7. Eddy NM
8. 1.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16409/00034
2. 35-017-20968
3. 103
4. Phillips Petroleum Co
5. Schroeder A#1
6. S. Okarchie
7. Canadian OK
8. 75.0 million cubic feet
9. August 14, 1979
10.

1. 79-16410/00031
2. 35-009-20252
3. 103
4. The GHK Company
5. Watkins 2-21
6. Carpenter
7. Beckham OK
8. 550.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company
Michigan-Wisconsin Pipeline Co

1. 79-16411/00118
2. 35-087-20365
3. 103
4. John A Taylor
5. Crawford #1-11
6. N Flint Creek
7. McClain OK
8. 223.0 million cubic feet
9. August 14, 1979
10. Oklahoma Gas & Electric Co

1. 79-16412/00025
2. 35-015-00000
3. 103
4. Amarex Inc
5. Slemp #1
6. Spring Creek
7. Caddo OK
8. 720.0 million cubic feet
9. August 14, 1979
10.

1. 79-16413/00026
2. 35-017-00000
3. 103
4. Amarex Inc
5. Petree #1-7
6. SW El Reno
7. Canadian OK
8. 900.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipe Line Co

1. 79-16414/00071
2. 35-121-20250
3. 108
4. James C Meade
5. Great Basins #3 Lalman
6. C NW NE Section 7-6N-16E
7. Pittsburgh OK
8. 7.5 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16415/00095
2. 35-013-00000
3. 108
4. Okmar Oil Company
5. Anderson-Mayhue Unit 1-34

6. (East) Durant
7. Bryan OK
8. 20.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Co

1. 79-16416/00093
2. 35-013-00000
3. 108
4. Okmar Oil Company
5. Crawford Unit 1-35
6. (East) Durant
7. Bryan OK
8. 17.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Co

1. 79-16417/00089
2. 35-003-00000
3. 108
4. Okmar Oil Company
5. Davis #1-33
6. Goltry
7. Alfalfa OK
8. 10.0 million cubic feet
9. August 14, 1979
10. Union Texas Petroleum

1. 79-16418/00137
2. 35-025-00000
3. 103
4. Gulf Energy Producing Company
5. State of Oklahoma #1-14
6. Keyes
7. Cimarron, OK
8. 2.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co

1. 79-16419/00108
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Stonebraker O No 1
6. Guymon-Hugoton
7. Texas, OK
8. 9.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16420/00109
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Huddleston B No 1
6. Guymon-Hugoton
7. Texas, OK
8. 5.5 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16421/00110
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Stonebraker AD No 1
6. Guymon-Hugoton
7. Texas, OK
8. 18.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16422/00111
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Gambill A No 1
6. Guymon-Hugoton
7. Texas, OK
8. 8.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16423/00112
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Buzzard G No 1
6. Guymon-Hugoton
7. Texas, OK
8. 5.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16424/00113
2. 35-139-00000
3. 108
4. Donald W. Jackson
5. Langston B No 1
6. Guymon-Hugoton
7. Texas, OK
8. 18.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16425/00106
2. 35-093-21286
3. 103
4. Grace Petroleum Corporation
5. Gammon #2-33
6. North East Ames
7. Major, OK
8. 52.5 million cubic feet
9. August 14, 1979
10. Arkansas-Louisiana Gas Company

1. 79-16426/00128
2. 35-129-00000
3. 102
4. Hoover & Bracken Energies Inc
5. Mathers #1-27
6. North West Hamburg
7. Roger Mills, OK
8. 1.8 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company, Laclede Gas Co

1. 79-16427/00125
2. 35-039-00000
3. 102
4. Hoover & Bracken Energies Inc
5. McClelland #1-1
6. North Weatherford
7. Custer, OK
8. 73.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16428/00124
2. 35-039-20168
3. 102
4. Hoover & Bracken Energies Inc
5. Fortner #1-7
6. North Weatherford
7. Custer, OK
8. 730.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16429/00176
2. 35-017-21091
3. 102
4. Key Operating Company Inc
5. Carl #1
6. SW El Reno
7. Canadian, OK
8. 548.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipe Line Co

1. 79-16430/00175
2. 35-105-20955
3. 102
4. A Wesley Karns
5. Welsh #1
6. Welsh SW NW NE NE 15-29-14
7. Nowata, OK
8. 18.3 million cubic feet
9. August 14, 1979
10. Union Gas System

1. 79-16431/00167
2. 35-151-20754
3. 102
4. Creslenn Oil Company
5. Baird Unit No 1
6. East Campbell
7. Woods, OK
8. .0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Company

1. 79-16432/00127
2. 35-039-20137
3. 102
4. Ferguson Oil & Gas Company Inc
5. Hoelker #1
6. Anthon
7. Custer, OK
8. 1302.0 million cubic feet
9. August 14, 1979
10. Michigan-Wisconsin Pipe Line Co, Arkansas-Louisiana Gas Co

1. 79-16433/00119
2. 35-087-00000
3. 102
4. John A. Taylor
5. John A. Taylor #1 Bingaman #1-10
6. North Dibble
7. McClain, OK
8. 110.0 million cubic feet
9. August 14, 1979
10.

1. 79-16434/00117
2. 35-063-20798
3. 102
4. John A. Taylor
5. Pool #1-13
6. West Calvin
7. Hughes, OK
8. 360.0 million cubic feet
9. August 14, 1979
10.

1. 79-16435/00028
2. 35-009-20240
3. 107
4. The GHK Company
5. Clark 1-33
6. Carpenter
7. Beckham, OK
8. 350.0 million cubic feet
9. August 14, 1979
10.

1. 79-16436/00036
2. 35-009-20236
3. 107
4. The GHK Company
5. Watkins 1-21
6. Carpenter
7. Beckham, OK
8. 3600.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Co, Oklahoma Natural Gas

1. 79-16437/00033
2. 35-009-20250
3. 107
4. The GHK Company
5. Gregory 1-29
6. Carpenter
7. Beckham, OK

8. 3000.0 million cubic feet
9. August 14, 1979
10. Michigan-Wisconsin Pipe Line Co
1. 79–16438/00120
2. 35–009–20246
3. 107
4. Helmerich & Payne Inc
5. Copeland No 1
6. West Mayfield
7. Beckham OK
8. 2920.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Company Oklahoma Natural Gas Co
1. 79–16439/00121
2. 35–109–20222
3. 107
4. Helmerich & Payne Inc
5. Cupp A No 2
6. West Mayfield
7. Beckham OK
8. 120.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Company Oklahoma Natural Gas Co
1. 79–16440/00129
2. 35–043–20785
3. 107
4. Hoover & Bracken Energies Inc
5. Williams #1–10
6. Leedey
7. Dewey OK
8. 365.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Co
1. 79–16441/00130
2. 35–043–20840
3. 107
4. Hoover & Bracken Energies Inc
5. Hazel Craig #1–5
6. Leedey
7. Dewey OK
8. 36.5 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Co
1. 79–16442/00008
2. 35–043–20896
3. 103
4. OFT Exploration Inc
5. Bill Ohair #1–12
6. Section 12–19N–20W
7. Dewey OK
8. 40.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipe Line Co
1. 79–16443/00099
2. 35–079–20280
3. 102
4. Copeland Energy Corp
5. Gildersleeve #1–16
6.
7. Leflore OK
8. 54.8 million cubic feet
9. August 14, 1979
10.
1. 79–16444/00011
2. 35–153–20802
3. 102
4. OFT Exploration Inc
5. Susie Dodge #1–03
6. N E Cedardale Section 3–22N–18W
7. Woodward OK
8. 350.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

Texas Railroad Commission Oil And Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–16445/03598
2. 42–237–00000
3. 108
4. Gulf Oil Corp
5. Mary Worthington No 2
6. Jack County (Regular)
7. Jack TX
8. 5.1 million cubic feet
9. August 14, 1979
10. Natural Gas Pipeline Co of America
1. 79–16446/02775
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit Well No 4146
6. McElroy
7. Crane TX
8. 4.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16447/02774
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 4139
6. McElroy
7. Crane TX
8. .0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16448/02776
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 2132
6. McElroy
7. Crane TX
8. 2.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16449/02777
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 3247
6. McElroy
7. Crane TX
8. 7.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16450/02778
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 3254
6. McElroy
7. Crane TX
8. 3.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16451/02779
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 3263
6. McElroy
7. Crane TX
8. 7.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16452/02781
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 3350
6. McElroy
7. Crane TX
8. 6.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16453/02780
2. 42–103–00000
3. 103
4. Getty Oil Co
5. N McElroy Unit No 3343
6. McElroy
7. Crane TX
8. .0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16454/02796
2. 42–421–00000
3. 108
4. American Petrofina Company of Texas
5. Bradley No 1
6. Texas Hugoton
7. Sherman TX
8. 15.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Co
1. 79–16455/02861
2. 42–427–30880
3. 103
4. Sun Oil Company (Delaware)
5. G G Villarreal C Unit 22 #2–C
6. Garcia (Stray 3470)
7. Starr TX
8. 5.0 million cubic feet
9. August 14, 1979
10.
1. 79–16456/02886
2. 42–025–01219
3. 108
4. Energy Reserves Group Inc
5. Michael Fox #2T
6. Blanconia
7. Bee TX
8. 13.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company
1. 79–16457/02894
2. 42–427–04790
3. 108
4. Energy Reserves Group Inc
5. Louise Guerra #1
6. S Gregg Wood
7. Starr TX
8. 9.0 million cubic feet
9. August 14, 1979
10. South Texas Natural Gas Gathering
1. 79–16458/03041
2. 42–495–01260
3. 108
4. Gulf Oil Corporation
5. Keystone Cattle Co #106
6. Keystone (McKee)
7. Winkler TX

8. 16.0 million cubic feet
9. August 14, 1979
10. Sid Richardson Carb & Gaso
1. 79–16459/03040
2. 42–495–01283
3. 108
4. Gulf Oil Corporation
5. Keystone Cattle Co #129–C
6. Keystone (McKee)
7. Winkler TX
8. 8.0 million cubic feet
9. August 14, 1979
10. Sid Richardson Carb & Gaso
1. 79–16460/04920
2. 42–003–31697
3. 103
4. Amoco Production Company
5. Univ McFarland Queen Consol #3–8
6. McFarland/Queen
7. Andrews TX
8. .0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company Northern Natural Gas Co
1. 79–16461/04871
2. 42–219–32478
3. 103
4. Amoco Production Company
5. Northwest Mallet Unit No 166
6. Slaughter
7. Hockley TX
8. 5.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79–16462/04881
2. 42–105–31587
3. 108
4. Amoco Production Company
5. J S Todd A R/A A No 11
6. Wyatt
7. Crockett TX
8. 15.0 million cubic feet
9. August 14, 1979
10. Permian Corporation El Paso Natural Gas Co
1. 79–16463/04889
2. 42–219–32592
3. 103
4. Amoco Production Company
5. East RKM Unit No 77
6. Slaughter
7. Hockley TX
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79–16464/04890
2. 42–219–32573
3. 103
4. Amoco Production Company
5. East RKM Unit No 68
6. Slaughter
7. Hockley TX
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79–16465/04892
2. 42–475–31002
3. 103
4. Amoco Production Company
5. J F Postelle No 6
6. Rhoda Walker (Canyon 5900)
7. Ward TX
8. 143.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipeline Corp
1. 79–16466/04893
2. 42–475–31003
3. 103
4. Amoco Production Company
5. J F Postelle No 7
6. Rhoda Walker/Canyon 5900
7. Ward TX
8. 364.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipeline Corp
1. 79–16467/04903
2. 42–475–31611
3. 103
4. Amoco Production Company
5. J F Postelle No 8
6. Rhoda Walker (Canyon 5900)
7. Ward TX
8. 43.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipeline Corp
1. 79–16468/04899
2. 42–109–31370
3. 103
4. Gulf Oil Corporation
5. TXL CX (NCT–B) Well No 11
6. Geraldine (Ford)
7. Culberson TX
8. .3 million cubic feet
9. August 14, 1979
10. Continental Oil & Gas Co
1. 79–16469/03648
2. 42–371–32607
3. 102
4. Zinke & Philpy Inc
5. Dietrich State No 1
6. D S Devonian (New Onshore Reservoir)
7. Pecos TX
8. 146.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79–16470/03900
2. 42–481–31680
3. 103
4. Sue-Ann Operating Company
5. Vineyard No 1 79772
6. Arrington (Marg)
7. Wharton TX
8. 750.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company
1. 79–16471/03902
2. 42–227–31670
3. 103
4. Harper & Lawless
5. W S Cole No 7
6. Vincent (Clear Fork Lower)
7. Howard TX
8. 1.7 million cubic feet
9. August 14, 1979
10. Getty Oil Company
1. 79–16472/03932
2. 42–089–30965
3. 103
4. Sue-Ann Operating Company
5. Anderson Unit No 1 78223
6. Chesterville N (Wilcox 9200)
7. Colorado TX
8. 375.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline Company
1. 79–16473/03904
2. 42–227–31538
3. 103
4. Harper & Lawless
5. W S Cole #3
6. Vincent (Clear Fork Lower)
7. Howard TX
8. 1.9 million cubic feet
9. August 14, 1979
10. Getty Oil Company
1. 79–16474/03903
2. 42–227–31668
3. 103
4. Harper & Lawless
5. W S Cole #5
6. Vincent (clear fork lower)
7. Howard TX
8. 1.2 million cubic feet
9. August 14, 1979
10. Getty Oil Company
1. 79–16475/03945
2. 42–211–30698
3. 103
4. Gulf Oil Corporation
5. Forgey #4–93
6. Gem Hemphill
7. Hemphill TX
8. 11.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company
1. 79–16476/04004
2. 42–427–31153
3. 103
4. Sun Oil Company (Delaware)
5. Saenz M—State No 21
6. Rincon North (Vicksburg 6700)
7. Starr TX
8. 112.0 million cubic feet
9. August 14, 1979
10.
1. 79–16477/04389
2. 42–323–31278
3. 103
4. Continental Oil Co
5. N J Chittim No 6550 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79–16478/04006
2. 42–247–30771
3. 103
4. Sun Oil Company (Delaware)
5. Ruth S Canales No 2
6. Jules Walker (Yequa 7500)
7. Jim Hogg TX
8. 2.0 million cubic feet
9. August 14, 1979
10. Texas Eastern Transmission Corp
1. 79–16479/04458
2. 42–103–31812
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al # 1099
6. Sand Hills (Tubb)
7. Crane TX
8. .0 million cubic feet
9. August 14, 1979
10. H–T Gathering Company
1. 79–16480/04459
2. 42–323–31170
3. 103
4. Continental Oil Co
5. N J Chittim No 7016 (02082)
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16481/04473
2. 42-323-31217
3. 103
4. Continental Oil Co
5. N J Chittim No 6924 (02082)
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16482/03046
2. 42-505-30904
3. 103
4. Gas Producing Enterprises Inc
5. Martinez Lauro #1
6. JJ & J (Wilcox 8800)
7. Zapata TX
8. 257.0 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline

1. 79-16483/04488
2. 42-323-31289
3. 103
4. Continental Oil Co
5. N J Chittim No 7120 (02082)
6. Sacatosa (San Miguel No 1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo Vaca Gathering Company

1. 79-16484/03056
2. 42-195-30605
3. 103
4. Yucca Petroleum Co
5. Betty #2-24 TRC #76100
6. Clementine (Morrow Upper)
7. Hansford TX
8. 75.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16485/03057
2. 42-195-30576
3. 103
4. Yucca Petroleum Co
5. C C Beck #2-8 TRC #72322
6. Bernstein (Morrow Upper)
7. Hansford TX
8. 360.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16486/03075
2. 42-233-00000
3. 108
4. Energy Reserves Group Inc
5. Bivens #5 RC
6. W Panhandle
7. Hutchinson TX
8. 12.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16487/03076
2. 42-233-35050
3. 108
4. Energy Reserves Group Inc
5. Paramount #1-A
6. W Panhandle
7. Hutchinson TX
8. 23.0 million cubic feet
9. August 14, 1979
10. Panhandle Producing Company

1. 79-16488/03550
2. 42-103-31768
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb A #35
6. Sand Hills (McKnight)
7. Crane TX
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co

1. 79-16489/03593
2. 42-237-00000
3. 108
4. Gulf Oil Corp
5. Cap Yates No 3
6. Cap Yates Conglomerate
7. Jack TX
8. 14.9 million cubic feet
9. August 14, 1979
10. Natural Gas Pipeline of America

1. 79-16490/03589
2. 42-393-30577
3. 103
4. Gulf Oil Corporation
5. B A Byrum et al 3-4
6. Red Deer Penn C
7. Roberts TX
8. 23.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co

1. 79-16491/03571
2. 42-165-31380
3. 103
4. Exxon Corporation
5. Exxon-Atlantic H & J #8
6. Huat (Wolfcamp)
7. Gaines TX
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16546/00607
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #403
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 16.3 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16547/00606
2. 42-105-00000
3. 108
4. Ammarex Inc
5. J M Baggett Jr #9-162
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 7.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16548/00605
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #10-162
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 1.0 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16549/00604
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #11-159
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 4.5 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16550/00603
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #12-159
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 2.2 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16551/00554
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 4
6. West Big Foot Gas
7. Frio TX
8. 17.3 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16552/00553
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 5
6. West Big Food Gas
7. Frio TX
8. 20.8 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16553/00552
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 6
6. West Big Foot Gas
7. Frio TX
8. 15.1 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16554/00551
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 8
6. West Big Foot Gas
7. Frio TX
8. 12.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16555/00550
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 9
6. West Big Foot Gas
7. Frio TX
8. 11.4 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16556/00548
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 7
6. West Big Foot Gas
7. Frio TX
8. 17.1 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16557/00546
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 10

6. West Big Foot Gas
7. Frio TX
8. 9.7 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16558/00545
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 11
6. West Big Foot Gas
7. Frio TX
8. 21.2 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16559/00544
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 14
6. West Big Foot Gas
7. Frio TX
8. 21.7 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16560/00543
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 15
6. West Big Foot Gas
7. Frio TX
8. 13.3 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16561/00542
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. George M Williams 16
6. West Big Foot Gas
7. Frio TX
8. 5.3 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16562/00541
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. Gordon E Tate 3
6. West Big Foot Gas
7. Frio TX
8. 15.0 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16563/00540
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. Gordon E Tate 5
6. West Big Foot Gas
7. Frio TX
8. 14.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16564/00539
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. Gordon E Tate 7
6. West Big Foot Gas
7. Frio TX
8. 16.7 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16565/00538
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. C R Thompson Gas Unit 2
6. West Big Foot Gas
7. Frio TX
8. 20.8 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16566/00537
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. Claude Ussery 1
6. West Big Foot Gas
7. Frio TX
8. 9.8 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16567/00536
2. 42-163-00000
3. 108
4. Suburban Propane Gas Corporation
5. R C Walden 3
6. West Big Foot Gas
7. Frio TX
8. 14.6 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16568/00535
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Eugene Sattler 1
6. West Big Foot Gas
7. Frio, TX
8. 21.4 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16569/00534
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Eugene Sattler 2
6. West Big Foot Gas
7. Frio, TX
8. 17.0 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16570/00533
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Mann-Biediger Gas Unit 1
6. West Big Foot Gas
7. Frio, TX
8. 20.0 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16571/00532
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. S H Allen 1
6. West Big Foot Gas
7. Frio, TX
8. 7.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16572/00530
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Martha F Berry 5
6. West Big Foot Gas
7. Frio, TX
8. 19.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16573/00529
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Martha F Berry 9,
6. West Big Foot Gas
7. Frio, TX
8. 21.7 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16574/00528
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Martha F Berry 10
6. West Big Foot Gas
7. Frio, TX
8. 16.6 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16575/00527
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Martha F Berry 11
6. West Big Foot Gas
7. Frio, TX
8. 10.4 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16576/00526
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Ferdinand Biediger 1
6. West Big Foot Gas
7. Frio, TX
8. 16.6 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16577/00525
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. M R Chiles Gas Unit 1
6. West Big Foot Gas
7. Frio, TX
8. 11.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16578/00524
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. M R Chiles Gas Unit 2
6. West Big Foot Gas
7. Frio, TX
8. 14.2 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16579/00523
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Sam Curtis 1
6. West Big Foot Gas
7. Frio, TX
8. 15.0 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

V 44 / 174 SEP 6 79 UMI

1. 79-16580/00620
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Ed H Eckenroth 3
6. West Big Foot Gas
7. Frio, TX
8. 15.1 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16581/00519
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. A E Goering 1
6. West Big Foot Gas
7. Frio, TX
8. 14.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16582/00518
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. Hernandez-Carpenter Gas Unit 1
6. West Big Foot Gas
7. Frio, TX
8. 3.9 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16583/00515
2. 42-163-00000-
3. 108
4. Suburban Propane Gas Corporation
5. B C Lanham 3
6. West Big Foot Gas
7. Frio, TX
8. 1.2 million cubic feet
9. August 14, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-16584/00483
2. 42-365-00247-
3. 108
4. The Maurice L Brown Company
5. Furrh-Cooper Gas Unit #1
6. Bethany-Pettit
7. Panola County, TX
8. 6.0 million cubic feet
9. August 14, 1979
10. United Gas Pipe Line Company

1. 79-16585/00478
2. 42-203-01962
3. 108
4. The Maurice L Brown Company
5. Sealey-Allen Gas Unit #1
6. Carthage
7. Harrison County, TX
8. 18.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

United States Geological Survey

Albuquerque, New Mexico

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16510/NM 1410-79
2. 30-045-06176-0000-0
3. 108
4. El Paso Natural Gas Company
5. Bolack C-16
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 14.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16511/NM 1428-79
2. 30-039-20963-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #202
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16512/NM 1429-79
2. 30-039-20145-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #39
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 15.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16513/NM 1464-79
2. 30-039-06378-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 10.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp

1. 79-16514/NM 1468-79
2. 30-039-06081-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #33
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 13.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16515/NM 1749-79
2. 30-039-05472-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #85
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16516/NM 1750-79
2. 30-045-06409-0000-0
3. 108
4. El Paso Natural Gas Company
5. Cleveland #6
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16517/NM 1751-79
2. 30-039-07298-0000-0
3. 108
4. El Paso Natural Gas Company
5. S J 28-5 Unit NP #3
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16518/NM 1752-79
2. 30-045-22904-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #91
6. Blanco
7. San Juan NM
8. 220.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16519/NM 1753-79
2. 30-045-22898-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #20A
6. Blanco
7. San Juan NM
8. 190.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16520/NM 1767-79
2. 30-045-22490-0000-0
3. 103
4. El Paso Natural Gas Company
5. Hudson 5A
6. Blanco
7. San Juan NM
8. 342.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16521/NM 1768-79
2. 30-045-22387-0000-0
3. 103
4. El Paso Natural Gas Company
5. Scott 4A
6. Blanco
7. San Juan NM
8. 339.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16522/NM 1769-79
2. 30-045-22491-0000-0
3. 103
4. El Paso Natural Gas Company
5. Atlantic Com 3A
6. Blanco
7. San Juan NM
8. 300.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16523/NM 1770-79
2. 30-045-22506-0000-0
3. 103
4. El Paso Natural Gas Company
5. Atlantic 4A
6. Blanco
7. San Juan NM
8. 321.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16524/NM 1795-79
2. 30-039-20866-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #210
6. Basin
7. Rio Arriba NM
8. 87.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16525/NM 1796-79
2. 30-039-21328-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #233
6. Basin
7. Rio Arriba NM
8. 111.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16526/NM 1797-79
2. 30-039-21327-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #235
6. Basin
7. Rio Arriba NM
8. 104.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16527/NM 1798-79
2. 30-039-20843-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #212
6. Basin
7. Rio Arriba NM
8. 160.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16528/NM 1799-79
2. 30-039-21394-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #218
6. Undesignated
7. Rio Arriba NM
8. 46.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16529/NM 1800-79
2. 30-039-20842-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #211
6. Basin
7. Rio Arriba NM
8. 286.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16530/NM 1801-79
2. 30-039-20971-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-5 Unit #94
6. Basin
7. Rio Arriba NM
8. 88.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16531/NM 1802-79
2. 30-039-21392-0000-0
3. 103
4. El Paso Natural Gas Company
5. Rincon Unit 220
6. Largo
7. Rio Arriba NM
8. 40.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16532/NM 1803-79
2. 30-039-21399-0000-0
3. 103
4. El Paso Natural Gas Company
5. Rincon Unit 227
6. Basin
7. Rio Arriba NM
8. 41.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16533/NM 1804-79
2. 30-039-21381-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #135
6. Blanco
7. Rio Arriba NM
8. 109.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16534/NM 1805-79B
2. 30-039-21385-0000-2
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #109 (PC)
6. Tapacito
7. Rio Arriba NM
8. 52.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16535/NM 1805-79A
2. 30-039-21385-0000-1
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #109 (MV)
6. Blanco
7. Rio Arriba NM
8. 137.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16536/NM 1806-79A
2. 30-039-21379-0000-1
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #16A (MV)
6. Blanco
7. Rio Arriba NM
8. 213.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16537/NM 1806-79B
2. 30-039-21379-0000-2
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #16A (PC)
6. Tapacito
7. Rio Arriba NM
8. 43.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16538/NM 1807-79A
2. 30-039-21033-0000-1
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #123 (MV)
6. Blanco
7. Rio Arriba NM
8. 142.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16539/NM 1807-79B
2. 30-039-21033-0000-2
3. 103
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #123 (PC)
6. Tapacito
7. Rio Arriba NM
8. 21.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16540/NM 1808-79
2. 30-039-21716-0000-0
3. 103
4. El Paso Natural Gas Company
5. Rincon Unit 212
6. Otero
7. Rio Arriba NM
8. 30.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16541/NM 1339-79
2. 30-015-22076-0000-0
3. 102
4. Belco Petroleum Corporation
5. Federal RV 10-1 NM 25348
6. Revelation Morrow
7. Eddy NM
8. 180.0 million cubic feet
9. August 14, 1979
10. Llano Inc

1. 79-16542/NM 529-79-108
2. 30-015-22244-0000-0
3. 108
4. Southern Union Exploration Company
5. Exxon A Federal #1
6. West Bubbling Springs
7. Eddy NM
8. 13.0 million cubic feet
9. August 14, 1979
10. Gas Company of New Mexico

1. 79-16543/NM 370-79-103
2. 30-015-22419-0000-0
3. 103
4. Mesa Petroleum Co
5. Diamond Mound Federal #1
6. Undesignated Atoka-Morrow
7. Eddy NM
8. 300.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16544/NM 370-79-10
2. 30-015-22419-0000-0
3. 102
4. Mesa Petroleum Co
5. Diamond Mound Federal #1
6. Undesignated
7. Eddy NM
8. 300.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16545/NM 182-78
2. 30-015-21804-0000-0
3. 108
4. Hondo Drilling Company
5. Alscott-Fed #1 (NM-0924)
6. N Turkey Track
7. Eddy NM
8. 37.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16586/NM 1502-79
2. 30-039-05799-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarillo B #9
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 7.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16587/NM 1583-79
2. 30-045-09303-0000-0
3. 108
4. El Paso Natural Gas Company
5. Morris A 1

V 4 4 / 1 7 4

6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16588/NM 1705-79
2. 30-045-06364-0000-0
3. 108
4. El Paso Natural Gas Company
5. Gordon 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 1.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16589/NM 1706-79
2. 30-039-05928-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla C #6
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 6.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16590/NM 1707-79
2. 30-045-20890-0000-0
3. 108
4. El Paso Natural Gas Company
5. Fields 8
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 16.4 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16591/NM 1708-79
2. 30-039-20906-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit NP 255
6. Basin Dakota
7. Rio Arriba NM
8. 15.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16592/NM 1709-79
2. 30-039-21164-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla D #9
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 12.4 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16593/NM 1710-79
2. 30-043-20111-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 183 #7
6. Ballard-Pictured Cliffs Gas
7. Sandoval NM
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16595/NM 1711-79
2. 30-039-05907-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla E #7
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 16.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16595/NM 1716-79
2. 30-045-06283-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfanito Unit 94
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16590/NM 1717-79
2. 30-039-07769-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 30-4 Unit #4
6. Blanco East-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16597/NM 1718-79
2. 30-039-07843-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 30-6 Unit #80
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 19.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16598/NM 1719-79
2. 30-045-07410-0000-0
3. 108
4. El Paso Natural Gas Company
5. Michener 3
6. Basin-Dakota Gas
7. San Juan NM
8. 18.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16599/NM 1720-79
2. 30-039-05482-0000-0
3. 108
4. El Paso Natural Gas Company
5. Tonkin Federal 3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16600/NM 1721-79
2. 30-039-06337-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hughes 13
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16601/NM 1722-79
2. 30-039-05253-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #26
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.3 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16602/NM 1723-79
2. 30-039-05364-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #25
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 11.3 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16603/NM 1724-79
2. 30-039-05492-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #76
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16604/NM 1725-79
2. 30-039-05597-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #24
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 2.6 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16605/NM 1726-79
2. 30-045-06321-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #74
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 13.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16606/NM 1727-79
2. 30-045-05634-0000-0
3. 108
4. El Paso Natural Gas Company
5. Ha-Sosa 1
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16607/NM 1728-79
2. 30-045-08782-0000-0
3. 108
4. El Paso Natural Gas Company
5. White-Cornell 5
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 2.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16608/NM 1729-79
2. 30-045-05691-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #55
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 7.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16609/NM 1730-79
2. 30-039-82393-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 32-5 Unit #3
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16610/NM 1731-79
2. 30-039-05378-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #59
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16611/NM 1732-79
2. 30-039-07059-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #22
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 13.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16612/NM 1733-79
2. 30-039-07866-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 30-6 Unit #34
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 10.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16613/NM 1734-79
2. 30-045-06168-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #16
6. Kutz West-Pictured Cliffs Gas
7. San Juan NM
8. 16.6 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16614/NM 1735-79
2. 30-039-05452-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #84
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16615/NM 1737-79
2. 30-039-07213-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #15
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16616/NM 1736-79
2. 30-039-20270-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #144
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company Southern Union Gathering
1. 79-16617/NM 1738-79
2. 30-039-07171-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #18
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16618/NM 1739-79
2. 30-039-20858-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit #187
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.3 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16619/NM 1740-79
2. 30-039-20283-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit #189
6. Otero-Chacra Gas
7. Rio Arriba NM
8. 14.6 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16620/NM 1741-79
2. 30-039-05237-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #86
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.3 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16621/NM 1742-79
2. 30-039-20827-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #88
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 19.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16622/NM 1743-79
2. 30-039-20416-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-4 Unit #56
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 16.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16623/NM 1744-79
2. 30-039-05399-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #58
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16624/NM 1745-79
2. 30-039-07142-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #14
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 21.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-16625/NM 1746-79
2. 30-039-20622-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #154
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 13.9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-16626/NM 1747-79
2. 30-045-06679-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79-16627/NM 1748-79
2. 30-039-05900
3. 108
4. El Paso Natural Gas Co
5. Canyon Largo Unit #40
6. Blanco South Pictured Cliffs
7. Rio Arriba NM
8. 4.4 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 21, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 27747 Filed 9-5-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1313-2; OPP-30170]

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

Mobil Chemical Co., Plastics Division, Macedon, NY 14502, has submitted to the Environmental Protection Agency (EPA) an application to register the

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pesticide product Hefty Dog/Cat Repellent (EPA File Symbol 41847–R), containing 16.48% of the active ingredient cinnamic aldehyde which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use to repel dogs and cats from garbage bags and cans. Notice of this application is given pursuant to the provisions of Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162). Notice of receipt of this application does not indicate a decision by the Agency on the application.

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Room E–343, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC, telephone number 202/426–9458.

The comments must be received on or before October 9, 1979, and should bear a notation indicating the EPA File Symbol "41847–R." Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Mobil Chemical Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

Notice of approval or denial of this application to register Hefty Dog/Cat Repellent will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: August 30, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–27811 Filed 9–5–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1313–1 PF–150]

Filing of Pesticide Petition

American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540, has submitted a petition (PP 9F2246) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.361 be amended by establishing tolerances for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite [4-[(ethylpropyl) amino)-2-methyl-3,5-dinitrobenzyl alcohol] in or on the raw agricultural commodities sorghum grain, fodder, and forage at 0.1 part per million (ppm). The proposed analytical method for determining residues is by gas chromatography using an electron capture detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 25, Room E–359, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2196. Written comments should bear a notation indicating the petition number "PP 9F2246". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's Office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 30, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–27812 Filed 9–5–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1313–7]

Action Under Section 125 of the Clean Air Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Reproposed determination under subsection 125(a) of the Clean Air Act (Act).

SUMMARY: EPA proposes to determine under subsection 125(a) of the Clean Air Act, 42 U.S.C. 7425(a), that projected local and regional economic and unemployment impacts that would occur if certain Ohio utilities proceed with plans to switch from high sulfur coal to low sulfur coal to comply with sulfur dioxide emission limitations are not sufficiently significant to necessitate action under subsections 125(b) and (c) of the Act. This proposed determination replaces a proposed finding of significant economic disruption and unemployment published by EPA December 28, 1978 (43 Fed. Reg. 60652). Today's proposed determination is based on an analysis of the record compiled in the subsection 125(a) proceedings, the Ohio coal market impacts of recent actions taken by EPA with respect to the Ohio State Implementation Plan and announced actions by certain utilities in Ohio with respect to their sulfur dioxide compliance plans. This notice establishes a 90-day comment period and public hearing. EPA will announce a final determination following the public hearing and close of the comment period. A final determination consistent with this proposed determination would terminate the EPA Section 125 proceedings in Ohio.

DATES: Comments must be received on or before December 5, 1979. A public hearing will be held on the reproposed determination from 9 a.m. to 4 p.m. on Wednesday, October 10, 1979, at the Anthony J. Celebrezze Federal building, 31st Floor, 1240 East 9th Street, Cleveland, Ohio. The record established for the Section 125 proceedings initiated July 13, 1978, and continued for the proposed determination December 28, 1978, will remain open for purposes of the present reproposal. Written comments and hearings transcripts already part of this record, as well as new information received during the comment period announced today, will be considered by EPA in making a final determination.

ADDRESSES: Written comments and requests to make an oral presentation at the hearing should be submitted to F. J. Biros, Chief, Technical Support Branch, Office of Enforcement, division of Stationary Source Enforcement, EN–341, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The public record for this determination is available for inspection and copying during regular business hours at the following locations:

(1) Air Programs Branch, Air and Hazardous Materials Division, EPA, Region 5, 230 South Dearborn Street, Chicago, Illinois 60604; (2) U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460; (3) Cleveland Public Library, Main Branch, 325 Superior Avenue, Cleveland, Ohio 44114; (4) Columbus Public Library, Main Branch, 96 South Grant, Columbus, Ohio 43215; (5) St. Clairsville Public Library, 106 West Main Street, St. Clairsville, Ohio 43950.

FOR FURTHER INFORMATION CONTACT: F. J. Biros, Technical Support Branch, Office of Enforcement, EN–341, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 Telephone: (202) 755–2560.

SUPPLEMENTARY INFORMATION:

Background

The purpose of section 125 of the Clean Air Act Amendments of 1977 was to grant the President the authority to minimize significant, adverse economic damage which might affect certain areas of the country if sources attempted to comply with the Act by switching from the use of local or regional coal to non-locally or non-regionally available coal. A prerequisite to remedial action under section 125 is a final determination under section 125(a) that such damage would result. Specifically, subsection 125(a) authorizes the Administrator of EPA or the President (or his designee) to determine whether action authorized under subsection 125(b) is necessary to prevent or minimize significant local or regional disruption which would otherwise result from use by any major fuel burning stationary source of fuels other than locally or regionally available coal or coal derivatives to comply with a state's implementation plan requirements.

EPA received petitions in the first half of 1978 from the United Mine Workers of America, District 6, and others seeking to initiate action under section 125. EPA published notice of these petitions and instituted proceedings on July 13, 1978 (43 Fed. Reg. 30113). The notice announced EPA's decision to evaluate under subsection 125(a) certain named Ohio utilities, solicited public comment on the issues raised in the petitions, and set several public hearing dates.

On June 12, 1978, EPA requested information from the Ohio utilities named in the July 13, 1978, notice with regard to their coal use plans for complying with the sulfur dioxide regulations. In addition, EPA initiated several consultant studies to develop background information necessary for any determination under subsection 125(a).

On December 28, 1978 (43 FR 60652), EPA proposed to determine under subsection 125(a) that action may be necessary to prevent or minimize significant local or regional economic disruption that would result from the projected use by major fuel burning stationary sources operated by the named Ohio utilities of coal or coal derivatives not locally or regionally available. Hearings were held January 30, 1979. The public comment period closed March 28, 1979 (44 FR 12103, March 5, 1979).

Rationale

Refined analysis and the effect of recent events have dramatically reduced the projected coal curtailment and unemployment projected by EPA for the proposed determination of December 28, 1978 (43 FR 60652). Data underlying the December, 1978 proposal indicated that 15.8 million tons per year of coal and 5,270 mining jobs would be directly lost because of fuel switching by Ohio utilities. This coal curtailment would constitute a 33.7% reduction in total annual Ohio coal production. The mining job losses would be distributed in Ohio's coal producing counties in such a way as to reduce coal mining employment in several of the most severely affected counties by more than 50% based on 1977 employment data.

As explained below, revised data now indicate that 3.06 million tons per year of coal and 910 Ohio coal mining jobs would be lost due to fuel switching by Ohio utilities to comply with sulfur dioxide emission limitations. This coal curtailment would represent a 6.5% reduction in total Ohio coal production. Job losses would range from 2.9% to 14.5% of the coal mining labor force in the counties most adversely affected. The reduction in coal mining employment state-wide would be 6.0% between 1977 and 1980. Taking into account jobs lost in other employment sectors due to a "ripple effect," the overall state-wide employment impact would amount to 0.05% of Ohio's total labor force.

The overall effect of the revised data is to diminish EPA's December, 1978 projected coal curtailment, miner unemployment and related economic impact below the threshold of significance required by Section 125 of the Act. Not all economic disruption and unemployment has been avoided. Congress, however, instructed that federal intervention be triggered by "significant" not "any" economic damage. Subsection 125(a). The legislative history of Section 125 reveals that by "significant," Congress meant "serious," "severe," or "exceptional" economic stress. See 123 Cong. Rec. H5027 (daily ed., May 25, 1977); 123 Cong. Rec. S9449–S9457 (daily ed., June 10, 1977). Indeed, Section 125 was added to the Act because of the spectre of 15,000 miners losing their jobs and was designed to preserve the jobs of thousands of miners. Id. EPA's present projections of economic damage and unemployment fall far short of this level, and are, therefore, not sufficiently significant to necessitate federal action.

Tables presenting EPA's current projections of economic impact are set forth in the Appendices to this Notice and are described below. The complete technical basis for this reproposed determination may be found in two documents entitled: "Ohio Section 125 Study: Revised Regional Economic Impact Estimates," and "Updated Estimates-Potential Impacts on the Ohio Coal Markets of Power Plant Compliance with the Ohio SO_2 Emission Limitations." Copies of the reports are available for public inspection and copying during regular business hours at the library repository locations indicated in the Addresses section of this Notice. Copies may also be obtained by writing to the Information Contact indicated above.

Projected Coal Curtailment

Subsection 125(a) limits a determination of significant local or regional economic disruption and unemployment to changes in coal use by the fuel burning stationary source resulting from the intent to comply with the requirements of a state implementation plan. Therefore, the coal curtailment data presented in Appendix A includes only changes in high sulfur coal demand from the local or regional area resulting directly from a utility's intent to comply with Ohio's sulfur dioxide emission limitations as they are proposed or promulgated at present.

In addition, changes in coal demand resulting from agreement reached during EPA's negotiations with certain Ohio utilities during the comment period of the proposed determination are included in this analysis.

The coal curtailment data also includes the coal market effects projected to result from EPA's proposed revision to the sulfur dioxide emission limitations for Cleveland Electric Illuminating Co.'s (CEI) Avon Lake and Eastlake power plants in Ohio 44 FR 33711 (June 12, 1979). That Plan revision will be completed based on the public record established in that rulemaking. If the CEI rulemaking is changed significantly at promulgation, this proposed determination under subsection 125(a) could be affected. Nevertheless, EPA is proceeding at this time because to await the completion of the CEI rulemaking could continue unnecessarily the arguable uncertainly associated with the pending action under Section 125. A final determination consistent with today's proposal would terminate the Section 125 proceedings in Ohio, release Ohio utilities from any potential responsibility under

subsections 125 (b) and (c) of the Act, and permit them to arrange for coal supplies sufficient to achieve timely compliance with the applicable sulfur dioxide emission limitations.

Shifts in demand for high sulfur coal which were attributable to causes other than compliance with the sulfur dioxide emission limitations were not counted. These other causes included coal switches due to the unsuitability of Ohio coals for combustion at specific boilers independent of sulfur content; changes in projected plant capacity; the unusual nature of coal purchases during the base year (1977) related to strikes and weather; and the level of preparation of the coal. Also, coal curtailments resulting from changes effected prior to the July 13, 1978 Notice of Proceedings are not included in the curtailment date serving as a basis for this reproposed determination.

As presented in Appendix A, the projected loss in Ohio coal production resulting from the shift to compliance coal by certain major Ohio power plants is 3.06 million tons per year. This loss in production would result directly from switches to low sulfur coal supplies by the Ohio power plants as a result of their attempts to comply with the Ohio sulfur dioxide regulations. The replacement coal would be Central Appalachian coal predominately from eastern Kentucky and central and southern West Virginia. This coal curtailment represents a 6.5% drop in production in Ohio's coal mining industry where 1977 coal production amounted to 46.9 million tons per year. Total losses in all areas currently serving Ohio utilities including Ohio, Pennsylvania and northern West Virginia would amount to 3.57 million tons per year. Therefore, the curtailment would result in a net 1.4% drop in production in all these areas.

Projected Employment Impacts

For purposes of this proposed determination, the Ohio coal curtailment estimate of 3.06 million tons per year was used as the principal basis for the economic and unemployment impact analysis. As indicated in Appendix B, EPA estimates that this projected curtailment in Ohio coal production due to certain major Ohio power plants switching to low sulfur coal in order to attain compliance with the Ohio sulfur dioxide regulations by the end of 1979 will result in the estimated loss of 910 mining jobs in Ohio's southeastern coal producing counties. This represents approximately 6% of Ohio's total coal miner work force of 15,200 active miners in 1977.

The miner job displacement data were estimated to the extent possible by tracing supplies of Ohio coal expected to be terminated by Ohio utilities to individual mines producing that coal. The job loss estimates are to a large extent associated with coal mine production serving principally a spot purchase market which is normally a relatively insecure element of the coal production economy.

EPA's December 28, 1978 proposal projected severe coal mining unemployment impacts in Ohio counties projected to be most affected by the fuel switching. In five contiguous southeastern Ohio counties, mine employment was estimated to decrease by 41.7% in the Belmont/Monroe county area to 63.3% in Tuscarawas county (43 FR 60652, Appendix D). Considering the net mining employment change attributable only to compliance by Ohio utilities with sulfur dioxide emission limitations, EPA now projects the county mining employment decreases would range from 2.9% for the Belmont/Monroe county area to 14.5% for Harrison county (Appendix C). Other estimated changes in county mining employment include projected losses of 9.6% for Perry county, 5.8% for Muskingum county and 4.1% for the Meigs/Vinton county area. It should be noted that since the employment effects are associated with production losses of mine facilities serving the spot purchase market, the individual county impacts represent best estimates. Another factor affecting the accuracy of these estimates is the low level of job displacement and the uncertainty associated with estimating a coal producer's ability to find alternative markets for displaced coal. State-wide, however, the coal mine employment is projected to decrease by approximately 6% in the period 1977 to 1980. Appendix C presents EPA's best estimates of projected 1980 county by county coal production curtailment and associated unemployment impacts.

As a result of the estimated Ohio mining job loss figures, jobs in other employment sectors would also be affected due to a "ripple effect" (Appendix B). Projected losses in mine supply industries corresponding to the unemployment of 910 miners would be expected to range from 550 to 610. Projected losses in industries dependent on household spending, e.g. household services, rentals, wholesale and retail sales, production, etc. are estimated to range from 820 to 1120. The total employment attributable to the projected Ohio power plant SO_2 compliance coal switch, therefore, would amount to 2280–2640 jobs (Appendix B). This figure represents less than 0.05% of the State's total labor force of 4,993,000 persons (Appendix D).

Projected Local and Regional Economic Impact

The projected economic impacts are summarized in Appendix B. The loss of 910 mining jobs would result in a direct wage loss of $16 million annually for miners alone. This is based on the 1977 average income of $17,000 for coal miners. EPA estimates that a total of $35–38 million in annual household income would be lost to the state, in comparison with 1977 levels, when the ripple effects throughout all industries are included.

Unemployment benefits, payable for a maximum of 26 weeks under Ohio's unemployment compensation laws, would be available to many of those unemployed. Assuming that those who are unemployed apply for an receive the benefits for the maximum period, the State benefit payments would total between $6 and $7 million. This would represent less than 2% of the State's unemployment benefit payments in 1977.

In total, the loss of 3.06 million tons of coal annually and the resultant unemployment of 910 miners would contribute to a loss of $70–77 million in annual gross state product. This decline in business activity represents less then 0.1% of Ohio's 1977 gross state product.

Conclusion and Action

On the basis of the findings presented here, EPA proposes to determine pursuant to subsection 125(a) of the Clean Air Act, 42 U.S.C. 7425(a), that projected local and regional economic and unemployment impacts that would occur if certain Ohio utilities proceed with plans to switch from high sulfur coal to low sulfur coal to comply with sulfur dioxide emission limitations are not sufficiently significant to necessitate action under subsections 125 (b) and (c), 42 U.S.C. 7425 (b) and (c).

This proposed determination, if finalized, would terminate section 125 proceedings in Ohio announced by EPA on July 13, 1978 (43 FR 30113) and would permit Ohio utilities to proceed with their plans to comply with the sulfur dioxide emission limitations of the Ohio State Implementation Plan by the final compliance dates specified.

It should be noted that the pendency of the Ohio section 125 proceedings does not remove the obligation of the Ohio utilities to achieve compliance with sulfur dioxide emission limitations by the applicable final compliance date specified in the SIP. For most powerplants choosing low sulfur coal as a means of compliance, that date is October 19, 1979.

Authority: Section 125 of the Clean Air Act as amended August 7, 1977, 42 U.S.C. 7425.

Issued in Washington, D.C. on August 30, 1979.

Douglas M. Costle,
Administrator.

Appendix A.—*Potential Reduction of Coal Usage in Six Coal Producing Areas Due to Fuel Switching by Certain Ohio Utilities*

Coal-producing area	1977 coal production (millions of tons) [1]	Potential 1980 coal reduction (millions of tons) [2]	Percent change
Ohio	46.9	3.06	6.5
Indiana	26.0	0.00	0.0
Pennsylvania	83.2	0.24	0.2
Western Kentucky	50.8	0.00	0.0
Northern West Virginia	41.0	0.27	0.7
Maryland	3.3	0.00	0.0
Total	253.2	3.57	1.4

[1] Coal Production data obtained from Department of Energy, Energy Data Reports, Weekly Coal Data Report No. 33, May 19, 1978.

[2] Coal curtailment data obtained from Ohio utilities through public hearing testimony, responses to letters of inquiry sent under section 114 of the Clean Air Act, Ohio implementation plan submissions, and other data submitted to EPA. Assumptions of the analysis are described in the text.

Appendix B.—*Projected State-Wide Employment and Economic Impacts of Fuel Switching by Certain Ohio Power Plants Due to Compliance with the Ohio SO_2 Plan*

Number of Coal Mining Jobs (1977) [1]	15,200
Ohio Coal Mining Jobs Lost by 1980 Due to the Ohio SO_2 Plan [2]	910
Percent of Total	6.0
Associated Job Losses in Coal Mine Supply Industries [3]	550–610
Jobs Lost in Industries Related to Household Spending (Household Services, Rentals, Wholesale and Retail Sales, Production, Etc.) [3]	820–1120
Total Job Losses	2,280–2,640
Total Annual Wages Lost (million) [4]	$35–$38
Total Unemployment Benefit Payments (million) [4]	$6–$7
Total Annual Loss in Gross State Product (million) [3]	$70–$77

[1] Ohio coal mine employment data were obtained from the Ohio Department of Industrial Relations, Division of Mines Annual Report, 1977.

[2] This figure is based on the loss of 3.06 million tons of annual production as indicated in Appendix B. The projected coal mine unemployment data were developed by tracing individual utility coal curtailments to expected employment losses at supplying mines from information provided by the Ohio utilities and Ohio coal mine operators. Where this was not possible, employment impacts were estimated by analysis of coal mine employment and production data found in the 1977 Division of Mines Annual Report.

[3] Job losses in the non-mining sector and impacts on the Ohio gross annual product were estimated by using Department of Commerce RIMS and Department of Agriculture RIOMS economic models.

[4] Wage loss and unemployment benefit data were obtained from the Ohio Bureau of Employment Services.

Appendix C.—*Projected Coal Curtailment and Coal Mining Unemployment Impacts in Selected Ohio Counties Due to Fuel Switching by Ohio Power Plants as a Result of the Ohio SO_2 Plan* [1]

County	1980 curtailment (millions of tons)	Percent decrease from 1977 production	1980 coal mining jobs lost	Percent reduction in 1977 county coal mining employment
Harrison	0.95	15.9	350	14.5
Belmont/Monroe	0.53	4.8	180	2.9
Meigs/Vinton	0.20	5.1	90	4.1
Muskingum	0.36	6.2	80	5.8
Perry	0.15	6.5	70	9.6
Remaining Ohio Coal Producing Counties	0.87	5.6	160	5.5
Total	3.06	6.5	910	6.0

[1] Because of the low levels of jobs displacement and the uncertainty associated with estimating a coal producer's ability to find alternative markets for displaced coal, these figures represent best approximations of the county by county coal curtailment and unemployment data. These data are included as estimates of the "local" unemployment impacts of the coal curtailments.

Appendix D.—*Projected State-Wide Coal Curtailment and Unemployment Impacts of Fuel Switching by Ohio Power Plants*

Total Ohio Labor Force [1]	4,993,000
Percent Present Ohio Unemployment Rate [1]	4.9
Coal Curtailment Due to Fuel Switching for Compliance Purposes (million tons)	3.06
Coal Mining Jobs Lost by 1980	910
Total Jobs Lost by 1980 [2]	2,280–2,640
Percent Total Ohio Labor Force Affected	0.05

[1] U.S. Department of Labor, May 1979 data.

[2] Estimated using input/output employment multipliers. Range reflects uncertainty on the extent of reduced household spending of unemployed miners.

[FR Doc. 79-27814 Filed 9-5-79; 8:45 am]

BILLING CODE 6560-01-M

EXECUTIVE OFFICE OF THE PRESIDENT

Advisory Committee on Information Network Structure and Functions; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Administration announces the following meeting:

Name: Advisory Committee on Information Network Structure and Functions.

Date: Thursday, September 20, 1979.

Time: 9 a.m. to 3:30 p.m.

Place: Room 3104 New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C.

Type of Meeting: Open, subject to space limitations. Those wishing to attend must call the contact person below at least 48 hours in advance of the meeting.

Contact Person: Frank Brignoli, Advisory Committee Executive Secretary, Office of Administration, Executive Office of the President, Washington, D.C. 20500; Telephone 202–395–4784.

Purpose of Advisory Committee: The Committee will advise the Director, Office of Administration (OA), on matters pertinent to OA's plans for the establishment of a communications network to serve the Executive Office of the President (EOP). The Committee will outline a structural and functional plan for the EOP network. This plan will be developed on the basis of current and expected technological developments and will strive for immediate implementation and a minimum useful life of ten years. The plan will address such issues as network hardware and protocol structure, expected structure of servers, gateways and other connections to the network, expected feasible functions, and privacy and authentication mechanisms.

A final report containing the plan is contemplated, and it should provide answers to three questions:

1. What kind of network should the EOP have?

2. What is it likely to cost?

3. How long is it likely to take to implement?

Agenda: 9–9:40 am—Two presentations: Phil Dame, OMB, "Implications of OMB Circular 79–10"; Bob Brown, OMB, "Implications of P.L. 95–220 (20 mins. ea.); 9:40 am-12:00—Discussion of issues relating to EOP communications requirements including: network definition, applicable standards, and identification of appropriate network technologies; 12:00-1:30 pm—luncheon break; 1:30 pm-3:30 pm—committee discussion.

William Pollak,
General Counsel.

[FR Doc. 79-27793 Filed 9-5-79; 8:45 am]

BILLING CODE 3115-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-29]

Angel Alfredo Romero—Independent Ocean Freight Forwarder Application and Foreign Freight Forwarders, Inc., Possible Violations; Amended Order of Investigation

On April 3, 1979, the Commission instituted this proceeding to determine whether Angel Alfredo Romero, an applicant for an independent ocean freight forwarder license, and/or Foreign Freight Forwarders, Inc., have engaged in activities which violate the Shipping Act, 1916, and whether, in light of the evidence regarding such violations, together with other evidence relevant to freight forwarder

applications, applicant should be granted a license.[1]

On July 3, 1979, Administrative Law Judge John E. Cograve stayed the proceeding to permit applicant to negotiate a settlement of the alleged Shipping Act violations.[2]

Section 32 of the Shipping Act (46 U.S.C. 831), as recently amended by Pub. L. 96–25, 93 Stat. 73, provides in part:

> (e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act * * *.

This amendment authorizes the Commission to *assess* or compromise all civil penalties arising under the provisions of the Shipping Act, 1916. In implementation of that authority, the Commission, on July 5, 1979, issued interim rules (Docket No. 79–66, 44 FR 39176) prescribing procedures governing the assessment, settlement and collection of civil penalties. Section 505.3 of the interim rules provides that:

> Assessment of civil penalties may be made only in a formal proceeding instituted by the Commission under section 22 of the Shipping Act, 1916 * * *.

Because the Bureau of Hearing Counsel has been a party to this proceeding from its inception and the proceeding is in a posture that allows for immediate consideration of civil penalties, the disposition of civil penalties can most appropriately be handled in that forum. Therefore, rather than refer the matter to the Office of General Counsel for settlement, the Commission is directing that such matters be handled within this proceeding. Accordingly, the Commission's April 3 Order of Investigation will be amended to allow the assessment of civil penalties for the conduct at issue in this proceeding and to authorize, but not require, the Commission's Bureau of Hearing Counsel to negotiate a recommended settlement of civil penalties consistent with the policies and procedures established in the interim rules.[3] The Administrative Law Judge will preside over the proceedings and render a decision on the issue of assessment or settlement of civil penalties subject to the Commission's review.

Experience has shown that settlement negotiations between parties are often unduly time consuming. In order to assure an expeditious conclusion of this proceeding, the Commission will impose a requirement that settlement negotiations be concluded 90 days from the date of this Order.

Therefore, it is ordered, That the second ordering paragraph of the Commission's April 3, 1979 Order of Investigation is amended by the addition of a fourth issue to read as follows:

(4) Whether civil penalties should be assessed against Angel Alfredo Romero and/or Foreign Freight Forwarders, Inc., pursuant to 46 U.S.C. 831(e), for violations of Shipping Act, 1916, and if so, the amount of such penalties, and,

It is further ordered, That the Commission's April 3, 1979 Order of Investigation is amended by the addition of further ordering paragraphs which read as follows:

(1) The Administrative Law Judge shall preside over the taking of evidence, review of any recommended settlement, and render an Initial Decision thereon in accordance with established procedures, including the interim regulations in Docket No. 79–66; and

(2) Settlement negotiations, if any, between the parties to this proceeding, shall be concluded on or before the close of business November 26, 1979.

By the Commission

Francis C. Hurney,

Secretary.

[FR Doc. 79-27750 Filed 9-5-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79–30; Independent Ocean Freight Forwarder License No. F.M.C. 1728]

I.M.S., Inc.; Amended Order of Investigation and Hearing

On April 6, 1979, the Commission instituted this proceeding to determine whether I.M.S., Inc., a licensed independent ocean freight forwarder (F.M.C. No. 1728), has engaged in activities which violate the Shipping Act, 1916, and whether such activities require a suspension or revocation of its license.

On May 17, 1979, I.M.S. voluntarily surrendered its license for revocation.[1] On June 11, 1979, I.M.S. requested permission to negotiate a settlement of civil penalty claims arising from the activities at issue in this proceeding, pursuant to the Commission's procedures set forth in 46 CFR 505.5(c).[2] This request is now before the Commission for determination.

Section 32 of the Shipping Act (46 U.S.C. 831), as recently amended by Pub. L. 96–25, 93 Stat. 73, provides, in part:

> (e) Notwithstanding any other provision of law, the Commission shall have authority to assess or compromise all civil penalties provided in this Act * * *.

This amendment authorizes the Commission to *assess* or compromise all penalties arising under the provisions of the Shipping Act, 1916. In implementation of that authority, the Commission, on July 5, 1979, issued interim rules (Docket No. 79–66, 44 FR 39176), prescribing procedures governing the assessment, settlement and collection of civil penalties. Section 505.3 of the interim rules provides that:

> Assessment of civil penalties may be made only in a formal proceeding instituted by the Commission under section 22 of the Shipping Act, 1916 * * *.

The Bureau of Hearing Counsel discharges a prosecutorial function under the interim rules with authority to enter into stipulations and settlements with respondents.

Because the Bureau of Hearing Counsel has been a party to this proceeding from its inception and the proceeding is in a posture that allows for immediate consideration of civil penalties, the disposition of civil penalties can most appropriately be handled in that forum. Therefore, rather than refer the matter of penalties to the Office of General Counsel for settlement, the Commission is directing that such matters be handled within this proceeding. Accordingly, the Commission's April 6 Order of Investigation and Hearing will be amended to allow the assessment of civil penalties for the conduct at issue in this proceeding and to authorize, but not require, the Commission's Bureau of Hearing Counsel to negotiate a recommended settlement of civil penalties consistent with the policies and procedures established in the interim rules.[3] The Administrative Law Judge will preside over the proceedings and render a decision on the issue of assessment or settlement of civil penalties subject to the Commission's review.

Experience has shown that settlement negotiations between parties are often unduly time consuming. In order to assure an expeditious conclusion of this proceeding, the Commission will impose a requirement that settlement negotiations be concluded 90 days from the date of this Order.

Therefore, it is ordered, That the first ordering paragraph of the Commission's April 6, 1979 Order of Investigation and Hearing is amended by the addition of a fifth issue to read as follows:

(5) Whether civil penalties should be assessed against I.M.S., Inc. and/or Peter Kirn, President of I.M.S., Inc., pursuant to 46 U.S.C. 831(e), for violations of Shipping Act, 1916, and if so, the amount of such penalties; and

It is further ordered, That the Commission's April 6, 1979 Order of Investigation and Hearing is amended by the addition of further ordering paragraphs which read as follows:

(1) The Administrative Law Judge shall preside over the taking of evidence, review of any recommended settlement, and render in Initial Decision thereon in accordance with established procedures, including the interim regulations in Docket No. 79–66; and

(2) Settlement negotiations, if any, between the parties to this proceeding, shall be concluded on or before the close of business November 26, 1979.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-27751 Filed 9-5-79; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10320–1]

Intent To Impose Conditions

An agreement, between Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional and Delta Steamship Lines, Inc., as the national-flag lines, and Emhpresa Lineas Maritimas Argentinas S.A. (ELMA), A. Bottacchi S.A. de Navegacion C.F.I.I. (Bottacchi), Montemar S.A. Commercial y Maritima (Montemar), and Nopal Atlantic Lines, Ltd. (Nopal), as the non-national flag lines, has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, and has been assigned Federal Maritime Commission Number 10320–1.

Agreement No. 10320 replaced No. 10029 [1] which was a similar agreement in the same trade between the national-flag lines and three non-national flag lines: ELMA, Montemar and Nopal. The reason that Agreement No. 10320 does not have these non-national flag lines as participants as in Agreement No. 10029 is that, at the time of the filing of Agreement No. 10320, the non-national flag lines had not agreed among themselves as to their individual shares of the 20 percent quota allotted to them. On January 30, 1978, the three non-national flag lines filed a separate agreement, assigned FMC No. 10321, in which they agreed to specific percentages of the twenty percent quota. However, this agreement was withdrawn by the parties in favor of Agreement No. 10320–1.

Agreement No. 10320–1 provides for the participation of the non-national flag lines in the pool pursuant to the terms of Article 2(d) of the basic Agreement. [2]

The amendment makes the appropriate changes to include the non-national flag lines' individual shares in the revenue pools. These being as follows:

1978, 1979, 1980
ELMA/Bottacchi, 6.93% 7.29%, 7.88%.
Montemar, 0.99%, 1.11%, 1.12%.
Nopal, 12.08%, 11.60%, 11.00%.

The percentages under Agreement No. 10029 were as follows:
ELMA, 6.1%.
Montemar, 0.8%.
Nopal, 13.1%.

The shares of the non-national flag lines specified in Agreement No. 10320–1 include, pro rata, shares of 1.8 percent in 1978, 1.9 percent in 1979, and 2.0 percent in 1980 for the participation of Mexican-flag lines in the pool agreement, when the Mexican-flag lines agree to accept those shares.

Notice of the filing of the Agreement appeared in the **Federal Register** on April 3, 1978. In response, protests were received from Navimex S.A. de C.V. (Navimex) and Transportacion Maritima Mexicana S.A. (TMM), both Mexican-flag lines. TMM argues that the agreement is unjustly discriminatory as to it in failing to provide it a share adequate to maintain a viable service in the trade. Both argue that the agreement is detrimental to U.S. commerce and contrary to the public interest. Navimex argues that it is being unlawfully excluded from the agreement because of TMM's non-participation in the trade and that this is unlawfully discriminatory. Navimex argues that, unless it is made a party to the agreement, the agreement should be disapproved.

The Commission is considered whether to approve, disapprove or modify the agreement.

In Docket No. 78–51 *Agreement No. 10349—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Atlantic Trade* and Docket No. 78–52, *Agreement No. 10346—A Cargo Revenue Pooling and Sailing Agreement—Argentina/United States Gulf Trade,* the Commission was faced with a situation substantially similar to that presented by Agreement No. 10320–1. In its Report and Order, served June 22, 1979, the Commission approved those agreements subject to their being modified to provide for open competition between the non-national flag lines for their (non-national flag) share of the pool.[3]

The Commission hereby gives notice of its intent to impose conditions similar to those in Dockets Nos. 78–51 and 78–52 if the agreement is otherwise approvable. The Commission wishes by this notice to obtain the comments of the parties to Agreement No. 10320–1 and of other interested persons.

It is therefore ordered, That comments responsive to this notice be filed with the Commission on or before September 28, 1979;

It is further ordered, That this notice be published in the **Federal Register,** and served upon Proponent Parties and Protestants.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-27749 Filed 9-5-79; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (75 Stat. 522 and 46 U.S.C. 841b).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Noemi Caraballo, 511 N.W., 59th Court, Miami, FL 33126.

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[1] The applicant has expressed a desire to withdraw his application and negotiate a settlement of civil penalties.

[2] The procedures for the settlement of civil penalties at the time of Judge Cograve's July 3rd Stay, are contained in the Commission's regulations set forth in 46 CFR 505.5(c). Section 505.5(c) allows a respondent, at any stage of a proceeding, to request permission to negotiate the settlement of civil penalties with the Commission's Office of General Counsel. This request is now before the Commission for determination.

[3] Whether the Applicant possesses the requisite fitness to be granted an independent ocean freight forwarder license is a separate issue, not subject to compromise or settlement.

[1] See Exhibit No. 1 of the prehearing conference, held May 31, 1979, in connection with this proceeding.

[2] Section 505.5(c) allows a respondent, at any stage of a proceeding, to request permission to negotiate the settlement of civil penalties with the Commission's Office of General Counsel.

[3] Whether the licensee possesses the requisite fitness to retain its license is a separate issue, not subject to compromise or settlement.

[1] Agreement No. 10029 was originally approved on January 30, 1973, for 5 years. It expired on March 31, 1978, after a brief extension to that date.

[2] This article provides that when the non-national flag lines have agreed to a division among themselves of the twenty percent quota they may become a party to the basic agreement upon approval of an appropriate amendment thereto.

[3] See also Order served August 28, 1979 in Dockets Nos. 78–51 and 78–52.

Taub, Hummel & Schnall (California) Inc., 9610 South La Cienega Blvd., Bldg. D, North Inglewood, CA 90301. Officers: Roland R. Hummel, President, Morton L. Shapiro, Vice President, Robert N. Altman, Secretary/Treasurer.
Cowan-McLean International Inc., 840 Oldham Street, Baltimore, MD 21224. Officers: Joseph W. Cowan, Vice President/Director, Michael E. McLean, President/Director.
Oswald A. Falabella, 701 Garibaldi Avenue, Roseto, PA 18013.
Gate-Way Inter., Inc., 9821 Clinton Drive, Houston, TX 77029. Officers: George E. Sims, President, B. W. Beard, Secretary, C. L. Beard, Vice President.
Ace Shipping Corp. (Air Cargo Expenditers, Inc., d.b.a.), 1584 Rollins Drive, Burlingame, CA 94010. Officers: Howard Cheung, President, Rosemarie Cheung, Secretary/Treasurer, Wm. F. Worthington, Director.
By the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

Dated: August 30, 1979.

[FR Doc. 79-27752 Filed 9-5-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Preemptive Effect of Magnuson-Moss Act on State Law

AGENCY: Federal Trade Commission.

ACTION: Request for written comments on Commission's interpretations of section 111 of the Act; response to petitions.

SUMMARY: The Commission has received several petitions from members of the mobile home and recreational vehicle industry requesting consideration of its current interpretation of section 111 of the Warranty Act. In response to these petitions the Commission is requesting written comments on the interpretation of section 111 and the effect of the Warranty Act on State law.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, (202) 523-3500, or Rachel Miller, Attorney, (202) 523-0425, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

DATES: Written comments must be received by November 5, 1979.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on its recent opinion interpreting the preemptive effect of section 111 of the Magnuson-Moss Warranty Act on Wisconsin's mobile home warranty laws and regulations (the "Wisconsin Opinion", 43 FR 50737, October 31, 1978), and generally on the interpretation of section 111.

Section 111 describes what State requirements are rendered inapplicable ("preempted") to warrants complying with the Federal act. The section provides that State labeling and disclosure requirements which are within the scope of the requirements of the Warranty Act, sections 102, 103, or 104 or rules thereunder, and which are not identical to those requirements, are inapplicable to warranties which meet the Federal requirements. The Act further provides in section 111(c)(2) for a procedure whereby States may preserve such requirements.

The Commission first interpreted the section following a proceeding concerning California's warranty laws (published at 42 FR 54004, October 4, 1977). Briefly, the Commission's interpretation stated that:

- Section 111(b)(1) preserves all consumer rights or remedies created under State or other Federal laws. (Section 111(b)(2) contains provisions relating to consequential damages and personal injury that did not come into play.)
- Section 111(c)(1), which states what State law provisions are preempted, applies only to provisions involving disclosure or labeling; State-created consumer rights and remedies are not affected at all by section 111(c).
- The phrase "right or remedy" does not include any "right" to disclosure in a particular manner.
- Any State provision requiring disclosure in a written warranty document is within the scope of section 102 of the Act and rules under it, and thus subject to preemption by the Federal law.

On October 31, 1978, the Commission published a further interpretation of section 111, with reference to Wisconsin's mobile home warranty law (43 FR 50737). In the Wisconsin opinion, the Commission restated, in general terms, its interpretation of the scope and effect of the preemption section of the Warranty Act as expressed in the earlier California determination. In addition, the Commission examined in detail and interpreted the meaning of the language in section 111(c)(1)(C) which preempts only State laws "not identical" to Federal requirements. The Commission interpreted "identical to" to mean "having the same effect as" or "requiring the same disclosure as." The Commission stated that "it is not essential that the State provision (to be identical to a Federal provision) contain the same words as the Federal provision or incorporate the Federal provision by reference, if the item of information required to be disclosed in a written warranty would also be disclosed under a Federal disclosure provision."

The interpretation also stated that where by law a State determines a warrantor's responsibilities under a warranty and those responsibilities are among those described in the Federal disclosure regulation, they must be disclosed under Federal law. A State provision requiring disclosure of those responsibilities is "identical" to Federal law for purposes of section 111(c)(1) and not preempted.

Several members and associations of the mobile home and recreational vehicle industries have petitioned the Commission to retract and reconsider its Wisconsin opinion. In addition, petitioners requested a public comment period prior to the Commission's reconsideration of the matter. Petitioners have raised a number of issues that deserve further consideration with an opportunity for public comment. The Commission has therefore determined to solicit written comments on the Wisconsin interpretation and the following issues. Detailed discussions, cost estimates and analyses of benefits are necessary for a useful response.

(1) What state provisions currently exist (in states other than California and Wisconsin), or are under contemplation, that are preempted by section 111 under the current interpretation? What provisions are not preempted?

(2) Is it possible for a warrantor to comply with all applicable federal and state written warranty disclosure requirements under the current interpretation of section 111? If not, what are the conflicting requirements?

(3) Is it possible for a warrantor to comply with all applicable requirements using a single warranty document? If so, what are the costs and burdens of offering a single document meeting all applicable requirements? If not, what are the requirements that prevent this? What are the costs and burdens of using more than one warranty document?

(4) Do any state provisions discourage the use of full warranties? If so, which provisions, and in what way do they do so?

(5) Please discuss the practical effects of preempting or not preempting any other state disclosure provision.

(6) What would be the results of the following interpretations which relate to issues raised by the petition? What would be the results of differing interpretations?

(a) That section 111 preempts state provisions that mandate the use of specific words not required by federal law.

(b) That by virtue of section 111 a warrantor who gives a full warranty is not subject to any additional state warranty requirements.

(c) That section 111 preempts all state disclosure requirements of state-mandated terms, even those terms which would have to be disclosed under federal regulations if voluntarily offered.

(d) That the federal disclosure rule requires disclosure of rights created by the state, even if state law does not require their disclosure?

All interested persons are invited to submit written comments on these matters. Please send two copies, if possible, labeled "State Warranty Law Comments" for identification to the above address.

Copies of the Wisconsin opinion, the California interpretation, the papers received from the petitioners and all comments received will be placed on the public record. You my examine them in Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. If you wish copies for your own use, make arrangements with Delores Johnson, Division of Product Reliability, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3657.

By direction of the Commission, dated August 29, 1979.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-27784 Filed 9-5-79; 8:45 am]
BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 30, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before September 24, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of revisions to 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations, specifically the recordkeeping requirements in §§ 34.11, 34.28, 34.29 and 34.31. Amended § 34.11 requires licensees to maintain records of the inspections or audits they conduct quarterly to monitor the performance of their radiographers. The NRC estimates there are 3,000 radiographers. Amended § 34.28 requires that licensees maintain records showing that they have performed a quarterly inspection and maintenance of their radiography exposure devices. New § 34.29 requires that licensees maintain records of quarterly tests on alarm interlock systems at permanent radiographic installations. Amended § 34.31 requires licensees to maintain records of the training of radiographers and radiographers' assistants. The NRC estimates that respondents will be 300 licensees and that burden will average 30 minutes quarterly per radiographer reported on for § 34.11; 5 minutes quarterly for each device monitored for § 34.28; 5 minutes quarterly per installation for § 34.29; and 5 minutes annually for each radiographer or radiographer assistant records are kept on for § 34.31.

The NRC requests clearance of a new, single-time questionnaire designed to gather information from certain NRC and Agreement State licensees concerning economic activity in the industrial and consumer areas of the radionuclide industry. Due to growing public awareness of radionuclide economic activities and the extensive NRC interface with regulated economic activities, the NRC is often required to respond to inquiries from outside the agency and to prepare special analyses of regulatory actions. To obtain a data base sufficient to allow NRC to respond adequately to the growing need for better economic data, the NRC in 1977 sponsored two studies; one study examined the economic activity associated with the nuclear power industry and the other study examined the nuclear medicine portions of the radionuclide industry. This survey is the third part of the research effort and completes the assessment of the economic activity of the nuclear industry by addressing the industrial and consumer areas of the radionuclide industry. The NRC estimates respondents will number approximately 75 and that burden will average 1½ hours per respondent.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79-27789 Filed 9-5-79; 8:45 am]
BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[E-79-4]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Public Service Commission of Utah involving gas utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Public Service Commission of Utah involving the application of the Mountain Fuel Supply Company for an increase in its gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 23, 1979.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 79-27587 Filed 9-5-79; 8:45 am]
BILLING CODE 6820-AM-M

[E-79-5]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive

agencies of the Federal Government in proceedings before the Colorado Public Utilities Commission involving the application of the City of Colorado Springs, Department of Public Utilities for an increase in gas rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Colorado Public Utilities Commission involving the application of the City of Colorado Springs, Department of Public Utilities for an increase in its gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 23, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-27508 Filed 9-5-79; 8:45 am]

BILLING CODE 6820-AM-M

[E-79-6]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Texas Public Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Texas Public Utilities Commission involving the application of the Texas Electric Service Company for an increase in its electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 27, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-27509 Filed 9-5-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Committees Advisory to the National Cancer Institute; Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: President's Cancer Panel.
Dates: October 15, 1979; 2:00 p.m.-5:00 p.m.
Place: Building 31A, Conference Room 11A10, National Institutes of Health.
Times: Open for the Entire Meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and the National Cancer Program.
Executive Secretary: Dr. Richard A. Tjalma.
Address: Building 31, Room 11A46, National Institutes of Health.
Phone: 301/496-5854.

Name of Committee: Board of Scientific Counselors, Division of Cancer Treatment.
Dates: October 29-30, 1979; 8:30 a.m.-adjournment.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open for the Entire Meeting.
Agenda: To review program plans, contract recompetitions and budget.
Executive Secretary: Dr. Vincent T. DeVita.
Address: Building 31, Room 3A52, National Institutes of Health.
Phone: 301/496-4291.

Dated: August 24, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR DOC 79-27610 Filed 9-5-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on October 4, 1979, in Conference Room 7, Building 31, at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. to 5:00 p.m. on October 4, will be open to the public. The Committee will discuss the current status of Division programs and Committee plans for fiscal year 1980. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.838, National Institutes of Health)

Dated: August 24, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-27611 Filed 9-5-79; 8:45 am]

BILLING CODE 4110-08-M

Workshop of the Reproductive Biology Study Section and the Human Embryology and Development Study Section

Notice is hereby given of a Workshop on Immunological Aspects of Infertility and Fertility Regulation by the Reproductive Biology Study Section and the Human Embryology and Development Study Section at the Holiday Inn, St. Louis, MO, October 22, 1979, from 8:00 a.m. to adjournment and October 23, 1979, from 8:00 a.m. to 5:00 p.m.

Further information may be obtained from Dr. Dharam Dhindsa, Executive Secretary, Reproductive Biology Study Section, Westwood Building, Room 307, telephone 301-496-7318, and Dr. Arthur Hoversland, Executive Secretary, Human Embryology and Development Study Section, Westwood Building, Room 221, telephone 301-496-7597.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: August 24, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-27609 Filed 9-5-79; 8:45 am]

BILLING CODE 4110-08-M

Workshops Being Held: Pathobiological Chemistry Study Section and Pathology A Study Section

Notice is hereby given of Workshops to be held by the following Study Sections on the dates and places listed below:

Pathobiological Chemistry Study Section

Workshop on Complex Carbohydrates: Structure, Function and Biosynthesis. Conference Room 10, Building 31C, Bethesda, MD, October 2, 1979, from 8:30 a.m. to 5:00 p.m.

Further information may be obtained from Dr. Ellen Archer, Executive Secretary, Pathobiological Chemistry Study Section, Westwood Building, Room A-26, telephone 301-496-7820.

Pathology A Study Section

Workshop on Oxygen-Derived Free Radicals in Tissue Damage, Dulles Marriott, Chantilly, VA, October 22, 1979, from 8:00 a.m. to 5:30 p.m.

Further information may be obtained from Dr. Harold Waters, Executive Secretary, Pathology A Study Section, Westwood Building, Room 337, telephone 301-496-7305.

These workshops will be open to the public. Attendance by the public will be limited to space available.

Dated: August 24, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-27608 Filed 9-5-79; 8:45 am]

BILLING CODE 4110-08-M

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act (Pub. L. 92-463, Sec 10(a)(2).

DATE: September 20, 1979, 9:00 a.m. to 4:30 p.m.; September 21, 9:00 a.m. to 3:30 p.m.

ADDRESS: Stouffer's National Center Hotel, 2399 So. Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes: Orientation Activities for New Members. FY-79 Budget Report.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C., on August 31, 1979.

Gary A. Eyre,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-27746 Filed 9-5-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[Docket No. N-79-946]

Shenandoah New Community; Intent to Supplement Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Community Development Corporation, Washington, D.C., intends to issue a Supplement to the Final Environmental Impact Statement for the Shenandoah New Community which is located approximately 45 miles south of Atlanta, in Coweta County, Georgia.

The Supplement will evaluate the environmental impacts of a proposed change of the source of water for the Shenandoah new community project from the distant Flint River to Line Creek and White Oak Creek, as against certain other alternative sources, and related alteration and expansion of water storage, treatment, and distribution facilities of the Newnan Water, Sewerage and Light Commission necessary in connection with such proposed change.

The new community project was originally planned to consist of 7,200 acres, about 23,000 dwelling units, and about 69,000 population after 20 years. Current development consists of about 170 residential units on 150 acres, a community center and various recreation facilities. There are approximately 345 residents.

Copies of the Supplement will be available in the near future. The comment period for the Draft Supplement will be forty-five (45) calendar days after the date of publication of notice in the **Federal Register** that such Draft Supplement has been filed.

The final EIS for Shenandoah was issued on December 4, 1972. Copies are available for review at the New Community Development Corporation, HUD, in Washington, D.C., and in Shenandoah at the Office of the Developer.

Comments concerning this Notice are invited from all affected and interested parties and should be received in writing as soon as possible, but no later than September 17, 1979.

Comments should be submitted to Mr. Edwin Baker, Environmental Control Officer, Department of Housing and Urban Development, New Community Development Corporation, Room 7137, 451 Seventh Street, S.W., Washington, D.C. 20410.

This Notice supersedes our rior Notice of Intent To Issue a Supplemental Environmental Impact Statement, which is hereby canceled.

Telephone inquiries about this Notice may be directed to Raymond G. Hay, Environmental Clearance Officer (alternate), (202) 755–5510.

Issued at Washington, D.C., August 30, 1979.

Bryant L. Young,

Deputy General Manager, New Community Development Corporation.

[FR Doc. 79–27787 Filed 9–5–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Aravaipa Canyon Wilderness Study; Public Hearings

Notice is hereby given of formal public hearings pursuant to Section 603(a) of Federal Land Policy and Management Act of 1976 (Pub. L. 94–579) for the purpose of receiving comments on the Aravaipa Canyon Wilderness Suitability Report and Environmental Statement.

Three separate hearings will be held; all will begin at 7:30 p.m. at the following locations:

November 5, 1979—Superior Court Room, Graham County Courthouse, Safford, Arizona.

November 6, 1979—Pima County Board of Supervisors Hearing Room, 111 West Congress, Tucson, Arizona.

November 7, 1979—Phoenix Civic Plaza, 225 East Adams, Phoenix, Arizona.

Official transcripts will be made by a court reporter at all hearings. Persons wishing to speak will be allowed 10 minutes to present their comments. Prepared written statements will also be accepted.

Additional information may be obtained from the Bureau of Land Management Safford District Office, 425 East 4th Street, Safford, Arizona 85546. Phone (602) 428–4040.

Robert O. Buffington,

State Director, Arizona.

[FR Doc. 79–27600 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

[N–24960]

Nevada; Application

August 27, 1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Southwest Gas Corporation filed an application for a right-of-way to construct a 12¾ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Mount Diablo Meridian, Nevada

T. 20 N., R. 20 E.,
sec. 28, SE¼NE¼, S½NW¼, NE¼SE¼;
sec. 29, S½N½;
sec. 30, NW¼SW¼.

The proposed pipeline will reinforce and supplement natural gas service for northern Nevada.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the Chief, Division of Technical Services, Bureau of Land Management, 300 Booth Street, Room 3008, Federal Building, Reno, NV, 89509.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 79–27601 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38132]

New Mexico; Application

August 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano Inc. has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 19 S., R. 33 E.,
sec. 24, E½NE¼, SW¼NE¼, SE¼SW¼ and W½SE¼.
T. 19 S., R. 34 E.,
sec. 18, lots 3, 4, W½NE¼, SE¼NW¼ and NE¼SW¼;
sec. 19, lot 1.

This pipeline will convey natural gas across 2.186 miles of public lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Paul E. Martinez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–27602 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38003, 38004, 38005, 38006, 38007, 38008, 38009 and 38010]

New Mexico; Applications

August 24, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 6 W.,
sec. 20, W½SW¼.
T. 29 N., R. 8 W.,
sec. 15, SW¼SE¼;
sec. 17, NE¼NE¼;
sec. 22, NW¼NE¼.
T. 29 N., R. 9 W.,
sec. 26, lots 10 and 15;
sec. 34, SW¼SE¼.
T. 31 N., R. 9 W.,
sec. 17, lot 8;
sec. 33, lot 4;
sec. 34, lots 11 and 12.

These pipelines will convey natural gas across 1.199 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Paul E. Martinez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–27603 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38126]

New Mexico; Application

August 24, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 26 E.,
sec. 20, W½NW¼ and SE¼NW¼.

This pipeline will convey natural gas across 0.852 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Paul E. Martinez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–27604 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

[C–12610]

Colorado; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

August 28, 1979.

The U.S. Fish and Wildlife Service filed application Serial No. C–12610 on March 23, 1971, for a withdrawal relating to the following described lands:

Sixth Principal Meridian

T. 7 N., R. 79 W.,
Sec. 4, Lot 4, SE¼NW¼, and W½SW¼;
Sec. 6, Lot 1, SE¼NE¼, and E½SE¼;
Sec. 7, E½ and E½W½;
Sec. 9, SE¼NW¼, and SW¼SE¼;
Sec. 14, SW¼SW¼;
Sec. 15, SW¼NE¼;
Sec. 17, SW¼NW¼, and NE¼SW¼.
T. 8 N., R. 79 W.,
Sec. 3, SW¼SW¼;
Sec. 4, SW¼NE¼, and N½SE¼
Sec. 5, Lot 4;
Sec. 6, Lot 7;
Sec. 7, SW¼NE¼, SE¼NW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 8, E½NW¼, and S½;
Sec. 9, S½;
Sec. 17, All;
Sec. 18, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 19, lots 2, 3, and 4, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 20, N½NE¼, SW¼NE¼, and NW¼;
Sec. 21, W½SE¼;
Sec. 28, W½NE¼;
Sec. 30, Part E½E½ east of Highway 125;
Sec. 31, Part E½NE¼ east of Highway 125, and E½SE¼;
Sec. 33, W½W½.
T. 8 N., R. 80 W.,
Sec. 11, NE¼NE¼, SW¼NE¼, N½SW¼, and SW¼SW¼;

Sec. 12, NE¼, N½NW¼;
Sec. 15, N½NE¼, and E½NW¼.
T. 9 N., R. 79 W.,
Sec. 32, W½E½ and E½E½SW¼;
Sec. 33, SW¼SW¼.

The area described aggregates 5,372.98 acres.

A notice of the proposed withdrawal was published in the **Federal Register** on April 1, 1971, at page 6019, FR Doc. 71–4462.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, CO., on or before October 9, 1979.

Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before October 9, 1979.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–27763 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–84–M

Montana; Request for Public Comment

August 28, 1979.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Bldg., 222 North 32nd St., P.O. Box 30157, Billings, Montana 59107. The Bureau of Land Management requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale.

M 37604—Limited to the Anderson-Dietz-1 seam, to be surface mined, located approximately 4 miles northeast of Decker, Montana, 21 miles northeast of Sheridan, Wyoming, and 40 miles southwest of Ashland, Montana:

Principal Meridian, Montana,

Big Horn County,

T. 9 S., R. 40 E.,
Sec. 8: SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 9: W½NW¼;
Sec. 17: E½SW¼;
Sec. 20: N½NE¼, SE¼NE¼;
Containing 440.0 acres.

The estimated total strippable reserves are 15.2 million tons. The coal quality is as follows: Btu—9535 per pound; Sulfur—.32 percent and Ash—4.14 percent. The Anderson-Dietz-1 coal bed averages 52 feet thick over the described lands.

M 35736—Limited to the D_1 and D_2 seams, to be surface mined, located approximately 4 miles northeast of Decker, Montana:

Principal Meridian, Montana,

Big Horn County,

T. 8 S., R. 40 E.,
Sec. 34: N½SW¼NE¼, SW¼SW¼NE¼, W½.
T. 9 S., R. 40 E.,
Sec. 3: W½ Lot 2, NW¼SW¼NE¼, S½SW¼NE¼, SW¼NE¼SE¼, NW¼SE¼, S½SE¼;
Containing 530.085 acres.

The estimated total strippable reserves for both seams are 14.7 million tons. (1) The coal quality is as follows for the D_1 seam: Btu—9738 per pound; Sulfur—.42 percent and Ash—4.13 percent. The D_1 coal bed averages 21 feet thick over the described lands and contains an estimated 3.2 million tons of strippable reserves. (2) The coal quality is as follows for the D_2 seam: Btu—9380 per pound; Sulfur—.42 percent and Ash—5.14 percent. The D_2 coal bed averages 18 feet thick over the described

lands and contains an estimated 11.5 million tons of strippable reserves.

M 42381—Limited to the Rosebud seam, to be surface mined, located near Colstrip, Montana:

Principal Meridian, Montana,

Rosebud County.

T. 1 N., R. 41 E.,
Sec. 6: Lot 5, S½SE¼NW¼;
Containing 61.23 acres.

The estimated total strippable reserves are 1,890,000 million tons. The coal quality is as follows: Btu—8517 per pound; Sulfur—.94 percent and Ash—9.15 percent. The coal bed averages 22 feet thick over the described lands.

M 31053(ND)—Limited to the HT Butte seam, to be surface mined, located approximately one-half mile west of Underwood, North Dakota:

Fifth Principal Meridian, North Dakota,

McLean County.

T. 146 N., R. 82 W.,
Sec. 20: NW¼;
Containing 160.0 acres.

The estimated total strippable reserves are 2.14 million tons. The coal quality is as follows: Btu—6415 per pound; Sulfur—.61 percent and Ash—6.81 percent. The HT Butte coal bed averages 9 feet thick over the described lands.

The public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: The quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final fair market value determination in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, Montana State Office, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than October 9, 1979.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27764 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-84-M

[U-42494]

Utah; Application

August 28, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Cisco Drilling & Development, Inc. has applied for a 3½-inch natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 20 S., R. 23 E.,
Secs. 21, 22, & 27.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 27765 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-84-M

Utah; Announcement of Accelerated Wilderness Inventory on Units in Utah's Overthrust Belt

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Due to a national emphasis on energy exploration on the public lands, the Bureau of Land Management is accelerating a special project wilderness inventory on the lands in southwestern Utah known as the "Overthrust Belt." This accelerated intensive wilderness inventory is being conducted on the following units:

	Acres
Cougar Canyon: UT-040-123	10,568
Doc's Pass: UT-040-124	21,083
Vermilion Castle: UT-040-136	9,900
Red Canyon Group:[1]	
UT-040-269	
UT-040-270	
UT-040-271	3,538
UT-040-272	
UT-040-273	

[1] These units are adjacent to Forest Service wilderness study areas.

This accelerated inventory is expected to be completed by mid-September 1979, at which time the BLM Utah state director will announce his proposals and initiate a 90-day public comment period. These proposals will be announced in the Federal Register.

FOR FURTHER INFORMATION CONTACT:
Lawrence Royer, Cedar City BLM District office, 801–586–2401

Dated: August 28, 1979.

Gerald E. Magnuson,

Acting State Director.

[FR Doc. 79-27766 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68838]

Wyoming; Application

August 28, 1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline, a 4' by 6' meter house, and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 14 N., R. 94 W.,
Sec. 6.
T. 15 N., R. 94 W.,
Secs. 2, 10, 11, 15, 21, 22, 28, 29, 31 and 32.
T. 16 N., R. 94 W.,
Secs. 23, 26 and 35.
T. 14 N., R. 95 W.,
Secs. 1, 10, 11, 12, 15, 16, 19, 20, 21 and 30.
T. 14 N., R. 96 W.,
Secs. 25, 26, 27 and 28.

The proposed pipeline will transport natural gas from the Haystack Unit #1–28 Well located in the NE¼ of section 28, T. 14 N., R. 96 W., to a point of connection with an existing pipeline located in the SE¼ of section 23, T. 16 N., R. 94 W. The 4' by 6' meter house and related metering and dehydration facilities are to be located entirely within the 50 foot right-of-way in the NE¼ of section 28, T. 14 N., R. 96 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27767 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Pennsylvania; Application

Notice is hereby given that under section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), National Fuel Gas Company has applied for a 4-inch natural gas pipeline right-of-way that will cross Erie National Wildlife Refuge located in Crawford County, Pennsylvania.

The pipeline will convey natural gas from a Federal Energy Regulatory Commission approved tap-in on the Tennessee Natural Gas pipeline east of Erie Refuge to the Randolph-East Mead Elementary School and the village of Guys Mills. The pipeline will cross 2,310 feet of Erie National Wildlife Refuge along the south berm of the highway right-of-way L.R. 20085.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so within ten (10) days and send their name and address to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Due to time constraints imposed by the upcoming heating season, it is impractical to accept public response 30 days after publication in accordance with Department of the Interior general policy.

Gordon T. Nightengale,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 29, 1979.

[FR Doc. 79-27768 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Reclamation

Anderson Ranch Powerplant Third Unit, Boise Project, Idaho; Intent To Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental statement on the proposed Anderson Ranch Powerplant Third Unit. The proposal is to add a third electrical generating unit to the Anderson Ranch Dam Powerplant, to construct recreation facilities on Anderson Ranch Reservoir and on the South Fork Boise River below Anderson Ranch Dam, and to implement measures beneficial to the South Fork Boise River trout fishery. Anderson Ranch Dam is located approximately 40 miles southeast of Boise, Idaho.

The EIS will address the proposed hydropower operation, recreational development at Anderson Ranch Reservoir and downstream from the dam, fish and wildlife enhancement features, and alternative actions. These alternatives include the recommended proposal (described above), the National Economic Development alternative, and the environmentaly preferred plan. Among the primary elements of these alternatives to be evaluated are potential effects of hydropower operation on the trout fishery in the South Fork Boise River below the dam, acquisition of about 1,200 acres of land for recreation and fish and wildlife purposes, and the development of a boat access site across the reservoir from Lime Creek.

Environmental studies and preparation and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act of 1969, and will be accomplished under the Council on Environmental Quality regulations published in the Federal Register on November 29, 1978.

No specific scoping meeting has been scheduled for this statement. However, the proposed third unit addition and hydropower operations have been the subject of a series of public meetings in the project area. Issues of concern and potential impacts have been presented and opened to discussion in these meetings. Issues and concerns have also been identified by fishery and aquatic macroinvertebrate studies performed by the University of Idaho Cooperative Fishery Research Unit and the Idaho Department of Fish and Game, in coordination with the U.S. Fish and Wildlife Service, Idaho Department of Fish and Game, U.S. Forest Service, other State and local governmental agencies, local sport-fishing interests, and Boise Project irrigation interests.

To further assure that the full range of issues related to this proposal are discussed in the statement and all significant issues are identified, comments and suggestions are invited. Interested organizations, agencies, and individuals should write to or contact the Bureau of Reclamation at the address provided below. The contact person will be: Gaye W. Lee, Environmental Protection Specialist, Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384–1926.

Dated: August 29, 1979.

Clifford I. Barrett,

Assistant Commissioner.

[FR Doc. 79-27572 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations With Columbia Basin Irrigation Districts, Columbia Basin Project, Wash.; Intent To Begin Repayment and Water Service Contract Negotiations

The Department of the Interior, through the Bureau of Reclamation, intends to open negotiations with the East Columbia Basin Irrigation District at Othello, Washington, and the Quincy-Columbia Basin Irrigation District at Quincy, Washington, for the repayment of costs associated with the construction of facilities to serve irrigation water to deferred, bypassed, and "new" arable lands within the boundaries of those districts. The United States is also willing to initiate negotiations with the South Columbia Basin Irrigation District, Pasco, Washington. The lands being considered for irrigation development include between 136,000 and 200,000 acres, known as the First Phase Continuation Acres.

The water supply will be provided through the Second Bacon Siphon and Tunnel (SBST), now nearing completion. Repayment to the United States for costs of that facility will begin when water service is initiated pursuant to the Master Water Service Contract (MWSC). The MWSC was executed on August 27, 1976, by the Quincy and the

East Columbia Basin Irrigation Districts. The contract, which is one prerequisite to receiving water from the SBST, has also been offered to the South Columbia Basin Irrigation District.

The contracts proposed to be negotiated at this time include the following:

1. A supplement to the MWSC providing additional terms and conditions for the delivery of water from SBST. This supplement was anticipated and is required by terms of the MWSC.

2. A subcontract to the MWSC for execution by each district and its landowners who desire water from SBST, but cannot presently secure or do not desire a federally-financed or constructed distribution or drainage system.

3. A contract or contracts for the construction of those distribution or drainage systems that are to be federally constructed or financed. These are the only contracts that will require expenditure of federally appropriated funds. Under Reclamation law, specific project authorizations, and expected legislation, the districts must contract to repay an appropriate share of the Federal construction costs, commensurate with payment ability, over a 50-year period. Estimated costs of constructing distribution and drainage systems to serve the First Phase Continuation Acres range from $1,600 to $2,600 per acre, depending primarily on the areas selected for development.

The public may observe any negotiating sessions. Advance notice of any such meetings will be furnished on request. Requests must be in writing and must identify the contract in which the party is interested. They should be addressed to the Project Manager, Bureau of Reclamation, Division Avenue and C Streets, NW, P.O. Box 815, Ephrata, WA 98823.

The proposed draft contracts will be made available for public review. Thereafter, a 30-day period will be allowed for receipt of written comments from the public. All written correspondence concerning the proposed contracts will be made available to the public pursuant to the terms and conditions of the Freedom of Information Act (80 Stat. 388), as amended.

For further information on scheduling negotiating sessions and copies of the proposed forms of contract, please contact: Ms. Carol Prochaska, Public Affairs Officer, at the above address: telephone No. (509) 754–4611, extension 258.

Dated: August 29, 1979.

Orrin Ferris,

Acting Commissioner of Reclamation.

[FR Doc. 79–27573 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–09–M

Minidoka Powerplant Rehabilitation and Enlargement Minidoka Project, Idaho; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental statement on the proposed Minidoka Powerplant rehabilitation and enlargement. The basic proposal is to rehabilitate the existing power generation facilities at Minidoka Dam and to increase generation capacity through construction of a new powerhouse. Minidoka Dam, which forms Lake Walcott, is located on the Snake River 11 miles northeast of the town of Rupert in south-central Idaho.

Minidoka Dam, completed in 1906, serves as a combined diversion, storage, and power dam. Minidoka Powerplant is the oldest Federal hydro-electric powerplant in the Pacific Northwest, and presently contains seven units with a total installed capacity of 13.4 MW. Units 1 through 5 (1.2 MW each) have been in operation for nearly 70 years, and unit 6 (2.4 MW) is over 50 years old. These units are nearing the end of their useful life and maintaining them in operating condition is costly. Unit 7 (5 MW) was installed in 1942, and will remain in operation as part of any new power facilities.

The environmental statement will consider the impacts of all the project alternatives. These alternatives include (1) replacement of existing power generating units; (2) construction of a new powerplant with a 25 MW capacity; and (3) construction of a new powerplant with a 30 MW capacity. Common elements of these three alternatives are automation of the existing unit 7, modification of the existing 34.5 kV and 138 kV switchyards, and new recreation facilities.

Environmental studies and preparation and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act 1969, and will be accomplished under the Council on Environmental Quality regulations published in the **Federal Register** on November 29, 1978.

No specific scoping meeting has been scheduled for this statement. However, the proposed project will be the subject of public planning meetings, and comments and questions concerning issues of concern and environmental impacts are invited and encouraged in those sessions.

To further assure that the full range of issues related to this proposal are discussed in the statement and all significant issues are identified, comments and suggestions are invited. Anyone with suggestions as to significant environmental issues should contact:

Gaye W. Lee, Environmental Protection Specialist, Pacific North West Region, Bureau of Reclamation, Box 043, 550 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384–1926.

Dated: August 29, 1979.

Clifford I. Barrett,

Assistant Commissioner.

[FR Doc. 79–27571 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Availability of Environmental Assessments for Wildlife Restoration Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the **Federal Register**, July 20 and August 3, 1979. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by October 9, 1979.

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232
Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103
Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111
Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303
Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158
Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225
Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507
Central headquarters office of the State fish and wildlife agency.

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703–235–1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78–430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the **Federal Register** a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703–235–1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq.: (Activities listed are not exclusive.)

Region 3

Wisconsin W–142–L

The purpose of this statewide wildlife land acquisition project, which is approximately 70 percent completed, is to acquire from willing sellers 50,000 acres within 158 wildlife areas in the next 10 years. Activities are concentrated in proximity to higher human population regions and where threat to loss of habitat to rural residences and other developments is greatest.

Region 6

Colorado W–109–D

This regional development project covers activities on five areas in southeastern Colorado. Work is directed toward enhancement of habitat for upland game, waterfowl and big game and provision of public use opportunities for wildlife-oriented recreation. Project activities include herbaceous seeding, tree and shrub planting, pothole blasting, placement of nesting structures, clearing of travel lanes and firebreaks. Routine maintenance of existing facilities is also included.

Iowa FW–43–D

The purpose of this statewide development project is to conduct wildlife management activities on 260 areas covering approximately 270,000 acres. Such diverse operations to be conducted include maintenance of buildings, roads, trails, fences and boat ramps; planting trees, shrubs and certain wildlife food crops; employing vegetation control techniques; stocking turkeys and Canada geese; and construction, maintenance, and repair of water and soil erosion control structures.

Iowa W–115–R

This assessment represents activities to be conducted under Study 22 only. Activities are designed to collect raccoon population data by employing nighttime surveys using spotlights along 56 25-mile roadside routes.

North Dakota W–23–D

The purpose of this project is habitat development and maintenance of existing conditions and improvements on 147 wildlife areas totaling 146,558 acres statewide. Activities include vegetation controls, planting of trees, food and grass cover crops, construction and maintenance of roads, fences, embankments, parking lots, dikes, waterfowl nesting structures, and public use facilities.

Addenda

Iowa FW–43–D (previously cited above)

A supplement to the environmental assessment was provided on development of an augmented water supply system at Otter Creek Marsh. Facilities include three wells, submersible pumps, motors and engine-driven generator sets to pump water to supplement natural runoff in dry years to maintain optimum water levels in existing marshes.

Colorado W–112–D (previously cited in **Federal Register** *July 20, 1979)*

Project involves development and maintenance of habitat and access on 16 wildlife areas in southwestern Colorado. Twelve areas are managed primarily to protect and improve critical winter range for big game. Four other areas are managed to enhance habitat conditions for waterfowl and upland game. Activities include development of small dams, dikes and levies, canals and channels, herbaceous seeding, rangeland rehabilitation (fertilization), water level management and maintenance of all existing structures and improvements.

Dated: August 31, 1979.

Robert S. Cook,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 27762 Filed 9–5–79; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Park System Advisory Board; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the National Park System Advisory Board will be held October 2, 3, 4 and 5 at the National Park Service Denver Service Center, Lakewood, Colorado, and the Keystone Conference Center, Keystone, Colorado.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System.

The members of the Advisory Board are as follows: Mr. Carl Burke (Chairman), Boise, Idaho, Hon. Roy A. Taylor (Vice Chairman), Black Mountain, N.C., Dr. Edgar Toppin (Secretary), Petersburg, VA, Dr. Douglas D. Anderson, Providence, RI, Hon. Alan Bible, Reno, NV, Mr. Larry Erickson, Minot, ND, Mrs. Anne Jones Morton, Easton, MD, Mrs. Nancy M. Rennell, Greenwich, Conn., Dr. Asa C. Sims, Jr., New Orleans, LA, Dr. Edgar Wayburn, San Francisco, CA, Mr. Bill Wiener, Jr., Shreveport, LA.

On October 2 the meeting will begin at 9:15 a.m. at the National Park Service Denver Service Center, 755 Parfet Street, Lakewood, Colo. for an overview of the Denver Service Center and project briefings and tours.

On October 3 and 4 the Advisory Board will meet in general sessions starting at 8:45 a.m. at the Keystone Conference Center, Keystone, Colorado, to consider administrative matters pertaining to the Board and to receive and consider subcommittee reports on cultural resources management; proposed development of visitor facilities for the Manzanita Lake area of Lassen Volcanic National Park; proposed General Management Plan for Yosemite National Park; proposed development of Grant Village, Yellowstone National Park; to receive the legislative report and to review the proposed new areas study list.

October 5 the Advisory Board will reconvene at 8:30 a.m. to consider future activities and formulate its comments and recommendations.

The meetings will be open to the public. Space and facilities to accommodate members of the public at the general sessions of the meeting are

limited and persons will be accommodated on a first-come-first-served basis. Any member of the public may file with the Advisory Board a written statement concerning the matters to be considered.

Persons desiring further information concerning this meeting or who wish to file written statements may contact Shirley Luikens, Advisory Boards and Commissions, National Park Service, Washington, D.C. 20240 (202-343-2012).

Summary minutes of the meeting will be available for public inspection 10 to 12 weeks after the meeting in Room 3416, Interior Building, Washington, D.C.

Dated: August 30, 1979.

William J. Whalen,

Director, National Park Service.

[FR Doc. 79-27748 Filed 9-5-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Olympic National Park

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic National Forest; Transfer of Certain Lands

By virtue of Pub. L. 94-578, approved October 21, 1976, and with the approval of the Secretary of Agriculture and the Secretary of the Interior, the lands herein described are hereby transferred from the Olympic National Forest to the Olympic National Park and further, those additional lands described are hereby transferred from the Olympic National Park to the Olympic National Forest, effective on the date of publication; and the boundaries of the National Park System and National Forest System are hereby adjusted accordingly:

Lands transferred from the Olympic National Forest to the Olympic National Park:

Jefferson County, Wash.—Willamette Meridian

T. 24½N., R. 9 W. (unsurveyed),
Sec. 31 That portion of the N½ that lies northerly of the crest of Sam's Ridge;
Sec. 32 That portion of the N½ that lies northerly of the crest of Sam's Ridge;
Sec. 33 That portion of the N½ that lies northerly of the crest of Sam's Ridge;
Sec. 34 That portion of the N½ that lies northerly of the crest of Sam's Ridge.
T. 24½N., R. 10 W. (unsurveyed),
Sec. 36 That portion of the N½ that lies northerly of the crest of Sam's Ridge.
Total area approximately 695 acres.

Lands transferred from the Olympic National Park to the Olympic National Forest:

Jefferson County, Wash.—Willamette Meridian

T. 25 N., R. 9 W. (unsurveyed),
Sec. 31 That portion of the S½N½, S½ lying southerly of the crest of Sam's Ridge;
Sec. 32 That portion of the S½ lying southerly of the crest of Sam's Ridge;
Sec. 33 That portion of the S½S½ lying southerly of the crest of Sam's Ridge.
T. 24½ N., R. 10 W. (unsurveyed),
Sec. 34 That portion of the N½ lying easterly and southerly of a line beginning at the south one quarter corner, sec. 36 T. 25 N., R. 10 W. thence S. 1° 11'00" E. 840 feet, more or less, thence easterly along Sam's River on the existing boundary between the Olympic National Park and the Olympic National Forest.
T. 25 N., R. 10 W.,
Sec. 36 That portion of the S½ lying easterly and northerly of a line beginning at the south one quarter corner of sec. 36, thence N. 1° 11'00" W. 840 feet, more or less, thence N. 76° 56'30" E. 1,885 feet, more or less, to the terminus of the crest of Sam's Ridge, thence N. 75° 50'00" E. along the crest of Sam's Ridge to the east line of sec. 36.

Total area approximately 639 acres.

Dated this 16th day of August, 1979.

Leo Krulitz,

Secretary of the Interior.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-27804 Filed 9-5-79; 8:45 am]

BILLING CODE 3410-11-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-71]

Certain Anaerobic Impregnmating Compositions and Components Therefor; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Aministrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 30, 1979

Donald K. Dovall,

Chief Admninistrative Law Judge.

[FR Doc. 79-27824 Filed 9-5-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-Inq.-28]

Countertop Microwave Ovens From Japan; Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on August 24, 1979, that during the course of determining, in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)) whether to institute an investigation with respect to countertop microwave ovens from Japan, Treasury had concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. For purposes of this inquiry, countertop microwave ovens are defined as "microwave ovens classifiable under TSUSA item 684.3010." Therefore, the Commission on August 30, 1979, instituted inquiry No. AA1921-Inq.-28, under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the inquiry will be held in Washington, D.C., at 10:00 a.m., e.d.t., on Wednesday, September 12, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. All parties will be given an opportunity to be present, to produce information and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than 5:00 p.m., Friday, September 7, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Friday, September 14, 1979.

By order of the Commission.

Issued: August 31, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-27823 Filed 9-5-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-204 and AA1921-205]

Kraft Condenser Paper From Finland and France; Determinations of Injury

On the basis of facts developed during the course of investigations Nos. AA1921-204 and AA 1921-205, the Commission determines that an industry in the United States is being injured, or is likely to be injured, by reason of the importation of kraft condenser paper from Finland and France, provided for in items 252.40 and 256.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).[1]

On May 30, 1979, the United States International Trade Commission received advice from the Department of the Treasury that kraft condenser paper from Finland and France is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on June 5, 1979, the Commission voted to institute investigations Nos. AA1921-204 (kraft condenser paper from Finland) and AA1921-205 (kraft condenser paper from France), under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Hartford, Conn., on July 24 and 25, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the **Federal Register** of June 13, 1979 (44 FR 33983).

The Treasury Department instituted its investigations after receiving a complaint filed on June 27, 1978, from counsel acting on behalf of the Schweitzer Division of the Kimberly-Clark Corp., Lee, Mass.; the Stevens Paper Mill, Inc., Westfield, Mass.; and Crocker Technical Papers, Inc., Fitchburg, Mass. Treasury's notices of withholding of appraisement were published in the **Federal Register** of February 20, 1979 (44 FR 10452-53), and its determinations of sales at LTFV were published in the **Federal Register** of June 4, 1979 (44 FR 32063-64).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Views of Chairman Joseph O. Parker and Commissioners George M. Moore and Catherine Bedell

On June 5, 1979, the Commission instituted investigations Nos. AA1921-204 and AA1921-205 under section 201(a) of the Antidumping Act, 1921, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of kraft condenser paper from Finland and France which the Department of the Treasury has determined is being, or is likely to be, sold in the United States at less than fair value (LTFV). For purposes of these investigations, kraft condenser paper is defined as capacitor tissue or condenser paper containing 80 percent or more by weight of chemical sulphate or soda wood pulp based on total fiber content. This paper is provided for in items 252.40 and 256.30 of the Tariff Schedules of the United States.

After considering the information developed in these investigations, we have determined that an industry in the United States is being injured or is likely to be injured, by reason of the importation of kraft condenser paper from Finland and France which the Department of the Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

In making this determination, we have considered the relevant domestic industry to consist of the facilities in the United States used to produce kraft condenser paper. Four firms, all of which are located in Massachusetts and Connecticut, currently produce kraft condenser paper; three firms account for nearly all production of this product in the United States.

The Department of the Treasury's examination of imports of kraft condenser paper from Finland and France covered importations made during the 6-month period extending from February 1, 1978, through July 31, 1978. During the period covered by Treasury's investigation, all imports from Finland were produced by Tervakoski Osakeyhtio (TOY). Treasury examined transactions accounting for 80 percent of TOY's sales to the United States during this period and found less-than-fair-vaule margins on 80 percent of the sales examined. The LTFV margins found on such imports range from 1.6 percent to 30.5 percent, with a weighted average margin for all sales examined of 15.3 percent. During the period covered by Treasury's investigation of imports from France, all the French exports were produced by Papeteries Bollore, S.A., of France, and were sold to its U.S. subsidiary, Bollore, Inc. Treasury found LTFV margins on 99 percent of these transactions ranging from 28.9 percent ot 50.9 percent, with a weighted average margin of 42.6 percent.

It is the import of these imports sold at the indicated margins with which these investigations are concerned. As the Senate Committee on Finance stated in its report on the Trade Act of 1974:

> Conceptually, the Antidumping Act is not directed toward forcing foreign suppliers to sell in the U.S. market at the same prices that they sell at in their home markets. Rather, the Act is primarily concerned with the situation in which the margin of dumping contributes to underselling the U.S. product in the domestic market, resulting in injury or likelihood of injury to a domestic industry. Such injury may be manifested by such indicators as suppression or depression of prices, loss of customers, and penetration of the U.S. market. When clear indication of injury, or likelihood of injury, exists there would be reason for making an affirmative determination.[3]

In our judgment, the information gathered during these investigations establishes a clear indication of injury or likelihood of injury.

Since 1976, there has been a rapid and substantial increase in imports from Finland and France. These imports increased from 207,000 pounds—less than 1 percent of apparent consumption—in 1976 to 3.4 million pounds—more than 13 percent of apparent consumption—in 1978. In that year, more than twice as much kraft condenser paper was exported to the United States from Finland and France as in the 3 previous years. This rapid increase of imports at LTFV prices in 1978 had several consequences, each of which had a negative impact on the domestic industry.

Although apparent domestic consumption of kraft condenser paper

[1] Chairman Joseph O. Parker and Commissioners George M. Moore, Catherine Bedell, and Paula Stern determine that an industry in the United States is being injured, or is likely to be injured, by reason of the importation of kraft condenser paper from Finland and France, provided for in items 252.40 and 256.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Vice Chairman Bill Alberger determines that an industry in the United States is being injured by reason of the importation of kraft condenser paper from Finland and France, provided for in items 252.40 and 256.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[2] Prevention of establishment of an industry is not an issue in these investigations and will not be discussed further in this opinion.

[3] *Trade Reform Act of 1974: Report of the Committee on Finance . . .*, S. Rept. No. 93-1298 (93d Cong., 2d sess.), 1974, p. 179.

increased by 16 percent from 1977 to 1978, domestic shipments increased by only 5 percent. Increased imports from France and Finland captured two-thirds of the growth in the market in 1978 and occurred at a time when the domestic industry had substantial unused capacity.

Pricing information obtained by the Commission indicates that most of these increased imports were sold at prices below those of domestic producers. In the period January 1978–May 1979, during which 75 percent of all imports from Finland and France entered the United States, comparisons of prices paid by individual customers for imported and domestically produced condenser paper show that imports from Finland undersold domestic merchandise in almost 90 percent of the comparisons, and those from France undersold domestic merchandise in 86 percent of the comparisons.

The pricing information also shows that domestic producers generally reduced prices during 1978. Comparisons of the quarterly average weighted prices of U.S. producers to their principal customers on six different thicknesses of normal-density kraft condenser paper reveal that in every quarter of 1978 the prices received for nearly all of these products were lower than in any quarter in 1977.

The Commission's investigation showed that the imports of kraft condenser paper from Finland and France resulted in a substantial loss of sales to the domestic industry. In nearly all the instances in which a loss of sales was alleged, it was established that purchases of imported products were made in lieu of available domestic products. The combination of a loss of sales and reduced prices contributed to the decrease of profits in the domestic industry from 1977 to 1978.

The investigation established that the injury to the domestic industry is likely to continue if imports from France and Finland continue to enter the U.S. market at less than fair value. Although such imports from France declined after the withholding of appraisement by Treasury, imports from Finland during January–May 1979 increased sharply in comparison with those in the corresponding period of 1978. Imports from France could be expected to at least return to previous levels if a negative determination were made under which products from France could be entered at LTFV.

During January–May 1979, U.S. producers' shipments and capacity utilization declined in comparison with those in the corresponding period in the preceding year, while the ratio of inventories to shipments increased moderately.

Data which are available for January–May 1979 also indicate that, notwithstanding some increases in prices during this period, the profitability of the domestic industry has continued to deteriorate. These data also indicate that during this period the increase in prices did not keep pace with cost increases. If kraft condenser paper continues to be sold at the significant LTFV margins determined by the Department of the Treasury, it is clear that they will be likely to continue to cause injury to the domestic industry.

Statement of Reasons of Commissioner Bill Alberger

In order for the Commission to find in the affirmative in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[4] and the injury or the likelihood thereof must be by reason of imports at less than fair value (LTFV). I find in the case of kraft condenser paper (KCP) from France and Finland that the domestic industry is being injured by reason of such imports which the Secretary of the Treasury (Treasury) has determined are being, or are likely to be, sold at LTFV.

The Imported Article and the Domestic Industry

KCP, the subject of this investigation, is a capacitor or condenser paper containing 80 percent or more by weight of chemical sulphate or soda woodpulp based on total fiber content. I consider the relevant domestic industry to consist of facilities in the United States which produce kraft condenser paper. Four firms currently produce kraft condenser paper in the United States. Three of the firms—Crocker Technical Papers, Inc. (Crocker), Fitchburg, Mass.; Schweitzer Division of Kimberly-Clark Corp. (Schweitzer), Lee, Mass.; and the Stevens Paper Mill, Inc. (Stevens), Westfeld, Mass.—account for nearly all production of kraft condenser paper in the United States and were the originators of the complaint before Treasury that resulted in these investigations. A fourth firm—Dexter Corp., Windsor Locks, Conn.—accounts for only a small proportion of U.S. production of kraft condenser paper.

[4] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

LTFV sales

Treasury's examination of imports of kraft condenser paper from Finland and France covered importations made during the 6-month period extending from February 1, 1978, through July 31, 1978. During this period, all imports from Finland were produced by Tervakoski Oy and margins were found on 80 percent of the sales examined. The LTFV margins found on such imports from Finland ranged from 1.6 percent to 3.5 percent of the fair market value of the sales, with a weighted average margin for all sales examined of 15.3 percent of the fair market value. With regard to the imports from France, all of the French exports were produced by Papeteries Bollore, S.A., of France. LTFV margins were found on 99 percent of the imports from France, and ranged from 28.9 percent to 50.9 percent of the fair market value, with a weighted average of 42.6 percent of the fair market value.

Injury by reason of LTFV sales

For the period 1974 through 1978, 1974 was the domestic industry's finest year. Although it has recovered from a very poor year in 1975, the domestic industry, by the end of 1978, still had not attained the 1974 levels for such economic indicia as production, shipments, exports, capacity utilization, and profits. Consumption was up 6 percent over 1974 levels.

During the three years following the recession of 1975, the domestic industry experienced a significant challenge from Finnish and French KCP imports as it bid to capture a share of the market growth. Finnish and French imports represented less than 1 percent of U.S. consumption in 1976, but by 1978 had a combined share of slightly over 13 percent. 1978 Finnish imports represented 7.1 percent of consumption while French imports gained a 6.0 percent share of the market. From 1976 through 1978, the U.S. market experienced a growth of 17 percent.

Production, shipments, and exports by U.S. producers of KCP were at their high point in 1974, before dropping sharply during 1975. All of these categories showed a marked recovery in 1976, but have shown little, if any, growth since then. Year end 1978 figures for production, shipments, and exports had not achieved 1974 levels and statistics for the first five months of 1979 indicate little growth for U.S. producers this year. In fact, shipments for January-May 1979 are down by 9 percent from the comparable period of 1978.

Capacity utilization for the U.S. KCP industry dropped by nearly half from 1974 to 1975. Although it has climbed

since 1976, capacity utilization for U.S. producers continues to run more than 10 percent below the 1974 level.

Employment, like the other categories in this industry, is down. 1978 year-end figures were well below 1974 figures and while increased imports have played a role in this drop, U.S. producers have contributed to this situation as older, less efficient equipment has been retired and existing machinery has been updated and made more productive. Worker productivity for KCP production increased each year from 1974 through 1978.

Profitwise, the U.S. producers of KCP have seen their net profit to net sales ratio dip from 14.8 percent in 1974 to 6.8 percent in 1978. A further decline is evident in January-May 1979. It should be noted, too, that Schweitzer accounts for most of the data and that the smaller producers have not fared nearly as well. Schweitzer accounts for more than half of the KCP produced in the United States and has enjoyed profits many times those of Stevens and Crocker.

Examination of the pricing patterns in this industry again points to Schweitzer as a very dominant factor. In 1976, at approximately the same time French and Finnish imports were beginning their upward movement in the U.S. market, Schweitzer announced an aggressive pricing plan. The plan may have been a reaction to domestic price competition, or in anticipation of or in response to import competition. Regardless, the effect of the plan in conjunction with the low priced imports was a downward pressure on prices for other U.S. producers and a slowing down of the aggregate industry recovery. In viewing the import prices vis a vis the price of the comparable domestic product, the margin of underselling was, in most instances, more than accounted for by the LTFV margins.

With regard to lost sales, the Commission was able to verify four instances where imported KCP was chosen over the domestically produced product. This amounted to approximately $3 million dollars in the aggregate for 1977–78. It should be noted that some of these purchases were of products not available in various sizes from U.S. producers and that a large portion of these purchases were of products not available in acceptable quality from more than one U.S. producer.

In conclusion, I must say that a decision in this investigation is difficult. The role played by the dominant U.S. producer cannot be discounted. That Schweitzer's pricing policy in 1976 played a part in holding prices down is clear. Further, were Schweitzer the sole producer of KCP in the U.S., a finding of injury would be far more difficult to reach. However, the law does not give the Commission the discretion to segregate the various producers within an industry, save for the instance when regional injury is a consideration. Production, shipments, exports, capacity utilization, and profits are down. Inventories, although down for the industry as a whole, are up for the two smaller producers. Prices have been held down and there is evidence of lost sales to LTFV imports from both France and Finland. Finally, what growth there has been in the domestic KCP market since the entry of imports from France and Finland has largely been captured by those imports. The domestic industry has missed an opportunity for market recovery and growth. On balance, I believe injury is present by reason of LTFV sales.

Statement of Reasons for the Determination of Commissioner Paula Stern

On the basis of the information obtained in this investigation, I have determined that an industry in the United States is being injured by reason of imports of kraft condenser paper from Finland and from France sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended.

Imported Article

Kraft condenser paper (KCP) is a very thin, dense, and costly paper which is made from specially treated wood pulp. The Commission's investigation covered both varieties of draft condenser paper (KCP) produced in the United States, electrostatic and electrolytic KCP.[5] These types of KCP are provided for in items 252.40 and 256.30 of the Tariff Schedules of the United states. Ninety-five percent of KCP imported into the United States has been of the electrostatic variety. The bulk of KCP is used as an essential component in certain kinds of condensers. Ultimately, KCP becomes a part of such consumer goods as telephone line systems, household appliacnes, air conditioning units and fluorescent lighting.

[5] Upon advice from the Commission, Treasury concluded that electrolytic and electrostatic KCP are of the same general class of kind. However, these two varieties have different uses and constitute vastly different proportions both of imports into the United states and of domestic production. Treasury collected no data on electrolytic KCP, yet its determination that sales of less than fair value existed covered both categories. Thus, the Commission in this case is forced to find injury to the entire KCP industry, even though there is no separate data substantiating Treasury's determination that electroyltic KCP was in fact sold at less than fair value.

Significant quantities of KCP imports began entering the U.S. market in 1977 and increased so rapidly that their share of apparent consumption more than doubled in just two years, rising from 5.9 percent in 197 to 13.1 percent in 1978. Treasury found less than fair value (LTFV) margins ranging from 2 to 31 percent on 80 percent of those import sales from Finland which it examined. On 100 percent of the sales examined from France, Treasury found LTFV margins ranging from 29 to 51 percent.

Domestic Industry

In order to understand the character of the domestic industry, it is important to note that the structure of the industry and the differences in production capabilities of these firms had an important bearing on this case. Size of market share and thus market power distinguish Schweitzer from the other two firms which produce electrostatic KCP. Schweitzer has consistently dominated the U.S. KCP market, maintaining a market share substantially above that of the two smaller firms. This domination has been reinforced by its extremely aggresive pricing policy, highlighted by the "VIP plan," [6] which went into effect in 1977. The struggle of the two smaller domestic producers to compete with Schweitzer's stiff price competition may have contributed to their losses, which continued beyond the 1975 recession year.

Differences in production abilities of the industry were also important. Three of the four domestic firms constituting the industry produce electrostatic KCP: Schweitzer Division of Kimberly-Clark Corp., Crocker Technical Papers, Inc., and Stevens Paper Mill, Inc.—all located in Massachusetts. These three were the petitioners in this case. The record shows that quality considerations and variety of product availability often influenced competition among the three domestic producers of electrostatic KCP and between domestic producers and importers. Some types of KCP were reported to be unavailable from any U.S. producers; in many other instances substitutes for imported products could be obtained from only one domestic producer, Schweitzer. Evidence gathered by the Commission also suggests that at least one of the two smaller producers may have been incapable of producing certain types of KCP in an acceptable quality. These differences in production capabilities influenced purchasing decisions by limiting the number of suppliers for certain specific needs.

[6] Volume Incentive Pricing Plan.

V 4 4 / 1 7 4 S E 6 7 9 UMI

V 4 4 / 1 7 4 SE 6 7 9 UMI

Thus, size and production distinctions which characterize the domestic industry indicate that its individual firms were not equally vulnerable to the impact of KCP imports. These peculiarities of the industry made the analysis by the Commission more difficult.

The Commission's Determination

In order to make an affirmative finding, the Commission must decide that the following two requirements of the law, as provided for in the Antidumping Act of 1921, as amended, are fulfilled:

(1) that the industry be injured, and

(2) that injury be caused by imports which were sold at less than fair market value.

The law gives the Commission a great deal of discretion in making its determination, because no single check list can acurately determine the exact degree of injury experienced by an industry nor ascertain the extension of a definitive causal link between imports and injury. In order to evaluate economic health of an industry, the Commission has customarily used the traditional economic indicators for production and shipments, capacity, capacity utilization, employment, sales and profitability. In analyzing the indicators and the other information obtained in this investigation, I found that mitigating factors prevented me from drawing clear conclusions in almost every instance. It was therefore with great difficulty that I determined that the two requirements of the law outlined above have been met.

Injury

After evaluating all the relevant information, I believe that there is a reasonable basis for determining that injury to the domestic industry exists. This case required me to analyze the traditional indicators of injury in the face of two important, potentially distorting, considerations: the cyclical nature of the demand for KCP and the particular structure of the domestic industry. Before reviewing the economic indicators which led to an affirmative injury finding, it is important to note the difficulties posed by these considerations.

First, this industry's production must respond to cyclical demand. Of the five years investigated by the Commission, 1974 (a profitable year, generally) was clearly the most favorable for domestic producers. This peak in the demand cycle was followed by a recession year, which considerably weakened the entire industry. Data for 1976–78, however, reveal that the industry had begun its recovery process. Because much of kraft condenser paper is ultimately used in consumer goods such as appliances or in fluorescent lighting, it is possible that this industry's recovery has been restrained by general economic conditions and the somewhat reduced consumer demand resulting from these conditions.

Secondly, analysis of the evidence was often complicated by the fact that all firms in the industry do not behave in the manner indicated by aggregate figures. The performance of the market dominator, Schweitzer, differs greatly from that of the two smaller producers of electrostatic KCP. While Schweitzer consistently exhibited a strong performance, the much slower, and as yet incompete, recoveries of Crocker and Stevens have effectively continued to hold aggregate industry averages at low levels.

With these two factors in mind, one can note that aggregate data for almost all of the indicators followed the same general trend: very strong performance in 1974, an uncharacteristically poor performance in the recession year 1975, followed by performances in the period from 1976 through 1978 which though weaker than in 1974, represent continuous improvement. A slight deteriotation for the first 5 months of 1979 (as compared with the January–May 1978) may be indicated.

Capacity utilization fell from the 1974 level of 84.2 percent to 72 percent in 1978. However, the industry average improved by over two percentage points between 1976 and 1978, when imports of KCP began to enter the United States in significant quantities.[7] It is significant that producers have recently increased productivity enough to allow them to retire a number of machines and some employees while maintaining production levels. Therefore, declines in employment and capacity figures in this case do not necessarily indicate injury.

Figures for producers shipments, which are more meaningful than production data,[8] remained about even during the 1976–78 period, but have yet to reach 1974 levels in terms of value or quantity. Producers inventories, however, collectively declined every year since 1975, as did the ratio of inventories to shipments. Despite this decline in aggregate figures, inventories of the two smaller firms increased considerably during the 1976–78 period.

[7] Capacity utilization figures must be carefully scrutinized because at least two producers included in capacity figures inactive machinery which might be excessively costly to put back into use.

[8] Approximately 14 percent of all production becomes waste.

Data for financial performance followed the same trends. Although 1974 was by far the most profitable year for the industry, the 1978 ratio of net operating profit to net sales was 6.8 percent, an improvement over 1976's ratio of 5.4 percent. The difference between the performance of the industry's largest firm and the two smaller producers is perhaps most efficient in this category, with one of the smaller firms managing to show only a small profit for the first time in 1978.

It is apparent from the above indicators that, when taken as a whole, the industry is injured. However, the difficulty facing the Commission was to determine the existence of injury to the industry, when the aggregate data disguise the uneven performances of individual members of that industry. In short, it is not clear that without the existence of the two smaller producers, who were suffering severly even before LTFV imports entered the United States, a determination of injury would be justified.

I did not find that threat of injury or likelihood thereof exists in this case. Foreign producers are operating at high levels of capacity utilization and the performance of domestic producers has continued to improve, even in the presence of current levels of imports.

By reason of LTFV imports

In determining whether injury was caused by dumped imports of KCP, the Commission considered factors such as market penetration, lost sales, and price suppression or depression.

Market penetration: Market penetration by imports of KCP was both rapid and significant. Imports first entered the United States in significant quantities in 1977. Both in terms of absolute quantities and as a share of apparent domestic consumption, imports rose rapidly in 1977 and 1978. Over the five-year period investigated by the Commission, imports' share of the domestic market has increased from .8 percent in 1974 to 13.1 percent in 1978. Imports from Finland claimed 7.1 percent and those from France 6.0 percent of consumption in 1978.

Lost sales: The Commission investigation produced evidence of lost sales. In the crucial period from 1977 to 1978, apparent domestic consumption increased by 3.7 million pounds, or 16 percent.

Although some of this large increase in consumption did result in increased purchases from domestic producers, domestic shipments rose by only 6 percent. The data in fact show that all three firms producing electrostatic KCP lost market share to imports. Because two-thirds of the growth in the market was captured by foreign producers, domestic producers were not able to increase their share of the domestic market. However, it had to be determined that these lost sales occurred as a result of imports sold at less than fair value.

Because product availability, assurance of consistent supply, and quality have played an influential role in U.S. purchasers' choice of supplier, it was important to make a careful examination of these nonprice factors in relation to prices of imports. It is clear that at least some of these sales would have occurred in the absence of dumping. The best evidence of the secondary nature of price is the fact that on occasion, domestic purchasers have paid higher prices to two firms, in effect subsidizing them, in order to assure the continued presence of an alternate supplier. The Commission has also confirmed that purchasers experienced quality problems and interruptions of supply, conditions giving rise to the need for an alternate supplier. In addition, some of the products supplied by importers were simply not available from U.S. producers.

Furthermore, in evaluating the relationship between price and purchases, one must take into account the unique role of the customer. In this industry, the customer enjoys great leverage in determining prices. At times, both the presence of imports and institution in 1977 of Schweitzer's aggressive pricing policies may have been used by the customer to manipulate prices downward. Therefore, even if the actions of the customer were based on the ultimate motive of sustaining foreign suppliers as insurance against inadequate domestic production—in terms of delivery, quality, *and price*—rather than simply a cheaper price on a specific sale, domestic producers lost sales.

The Commission was faced with the difficulty of deciding whether or not these other influences on purchasing decisions completely replaced the role of price as a determinate of sale or whether all were contributing factors to the injury to the domestic industry.

Despite the fact that these other determinants were important factors influencing purchasers' decisions to import KCP, it is clear that the margins of dumping did contribute to imports underselling domestic products in the U.S. market. The importance of the impact of the margins of dumping in terms of underselling is highlighted by the report, of the Senate Finance Committee on the Trade Act of 1974, which states at p. 179, that—

> • • • the [Antidumping] Act is primarily concerned with the situation in which the margin of dumping contributes to underselling the U.S. product in the domestic market, resulting in injury or likelihood of injury to a domestic industry.

In the critical period from January 1978 to May 1979, when three-quarters of all KCP imports entered the United States, Finnish products undersold the competing U.S. product 89 percent of the time by a weighted average of 7 percent. In 44–67 percent of those sales (depending upon whether minimum or maximum LTFV margins are used) LTFV margins accounted for the margins of underselling. In the same period, French producers undersold U.S. producers 86 percent of the time by a weighted average margin of 10 percent. The margin of underselling could be accounted for by the LTFV margin in every case.

Primarily based on the contribution of dumping to underselling, I have found that sales and market opportunities were lost to imports, at least in part, as a result of dumping.

Price Depression:

Price data from 1977 and 1978 show the existence of price depression in this industry. Price comparisons based on average weighted prices of U.S. producers to respective principal customers for normal density and six different thicknesses reveal consistently lower price trends in 1978 for all categories.

In addition to the impact of imports underselling domestic products, two other factors may be cited as important influences on prices or on price trends in the industry: (1) the relatively successful customer efforts to dictate prices, and (2) the Schweitzer VIP pricing strategy for increasing its market share at the expense of other suppliers, foreign or domestic.

Given the margins of dumping and of underselling cited above, however, I have concluded that, notwithstanding the obvious effects of Schweitzer's VIP policy, imports sold at less than fair value did contribute to this downward pressure on prices, and therefore cannot be discounted in establishing the existence of a causal link between the dumped imports and injury.

On page 180 of the report cited above, the Senate Finance Committee analyzes the causal link:

> The law does not contemplate that injury from less-than-fair-value imports be weighed against other factors which may be contributing to injury to an industry. The words 'by reason of' express a causation link but do not mean that dumped imports must be a (or the) principal cause, a (or the) major cause, or a (or the) substantial cause of injury caused by all factors contributing to overall injury to an industry.
>
> In short, the Committee does not view injury caused by unfair import competition, such as dumping, to require as strong a causation link to imports as would be required for determining the existence of injury under fair trade conditions.
>
> It is thus clear that the law is designed to protect domestic industry from an unfair price discrimination practice which *contributes* to the existence of injury to that industry.

Thus, I have determined that rapid import penetration and the fact that dumping contributed to lost sales and price depression support the existence of a causal link between LTFV imports and injury to the domestic industry. Although the information obtained in this investigation does not show that LTFV imports of kraft condenser paper were the major cause of injury, they were a contributing factor.

Conclusion

The Commission's investigation shows that a slow recovery on the part of the two smaller firms from the recession year of 1975 left the domestic industry in a weakened state. It was, therefore, particularly vulnerable to the events of 1977, the year when Schweitzer's VIP policy went into effect and when imports of KCP began to enter the country in significant quantities. I found that one probable effect of the VIP plan was to significantly weaken Schweitzer's two domestic competitors. The influx of dumped imports, which occurred simultaneously, produced an additional shock to the industry.

I have determined that the domestic industry has been injured and that, of that injury, dumped imports was a cause. The conclusions on which this determination is based were not easily drawn. Both on the questions of injury and causation interpretation of the information in this case required me to make borderline judgments. Although, as I have stated above, no dumping case can be decided on the basis of one set of economic indicators, this case was particularly difficult because the data was colored by the following complicating circumstances:

(1) At least two of the domestic producers exhibited exceptionally weak performances in 1976, prior to the influx of imports into the U.S. market. Thus, the industry was injured before there was any price competition from imports.

(2) The large increase in demand during 1977–78 resulted in improving performances for the two weakest producers and gave an impression of recovery, albeit incomplete, in the industry as a whole.

(3) The dominant U.S. producer aggressively sought to capture market sales from its already vulnerable domestic competitors at the same time there was dramatic import penetration.

(4) The importance of many non-price considerations somewhat diminished the role of price as a significant influence on purchasers' decisions.

(5) Purchasers used their strength in the market place in ways which had contradictory effects on price. While at times they were willing to subsidize certain producers in the interests of maintaining alternate suppliers, they were also effective in exerting downward pressure on both foreign and domestic prices.

Careful review of the information obtained in this investigation, however, indicated that the industry has not recovered and is indeed in a state of injury. Import penetration was dramatic and significant. The Commission investigators found that lost sales had occurred and that the margins of dumping contributed importantly to the margins of underselling. In addition, Commission data show that price depression did result, at least in part, from sales of imports at less than fair value. In establishing the existence of a causal link between imports and injury, the law requires only that LTFV imports be a contributing factor to injury to the domestic industry. Thus, despite the circumstances listed above which complicated the analysis of the data, the information obtained in this investigation does demonstrate that LTFV imports caused injury to domestic producers of Kraft condenser paper.

By order of the Commission.

Issued: August 31, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-27822 Filed 9-5-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 28-79]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Drug Enforcement Administration (DEA).

The DEA Air Wing Reporting System (JUSTICE/DEA-021) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register.**

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget, which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before November 5, 1979, the system will be implemented without further notice in the **Federal Register.** No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate and to the Speaker of the House of Representatives.

Dated: August 22, 1979.

W. D. Van Stavoren,

Acting Assistant Attorney General for Administration.

JUSTICE/DEA-021

SYSTEM NAME:

DEA Air Wing Reporting System.

SYSTEM LOCATION:

Drug Enforcement Administration (DEA) Aviation Division, DEA/Justice, P.O. Box 534, Addison, Texas 75001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DEA pilots.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Records relating to the operation and maintenance of DEA aircraft. (2) Records relating to pilot qualifications (CSC Form 671).

This system is maintained to monitor the utilization and maintenance of DEA aircraft and the qualifications of DEA pilots in furtherance of DEA enforcement operations conducted pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Federal Aviation Administration for purposes of aircraft documentation and pilot certification.

(2) Department of Defense for communication purposes.

(3) United States Coast Guard for communication purposes.

(4) Communications relay services under contract with DEA for communications purposes.

(5) Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(6) Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member or Congress or staff acting upon the Member's behalf when the Member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(7) Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

The automated portion of the records is maintained on an ADP disk storage device. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Information relating to individuals in the system is retrieved by pilot name or identifying number assigned by DEA.

SAFEGUARDS:

Access to the system is restricted to DEA personnel on a need-to-know basis. The records are maintained in a secure room at the Addison Aviation Facility in accordance with DEA security procedures and are protected by an electronic alarm system.

RETENTION AND DISPOSAL:

The automated records are maintained for five years and then purged from the data base. Manual records are maintained indefinitely.

SYSTEM MANAGERS AND ADDRESS:

Chief, Aviation Division, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Information pertaining to individuals in the system is obtained from reports submitted by DEA pilots.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-27832 Filed 9-5-79; 8:45 am]

BILLING CODE 4410-09-M

U.S. v. Central Illinois Public Service Co.; Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Central Illinois Public Service Company* was lodged with the United States District Court for the Central District of Illinois. The proposed decree would require Central Illinois Public Service Company to construct by October 1, 1979, treatment facilities to comply with the company's NPDES permit, payment of a civil penalty, and the dedication of the company's cooling lake to recreational purposes acceptable to the State of Illinois.

The Department of Justice will receive on or before October 9, 1979, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Central Illinois Public Service Company*, D. J. Ref. 90-5-1-1-654.

The proposed consent decree may be examined at the office of the United States Attorney, Central District of Illinois, Post Office Box 375, Springfield, Illinois 62705, at the Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2625), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-27769 Filed 9-5-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-73]

Performance Review Board, Senior Executive Service

The Civil Service Reform Act (4314(C)(4)) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register.**

The performance review function for the Senior Executive Service in the National Aeronautics and Space Administration will be performed by the NASA Performance Review Board and the NASA Senior Executive Committee. The latter is to perform this function for senior executives who report directly to the Administrator or the Deputy Administrator. The following individuals serve on the Committee and the Board:

SENIOR EXECUTIVE COMMITTEE

Alan M. Lovelace, Chairperson, Edwin C. Kilgore, Robert F. Allnutt.

PERFORMANCE REVIEW BOARD

Robert F. Allnutt, Chairperson, Carl E. Grant, Executive Secretary, Leonard Jaffe (Term expires July 1980), Robert E. Smylie (Term expires July 1980), John M. Klineberg (Term expires July 1981), Gerald D. Griffin (Term expires July 1981), Gerald J. Mossinghoff (Term expires July 1982), Richard G. Smith (Term expires July 1982), Edwin C. Kilgore (Term expires July 1982).

Robert A. Frosch,

Administrator.

August 29, 1979.

[FR Doc. 79-27605 Filed 9-5-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Commission Work Plan To Include Proposals To Be Evaluated by Senate Finance Subcommittee on Unemployment and Related Problems; Public Requested To Assist Commission

At its meeting on August 25, 1979, held in New York City, the National Commission unanimously agreed to incorporate into its work plan issues relating to possible cost reduction and budgetary status improvement including but not limited to a list issued by the Honorable David L. Boren, Chairman of the Senate Finance Subcommittee on Unemployment and Related Problems on August 6, 1979, reading as follows:

Summary of Various Proposals for Reducing Costs and Improving the Budgetary Status of the Unemployment Program

A-1. Require disqualification for duration of unemployment for voluntary quits, discharge for misconduct, and refusal of suitable work.—When an unemployed worker has voluntarily left his job without good cause, has been discharged for misconduct, or has refused what the State agency considers a suitable job offer for him, he becomes ineligible for benefits. However, in many States the disqualification is lifted after a period of time. Other States continue the disqualification for the duration of unemployment. A recent research study by SRI International concluded that the average length of unemployment tends to be lower in States which impose disqualification for the duration of unemployment. Consideration could be given to requiring all States to utilize this rule.

A-2. Require that States not pay benefits beyond 13 weeks to an individual refusing any reasonable job offer.—The unemployment compensation program exists to provide protection against income loss during periods of involuntary unemployment. Generally, a worker qualifies for up to 26 weeks of benefits if he was laid off from work for reasons other than his own misconduct or his own voluntary decision to quit and if he remains ready, willing, and able to accept new employment. For the benefit of both the worker and the labor market, newly unemployed workers are not required to take any available job but are permitted to seek a job which reasonably matches their previous experience, training, and earnings level. After seeking such work unsuccessfully for a reasonable period of time, however, individuals may be required to seek jobs not meeting their full qualifications as a condition of continued benefit eligibility. Consideration could be given to establishing a Federal requirement that States not continue benefits beyond 13 weeks unless, at that point, the unemployed individual is willing to accept any job which meets minimum standards of acceptability (such as basic health and safety standards, compliance with the Federal minimum wage, and acceptability under existing Federal standards). A similar requirement was included in the legislation extending the

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now expired Emergency Unemployment Compensation Act of 1974.

A–3. Require that States not pay benefits on the basis of predictable layoffs from seasonal employment.—The main objective of the unemployment program is to provide security for workers against the sudden loss of income which occurs when they are unavoidably laid off. It could be argued that it is inconsistent with this objective to pay benefits to workers whose layoff is a regularly recurring and predictable event because of the seasonal nature of that employment. In extending unemployment coverage to State and local government workers, Congress addressed this problem as it applies to school employees by providing for the denial of benefits during regularly scheduled periods of nonwork. The 1976 amendments also provided for denying benefits to professional athletes during the offseason. Consideration could be given to requiring States to establish a seasonal employment exclusion of general applicability as a few States have done already. For example, employment for firms with a pattern of seasonal layoffs could be excluded from consideration in determining benefit eligibility during the offseason unless the unemploy person was fully employed during the same offseason in the prior year.

A–4. Require all States to establish a one-week waiting period.—Most States do not now pay benefits for the first week of unemployment on the basis that requiring a "waiting week" before benefit eligibility starts provides an important incentive to immediately undertake a search for reemployment (or even to finds ways to avoid being laid off). Consideration could be given to requiring that the one-week waiting period be incorporated into all State programs.

A–5. Provide increased assistance to States in control of error and fraud.—In the past, when benefit costs were almost entirely borne from State imposed taxes, there has not been a highly visible Federal concern over the need to control the extent of error, fraud, and abuse in State unemployment programs. Given the increased impact of these programs on the Federal budget and the increasingly large direct Federal contribution to benefit costs through the extended benefit program and other programs involving Federal funding, consideration might now be given to providing additional aid and incentives for improved State administration in these areas. Elements which could be considered might include Federal aid in establishing computerized quality control systems and the reduction of Federal payments under the various Federally funded parts of the program to the extent that errors are determined to exceed certain minimum levels.

A–6. Eliminate the national trigger for the extended benefit program.—Under existing law, an additional 13 weeks of benefits over and above the usual maximum duration of 26 weeks for regular State unemployment benefits become payable in times of high unemployment. Fifty percent of the costs of these extended benefits are paid from the proceeds of the Federal unemployment tax. The basis for the extended benefits program is that unemployed workers may reasonably be expected to find themselves unable to obtain employment for a longer period of time when jobs are scarce as indicated by high levels of unemployment. Consequently, the law requires States to participate in the extended benefits program when insured unemployment levels in the State have increased by at least 20 percent (measured against the two prior years) and an absolute insured unemployment rate of 4 percent has been reached. The law also, however, requires that all States implement the extended benefit program when the national insured unemployment rate reaches a level of 4.5 percent. This can result in adding three months of benefit duration in a State which has experienced neither a particularly high level of unemployment nor any relative growth in unemployent levels. In such States there would, therefore, seem to be no particular basis for assuming that unemployed workers required additional benefit duration in order to find new work. Consideration could be given to deleting this national trigger so that extended benefits would be payable only in those States where economic conditions indicated a need for the additional duration.

A–7. Permit States to establish optional extended benefit trigger at higher insured unemployment levels.—Under present law, States which are not required to participate in the extended unemployment compensation program under the mandatory trigger provisions may elect to opt into the program when the State insured unemployment rate reaches a level of 5 percent. States do not, however, have the option of triggering the program only at a higher level (such as six percent). Consideration might be given to providing States this additional flexibility.

A–8. Provide incentives for Federal agencies to contest improper benefit claims.—An important element of the unemployment compensation program in the States is the experience rating system which provides a strong incentive for employers to avoid unnecessary employee turnover and to monitor claims for unemployment to assure that improper awards are not being made by the State agency. Federal agencies do not have a similar incentive in the case of their employees since benefit costs are funded through a separate account not chargeable to the individual agency. Consideration could be given to requiring each agency, as a part of its annual budget request, to provide information concerning the amount of benefits paid to its former employees in the prior year and its expectations for the coming year. In addition, the Labor Department could be charged with a continuing analysis of the agency experience and could be required, in its annual budget submissions, to include information concerning any agencies with unusually high benefit charges.

A–9. Modify trade adjustment assistance program to provide same benefit amount as regular program.—The trade adjustment assistance program provides additional benefits to workers who become unemployed as a result of import competition which causes a decline in the sales or production of their employers. Under existing law, adjustment assistance is provided in the form of both higher benefits than would be payable under regular unemployment compensation program and a longer duration of benefits (generally 52 weeks as opposed to 26 weeks under regular State programs). While the impact of import competition may justify a longer duration of benefits on the basis that many similar firms in a given area could be simultaneously impacted so that it would take a longer time for workers in the affected industry to find new work, there does not appear to be a similar rationale for providing a higher level of benefits than are provided to workers losing other types of jobs. Consideration could be given to modifying the program by continuing the additional benefit duration but limiting benefit levels to those of the regular State unemployment compensation program.

A–10. Require States to pay interest on funds borrowed from Federal accounts.—Under present law, State benefit costs are paid from the proceeds of State unemployment taxes which are deposited in the State accounts of the unemployment Trust Fund. If a State account drops to a level where the State will be unable to meet its benefit obligations, a loan to meet the shortfall is made from the Federal unemployment account. (If the Federal unemployment account proves inadequate, it in turn borrows from the general fund of the Treasury.) In each case, the loans that are made bear no interest. Once a loan is made to a State under this provision, the State has between 23 and 35 months to make repayment. At the end of that period, Federal collection action begins by reducing the Federal tax credit otherwise available to employers in the State. Even so, no interest or other penalty applies. (Because of the severe impact of the recent recession, States with outstanding loans were given 3 additional years to make repayment during which no action is being taken to effect collection.) Since these loans are provided on an interest-free basis, there is little incentive for States to make repayment any sooner than they have to. The Federal government, however, is actually paying interest on these balances since they represent an increase in the public debt. A change in the law could be considered to increase State incentive to repay outstanding loans as quickly as possible by charging interest on any loan balance outstanding at a rate equal to the going rate of interest on Federal securities.

A–11. Provide for reduction of benefits when the unemployed individual is receiving a pension based on recent employment.—When the 1976 Amendments to the unemployment laws were under consideration by Congress, concern was expressed over the situation in which an individual who is in fact retired rather than unemployed may receive unemployment benefits at the same time that he is receiving retirement pension. The law was amended to provide for a dollar-for-dollar reduction in unemployment benefits by the amount of any pension concurrently payable to the individual. Because of concern that the provision may have been too broadly drawn, the effective date was set in the future to permit time for study and that effective date was subsequently further extended to March 31, 1980. The interim report of the National Commission on Unemployment Compensation recommended that the provision be repealed. As an alternative to this proposal, consideration could be given to making the provision effective with a modification meeting the most serious objections by limiting the reduction to pensions based in whole or part on employment within the 2 years preceding the date of unemployment.

The National Commission on Unemployment Compensation will welcome comments in writing on any possible cost reduction and budgetary status improvement proposals that will assist it in developing and making research and administrative studies available on these types of issues. Comments are particularly requested from State employment security agencies and employer and employee groups and organizations.

All comments should be directed to the Chairman of the Commission, as identified herein, as soon as possible, but not later than October 1, 1979: Wilbur J. Cohen, Chairman, National Commission on Unemployment Compensation, 1815 Lynn Street, Suite 440, Rosslyn, Virginia 22209.

Telephone inquiries concerning this notice should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, (703) 235–2782.

Signed at Rosslyn, Virginia, this 29th day of August 1979.

James M. Rosbrow,
Executive Director.

[FR Doc. 79-27745 Filed 9-5-79, 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

White House Conference on Library and Information Services; November 15–19, 1979

AGENCY: National Commission on Libraries and Information Science.

ACTION: Announcement of Open Hearings at the White House Conference on Library and Information Services.

SUMMARY: The National Commission on Libraries and Information Science announces plans and procedures for open hearings during the White House Conference on Library and Information Services. The intent of these procedures is to provide for the orderly conduct of open hearings during the White House Conference on Library and Information Services in accordance with the authority vested in the Commission to organize and convene the Conference.

EFFECTIVE DATE: These procedures and any amendments thereafter suggested are effective on September 1, 1979.

FOR FURTHER INFORMATION OR COMMENT CONTACT: Jean-Anne South, Program Coordinator, White House Conference on Library and Information Services, c/o National Commission on Libraries and Information Science, 1717 K Street N.W., Suite 601, Washington, D.C. 20036, telephone 202–634–1527

Section 1—Definitions of terms used.

(a) "Commission" means the National Commission on Libraries and Information Science, established by Pub. L. 91–345, July 20, 1970.

(b) "Advisory Committee" means the Advisory Committee to the White House Conference on Library and Information Services composed of 28 members: three designated by the Chairman of the Commission; five designated by the Speaker of the House of Representatives; five designated by the President Pro Tempore of the Senate (with no more than three being members of the Senate); and not more than fifteen appointed by the President. The Advisory Committee shall assist and advise the Commission in planning and conducting the White House Conference on Library and Inforamtion Services in accordance with Public Law 93–568, December 31, 1974.

(c) "Conference" means the White Hosue Conference on Library and Information Services, to be organized and convened by the Commission in accordance with Public Law 93–568.

(d) "State" includes the fifty States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, unless otherwise specified.

(e) "Act" means Pub. L. 93–568, December 31, 1974.

(f) "Open hearing" sessions refer to the meetings which may be held at the following times:

Session I. November 16, afternoon.
Session II. November 17, morning.
Session III. November 17, afternoon..

Section 2—Words importing gender.

As used in these procedures, unless the context requires a different meaning, all works importing the msaculine gender include both masculine and femine genders.

Section 3—Open hearings process.

3.1 Call to Conference.
3.2 Purpose of open hearings.
3.3 Panel.
3.4 Identification.
3.5 Registration for Conference sessions.
3.6 Requirements.
3.7 Timekeepers.
3.8 Process.
3.8.1 Scheduling.
3.8.2 Length of presentation.
3.8.3 Questions.
3.8.4 Place in White House Conference as a whole.
3.8.5 Eligibility.
3.8.6 Deadline for scheduling testimony.

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3.8.7 Unscheduled Testimony.
3.8.8 Minutes.
3.9 Parliamentary authority.
3.10 Conference officials.

3.1 Call to Conference.

The Commission shall determine the time, place and the agenda of the Conference and shall issue official notice thereof to the Chair, to the State Library Agency heads of each State, to all delegates, and to the general public.

3.2 Purpose of open hearings.

The purpose of the open hearigns is to provide an opportunity for groups or special interests to state their concerns, to maintain the openness of the Conference to the general public, to offer an opportunity for conflicting or contrasting opinions to be heard.

3.3 Panel.

Panels for each open hearing shall consist of members of the National Commission on Libraries and Information Science, or such other individuals as the Commission shall designate for this purpose.

3.4 Identification.

All participants involved in open hearing sessions shall wear identification badges. Badges shall not be transferable and they shall be visible at all meetings.

3.5 Registration for Conference sessions.

All persons (including press) who intend to testify before the open hearings sessions shall comply with Conference registration requirements including registering with name, address, identification, and payment of any required fee. Upon compliance with registration requirements, each registratant shall be issued an identification badge as delegate at large, special guest, observer, alternate, press, staff, discussion leader, resource persons, or recorder.

3.6 Requirements.

All individuals who desire to pre-file for the open hearings in conjunction with the White House Conference shall be required to fulfill the following:

3.6.1 Statement of intent.

Each individual or group which desires to present a position to the open hearings shall file a statement of intent to present such testimony. In the case of group, representation of a statement shall be accompanied by notarized proof of authorization.

3.6.2 Abstract.

Each participant who pre-files for open hearing sessions shall provide an abstract no more than one page, 8½ by 11, to include the topic area to be addressed, issues to be raised, a statement of a position taken, and any recommendations which are to be included in the presentation.

3.6.3 Paper.

Each individual who pre-registers to speak at the open hearings shall submit to the White House Conference staff in advance of the Conference, a paper which expresses that position. This paper should be no longer than 10 pages in length, double spaced on 8½ by 11. The author of the paper and/or organization represented should be clearly indicated on each page of the submitted testimony. The format of the paper should follow the outline as indicated above in 3.6.2.

3.7 Timekeepers.

Timekeepers shall be present at all sessions of the Conference. Their duty shall be to indicate to each speaker an appropriate warning before expiration of the allowed time.

3.8 Process.

The process of the open hearings shall be governed by the procedures enumerated below:

3.8.1 Scheduling.

All individuals who have pre-filed their statement of intent to testify at the open hearings by the deadline of October 1, 1979 shall be scheduled at one of the open hearing sessions of the Conference.

3.8.2 Length of presentation.

Each individual who has been duly registered and scheduled for a presentation at the open hearing shall have a maximum of five minutes to summarize his or her presentation. Participants will be held to this time period by the Conference timekeepers.

3.8.3 Questions/Clarifications.

Members of the panel shall have the option to ask the participant questions for clarification of the positions or recommendations proposed. Such questioning shall be at the discretion of the presiding officer.

3.8.4 Place of open hearing sessions in White House Conference process.

The open hearings will be an integral part of the White House Conference. There will be recorders to summarize important positions, points, or opinions expressed during the open hearing sessions. These summaries will be published in official record of White House Conference and brought to the attention of the appropriate Recommendations Committee of the White House Conference for consideration.

3.8.5 Eligibility.

(a) Any association, agency, individual or group may participate in the open hearings in accordance with the requirements as stated in 3.6.

(b) Any duly registered observer at the White House Conference shall be permitted to participate in the open hearing sessions in accordance with procedures enumerated in 3.8.7 below.

3.8.6 Deadline for scheduling testimony.

All participants who desire to pre-register for the open hearing sessions shall file all items specified under Requirements, 3.6, by October 1, 1979.

3.8.7 Unscheduled testimony.

The open hearing sessions shall be scheduled to allow time at the end of each scheduled hearing for presentations by those duly registered Conference participants who have not pre-filed their intent to testify at the open hearing sessions. These participants will be allowed to testify to the open hearings' panels on a first-come basis after registering with the secretary for the open hearing sessions. The secretary shall provide to the presiding officer, one-half hour prior to the end of each open hearing sessions, a list of those individuals who have signed in with him or her and who have provided the necessary abstract and paper as detailed in item 3.6 Requirements.

3.8.8 Minutes.

The recording secretary(s) shall be responsible for the preparation of the official minutes of all open hearings. Tape recordings shall be provided for all open hearing sessions discussions to aid in the preparation of accurate minutes or summaries by this designated recorder or these recorders. Minutes shall be approved by the presiding officers of these session(s) and by the Chairman of the Commission or his delegates.

3.9 Parliamentary authority.

(a) The rules in Robert's Rules of Order Newly Revised shall govern all open hearing sessions of the Conference in all cases applicable when not inconsistent with the White House Conference rules.

(b) The format, agenda, order of business, and seating arrangements of the Conference open hearing sessions shall be determined in all cases by the Commission.

3.10 Open hearing officials.

At each open hearing session there shall be in attendance a presiding officer and assistant presiding officer, Federal officer appointed pursuant to the requirements in the Federal Advisory Committee Act, the chair of the Rules Committee or his or her designee, the chair or co-chair of the Recommendations Committee, the chair of the Credentials Committee or his designee, Conference parliamentarian, timekeepers, recording secretary(s) and credentials monitors. Presiding officers of each open hearing session shall be appointed by the Commission.

Marilyn K. Gell,

Director, White House Conference on Library and Information Services.

August 29, 1979.

[FR Doc. 79-27819 Filed 9-5-79; 8:45 am]

BILLING CODE 7527-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

August 30, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: September 20, 1979. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review NEH Practitioners Seminar applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
2. Date: September 24, 1979. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review Public Library Program applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
3. Dates: September 27 and 28, 1979. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
4. Dates: Ocotber 3 and 4, 1979. Time: 9:00 a.m. to 5:30 p.m. Room: 1025. Purpose: To review Media Program applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
5. Dates: October 4 and 5, 1979. Time: 9:00 a.m. to 4:00 p.m. Room: 1134. Purpose: To review state humanities committee applications in all the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.
6. Dates: October 9, 10 and 11, 1979. Time: 9:00 a.m. to 5:30 p.m. Room: 807. Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

Because the proposed meetings will consider financial information of a a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202-724-0356.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-27782 Filed 9-5-79; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 9, 1979. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 632-4238.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and a way to designate specially protected areas and sites of special scientific interest. The regulations were presented for public comment in draft form in the 6 March 1979 Federal Register. They appeared in final form in the 7 June 1979 Federal Register. They are effective 1 July 1979, in advance of the 1979-80 field season.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird to attempt to engage in such conduct)
- To collect any plant native to Antarctica in specially protected area
- To enter any specially protected area or certain sites of special scientific interest
- To import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a specially protected area
- To introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific

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interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a specially protected area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objective of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, or the Migratory Bird Treaty Act. Permit applicatons involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The regulations amend Title 45 of the Code of Federal Regulations by adding Part 670.

The applications received are as follows:

1. Applicant, Donald R. Siniff, University of Minnesota, Minneapolis, Minnesota 55455.

Activities for Which Permit Requested

Take (tag-release; collect animals found dead) seals (leopard, Weddell, crabeater, ross), Import into U.S.A.

Location

Antarctic Peninsula region and McMurdo Sound area.

Note.—Dr. Siniff has applied for and been granted Marine Mammal Protection Act Permit No. 242 to take the seals described above.

Dates

October 15, 1979—April 15, 1980.

2. Applicant, David F. Parmelee, University of Minnesota, Minneapolis, Minnesota 55455.

Activities for Which Permit Requested

Take birds (skuas, gulls, sheathbills, terns, shags, storm-petrel, penguin), Import into U.S.A., Enter Specially Protected Area (SPA).

Location

Anvers Island, Litchfield Island (SPA).

Dates

October 15, 1979—April 15, 1980.

3. Applicant, David E. Murrish, Department of Biological Sciences, State University of New York, Binghamton, New York 13901.

Activities for Which Permit Requested

Take birds (Giant Petrel, penguins).

Location

Anvers Island.

Dates

December 1, 1979—March 31, 1980.

4. Applicant, Robert E. Ricklefs, Department of Biology, University of Pennsylvania, Philadelphia, Pennsylvania 19104.

Activities for Which Permit Requested

Take birds (penguins, Giant Fulmar, Blue Eyed Shag, South Polar Skua, Antarctic Tern), Import into U.S.A.

Location

Anvers Island and vicinity.

Dates

December 1, 1979—March 31, 1980.

5. Applicant, David G. Ainley, Point Reyes Bird Observatory, Stinson Beach, California 94970.

Activities for Which Permit Requested

Take birds (penguins [adelie, emperor], petrel, albatross, fulmar, prion, skua), Import into U.S.A.

Location

Ross Sea area.

Dates

December 1, 1979—March 31, 1980.

6. Applicant, Arthur L. DeVries, 524 Burill Hall, University of Illinois, Urbana, Illinois 61801.

Activities for Which Permit Requested

Introduction of a nonindigenous species *(Notothenia angustata)* into Antarctica.

Location

McMurdo, Antarctica.

Dates

October 15, 1979—December 31, 1979.

Authority to take this action has been delegated by the Director, NSF to the Director, Division of Polar Programs under National Science Foundation Staff Memorandum O/D 79–16, of May 29, 1979.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 79–27770 Filed 9–5–79; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Project M–25]

Notice of Extension of Comment Period for the Draft Generic Environmental Impact Statement

Uranium Milling; (GEIS) and Notice of Public Hearings on Draft GEIS and Associated Proposed Regulation Changes

As stated in the **Federal Register** Notice announcing the availability of the Draft Generic Environmental Impact Statement (GEIS) on Uranium Milling (44 FR 24963), regulation changes have been developed which incorporate conclusions of the Draft GEIS and implement provisions of the "Uranium Mill Tailings Radiation Control Act of 1978." These regulation changes were formally proposed in the **Federal Register** on August 24, 1979, (44 FR 50012). Since the bases for many of the regulation changes are developed in the Draft GEIS, it is essential that they be considered together. Therefore, the comment period on the Draft GEIS is being extended an additional thirty (30) days (in addition to the previous sixty (60) day extension) from September 24, 1979, to October 24, 1979, in order to provide adequate time for review.

Further, notice is hereby given that the Commission will hold two informal public hearings on the GEIS on Uranium Milling and associated proposed regulation changes. The hearings will be held on October 1–2, 1979 at the Holiday Inn in Denver, Colorado and on October 18–19, 1979, at the Convention Center in Albuquerque, New Mexico. Persons wishing to attend these hearings should arrange for their own accommodations.

The purpose of the hearings will be to provide interested persons an opportunity to participate in rulemaking through oral comments. The amount of time allowed for oral remarks will be determined by prehearing response; however, it is anticipated that individuals will be allowed approximately fifteen minutes. The hearing panel, consisting of NRC staff members responsible for preparing the draft GEIS and proposed regulation changes, as well as a representative from the State (in which the hearing is being held), will ask clarifying questions, of commenters, and NRC staff members will answer general questions about the draft GEIS and proposed regulation changes to the extent that they can at the time. Persons interested in presenting comments at either of the two informal hearings should notify Mrs. Betty Fisher in care of the Director, Division of Waste Management or at (301) 427–4103 by September 14, 1979. It would be helpful if written versions of comments to be presented orally are made available prior to or at the time of the hearings. Opportunity to speak will be given to those persons who do not provide advance notificaiton of their intent to comment, if time is available. However, the hearing chairman will retain the right to refuse the floor to anyone who does not address the draft GEIS or proposed regulation changes. Any further procedural rules needed for the proper conduct of the hearing will be announced by the hearing Chairman. The hearings will be recorded and the transcripts will be placed in the Public Document Room as part of the official record.

The hearings will run from 8:30 a.m. to 5:30 p.m. each day. Evening sessions will be held if it is determined that this is necessary in view of pre-hearing response. Both hearings will follow the same simple agenda:

I. Registration.

II. Introduction and Opening Remarks by Chairman and members of hearing panel. Remarks by Chairman will consist of brief summarization of the scope of the Draft GEIS and proposed regulation changes as well as a review of the schedule for issuing the final GEIS and regulation changes.

III. The remainder of the two days will be available for interested persons to make comments on the Draft GEIS and proposed regulation changes.

Written comments in furtherance of oral remarks will be accepted by the hearing chairman at the time of the hearing or may be sent by October 24, 1979, to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Waste Management.

Dated At Silver Spring, Maryland, this 29th day of August, 1979.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 79–27771 Filed 9–5–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR–57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of changes of the Technical Specifications by adding Limiting Conditions for Operation and Surveillance Requirements for the Tail Pipe Pressure Switches installed on the Relief/Safety Valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 13, 1979, (2) Amendment No. 71 to License No. DPR–57, and (3) the Commission's letter dated August 29, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. and at the Appling County Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of August, 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79–27772 Filed 9–5–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2); Order

On July 20, 1979, the Director, Office of Nuclear Reactor Regulation, issued an order suspending the licensee's authority to operate this facility and directing that, pending further order, the licensee maintain the facility in a shutdown condition in accordance with the approved operating and contingency procedures. The Order further provided that a subsequent order would be issued within about thirty (30) days addressing (1) the imposition of new and/or revised Technical Specifications setting forth appropriate license conditions and (2) the time in which the licensee may file an answer and persons affected by the Order may request a hearing in this matter. The new and/or revised Technical Specifications have not yet been completed. Accordingly, the period of time in which to issue that order is extended for an additional thirty (30) days.

It is so ordered.

Dated at Washington, DC, this 20th day of August, 1979.

For the Nuclear Regulatory Commission.

Edson Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79–27774 Filed 9–5–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–263]

Northern States Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Provisional Operating License No. DPR–22, issued to Northern States Power Company, which revised the license for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment will become

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effective twenty days from the date of publication of this notice of issuance unless a hearing has been requested.

The amendment adds a license condition pertaining to the completion of facility modifications to improve the fire protection program.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated December 10, 1976, July 5, 1977, May 18, 1978, November 7, 1978, and January 4, 1979, (2) Amendment No. 41 to License No. DPR–22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 29th day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-27775 Filed 9-5-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Provisional Operating License No. DPR–18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (the facility) located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment modifies the provisions of the Technical Specifications to incorporate the new Standby Auxiliary Feedwater System pumps, which relates to the result of the Commission's staff review of the licensee's analysis for high energy line breaks outside of containment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the Commission's letter to the licensee dated December 18, 1972, (2) the application for amendment dated February 1, 1977, and the licensee's letters dated February 6, 1978 and August 25, 1978, (3) Amendment No. 29 to License No. DPR–18, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of August, 1979.

Dated at Bethesda, Maryland, this 24th day of August, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2. Division of Operating Reactors.

[FR DOC 79-27777 Filed 9-5-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-36]

Accident Reports, Responses to Safety Recommendations; Availability

Aircraft Accident Reports

U.S. Civil Aviation Accidents, 1978 (Brief Format); Issue No. 3 (NTSB–BA–79–1).—The National Transportation Safety Board Announces the availability of copies of the third volume in its series of briefs reports of general aviation accidents which occurred last year. The computer-printout reports document the causal factors assigned by the Safety Board in each of the 899 accidents covered. In addition to the causal factors, Issue No. 3 also provides statistical information tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, and injuries.

The Safety Board, in Press Release SB 79–68 concerning Issue No. 3, cites one accident involving a Bonanza N–35 which crashed April 26, 1978, near Atlanta, Ga. The pilot and his wife were killed. In determining the probable cause of this accident, the Board found that spatial disorientation of the pilot caused him to exceed the designed stress limits of the aircraft during an attempted operation beyond his ability. The subsequent airframe separation in flight occurred in instrument weather conditions that included icing. The Board noted that the pilot was instrument rated but had no logged aircraft instrument time since 1974.

Holding an instrument rating, the Board observed, does not by itself make a competent instrument pilot. Pilots must fly in instrument conditions regularly or lose the proficiency demonstrated when they successfully passed the instrument rating flight examination. In the Georgia accident, the pilot had lost that proficency, with fatal results.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, $5 per page for black-and-white photographs, and $4 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include this information: (1) date and place of occurence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue No. 3 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Safety Recommendation Letters

Aviation

A–79–62 through 66 to the Federal Aviation Administration.—During the investigation of the United Air Lines DC–8 accident at Portland, Oreg., December 28, 1978, the Safety Board Discovered several problems which affected adversely the survivability of the aircraft occupants; namely, exit markings, adequacy of child restraints, preimpact warnings over the public address system, accuracy of passenger manifests, and crew coordination. The Board believes that these problems are not limited to this particular air carrier or to this particular aircraft; thus they may affect persons involved in future accidents. Accordingly, on August 24, the Safety Board recommended that FAA:

Issue an Air Carrier Maintenance Bulletin clarifying the content of 14 CFR 25.811(d) regarding the conspicuity of passenger emergency exit signs when exits are open and the requirement for exit signs to be relocated in aircraft which have signs affixed on the exit closure. (A–79–62)

Expedite research with a view toward early rulemaking on a means to most effectively restrain infants and small children during in-flight upsets and survivable crash landings. (A–79–63)

Expedite the release of Operations Review Program Notice No. 13 containing the Safety Board's 1974 recommendation regarding a power source for public address systems independent of the main aircraft power supply in passenger-carrying air craft. (A–79–64)

Include in the anticipated new rule a requirement for domestic and flag air carriers to maintain passenger lists with the proviso that both ticketed and nonticketed passengers' names be provided. (A–79–65)

Issue an Air Carrier Operations Bulletin which will provide guidance and criteria to FAA Inspectors in determining the scope, quality, and effectiveness of training programs with respect to communication and coordination among crewmembers. (A–79–66)

Each of the above recommendations is designated "Class II, Priority Action." The Board's formal report on the investigation of the Portland accident, No. NTSB–AAR–79–7, was made public on July 6. Earlier recommendations resulting from investigation of this accident, Nos. A–79–32 through 34 issued May 11 and A–79–47 issued June 13 to FAA, are reproduced in the report. (See 44 FR 42349, July 19, 1979.)

A–79–67 to the Federal Aviation Administration.—Investigation of the Antilles Air Boats, Inc., accident on September 2, 1978, has resulted in the issuance of another safety recommendation. The Grumman 21A struck the water while on a passenger flight from St. Croix to St. Thomas, V.I. The aircraft broke apart and the captain and three of the ten passengers drowned. The aircraft was not required to have liferafts or approved flotation-type seat cushions on board, nor was it so equipped. Individual life preservers were located underneath each seat.

The Board's investigation revealed that before takeoff the captain only advised the passengers to fasten their seatbelts; he did not brief them on the location of survival equipment as was required by 14 CFR 135.81, "Briefing of Passengers Before Flight," which was in effect at that time. The passengers may not have known about the availability of life preservers, and no warning of an impending emergency landing was given to the passengers. Seven of the ten passengers survived because they clung to floating aircraft debris. Several passengers attempted to use seat cushions, but the cushions were covered with a vinyl material which became too slippery to hold in the water. There were no straps or handholds to facilitate grasping the cushions.

Since this accident again shows the need for a readily available means of flotation in water accidents when insufficient time is available to retrieve and don more conventional flotation equipment, the Safety Board on August 24 recommended that FAA:

Amend 14 CFR Part 135 to require all aircraft conducting passenger service under Part 135 in any overwater operation be equipped with approved flotation-type seat cushions, and to require aircraft conducting extended overwater operations to also be equipped with an approved life preserver equipped with an approved survivor locator light. (A–79–67) (Class II, Priority Action)

The Safety Board's formal report (NTSB–AAR–79–9) on the investigation of the Antilles Air Boats accident was released July 20; it contains four other recommendations issued to FAA earlier this year: A–79–11 on May 4, A–79–31 on May 9, and A–79–56 and 57 on July 12. (See 44 FR 45496, August 2, 1979.)

A–79–68 through 70 to the Federal Aviation Administration: The Safety Board's investigation of the Rocky Mountain Airlines DeHavilland DHC aircraft accident near Steamboat Springs, Colo., on December 4, 1978, illustrated the immediate need for survival training for crewmembers and for the installation of shoulder harnesses on crew seats. The accident occurred in near-blizzard conditions about 1945 m.s.t. in mountainous terrain at the 10,500-ft. level. The first emergency rescue team arrived at the accident site about 10 hours later; the evacuation was completed 16 hours after the accident. Falling and blowing snow, strong winds, rugged terrain, darkness, and subfreezing temperatures hampered the search and rescue efforts.

There was a great potential for serious postcrash trauma, including hypothermia and frostbite. However, because one of the passengers aboard was trained in winter survival techniques, and acted promptly and appropriately with the few available resources, the lives of many of the aircraft occupants were saved. Only one of the 20 passengers and one crewmember died as a result of this accident; one crewmember sustained minor frostbite. The Board notes that the Federal Aviation Regulations regarding crewmember emergency training do not extend to postcrash survival problems outside the aircraft and that the actions taken by the passenger were the responsibility of the crewmembers.

Further, the Board's investigation established that shoulder harnesses, if worn by the crewmembers, might have reduced their injuries. New 14 CFR Part 135, effective last December 1, specifies installation of shoulder harnesses at flightcrew stations of certain commuter aircraft by June 1, 1979, with provisions for the granting of extensions to December 1, 1980, to individual operators. The Safety Board believes that the June 1 date allowed adequate time for most operators to comply.

In view of the above, the Safety Board on September 6 recommended that FAA:

Amend 14 CFR 135.331 and 121.417 to require that each certificate holder provide a survival training program for its crewmembers that would include the basic information on sea, desert, winter, and mountain survival. (A–79–68)

Issue an Advisory Circular which outlines acceptable means of compliance with such a survival training program requirement. (A–79–69)

Strictly enforce the compliance date for the installation of shoulder harnesses as required by 14 CFR 135.171. (A–79–70)

Priority action has been requested on each of the above Class II recommendations. The Safety Board's formal investigation report on this accident was made public on May 21. (See 44 FR 31331, May 31, 1979.)

Marine

M–79–80 to the University-National Oceanographic Laboratory System.—At 1435 on December 9, 1978, the motor vessel HOLOHOLO, under bareboat charter contract to the Research Corporation of the University of Hawaii (RCUH), sailed from Honolulu harbor and has been missing since it was seen about an hour later proceeding on a south easterly course off Waikiki toward Diamond Head. The HOLOHOLO was engaged on the second of six planned 6-day voyages involving a project the University of Hawaii had contracted to perform over a 1-year period at a site centered about 17 miles west of Kawaihae, Island of Hawaii. Despite an extensive air-sea search by the Coast Guard, the Air Force, the University, and others, the HOLOHOLO was not found. A joint U.S. Coast Guard/National Transportation Safety Board investigation into this accident is continuing. More than 40 persons testified during 12 days of public hearings which began on January 9 in Honolulu.

The 10 persons on board the HOLOHOLO included the owner, a Coast Guard-licensed master of research vessels, a hydraulic mechanic, and seven scientists associated with the research to be conducted. The owner, who bought the HOLOHOLO on September 18, 1978, was not licensed by the Coast Guard and had little knowledge or experience in the operation of such vessels and in seamanship, vessel stability, watertight integrity, navigation, or shiphandling. The chief scientist (principal investigator), who was an employee of the University and in charge of the scientific project and personnel, was a highly regarded scientist with considerable knowledge and experience in ocean research, but there is no evidence that he or the other scientists had expertise in vessel seaworthiness, stability, navigation, or ship-handling.

The investigation has obtained a great deal of evidence regarding alterations made to the HOLOHOLO to accommodate the research equipment and related operations. These alterations included the creation of openings in the weather deck, trunks, hatches, and bulkhead, and involved the installation of two large winches, a large pool of cable, and an A-frame cargo boom on the after part of the vessel. Some heavy equipment for the scientific work was taken aboard and stowed on the after main deck and bulwarks, and other equipment and supplies were stowed in various aft above- and below-deck locations. These circumstances may have adversely affected the seaworthiness of the vessel.

Since the HOLOHOLO was registered as a yacht and had never been surveyed for hull insurance purposes, or by the American Bureau of Shipping (ABS) for load line purposes, and was not built, maintained, or altered under ABS or Coast Guard inspection, there is a lack of information about the actual condition of the vessel. Therefore, calculations must be based on incomplete information compiled from available drawings, photographs, documents, and witness testimony. Deviation tables had not been prepared for the compass, and it has not been compensated in several years. The electronic navigation equipment had recently been installed near the compass in the wheelhouse, and alterations had been made to the vessel's structure and equipment which could have caused a large compass error.

The estimated 135-mile route from Honolulu to the site would have taken the HOLOHOLO no more than 25 miles from promontory shorelines, well within the range of the 26-mile radar. Therefore, an inaccurate compass should not have caused the vessel to be steered to an unintended position. Although some electrical problems had developed in the 32-volt system that powered the electronic navigation equipment during the first voyage, all the items were operative a few days before the second voyage commenced. The VHF radio was operating just before the HOLOHOLO sailed on December 9, since radio transmissions were exchanged between the vessel and the Honolulu harbormaster in Aloha Tower.

The Safety Board notes that in May 1976 the recommendation addressee, the University-National Oceanographic Laboratory System (UNOLS), promulgated voluntary guideline safety standards for research vessels—"Research Vessel Safety Standards," May 1976, UNOLS Office, Woods Hole Oceanographic Institution, Woods Hole, Mass. 02543. Those guidelines were compiled by a group of UNOLS members, and the membership was encouraged to adopt them as applicable and appropriate to vessels owned and operated by member institutions. The guidelines are intended to supplement existing laws and regulations, and include an excellent array of standards and procedures which would be applicable to most research vessel operations. The University of Hawaii was a member of UNOLS but had not applied the guideline standards to vessels contracted for its use by RCUH. Therefore, the operation of the HOLOHOLO apparently relied on the charter contract for vessel seaworthiness, the contract with the master for safe operation, and on the judgment of the chief scientist as to the suitability of the vessel to serve as a platform for the research projects to be conducted. There is no evidence that any of the guideline standards were considered or applied by the three individuals involved or by other officials of the University or RCUH.

It will be some time before the investigation is completed so that the Safety Board can analyze the evidence and reach conclusions regarding the probable cause of the accident. Meanwhile, notwithstanding the outcome of the efforts to determine the seaworthiness of the HOLOHOLO, the evidence leads the Board to conclude that several corrective actions should be taken to improve the survivability aspects of similar operations. Accordingly, on September 6, the Safety Board recommended that UNOLS:

Distribute a copy of this recommendation letter and the Safety Board's recommendations letter to the University of Hawaii to its members, and urge them to review the guideline standards promulgated by UNOLS and to formally prescribe appropriate minimum requirements from among those standards to be applicable to all vessels used by the member institutions, and for each specific voyage made by such vessels. (M–79–80) (Class I, Urgent Action)

M–79–81 through 87 to the University of Hawaii.—Also on September 6 the Safety Board by letter similar to that, above, forwarded to UNOLS recommendations that the University of Hawaii take the following actions in an effort to improve the safety of research vessel operations:

For each voyage made by vessels engaged in research conducted under the auspies of the University, provide EPIRB (emergency position indicating radiobeacon) equipment and necessary operating instructions for each voyage to the chief scientist on board, and ensure that the master is familiar with the EPIRB's operation and use. (M–79–81)

Establish a system of scheduled radio communications between its research vessels and appropriate officials ashore to monitor the progress of such vessels, and require all departures and arrivals to be reported. (M–79–82)

Require the chief scientist to compile and disseminate a formal cruise plan for each voyage to include at least the planned itinerary and a roster of all persons actually on board. (M–79–83)

Require the chief scientist to report all significant changes to the cruise plan to appropriate officials ashore. (M–79–84)

Review the guidelines standards promulgated by UNOLS, and formally prescribe appropriate specific minimum requirements from among those standards to be applicable to all vessels used by the University, and for each particular voyage made by such vessels. (M–79–85)

Review the procedures used by RCUH to contract for the service of masters and the charter of vessels for University use, and prescribe the relationship and responsibility of each entity involved to provide for the safety of each voyage or series of voyages, as appropriate. (M–79–86)

Develop a formal procedure to ensure that the terms of all charter and master contracts related to safety are known and understood by the chief scientist, and fulfilled to his complete satisfaction before a vessel sails on each voyage. (M–79–87)

All of the above recommendations are designated "Class I, Urgent Action," with the exception of No. M–79–82 which is designated "Class II, Priority Action."

M–79–88 through 97 to the U.S. Coast Guard.—On January 15, 1978, the U.S. motor tankship SEALIFT CHINA SEA rammed the Italian-registered cargo vessel LORENZO D'AMICO which was moored in Los Angeles harbor. The bow of the SEALIFT CHINA SEA penetrated about 15 feet into a cargo hold of the LORENZO D'AMICO. No deaths or injuries resulted from the accident, but the LORENZO D'AMICO was damaged beyond economical repair and was declared a constructive total loss. The SEALIFT CHINA SEA was damaged slightly.

Investigation showed that the accident resulted when the pitch was applied in the wrong direction to the SEALIFT CHINA SEA's controllable-pitch propeller during a turning maneuver. The automated engine control system was inoperative and propeller pitch was being operated manually at the local control station. The pilot ordered half astern and full astern but the propeller was operated at half ahead and full ahead. The errors occurred through a misunderstanding of the hand signals used among three persons in the engineroom to transmit pitch orders to the local control station two levels below and about 50 feet aft of the engine control room.

The Safety Board notes that the automated control systems on the SEALIFT CHINA SEA and the eight other ships of the class have failed many times. Those failures are significant in that the vessels have been operated in restricted waters on several occasions with no indication on the bridge regarding the actual direction of pitch. The Board believes that to be an unacceptably risky situation; also, ships' bridges should be equipped with prominently displayed thrust indicators which operate regardless of the failure of the automated control systems.

The ship was designed for manual operation of the pitch in the event of automated system failure, but did not provide for a reliable method to relay thrust orders to the local control station. The Board believes that hand signals are an inadequate method, as demonstrated by this accident, and that appropriate equipment should be installed so that persons in the wheelhouse, the engine control room and at the local control station can communicate reliably with each other.

The history of failures of the automated control system indicates that an adequate degree of maintainability had not been achieved. Investigation of this accident revealed that the technical manuals, spare parts, training of engineers, and shoreside support in combination have not been adequate. Therefore, the Safety Board believes these factors should be reanalyzed to identify and eliminate the definiencies and to revise the equipment and manning requirements needed to achieve a satisfactory level of maintenance.

Finally, the Board believes that failures of thrust control systems should be reported to the Coast Guard before vessels enter restricted waters, which is now required in cases of certain other equipment failures. Therefore, the Board on September 6 recommended that the Coast Guard:

Amend 46 CFR 113.30–5(a) to add propulsion local control stations to those locations required to be provided with an efficient means of communications in vessels equipped with automated control systems. (M–79–88)

Amend 46 CFR 113.30–20(b) to permit propulsion local control station telephone to be installed on the same circuit as the telephone stations listed in 46 CFR 113.30–5(a), and to require such installations to meet the criteria of 46 CFR 113.30.25, with special emphasis on paragraphs (c) through (g) thereof in regard to noisy locations. (M–79–89)

Amend 46 CFR 113.35–5 to require the installation of engine order telegraph systems between engineroom control stations and propulsion local control stations in vessels equipped with automated control systems if manual operation is an acceptable alternate means of control and the local station is not immediately adjacent to the engineroom control station. (M–79–90)

Amend 46 CFR Part 113 to prescribe standards for thrust indicators similar to those prescribed by 46 CFR 113.40 for rudder angle indicators and by 46 CFR 113.35 for engine order telgraph systems. Regulations should require vessels of 1,600 or more tons to be equipped with thrust indicators which are: (1) separate and independent from such indicators provided by the automated control consoles, (2) positioned prominently near the rudder angle indicator in the wheelhouse and bridge wings, and at the engineroom control station, (3) illuminated appropriately for effective day and night visibility, and (4) designed to display the exact shaft rpm and propeller pitch direction in either combined or individual instruments. (M–79–91)

Institute appropirate proposals to the Intergovenmental Maritime Consultative Organization for the establishment of international standards similar to those prescribed by 46 CFR Part 113 as revised pursuant to the preceding four recommdations. (M–79–92)

Make a special evaluation, in coordination with the Military Sealift Command, to determine any deficiencies involved in maintaining the automated control systems of all nine vessels of the class, as measured by the criteria stated in NVC No. 1–69, and make the changes in manning and equipment requirements needed to achieve an acceptable degree of maintainability. (M–79–93)

Revise and reissue NVC No. 1–69 to provide guidance for standards in consonance with those prescribed by 46 CFR Part 113 as revised pursuant to the first four preceding recommendations, and to reflect maintainability criteria related to the adequacy of manning, equipment design, instruction manuals, spare parts, and shoreside support for automated control systems and other factors, as determined to be needed by the recommended special evaluation. (M–79–94)

Amend 33 CFR 164.35 to add illuminated shaft rpm indicators to the equipment required in the wheelhouse, and illuminated thrust direction indicators in the wheelhouse and on the bridge wings of vessels equipped with controllable-pitch propellers. (M–79–95)

Amend 33 CFR 164.53(b) to add automated control systems and shaft rpm and thrust direction indicators to those equipments specifically required to be reported to the Coast Guard when they are not operating properly. (M–79–96)

Amend 33 CFR 124.16 to enumerate specific conditions or inoperative equipment, including automated control systems and shaft rpm and thrust direction indicators, that are deemed to constitute abnormal conditions required to be reported to the Coast Guard. (M–79–97)

M–79–98 to the U. S. Navy Military Sealift Command.—Also as a result of the Sealift China Sea/Lorenzo D'Amico accident investigation, the Safety Board on September 6 forwarded a letter similar to that addressed to the Coast Guard, recommending that the U. S. Military Sealift Command:

Collaborate with the U. S. Coast Guard to make a special evaluation to determine the deficiencies involved in maintaining the automated control system of the SEALIFT CHINA SEA and the other eight vessels of that class and make the changes in manning and equipment needed to achieve an adequate degree of maintainability onboard those vessels. (M–79–98)

All of the recommendations above, M–79–88 through 97 and M–79–98, are designated "Class II, Priority Action." The Board's formal report on the investigation of this accident is being prepared for distribution and copies will be available in the near future.

Pipeline

P–79–27 to the Research and Special Programs Administration, U.S. Department of Transportation.—At 1:10 a.m. last January 19, in North Richland Hills, Texas, an accumulation of natural gas in a house was ignited by an unknown source. The resulting explosion and fire destroyed the house. One resident was killed and another was critically injured.

The Safety Board's investigation of this acident has shown that the houses in the accident area were connected to a 6-inch Lone Star Gas Company gas main by 1¼-inch sevice lines. The service connection was made with two 90-degree elbows to allow for both horizontal and vertical movement of the line as the soil moved. This "swing connection" did not prevent the fracture of the pipe. Investigators have determined that gas escaped from a circumferential fracture at the threads of a 1¼-inch nipple above the service tap on the main. The wet clay soil at the accident site retarded the upward movement of the leaking gas. The gas moved laterally along the pipe; through the drier, more permeable clay; and into the house.

On November 27, 1978, a leak occurred on the Lone Star System in Arlington, Texas. This leak was also at the threaded section of a main/service line connection. The leak resulted in an explosion in which one person was killed. The conditions at the January 19, 1979, accident were also similar to those which existed on October 4, 1971, when a connection failed in North Richland Hills. In all three cases, the pipelines were located in dense clay soil that swells when it is wet. The movement of the soil applied force to the pipes, which in turn induced stresses which concentrated at the threaded connections of the 1¼-inch nipple at the service tap. The continued stress eventually caused the threaded areas to crack. In the 1971 accident, the effects of the stress were heightened because of brittleness caused by the hydrogenation of the galvanized pipe used at that connection. Investigators determined that the 1978 leak was also induced by a combination of stress and corrosion.

Failure of pipe at the main/service line connection with threaded couplings on the Lone Star system appears to be a recurring problem. After the 1971 accident, Lone Star only addressed the galvanized pipe-hydrogenation corrosion problem and not the stress problem. The short time between the November 1978 and the January 1979 accidents has caused the Safety Board concern as to the safety of the entire Lone Star system. Accordingly, on September 6 the Safety Board recommended that the Research and Special Programs Administration:

In conjunction with the Texas Railroad Commission, determine if the type of main/service line connection with threaded couplings installed by the Lone Star Gas Co. constitutes a hazard to life and property, and take appropriate action under Section 3(b) of the Natural Gas Pipeline Safety Act of 1968. (P–79–27) (Class I, Urgent Action)

Responses to Safety Recommendations

Aviation

A–79–41.—The Federal Aviation Administration on August 23 responded to the Safety Board's recommendation that an emergency airworthiness directive be issued immediately to inspect all pylon attach points on all DC–10 aircraft by approved inspection methods. The recommendation was the first of a series issued during the early investigation stage on the crash of the American Airlines DC–10 at Chicago's O'Hare International Airport last May 25. (See 44 FR 32756, June 7, 1979.)

FAA states that on May 28 a telegraphic airworthiness directive (AD) was issued, requiring the recommended inspection. Amendments to this AD were issued May 29 and June 4. In addition to actions taken with respect to recommendations A–79–41, 45, 46, and 52, FAA initiated a number of other actions, including FAA monitoring of AD compliance, grounding of U.S. registered DC–10 airplanes, suspension of the DC–10 type certificate, issuance of two Orders of Investigation involving evaluation of the DC–10 manufacturer's type certification data and operator's airworthiness procedures, and issuance of a Special Federal Aviation Regulation prohibiting operation of foreign registered DC–10 airplanes from operating in U.S. airspace except for nonrevenue departures. On June 11 FAA issued GENOT N8320.234 directing principal maintenance inspectors to review pylon and wing attach area inspection procedures of their assigned operators, and to amend the maintenance operations specifications to require inspections of the Boeing 747, Lockheed 1011, and the A–300 engine pylons. Copies of the AD and amendments were provided.

A–79–42 and 43.—On August 22 FAA responded to recommendations issued June 8 concerning air traffic control oprational control. Recommendations A–79–42 asked FAA to conduct a directed safety study on a priority basis, to examine the runway incursion problem and to formulate recommended remedial action to reduce the likelihood of such hazardous conflicts. A–79–43 recommended alerting all controller/pilot personnel that runway incursion mishaps represent a serious safety problem which requires their immediate attention, emphasizing the need for both groups to maintain greater visual surveillance in those taxi operations involving any runway crossing. (See 44 FR 34221, June 14, 1979).)

In response to A–79–42, FAA has commissioned Transportation Systems Center to conduct a study on "Runway and Taxiing Transgression." Also, FAA regional air traffic divisions will review all local procedures for control of ground movements on and along active runways and airfield configurations that may contribute to the potential for taxi conflictions. FAA has also continued to analyze the impact of procedures contained in the Eastern Region's Regional Notice (RENOT) 8/21, dated June 27, 1978, to apply those procedures throughout the national system. FAA concludes that input from user and operator activities is necessary to further determine the impact that may result if the provisions of the RENOT are adopted. Accordingly FAA plans to publish a document change proposal for review and comment by aviation and air traffic control interest groups.

In response to A–79–43, FAA in July 1978 issued General Notice 7110.552 reminding controller that specific coordination must be accomplished prior to authorizing an aircraft to use any portion of an active runway. After the Chicago and Memphis incidents, cited in the Safety Board's recommendation letter, FAA issued General Notice 7210.144 requiring regional air traffic division chief approval of any local procedures developed regarding runway usage. This Notice further required them to ensure that all facility managers/supervisors and specialists are thoroughly apprised of and adhere to the provisons of Handbook 7100.65A, paragraph 971.

FAA says that similar actions have been taken to increase pilot awareness of the potential for safety problems in the ground environment. The National Aeronautics and Space Administration's study, "Human Factors Associated with Runway Incursions," was widely disseminated. The Air Line Pilots Association has indicated it will remind pilots of the associated problems of pilot discipline and practices. Also, FAA is revising Advisory Circular AC–90–48A, "Pilots' Role in Collision Avoidance," effective October 1979, which contains clearing procedures that a pilot should use before taxiing onto a runway or landing area.

A–79–47.—FAA's letter of August 22 informs the Safety Board that the agency is preparing an air carrier operations bulletin instructing all principal operations inspectors to urge their assigned carriers to include resource management training in their flight crewmember training programs—as recommended following investigation of the above-referenced United Airlines DC–8 accident at Portland International Airport, December 28, 1978. (See 44 FR 26272, June 21, 1979.)

Highway

H–78–44.—The Federal Highway Administration on August 15 forwarded a followup to its formal response of last October 4 (43 FR 48744, October 19, 1978) which indicated that a Technical Advisory was being prepared to provide interim guidelines for the design of emergency escape ramps; also, an FHWA Notice to encourage construction of escape ramps was discussed. FHWA's August 15 letter encloses copies of FHWA Notice N5040.34, dated July 9, 1979, "Emergency Escape Ramps on Federal-aid Projects," and FHWA Technical Advisory T5040.10, dated July 5, 1979, "Interim Guidelines for Design of Emergency Escape Ramps."

Recommendation H–78–44 was one of several issued to FHWA following investigation of the May 12, 1977, truck-semitrailer/van collision near Marion, N.C. See also 44 FR 18750, March 29, 1979, for FHWA/NTSB correspondence subsequent to the October 4 response regarding this recommendation.

Marine

M–79–52 and 53.—The U.S. Coast Guard on August 10 responded to recommendations issued following investigation of the collision of the USS L.Y. SPEAR and the Liberian tanker ZEPHYROS which occurred February 22, 1978, in the lower Mississippi River below New Orleans, La. The recommendations sought inclusion in Coast Guard's ongoing study of aids to navigation a determination of maximum safe speeds which can be accommodated when equated with time required for navigators to perform their functions safely, and further research with the Maritime Administration to determine if speed limits and other controls are necessary in additional restricted or congested waterways. (See 44 FR 27511, May 10, 1979.)

Coast Guard reports that its research and development program is directed toward inland waterways specifically in coordination with the Corps of Engineers, which also has concerns in this area based on their responsibilities for channel design and lock and dam operation. Results of these studies will be used in future analysis of port and waterway traffic management needs. A vessel Traffic Management Simulation Program was developed over the last few years is to be tested and evaluated under different conditions for efficacy in solving traffic management problems. Completion of this phase is expected in March 1980.

Also, Coast Guard reports that a memorandum of understanding with the Maritime Administration regarding joint efforts in the vessel management area is currently entering the final stages of negotiation. Coast Guard is using the Computer Automated Operations Research Facility at the National Maritime Research Center for simulation work.

Pipeline

P–79–16 through 19.—Letter of August 17 from Alyeska Pipeline Service Company is in response to recommendations issued July 13 as a result of investigation of two oil spills which occurred in June on the Trans Alaska Pipeline System. (See 44 FR 43824, July 26, 1979.)

In response to recommendation P–79–16 which called on Alyeska to complete the scheduled run of the curvature monitoring device expeditiously to determine other locations with abnormal buckles or bends, Aleyska reports that the curvature pig was launched from Pump Station No. 1 on July 29. Results of this run will be analyzed as soon as possible, recognizing that the necessary computer software for expeditious handling of the data is still in the developmental stages. The current investigation program consists of (1) geotechnical (3) field investigation including pipe exposure of areas indicating large ovalities or sharp signals from the Kaliper pig runs, (4) correlation of all of this data to screen for areas of concern, and (5) detailed examination of curvature pig data at locations of concern from this correlation.

Recommendation P–79–17 called for development and implementation of a quarterly inspection program adequate to detect curvature aberrations. Alyeska notes that its response to P–79–16 outlines a program to detect "curvature aberration" albeit less precisely than is expected from the curvature pig. Alyeska' s program of surveillance and monitoring, which will take place after the initial investigation, will occur more frequently than quarterly. Alyeska believes that it is premature to establish the frequency for using the curvature monitoring pig. Analysis of the data from the current curvature pig runs will be used in part as the basis for establishing this frequency.

Recommendation P–79–18 asked Alyeska to reevaluate the ground stabiliztion in all areas where pipeline is buried without insulation in bedrock or ground considered to be thaw stabilized. Alyeska states that this recommendation is addressed in the response to P–79–16.

Recommendation P–79–19 asked Alyeska to fabricate a variety of special split-sleeve repair clamps large enough to encompass pipe wrinkles similar to those encountered in the latest failures and to store the sleeves for rapid disposition to leak sites. Alyeska reports that it is currently investigating commercially available sleeves large enough to encompass pipe wrinkles similar to those encountered. Six split sleeves similar in design to those installed at MP 166 and MP 734 are now on order. Further design improvements are being considered. All split sleeves will be analyzed and tested to comply with existing regulations.

Note.—Copies of recommendation letters issued by the Safety board, response letters, and related correspondence are available free of charge. All requests for copies must be in writing, identified by recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

Margaret L. Fisher,

Federal Register Liaison Officer.

August 31, 1979.

[FR Doc. 79–27761 Filed 9–5–79; 8:45 am]

BILLING CODE 4910–58–M

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council Meeting; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of New York, New York, will hold a public meeting at 2:00 p.m., Tuesday, September 25, 1979, in Room 29–118, U.S. Federal Building, 26

Federal Plaza, New York, New York, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Andrew P. Lynch, Acting District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10007, (212) 264–1318.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27795 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council Meeting; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, New York, will hold a public meeting on Friday, October 26, 1979, at 9 a.m., at the University Club of Syracuse, located at 431 East Fayette Street, Syracuse, New York, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 1071 Federal Building, 100 South Clinton Street, Syracuse, New York 13260, (315) 423–5371.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27802 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting from 9:00 a.m. to 12:00 noon, Friday, September 21, 1979, at the Ramda Inn-Intown, 231 W. Boundry Street, Savannah, Georgia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information write or call Clarence B. Barnes, District Director, U.S. Small Business Administration, 1720 Peachtree Road, N.W., 6th Floor, Atlanta, Georgia 30309, (404) 881–4749.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27796 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Birmingham, Alabama, will hold a public meeting at 9 a.m., Thursday, September 20, 1979, at the Birmingham Hilton Inn, 260 Goodwin Crest Drive, Birmingham, Alabama, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration, 908 South 20th Street, Birmingham, Alabama 35205, (205) 254–1341.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27797 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Miami, Florida, will hold a public meeting from 10:00 a.m. to 4:00 p.m., Wednesday, October 24, 1979, at the University Federal Savings & Loan Building, Community Room, Second Floor, 2222 Ponce de Leon Boulevard, Coral Gables, Florida, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Bernard Layne, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Boulevard, 5th Floor, Coral Gables, Florida 33134, (305) 350–5533.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27799 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council Meeting; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of San Antonio, Texas, will hold a public meeting from 9:00 a.m., Friday, October 19, 1979, at the Sunday House Inn, Interstate 10, Highway 16, Kerrville, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, Room A–513, Federal Building, 727 E. Durango, San Antonio, Texas 78206, (512) 229–6105.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27798 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council Meeting; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Wednesday, September 12, 1979, at the Federal Building, 301 South Park, Room 389, Helena, Montana, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Ottley R. Tschache, District Director, U.S. Small Business Administration, Federal Building, 301 South Park, Drawer 10054, Helena, Montana 59601, (406) 449–5381.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27800 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council Meeting; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Anchorage, Alaska, will hold a public meeting at 9:00 a.m., Thursday, September 20, 1979, at the U.S. Small Business Administration District Office, 1016 West Sixth Avenue, Suite 200, Anchorage, Alaska, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information write or call Frank D. Cox, District Director, U.S. Small Business Administration, 1016 W. Sixth Avenue, Suite 200, Anchorage, Alaska 99501, (907) 271–4022.

Dated: August 29, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–27801 Filed 9–5–79; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted July 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewals

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2587–X	DOT–E 2587	Denison, Inc., Fredonia, Kans	49 CFR 173.315(a)(1)	To ship a nonflammable liquefied gas in a non-DOT specification cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
2805–X	DOT–E 2805	Dow Chemical Co., Midland, Mich.; Allied Chemical Corp., Morristown, N.J.; Great Lakes Chemical Corp., El Dorado, Ark.; SunOlin Chemical Co., Claymont, Del.	49 CFR 172.101, 173.315(a)	To ship liquefied ethylene in non-DOT specification insulated cargo tanks. (Mode 1.)
3134–X	DOT–E 3134	Hooker Chemicals and Plastics Corp., Niagara Falls, N.Y.	49 CFR 173.249(a)(5), 179.200–4(a)	To ship a corrosive liquid in DOT Specification 103W or 111A100W1 tank car tanks. (Mode 2.)
3630–P	DOT–E 3630	MC/B Manufacturing Chemists, Cincinnati, Ohio.	49 CFR 177.839 (a), (b)	To become a party to Exemption 3630. (Mode 1.)
4600–P	DOT–E 4600	Halocarbon Products Corp., Hackensack, N.J.	49 CFR 173.315, 178.245–3(a)	To become a party to Exemption 4600. (Mode 1.)
4698–X	DOT–E 4698	American Bosch Marketing, Springfield, Mass.	49 CFR 173.302(a)(1), 175.3	To ship a certain nonflammable compressed gas in non-DOT specification containers. (Modes 1, 2, 3, 4.)
5038–X	DOT–E 5038	The Synthantron Corp., Parsippany, N.J.; M & T Chemicals, Inc., South San Francisco, Calif.	49 CFR 173.135(a)(6), 173.136(a)(5), 173.247(a)(1).	To ship corrosive and flammable liquids in a non-DOT Specification Type 304 stainless steel cylinder (Modes 1, 2.)
5196–X	DOT–E 5196	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 172.101, 173.315(a)(1)	To ship a flammable gas in a non-DOT specification insulated cargo tank, designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6007–X	DOT–E 6007	Nuclear Products Co., El Monte, Calif., Pennwalt Corp., Holmdel, N.J.	49 CFR 173.391(b)(5)	To ship a radioactive device containing polonium under the provisions of 49 CFR 173.391 (Modes 1, 2, 3, 4, 5.)
6218–X	DOT–E 6218	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.315(a)	To ship certain nonflammable liquefied compressed gases in a non-DOT specification cargo tank. (Mode 1.)
6299–X	DOT–E 6299	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 173.315(a)(1)	To manufacture, mark and sell non-DOT specification portable tanks, designed and constructed in accordance with Section VIII of the ASME Code for shipment of non-flammable compressed gases. (Modes 1, 3.)
6583–X	DOT–E 6583	Philips Petroleum Co., Bartlesville, Okla.	49 CFR 173.249(a)(7)	To ship a corrosive material in a DOT Specification 51 portable tank with certain exception. (Mode 1.)
6614–X	DOT–E 6614	FMC Corp., Philadelphia, Pa.	49 CFR 173.263(a)(26), 173.277(a)(6).	To transport certain corrosive liquids in non-DOT specification plastic bottles, packed inside a high density polyethylene box. (Mode 1.)
6614–X	DOT–E 6614	Jones Chemicals, Inc., Caledonia, N.Y.	49 CFR 173.263(a)(26), 173.277(a)(6).	To become a party to Exemption 6614. (Mode 1.)
6626–X	DOT–E 6626	Airco Welding Products, Springfield, N.J.	49 CFR 173.34(e)(15)(i), 175.3	To ship certain compressed gases in DOT Specification 3A or 3AA cylinders and ICC–3, 3A or 3AA cylinders. (Modes 1, 2, 3, 4, 5.)
6637–X	DOT–E 6637	Advanced Chemical Technology, City of Industry, Calif.	49 CFR Part 173; 178.19	To mark and sell not-DOT specification polyethylene drums for shipment of corrosive liquids, Class B poisonous liquids, flammable liquids and oxidizers. (Modes 1, 2, 3.)
6712–X	DOT–E 6712	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.34(e)	To extend the ten year retest provisions to DOT–3A, or 3AA or ICC–3, 3A, or 3AA cylinders over 35 years old. (Modes 1, 2, 3, 4, 5.)
6712–P	DOT–E 6712	Suburban Welders Supply Co., Inc., Ashland, Mass	49 CFR 173.34(e)(15)(i)	To become a party to Exemption 6712. (Modes 1, 2, 3, 4, 5.)
6757–X	DOT–E 6757	Degussa, Frankfort, West Germany; FMC Corp., Philadelphia, Pa.	49 CFR 173.266(f)(2)	To ship an oxidizer in a non-DOT specification aluminum portable tank. (Modes 1, 3.)
6787–X	DOT–E 6787	Advanced Chemical Technology, City of Industry, Calif.	49 CFR Part 173	To manufacture, mark and sell DOT specification 34 polyethylene drums for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3.)
6790–X	DOT–E 6790	Dow Chemical Co., Midland, Mich.	49 CFR 173.249(a)(6), 173.263(a)(10).	To ship corrosive liquids in a non-DOT specification fiberglass reinforced plastic cargo tank. (Mode 1.)

Renewals—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6806-P	DOT-E 6806	Norton Co., Worchester, Mass	49 CFR 173.302(a), 175.3	To ship a certain flammable gas in a DOT Specification 3E1998 cylinder integral to a gas chromatograph device. (Mode 5.)
6858-P	DOT-E 6858	Marcevaggi S.p.A., Vignole Borbera, Italy.	46 CFR 90.05-35; 172.119, 173.125, 173.245, 173.348.	To become a party to Exemption 6858. (Modes 1, 2, 3.)
6922-X	DOT-E 6922	Halocarbon Products Corp., Hackensack, N.J.	49 CFR 173.314(c), 179.300-15	To ship a certain flammable compressed gas in DOT Specification 105A500-X multi-unit tank car tanks. (Modes 1, 2, 3.)
6922-P	DOT-E 6922	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c), 179.300-15	To become a party to Exemption 6922. (Modes 1, 2, 3.)
6923-X	DOT-E 6923	Dow Chemical Co., Midland, Mich.	46 CFR 172.101, 173.315(a)(1)	To ship a flammable gas in non-DOT specification insulated cargo tank, designed and constructed in accordance with the ASME Code. (Mode 1.)
6939-X	DOT-E 6939	Warren Petroleum Co., Tulsa, Okla.	49 CFR 173.315 (a)(1), (c)(1)	To ship a flammable gas mixture in a DOT Specification MC-331 cargo tank. (Mode 1.)
6958-X	DOT-E 6958	Dow Chemical Co., Findlay, Ohio; Great Lakes Chemical Corp., El Dorado, Ark.	49 CFR 173.252(a)	To ship bromine in a non-DOT specification portable tank. (Modes 1, 3.)
7005-X	DOT-E 7005	Logemafer, S.A., Paris, France	46 CFR 90.05-35; 49 CFR Part 173.	To ship certain flammable, corrosive, Class B poisons and combustible liquids and ORM-A materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7060-P	DOT-E 7060	Atlantic Air, Inc., Baltimore, Md	49 CFR 175.75(a)(3), 175.700	To become a party to Exemption 7660. (Mode 4.)
7078-X	DOT-E 7078	Carroll Air Service, Inc., Kingston, N.Y.	49 CFR 175.75(a)(3), 175.700(a)	To transport radioactive materials with a transport index in excess of 50 and with separation distance requirements less than those prescribed in the regulations. (Mode 4.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To manufacture, mark and sell non-DOT Specification filament-wound reinforced plastic aluminum lined cylinders for shipment of nonflammable gases. (Modes 1, 2, 3, 4, 5.)
7220-X	DOT-E 7220	Greif Brothers Corp., Union, N.J	49 CFR Part 173; 178.19	To manufacture, mark and sell non-DOT specification reusable, blow-molded, polyethylene containers for shipment of certain corrosive liquids, flammable liquids, oxidizers and Class B poisonous liquids. (Modes 1, 2, 3.)
7244-X	DOT-E 7244	United Airlines, Inc., San Francisco, Calif.	49 CFR 173.302, 173.304, 175.3	To transport organ transplant modules containing certain compressed gases aboard a passenger-carrying aircraft. (Mode 5.)
7249-X	DOT-E 7249	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.128(a)	To ship certain flammable liquids in DOT Specification 34 reusable molded polyethylene containers. (Mode 1.)
7269-X	DOT-E 7269	U.S. Energy Research and Development Adm., Washington, D.C.	49 CFR 173.65(a)	To ship certain Class A explosives in sift-proof paper or plastic bags overpacked in DOT Specification 21C fiber drums. (Mode 1.)
7269-P	DOT-E 7269	Rockwell International Corp., Canoga Park, Calif.	49 CFR 173.65(a)	To become a party to Exemption 7269. (Mode 1.)
7286-X	DOT-E 7286	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.34(e)(15)(i)	To extend the ten year retest provisions to DOT Specification 3A or 3AA cylinders ICC-3, 3A or 3AA cylinders over 35 years old. (Modes 1, 2, 3, 4, 5.)
7440-X	DOT-E 7440	Roux Laboratories Inc., Jacksonville, Fla.	49 CFR Part 173	To ship a nonflammable gas in a non-DOT specification cylindrical aluminum container complying with DOT Specification 2Q with certain exceptions. (Modes 1, 2, 3.)
7446-X	DOT-E 7446	Kaiser Aluminum and Chemical Corp., Erie, Pa.	49 CFR 173.30 (a)(1), 178.36	To manufacture, mark and sell non-DOT specification seamless aluminum cylinders for shipment of a dry powder fire extinguishant charged with compressed air or nitrogen. (Modes 1, 2, 3.)
7483-P	DOT-E 7483	Compagnie Generale Maritime, Paris, France.	46 CFR 90.05-35; 49 CFR Part 173.	To become a party to Exemption 7483. (Modes 1, 2, 3.)
7489-X	DOT-E 7489	Micor Company, Inc., Milwaukee, Wis.	49 CFR 172.312, 173.249	To ship a corrosive liquid in a DOT Specification 37A metal drum having inside metal containers. (Modes 1, 2, 3.)
7495-X	DOT-E 7495	General American Transportation Corp., Chicago, Ill.	49 CFR 173.315(a)(1)	To manufacture, mark and sell non-DOT specification steel portable tanks for shipment of chlorine or sulfur dioxide. (Modes 1, 2, 3.)
7513-X	DOT-E 7513	Burdett Oxygen Co., Norristown, Pa.	49 CFR 173.315(a)(1)	To ship liquid oxygen in DOT Specification MC-331 cargo tanks. (Mode 3.)
7520-X	DOT-E 7530	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.; Dow Chemical Co., Midland, Mich.	49 CFR Part 173; 46 CFR 90.05-35.	To ship certain combustible and flammable liquids in non-DOT specification steel portable tanks. (Modes 1, 3.)
7555-X	DOT-E 7555	Provost Cartage, Inc., D'Anjou, Quebec, Canada.	49 CFR 173.263(a)(10), 173.265(b)(4), 172.101.	To ship certain corrosive liquids in a non-DOT specification fiberglass reinforced plastic cargo tank. (Mode 1.)
7607-P	DOT-E 7607	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7621-X	DOT-E 7621	Great Lakes Chemical Corp., West Lafayette, Ind.	49 CFR 173.353, 173.357	To ship methyl bromide, a posion B liquid, in a non-DOT specification portable tank. (Modes 1, 2, 3.)
7625-P	DOT-E 7625	Van Waters & Rogers, St. Paul, Minn.	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To become a party to Exemption 7625. (Mode 1.)
7628-X	DOT-E 7628	Chemtech Industries, Inc., St. Louis, Mo.	49 CFR 173.264(a)(11), 173.265(b)(3).	To ship certain corrosive liquids in DOT Specification 111A100W-5 tank cars. (Mode 2.)
7654-P	DOT-E 7654	Fisher Scientific Co., Fair Lawn, N.J.; J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 173.119(f)	To become a party to Exemption 7654. (Modes 1, 2.)
7694-X	DOT-E 7694	Nuclear Valve Div., Borg Warner Corp., Van Nuys, Calif.	49 CFR 173.302(a)(4), 175.3	To ship a cold gas actuation system containing helium, argon or nitrogen in non-DOT specification steel cylinders made in compliance with DOT Specification 3B with certain exceptions. (Modes 1, 2, 4.)

Renewals—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7726-X	DOT-E 7726	Hughes Aircraft Co., Culver City, Calif.	49 CFR 173.34(d), 173.302, 175.3.	To manufacture, mark and sell small low pressure non-DOT specification aluminum containers for shipment of nonflammable gases. (Modes 1, 4.)
7744-X	DOT-E 7744	Dow Corning Corp., Midland, Mich.	49 CFR 172.101, 173.315(a), 178.337-11(c).	To ship liquefied anhydrous hydrogen chloride in non-DOT cargo tanks. (Mode 1.)
7755-X	DOT-E 7755	Varian Associates, Palo Alto, Calif	49 CFR Parts 100-199	To ship small quantities of liquid hazardous materials, described as analytical standards, essentially without regulation. (Modes 1, 2, 3, 4, 5.)
7765-X	DOT-E 7765	Carleton Controls Corp., East Aurora, N.Y.	49 CFR 173.302(a)(4), 175.3	To ship nitrogen in steel spheres patterned after DOT Specification 3B with certain exceptions. (Modes 1, 2, 4.)
7774-X	DOT-E 7774	Weatherford/DMC, Houston, Tex.	49 CFR 173.248	To ship bromine trifluoride in non-DOT specification seamless steel cylinders. (Mode 1.)
7819-P	DOT-E 7819	Societe Anonyme Pour L'Industrie Chimique, Paris, France.	49 CFR Part 173; 46 CFR 90.05-35.	To become a party to Exemption 7819. (Modes 1, 2, 3.)
7820-X	DOT-E 7820	Compagnie des Container Reservoirs, Neuilly S/Seine, France.	49 CFR Part 173; 46 CFR 90.05-35.	To ship certain corroeive liquids flammable liquids, poison B liquids and combustible liquids in a non-DOT specification portable IMCO Type II insulated portable tank. (Modes 1, 2, 3.)
7820-P	DOT-E 7820	Liquor Control Board of Ontario, Toronto, Canada.	49 CFR Part 173; 46 CFR 90.05-35.	To become a party to Exemption 7820. (Modes 1, 2, 3.)
7862-X	DOT-E 7862	General Electric Co., Miami, Fla	49 CFR 173.302, 175.3	To ship xenon in a non-DOT specification steel pressure vessel overpacked in a plywood box. (Modes 1, 4, 5.)
7871-X	DOT-E 7871	Atlas Powder International Ltd., Miami, Fla.	49 CFR 176.155(a)(4)	To stow electric blasting caps and nonel primadets, Class A explosives, near other class A explosives and oxidizers at a distance less than prescribed. (Mode 3.)
7938-X	DOT-E 7938	Bignier Schmidt-Laurent, Paris, France.	49 CFR Part 173	To ship certain corrosive, flammable Class B poisonous and combustible liquids and ORM-A materials in non-DOT Specification portable tanks. (Modes 1, 2, 3.)
7938-P	DOT-E 7938	Transcontainer Leasing, S.A., Paris, France.	49 CFR Part 173	To become a party to Exemption 7938. (Modes 1, 2, 3.)
7966-X	DOT-E 7966	The Enterprise Companies, Wheeling, Ill.	49 CFR 173.245(a)(12)	To ship a corrosive material in steel containers overpacked in DOT Specification 12B fiberboard boxes. (Modes 1, 2.)
8006-P	DOT-E 8006	Bland Brothers, Inc., New York, N.Y.	49 CFR 172.400(a), 172.504	To become a party to Exemption 8006. (Mode 1.)
8030-P	DOT-E 8030	NL McCullough, Houston, Tex.	49 CFR 173.80(b)(c)	To become a party to Exemption 8030. (Mode 1.)
8088-P	DOT-E 8088	U.S. Steel Products, Pittsburgh, Pa.	49 CFR 175.3; Part 178	To become a party to Exemption 8088. (Modes 1, 2, 3, 4.)
8109-X	DOT-E 8109	Lowaco, S.A., Geneva, Switzerland.	49 CFR Part 173; 46 CFR 90.05-35.	To ship certain hazardous materials (liquids) in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
8109-P	DOT-E 8109	Transport International Container, Paris, France; CATU Container, S.A., Geneva, Switzerland.	49 CFR Part 173; 46 CFR 90.05-35.	To become a party to Exemption 8109. (Mode 1, 2, 3.)
8110-P	DOT-E 8110	Transport International Container, S.A., Paris, France.	49 CFR Part 173; 46 CFR 90.05-35.	To become a party to Exemption 8110. (Mode 1, 2, 3.)
8159-P	DOT-E 8159	Lowaco, S.A., Geneva, Switzerland; Transport International Containers, S.A., Paris, France.	49 CFR 173.266	To become a party to Exemption 8159. (Modes 1, 2, 3.)

New Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7873-N	DOT-E 7873	Bromine Compounds Limited, Beer Sheva, Israel.	49 CFR 173.353a	To ship a Class B poison liquid in non-DOT specification portable tanks. (Modes 1, 3.)
8097-N	DOT-E 8097	AGFA-Gevaert, Inc., Teterboro, N.J.	49 CFR 173.204, 175.3	To ship sodium hydrosulfite in DOT Specification 12B corrugated fiberboard boxes having inside PE bags packed in metal cans. (Modes 1, 4.)
8127-N	DOT-E 8127	Societe Nationale Des Poudres, et Explosifs, Bergerac, France.	49 CFR 173.127, 173.184, 176.224.	To ship nitrocellulose, wet with alcohol or water in a non-DOT specification fiberboard drum. (Modes 1, 2, 3.)
8139-N	DOT-E 8139	Utility Chemical Co., Paterson, N.J.	49 CFR 173.217	To ship trichloro-s-triazinetrione, dry in a non-DOT specification corrugated fiberboard box having inside polyethylene pails or bags. (Modes 1, 2, 3.)
8146-N	DOT-E 8146	Thiokol, Wasatch Division, Brigham City, Utah.	49 CFR 173.375	To ship sodium azide in a DOT specification 56 portable tank or a non-DOT specification collapsible flexible container. (Modes 1, 2.)
8151-N	DOT-E 8151	Ropak West, Inc., La Mirada, Calif.	49 CFR Part 173	To manufacture, mark and sell non-DOT specification removable head, 5-gallon polyethylene containers for shipment of corrosive liquids and flammable liquids. (Modes 1, 2, 3.)

New Exemptions—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8156–N	DOT–E 8156	Gardner Cryogenics Corp., Bethlehem, Pa.	49 CFR 173.302(a)(4), 173.304(a)(1)(i).	To ship various flammable gases in DOT Specification 39 steel cylinders not exceeding 225 cubic inch capacity. (Modes 1, 2.)
8157–N	DOT–E 8157	Igloo Corp., Houston, Tex	49 CFR 173.346	To manufacture, mark and sell DOT Specification 34 containers for shipment of weed killing compounds including dinitrophenol solutions. (Modes 1, 2, 3.)
81587–N	DOT–E 81587	Ford Aerospace and Communications Corp., Palo Alto, Calif.	49 CFR 173.260(a)(1), 175.3	To ship wet electric storage batteries in DOT Specification 15A or 15 B wooden boxes. (Modes 1, 2, 4.)
8159–N	DOT–E 8159	Fauvet/Girel, Paris, France	49 CFR 173.266	To ship hydrogen peroxide in non-DOT specification portable tanks. (Modes 1, 2, 3.)
8164–N	DOT–E 8164	Westinghouse Electric Corp., Athens, Ga.	49 CFR Parts 170–177	To ship an explosive disconnector in a non-DOT specification fiberboard box. (Modes 1, 2, 3.)
8168–N	DOT–E 8168	Container Corp. of America, Wilmington, Del.	49 CFR 173.217, 173.245b, 178.19.	To manufacture, mark and sell non-DOT specification blow-molded, removable head polyethylene containers for the shipment of certain corrosive solids and solid oxidizers. (Modes 1, 2, 3.)
8170–N	DOT–E 8170	Ray-O-Vac Div.; Madison, Wis.	49 CFR 173.154(a)(1)	To ship silver oxide, dry powder in non-DOT specification removable head stainless steel drums contained in wire containers. (Modes 1.)
8171–N	DOT–E 8171	Abercom Investments Limited, London, England.	49 CFR Part 173, 46 CFR 90.05–35.	To ship certain flammable liquids, corrosive liquids, poison B liquids, and combustible liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		APPLICATIONS RECEIVED AND GRANTED		
EE8554–P	DOT–E 8554	Aspen Industries, Inc., Tully, N.Y.	49 CFR 173.154, 173.217	To become a party to Exemption 8554. (Modes 1, 2, 3.)
EE8228–N	DOT–E 8228	The U.S. Dept. of Treasury, Washington, D.C.	49 CFR 173.86, 173.100(bb), 173.113(a)(1).	To ship certain materials or devices classed as explosive C in a DOT Specification 12H fiberboard box. (Mode 1.)
EE8242–N	DOT–E 8242	Hill Brothers Chemical Co., City of Industry, Calif.	49 CFR 173.217	To ship an oxidizer in non-DOT specification removable head polyethlene container not exceeding 5 gallon capacity. (Mode 1.)
EE8246–N	DOT–E 8246	Honeywell Inc., Minneapolis, Minn.	49 CFR 173.302, 173.38, 178.42.	To ship helium and neon gases in modified DOT specification 3E1800 or 3B400 cylinders. (Mode 1.)

Denial

8169–N—Request by Hercules Inc., Wilmington, Del.—To transport blasting caps which exceed the 14 grain limit specified in the "IME Standard for the Safe Transportation of Electric Blasting Caps in the Same Vehicle with other Explosives", denied July 9, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-27759 Filed 9-5-79; 8:45 am]

BILLING CODE 4910-60-M

VETERANS ADMINISTRATION

Domiciliary and 54-Bed Nursing Home Care Unit, VAMC, Prescott, Arizona; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Domiciliary and 54-bed Nursing Home Care Unit (NHCU) Facility at the Veterans Administration Medical Center (VAMC), Prescott, Arizona.

The project proposes construction of a one or two story domiciliary and 54-bed Nursing Home Care Unit building south of the main hospital building. The domiciliary will house living quarters, all auxiliary services, rehabilitative medicine, occupational therapy and recreation. The present domiciliary space, buildings Nos. 12, 13 and 14, will be renovated and used for various VAMC needs.

Development of the project will have minimal impacts on the human and natural environment as it affects topography, surface runoff and erosion. During construction, additional noise, dust, fumes and visual impacts will exist. The historic character of the station will be somewhat adversely affected.

Mitigation of the project impacts include: slope stabilization, soil erosion and sedimentation control, onsite noise abatement measures and control of construction dust and fumes. An historical analysis, in accordance with the National Historic Preservation Act of 1966, will be performed by contract to evaluate mitigating actions in regard to the station's historical significance.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, § 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 29, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-27586 Filed 9-5-79; 8:45 am]

BILLING CODE 8320-01-M

60-Bed Nursing Home Care Unit, VAMC, Reno, Nevada; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a new 60-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC), Reno, Nevada.

The project proposes construction of a 60-bed Nursing Home Care Unit with a corridor connection to the northwest side of building No. 1. The nursing home will be a one-story structure of approximately 29,497 gross square feet.

Development of the project will have minimal impacts on the human and natural environment. There will be some temporary noise, dust, fumes, and visual impacts during construction.

Mitigation of the project impacts include: soil erosion and sedimentation control, onsite noise abatement measures and control of construction dust and fumes.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 30, 1979.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-27599 Filed 9-5-79; 8:45 am]

BILLING CODE 8320-01-M

[No MC-F-12312, etc.]

Whitfield Transportation, Inc. and System 99; Operating Rights Under Temporary Authority

Decison MC-F-12312, Whitfield Transportation, Inc., Purchase (Portion), Lee Hawkes Transfer, and Whitfield Transportation, Inc., Control and merger, Miller Brothers Truck Line; MC 108461 (Sub-123), Whitfield Transportation, Inc., Conversion irregular to regular routes; MC-F-13311, Whitfield Transportation, Inc., Purchase, Idaho Falls Transfer & Storage Co.; MC 108461 (Sub-128), Whitfield Transportation, Inc. Extension, Idaho Points, Reentitled; MC-F-12312, System 99, Purchase (Portion), Lee Hawkes Transfer, and System 99, Control and Merger, Miller Brothers Truck Line; MC 108461 (Sub-123), System 99, Conversion Irregular to Regular Routes; MC-F-13311, System 99, Purchase, Idaho Falls Transfer & Storage Co.; MC 108461 (Sub-128), System 99 Extension, Idaho Points.

Decided: August 30, 1979.

On August 27, 1979, Whitfield Transportation, Inc., and System 99 filed a joint petition for substitution of the latter applicant in these proceedings. As good cause has been demonstrated for this substitution, we will grant the request. Whitfield is leasing the above entitled operating rights under temporary authority. System 99 will be permitted to replace Whitfield in temporarily leasing the same rights.

System 99 had also sought to be substituted in docket No. MC 108461 (Sub-133TA), *Sundance Freight Lines, Inc., Alternate Route.* This is an alternate route application for the conservation of energy and the safety of the traveling public during the tourist season. Due to the nature of the temporary alternate route authority, substitution is not permissible. This portion of System 99's petition will be dismissed.

It is ordered: System 99 is substituted as applicant in the above entitled proceedings for Whitfield Transportation, Inc.

In docket No. MC 108461 (Sub-No. 133TA), *Sundance Freight Lines, Inc., Alternate Route,* System 99's requests for substitution is dismissed.

Notice of this decision will be published in the **Federal Register.**

By the Commission, Alan M. Fitzwater, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27754 Filed 9-5-79; 8:45 am]

BILLING CODE 7035-01-M

[Sixty-Eighth Revised Exemption No. 90]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2 (b).

Aberdeen and Rockfish Railroad Company, Reporting Marks: AR.
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator, Reporting Marks: AA.
Apalachicola Northern Railroad Company, Reporting Marks: AN.
Atlanta & Saint Andrews Bay Railway Company, Reporting Marks: ASAB.
Bath and Hammondsport Railroad Company, Reporting Marks: BH.
Berlin Mills Railway Inc., Reporting Marks: BMS.
*Cadiz Railraod Company, Reporting Marks: CAD.
Camino, Placerville & Lake Tahoe Railroad Company, Reporting Marks: CPLT.
City of Prineville, Reporting Marks: COP.
The Clarendon and Pittsford Railroad Company, Reporting Marks: CLP.
Columbus and Greenville Railway Company, Reporting Marks: CAGY.
Duluth, Missabe and Iron Range Railway Company, Reporting Marks: DMIR.
East Camden & Highland Railroad Company, Reporting Marks: EACH.
*East St. Louis Junction Railroad Company, Reporting Marks: ESLJ.
Galveston Wharves, Reporting Marks: GWF.
Genessee and Wyoming Railway Company, Reporting Marks: GNWR.
Greenville and Northern Railway Company, Reporting Marks: GRN.
The Hutchinson and Northern Railway Company, Reporting Marks: HN.
Indiana Eastern Railroad and Transportation, Inc., d.b.a. The Hoosier Connection, Reporting Marks: HOSC.
*Lake Erie, Franklin & Clarion Railroad Company, Reporting Marks: LEF.

*Additions.

Lake Superior & Ishpeming Railroad Company, Reporting Marks: LSI.
Lenawee County Railroad Company, Inc., Reporting Marks: LCRC.
*Longview, Portland & Northern Railway Company, Reporting Marks: LPN.
Louisiana Midland Railway Company, Reporting Marks: LOAM.
Louisville and Wadley Railway Company, Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Company, Reporting Marks: LNAC.
Manufacturers Railway Company, Reporting Marks: MRS.
Maryland and Delaware Railroad Company, Reporting Marks: MDDE.
Middletown and New Jersey Railway Company, Inc., Reporting Marks: MNJ.
Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT-BKTY.
*Moscow, Camden & San Augustine Railroad, Reporting Marks: MCSA.
New Hope and Ivyland Railroad Company, Reporting Marks: NHIR.
New Orleans Public Belt Railroad, Reporting Marks: NOPB.
New York, Susquehanna and Western Railroad Company, Reporting Marks: NYSW.
Octararo Railway, Inc., Reporting Marks: OCTR.
Oregon & Northwestern Railroad Co., Reporting Marks: ONW.
Pearl River Valley Railroad Company, Reporting Marks: PRV.
Peninsula Terminal Company, Reporting Marks: PT.
Port Huron and Detroit Railroad Company, Reporting Marks: PHD.
Port of Tillamook Bay Railroad, Reporting Marks: POTB.
Providence And Worcester Company, Reporting Marks: PW.
Raritan River Rail Road Company, Reporting Marks: RR.
Sacramento Northern Railway, Reporting Marks: SN.
St. Lawrence Railroad, Reporting Marks: NSL.
*St. Marys Railroad Company, Reporting Marks: SM.
Savannah State Docks Railroad Company, Reporting Marks: SSDK.
Sierra Railroad Company, Reporting Marks: SERA.
Terminal Railway, Alabama State Docks, Reporting Marks: TASD.
The Texas Mexican Railway Company, Reporting Marks: TM.
Tidewater Southern Railway Company, Reporting Marks: TS.
Toledo, Peoria & Western Railroad Company, Reporting Marks: TPW.
*Union Railroad of Oregon, Reporting Marks: UO.
Vermont Railway, Inc., Reporting Marks: VTR.
*Wabash Valley Railroad Company, Reporting Marks: WVRC.
WCTU Railway Company, Reporting Marks: WCTR.
Youngstown & Southern Railway Company, Reporting Marks: YS.
Yreka Western Railraod Company, Reporting Marks: YW.

Effective August 15, 1979, and continuing in effect until futher order of this Commission.

Issued at Washington, D.C., August 10, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-27808 Filed 9-5-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

August 31, 1979

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

FSA 43742, Southern Freight Association, Agenct No. A6354, reduced rates on furniture between stations on the Southern Railway and stations on the Florida East Coast Railway published in Supplement 57 to Tariff ICC SFA 4972 to be effective September 29, 1979 and to expire with September 30, 1979. Grounds for relief—motor competition and improved car utilization. Authority has been requested to advance effective date to an earlier date. Protests against grant of relief are due at the offices of the Commission, Suspension and Fourth Section Board, in Washington, D.C., not later than noon, September 12, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27809 Filed 9-5-79; 8:45 am]

BILLING CODE 7035-01-M

ICC Order No. 49 Under Service Order No. 1344

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, The Baltimore and Ohio Railroad Company is unable to transport promptly all traffic over its car float transfer bridge at its St. George Lighterage. Staten Island, New York, is out of service because the pontoon will not float.

It is ordered. (a) *rerouting traffic.*—The Baltimore and Ohio Railroad Company, being unable to transport promptly all traffic over its car float transfer bridge at its St. George Lighterage, because the pontoon will not float, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 2:00 p.m., August 17, 1979.

(g) *Expiration date.* This order shall remain in effect until modified or vacated by order of this Commission.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 17, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-27813 Filed 9-5-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 174
Thursday, September 6, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-242; Sept. 4, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 10, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Dockets 32711, 33019, and 34582—Interstate Service At Love Field.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1727-29 Filed 9-4-79; 2:55 pm]

BILLING CODE 6320-01-M

2

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 2 p.m., September 13, 1979.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open, except for item 10 which will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC board meeting on April 10, 1979.
2. Docket UCP 109a re: 1979 gum naval stores loan program.
3. Docket UCP 66a re: 1979 crop honey loan and purchase program.
4. Docket UCP 40a re: 1979 tobacco loan program.
5. Docket UCP 137a, Amendment 1 re: 1979 crop barley, corn, oats, rye, and sorghum loan, purchase, payments, set-aside and land diversion programs.
6. Docket CZ 157, Revision 4 re: Policy and procedure governing the submission of dockets to the Board of Directors, CCC, and the handling of dockets considered by the Board.
7. Docket UCP 98a re: Milk price support program, 1979-80.
8. Docket CZ 193, Revision 5 re: Policy governing the approval of warehousing facilities and bonding requirements for the warehousing of certain commodities.
9. Resolution 17, CZ 266 re: Commodities available for Public Law 480 during fiscal year 1980.
10. Docket VNP 307 re: Purchase and distribution of agricultural commodities and other foods for domestic distribution with FNS and Section 32 funds, fiscal year 1980.

CONTACT PERSON FOR MORE INFORMATION: Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

[S-1724-79 Filed 9-4-79; 10:37 am]

BILLING CODE 3410-05-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 6, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item Number, and Subject

Broadcast—1—Notice of Inquiry looking toward an analysis of all non-technical rules and policies which regulate the radio industry and consider changes in the Commission's policies and regulations concerning intra-industry conduct.

Broadcast—2—Modification or elimination of Commission rules and policies pertaining to AM and Commercial FM radio in the areas of nonentertainment programing, ascertainment, commercialization and related fields.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 31, 1979.

[S-1725-79 Filed 9-4-79; 11:50 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Tuesday, September 11, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—Preliminary Staff Report, UHF Comparability Task Force.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: September 4, 1979.

[S-1726-79 Filed 9-4-79; 2:35 pm]

BILLING CODE 6712-01-M

5

[Federal Register No. 1704]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, September 5, 1979, 10 a.m.

CHANGE IN MEETING: The following item has been added—Litigation

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 6, 1979, 10 a.m.

CHANGE IN MEETING: The following items have been added to the open portion of the meeting—

Revision of proposed regulations on the funding and sponsorship of candidate debates.

Final audit report—Democratic Executive Committee of Florida.

Final audit report—Republican Party of Florida—Federal campaign account.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1723-79 Filed 9-4-79; 10:08 am]

BILLING CODE 6715-01-M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR page 51398, August 31, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 5, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting—

Appeal for Compromise, Remission or Reduction of Liquidity Deficiency Penalties—American Federal Savings and Loan Association, Pueblo, Colo.

Application for Permission to Acquire Control By—Pennsylvania Life Company, Santa Monica, California and Houston First Financial Group, Houston, Texas of American Savings and Loan Association of Houston, Houston, Texas and subsequent merger of said association with Houston First Savings Association, Houston, Tex.

Regulation on Handling Classified Information.

Regulation on Rate of Return on Accounts Subject to Automatic Transfer.

Regulation on Clarifying Document.

No. 268, September 4, 1979.

[S–1728–79 Filed 9–4–79; 2:55 pm]

BILLING CODE 6720–01–M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 31, 1979.

TIME AND DATE: 10 a.m., September 7, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following: 1. *Peabody Coal Company v. MSHA, UMWA and Local Union No. 1670;* Docket No. VINC 77–40 and VINC 77–50.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 213–653–5632.

[S–1729–79 Filed 9–4–79; 2:55 am]

BILLING CODE 6820–12–M

8

NATIONAL COUNCIL ON EDUCATION RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: S–1548, filed July 26, 1978; 11:44 a.m.

DATE AND TIME: 9:30 a.m.–3:30p.m., September 14, 1979.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Certification has been received from the HEW Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on September 14, 1979, under 5 U.S.C. 522b(c)(9)(B) and 45 CFR 1440.2(a)(9) for the purposes of reviewing and discussing with the Acting Director of NIE, the proposed executive branch budget for fiscal 1981, in particular, the sections dealing with the proposed budget and funding priorities of NIE." Agenda item No. 4 will be closed, the rest of the agenda remains open to the public.

MATTERS TO BE CONSIDERED:

Friday, September 14, 1979

1. Approve July 12–13 Minutes (9:30–9:35 a.m.)
2. Director's Report (9:35–10:30 a.m.)
3. Report on HEW's Congressionally-Mandated Study of School Finance (10:30–11:15 a.m.)
4. Closed: Fiscal year 1981 budget (11:15–12:00 noon).
5. Literacy: Part I (1–3:30 p.m.)

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, telephone: 202/254–7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S–1722–79 Filed 9–4–79; 10:08 am]

BILLING CODE 4110–39–M

9

[NM–79–30]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, September 13, 1979.

PLACE: NTSB board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Louisville & Nashville Railroad Company Freight Train Derailment and Puncture of Hazardous Material Tank Cars near Crestview, Florida, April 18, 1979, and *Recommendations* to Louisville & Nashville Railroad Co.
2. *Railroad Accident Report*—National Railroad Passenger Corporation, Head End Collision of Train No. 111 and Plasser Track Machine Equipment, Edison, New Jersey, April 20, 1979, and *Recommendations* to the National Railroad Passenger Corp.
3. *Safety Report to Congress*—Safety Modifications of Railroad Tank Cars Carrying Hazardous Materials and a *Recommendation* to the Secretary, Department of Transportation.
4. *Special Investigation Report on the Safe Transportation of Hazardous Materials*—Onscene Coordination Among Agencies at Hazardous Materials Accidents and *Recommendation* to Secretary, Department of Transportation.
5. *Aircraft Accident Report*—New York Airways, Inc., Sikorsky S61–L, N681PA, Newark, N.J., April 18, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

September 4, 1979.

[S–1730–79 Filed 9–4–79; 3:12 pm]

BILLING CODE 4910–58–M

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federal register

Thursday
September 6, 1979

Part II

Department of Transportation

Federal Aviation Administration

Petition for Rulemaking of the Air Transport Association of America

V 4 4 / 1 7 4

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

[Docket No. 18691; Notice No. PR-79-9]

Petition for Rulemaking of the Air Transport Association of America, Airport Noise Abatement Plans: Regulatory Process

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rule making; request for comments.

SUMMARY: This notice publishes for public comment the petition and supporting documents of the Air Transport Association of America (ATA), dated January 16, 1979, on behalf of its member air carriers, for amendment of the Federal Aviation Regulations to add a new Part 150 (14 CFR Part 150) to those provisions applicable to airports. The ATA petition requests, for the reasons disclosed, the Administrator to initiate rule-making proceedings to adopt regulations prescribing the process under which airport noise abatement plans, or similar restrictions upon the operation of aircraft at an FAA certificated airport, must be submitted to and considered by the FAA before the plan is implemented or enforced.

The ATA's petition involves some issues that are similar to those involved in a notice of proposed rule making issued by the FAA in 1976 based on recommended regulations submitted to it by the U.S. Environmental Protection Agency under section 611(c) of the Federal Aviation Act of 1958, as amended. That notice (Notice No. 76-24), among other things, contains proposals to require development and submission of airport noise abatement plans and periodic up-dates to those plans by all proprietors of civil airports certificated by the FAA under Part 139. Those proposals, if adopted, would prescribe the regulatory process for development, approval, and implementation of airport noise abatement plans which would, unless disapproved by the FAA, become an essential part of the airport's operating certificate issued by the FAA. For the benefit of commenters the EPA recommended rule is being republished as an appendix to this notice. The FAA believes the ATA petition should be published verbatim in order—(1) to receive public comment on the question of whether additional Federal regulations are needed and on the differences, as well as the similarities, between the two regulatory approaches to airport noise abatement plans; and (2) to ensure due consideration of each separately under the applicable FAA rule-making procedures. Although this notice sets forth without change the contents of the ATA petition as received by the FAA, its publication in accordance with FAA procedures governing the processing of petitions for rule making does not represent an FAA position on the merits of the petition. Unlike Notice No. 74-22, which contained the EPA's recommended regulations, this notice does not propose any amendment of the current rules. If, after consideration of the available data and comments received in response to this notice, the FAA determines it should initiate rule-making proceedings based on the ATA petition, a notice of proposed rule making containing specific regulatory proposals will be issued.

DATES: Comments must be received on or before November 5, 1979.

ADDRESSES: Send comments on the petition in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket N. 18691, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Richard Tedrick, Noise Policy and Regulations Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rule making as they may desire. Communications should identify the docket or petition notice number and be submitted in duplicate to the address indicated above. All communications timely received will be considered by the FAA before taking action on the petition for rule making. All comments submitted will be available for examination in the Rules Docket.

Background

The ATA petitioned the FAA under the general rule-making procedures contained in FAR Part 11 to amend the Federal Aviation Regulations (FARs) to add a new Part 150 governing the administrative process under which airport noise abatement plans must be submitted to the FAA for review before the plan is implemented. Current regulations do not cover the subject; however, the FAA has established, nonregulatory programs for the development and implementation of airport noise abatement and land-use compatibility plans which include Federal grants to develop plans and submission of proposed plans to the FAA for review and comment on their potential impacts on flight safety, on efficient use and management of navigable airspace, on interstate and foreign air transportation and air commerce, and on the national air transportation system. More detailed discussion of those programs is contained in the Aviation Noise Abatement Policy statement issued in November 1976 and the FAA orders and advisory circulars which implement the programs. As indicated in the summary, the FAA is also considering the EPA recommended regulation for developing, approving, implementing, and up-dating airport noise abatement plans. Notice No. 76-24, containing the EPA proposal, was published in the **Federal Register** on November 22, 1976 (41 FR 51522) and comments submitted in response to that notice and presented at a public hearing are available for examination in the Rules Docket. Notice No. 76-24 is republished as an appendix to this notice to assist commenters in preparing their views and suggestions regarding the ATA petition.

In support of its petition the ATA states that it is convinced that the FAA must affirm and exercise the Federal government's preemptive authority in the public interest to ensure that environmental and safety objectives are met in a manner consistent with the laws relating to air transportation and air commerce and with the effective and expeditious resolution of Federal, State, and local responsibilities in the field of noise abatement. The ATA requests the FAA to formally disapprove any local noise abatement rules that are found to be—

(1) Inconsistent with the highest degree of safety in air commerce and air transportation;

(2) Inconsistent with the efficient utilization of navigable airspace;

(3) Unduly burdensome to interstate or foreign commerce or unduly interfering with the national air transportation system;

(4) Unjustly discriminatory; or

(5) In conflict with the Federal Aviation's statutory regulatory authority.

While all comments are invited and will receive due consideration, to assist the FAA in its review of the ATA petition, comments are particularly

welcomed on the following matters concerning the petition and on any appropriate comparisons that may be drawn with the EPA recommended regulation:

1. The need for additional Federal regulations to govern airport noise abatement and related local land-use compatibility planning and the implementation or enforcement of those plans, and whether those rules should ensure that—

a. Necessary airport noise analysis and noise abatement and compatible land-use planning is accomplished and adequately implemented and enforced;

b. Proposed plans adequately protect the public health and welfare from aircraft noise by identifying and selecting available noise abatement strategies;

c. Proposed plans and implementation do not exceed legitimate proprietary rights or State or local police powers and do not conflict with actions in areas in which the Federal Government has preempted; and

d. Proposed plans reflect the needs and desires of the affected communities and are based on adequate public participation.

2. The need for additional or clarifying legislative authority for using Federal regulations to prescribe any necessary and proper requirements governing—

a. A Federal process for developing, submitting, reviewing, and implementing airport noise abatement and compatible land-use plans, including those plans that contain local airport operating rules.

b. Federal preemption authority over the exercise of proprietary rights and State and local police powers in connection with such planning and implementation or enforcement, and

c. Any limitations on Federal preemption authority in those areas.

4. Should any Federal regulation prescribe—

a. Limitations on the exercise of proprietary rights or State or local police powers until the FAA determines, according to established procedures, that a proposed plan or use restriction is an appropriate exercise of local authority and does not conflict with Federal action that preempts the field;

b. The involvement of aircraft and airport operators and other aviation interests, Federal agencies, State and local governmental bodies, and the public;

c. Mandatory (or optional) airport noise evaluation unit, process, or methodology for use in noise analysis and planning efforts;

d. Airport noise abatement plans (and their updates) as a necessary part of an airport's operating certificate, an airport master plan, or some other Federal approval, as a condition to its continued effectivity after specified dates or periods;

e. The recommended (or permissible) compatible landuses that may exist in areas impacts by noise levels above specified limits as a condition of Federal grants or other FAA certificate or program approvals for the airport; or

f. The means for funding airport noise and compatible land-use planning or implementation, including Federal grants?

5. Should any Federal regulations prescribe the administrative procedures or proceedings under which the FAA decides whether it should object to or disapprove noise abatement plans that contain local operating rules, airport use restrictions, or other potentially offensive features? If so—

a. What form of process should be provided? E.g.—

(1) An informal, administrative procedure for public hearings or for the opportunity for interested persons to submit written views and comments; or

(2) A formal, adversary proceeding for receiving testimony and evidence presented for the record by the parties to the proceeding?

b. How should the process be inititated—

(1) Automatically (or under specified conditions) for all noise abatement plans required to be submitted;

(2) At the discretion of the Administrator on his or her own initiative; or

(3) Upon the complaint or request of any person seeking to have a plan considered for objection or disapproval?

c. What should be the basis for the FAA's ultimate decision?—

(1) Should it be limited to consideration of matters presented on the records; or

(2) Also upon other relevant matters available or presented?

6. Any economic consequences (including costs and benefits) that could be anticipated from the requirements and administration of the rule requested by the petitioner.

7. The need to apply the rule requested to any airport proprietor or local community that has, or will have, substantially or completely achieved the objectives of airport noise abatement and compatible land-use planning or whose action has otherwise been determined to be an appropriate exercise of proprietary or police power authority.

8. Any regulatory requirements in addition to (or substitution for) those requested by the petitioner that should be considered for inclusion in any rule that may be proposed by the FAA in response to the petition.

9. Any environmental consequences that could be anticipated from the requirements of the rule requested, including any assessment of the scope and nature of the Federal action involved under the regulatory process for reviewing and disapproving plans submitted.

10. Any other matters that would affect a decision whether public rule making procedures should be initiated on the proposals presented in the petition.

The ATA Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rule making of the Air Transport Association, dated January 16, 1979.

Issued in Washington, D.C., on August 30, 1979.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations & Enforcement Division.

Air Transport Association of America,
1709 New York Avenue, N.W.,
Washington, D.C.
January 16, 1979.

Hon. Langhorne M. Bond,
Administrator, Federal Aviation Administration, Washington, D.C.

Re: A Regulatory Proposal, Petition for Rulemaking—Airport Noise Abatement Plans.

Dear Mr. Bond: Pursuant to the procedural rules of the Federal Aviation Administration (FAA), the Air Transport Association of America (ATA) on behalf of its member airlines hereby files the attached petition to the Administrator for the issuance of a notice of proposed rulemaking to adopt a regulation governing the promulgation of airport noise abatement plans.

Such a regulation, particularly in the light of the expansion of air transportation and the Airline Deregulation Act of 1978, is essential in the public interest to assure that safety and environmental needs are met in a manner that is consistent with the laws related to air transportation and air commerce, the effective and expeditious resolution of Federal, state and local responsibilities for noise abatement, the need to reduce confusion, and to avert repetitive and time-consuming litigation in the courts.

Essentially, the Air Transport Association calls upon the Federal Aviation Administration to comply with the Federal Aviation Act of 1958, as amended, by disapproving local noise abatement rules related to air transportation, which are found to be:

1. Inconsistent with the highest degree of safety in air commerce and air transportation; or

2. Inconsistent with the efficient utilization of navigable airspace; or

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3. Unduly burdensome to interstate or foreign commerce or unduly interfering with the national air transportation system; or

4. Unjustly discriminatory; or

5. In conflict with the Federal Aviation Administration's statutory regulatory authority.

ATA and its member carriers are convinced that the major hope for bringing order to the disruptive airport noise abatement situation is for the Federal Government to affirm and exercise its preemptive authority in this area. These efforts have been met in the past with governmental reluctance. The reason frequently advanced by the FAA for refusing to take affirmative action is that liability could attach to the Federal Government for damage attributable to aircraft noise at given airports. As explained in the attached petition, ATA does not believe that there is, or has ever been, a valid reason for inaction in an area affecting the vital interests of the Federal Government, state and local governmental authorities, airport proprietors, airport communities, the airline industry, general aviation, air travellers and shippers and the public at large.

In lieu of affirmative action, the FAA has partially fulfilled its responsibilities by participating in the consideration of and challenge to proposed airport plans only through "advisory opinions" and statements in local public hearings. This is despite the fact that the FAA's public statements and its internal guidelines support the position that state and local governmental authorities cannot exercise their proprietary or police power in a manner that (1) is inconsistent with air safety, (2) is inconsistent with the efficient utilization of the navigable airspace, (3) unduly burdens interstate or foreign commerce, (4) is unjustly discriminatory, or (5) otherwise intrudes into an area of exclusive Federal responsibility.

The FAA rightfully contends, and we agree, that the field of airport noise abatement has not been totally preempted, and that there is a shared responsibility with state and local authorities that permits some local action. While the FAA has remained relatively passive, state and local authorities have actively moved in an effort to establish and expand the parameters of their authority. The result has been frequent public hearings and litigation—brought by air carriers, general aviation and airport proprietors—challenging state regulations. The objective of these challenges is to insure that state or local action does not seriously impair the ability of air carriers to provide the air transportation services required by the public interest. The educational and persuasive process involved in litigation is time-consuming, expensive and difficult for both airport proprietors and air carriers.

The thrust of the attached rulemaking proposal is to establish a regulatory procedure under which any airport proprietor desiring to implement a noise abatement plan, that would restrict aircraft operations in interstate or foreign air transportation,* would not be able to implement that plan without submitting it to the FAA at least 90 days in advance of proposed effectiveness. Upon publication in the **Federal Register**, any interested party could file a statement in support of or a complaint against implementation of the plan. Based upon such a complaint, or upon his own motion, the Administrator could suspend the implementation of the plan for a maximum period of 180 days beyond its proposed effectiveness. Interested parties could then submit written position statements to the FAA supporting or opposing the plan, and a formal hearing could be convened. There are several levels of administrative appeal provided for before the Administrator issues a final decision whether to disapprove a proposed plan or terminate an existing plan.

The FAA would not be required to approve each airport proprietor plan, but would be required to take action only upon a finding that a proposed plan if implemented, or an existing plan, if continued, would adversely affect a valid Federal interest. Also, the proposed regulation would authorize (1) disapproval of a proposed plan or (2) termination of an existing plan on the basis of individual or cumulative impact. This would permit review and termination of a state or local plan, even after it had been subjected to the hearing process without disapproval, based upon a finding that the cumulative effect of that plan, in combination with other plans implemented or proposed subsequent to its effectiveness, would jeopardize the safety of aircraft, interfere with the efficient utilization of the navigable airspace, unduly burden interstate or foreign commerce, be unjustly discriminatory, or conflict with the Federal Aviation Administration's regulatory authority.

In the interest of all concerned with aircraft noise abatement—the Federal Government, state and local governmental authorities, airport proprietors, airport communities, the airline industry, general aviation, and the traveling public who are adversely affected by burdensome operating restrictions, ATA respectfully requests that you grant the attached petition and institute a rulemaking proceeding to adopt the proposed regulations.

Sincerely,

Paul R. Ignatius

Attachment

Docket

Petition For Rule-Making Air Transport Association of America, Airport Noise Abatement Plans

Petition for Rule-Making

Pursuant to § 11.25 of the Procedural Rules of the Federal Aviation Administration (FAA), the Air Transport Association of America (ATA) on behalf of its member airlines hereby petitions the Administrator to institute a rule-making proceeding to promulgate a regulation which provides that any airport noise abatement plan, or similar restriction upon the operation of an FAA certificated airport, must be submitted to the Administrator of the FAA for review. In support of its petition, ATA respectfully states as follows:

Introduction

ATA is an organization representing virtually all of the certificated scheduled air carriers in the United States. As the representative of the airline industry, ATA has appeared as a party in numerous hearings conducted by various airport proprietors and the FAA regarding the development of airport noise abatement plans and policies. It has closely followed, and is intimately familiar with the background and development of aircraft noise abatement policies and procedures on both national and local levels. The strides made by the FAA in controlling aircraft noise at its source are commendable, but the time has come for the FAA to exercise its authority and assume a more active leadership role with respect to all airport noise abatement programs.

A Uniform Federal Regulatory System is Required to Protect and Promote the National Air Transportation System

This petition is necessitated by the unilateral and uncoordinated restrictions that have been, or are planned to be, imposed by various State and local jurisidictions upon the use of this country's airports, including those serving Los Angeles, Burbank, San Diego, New York, Chicago, Boston, Omaha, Washington, D.C. and San Francisco. These restrictions have the potential to proliferate nationwide and strangle the air transportation system that has required years to develop. The regulation proposed in this petition is designed to avoid the destructive effect that airport operating restrictions could have upon interstate commerce, the airline industy and the traveling public, and to achieve compatibility between (1) the statutory duty of the FAA to promote, encourage and develop civil aeronautics by—among other means—asserting the preemptive authority it possesses to insure the safe and efficient utilization of this nation's navigable airspace, and (2) the proper right of an airport proprietor to respond, within reasonable limits, to local community airport noise considerations.

Operating restrictions that have been imposed on airports have produced numerous court cases, some of the more significant being *American Airlines* v. *Town of Hempstead*, 398 F. 2d 369 (1968), *City of Burbank* v. *Lockheed Air Terminal*, 411 U.S. 624, 93 S. Ct. 1854, 36 L. Ed. 2d 78 (1973), *ATA* v. *Crotti*, 389 F. Supp. 58 (1975), *National Aviation* v. *City of Hayward*, 418 F. Supp. 417 (1976), and *British Airways* v. *Port Authority of New York*, 564 F. 2d 1002 (1977), and *San Diego Unified Port District* v. *Gianturco, et al*, (U.S.D.C. S.D. Cal.) Civil No 78–0097–S, September 1978. See also Brief of the United States of America as amicus Curiae, *Santa Monica Airport Association* v. *City of Santa Monica, et al*, Civil Action No. 77 2852–IH, *cf. San Diego Port District* v. *Superior Court*, 67 Cal. App. 3d 361 (1977), *cert. denied*, 46 LW 3215 (1977), *Allegheny Airlines* v. *Village of Cedarhurst*, 238 F. 2d 812 (1956), and *Opinion of the Justices, Massachusetts*, N.E. 2d 374 (Mass 1971). Unless subjected to reasonable constraints, these restrictions may continue to proliferate and, by necessity, spawn additional litigation. The current on-going cycle of state and local legislation, followed by litigation, has failed to bring substantial and long-term relief to local communities airport proprietors, the airline industry, or the traveling public. This cycle can be halted, to the benefit of all, only if the FAA will exercise the authority granted to it and discharge the responsibilities imposed upon it by the Federal Aviation Act of 1958, as amended ("the Act").

ATA recognizes that, in July, 1975, the FAA invited public comment on the general subject of an Airport Noise Policy and conducted extensive hearings directed toward building a documented record upon which to base the development of that policy. On November 18, 1976, the DOT/FAA promulgated the Aviation Noise Abatement Policy. Implementation of that policy has compounded the issues the FAA initially recognized, but desired to avoid, when it released its Notice on Airport Noise Policy, stating:

> The question of airport noise has been the subject of extensive litigation in the context of very specific and somewhat circumscribed issues being presented to the Courts in a limited factual context. The FAA does not believe that policy in this area should be the result or product of piece-meal judicial decisions. The FAA believes its role is to develop policy in a manner which, the maximum extent possible, eliminates potential conflicts and accommodates the varying and competing interstate and local multijurisdictional interests. **Federal Register**, Vol. 40. N. 132, July 9, 1975, p. 28844)

However well intended those comments may have been, the failure of the FAA in assuming an affirmative and active role has encouraged a proliferation of complex and conflicting local restriction proposals and regulations. The FAA's present passive policy of merely reviewing use restriction proposals and providing advice to airport proprietors on their proposed actions has permitted promulgation of these proposals and regulations, many of which either constitute an undue burden on interstate commerce, or discriminate against air transportation, or both. Where litigation has not been pursued, the communities, the traveling and shipping public and the airline industry have reluctantly, but pragmatically, accepted disruption to scheduled service, passenger and shipper inconvenience and increased costs. Yet, it cannot be concluded that these airport operating restrictions have afforded airport communities much, if any, relief from aircraft and airport noise. Stronger FAA leadership is needed to assure a meaningful and equitable result in such cases.

The various attempts of state and local jurisdictions to control aircraft noise have demonstrated that the respective authority and responsibility of the Federal Government must be more clearly and firmly established. States and local jurisdictions have or are attempting to promulgate airport noise abatement regulations which clearly intrude into areas over which the Federal Government possesses and has exercised preemptive authority, such as:

(1) Extending the Part 91 operating noise limits regulations to foreign air carriers, when the FAA has excluded aircraft engaged in foreign air commerce from the coverage of the regulations until after January 1, 1980.

(2) Imposing the higher standard of the FAR 36, Stage 3 noise levels, first published as FAR 36 Amendment Number 7, effective October 1, 1977, even though the federal compliance requirement of Part 91 is based on December 1, 1969 noise standards.

(3) Imposing the federal concept of obtaining system compliance by air carriers with Part 91 noise standards on an aircraft fleet basis, but requiring that an air carrier meet the phased compliance requirements of FAR 91.305 with respect to the aircraft it operates at a specific airport; *i.e.*, improper application of a system concept to an individual airport.

(4) Establishing methods to measure aircraft noise at various locations around an airport, for the purpose of determining compliance with prescribed community noise levels, an action that does or could have the effect of regulating the flight of aircraft, which is an invalid intrusion upon the authority of the FAA as found in *ATA* v. *Crotti*.

Other local restrictions which have been proposed and/or implemented, and which actually or potentially conflict with the statutory regulatory authority of the FAA, are as follows:

(1) A curfew or limitation on the hours of airport operation;

(2) A ban on the use of jet powered aircraft;

(3) A ban or curfew on aircraft which do not meet FAR Part 36 noise level criteria;

(4) A limit on the number of operations conducted at an airport;

(5) Runway use restrictions, such as:

(a) Preferential runway use;

(b) Assigned departure and landing paths associated with runway use;

(c) Prohibitions or curfews on the use of certain runways;

(d) Limitations on the number of operations from a runway;

(6) Takeoff and landing procedures for aircraft; and

(7) The establishment of various airport noise measurement systems which interfere with, or attempt to regulate, the operation of aircraft.

Actions by airport proprietors that would clearly not conflict with the FAA's authority include the acquisition of aviation easements and the establishment of compatible land use programs. To avoid conflict, however, the rights of the Government and proprietors should be defined as clearly as possible and, where conflict arises, a method should exist to achieve prompt and fair resolution of the issues. It is imperative, therefore, that the FAA expeditiously and decisively act to clearly identify the boundaries of its preemptive authority, and thereby prevent this important matter of national concern from constantly being the subject of controversy and turmoil, as a result of piecemeal judicial decisions.

The United States Court of Appeals for the Second Circuit, in *British Airways* v. *Port Authority of New York*, 564 F.2d 1002 (1977) succinctly summarized the respective and potentially conflicting rights of the Federal Government and airport proprietors:

> Our intial opinion in this case delineated the extremely limited role Congress had reserved for airport proprietors in our system of aviation management. Common sense, of course, required that exclusive control of airspace allocation be concentrated at the national level, and communities were therefore preempted from attempting to regulate planes in flight. The task of protecting the local population from airport noise, however, has fallen to the agency, usually of local government, that owns and operates the airfield. It seemed fair to assume that the *proprietor's intimate knowledge of local conditions, as well as his ability to acquire property and air easements and assure compatible land use*, would result in a rational weighing of the costs and benefits of proposed service. Congress has consistently reaffirmed its commitment to this two-tiered scheme, and both the Supreme Court and executive branch have recognized the important role of the airport proprietor in developing noise abatement programs consonant with local conditions.

The maintenance of a fair and efficient system of air commerce, of course, mandates that each airport operator be circumscribed

* Except in unusual situations, airport actions that are traditionally and properly local in nature, such as airport design and compatible land use restrictions, would not be covered by the regulations.

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to the issuance of reasonable, nonarbitrary and nondiscriminatory rules defining the permissible level of noise which can be created by aircraft using the airport. *We must carefully scrutinize all exercises of local power under this rubric to insure that impermissible parochial considerations do not unconstitutionally burden interstate commerce or inhibit the accomplishment of legitimate national goals.* (Citations omitted; italic supplied).

Recognizing that both Federal and state entities have valid and enforceable rights with respect to airport noise abatement, the critical issue is whether, based upon the factual circumstances, certain actions taken by or required of airport proprietors result in an intrusion upon the authority of the Federal Government, as delegated to the FAA. The resolution of this sensitive and complex issue requires considerable aviation and technical expertise. As a result, in public hearings before local governmental agencies considering airport noise regulations, and in litigation challenging such regulations, substantial effort is required merely to give laymen and judges a threshold education in the basics of aviation and the national air transportation system. Thereafter, decisions are sometimes made on the basis not of fact, but of self-interest and political considerations.

What is required is to create a forum in which subject matter expertise is consistently maintained at a high level; all viewpoints may be openly expressed; a formal evidentiary record is developed; decision-making standards are publicly known and fairly applied; decisions are consistently made on an equitable and uniform basis. In short, the forum should be one that is conducive to light, not heat. The FAA can best provide such a forum in which all viewpoints can be expressed, evaluated and, hopefully, reconciled for the benefit of the public interest.

Federal Preemption Can Co-Exist With a Shared Responsibility With Airport Proprietors Without Imposing Liability on the Federal Government

In the Aviation Noise Abatement Policy of November 18, 1976, the DOT/FAA stated:

> We have been urged to undertake—and have considered carefully and rejected—full and complete federal preemption of the field of aviation noise abatement. In our judgment the control and reduction of airport noise must remain a shared responsibility among airport proprietors, users, and governments. (Page 34)

Two significant—but erroneous—justifications for the FAA thus far failing to fully exercise its preemptive authority in the field of aviation noise abatement are reflected in the above statement. The first and most apparent is the FAA's assumption that proper assertion of its preemptive authority is totally inconsistent with a shared responsibility with airport proprietors, users and governments to control airport noise. The second, but not as obvious reason, is that the FAA apparently fears that liability for airport noise damage may attach to its "full and complete federal preemption of the field of aviation noise abatement." Neither justification is well founded. To the contrary, the concept that federal preemption of the field of aviation noise abatement can exist in harmony with a shared local responsibility to control airport noise, without a shift in liability, can be demonstrated simply by reviewing appropriate statutes and case law. Furthermore, the review will also reveal that the DOT/FAA, in the Aviation Noise Abatement Policy, has attempted to fulfill its responsibility by avoiding resolution of the difficult issue.

The Congressional findings and statement of policy set forth in the Noise Control Act of 1972 reveal that the concepts of federal preemption and a shared local responsibility to control noise are totally consistent and harmonious. Section 4901, 42 U.S.C., provides in part:

> "(a) The Congress finds—
> * * * * *
> (3) That, while primary responsibility for control of noise rests with State and local government, Federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment."

Before enactment of the Noise Control Act, the Courts had universally recognized the deep-seated police power of the states to control noise and to preserve and protect the health and welfare of their citizens by controlling local zoning, land use planning and transportation siting. With respect to airports, the Courts had recognized that the local proprietor had the authority, responsibility and liability for determining the number of runways, their direction and length and the land and navigation easements required for the operation of the airport. *Griggs* v. *County of Allegheny*, 369 U.S. 84, 82 S. Ct. 531, 7 L. Ed. 2d 585 (1962), *Loma Portal Civic Club* v. *American Airlines, Inc.*, 394 P. 2d 548 (1964) and *City of Los Angeles* v. *Japan Air Lines Co.*, 41 Cal. App. 3d 416 (1974). To this extent, the control of noise at an airport had been recognized as the responsibility of local government, acting as an airport proprietor. By enacting the Noise Control Act, Congress reaffirmed not only this local responsibility, but also the preemptive federal involvement in controlling noise sources in or affecting interstate and foreign commerce. Since the passage of the Act, the courts that have been called upon to determine the validity of local airport use restrictions have stated that the control of noise is a responsibility shared by the Federal Government and airport proprietors. *City of Burbank* v. *Lockheed Air Terminal*, 411 U.S. 624, 93 S. Ct. 1854, 36 L. Ed. 2d 78 (1973), *National Aviation* v. *City of Hayward*, 48 F. Supp. 417 (1976), *British Airways* v. *Port Authority of New York*, 564 F. 2d 1002 (1977) and others.

Sharing the responsibility, however, does not preclude federal preemption of the field of aviation noise abatement. Such preemption can exist with local control of noise because the Federal Government has no authority to relieve local governments of their historic responsibility to preserve and protect the health and welfare of their citizens; to control local zoning, including land use planning, transportation siting and the operation of transportation facilities. At least to that extent, local government still has the responsibility to control airport noise.

Where an airport proprietor's authority to regulate the operation of his airport ends, is the difficult issue the FAA has not adequately addressed. Instead of asserting its preemptive authority in the field of aviation noise abatement, the FAA has merely reviewed airport use restrictions and provided "advice" in an "attempt to ensure that uncoordinated and unilateral restrictions at various individual airports do not work separately or in combination to create an undue burden on interstate or foreign commerce, unjustly discriminate or conflict with FAA's statutory regulatory authority" (Aviation Noise Abatement Policy, November 18, 1976, page 59).

Providing "advice" to avoid liability for airport noise damage does not further or fulfill the basic national policies Congress assigned to the FAA to carry out. The proper discharge of the FAA's responsibilities to regulate air commerce, to promote and develop civil aeronautics, to control the navigable airspace, and to develop a common system of air traffic control, does not require "full and complete federal preemption of the field of aviation noise abatement." Rather, what is required to properly fulfill and discharge those responsibilities is to affirm the existence of federal preemption to the extent necessary to ensure that the FAA's partners in aircraft noise abatement—

states and local governments—do not interfere with the authority of the Federal Government. Furthermore, liability for airport noise damage should not attach to the FAA if it affirms the existence of and asserts federal preemption to the extent necessary to prevent the imposition of such airport noise abatement plans. This is particularly true where, as under the regulation proposed herein, the FAA would not be required to take positive action to approve or disapprove each noise abatement plan in the country, but would only be called upon to discharge its responsibilities under the Federal Aviation Act by disapproving any such plan that is contrary to the national interests that Congress has mandated the FAA to protect and promote.

Under existing case law, the liability for damage caused by airport noise rests upon the airport proprietor, *Griggs* v. *Allegheny County and Air Transport Association* v. *Crotti*, even though, as Justice Jackson stated in *Northwest Airlines, Inc.* v. *Minnesota*, 322 U.S. 292, 64 S. Ct. 950, 88 L. Ed. 1283 (1944):

> Planes do not wander about in the sky like vagrant clouds. They move only by federal permission subject to federal inspection in the hands of federally certificated personnel and under an intricate system of federal commands. The moment a ship taxies onto a runway, it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams; it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government. (322 U.S. at 302).

This liability was imposed upon the airport proprietor, despite pervasive federal regulatory control, as described in *American Airlines, Inc.* v. *Town of Hempstead*, 272 F. Supp. 226 (1966):

> It would be difficult to visualize a more comprehensive scheme of combined regulation, subsidization and operational participation than that which the Congress has provided in the field of aviation. Federal aid for public airport development is provided, and both economic, technical and operational regulation is provided starting from the basis of an unqualified assertion of the public right of freedom of transit through the navigable air space of the United States. Carriers in routes are certificated by the Civil Aeronautics Board. The FAA certificates aircraft and airmen. The Administrator of the FAA is authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft for the navigation and protection of aircraft and for the protection of persons and property on the ground, including rules as to safe altitudes of flight and for the prevention of aircraft collision. In exercising his rulemaking authority, the Administrator is subject to the provisions of the Administrative Procedure Act. He is authorized and directed to assign by rule, regulation or order the use of navigable air space to insure the safety of aircraft and the efficient utilization of air space. The Administrator is authorized within the limits of appropriations—to acquire and operate air navigation facilities where necessary and to provide necessary facilities and personnel for the regulation and protection of traffic. (Citations omitted, 272 E. Supp. at 232)

The passage of the Noise Control Act of 1972 has not affected or changed the liability of the local airport proprietor for airport noise damage. *Aaron* v. *City of Los Angeles*, 40 Cal. App. 3d 471 (1974) and *City of Los Angeles* v. *Japan Air Lines Co., Ltd., supra.* The burden of proof still remains upon the airport proprietor to demonstrate that damages were not caused by its acts or omissions in the planning, zoning and siting of transportation facilities. A distinction can be drawn between areas of federal preemption of aircraft operations and the failure of local governments to control the dispersion of noise outside of the navigable airspace. It is the responsibility of the FAA to make this distinction in order to fulfill and further the basic policy and public interest considerations that were established by Congress in the Federal Aviation Act (Section 103, 49 U.S.C. 1303), including:

> (a) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense;
> (b) The promotion, encouragement, and development of civil aeronautics;
> (c) The control of the use of the navigable airspce of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both * * * and
> (d) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.

However, even if the courts subsequently determine that liability should attach to the Federal Government by virtue of the FAA's affirmation and assertion of federal preemption, it would be a small price to pay to prevent uncoordinated and unilateral restrictions at varius airports from working separatedly, or in combination, to endanger the maintenance, promotion and development of the national air transportation system.

Highlights of Proposed Regulation

The rulemaking proposal contained in this petition is designed to establish a regulatory procedure under which an airport proprietor, desiring to implement a noise abatement plan that would restrict aircraft operations in interstate or foreign air transportation, would not be able to implement that plan without submitting it to the Administrator of the Federal Aviation Administration at least 90 days in advance of proposed effectiveness. However, except in unusual situations, airport actions that are traditionally and properly local in nature, such as airport design and compatible land use restrictions, are not covered by the regulation.

The regulation applies to each airport holding an operating certificate under Part 139 of the Code of Federal Regulations. The heart of the regulation provides that the Administrator may disapprove and prevent the implementation of any proposed plan or revision, or terminate any effective plan, which he determines would, either individually, or cumulatively in combination with other proposed or effective plans:

(1) Be inconsistent with maintaining the highest degree of safety in air commerce and air transportation in the public interest; or

(2) Be inconsistent with maintaining the efficient utilization of the navigable airspace; or

(3) Create an undue burden on interstate or foreign commerce or interfere unduly with the national air transport system; or

(4) Be unjustly discriminatory; or

(5) Conflict with the Federal Aviation Administration's statutory regulatory authority.

The public will be notified of all proposals submitted to the Administrator, who may, upon complaint or his own initiative, and upon required notice to the airport proprietor, suspend and investigate the operation of a proposed plan or revision for a period of from ninety (90) to one hundred eighty (180) days. The Administrator may also call for a review of existing plans, upon complaint or his own initiative, to determine whether he should disapprove and terminate such plans. The rule permits discretionary review and reconsideration by the Administrator before a decision to disapprove a proposed plan or terminate an existing plan, becomes final. The balance of the regulation covers the hearing process, initial decision of the hearing officer, petitions for review and petitions for reconsideration by the Administrator, and judicial review of the Administrator's final decisions pursuant to Section 1006 of the Federal Aviation Act.

Authority for Regulation

The Administrator's Authority to promulgate the proposed regulation is contained in Sections 103, 305, 306, 307, 312(a), 313(a), 601(a)(6), 611 and 612, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1303, 1346, 1347, 1348, 1353(a), 1354(a), 1421(a)(6), 1431 and 1432); Section 6(c); Department of

Transportation Act (49 U.S.C. 1655 6(c); Section 18(a)(1), Airport and Airway Development Act of 1970, as amended by the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1718(a)(1)); and Article 1, Section 8, Clause 3, and Article VI, Clause 2, of the Constitution of the United States.

Beginning with the Federal Aviation Act, Section 1108(a), (49 U.S.C. 1508), provides in part, that "the United States of America is hereby declared to possess and exercise complete and exclusive sovereignty in the airspace of the United States." The Secretary of Transportation, by Section 307(a) of the Act (49 U.S.C. 1348), is given the authority "to develop plans for and formulate policy with respect to the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace." Section 307(c) also authorizes the Secretary to "prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace * * *." Furthermore, the Secretary is directed by Section 312 "to make long range plans for and formulate policy with respect to the orderly development and use of the navigable airspace * * *." These sections of the Act clearly establish that the Secretary of Transportation has been given jurisdiction, to the exclusion of all other state or local governmental authority to determine the terms, conditions and limitations that may be imposed upon the use of the navigable airspace.

The Department of Transportation Act, Section 6(c), (49 U.S.C. 1655(6)(c)) transferred to the Federal Aviation Administrator the duty to "exercise the functions, powers, and duties of the Secretary pertaining to aviation safety * * *." It explicitly provided that in exercising the enumerated functions, powers, and duties, the Administrator "shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended" (quoted at page 16, *supra*).

The Administrator has exercised the authority granted by Section 307 by promulgating comprehensive federal regulations governing the use of the navigable airspace and the control of air traffic.[1] Similarly, the Administrator has exercised his aviation safety authority, including the certification of airmen, aircraft, air carriers, air agencies, and airports under Title VI of the Federal Aviation Act by undertaking extensive federal regulatory action.[2]

With respect to Title VI of the Act, Section 611 was amended in 1972 to provide that the FAA, "In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, * * * shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title." Under Section 612 of the Act, the Administrator is empowered to issue airport operating certificates to airports serving air carriers and to establish minimum safety standards for the operation of such airports. In addition to supporting the Administrator's authority to promulgate the proposed regulation, Sections 611 and 612 provide a statutory basis upon which to enforce the regulation.

Under Section 18 (49 U.S.C. 1718) of the Airport and Airway Development Act Amendments of 1976, the Secretary is to receive written assurances from the airport which receives funds that it "will be available for public use on fair and reasonable terms and without unjust discrimination * * *." This Section, and FAA regulations issued pursuant thereto, also provide a basis upon which to enforce the proposed regulation.

Conclusion

The exclusive authority and jurisdiction to regulate commerce and to impose limitations on the use of the navigable airspace rests with the Federal Government. Included in that jurisdiction is the Administrators responsibility to insure that no impermissible limitations on the use of the airspace are imposed by airport proprietors. Any airport noise abatement plan that unduly burdens commerce, jeopardizes safety of aircraft, unjustly discriminates, or impinges upon the management or safe and efficient utilization of the navigable airspace, would be in direct conflict with the authority of the Federal Government and should not be permitted. The Administrator's authority and jurisdiction are sufficient to support promulgation of a regulation pursuant to which he can disapprove state or local governmental actions on these grounds.

In view of the generally unsatisfactory experience under the existing procedure in which FAA's role is passive and advisory, and the creeping encroachments upon the national air transport system that result from local noise abatement plans, the Administrator should act forthwith and adopt a rule providing for review by the Administrator of local noise abatement plans, existing and proposed, and providing for disapproval in appropriate cases.

Wherefore, it is respectfully requested that the Administrator grant this petition and institute a rulemaking proceeding to consider, accept comments upon and ultimately adopt the regulation attached hereto as Part 150 of Title 14, Code of Federal Regulations.

Respectfully submitted,

James E. Landry,

Senior Vice President and General Counsel.

Part 150—Airport Noise Abatement Plans

150.1 Applicability and Definitions

(a) The provisions of this part apply to each airport holding an operating certificate issued under Part 139 of this Title.

(b) This Part prescribes rules and procedures under which airport noise abatement plans will be submitted to and considered by the Administrator.

(c) As used in this Part:

(1) "Airport" means any land airport holding an airport operating certificate issued under Part 139 of this Title;

(2) "Airport Noise Abatement Plan" means any action taken by an airport proprietor by means of a rule, regulation or other enactment, which imposes any restriction upon aircraft operations (to, from or at any airport) that are in air transportation or air commerce as defined in Title I of the Federal Aviation Act of 1958 as amended, or which affects the management or safe and efficient use of navigable airspace.

(3) "Airport Proprietor" means the Board, Department, Commission, Port Authority or other person (including a State if the airport proprietor is a political subdivision of a State) that owns, operates or otherwise exercises direct supervision over, and responsibility for, the management of an airport.

(4) "Person" means any individual, firm, co-partnership, corporation, company, association, or body politic.

(5) "Effective plan" means any airport noise abatement plan in effect on the effective date of this Part or which becomes effective pursuant to § 150.7.

150.3 General Requirements

After the effective date of this Part, no airport proprietor may adopt and enforce an airport noise abatement plan, or revise any effective plan, without filing a copy the proposed plan, or revision, with the Administrator at least ninety (90) days before the effective date of the proposed plan or revision.

[1] See 14 CFR Parts 71, 73, 75, 91, 93, 95 and 97.

[2] See 14 CFR Parts 21 through 43, 61 through 67, 91, 121 through 149.

150.5 Contents of Plan filed with Administrator

(a) Each airport noise abatement plan, or revision of an effective plan, filed under this Part shall contain the following:

(1) A statement of the legal authority pursuant to which the proposed plan or revision of an effective plan is to be promulgated, and a verification that all procedural legal and administrative requirements for such promulgation have been met;

(2) The reason or reasons for which the airport proprietor believes the proposed plan or revision is required;

(3) A copy of the plan;

(4) The effective date and anticipated duration of the proposed plan or revision;

(5) A complete description of the plan's proposed method for restricting aircraft operations at the subject airport and an analysis of whether the plan will:

(i) Be inconsistent with maintaining the highest degree of safety in air commerce and air transportation in the public interest;

(ii) Be inconsistent with maintaining the efficient utilization of the navigable airspace;

(iii) Create an undue burden on interstate or foreign commerce; or interfere unduly with the national air transport system;

(iv) Be unjustly discriminatory; or

(v) Conflict with a Federal statute or regulation or intrude into a field which Congress intended to occupy.

(b) Any plan or revision filed which does not meet the procedural or administrative requirements of this section may be dismissed, without hearing, by the Administrator.

(c) Each plan, revision, or any other document filed under this section shall be submitted in duplicate to the Federal Aviation Administration, Washington, D.C. 20591.

(d) Within twenty (20) days of receipt, the Administrator shall give notice to the public regarding the filing of a proposed airport noise abatement plan, or revision of an effective plan, by publishing a copy of the proposed plan or revision in the **Federal Register**.

150.7 Suspension of Proposed Plans

(a) Whenever any airport proprietor files a proposed airport noise abatement plan, or revision of an effective plan, with the Administrator, the plan or revision will become effective on the date set forth therein unless the Administrator, at any time prior to the effective date of the plan or revision, upon complaint or his own initiative, suspends the operation of the plan or revision and institutes a proceeding for the purpose of determining whether the plan or revision should be disapproved.

(b) Pending the hearing and decision thereon, the Administrator may, upon giving the Notice required by Section 150.19, suspend the operation of the proposed plan or revision for a period of ninety days beyond its effective date. If the proceeding has not been concluded and a final order made within such period, the Administrator may from time to time extend the period of suspension, but not for a period longer than one hundred eighty (180) days beyond the time such proposed plan or revision would otherwise become effective.

(c) If the proceeding has not been concluded and a final decision made within the period of the suspension, the proposed plan or revision shall go into effect at the end of such period, subject, however, to being terminated when the proceeding has been concluded.

(d) If, after the proceeding is concluded, the Administrator is of the opinion that the plan or revision should be disapproved and/or terminated under Section 150.11, he shall issue an order disapproving and/or terminating said plan or revision.

150.9 Investigations of Effective Plans

With respect to each airport noise abatement plan in effect at the time this Part becomes effective, or which becomes effective thereafter, the Administrator may, at any time, upon his own initiative or upon complaint in writing by any person, by notice in the **Federal Register**, institute a proceeding to determine whether he should disapprove and terminate such plan or plans according to the standards of § 150.11.

150.11 Standards for Disapproval and/or Termination

In exercising and performing his powers and duties with respect to determining whether any proposed or effective airport noise abatement plan should be disapproved and/or terminated, the Administrator shall, upon complaint or his own initiative, after notice and hearing, disapprove and/or terminate each plan which he determines would either individually, or cumulatively in combination with other proposed or effective plans:

(1) Be inconsistent with maintaining the highest degree of safety in air commerce and air transportation in the public interest; or,

(2) Be inconsistent with maintaining the efficient utilization of the navigable airspace;

(3) Creater an undue burden on interstate or foreign commerce; or interfere unduly with the national air transport system;

(4) Be unjustly discriminatory; or

(5) Conflict with a Federal statute or regulation or intrude into a field which Congress intended to occupy

150.13 Filing and Service of Complaints

(a) Any person may file a complaint and request for hearing with the Administrator against any proposed or effective airport noise abatement plan or plans. The complaint shall set forth fully the basis upon which the plan should be disapproved and/or terminated in accordance with the standards of § 150.11, because of the individual or cumulative effect of the plan or plans.

(b) A copy of the complaint filed with the Administrator shall be simultaneously served by the complainant upon:

(1) Each air carrier authorized by the Civil Aeronautics Board, or holding other appropriate authority to render regular or charter service to the airport(s) identified in the complaint.

(2) The airport proprietor of each airport against whose plan the complaint is filed;

(3) The chief executive of the state, territory, or possession of the United States in which the subject airport is located; provided, however, that if there be a state commission or agency having jurisdiction over transportation by air, service shall be made on such commission or agency, rather than the chief executive of the state;

(4) Each air taxi operator operating to or from the subject airport under Part 135 of this chapter.

(c) The Administrator may, in his discretion, order additional service to be made on such person or persons as the facts of the situation warrant.

(d) Service shall be made by mailing a copy of the complaint, postage prepaid, to all persons required to be served under this section.

(e) A complaint requesting the suspension and investigation of any proposed plan, or revision of an effective plan, will not be considered unless made in accordance with the requirements of this section and filed within twenty (20) days after the proposed plan or revision was published in the **Federal Register**.

(f) A complaint requesting an investigation of an effective plan may be filed at any time.

150.15 Answer

(a) Any interested person may file an answer in suport of or in opposition to the complaint within 10 days after the complaint is served.

(b) Any interested person includes those described in § 150.13(b) and any others served with a copy of the complaint.

(c) Answers will be served upon the complainant and those served with a copy of the complaint.

150.17 Reply

(a) The complainant, or any person having filed an answer, may file a reply to any other answer submitted under this part.

(b) Replies must be filed within ten (10) days of the service of the answer to which they respond.

(c) No further responsive documents will be filed except for good cause shown.

150.19 Notice and Hearing

(a) If the Administrator, upon complaint or his own initiative, determines that a proposed plan, or revision of an effective plan, should be suspended and investigated, or an effective plan investigated, he shall deliver a written statement to the airport proprietor or proprietors affected thereby, and shall publish a notice in the **Federal Register** instituting a proceeding to determine whether the plan or revision should be disapproved and/or terminated and specifying the date, time and place of the public hearing.

(b) The Administrator shall appoint a hearing officer to conduct the hearing regarding the investigation of any plan.

(c) Any person, including any state or subdivision thereof, State aviation commission or other public body, may appear at any hearing and present any evidence which is relevant to the issues designated by the hearing officer. A written statement of position may be submitted for the record.

(d) The hearing officer shall have the following powers, in addition to any others specified in this part:

(1) To give notice concerning and to hold hearings;

(2) To administer oaths and affirmations;

(3) To examine witnesses;

(4) To issue subpoenas and to take or cause depositions to be taken;

(5) To rule upon offers of proof and to receive relevant evidence;

(6) To regulate the course and conduct of the hearing;

(7) To hold conferences before or during hearings, for the settlement or simplification of issues;

(8) To rule on motions and to dispose of procedural requests or similar matters;

(9) To make initial or recommended decisions;

(10) To take any other action authorized by this part, by the Administrative Procedure Act, or by the Federal Aviation Act.

(e) A written transcript of all oral statements made at the hearing will be prepared by a certified reporter. Copies of the transcript, statements of position and all other documentary material presented at the hearing will be made available to interested persons, and the public, upon payment of applicable reproduction costs to the reporting firm.

(f) The hearing officer's authority in each case will terminate either upon the certification of the record in the proceeding to the Administrator, or upon the expiration of the period within which petitions for discretionary review of his initial or recommended decision may be filed, or when he shall have withdrawn from the case upon considering himself disqualified.

(g) At any time prior to the close of the hearing, the Administrator may direct the hearing officer to certify any question or the entire record in the proceeding to the Administrator for decision. In cases where the record is thus certified, the hearing officer shall not render an initial decision but shall recommend a decision to the Administrator as required by section 8(a) of the Administrative Procedure Act.

150.21 Hearing Briefs

(a) In his own discretion, or upon request by a party, the hearing officer may permit the filing of written briefs setting forth final statements of position of the parties.

(b) Briefs must be filed within thirty (30) days of the conclusion of the hearing, or within such time period as the hearing officer may specify. Unless specifically authorized by the hearing officer, reply briefs are not permitted.

150.23 Initial Decision

(a) Not later than sixty (60) days following the conclusion of the hearing, or the filing of hearing briefs, if applicable, the hearing officer shall issue an Initial Decision specifying his findings and clearly incorporating therein the bases in fact and law for such decision. Such decision shall be served upon all parties.

(b) Such Initial Decision is subject to review under § 150.25.

150.25 Petition for Review by Administrator

(a) A petition for discretionary review of an Initial Decision may be filed with the Administrator by a party within ten (10) days after service of the Initial Decision. Such petition shall be accompanied by proof of service on all parties to the hearing.

(b) Petitions for discretionary review may be filed with the Administrator only on one or more of the following grounds:

(1) A finding of material fact is erroneous, or

(2) A necessary legal conclusion is contrary to law or precedent, or

(3) A substantial and important question of law, policy, or precedent is involved.

(c) If no petition for discretionary review is filed with the Administrator within ten (10) days after service of the Initial Decision by the hearing officer, and the Administrator does not act on his own motion to review the decision, such decision shall become the final decision of the Administrator.

(d) The Administrator's decision on a petition for discretionary review shall be rendered within sixty (60) days of the filing of said petition, or the Initial Decision shall become the final decision of the Administrator.

150.27 Petition for Reconsideration

(a) Any party may file a petition for reconsideration of a final decision by the Administrator.

(b) Unless a different period is specified by the Administrator, petitions for reconsideration shall be filed within twenty (20) days after service of the final order.

(c) Neither the filing nor the granting of such a petition shall operate as a stay of such final order unless specifically so ordered by the Administrator.

(d) Within ten (10) days after filing of a petition for reconsideration, any party may file an answer in support of or opposition to the petition. No other responsive documents shall be permitted.

(e) Motions for extensions of time to file a petition or answer will not be granted by the Administrator except upon a showing of unusual and exceptional circumstances, constituting good cause for movant's inability to meet the established procedural dates.

(f) A petition for reconsideration shall state, briefly and specifically, the matter or record alleged to have been erroneously decided, the ground relief upon and the relief sought. Petitions and answers thereto that exceed twenty-five (25) pages (including appendices) in length shall not be accepted for filing.

(g) The Administrator's decision on a petition for reconsideration shall be rendered within sixty (60) days of the filing of said petition.

150.29 Judicial Review

Final decisions rendered by the Administrator under this part are subject to judicial review pursuant to Section 1006 of the Federal Aviation Act of 1958, as amended (47 U.S.C. 1486).

Suggested Economic Impact Statement

On January 16, 1979, the Air Transport Association of America ("ATA") filed a Petition for Rulemaking regarding Airport Noise Abatement Plans with the Federal Aviation Administration. The proposed regulation would become Part 150 of Title 14, Code of Federal Regulations.

Essentially, the ATA proposal would require any airport proprietor proposing a noise abatement plan that would restrict aircraft operations in interstate or foreign air transportation to submit it to FAA at least 90 days prior to the effective date of the plan. Procedures for public comments, hearings, and agency review are set forth in the proposal. Judicial review of final orders under the proposed rule would be in accordance with Section 1006 of the Federal Aviation Act of 1958, as amended (47 U.S.C. 1486).

The ATA proposal is based on the DOT/FAA *Aviation Noise Abatement Policy* adopted November 18, 1976. Its principal difference with the Policy Statement is that under the proposed rule no airport proprietor may adopt and enforce an airport noise abatement plan without filing a copy of the proposed plan (or revision) with FAA. Under the Policy Statement FAA support and endorsement will be withheld for any noise abatement plans not submitted for its review. The ATAT proposal provides for FAA orders of disapproval and/or termination of such plans which the DOT/FAA Policy Statement does not do. It also set forth time limits for FAA action on proposed plans.

As a practical matter today many major airports submit noise abatement plans to FAA for reivew and advice. Under the Policy Statement FAA is responsible for reviewing such plans and advising the airport proprietor if it believes the limitation in question is or is not unjustly discriminatory or detrimental to the national air transportation system. Thus under the existing system FAA must devote staff time in the Regions, and sometimes in Washington, to examining proposed noise reduction plans.

Precise quantification of the economic impact on Federal and local governments and the aviation interests involved in noise control and abatement efforts is difficult. However, it follows from what is said above that economic costs of those efforts will not be increased significantly even at the outset if the ATA proposal is adopted. There is every reason to believe that they will be reduced measurably once the new system takes hold.

The substantive considerations involved in review of noise reduction plans by FAA will be changed very little by the ATA proposal. What will be changed is that all parties will have a stricter sense of direction from the Federal Government. All of them will know from the beginning that noise abatement plans must be filed with FAA if they are expected to take effect, and that the action taken by the agency will determine whether or not a particular plan will be legally enforceable. These certainties will be within the contemplation of all parties, those proposing noise plans and those who are opposing them or seeking modifications or changes. This cannot help but lead to more exact dialogues between, say, the airlines and local authorities in discussing noise abatement proposals. In most instances each side will know that its case will stand or fall on what FAA concludes on the merits. This means that criteria will be evolved to which all parties must adjust in working out noise abatement measures.

It must be assumed that at the outset a few hearings will be requested in which some costs will be incurred by all parties, including FAA who must set up the machinery for conducting hearings. However, it is doubtful that those costs will exceed the overall costs being incurred under the existing arrangement. For instance, we have been advised that during the past 4½ years the airlines through ATA have spent approximately $2,000,000 in participating in administrative and judicial proceedings concerned with local noise regulations. Since two sides are involved in such controversies, it is safe to assume that local governmental agencies have spent approximately that much. For its part, under the existing system FAA must review the proposals that are submitted to it, give advice and on occasions participate in court proceedings. The costs to FAA and other federal agencies concerned with local noise proposals, whether in the formative or litigation stages, has been approximately ———

Adoption of the proposed rule will not eliminate all of these costs. However, it seems likely that fewer man hours and dollars will be expended by aviation interests, local governments, and the FAA itself once the proposed rule is implemented.

In brief: If any costs are increased as a result of adoption of the ATA Proposal they will be minimal and transitory. In the long run, and probably sooner, the overall costs will surely be reduced.

Appendix to Petition Notice No. PR–79–8—Department of Transportation

Federal Aviation Administration

[14 CFR Part 140]

[Docket No. 16279; Notice No. 76–24]

Proposed Regulations Submitted to the FAA by the Environmental Protection Agency: Airport Noise Regulatory Process; Notice of Proposed Rule Making

This notice of proposed rule making contains recommended regulations submitted by the Environmental Protection Agency (EPA) to the Federal Aviation Administration (FAA), pursuant to § 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92–574). Section 611(c)(1) of the Federal Aviation Act of 1958 provides that EPA shall submit to the FAA recommended regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That section also provides that the FAA "shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rule making." This notice is published pursuant to that provision of law.

The EPA recommended regulation contained in this notice of proposed rule making (NPRM) proposes to amend Subchapter G of the Federal Aviation Regulations (14 CFR Chapter I) to establish a new Part 140 to prescribe (as stated by EPA) "procedures for the development, approval, and implementation of an Airport Noise Abatement Plan for airports required to be certificated under Part 139. This plan would constitute an amendment to the existing Airport Operating Certificate."

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments on the overall environmental aspects of the proposed rule are specifically invited. Information on the economic impact that might result because of the adoption of the proposed rule is also requested. All communications received by the FAA on or before March 24, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments will be available, both before and after the closing date for comments, in the FAA Rules Docket for examination by interested persons. The EPA has requested that an additional information copy of each public comment be sent to: U.S. Environmental Protection Agency, Office of Noise Control, AW–471, Attention: Docket No. ONAC 76–13, 401 "M" Street, SW., Washington, D.C. 20460. However, to ensure consideration as part of the regulatory process of the FAA, each comment must be submitted to the FAA Rules Docket.

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

A separate notice of hearing, published today in the "NOTICES" section of the **Federal Register**, announces that, pursuant to § 611(c) of the Federal Aviation Act of 1958, as amended, the FAA will conduct a public hearing in Washington, D.C., on January 17, 1977 to receive oral, as well as written, comments regarding the proposals contained in this notice of proposed rule making.

The following EPA opinions, conclusions, and proposed regulatory language are published verbatim as received from EPA by the FAA on October 26, 1976:

EPA Proposal as Submitted to FAA

In accordance with a recommendation made by the Administrator of the Environmental Protection Agency, pursuant to Section 7 of the Noise Control Act of 1972, the Federal Aviation Administration is considering the adoption of a new Part 140 to the Federal Aviation Regulations prescribing procedures for the development, approval, and implementation of an Airport Noise Abatement Plan for airports required to be certificated under Part 139. This plan would constitute an amendment to the existing Airport Operating Certificate.

Legislative History

Under the requirements of Section 7(a) of the Noise Control Act of 1972 (Pub. L. 92–574, 86 Stat. 1239), the Administrator of the Environmental Protection Agency conducted a study of the adequacy of Federal Regulation of aircraft and airport noise and submitted a report thereon to the Congress (Report on Aircraft/Airport Noise, Senate Committee on Public Works, Serial No. 93–8, August 1973). Under Section 611 of the Federal Aviation Act, as amended by the Noise Control Act of 1972, the Administrator of the EPA is also required to submit to the Federal Aviation Administration proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement of aircraft noise through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as the Administrator of the EPA determines is necessary to protect the public health and welfare. In accordance with the foregoing requirement, the EPA published in the **Federal Register** on February 19, 1974 (39 FR 6112), a "Notice of Public Comment Period" containing a synopsis of the proposed rules it was considering to achieve a level of aircraft noise control and abatement satisfactory for the protection of the public health and welfare. The proposed

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aircraft and airport rules were divided into three categories: flight procedures for noise control, source noise control, and airport operations and planning for noise control. EPA has already proposed the following rules to the FAA:

Title	Date to FAA	NPRM No., publication date in FEDERAL REGISTER	Date of hearings
1. Noise Standards for Propeller Driven Small Airplanes	Dec. 6, 1974	74-39, Jan. 6, 1975, 40 FR 1061.	Mar. 3, 1975.
2. Noise Abatement Minimum Altitudes for Turbojet Airplanes in Terminal Areas.	Dec. 6, 1974	74-40, Jan. 6, 1975, 40 FR 1072.	Mar. 5, 1975.
3. Civil Subsonic Turbojet Engine-Powered Airplanes: Noise Retrofit Requirements.	Jan. 28, 1975	75-4, Feb. 26, 1975, 40 FR 8218.	Mar. 18, 1975.
4. Fleet Noise Level Requirements	Jan. 28, 1975	75-6, Feb. 26, 1975, 40 FR 8222.	Apr. 17, 1975.
5. Civil Supersonic Airplanes	Feb. 27, 1975	75-15, Mar. 28, 1975, 40 FR 14093.	May 16, 1975, May 22, 1975.
6. Reduced Flap Setting Noise Abatement Approach for Turbojet Engine-Powered Airplanes.	Aug. 29, 1975	75-35 I, Sept. 25, 1975, 40 FR 44256.	Nov. 5, 1975.
7. Visual Two-Segment Noise Abatement Approach for Turbojet Engine-Powered Airplanes.	Aug. 29, 1975	75-35 II, Sept. 25, 1975.	Nov. 5, 1975.
8. Two Segment ILS Noise Abatement Approach for Turbojet-Engine Powered Airplanes.	Aug. 29, 1975	75-35 III	Nov. 5, 1975.
9. Airplane Noise Requirements for Operation To or From U.S. Airports.	Jan. 13, 1976	76-1, Feb. 12, 1976, 41 FR 6270.	Apr. 5, 1976.

The EPA is currently preparing the following further regulations which may be submitted to the FAA in the near future.

Noise Levels for Turbojet Powered Airplanes and Large Propeller Driven Airplanes.

Modifications to Noise Measurement and Evaluation Procedures for Aircraft Type & Airworthiness Certification.

Aircraft Takeoff Procedures for Noise Control.

All of the above proposals are directed at source noise control, to be complied with by manufacturers, or operational procedures, to be complied with by air carriers. In its report to Congress, the EPA emphasized that a full aviation noise control program would require action by airport proprietors as well. The rule which is the subject of this notice of proposed rulemaking, identified as the Airport Noise Regulation, would implement a comprehensive planning and abatement process at the nation's airports serving certificated air carriers. This proposed rule is the result of an intense investigation and analysis over the past two years and pilot projects at eight domestic airports. The key elements of the process consist of: (1) Determining boundary line noise levels at the airport in order to determine the extent of planning needed at the facility, (2) development of a noise abatement plan by the airport proprietor, (3) presentation of the plan to all interested parties at a public hearing, (4) submission of the plan, revised pursuant to public hearing as appropriate, to the Administrator (FAA) for his review, (5) inclusion of a plan as part of amended Airport Operating Certificate, and (6) implementation of the plan by the proprietor. This regulatory procedure is therefore established under Title 14 of Chapter 1 of the Code of Federal Regulations, Part 140, and would provide for an amendment to airport operating certificates issued pursuant to Part 139.

The FAA's authority to promulgate these requirements derives from the Federal Aviation Act of 1958, as amended, and the Airport and Airway Development Act of 1970. Section 611 of Title VI of the Federal Aviation Act of 1958, as amended (Pub. L. 90-411), provides in pertinent part that the Administrator of FAA shall prescribe and amend such rules as he finds necessary for the control and abatement of aircraft noise, including the application of such rules in the issuance or amendment of any certificate authorized by Title VI of that Act. Under Section 612 of that title, as amended by the Airport and Airway Development Act of 1970 (Pub. L. 91-258), the Administrator of FAA is authorized to issue airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board, and to establish minimum safety standards for the operation of those airports.

Congress has repeatedly expressed its intent that airport planning and development be consistent with environmental considerations. The Airport and Airway Development Act of 1970 (Pub. L. 91-258) provides for Federal aid to airport development projects, including the location of an airport, runway, or runway extension. Encompassing the process of application, hearing, and approval at all levels for airport development projects is the declaration of national policy that those projects provide for the protection and enhancement of the natural resources and the quality of environment of the nation. In this respect the Secretary of Transportation may not approve an airport development project found to have an adverse environmental impact unless he finds that there is "no feasible and prudent alternative", and that "all possible steps have been taken to minimize" such adverse effects. (49 U.S.C.A. § 1716(c)(4)).

Section 16(a) of the Airport and Airway Development Act of 1970 also requires any development to be in accordance with standards established by the Secretary of the Department of Transportation, including standards for site location and airport layout.

In addition, under section 18 of that Act before the Secretary approves an airport development he must receive satisfactory assurance that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of airport operations. Finally, that Act provides *in pertinent part* that no airport development project may be approved by the Secretary of Transportation unless he is satisfied that "fair consideration has been given to the interest of the communities in or near which the project may be located." "Fair consideration" as used in that provision of the Act is based upon criteria designed to "provide for the protection and enhancement of the natural resources and the quality of the environment of this nation." (49 U.S.C.A. § 1716(c)(3)).

Section 13 of the Act also authorizes the FAA to make grants to public and planning agencies for preparation of airport master plans. Under this Planning Grant Program, Federal grants of up to two-thirds of the eligible costs are available, with no state being eligible for more than 7.5 percent of the funds available in any one fiscal year. All grants are subject to the National Environmental Policy Act of 1969; and Section 102(2)(C) of the Act requires an environmental impact statement when any Federal action would constitute a major action significantly affecting the environment.

In summary, the foregoing statutory provisions establish a firm foundation for the formulation of airport and aircraft noise abatement rules and for requiring airports to prepare and implement noise abatement plans as provided for in this proposed regulation.

The Problem

The airport noise problem results primarily from three factors: (1) the introduction of jets into the air carrier fleet in 1959, (2) airport encroachment by neighboring communities, and (3) airport expansion and operational increases and changes.

A portion of residential areas currently exposed to high levels of aircraft noise were developed before 1959 and were constructed, for the most part, in areas not then seriously impacted by aircraft noise. The rapid replacement of propeller driven aircraft by jets during the 1960's increased the extent and intensity of the noise problem.

However, in many cases a considerable portion of land already impacted by aircraft noise was subsequently developed for residential uses. By 1964 the FAA had developed the "composite noise rating" system (CNR) which permitted the prediction of community annoyance as a function of the number and type of aircraft operations and the time of day during which they occur. Even with the availability of CNR, local government bodies continued to permit incompatible development.

An increase in aircraft operations coincided with the replacement of propeller aircraft by jets. Runways and flight tracks at many large and severely encroached airports became saturated and rapid airport expansion resulted in additional runways and flight tracks and noise complaints.

Among the more serious constraints to the development of a workable airport noise regulation are: (1) The individuality of each airport/community conflict situation, (2) the attraction which airports provide for incompatible development, (3) complexities associated with noise impact assessment, and (4) ambiguities in the judicial and political allocation of authority, accountability, and liability. The availability of noise abatement options, often thought to be the major constraint, is not in EPA's judgment a serious impediment to substantial improvement in the noise environment around most of the nation's airports. There are many cost-effective noise abatement actions which can be taken, provided the constraints identified above can be dealt with. This proposed regulation provides a simple approach to noise impact assessment and establishes a planning and decision-making process designed to deal with the other enumerated constraints.

Each airport is an individual case requiring special consideration. The types of airport proprietorship, extent of fragmentation of local government, the operational mission and size of airport and the pattern of surrounding land use are presented in an astounding number of combinations. Thus, a national regulation must make many simplifying generalizations to be workable. The trade-offs between equitable uniformity and reasonable flexibility have been difficult to make and undoubtedly have impeded progress more than any other single factor. Some actions clearly should be taken on a nationally uniform basis. Others are best suited to site specific application, especially where a national rule would of necessity have to be a "lowest common denominator" approach which would leave serious noise problems unabated at a significant number of airports.

Airport proprietorship may be public, quasi-public, or private. A typical form of public proprietorship is exemplified by the municipal department of airports; it varies depending on the form of local government in question, but many are line agencies directly accountable to a chief executive, council or commission. Quasi-public airport proprietorship is typified by the port authority or commission and is subject to all of the variations associated with special purpose forms of government. Private proprietorship is rare among airports serving certificated air carriers, with Burbank Airport (which is presently owned by Lockheed Air Terminal Corp.) providing the only example.

The operational mission and size of an airport also present a set of limiting factors, the most important of which are related to the national or international status of the airport, the amount of air cargo shipped, the annual number of operations, the type of aircraft accommodated, the physical size of the airport and the degree of encroachment. Large international airports and airports with high volumes of air cargo operations require a higher percentage of night operations and are less amenable to night curfew. Adjoining land use patterns also create a wide variety of constraints. Some airport related activities and the community infrastructure necessary to support them are noise sensitive, for example, residential land uses, schools and theaters. The spatial distribution of such incompatible development varies considerably from airport to airport; encroachment may be partial or circumferential gradually increasing or decreasing in intensity as a function of distance from the airport. In addition, the nature of housing types and population densities which are critical determinants of background noise levels, as well as structural absorption and human sensitivity also vary.

The airport is an example of an essential land use which must be effectively integrated into the urban economy it serves, but which is incompatible with the land use that, if unconstrained, tends to develop in the impacted land area.

There have also been many important constraints associated with the art of aircraft noise impact assessment. All but the most experienced practitioners have difficulty deciphering the abbreviations and acronyms which abound in the field of psychoacoustics. Planners and airport proprietors have digested dB, dBA, dBD, PNL, EPNL, SEL, SENEL, CNR, NEF, CNEL, ASDS, L_{dn} and L_{eq} with patience and understandable confusion.

Finally, a remarkable court history has resulted in a type of legal constraint which is so pervasive and important that it deserves separate and special consideration—the legal liability for aircraft noise effects. The liability for the aircraft noise effects experienced by property owners has been left by the courts to the airport proprietor, who in the past has frequently been held to have limited or no authority to abate aircraft noise. This has created a serious dilemma for airport proprietors, the Federal Aviation Administration, and local land use decision-makers.

The proprietor's dilemma arises from the fact that the aircraft serving his airport are engaged in interstate commerce and are flying in Federally controlled airspace. Thus, many attempts to implement noise abatement strategies have been seen as interfering with interstate commerce or as being null and void because of Federal preemption. If litigation is pending against the proprietor, it is likely that he will be reluctant to reveal aircraft noise forecasting information for fear that it will be used against him in court. This confused and paradoxical situation has dissuaded many airport proprietors from moving to reduce noise and has encouraged them to keep a low profile and to concentrate on those tasks related to the day-to-day running of the airport.

Local governments face their own peculiar dilemma. Noise has simply not been a priority consideration in most local land use decisions. Even where the prevention of encrouchment does receive priority local attention, many forces operate to mitigate its effectiveness. Every local governing body must face the difficult choice between (1) acquiring rights in property for a public purpose at considerable expense, or (2) regulating land use without compensation in the name of protecting the public health, safety, and welfare. At some point, increasing regulatory restrictions placed on the use of property may constitute a whole or partial taking of property, in which case compensation is necessary.

The uncertainty associated with the legal authority, accountability, and liability for noise has been compounded by the large number of diverse groups and their respective interests which play a major role in noise and noise abatement around airports. Included in the involved groups are the Federal and State governments, aircraft manufacturers, air carriers, owners of general aviation aircraft, airline pilots, land developers, home owners around the airport, the airport proprietor, local land use planners, and city councils of those communities either benefiting from or adversely affected by the airport. In the past, no one group has wanted to shoulder the principal burden of noise abatement. The unhappy result has been that noise abatement actions which could have been taken have not been, and the neighbors of our nation's airports have continued to suffer.

The Regulatory Rationale

Despite the foregoing constraints there are many noise abatement actions that can be taken by various levels of government, the public, and the aviation industry, including airport proprietors. The history of noise control indicates that little is accomplished, notwithstanding large expenditures of money, unless a comprehensive approach is taken the considers all of the elements and participants involved in a particular situation and their relationship to each other. Nowhere is there a single private or governmental entity that has the complete capability, legally and technically, to address the entire aviation noise problem. The EPA believes that a Federal/State/local program for airport noise control and abatement, established under uniform procedures prescribed by the Federal Government for the coordination, consideration, and resolution of a particular airport/community noise problem is needed: That is the purpose of this proposed procedure. EPA has already made a number of regulatory proposals which, if adopted by the Federal Aviation Administration, will provide federal leadership on a national basis for noise abatement. However, additional noise abatement actions need to be taken at the local level. In the past, progress in such abatement actions has suffered from a lack of an overall airport noise abatement strategy which evaluates the available options and chooses those which are the most cost-effective for the protection of public health and welfare. The Environmental Protection Agency believes that such a noise abatement strategy for a specific airport can best be developed by the airport proprietor in cooperation with the other interested groups. To this end, this regulation requires that the airport proprietor evaluate each of the following possible noise abatement actions and develop a noise abatement program for his airport which provides for the protection of the health and welfare of the surrounding community:

1. Takeoff and landing noise abatement procedures for aircraft.

2. Limitations on the use of aircraft which do not meet the certification noise limits of Federal Aviation Regulation 36.

3. Noise abatement preferential runway systems,
4. Glide slopes and glide slope intersections for landing configuration,
5. Flight tracks,
6. Approach paths,
7. Landing paths,
8. Limitations on the class of aircraft using the airport,
9. Shifting aircraft to neighboring airports,
10. Location of run-up areas,
11. Operational limitations/curfews,
12. Priority landing directions for all aircraft,
13. Landing fees based on performance specifications,
14. Landing fees based on noise emission characteristics,
15. Compatible use of impacted land,
16. Other actions which would have a beneficial impact on public health and welfare,
17. Other actions recommended for analysis by the FAA or EPA for the specific airport.

The depth of the analysis required of an individual airport proprietor will depend on the extent of the noise problem at that particular airport. For most airports in the country, the actual amount of planning and analysis required will be small. The EPA has prepared, and will furnish, a manual technique for evaluating noise abatement options; this technique, which does not require the use of computers, can be used at most certificated air carrier airports.

In order to carry out this abatement planning and implementation effectively the airport proprietor must have a planning process by which he can determine the most effective means of noise abatement in his particular situation and by which there can be a meaningful dialogue with those—local governing bodies, airport neighbors, airport users, local Chambers of Commerce, and airlines, among others—who want and should have a role in determining what is to be done at the airport to abate noise.

EPA has designed and developed an environmental aircraft noise impact assessment methodology for airports to meet those needs. This methodology, called the Airport Noise Evaluation Process (ANEP) is set forth in Appendix A to this regulation. This process has the very important quality of providing for the display of the relative effectiveness of various noise abatement actions in a form which is understandable to both technical and non-technical persons, including the airport's neighbors.

The ANEP methodology is based upon the use of the Day-Night Average Sound Level (L_{dn}) description which EPA has recommended for use in all community noise studies and planning efforts. The L_{dn} noise description is formulated to encompass all of the noise events which take place within a 24 hour period, with a penalty for nighttime noise events. Although one may argue that an averaged description which is based upon a 24 hour time period cannot fully reflect specific variations in noise level during discrete time periods, EPA believes that the use of such a formulation is warranted since (1) predicted public reaction to noise correlates well with average daily levels, and (2) data requirements for analyses by specific time periods during the day rapidly assume such awesome proportions as to render any analytical scheme unmanageable.

Under the planning process proposed herein, city councils and land use planners, as well as the people most directly affected by aircraft noise will have the opportunity to take a part in the planning and abatement process. Their effective participation is made possible by the nontechnical manner in which this methodology presents the results of the analysis. This kind of participant process is essential if the airport and the community are to continue to coexist on an amicable basis and if the growing problem of incompatible land use is to be brought under reasonable control.

Under the present proposal, every airport in the United States subject to Part 139, serving air carriers holding a certificate of public convenience and necessity from the Civil Aeronautics Board, must develop and implement a noise abatement plan. In many cases, general aviation airports also generate severe noise impacts on the airport neighbors. Thus, they will need to be brought within the regulatory process at a subsequent date. However, because only air carrier airports are presently required to have an Airport Operating Certificate under Part 139 of Title 14 of the Code of Federal Regulations and because a regulatory process such as this must start with the most serious problems, air carrier airports are the natural starting point.

A noise abatement plan must be developed and implemented under this regulation for both two years and five years from promulgation and thereafter on a continuing basis every five years.

Development of the Airport Noise Abatement Plan must be coordinated with areawide and local planning programs so that alternative noise abatement strategies under study by the airport proprietor consider and are coordinated with patterns of residential and other major land uses in the area, with other transportation facilities and public services, and with objectives, policies and programs for the area in which the airport is located. It is *desirable* for areawide and local planning to be integrated with noise abatement planning in all plans developed under this regulation. The regulation *requires* that these two types of planning be fully integrated in the plan submitted under this regulation for the second five-year period.

Methodology

It is essential that a uniform methodology be used to evaluate and describe the noise impact of present and future operations at the nation's airports and the relative effectiveness of controls which could be implemented at these airports. Such a uniform methodology will ensure consistent and equitable evaluation among all airports and will greatly simplify the decision-making process which today is plagued by numerous methodologies. The EPA-proposed methodology (Airport Noise Evaluation Process—ANEP) has the added advantage of being understandable to persons who are not trained in aviation noise matters. This is essential since noise abatement around airports requires intelligent and farsighted actions on the part of many groups of persons, many of which are not generally skilled in the intricacies of noise control, per se.

The EPA uniform methodology for conducting aircraft noise impact analyses is prescribed by the proposed regulation in detail in Appendix A. The methodology requires: (1) The delineation of all land areas exposed to aircraft noise levels in excess of 55 L_{dn}, which is the gross study area for a specified base year; (2) the projection of the incremental contribution of aircraft noise to community noise in the study area; (3) the delineation of a net study area, which is the developed or developable land within the gross study area which is exposed to an increment of aircraft noise of more than 2 dB (This eliminates from the study area land whose noise levels would not be significantly affected by abatement of aviation noise.); (4) the determination of the population exposed to the aircraft increments estimated in (2); and (5) the demonstration of the beneficial effects of various noise abatement options, in terms of the reduction of noise exposure to the population. On the basis of this analysis, the airport proprietor in conjunction with the community will evaluate all options, and determine which should be included in the noise abatement implementation plan for the airport in question.

Each regulation which EPA recommends to FAA under Section 611(c) of the Federal Aviation Act, as amended, must in the EPA Administrator's judgment, be necessary to protect public health and welfare. Further, under Section 611(d), the FAA Administrator must consider cost, safety, the needs of air transportation in the public interest, and other factors in addition to the protection of public health and welfare. In pursuance of this mandate, this regulation would require that each plan provide for the noise abatement requisite to protect public health and welfare, taking into consideration the matters set forth in Section 611(d) of the Act. Each plan will be different in that the measures appropriate for each airport will be determined by the characteristics of the specific site. EPA considered the desirability of specifying particular health and welfare-based boundary line standards in the body of the regulation which every airport would be required to meet. EPA determined that such national uniform standards are not appropriate to the airport noise problem. For some less-impacted airports a national uniform standard would require far less abatement than could be effectively developed for the protection of health and welfare. For other severely impacted airports, uniform national standards would result in very little improvement in health and welfare protection. Consequently, the EPA has recommended that the health and welfare test be applied on a local basis.

In addition, this rule is to be distinguished from one which would require the airport proprietor to abate to the extent necessary to mitigate every possible impact which may have an adverse effect on the economic value of land around the airport (taking into account cost and the other Section 611(d) factors). This objective, although perhaps desirable from the point of view of the individual community, is not within the authority and responsibility of the Federal Government. It can be expected that meeting the health and welfare standard of this regulation will eliminate much of the serious economic impact on the value of land around the nation's airports. A final decision regarding all the actions which will constitute an acceptable plan can best be made after an examination of the available options based on an analysis developed pursuant to the use of ANEP. However, the minimum that should be expected of a plan can be specified on a national basis for certain categories of airports based upon the experience at the eight pilot projects which EPA has conducted using the ANEP methodology.

EPA's judgment of the abatement which would be acceptable on a national basis as a minimum step toward meeting the health and welfare standard of this regulation is based on an assessment of the effectiveness and feasibility of the available options, their impact on the air transport system, and the severity of the noise problem at various classes of airports. That judgment is specified below for various classes of airports categorized according to the severity of their noise problems and their stage of development.

With regard to the first category of airports, which at a minimum should require that all aircraft using the facility meet the 1969 Federal Aviation Regulations (FAR) Part 36 noise levels and should utilize takeoff and landing noise abatement procedures, it should be noted that EPA has proposed or will shortly propose national rules for promulgation by the FAA requiring the use of all of these abatement options on a national scale. It is EPA's recommendation that the FAA promulgate these requirements. However, if the FAA has not finally promulgated these requirements by the time that airport plans are required to be submitted under this regulation, then it is EPA's judgment that the health and welfare standard used in this regulation would require the airport proprietor to implement these requirements at the categories of sites indicated below.

Additional efforts will be necessary at many airports in order to comply with the health and welfare requirement of this regulation. A conclusion as to what these additional efforts are for a particular airport should be based on the analysis of available options made pursuant to the application of the planning methodology required by this regulation (ANEP). In addition, a proprietor may, at his own discretion, decide to include even more restrictive actions in his plan in order to deal with other problems at the airport including those adverse impacts of the airport's operation on local land values not related to health and welfare.

Mininum Acceptable Plan

As used in the following discussion, "community impact boundary level" means the day-night average sound level resulting solely from aircraft operations at the line established by (1) the land held in fee simple by the airport or (2) land not held in fee simple by the airport (a) provided such land is actually being used and can reasonably be expected to continue to be used in a way which is compatible with the noise levels to which it is exposed or (b) provided the development rights of such land have been purchased such that only development compatible with the airport noise levels is allowed. Land which is merely zoned for compatible use with no other legal controls or for which aviation easements have been purchased and on which incompatible land use is possible is not included in this definition of community impact boundary level. Compatibility is to be judged according to guidelines adopted from HUD Report TE/NA-472, November 1972, "Aircraft Noise Impact: Planning Guidelines for Local Agencies." EPA's use of the referenced HUD document is based upon an analysis of the materials contained therein and does not preclude later modification of the compatibility criteria as new information becomes available. The key elements of the compatibility vs. noise level data base are contained in Table 1 of Appendix A. The noise resulting from aircraft operations is the noise level computed in terms of the annual average daily level of operations at the facility.

1. *All Airports With a Community Impact Boundary Noise Level of 65 L_{dn} or Over at Any Point on the Boundary.*—At a minimum, these airports should require takeoff and landing noise abatement procedures for aircraft using their facilities and limit such aircraft to those meeting 1969 FAR 36 noise levels. The one exception to this minimum acceptable plan should be where the proprietor is able to reduce the community impact boundary level below 65 L_{dn} using other abatement measures which he finds more acceptable.

If these other measures do not reduce the community impact boundary level to below 65 L_{dn}, then at a minimum the proprietor should require takeoff and landing noise abatement procedures and exclude the use of non-FAR 36 aircraft. Having determined the community impact boundary level resulting from the implementation of an approvable plan under this regulation, the airport proprietor shall use whatever additional available abatement measures are necessary to maintain no greater than this level in the future.

2. *Airports with Community Impact Boundary Levels of Less Than 65 L_{dn} at All Points on the Boundary.*—At a minimum, these airports should use whatever available abatement options are necessary to maintain the community impact boundary level now existing and to reduce it further if this is possible.

3. *Airports Which Contemplate Expansion of Their Facilities.*—At a minimum, these airports should maintain their community impact boundary level after expansion at a level which is no greater than that which represents the level necessary for an acceptable plan prior to expansion.

4. *New Airports.*—At a minimum, these airports should be designed and developed so that at no time in the future will the community impact boundary noise level exceed 65 L_{dn}.

In the development of noise abatement plans pursuant to this regulation, special attention should be focused on those airports which are so severely impacted that they have community impact boundary noise levels of 75 L_{dn} or over. This situation can have such a serious impact on the health and welfare of the population exposed to such levels that ever reasonable effort should be made to reduce this level to under 75 L_{dn} as soon as possible.

As an immediate objective, EPA believes that every airport with a community impact boundary level in excess of 75 L_{dn} should reduce that level to less than 75 L_{dn} as soon as possible but in any case by the end of 1980 unless this would impose a severe hardship. In EPA's view such a severe hardship would exist only in the event that (1) the less than 75 L_{dn} goal cannot be met fully without the purchase of land; (2) such purchase is not covered by the 1970 Airport and Airway Development Act (ADAP), as amended or, (3) such extra-ADAP purchases are not reasonably possible in relation to the airport proprietor's financial capability, the amount of litigation damages which the purchase would diminish, and the excess in purchase price over the recoupment value of converting the land to a campatible use.

In summary, the EPA believes that as a longer-term objective, all airports should work toward bringing their community impact boundary levels down below 65 L_{dn}. Furthermore, in those cases where community impact boundary levels are at 75 L_{dn} or above, a serious problem exists which calls for immediate and forceful action.

It is generally agreed that 75 L_{dn} is an unacceptable exposure level for people in normally constructed homes. 65 L_{dn} was chosen as a longer-term objective because present limited data indicate that at some airports, a contribution of noise from aircraft of less than 65 L_{dn} is difficult to distinguish from other ambient noise, given the environmental noise levels around those airports. However, as indicated in *Information on Levels of Environmental Noise Requisite to Protect Health and Welfare With An Adequate Margin of Safety*, (EPA 550/9-74-004, March 1974), effects from noise occur at levels below L_{dn} 65 and further analysis is needed in the future to refine further practical objectives for airport noise abatement.

Public Hearing and Evaluation of the Plan

Upon completion of the draft Airport Noise Abatement Plan, the proprietor of an airport (or the State, if the proprietor is a political subdivision thereof) is required by this proposed regulation to hold a public hearing to afford all interested persons an opportunity to submit data, views, and comments with regard to the merits of the draft implementation plan for that airport.

Based upon the record of the hearing, the draft plan is, to the extent practicable and necessary, to be changed by the proprietor of the airport to reflect the views, data, and comments received at the hearing. The revised plan will then be forwarded to the Administrator of the FAA.

If the Administrator does not notify the airport proprietor of his disapproval of the plan, the plan is then automatically incorporated as submitted into the Airport

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Operating Certificate for that airport. Notification of disapproval will be made within 120 days of the date of receipt of the plan by the FAA. The Administrator may disapprove any plan on the basis of (1) safety, (2) significant disruption of the national air transportation system, or (3) evidence that the plan has not been the subject of adequate public participation.

If the Administrator is considering a disapproval action, he may ask the airport proprietor for any additional pertinent information which is needed to clarify those issues which are being considered as the basis for disapproval. Such a request will stop the running of the 120-day period which will then begin to run again as soon as the additional information is submitted. This request and the submission of new information does not authorize an additional period of 120 days; the intent rather is to allow the proprietor to gather and submit new information without this period of time being counted against the 120-day review period.

If the Administrator intends to disapprove a Plan, he will publish in the **Federal Register** a notice of his intention to disapprove the Plan, setting forth his reasons for such disapproval and inviting comment. The Administrator must also notify directly those persons who testified at the local hearing. Thereafter, the Administrator will either withdraw his disapproval of the Plan or direct the airport proprietor to prepare a revised plan to overcome the adverse findings of the Administrator.

Compliance

If the plan is not disapproved within 120 days, the plan automatically is incorporated as an amendment to the Airport Operating Certificate for that airport. The regulation requires that the airport proprietor must then implement this plan. Each such plan will be in effect for no more than five (5) years. The Plan must be revised and the revision submitted to the Administrator for review no later than one (1) year prior to the termination date of the original plan. The first such revision is due four (4) years after incorporation of the original plan in the operating certificate. The Administrator may suspend the Airport Operating Certificate if at any time the airport proprietor does not carry out the abatement plan as so incorporated. During such suspension the Administrator may limit operations at the airport and no ADAP funds may be expended or obligated in connection with the airport except for noise planning or abatement purposes.

Failure to comply with the provisions of this regulation within a reasonable time under the circumstances will be deemed by the Administrator to constitute a denial by the airport proprietor of "fair consideration" to the communities in or near which an airport development project may be located, within the meaning of the Airport and Airway Development Act, so as to constitute the basis for denial of grant approval for airport development projects under that Act.

Airport Noise Abatement Plans required by this regulation must be submitted in a phased schedule between January 1, 1978 and July 1, 1979 pursuant to a schedule developed and published by the Administrator of the FAA.

Any action taken by the Administrator of the FAA pursuant to the requirements of this regulation which relate to the disapproval of an Airport Noise Abatement Plan, or the publication of general guidelines or regulations affecting noise planning and abatement at airports, will be taken after consultation with the Administrator of the EPA.

All airports subject to this regulation must develop plans which meet the health and welfare standard of this regulation on a time-phased basis with the first target no later than two (2) years and the second target five (5) years from the date of submission. In addition, each plan is required to project population changes and noise impact for 10 years after submission and display alternatives available to local communities for land use controls.

This amendment is proposed under the authority of sections 313(a), 611(c), and 612 of the Federal Aviation Act 0f 1958, as amended (49 U.S.C. 1354(a), 1431(c), and 1432); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, March 5, 1970.

In consideration of the foregoing, it is proposed to amend Subchapter G of the Federal Aviation Regulations (14 CFR Chapter I) to establish a new Part 140 to read as follows:

Subchapter G—Air Carriers, Air Travel Clubs, and Operators for Compensation or Hire: Certification and Operations

* * * * *

Part 140—Airport Noise Abatement

Sec.

140.1 *Applicability.*
140.2 *General requirement.*
140.3 *Noise level information.*
140.4 *Airport noise abatement plan.*
140.5 *Action of the Administrator.*
140.6 *Termination of plan.*
140.7 *Revision of plan.*
140.8 *Effect of failure to comply with this part.*
140.9 *Failure to comply with plan.*
Appendix A—*Airport Noise Evaluation Process (ANEP).*

140.1 *Applicability.*

The provisions of this Part apply to each airport proprietor subject to Part 139 of this Title.

140.2 *General Requirement.*

Pursuant to Sections 611 and 612 of the Federal Aviation Act of 1958, the Administrator of the Federal Aviation Administration shall require that each airport proprietor must obtain an Amended Airport Operating Certificate which is an amendment to the existing Airport Operating Certificate, to include an Airport Noise Abatement Plan as provided in this Part.

140.3 *Noise Level Information.*

Each airport proprietor shall submit to the Administrator within 120 days a report prepared in accordance with Appendix A showing the boundary line noise levels of its airport. The Administrator shall publish this informtion in the **Federal Register.**

140.4 *Airport Noise Abatement Plan.*

Each airport proprietor shall submit to the Administrator on dates to be set by the Administrator (in no case earlier than January 1, 1978, nor later than July 1, 1979) an Airport Noise Abatement Plan, prepared in accordance with the requirements of this section.

(a) Each Plan prepared under this section shall be developed according to the Airport Noise Evaluation Process (ANEP) specified in Appendix A, and shall detail the proprietor's considertion of all available abatement options. All airports subject to this regulation must develop plans which protect the public health and welfare taking into consideration the factors prescribed by Section 611(d) of the Federal Aviation Act as amended on a time phased basis with the first target no later than two (2) years and the second target five (5) years from the date of submission. In addition, each plan shall project population changes and noise impacts for ten (10) years after submission and display alternatives available to local communities for land use controls.

(b) Each airport proprietor (or the State if the airport proprietor is a political subdivision of a State) shall, after preparing a Plan meeting the requirements of subsection (a) but prior to submission to the Administrator, conduct a public hearing on the Plan to afford all interested persons an opportunity to submit data, views, and comments with regard to the merits of the draft noise abatement Plan for that airport.

(1) The proprietor shall, no later than one year prior to the date that his initial plan is to be submitted to the Administrator, cause to be published a notice in newspapers and other media of the communities affected by the airport which sets forth his proposed procedure for developing the plan, including the approximate date of the public hearing.

(2) Such hearing shall be conducted in the manner of an informal hearing in accordance with procedures described in section 11.67 of this Chapter.

(3) Copies of the draft Plan shall be made available to all interested parties no less than 45 days before the hearing is held.

(c) Based upon the record of the hearings, the draft Plan shall, to the extent practicable and reasonable, be changed by the proprietor of the airport to conform with the views, data, and comments received at the hearing.

(d) The submission of the final Airport Noise Abatement Plan to the Administrator shall include the following:

(1) The Plan, as revised under subsection (c).

(2) The record of the hearing held under subsection (b);

(3) A list of the parties, and their addresses, who participated in the hearing held under subsection (b);

(4) A synopsis of the views presented at the hearing;

(5) The proprietor's comments on the views presented at the hearing.

140.5 *Action of the Administrator.*

Except as otherwise provided in this section, the plan as submitted will be automatically incorporated into the Airport Operating Certificate for each airport for which an Airport Noise Abatement Plan has been properly submitted in accordance with § 140.4(d).

(a) The Administrator will publish in the **Federal Register** a notice of the incorporation of such plan into an Airport Operating Certificate under this Part.

(b) At any time within 120 days following receipt by the Administrator of an Airport Noise Abatement Plan properly submitted in accordance with § 140.4(d), the Administrator may notify the airport proprietor that he intends to disapprove such Plan.

(1) The Administrator may disapprove any Plan if he determines that the Plan

(i) May create a safety hazard, or

(ii) May significantly disrupt the national air transportation system, or

(iii) was submitted without adequate public participation as required by § 140.4(b).

(c) If the Administrator determines that a Plan should be disapproved, he shall publish in the **Federal Register** his intention to disapprove the Plan, setting forth his reasons for such a determination, and inviting comment.

(1) Within 10 days after publication of any notice under this subsection, the Administrator shall notify directly each party who participated in the public hearing held by the airport proprietor of his determination and invite comment.

(2) The Administrator may at his discretion hold a public hearing for the purpose of receiving views and comments of interested persons in connection with any Plan disapproval. Any such hearing will be conducted by the Administrator as an informal hearing in accordance with the rules of conduct prescribed in section 11.67 of this Chapter.

(3) Based upon review of all comments received, the Administrator shall either withdraw his notice of his intent to disapprove or shall direct the airport proprietor to prepare a revised Plan to overcome the adverse findings of the Administrator.

(d) At any time during the 120-day period prescribed in subsection (b) above, the Administrator may request the airport proprietor to submit any additional information which is reasonably necessary to clarify those matters specified in subsection (b)1 above which may serve as a basis of the Administrator's approval. The period of time required by the airport proprietor to furnish this data shall not be counted in determining whether the 120-day period specified in this section has elapsed.

(e) Any actions by the Administrator of the FAA under this Section or in the form of general guidelines or regulations affecting noise planning or noise abatement at airports, shall be taken only after consultation with the Administrator of the Environmental Protection Agency or his designee.

(f) Once a plan is incorporated as an amendment to the Airport Operating Certificate the airport proprietor shall implement the plan in accordance with the schedule included in the plan. The airport proprietor may revise his plan by submitting a new plan to the Administrator pursuant to § 140.4.

140.6 *Termination of Plan.*

(a) Each Airport Noise Abatement Plan terminates whenever the Airport Operating Certificate is terminated, surrendered, or revoked as provided in Part 139.

(b) Unless earlier terminated under subsection (a) each Airport Noise Abatement Plan terminates five years from the date of incorporation of the plan in the Airport Operating Certificate under § 140.5. Termination of the Noise Abatement Plan shall result in the termination of the Airport Operating Certificate.

140.7 *Revision of Plan.*

The Plan must be revised and submitted to the Administrator for review no later than one (1) year before the termination date of the original plan. The first such revision is due not later than four (4) years after incorporation of the original plan in the Airport Operating Certificate. This revision shall include a full description of the relationship of this plan to areawide planning in land use and transportation which has been carried out in neighboring communities. Each revision is subject to all requirements of this Part.

140.8 *Effect of Failure to Comply with this Part.*

Failure to comply with any provision of this Part shall be deemed by the Administrator to constitute a denial by the airport proprietor of "fair consideration" to the communities in or near which an airport development project may be located within the meaning of the Airport and Airway Development Act, so as to constitute the basis for denial of grant approval of an airport development project under that Act.

140.9 *Failure to Comply with Plan.*

The Administrator may suspend the Airport Operating Certificate at any time that the airport proprietor does not carry out the abatement plan as approved. During such suspension the Administrator may limit or otherwise control operations at the airport and no ADAP funds shall be expended or obligated in connection with the airport except for noise planning or for noise abatement purposes.

Appendix A—Airport Noise Evaluation Process (ANEP)

Definitions.—Sound Exposure Level (L_{AE}), in decibels, is the level of the time integral of A-weighted squared sound pressure, with reference to the square of the standard reference sound pressure of 20 micro pascals and a reference duration of one second.

Equivalent Continuous Sound Level (L_{eq}), in decibels, is the A-weighted mean square sound pressure level over a stated time period.

Day-Night Average Sound Level (L_{dn}), in decibels, is the 24-hour average sound level, from midnight to midnight, obtained after adding 10 decibels to sound levels in the night from midnight to 7 a.m. and from 10 p.m. to midnight (0000 to 0700 and 2200 to 2400 hours).

Indigenous Sound Level, in decibels, is the day-night average sound level normally associated with activities and sources common to residential neighborhods, in the absence of aircraft noise and the noise generated by major freeways, trains, industries, or other specific sources.

Background Sound Level, in decibels, is the common logarithmic sum of indigenous sound level and the contribution to day-night average sound level provided by all other residential noise sources other than aircraft. If other sources in the residential area do not exist, or are disregarded, the background sound level is equal to the indigenous sound level.

Incremental Aircraft Impact, in decibels, is the positive arithmetic difference between background sound level and the common logarithmic sum of aircraft and background sound levels where that sum is computed on the following scale:

Aircraft sound level less background sound level	Value added to Background Sound Level to Determine Common Logarithmic Sum of Aircraft and Background Levels
10 or more	10 or more
9	10.
8	9.
7	8.
6	7.
5	6.
4	5.
3	5.
2	4.
1	4.
0	3.
−1	3.
−2*	2.

* The cut-off at—2db is utilized because this is considered as the minimum value where recognition of aircraft noise can be identified as a contributor to total noise, i.e., aircraft plus background.

Gridpoint Array is the format used to display aircraft day-night average sound levels and consists of a cartesian grid system of uniformly spaced points; aircraft average day-night sound level is computed at each point of the cartesian grid and so displayed.

Gridblock is the land area bounded by 4 gridpoints which form a square, the sides of which are parallel to the axes of the cartesian grid system.

Gross Study Area is the land area enclosed by a line which connects the gridpoints of an aircraft day-night average sound level gridpoint array printout which are nearest to 55 L_{dn} but which do not exceed 55 L_{dn}.

Net Study Area is the land area included within the gross study area which is exposed to an incremental aircraft impact.

Airport Boundary Line Level, in decibels, is the aircraft average day-night sound level on the line established by the land held in fee simple by the airport.

Community Impact Boundary Line is the line established by the land (a) which is now used and can reasonably be expected to continue to be used in a way which is compatible with the noise levels to which it is exposed or (b) for which the development rights have been purchased such that only development compatible with the noise levels to which it is exposed is allowed. Land which is merely zoned for compatible use or for which avigation easements have been purchased and on which incompatible land use is possible is not included. Compatibility

is determined according to Table 1 of this Appendix.

Homogenous Development is defined as land in residential use upon which there is a uniform spacing of residential structures of a similar type.

Noise Units are calculated by taking the product of incremental aircraft impact in a specific area and the residential population of that area.

Potential Noise Units are calculated by taking the product of incremental aircraft impact in a specific area and the population which would reside in that area if undeveloped property were to be developed in a manner consistent with its principal permitted use, pursuant to local land controls, control policies or use plans.

Undevelopable Property is land which cannot be built upon because of permanent physical or legal constraints, e.g., held in fee, flood plains, land subject to use easements, restrictive covenants or lease-hold agreements by governmental entities for public purposes having the same effect as permanent open space restrictions.

Undeveloped Property is land which is developable, but which has shown a 10 to 15 year history of stability, i.e., an absence of zoning changes, plating or subdivisions, water, sewer and utility extensions, building permit applications, and the existence of tax assessment valuation consistent with permitted use.

Developing Property is land with a 10 to 15 year history of instability, as evidenced by the same public record criteria used to define undeveloped land.

2. *Purpose.*—It is the purpose of this part to establish a uniform methodology for Aircraft Noise Evaluation in the vicinity of airports, including the determination of Boundary Line L_{dn} Levels. Such methodology employs a prescribed set of noise descriptors which are used to determine cumulative aircraft noise levels, for boundary line assessments, and to compare cumulative aircraft noise levels with activities indigenous to affected communities, for assessment of Aircraft Incremental Impact. All airport noise abatement plans prepared pursuant to the Airport Noise Regulation shall employ this methodology, or its equivalent, for the characterization of aircraft noise impact.

3. *Noise Descriptors.*—(a) *Single Event.* The sound exposure level (L_{AE}) shall be employed for the analysis and characterization of single aircraft noise events.

(b) *Cumulative Events.* The day-night average level (L_{dn}) shall be employed for the analysis and characterization of multiple aircraft noise events and for the estimation of community indigenous and/or background noise levels. Multiple aircraft events are analyzed in terms of an annual average daily number of operations.

(c) *Incremental Aircraft Impact.* The positive arithmetic difference between background sound level and the common logarithmic sum of aircraft and background sound levels. Aircraft sound levels are considered to provide an increment to background sound levels when the aircraft level exceeds the background level by an increment at which recognition of aircraft noise can be identified as a contributor to total noise.

4. *Determination of Airport Boundary and Community Impact Boundary L_{dn} Values.*—To provide the public with an indication of the extent of the noise impact of an airport, the proprietors of all civil air carrier airports, i.e., those airports which hold a current Airport Operating Certificate under Part 139 of the Federal Aviation Regulations, shall determine their airport boundary line L_{dn} values at a sufficient number of points on their boundary line so as to be able to certify that said levels are nowhere in excess of 65 L_{dn} or that said levels do exceed 65 L_{dn} and likewise for L_{dn} 75. At any boundary line point where L_{dn} values exceed 65 L_{dn}, the proprietor shall determine the Community Impact Boundary Line and identify land which is exposed to greater than L_{dn} 65 and to greater than L_{dn} 75 which is not contained within the Community Impact Boundary Line. Proprietors may further specify what portions of this latter land is zoned for compatible use. Table 1 of this Appendix presents compatible use information for several land uses as a function of L_{dn} levels for the purpose of identifying the Community Impact Boundary line and land zoned for compatible use.

Airport boundary line level and Community Impact Boundary line designations shall be submitted to the Administrator within 120 days of the date of promulgation of this regulation. Said designations and declarations shall be submitted together with copies of the working materials and data used to develop them, as described below.

Boundary line L_{dn} levels shall be determined according to the data and methods presented in "Calculation of Day Night Levels (L_{dn}) Resulting From Civil Aircraft Operations," (GPO No. ————) and shall explicitly follow the techniques described in Section III of the referenced document, "Calculation of L_{dn} Values at a Point" where all such points lie on the boundary line. At a minimum, L_{dn} values shall be determined for the intersection of each extended runway centerline and boundary line; L_{dn} calculations shall be performed at a sufficient number of points between the intersections of the extended runway centerlines and boundary lines to enable the proprietor to certify that boundary line levels either do or do not exceed 65 L_{dn} and likewise for L_{dn} 75.

5. *Incremental Aircraft Impact.*—When required by this regulation, the Incremental Aircraft Impact methodology shall be used to determine the extent and severity of aircraft noise problems in the vicinity of civil aviation airports, as well as the effectiveness of noise impact reduction options. The methodology consists of a series of subtasks, as described in the following subsections.

TABLE 1. Land use compatibility with day-night average sound level (L_{dn}) at a site for buildings as commonly constructed.

COMPATIBLE ☐ MARGINALLY COMPATIBLE ▨

LAND USE	DAY-NIGHT AVERAGE SOUND LEVEL IN DECIBELS 50	60	70	80
Transient Lodging			▨	
Office Buildings, Personal, Business and Professional			▨	
Commercial-Retail, Movie Theaters, Restaurants			▨	
Commercial-Wholesale, Some Retail, Ind., Mfg., Utilities			▨	▨
Livestock Farming, Animal Breeding			▨	
Agriculture (Except Livestock), Mining, Fishing				▨
Public Right-of-way				▨

Source: Adapted by R. W. Young from Figure 2-15 of HUD Report TE/NA-472 November 1972 "Aircraft Noise Impact: Planning Guidelines for Local Agencies" by Wilsey & Ham and Bolt Beranek and Newman.

A. Defining the Study Area

The IAI methodology operates on two distinct data bases which are used to characterize (1) the population distributions and demographics in the vicinity of the airport and (2) the aircraft operations at the airport: Each of these data bases is used to determine a "noise picture" of the area around the airport, one for non-aviation sources and the other for aviation sources. A comparison of the two noise pictures leads to a determination of the noise impact of aviation sources, over and above non-aviation sources. Hence, it is desirable to define a study area which is large enough to permit the evaluation of all potentially feasibly aviation noise reduction options while minimizing the need to continually acquire additional information for the population distribution and demographics data base. For this reason, the proprietor shall define a Gross Study Area which includes all land exposed to an Aircraft Day-Night Average Sound Level of 55 L_{dn} or greater. Said definition is to be made in terms of annual average daily airport activity levels and mode of operation for the twelve (12) month period prior to the date of promulgation of this regulation, except where the designated 12-month period includes major disruptions to the normal operation and activity of the airport such as reduction of activity levels due to strikes or other abnormal service reductions or modifications such as those imposed by runway closings for resurfacing. Should the 12-month period prior to the date of promulgation of this regulation include such service abnormalities, the proprietor shall use data for the 12-month period prior to the beginning of the service abnormality. The 12-month period used to define the Gross Study Area is hereafter referred to as the Base Year.

For the Base Year, the proprietor shall acquire the avaiation operations data necessary to develop a Gridpoint Array using an FAA approved L_{dn} computer program [1], or its equivalent, or, for smaller airports, the manual technique presented in "Calculation of Day-Night Levels (L_{dn}) Resulting From Civil Aircraft Operations." Although the specific details of alternative equivalent L_{dn} calculation programs may require that data be put into specific formats, all such calculation programs require the same functional types of data which are as follows:

- A map of the airport and its environs at a scale of 1 inch to 2000 feet indicating runway length, alignments, landing thresholds, takeoff start-of-roll points, airport boundary, and flight tracks out to at least 50,000 feet from the end of each runway.
- Airport activity levels and operational data which will indicate, on an annual average daily basis, the number of aircraft, by type of aircraft, which utilize each flight track, in both the day (0700–2200 hours.) and night (2200–0700 hrs.) periods for both landings and takeoffs.
- For landings—glide slopes, glide slope intercept altitudes, and other pertinent information needed to establish approach profiles, i.e., the relationship altitude to distance to touch-down along with the engine power levels needed to fly that approach profile.
- For takeoffs—the flight profile which is the relationship of altitude to distance from start-of-roll along with the engine power levels needed to fly that takeoff profile; these data shall reflect the use of noise abatement departure procedures and the takeoff weight of the aircraft or some proxy for weight such as stage length.

Existing topographical or airspace restrictions which preclude the utilization of alternative flight tracks.

- The Government furnished data base depicting aircraft noise characteristics.

The Base Year airport activity and operations data and the aircraft noise emission characteristics, when processed by an approved L_{dn} calculation program or the referenced manual technique, will yield aircraft L_{dn} values in the vicinity of the airport in a geographical gridpoint array. The gridpoint array shall be at a scale of 1 inch to 2000 feet with a uniform spacing of 1000 feet between gridpoints. The gridpoint array is normally centered on the runway complex; however, for facilities which exhibit a preponderence of operations over specific area adjacent to the airport, the gridpoint array center should be translated toward that area in order to include all impacted areas while excluding areas over which there is minimal aircraft activity.

B. Determining the Gross Study Area Boundary

The gross study area boundary is that line which includes all land area exposed to 55 L_{dn} or greater due to aircraft operations. This boundary is determined by connecting the line of gridpoints which are nearest to 55 L_{dn} but which do not exceed 55 L_{dn}. The gross study area is then composed of all gridblocks which are intersected by or lie within the connecting line.

C. Determining the Locus and Extent of Authority

The gross study area may fall completely within the boundary of a single political jurisdiction which has comprehensive land use planning and control authority or it may be composed of a variety of governmental entities. The airport proprietor shall identify and depict the geographic extent of each governmental entity which is either wholly or partially contained within the Gross Study Area and describe the land use planning and control authority available to each. The description of planning authority shall be of sufficient detail to distinguish between comprehensive or master planning authority and other types such as areawide, regional, special purpose.

An acceptable analysis of the types of land use control available to the impacted jurisdictions should include, but not be limited to, the following general categories of land use control:

- Acquisition and disposition of land
- Regulatory (police) power
- Capital improvement programs
- Monetary and fiscal policy
- Contractual agreements

For prospective applications of local land use control authority, the airport proprietor shall indicate whether the specified authority is (1) as a matter of administrative discretion, (2) pursuant to the enactment of a local law, or (3) as requiring State enabling legislation.

D. Estimating Community Background Levels

The community background level is the common logarithmic sum of the indigenous (self-generated) noise level and the contributions of other specific residential sources such as limited access highways which are within the gross study area. Background levels must be estimated in a manner which is methodologically compatible with the format of the aircraft noise analysis, i.e., background levels must be presented in L_{dn} at each gridpoint in the array which was defined for the aircraft noise analysis.

1. *Estimating Indigenous Levels.* Indigenous levels shall be estimated for all residentially developed areas within the gross study area. The data requirement for this task consist of (1) a base map of the area surrounding the airport to the same scale as the Aircraft Day-Night Average Sound Level Gridpoint Array (1 inch to 2000 feet), (2) up-to-date aerial photography of the area surrounding the airport, and (3) up-to-date census data and tract maps on population and housing for the gross study area. The selection of a 1 inch to 2000 foot scale reflects the wide availability of U.S. Geodetic Survey (USGS) and Census maps which are produced in that scale. Aerial photography is not an absolute necessity for airports which are not located within built-up areas; in such cases an existing land use map or physical survey may be used. However, in built-up urban areas the use of aerial photography is advised to determine population densities and land use characteristics for given census tracts. These materials are basically all that are necessary to perform the indigenous noise estimation part of impact methodology However, any additional material such as land use surveys and maps and population and housing surveys and analyses can be used as a supplement to the census information. Census tracts will vary

[1] Two computer programs are now in general use for L_{dn} calculations. the AMRL program was used in the development and testing of this regulation. "Community Noise Exposure Resulting from Aircraft Operations: Computer Program Operator's Manual," AMRL TR 73–108, Aerospace Medical Research Laboratory, Wright-Patterson Air Force Base, Ohio, July 1975. "Airport Noise Reduction Forecast, Volume II–NEF Computer Program Description and User's Manual," Department of Transportation, DOT–TST– 75–4, October 1975.

considerably in size throughout urban and rural areas and any additional information on population and where it is actually within tract boundaries will enable more precise calculation of indigenous levels.

In order to estimate indigenous levels, the gross study area must be subdivided into study units which are areas of homogenous residential development. The following items constitute the basic criteria for study unit definition.

- A study unit shall be residential development of homogenous density throughout. Residential development is categorized into three separate groups: single unit detached dwellings uniformly distributed, multi-family dwellings uniformly distributed, and a uniformly distributed mix of single and multi-family units.
- The boundary of a study unit shall follow the physical boundary of a homogeneous development category.
- The maximum geographical size of a study unit shall be the census tract boundaries in which the development category lies.
- The minimum geographical area for a study unit of homogenous density in built up urban areas shall be 10 acres (built up is defined as development of homogenous density which is surrounded by other land uses).
- The maximum range of aircraft day-night average sound levels in a study unit shall not exceed 10 db.

Indigenous noise may be estimated as a function of population density for each study unit using the following equation:

$L_{dn} = 10 \log p + 22$

Where p = population density, people/square mile

or p = Study unit population/study unit area in square miles

and the population may be computed by a physical inspection of the number of dwellings within a study unit and multiplying it by the average number of people per dwelling within the census tract which contains the study unit; if the study unit boundary and the census tract boundary are the same, total population may be directly determined from the census data.

The EPA has identified a minimum criteria level of 55 L_{dn} as being adequate to protect the public health and welfare with an adequate margin of safety and for those study units which due to sparse population do not exhibit an indigenous level of 55 L_{dn}, the estimated level is disregarded and 55 L_{dn} is assigned for the purposes of this study as the indigenous level. This procedure applies to any area with a population density of less than 2000 people per square mile.

2. *Noise From Other Sources.* The community background level is composed of indigenous noise and the noise contribution from other sources within the community such as freeways and industrial sites. Prediction of noise levels resulting from sources may be done on a site specific basis, based upon measured data and put into the L_{dn} gridpoint format according to the following formula:

$L_{dn} = 10 \log \frac{1}{24}$ (15 antilog L_{eq} day + 9 antilog (L_{eq} night + 10)

where L_{eq} day and L_{eq} night are the equivalent average sound levels in the day and night periods, 0700–2200 hrs. and 2200 hrs. to 0700 hrs. respectively.

For arterials and freeways approaching design hour volumes, the following formula can be used:

$L_{dn} = 30 - 30 \log D$

where D is the distance from the near lane in miles and the equation does not reflect the influence of highway configuration or local topography.

Estimation of the contribution of other noise sources within the community is a potentially complex and time consuming effort. Thus, this methodology leaves that effort to the discretion of the proprietor and allows indigenous levels to be used in lieu of background levels. The use of indigenous levels in lieu of actual background levels yields an optimistic, i.e., low side, estimate of community levels without aircraft noise and hence provides a high side estimate of aircraft impact. Since the formulas specified above are not capable of reflecting the exact physical situation corresponding to specific unique sites, measured background noise levels may be substituted for calculated values when such measurements are available and the proprietor must substitute such measured values where he has reason to believe that the estimation technique yields highly inaccurate levels for a particular land area. Although such measured levels may be more accurate than estimated levels, it is EPA's judgment that the estimated values are generally accurate enough for the use to which they are put in this noise evaluation process—namely, to identify the priority areas for noise abatement and the relative effectiveness of abatement options. The estimation methods may be refined in time as more data become available.

3. *Background Levels for Undeveloped Areas.* Undeveloped property which is within the gross study area must be viewed within the context of constituting a potential noise problem. Once land has been categorized as undeveloped but developable, a determination should be made of the principal permitted use under existing land use regulations. Such information may then be combined with the three development categories to define discrete study areas and assign "potential" population to appropriate gridblocks. This information will be of use in the evaluation of noise abatement options which may shift noise impact to such areas as well as aiding in the evaluation of land use control policies which may be used to preclude development in noise impacted areas. Potential noise impacts shall be evaluated for the time frame 10 years in the future, as required by this regulation.

4. *Determining Incremental Aircraft Impact and Noise Units.* At this stage of the analysis, several data sets and displays have been produced:

- A base map which shows airport configuration and flight tracks (1 inch to 2000 feet)
- A gridpoint array of aircraft average day-night sound levels, with gridpoints every 1000 feet, presented at a scale of 1 inch to 2000 feet
- A second map, also at 1 inch to 2000 feet which shows the study units, defined according to the criteria in Section B.1.
- Indigenous sound levels for each study unit
- Sound level contributions of other residential sources; this is optional and may be neglected at the discretion of the airport proprietor

The first step in the combination of the above listed materials to determine Incremental Aircraft Impact and Noise Units is to formulate Community Background Levels from Indigenous Levels and Other Residential Sources at each gridpoint.

- The Community Background Level at a gridpoint is the common logarithmic sum of the Indigenous Level at that gridpoint and the contribution of Other Residential Sources at the same gridpoint. If the analyst elects to exclude Other Residential Sources, the Community Background Level at a gridpoint is identical to the Indigenous Level at that gridpoint

The analyst now has a Community Background Level and an Aircraft Average Day-Night Level for each gridpoint in the airport vicinity.

- For each study unit which contains two or more gridpoints, Community Background Level, referred to the study unit, is the arithmetic mean of all gridpoint Community Background Levels contained in the study unit. If the analyst has excluded the contribution of Other Residential Sources, the study unit Community Background Level is identical to the study unit Indigenous Level.
- The study unit Aircraft Average Day-Night Level is determined by taking the arithmetic mean of all aircraft gridpoint levels within the boundary of the study unit. Where a small study unit does not have a gridpoint within its boundary, the aircraft gridpoint value at the gridpoint nearest to the study unit boundary is adopted as the study unit aircraft level.

For each study unit, the analyst now has developed a Community Background Level, an Aircraft Average Day-Night Level, and, from the earlier computation of indigenous noise, the study unit population.

- The Total Noise Level for a study unit is the common logarithmic sum of the Community Background Level and the Aircraft Average Day-Night Level of the study unit.
- The Incremental Aircraft Impact, in a study unit, is the positive arithmetic difference between the Total Noise Level and Community Background Level.
- The Noise Units, in a study area, are determined by multiplying the Incremental Aircraft Impact in the study area by the residential population of the study area.

The step by step process described herein is summarized in the following example for a study unit:

LCB = LI + LORS—Logarithmic sum
LT = LCB + LA—Logarithmic sum
IAI = LT—LA—Arithmetic Difference
NU = IAI × P—Simple Multiplication
where LORS = Other Residential Sources Level, db
LI = Indigenous Level, db
LCB = Community Background Level, db
LA = Aircraft Level, db
LT = Total level, db
IAI = Incremental Aircraft Impact, db
P = Population
NU = Noise Units

The information developed in the preceding series of steps should be retained in a tabular form, by study since the later analysis of noise abatement options, leading to an Airport Noise Abatement Plan, will compare future situations to the existing Base Year case. Further, while the total number of Noise Units around an airport is taken as the most aggregated metric for the severity of the noise impact situation, the less aggregated results, i.e., results by study area, are the most useful in actually determining the effectiveness of specific noise abatement options.

5. *Analysis of Program Alternatives.* The preceding section prescribes a methodology for the characterization and presentation of the aircraft noise impacts which result from an existing set of airport operating conditions and land development configurations. The objective of the Airport Noise Regulation is to reduce the existing noise impact problem and it is probable that the airport proprietor may find it necessary to consider a fairly large number of abatement strategies comprised of different combination of options in order to demonstrate that his noise abatement plan is optimal. Noise abatement options should be considered and presented according to the following categorization:

- Noise abatement options for which the airport proprietor has adequate implementation authority.
- Noise abatement options for which the requisite implementation authority is vested in a local agency, governing body, or state agency or governing body.
- Noise abatement options for which requisite authority is vested in an agency of the Federal Government.

The minimization of Base Year Noise Units can be achieved through actions considered discretionary to the Federal Aviation Administration or the airport proprietor or pursuant to FAA approval or discretionary to State or local governing bodies. At a minimum, the proprietor should analyze the following options, subject to the constraint that the option is appropriate to the specific airport, i.e., evaluation of night curfews is inappropriate if there are no night flights. Even though the airport proprietor responsible for the plan cannot require the FAA or State or local governing bodies to take certain actions which might have a positive noise abatement benefit for the airport, the proprietor must analyze and make available for review the effect which such actions would have on the noise impact from the airport. At a minimum, the following options should be analyzed and displayed.

1. Takeoff and landing noise abatement procedures for aircraft
2. Limitations on the use of aircraft which do not meet the certification noise limits of Federal Aviation Regulation Part 36.
3. Noise abatement preferential runway systems
4. Glide slopes and glide slope intersections for landing configuration
5. Flight tracks
6. Approach paths
7. Landing paths
8. Limitations on the class of aircraft using the airport
9. Shifting aircraft to neighboring airports
10. Location of run-up areas
11. Operational limitations/curfews
12. Priority landing directions for all aircraft
13. Landing fees based on performance specifications
14. Landing fees based on noise emission characteristics
15. Compatible use of impacted land
16. Other actions which would have a beneficial impact on public health and welfare
17. Other actions recommended for analysis by the FAA or EPA for the specific airport

The set of noise abatement options and strategies which will meet or exceed the health and welfare standard of the regulation shall be presented to the public as a proposed noise abatement plan, subjected to areawide public hearings and delivered to the Administrator of the FAA. Such plans must include the following:

- The impact of current operations on the surrounding community.
- The effect of the proposed plan on reducing noise impact in the surrounding community for time frames of two (2) and five (5), and ten (10) years from the date of submission, given reasonable assumptions concerning the future operations at the airport and projected population changes in the community.
- The relative contribution of each of the proposed options to the overall effectiveness of the plan.
- Land use alternatives available to local and State authorities.
- A schedule for implementation of the proposed noise abatement plan.

The FAA has not received from the Environmental Protection Agency an inflationary impact assessment for the recommended regulation set forth in this notice.

Issued in Washington, D.C., on November 12, 1976.

Charles R. Foster,

Director of Environmental Quality.

[FR Doc. 79-27773 Filed 9-5-79; 8:45 am]

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Thursday
September 6, 1979

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Performance Bonding

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Notice of intent to commence rulemaking.

SUMMARY: OSM intends to amend portions of 30 CFR Chapter VII, Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations.

FOR FURTHER INFORMATION CONTACT: David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240; 202–343–4264.

ADDRESS: See supplementary information below.

SUPPLEMENTARY INFORMATION: The Mining and Reclamation Council of America (MARC), the Green Mountain Company, and the Travelers Indemnity Company submitted a petition to the Office of Surface Mining (OSM) for amendments to selected paragraphs of Subchapter J of the permanent regulatory program published in 30 CFR on March 13, 1979. Public comment on the petition was solicited through a notice published in the **Federal Register** on May 14, 1979. As a result of comments received and testimony presented at a public hearing held June 5, 1979, OSM has decided to initiate rulemaking to amend portions of Subchapter J to more clearly reflect the intent of Pub. L. 95–87 with respect to performance bonding of surface coal mining and reclamation operations. In accordance with the MARC petition, the following portions of the permanent regulations, Subchapter J, will be considered for amendment:

SUBCHAPTER J—BOND AND INSURANCE REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

Sec.
805.11 Determination of bond amount.
805.13(b) Period of liability.
805.13(e) (proposed) Alternative postmining land use plan exemption.
805.14(a) Adjustment of amount.
808.11(b) Form of the performance bond.
807.12(b) Criteria and schedule for release of performance bond.
809(a) (proposed) Bonding requirements for underground coal mines, refuse areas, preparation plants, coal-loading facilities, and associated structures and facilities.

OSM may propose to revise other portions of Subchapter J as deemed necessary. OSM intends to publish proposed amendments to Subchapter J in the **Federal Register** on or before October 20, 1979. A period for public comment will follow that publication.

AVAILABILITY OF COPIES: Copies of 30 CFR Subchapter J and the MARC petition, and additional information on the bonding regulations, are available and may be obtained at the following offices:

OSM Headquarters, U.S. Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–4728.
OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W. Va. 25301; 304–342–8125.
OSM Region II, 530 Gay Street, SW., Suite 500, Knoxville, Tenn. 37902; 615–637–8060.
OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204; 317–269–2609.
OSM Region IV, 818 Grant Avenue, Scarritt Building, 5th Floor, Kansas City, Missouri 64106; 913–758–2193.
OSM Region V, Post Office Building, 1823 Stout Street, Denver, Colo. 80205; 303–837–5511.

Walter N. Heine,
Director.
August 30, 1979.
[FR Doc. 79-27781 Filed 9-5-79; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 705

Restriction of Financial Interests of State Employees

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement has granted in part a petition to initiate rulemaking to amend the definition of "employee" in 30 CFR 705.5. New language for the amended definition is proposed in two alternatives and OSM seeks public comment on the proposed amendment.

DATES: A public hearing on the proposed amendment will be held at the Department of the Interior Auditorium, 18th and C St., NW. Washington, D.C. 20240, on September 25, 1979, at 9:30 a.m. Comments must be received by November 5, 1979 at the address above by no later than 5 p.m. on that date. Individuals making oral statements are limited to ten minutes.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044; or be hand delivered to: Office of Surface Mining, Room 135, U.S. Department of the Interior, South Bldg., 1951 Constitution Avenue, NW. Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–4225.

SUPPLEMENTARY INFORMATION:

I. Background

On August 23, 1977, the Department issued proposed regulations to implement the two conflict of interest provisions of the Surface Mining Control and Reclamation Act, P.L. 95–87 (the Act): § 201(f) concerning Federal employees and § 517(g) concerning State regulatory authority employees. Sections 201(f) and 517(g) of the Act make it a crime for Federal or State employees performing any function or duty under the Act knowingly to have a direct or indirect financial interest in any coal mining operation. The Act further directs the Secretary to publish regulations which establish methods for monitoring and enforcing the conflict of interest provisions. After publication of proposed rules and a comment period, the final financial restriction regulations were published on October 20, 1977. (42 FR 56060).

The Secretary's final regulations implementing the above provisions are based on to guiding principles. First, these regulations reiterate the "clear Congressional intent that affected employees maintain the highest standards of honesty, integrity and impartiality to avoid even the appearance of conflict of interest." (42 FR 56060, Oct. 20, 1977). Second, in keeping with the legislative intent and at the suggestion of several States, the regulations place primary responsibility upon the States to resolve internal financial restriction problems of State employees.

On December 15, 1978, five environmental organizations—the National Wildlife Federation, Save Our Mountains, Inc., Colorado Open Space Council, Save Our Cumberland Mountains, and Council of Southern Mountains—jointly petitioned the Office of Surface Mining to amend two definitions contained in 30 CFR 705.5 concerning financial interest restrictions. That petition was

previously published for public comment. (44 FR 11795, March 2, 1979).

Petitioners proposed the following changes to the current definitions:

1. Amend the definitions of "employee" to eliminate the exception created there for "members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests . . .".

2. Change the definition of "indirect financial interest" to read:

(a) Ownership or part-ownership of, or employment by, a firm or business that is a subsidiary or affiliate of a coal mining operation or which controls, is controlled by, or is under common control with, a coal mining operation;

(b) Ownership or part-ownership of, or employment by, a firm or business that derives a significant portion of its income (more than 10%) from contracts with firms or businesses involved in coal mining operations;

(c) Benefits reaped by the employee of the direct or indirect interests (as described in (a) and (b) above or as described for direct financial interests) held by the employee's spouse, minor child, or other relatives, including in-laws residing in the employee's home; and

(d) For purpose of this section, ownership of shares in a mutual fund or other similar diversified investment funds that have interest in coal or coal-related firms does not constitute a prohibited indirect interest.

The proposed change to the definition of "indirect financial interest" was rejected by OSM on July 12 in a letter to Mr. Terrence Thatcher of the National Wildlife Federation.

Under the current definition of "employee," members of State advisory boards or commissions serving a function under the Surface Mining Act are exempt from filing the financial interest statements if the board or commission is required by State regulation or statute to represent multiple interests. The petitioners maintained that this exemption is contrary to the intent of congress as expressed in section 517(g) of the Act and they asked OSM to delete this exemption.

To the petitioners, the mandate of the Section 517(g) Act is unequivocal. In their view, State boards or commissions exercising decisionmaking functions under the Act should be conclusively deemed employees irrespective of the rationale underlying their formation. To the petitioners, the Act clearly intended "to guard against any possibility that regulatory decisions would be made by individuals attached to the coal mining industry or who might benefit financially, even if indirectly, from the coal mining operation." While there is no specific discussion of this matter in the legislative history, petitioners draw support for their arguments from the fact that Congress considered, in a 1975 draft of the surface mining bill, allowing employees to hold up to 100 shares of commonly traded coal company stock without violating the conflict of interest provisions. (121 Cong. Rec. 6786, March 17, 1975.) The exception, however, was subsequently eliminated. (121 Cong. Rec. 13368.) Petitioners believe that since Congress refused to grant exceptions to the financial restriction provisions, OSM has no authority to do so by regulations.

On the one hand, OSM said that "the existence of employee/employer, ownership and creditor relationships that conflict with official duties is the type of situtation that Section 517(g) intended to prevent." 42 FR 56061, yet OSM stated that the exception in the definition of employee was included to "avoid dismembering boards or commissions composed in such a manner as to represent divergent interests." *Ibid.*

More importantly the petitioners claim that their proposal focuses on the phrase "performing any function or duty under the Act." This phase not only helps delineate which "employees" should be covered, but also establishes and focuses upon the critical area of concern to the Congress. The fundamental change which Congress intended to accomplish through section 517(g) was to ensure that functions or duties which affect the administration and integrity of a State's program to regulate surface mining would not be performed by persons with direct or indirect financial interest in the coal industry. As shown by the petitioners, several State boards or commissions which otherwise meet this exemption exercise more than purely advisory functions. Because the decisions of these Boards directly affect the functioning and the integrity of the State regulatory program, the petitioners believe that they should not be exempted from the financial interest restrictions.

II Public Comments on the Petition

The Director, Office of Surface Mining Reclamation and Enforcement, received 39 written comments on the petition by the close of the public comment period April 2, 1979. Twelve commenters expressed support for the petition in whole or part and twenty-three commenters opposed the petition.

A. Comments Supporting the Petition

Commenters suggest that when OSM promulgated the definition of "employee" it relied upon two contradictory rationales. In the commenters' view, it was the influence of these boards and consequent self-regulation by the industry that permittted the widespread abuses which lead to the passage of SMCRA and which the prohibitions of section 201(f) and 517(g) were designed to correct. They maintain that the exception for advisory boards defeats the purpose of the Act and consequently inhibits the reforms that SMCRA was intended to accomplish.

Those commenters supporting the petition believe that the current definition of employee is inconsistent with the intent of Congress as expressed in SMCRA. Most of the commenters felt that the exemption perpetuates the very practices which the Act prohibits. Commenters claim that section 517(g) of the Act is unequivocal. The majority of the commenters believe that the defintions in question, as presently written, are legally and logically unsupportable.

Another commenter stated that, unless the petition is granted, restrictions of financial interests cannot be monitored or administered consistently. Some State board members will file financial interest statements and others will not, depending on the purpose of the boards or commissions as established in statute or regulations. The commenters maintained that the effectiveness of SMCRA depends, in part, on unified and consistent administration among the States.

Finally, a few commenters believed that, unless the petition is accepted, there will be severe damage to the public perception of, and confidence in, the enforcement of SMCRA. In other words, "even the appearance of conflict of interest" (42 FR 56060), which OSM claimed must be avoided, is not eliminated so long as the exception is continued.

B. Comments Opposing the Petition

Some commenters pointed out that the petitioner's arguments are devoid of support in the Act or its legislative history. Several citations were mentioned to support this contention. First the Act refers to an employee, not multiple-interest-boards; secondly, it refers to an employee, not the broader term, person, thus limiting the conflict of interest provision.

One commenter pointed out that according to Webster's Dictionary, an employee is "one employed by another.

usually for wages,or salary and in a position below the exectuive level." Board or commission members generally do not receive wages or salary for their services, and the positions are at the executive level.

One commenter claimed that the petitioners provided no support for the claim that Congress anticipated, or indeed intended, that boards or commissions whose members represent divergent interests directly or indirectly related to coal mining would be dismembered. The only legislative history dates back to March 1975, and a prior version of the Act that was finally passed. Another commenter also stated that Congress did not intend that all regulation under SMCRA be accomplished without the benefit of any person with experience in the mining industry.

Section 505 is cited as the proof that the requested change is not legal. Section 505 says that State laws are not pre-empted by SMCRA if they are not inconsistent. The commenter argues that because "employee" is not defined under SMCRA, any provision of State law which relates to citizen members of boards or commissions and does not treat them as employees should prevail.

Several commenters pointed out that multiple interest boards have many advantages. One advantage mentioned was the expertise, knowledge and experience that a representative of the mining industry can provide, which benefits the quality of the board's decision, because he or she can fully understand the issues and practical solutions. A financial restriction on board members would limit the number of qualified people who could be willing or able to serve on the board. It would be increasingly difficult to get competent people to accept appointments. A commenter stated that the history of multiple interest boards demonstrates how more knowledgeable examinations, informed arguments, and realistic decisions can be derived from those with experience in respective industries, than can those advanced by the general public. Another commenter stated that independent special interest boards requiring expertise in various fields of business and professions have long been approved in Federal and State court decisions as well as by numerous treatises.

One commenter said that the additional exclusionary requirements will insure that no one who works for a regulatory authority will know anything at all about coal mining. Another commenter proposed that, if the industrial interests were precluded, then environmental interests should be equally precluded.

Other commenters pointed out that a multiple-interest board can also promote good relations with industry and prompt compliance with the laws. Also, as one commenter stated, a board which is advisory should not have the same impact as a board which issues or denies a permit. One State agency representative mentioned that its board has created some competitive interest in reclamation among coal companies. An appeal board can help to mediate disputes and minimize an unnecessary burden on the courts.

Other comments referred to the importance of striking a balance between protection of the environment and agricultural productivity and the Nation's need for coal, as required in section 102(f) of the Act. Multiple interest boards are one effective means of coordinating and balancing these diverse interests, especially if the number of members representing the mining industries is limited so that the board is not dominated by mining industry representatives.

Various State agency representatives stated that in their experience multi-interest boards have proven to be effective under present surface mining regulatory schemes. They claimed that there is no basis for allegations in the petition that any board member has obtained financial benefits from any decision. Also, a State may require that board members who represent the mining industry not vote on any matter in which they have an interest. Another method to avoid such a conflict is to impose severe restrictions on board members' participation in decisions which might affect their own financial interests. In many States, these board members are subject to the Governor's appointment and State Senate review. They may also be subject to State conflict of interest laws.

Other commenters stated that current State multiple interest boards do not have a majority of coal members on any boards. Although the number of industry representatives on these boards varies from State to State, commenters claimed that they do not control a board's policies.

Moreover, two commenters were concerned that the proposed changes could apply to the multiple-interest boards composed of only officials of State agencies. It was claimed that this type of restriction could limit the ability of the State regulatory authority to utilize personnel of other agencies of that State because potential conflicts could arise. In the commenter's view, the State regulatory authority would have no authority under State or Federal law to take action against "employees" of other agencies of that State or require them to file financial disclosure statements.

One commenter stated that OSM had gone too far in establishing the regulations as they exist; any board member is a nonemployee, whether it is a multiple-interest board or not. Another stated that the petition contradicts the "State-lead" concept and, because the boards are convened in accordance with State laws, an argument could be posed as to whether these bodies are performing any function under SMCRA.

A commenter stated that pre-empting State law is a Congressional prerogative, not an option available at will to executive branch officials. Another commenter stated that the legislative support for a State program may well hinge on the continued involvement of part-time unpaid multi-interest board members.

Several commenters proffered alternatives to the definition proposed by the petitioners. Citing the fact that industry representation on an oversight board is necessary for balanced judgments, one commenter suggested that such representation should be allowed, but limited. as an example, the board in one particular State by statute cannot have more than one member with a direct connection with the mining industry, but does not limit any members with indirect financial interests.

Another commenter suggested that industry representative be allowed to be Board members, but not to exceed a majority of the voting members. All Board members would file conflict of interest statements to insure that the majority of the board had no conflict of interest, either direct or indirect. Under this approach, the Board would be considered as a unit. Boards or commissions already established by State statute would not be dismembered, input would be received from all of the multiple interests represented and no one faction could dominate the voting or decisionmaking.

III Proposed Changes

OSM favors the alternative suggested above and proposes the following language:

Employee Means (i) any person employed by the State Regulatory Authority who performs any function or duty under the Act and (ii) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. Members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests must file annual financial interest statements but may continue to participate in the activities of the board or commission as long as the number of members with prohibited financial interests does not exceed 50 percent of the total membership and such members do not act on any matter which relates to their own financial interests. State officials may through State law or regulations expand this definition to meet their program needs for more stringent financial interest restrictions.

As a second alternative the petitioners propose deletion of the Board exemption in its entirety. The exemption can be eliminated by deleting the second sentence of the current definition resulting in the following language:

Employee, means (i) any person employed by the State Regulatory Authority who performs any function or duty under the Act, and (ii) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. State officials may through State law or regulations expand this definition to meet their program needs.

The final alternative would be to take no action and leave the definition as it presently reads. OSM welcomes further comment and discussion of the three alternatives during the comments period and at the hearing. The purpose of the hearing is to allow full public participation in the rulemaking process. Individuals making oral statements or submitting written comments should limit their statements to this proposed rule. Individuals are encouraged to submit statements in writing. Reservation of time for oral statements may be obtained by contacting Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, (202)343–4225.

IV Additional Information Requested

During the public comment period, OSM welcomes information about States which currently have multiple-interest commissions or boards. Of particular interest are the nature of commissions or boards' functions, such as hearings, rulemaking, administrative appeals, permit reviews, and enforcement actions. The history of a board's decisions is also important. A pattern of decisions in favor of State regulatory authorities, industry or citizen groups could be indicative of serious conflicts of interest. Commenters should also provide information concerning the mechanism for appeal and review of boards or commissions decisions, and any historical patterns to these appeals. It should be noted whether or not the membership of these boards has historically favored any special interest group. Further, commenters should indicate whether or not boards or commissions are currently subject to State conflict of interest laws and, if so, whether coal related interests are prohibited and what disclosure of financial interests is already required.

V Determination of Significance

The proposed definition does not fall within any of the categories listed in 43 CFR 14.3(c). Consequently, the Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Furthermore, the Department has determined that a notice of intent to purpose rules will not be beneficial in the drafting process. OSM received sufficient information during the public comment period, which was initiated when the petition was published in the **Federal Register,** to prepare a draft rule and proceed directly to proposed rulemaking. A notice of intent to propose rules would only duplicate OSM's efforts in the first public comment period.

VI Statement of Authorship

The primary authors of this document are Gregory Carroll and Arthur Abbs, State Programs Division, Office of Surface Mining.

Dated: August 29, 1979.

Joan M. Davenport,

Assistant Secretary for Energy and Minerals.

Text of the Amendment

30 CFR 705.5 is amended by changing the definition of Employee as follows:

§ 705.5 Definitions.

* * * * *

Employee Means (1) any person employed by the State Regulatory Authority who performs any function or duty under the Act and (2) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking fuctions for the State Regulatory Authority under the authority of State law or regulations. Members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests must file annual financial interest statements but may continue to participate in the activities of the board or commission provided that members with prohibited financial interests do not exceed 50 percent of the membership and that such members do not act on any issue which concerns their own financial interests. State officials may throught State law or regulations expand this definition to meet their program needs for more stringent financial interest restrictions.

[FR Doc. 79–27782 Filed 9–5–79; 8:45 am]

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Thursday
September 6, 1979

Part IV

Department of Transportation

Federal Railroad Administration

Track Safety Standards; Miscellaneous Proposed Revisions

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 213]

[Docket No. RST-3, Notice No. 1]

Track Safety Standards; Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend the FRA regulations containing Track Safety Standards. The proposed amendments would update, consolidate, and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1)Written Comments: Written comments must be received before November 30, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on November 14, & 15, 1979. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before November 7, 1979.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and should be submitted in triplicate to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW, Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed post card with their comments. The Docket Clerk will indicate on the post card the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 4406 of the Trans Point Building, 2100 Second Street, SW, Washington, D.C. 20590.

(2) Public Hearing: A public hearing will be held in room 2230 of the Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590. Persons desiring to make an oral statement at the hearing should notify the Docket Clerk by telephone (202–426–8836) or by writing to: Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Authors

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SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory Reform

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all executive agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. This inquiry and the hearings related to the Track Safety Standards were announced in the May 8, September 25 and October 4, 1978 issues of the **Federal Register** (43 FR 19696, 43 FR 43339, and 43 FR 45905).

B. Hearings on Track

As part of the General Safety Inquiry, FRA conducted two days of public hearings on track and related structures, appliances and devices on November 15 and 16, 1978. These hearings were designed to obtain information from the public that would help FRA to determine whether any sections of its Track Safety Standards set forth in 49 CFR Part 213 should be expanded in scope, revised, or revoked.

The following discussion will focus on the matters receiving most emphasis at the hearing. Testimony was presented in response to the forty-nine issues set forth in the hearing notice (43 FR 43339). This testimony and the written comments filed in this inquiry have been fully considered. They will be available for examination by interested persons at tny time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

Performance standards. The major issue raised during the hearing and in written comments submitted to FRA was the feasibility of adopting performance standards for track. The Association of American Railroads (AAR) and the individual railroads favored development of performance standards on the grounds that they would permit innovation and use of alternative approaches to track safety.

On the other hand, the National Association of Regulatory Utility Commissioners (NARUC) and the Railway Labor Executives Association (RLEA) indicated that adoption of performance standards would further complicate existing enforcement problems. The National Transportation Safety Board (NTSB) suggested a middle ground by recommending that the regulations combine design and performance standards in a manner which would facilitate implementation of new technology while permitting simplicity in enforcement.

Unfortunately, neither the hearing nor the written comments provided any workable examples of track regulations utilizing the performance standard approach. Moreover, even those parties who favored adoption of performance standards acknowledged that substantial additional research and cooperative effort are needed to make performance standards feasible.

Financial condition of the rail industry. Throughout the hearing, the subject of the fragile financial condition of the rail industry repeatedly surfaced. Both AAR and the individual railroads reminded FRA that heavy fines and unreasonable regulatory requirements resulted in a severe burden for many railroads.

Both DOT and FRA recognize the economic difficulties of the rail industry. The recent preliminary report published by DOT, "A Prospectus for Change in the Freight Railroad Industry", analyzes the problems currently facing the industry.

One consequence of those economic difficulties is that the rail industry has limited resources available to it. This makes it all the more critical that these resources be used in the most effective and efficient manner to eliminate safety hazards.

Maintenance and inspection standards. At the hearing, the AAR and a number of individual railroads asserted that many FRA track standards, such as those concerning vegetation (§ 213.37), ballast (§ 213.103 and § 213.105), tie-plates (§ 213.123), rail anchors (§ 213.125), track shims and planking (§ 213.129 and § 213.131), and switch heaters (§ 213.207), are, in effect, maintenance or "good practice" standards, rather than safety standards. Many witnesses insisted that these provisions were actually counter-

productive from the standpoint of safety since they diverted limited financial resources from other areas directly related to safety.

Crosstie defects. During the FRA track hearing, the AAR and individual railroads expressed dissatisfaction with the existing regulations concerning crossties and stated that specific enumeration of tie defects resulted in an arbitrary list of conditions that in many circumstances are no threat to safety whatsoever.

They contended that the adequacy of crossties from the standpoint of safety could not be realistically quantified and that crossties should merely be subject to a general requirement that they be capable of holding the rails to gage and of distributing loads from the rails to the ballast.

Knowledge. Discussing whether knowledge of defective track conditions should continue to be required for liability, one railroad commenter took the position that elimination of the knowledge requirement would be unfair since many railroads do not have access to the same sophisticated equipment used by FRA inspectors. NARUC also indicated that some knowledge requirement should be retained in the standards.

It should be noted that many railroad commenters favoring retention of the knowledge requirements, objected to provisions requiring immediate corrective action upon discovery of track defects; these commenters alleged that these remedial requirements discourage the use of rail detector cars and foster a philosophy of "ignorance is bliss". Taking this line of reasoning a step further, RLEA recommended that parties responsible for track conditions be liable regardless of whether or not they have knowledge of the specific defect. Strict liability would provide the railroads with a strong incentive to discover and correct defects, rather than relying upon a lack of knowledge defense. NTSB also suggested dropping the knowledge requirement so that any defect would be a violation.

Population density and hazardous materials. Nearly all commenters agreed that no additional regulatory requirements should be imposed on the basis of population density: a sparsely populated rural area should not be exposed to a greater risk of hazard by virtue of less stringent track safety standards than those for track in densely populated urban areas.

Similarly, most of the commenters did not appear to favor amendment of the Track Safety Standards to specifically address track over which hazardous materials are transported. Commenters addressing this issue noted the difficulty of distinguishing those lines over which hazardous materials are carried from those over which they are not; they asserted that all track, even Class 1, should be safe for transporting hazardous materials.

II. Future Actions Relating to Track Safety: Long- and Short-Term Research Efforts

The FRA research and development program has a series of projects currently underway in a number of key track safety areas. These projects are designed to generate engineering and technical data for use in identifying areas where the existing regulations are deficient and new safety standards or other regulatory modifications are necessary. The program covers a broad range of subjects that pertain to track safety.

Vehicle and track interaction. Since 1975, FRA has been examining vehicle response to various components of the track structure. Some of this research has provided the basis for the changes proposed in § 213.9 with regard to vehicle speed, rail weight, and classes of track.

A continuing study is being conducted utilizing computer simulation of vehicle interaction with track geometry. It is hoped that this will identify the outer bounds of track geometry deviations over which rail vehicles can safely operate. Also, accident-prone cars are being identified on the basis of performance histories (non-accident related component failures), vehicle tests and accident data. These cars will be subjected to thorough investigation. Completion of the preliminary analysis of the first car type is expected this year. The conclusions and data from both investigations will then be correlated and field tested. The result should be an identification of the most critical vehicle-track combinations.

Additional research is being devoted to rail stress and rail deflection analyses. These concern the relationship between train speeds and the resulting vehicle loads applied to the track structure. Both laboratory and field tests will be used to confirm the initial findings. Initial recommendations may be available within a year, but further refinements of the conclusions and additional investigation in this key area will continue.

Rail inspection and remedial actions. Recently, FRA began studying the correlation between rail flaw detector car findings and derailments. Early results have provided new information on the growth and potential for failure of certain types and sizes of rail flaws. These results are reflected in §213.113 and §213.237. The remedial actions required by §213.113 for less serious rail flaws would be made less stringent. The FRA believes that the current standards are unnecessarily restrictive and might discourage full utilization of available rail flaw detection equipment. However, §213.237 would be strengthened by requiring that all Class 3 track and all Class 2 track over which passenger trains operate be inspected for rail flaws. In addition, the frequency of rail inspections would be correlated to rail weight, rail age and traffic volume rather than based simply on a time interval. This research will continue through 1980 and will enhance FRA's ability to evaluate the effectiveness of its rail inspection, defect identification and remedial requirements.

Continuous welded rail track. Both conventional 39 feet length jointed rail and continuous welded rail (CWR) expand longitudinally (lengthwise) as the temperature of the rail increases. Moreover, the amount of this expansion increases proportionately as the length of the rail increases. Since CWR is laid in approximately ¼ mile lengths (1320 feet), the amount of expansion at any given temperature elevation in an unrestrained CWR would be almost 34 times that in a conventional 39 foot long rail. CWR is installed with rail anchors to forestall most of this expansion. As a result of the anchoring of the rail, the CWR is subjected to high compressive and tensile forces. If not restrained sufficiently, these forces will cause track instability such as rails pulling apart at low rail temperatures and rails buckling at high rail temperatures.

Recent research has established a theoretical model or description of the track buckling and pull-apart phenomena in CWR track. However, much additional work is necessary before means can be developed to measure the conditions that cause these phenomena and appropriate preventative measures can be devised.

Identification of defective crossties. At the present time, there is no rail industry consensus as to what constitutes a "defective", or unacceptably degraded timber crosstie for a specific service. To a large extent, this is due to an inability to objectively evaluate the functional capability of a crosstie by its in-track physical appearance. Evaluation of completely deteriorated crossties on the one hand, or new sound crossties on the other, is not a problem. The disagreement lies in the large gray area where descriptions of what is a defective tie frequently boil down to a subjective judgement that "I

know one when I see one". Thus far, efforts to establish a rational research approach that would permit more discriminating guidelines for decisions for individual ties have not been successful. A possible approach may be a performance-based standard associated with methods for estimating track strength.

Rail end mismatch and batter. An element of the FRA rail stress investigation, started in 1978 and still in progress, is considering the effect of wheel impact forces on the growth of rail end "batter". It is often caused by the impact of the wheels of equipment passing over rail joints where the ends of the rails are vertically or laterally mismatched. The research in this area is not yet complete.

Performance standards. In addition to the proposed updating of the existing Track Safety Standards and various short-term research projects, many of which were discussed above, FRA is investigating the feasibility of developing new safety regulations based on the "performance standards" concept. This is a long term project, which is not expected to be completed for many years.

As was demonstrated at the FRA track hearing, there is no agreement within the rail industry at the present time as to what "performance standards" are. Theoretically, "performance standards" are the other side of the "design or specification standards" coin.

In the area of track safety, "performance standards" would prescribe what the entire track system as well as each component of that system must be capable of doing and prescribe appropriate measures to determine that these requirements are met. (In contrast, "design or specifications standards" would specify how and with what materials the track system and its components are to be built, maintained and inspected.) More specifically, track performance standards would consist of *quantified* descriptions of: (1) The service environment in which the track system and each of its components must be capable of performing; (2) the functions that they must be capable of performing in that environment and for how long a period; and (3) the integrity or the strength and reliability of the entire system and each component.

The prescribed testing to verify that the performance standards are met would consist of a combination of routine production tests and other more extensive measures such as engineering analyses, for each design, manufacturing process and method of installation.

The process of establishing these new performance standards will be difficult and time-consuming. Extensive research and testing under laboratory conditions, on track test facilities, and on railroad property will be necessary to develop and verify any proposed performance standards. These standards would also need to be adapted to translate into existing designs, components, and equipment.

The eventual implementation of performance standards would benefit the rail industry and the public by allowing significantly greater flexibility to railroads in deciding how to meet safety requirements. Since a number of designs and materials may meet a specific safety performance standard, each railroad would have the option of selecting the one most appropriate for its situation.

III. Safety Performance Incentive

The railroad industry has in the last two decaes dramatically improved the design and construction of track and equipment. However, these changes have also resulted in increased length, axle load, and volume capacity of freight equipment. Similarly, the development of higher horsepower locomotives has resulted in heavier and longer trains. These longer and heavier trains require that crews have more knowledge of train handling procedures in order to control the dynamic forces within varying speed ranges, track conditions, and terrain.

In the last four years (1975–1978) the number of reported train accidents and the total number of casualties have increased at the annual rate of about 10 and 8 %, respectively. These increases have occurred in spite of new Federal safety regulations and substantial increases in the number of Federal and State enforcement personnel. The majority (62%) of the train accidents were reported to have been caused by either defective track or equipment. However, it must be recognized that accidents rarely occur due to a single defect. Accidents are usually due to the combination of defects or due to marginal track and equipment conditions accentuated by in-train dynamic forces or poor operating practices.

In addressing the issue of railroad safety, the FRA has promulgated regulations in a variety of areas. Track safety standards and freight car safety standards are examples of FRA regulation of parts of the total railroad environment. However, regulation of fragments of the total system is less effective than a total system approach would be.

Unfortunately, a total system approach has not proved feasible. This is true because of the complexity of the variables and because the FRA cannot effectively regulate every variable that affects train, equipment and track dynamic response, e.g., train length, loads, load distribution, speed, and terrain. However, the real issue is performance of train operations in a safe manner and not merely compliance with Federal regulations. The method a railroad utilizes to achieve safety should be irrelevant so long as its trains stay on the track and do not cause personal injury.

Thus, the FRA is interested in establishing comprehensive safety performance norms for individual railroads or portions of a railroad. In developing a yardstick for measuring safety performance, the FRA will consider the objective criteria of past experience and traffic of the railroad. Specifically, the FRA will consider:

1. Normalized accident/injury profile.
2. Use of safety monitoring devices (hot wheel detectors, hot bearing detectors, cracked wheel detectors, dragging equipment detectors, oversized load detectors, signal systems for broken rail detection, track geometry equipment, rail flaw equipment, track settlement detectors, communications systems).

Individual railroads or portions of a railroad that exceed the FRA established safety norm for a prescribed period of time would be eligible for exemption from various FRA safety requirements.

In establishing this safety performance level, FRA recognizes that each railroad has the responsibility to inspect and maintain track and equipment in accordance with its operating environment. One railroad may choose to manage its resources and operations in a more effective manner by employing monitoring devices. Another railroad may choose to ensure that the track system is not overtaxed by conducting its operations at lower speeds, operating shorter and lighter trains or adopting special train operating procedures. The safety performance level would also enable FRA to utilize its limited railroad safety resources in a more effective manner by concentrating on railroads that have an unacceptable safety performance record.

IV. Discussion of Proposal

A. Objectives of the Proposed Track Safety Standards

In October of 1971, the original FRA Track Safety Standards were introduced (36 FR 20336) in response to the

congressional mandate of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*). The original standards were based on the safety practices of the rail industry at that time, available track-related data, and public comments and testimony. The goal of these initial standards was to establish "minimum requirements for safety", rather than to include all "preferred or recommended practices from an economic and engineering standpoint". The standards were not intended as the last word on safe track conditions, but as an evolving set of safety requirements: ". . . the standards . . . will be continually reviewed and revised by FRA in light of technical innovations, the results of the FRA research and development program, and experience under these standards," 36 FR 20336.

In developing the amendment proposed in this notice, FRA reviewed research findings, technical innovations, available accident data, public comments and testimony, and the more than seven years experience the agency has had with the standards. The approach taken when the standards were introduced is still applicable to the proposed standards. Therefore, FRA seeks to set forth the minimum necessary requirements for safe track rather than a comprehensive list of all potentially hazardous conditions. The railroads, not FRA, will remain directly responsible for finding and correcting all unsafe track conditions. The proposal is not a major overhaul of the standards; instead, it is intended to refine or "fine tune" the existing requirements.

FRA has undertaken a complete review of the Track Safety Standards with three primary objectives: (1) All requirements that are burdensome and unessential for safe track are to be eliminated; (2) all requirements that cannot be justified or sufficiently clarified for enforcement purposes by existing data or research are to be eliminated until further information becomes available; and (3) knowledge gained from research, data collection, and experience is to be used to strengthen and clarify the remaining requirements. As each section of the proposal is discussed, the particular justification and objective will be set forth.

As part of its review effort, FRA has examined all available accident data for the years 1975 through 1978. This data is culled from accident reports submitted to FRA by the nation's railroads, and is supplemented by information generated by FRA accident investigations. Under 49 CFR Part 225, all railroads are required to file monthly Rail Equipment Accident/Incident Reports with FRA (Form FRA F 6180.54). A rail equipment accident/incident is classified as a collision, derailment, or any other event involving the operation of railroad on-track equipment that results in excess of a specified amount of damage to railroad equipment, signals, trackage, track structures and roadbed, regardless of whether any casualty resulted. The cumulative dollar amount of damage that must result before an accident need be reported is adjusted every two years to reflect changes in labor and material costs. For example, the reporting threshold for 1975 and 1976 was $1,750; in 1977 and 1978, it was $2,300; and it is now $2,900.

According to the published accident data for the years 1975 through 1978, there were 16,570 reported accidents caused by track defects. These accidents accounted for 42 percent of the total number of train accidents for the four year period. They resulted in 12 fatalities, 788 personal injuries, and a reported cost of approximately $368,540,000 is property damage.

The track-related accidents for this four year period can be divided into four major categories by principle cause: (1) Roadbed defects (830 accidents), (2) geometry defects (7,759 accidents), (3) rail and joint bar defects (4,588 accidents), and (4) frog, switch, and track appliance defects (3,243 accidents). The proposed changes address each of these accident categories. For example, the changes to $213.113 (Defective Rails) and § 213.237 (Inspection of Rail) concern rail defects; § 213.57 (Curves, Elevation and Speed Limitation) and § 213.109 (Crossties) involve geometry defects; and the changes to § 213.9 (Classes of Track) affect rail and geometry defect categories of accidents.

B. Section-by-Section Analysis

Application. To assist the reader in assessing this proposal, both the text of the proposed changes and the existing regulations are published side-by-side at the end of this notice.

The existing § 213.3 extends application of 49 CFR Part 213 (Track Safety Standards) to all standard gage track in the general system of transportation with the exception of trackage located inside an installation that is not part of the general system, and track that is used exclusively for rapid transit, commuter, or other short haul passenger service in a metropolitan or suburban area.

The proposed change would clarify application of the Track Safety Standards in several ways. First, the phrase "general railroad system of transportation" is not defined in the existing standards and has resulted in significant confusion and uncertainty. The purpose of the current provision was to exclude only trackage used *exclusively* by an intra-plant railroad; it was not intended to exclude trackage used by other railroads for the pick up or delivery of cars or for contract switching. The proposed rule would resolve this ambiguity by deleting from paragraph (a) the term "general railroad system of transportation" and providing instead that these standards apply to *all* standard gage track over which a common carrier by railroad operates, including trackage in non-railroad installations such as steel plants, chemical plants and refineries. The impact of this change should be slight since it is consistent with existing FRA enforcement practices and the affected trackage constitutes only about three percent (3%) of the total railroad system. Trackage used exclusively for industrial purposes would continue to be excluded.

Second, the current exclusion of track used exclusively for commuter or other short-haul passenger service in a metropolitan or suburban area would be deleted. Since issuance of the standards in 1971, FRA has encountered significant unsafe conditions on track used exclusively for local commuter operations that are conducted by major railroads. The absence of directly applicable regulations has hampered FRA's efforts to obtain prompt remedial action. Therefore, all track used by railroads for commuter service (less than one percent (1%) of the total railroad system) would be made subject to the Track Safety Standards.

The exclusion of rapid transit operations would be retained, since the Urban Mass Transportation Administration (UMTA) is now solely responsible for rapid transit safety (*see. Chicago Transit Authority* v. *Flohr*, 570 F. 2d 1305 (7th Cir., 1977)). However, the proposed rule would make it clear that FRA retains jurisdiction over the Port Authority Trans Hudson (PATH), because it operates in interstate commerce as a rail common carrier.

Third, the proposed change would eliminate the present paragraph (c), which specifies when various subparts of the initial standards went into effect. Since all subparts have been in effect for years, this provision is no longer necessary.

Finally, proposed paragraph (c) would provide that certain track may be excepted from the minimum requirements for Class 1 track. To be eligible for this exception, track cannot be operated over at speeds that exceed

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10 mph, used to transport hazardous materials or passenger trains, nor elevated more than 10 feet above adjacent terrain. In addition, the track would have to be located more than 100 feet away from other active tracks, public streets and highways, occupied structures and other facilities and installations where persons are likely to be endangered by a derailment. To become excepted, eligible track would have to be designated as "excepted track" by a railroad. This would be accomplished by the railroad preparing a written record of the designation and filing a copy of it with the FRA Associate Administrator for Safety in Washington, D.C. and the FRA Regional Director for Safety for the region in which the track is located. Proposed paragraph (c) further provides that whenever track previously designated as "excepted track" by a railroad ceases to meet the prescribed conditions, that track shall immediately become subject to the Track Safety Standards. In addition, within 10 calendar days after this occurs, the railroad must so notify the FRA in writing. A railroad's utilization of this exception would not make the track involved subject to State regulation.

The purpose of this exception is to address two important realities that have plagued the administration of the current standards. First, there are many track segments, particularly on low density branch lines, that are used only for the transportation of non-hazardous cargo at low speeds. These segments are on comparatively level terrain and pass through areas where it is highly unlikely that a derailment would endanger persons along the railroad right of way. Moreover, the risk of injury to train crew members in a derailment in these circumstances is remote. Consequently, only property would be seriously endangered by derailments on excepted track segments.

During the four year period 1975–1978, a total of 16,750 track-related accidents were reported to FRA. These accidents resulted in 12 fatalities and 788 injuries. Although 74.8% (12,370) of these accidents occurred at speeds of 1–10 mph, they accounted for only 25% (3) of the track-related fatalities and less than 23.5% (185) of the track-related injuries during this period.

Examination was made of the circumstances surrounding the three fatalities reported as being track-related and occurring at speeds of 1–10 mph. The first fatality in a reportedly track-related accident occurred on the Soo Line Railroad at Ambrose, North Dakota, on January 13, 1976. The FRA investigation of this accident (FE–59–76) revealed that the fatality occurred during the rerailing of a car that had derailed several days earlier apparently due to a track condition. The car being rerailed suddenly toppled over onto a carman who was examining the underside of the car. The direct cause of the fatality was the failure of the carman to perform his duties in accordance with the railroad's safety rules.

The second fatality occurred on the Southern Railway at Knoxville, Tennessee, on March 27, 1976. In this accident (FRA File: FE–74–76), a track foremen was fatally injured when he was run over by a derailed car while repairing track in the John Sevier Yard at Mascot, Tennessee. The derailment was caused by a switch malfunction. The foreman was engaged in cutting a rail in a track adjacent to that on which the derailment occurred and apparently did not see or hear the approaching derailed car.

The third fatality occurred in a track-related derailment on the Chicago and Northwestern Railroad at Wheatland, IA on July 25, 1976 (FRA File: FE–100–76). This accident was investigated by the National Transportation Safety Board (Brief of Railroad No. 76–158). The fatality occurred when the lead locomotive of a freight train derailed apparently due to a track irregularity on a bridge and plunged into a river. The engineer of the train drowned.

Thus, only the third fatality was directly caused by a track-related derailment, although a track defect did contribute to the second fatality. However, neither of these fatalities occurred on track that would be excepted from the minimum requirements for Class 1 track under this proposal. One occurred on a busy yard track that handles hazardous materials and the other occurred on a bridge.

FRA realizes that no regulatory proposal can eliminate entirely the hazards inherent in railroad operations. The amount of private and public resources that can be devoted to improving railroad safety are limited. These limited resources should be expended so that they achieve maximum safety results. FRA believes these resources should be concentrated in the more hazardous areas where they can achieve maximum results.

The second important reality that has plagued the administration of the current standards is that many railroads (particularly those in the Midwest and the East) have substantially more rail lines than are needed to serve current markets. These railroads simply cannot afford to maintain all of their low density branch lines. FRA realizes that this proposal will be opposed by those who regard the track safety standards as a mechanism to be used to prevent what amounts to abandonment of lines due to track deterioration. However, FRA should not be expected to accomplish under the guise of safety that which the collective efforts of the Interstate Commerce Commission, the bankruptcy courts and interested groups have been unable to achieve under controlling law.

Under this proposal, railroads could choose between maintaining their low density track to at least Class 1 standards or acknowledging publicly that this track is being allowed to deteriorate below the level necessary to provide quality rail service. The proposed notification procedure would provide early identification of track that is being allowed to so deteriorate and provide time for shipper and other affected groups to adjust to this reality or take appropriate remedial action.

Responsibility. The current § 213.5 (Responsibility) creates civil penalty liability only where it is shown that the track owner, or other responsible party, "knows or has notice" that the track does not comply with the requirements of the Track Safety Standards. The proposal would establish absolute liability for non-compliance similar to that imposed by the Safety Appliance Acts and other older railroad safety statutes that have been authoritatively upheld by the courts since the early days of this century. The Federal Railroad Safety Act of 1970 also reads in terms of absolute liability since it does not require scienter (knowledge) before a railroad may be penalized for non-compliance with standards issued under that Act.

FRA believes that the safety considerations of the proposed standards are of a gravity equal to those of the older safety statutes. Railroads should be held to a strict duty to discover and correct unsafe track conditions. Retention of the knowledge requirements would perpetuate the current disincentive for railroads to make thorough track inspections, maintain complete and accurate records of track conditions, and promptly execute appropriate remedial measures before non-complying conditions are discovered by FRA or participating state inspectors.

The existing regulation confines responsibility for compliance with the Track Safety Standards to track owners and their assignees and sets forth the procedure for submission and approval of petitions for assignment of responsibility.

This approach has suffered from several disadvantages. First, ownership does not always equate to practical control. Second, ownership is a complex legal concept that may be unevenly understood by those who maintain, operate, or otherwise enjoy possessary interests in track. Third, State ownership of many light density lines as well as long-term leases, joint usage contracts, and similar agreements have complicated the administration and enforcement of the current regulations. Fourth, track owners and operating carriers have often neglected to file assignment agreements reflecting responsibility for track conditions.

Accordingly, FRA proposes to eliminate reference to ownership and assignment, and focus instead on track usage and control. The proposed rule would make a railroad responsible for all track over which it operates, as well as all track over which it authorizes another railroad to operate. This would mean that in some instances, more than one railroad may be responsible for track conditions.

This change would resolve several problems by permitting greater enforcement flexibility. FRA could take appropriate action against a railroad that fails to comply with speed limits or other movement restrictions required under the standards, even if the non-complying railroad has neither ownership nor maintenance responsibilities. Under the existing rule, FRA is limited to the track owner or assignee in determining responsibility for noncompliance with the safety standards. Similarly, the revised rule would address enforcement questions that arise when maintenance, operating, and control responsibilities are confusingly divided by private agreements. For the purposes of the standards, each railroad operating over the track, or authorizing other carriers to operate over the track, would be responsible for track conditions regardless of previous private arrangements. Correspondingly, a railroad could not disclaim compliance responsibility solely on the basis of prive agreements or past conduct.

This proposed change would have a negligible impact on the rail industry since railroads generally have ownership or maintenance responsibilities with respect to most of the trackage over which they operate.

The proposed rule would also eliminate the procedural requirements contained in existing § 213.5 (b) and (c) for submitting a petition for assignment of responsibility. This would reduce paperwork for both the Government and railroads.

Finally, it is proposed to include within § 213.5 the civil penalty reminder currently found under § 213.15 and the provision for exemptions currently found under § 213.17. Consolidation of these sections would facilitate reference to these three interrelated subjects: responsibility, penalties, and exemptions.

Designation of qualified persons to supervise certain renewals and inspect track. The existing § 213.7 addresses the qualifications for persons designated by railroads to supervise restorations and renewals of track under subsection (a) and the qualifications for track inspectors under subsection (b). An erroneous inference has been drawn from this section by some railroads that the person designated to supervise renewals must also act as a supervisor of persons designated to inspect for track defects. The proposed consolidation of the functions and qualifications of designated persons would make it clear that this is not so.

Both the existing and proposed sections require the track owner, or other party responsible under § 213.5, to maintain a written record of the basis for each designation. The existing rule is not sufficiently specific concerning the recording of the basis for each designation. As a result, there has been some confusion on the part of railroads as to what information is actually required. The additional language proposed in § 213.7(c)(2) would describe more precisely the information to be recorded.

Classes of track: Operating speed limits. Under the existing § 213.9(a), maximum permissible operating speeds for trains are determined by two criteria: (1) The class of track over which the train is operating and (2) the type of train, freight or passenger, being operated. Passenger trains are now permitted to operate at higher speeds than freight trains on all classes of track except Class 6 where the maximum allowable operating speed is 110 mph for both freight and passenger trains.

During the hearing and in written comments submitted to FRA, some witnesses and commenters urged that the regulations take into account the dynamic response of the vehicle to track structure and defects in determining maximum allowable operating speeds. These requests are prompted by the fact that dynamic forces generated by trains in starting, stopping, running and negotiating curves and turnouts are transmitted from the wheel to the rail. If these forces are not absorbed and restrained by the track structure, the track will fail. Considerable research is being conducted by FRA in order to understand more completely the dynamic interaction of wheel and rail. Available information on certain aspects of operating speeds has been applied in developing the proposed changes to § 213.9 (Classes of Track: Operating Speed Limits).

Research findings indicate that the relationship between the maximum load that a track is capable of supporting and the stress that train operations place on track is a critical factor in evaluating track safety. The existing § 213.9 prescribes maximum speeds for each class of track but does not take into account the ability of the track to safely withstand passing axle loads. FRA believes that this factor has a direct bearing on the 48% increase in broken rail accidents during the past four years.

FRA recently evaluated maximum stresses in the rail (peak rail stress) for various rail weights and types of track. A copy of the evaluation has been placed in Docket No. RST–3. Interested persons may examine the evaluation during regular business hours in Room 4406 of the Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

This evaluation of rail stresses utilizes a method for estimating dynamic loads (dynamic load magnification factor) developed by the American Railway Engineering Association (AREA). This method is used to take into account the increases in loads (dynamic effect) caused by the movement of the vehicle. Lateral loads are incorporated into the study by considering the lateral loads to be one-tenth (1/10) the vertical loads. This figure is based on the results of recent cooperative research efforts by FRA and the railroad industry that were conducted on railroad properties. The evaluation revealed that at certain speeds permitted under the existing table in § 213.9, the maximum (peak) rail stresses at the base of the rail sometimes exceed the endurance limit of rail steel. This was particularly evident when heavier vehicles operate over lighter weight rails. As operating stresses in the rail rise above this level, rail failure is more likely to occur.

Initial FRA working drafts of this proposed revision of § 213.9 took into consideration track class, rail weight and vehicle axle load in determining maximum permissible operating speeds. However this approach was abandoned by FRA when it became evident that there is insufficient technical data and research information available to justify at this time a regulatory change that includes an axle load factor. In addition, a cost analysis supplied to FRA by an independent consulting firm indicates that inclusion of the axle load portion of

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the initial draft proposal would result in an extremely costly financial burden to the rail industry. A copy of the cost analysis prepared by the independent consulting firm can be found in Docket No. RST–3; it is available for examination by any interested person during regular business hours in Room 4406 of the Trans Point Building. Accordingly, consideration of axle loads in determining maximum permissible operating speeds is being postponed until further technical information provides sufficient safety justification for this step, or future investigation reveals significant cost reductions.

However, proposed § 213.9 would prescribe maximum permissible speeds that are correlated to the strength or weight of the rail in the track. Since dynamic forces generated by passage of both freight and passenger trains increase as train speed increases, with rail support conditions remaining constant, the stresses developed in the rail will likewise increase. Heavier rail is needed to sustain these higher forces.

Thus, FRA proposes to lower many of the present maximum permissible speeds over the various classes of track that have rail weighing less than 112 pounds per yard (112 lb./yd.) and to increase the maximum permissible speeds over track with rail that weighs more than 131 pounds per yard (131 lb./yd.). The maximum permissible speeds over track with rails that weigh between 112 and 131 lb./yd. would remain essentially the same.

In addition, the maximum allowable operating speed over each class of track would be made the same for passenger trains as it is for freight trains. Adoption of uniform speed limits for both passenger and freight trains will have the effect of reducing the maximum allowable operating speed for passenger trains on certain classes of track. Many locomotives in passenger service impose as severe loads on the track as any freight equipment. The increased probability of personal injuries in passenger train accidents wafrants at least the same level of safety for passenger trains as for freight trains.

Stated more specifically, the proposed changes in maximum permissible speeds are as follows:

On Class 1 track, the maximum speed for freight trains would remain at 10 mph except that it would be increased from 10 to 15 mph over rail weighing more than 131 lb./yd.; the maximum speed for passenger trains would remain at 15 mph over rail weighing more than 131 lbs./yd. but would be reduced from 15 to 10 mph over lighter rail.

On Class 2 track, the maximum permissible speed for freight trains would remain 25 mph over rail that weighs 112 lb./yd. and increased from 25 to 30 mph over heavier rail; the maximum permissible speed for passenger trains would remain at 30 mph over rail that weighs 112 lb./yd. or more, but would be reduced from 30 to 25 mph over rail that weighs less than 112 lb./yd.

On Class 3 track, the maximum permissible speed for freight trains would be reduced from 40 to 30 mph over rail that weighs less than 112 lb./yd., remain at 40 mph over rail that weighs between 112 and 131 lb./yd., and be increased from 40 to 50 mph over track that weighs more than 131 lb./yd.; the maximum permissible speed for passenger trains would be decreased from 60 to 30 mph over rail that weighs less than 112 lb./yd., to 40 mph over rail that weighs between 121 and 131 lb./yd., and to 50 mph over heavier rail.

On Class 4 track, the maximum permissible speed for freight trains would be reduced from 60 to 50 mph over rail that weighs less than 112 lb./yd., remain at 60 mph over rail that weighs between 112 and 131 lb./yd., and be increased from 60 to 80 mph over heavier rail; the maximum speed for passenger trains would be reduced from 80 to 50 mph over rail that weighs less than 112 lb./yd., and to 60 mph over rail that weighs between 112 and 131 lb./yd., and remain at 80 mph over heavier rail.

On Class 5 track, the maximum permissible speed for freight trains would be reduced from 80 to 70 mph over rail that weighs less than 112 lb./yd., remain at 80 mph over rail that weighs between 112 and 131 lb./yd., and be increased from 80 to 110 mph over heavier rail; the maximum permissible speed for passenger trains would be reduced from 90 to 70 mph over rail that weighs less than 112 lb./yd., and from 90 to 80 mph over rail that weighs between 112 and 131 lb./yd., and increased from 90 to 110 mph over heavier rail.

On Class 6 track, the maximum permissible speed for both freight and passenger trains would be reduced from 110 to 90 mph over rail that weighs less than 112 lb./yd., remain at 110 mph over rail that weighs between 112 and 131 lb./yd., and be increased from 110 to 125 mph over heavier rail.

A detailed explanation of the technical basis for the proposed changes in maximum permissible speeds is contained in a document entitled "FRA Evaluation of Peak Stresses for Various Weights and Track Constructions" prepared by D. P. McConnell, Transportation Systems Center, Cambridge, Massachusetts. A copy of this document has been placed in Docket No. RST–3 and may be examined by interested persons during regular business hours in Room 4406 of the Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

Restoration or renewal of track under traffic condition. Only a minor modification is proposed in § 213.11. This section provides that if track that does not comply with these standards continues to handle traffic while it is being restored or renewed, it must be under the continuous supervision of a person designated to perform this function. Because of past misunderstanding by some railroads as to what constitutes "continuous supervision", this term would be changed to "continuous visual supervision". The purpose of this change is to express more clearly the original intent of this section that a qualified person must be present and continuously observe and supervise each train movement over track that is being restored or renewed and does not comply fully with the requirements of the Track Safety Standards.

Civil penalties and exemptions. It is proposed that § 213.15 (Civil Penalty) and § 213.17 (Exemptions) be deleted. The civil penalty and exemption provisions would be included in § 213.5 (Responsibility).

Alinement. Existing § 213.55 provides that track alinement may not "deviate from uniformity" more than the amounts specified in a table contained in that section. The term "deviations from uniformity" has proved to be difficult to apply because these deviations are often extremely difficult to measure with precision and because the concept of uniformity is imprecise. This difficulty becomes particularly evident when track remains out of alinement to widely varying degrees for a considerable distance. More important from the standpoint of safety, the term "deviations from uniformity" fails to encompass all abrupt changes in alinement that may be unsafe. This is true because a section of track could vary from the maximum limit of permissible deviation from uniformity in one direction to the maximum limit of permissible deviation in the other direction. This currently permissible variation in alinement can generate sufficient dynamic lateral forces to cause derailments. FRA proposes to shift the focal point of § 213.55 from "deviations from uniformity" to "changes in alinement". The term "changes in alinement" more accurately describes the geometrical irregularities on track that could cause derailments.

In addition to minor language changes for the purpose of clarification, FRA proposes to make a number of adjustments to the table in this section. The maximum permissible change in alinement on Class 1 track would be increased from 5 inches to 6 inches, and on Class 4 track, it would be reduced from 1½ inches to 1¼ inches. The intent of these changes is to make the requirements for alinement of Class 1 and 4 track more consistent with those currently prescribed for other classes on track.

Curves; elevation and speed limitations. Under current § 213.57(a), the outside rail in curved track may not be lower than the inside rail. FRA proposes to delete this provision because it is adequately addressed in proposed § 213.57. Application of the formula in paragraph (b) inherently sets a minimum elevation for any given curve and speed.

In addition, under the proposal the maximum allowable elevation of the outside rail above the inside rail would be 6½ inches. Current § 213.57(a) provides that the maximum allowable elevation of the outside rail is 6 inches. However, this maximum may be increased or decreased by the allowable deviations set out in current § 213.63. The allowable deviation is ½ inch for Class 6 track and increases incrementally to 3 inches for Class 1 track. Thus, the actual maximum permissible elevation of the outside rail is between 6½ inches (Class 6) and 9 inches (Class 1). Therefore, by eliminating the cross reference to the permissible deviations provided in § 213.63, proposed § 213.57(a) would reduce the maximum permissible elevation of the outside rail for track Classes 1–5.

Experience indicates that the possibility of derailment increases as the amount of elevation exceeds 6½ inches. Since the elevation on almost all curved track has already been reduced to 6½ inches or less, this change should have little impact.

The proposed changes to § 213.57 (b) are clarifying and substantive in nature. The existing requirement for determining the maximum allowable speed on curves would be changed by the addition of language to make it clear that the degree of curvature must be based on actual field measurements rather than the original design.

The substantive change is a proposed addition of a separate and more restrictive formula for determining the maximum allowable speeds on curved track for vehicles that have high centers of gravity (more than 97 inches above the top of the rail) or have trucks with more than 2 axles. FRA research indicates that vehicles with these features subject the track structure to much higher levels of dynamic stress than other vehicles operating at the same speed. The proposed new formula, which reduces the 3 inch unbalance factor in the current equation to 1½ inches, will result in appropriate reductions in the current maximum speeds in curved track for vehicles that have centers of gravity that exceed 97 inches or have trucks with more than 2 axles. The new equation will result in a reduction in the maximum permissible speed of approximately 10% to 30% depending on the elevation of the outer rail. In most cases, the reduction will be less than 5 miles per hour.

Unbalance is determined by subtracting the actual elevation of the outside rail from the elevation that would provide equal forces on both rails when a vehicle passes though the curve at a given speed. Thus, if the outside rail is 2 inches higher than the inside rail but the total amount of elevation necessary to result in equal forces on both rails is 5 inches, the result would be 3 inch unbalance.

As speed is increased, the amount of unbalance increases causing the forces generated by a vehicle passing through the curve to fall increasingly to the outside rail. This shifting of the force to the outside rail also increases in direct proportion to the height of the center of gravity of the vehicle. As unbalance increases, the magnitude of the lateral force begins to approach that of the vertical force. Therefore, the greater the shift of force to the outside rail, the greater the possibility of an undesirably high lateral/vertical (L/V) force ratio. FRA believes that many derailments attributed to track shift, rail spreading, rail turnover, wheel climbing and wheel lifting may actually have been caused by high L/V force ratios.

The performance characteristics or cars with high centers of gravity have long been the subject of concern. AAR Interchange Number 89 provides that loaded cars with a center of gravity of more than 98 inches are not acceptable in interchange. Nevertheless individual railroads may and often do agree with one another to accept these cars in interchange.

The Track-Train Dynamics Report (copyright 1973), prepared under a government-industry research program involving the AAR, the Railway Progress Institute (RPI) and the FRA, recommends that the maximum speed in curves of cars with a center of gravity of more than 98 inches should not exceed that which would result in a 2 inch unbalance. The FRA proposal is somewhat more restrictive than this recommendation. It would limit the amount of unbalance in high center of gravity to 1½ inches, rather than 2 inches. The resulting reduction in the maximum speeds in curves of high center of gravity vehicles would generally be less than 5 miles per hour. FRA believes that the additional margin of safety more than compensates for this minor speed reduction. FRA also chose the 97 inch figure rather than the 98 inch figure to provide an additional margin of safety. The proposed 97 inch figure would also prevent confusion and disputes. Some vehicles now in service that are identified as having 96 inch centers of gravity actually have centers of gravity that are somewhat lower.

With respect to 3 axle trucks, FRA recently sponsored tests of the Amtrak SDP–40F locomotive conducted on Chessie System track. A copy of the Executive Brief on these tests, which were a joint effort between FRA and the rail industry, has been placed in Docket No. RST–3. Interested persons may examine this document during regular business hours in Room 4406 of the Trans Point Building. As a result of these Chessie System tests, it was concluded that trains powered by vehicles with two 3-axle trucks (6 axles) can be operated at approximately 1.5 inches unbalance on typical Class 3 track. Moreover, the proposed distinction between vehicles of less than 4 axles and those of more than 4 axles is not new. The Swiss government has imposed a similar restriction for quite some time with good results. Finally, it should be noted that in the event a railroad could demonstrate that a particular vehicle of more than 4 axles has the dynamic load equivalent of a 4 axle vehicle, the railroad could petition for a waiver of exemption with regard to that particular vehicle under FRA regulations, 49 CFR Part 211. If a waiver of exemption is granted, the railroad would be permitted to operate the 6 (or more) axle vehicle under conditions appropriate for that particular vehicle.

In response to comments received, FRA has given consideration to increasing the amount of unbalance used in determining the maximum allowable operating speed for passenger trains on curved track. Experience has shown that passenger cars will ride comfortably around a curve at a speed determined by an unbalance of greater than 3 inches. However, this does not take into consideration the fact that essentially the same motive power is used in passenger and freight service. Research is underway to establish whether under certain conditions a greater unbalance may be permitted in calculating maximum allowable operating speeds without compromising safety. However, until there is justification to safely increase the unbalance, FRA will continue to use the 3 inch unbalance formula for all 4 axle vehicles.

Testimony received during the FRA public hearing further substantiates the use of the 3 inch unbalance formula for passenger trains. In response to specific questioning at the hearing on the issue of unbalance for passenger trains, an Amtrak representative agreed that he would not run a train over existing track

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at a speed that would increase the unbalance without prior testing the specific vehicle involved. After petitioning FRA under Part 211, higher speeds may be permitted where special equipment is used and the test results indicate that no adverse safety impact results from the higher unbalance speeds.

Elevation of curved track; runoff. It is proposed to delete § 213.59 concerning curved track. Safety considerations dealing with elevation of curved track and runoff are provided for in § 213.57 (Curves; Elevation and Speed Limitation) and § 213.63 (Track Surface). This deletion is expected to have very little, if any, impact on the industry since FRA inspectors found no defects and filed no violations under this section during the period from 1975 through 1977.

Curve data for classes 4 through 6 track. Under current § 213.61, a railroad is required to maintain records on curve data for track Clases 4 through 6. It is proposed to delete § 213.61 because it is primarily a record-keeping requirement that has no direct bearing on track safety. Moreover, between 1975 and 1977, FRA inspectors noted only 13 deviations from this section—less than 5 defects per year. This deletion would reduce paperwork and related costs for the railroads.

Track surface. The changes proposed in § 213.63 would modify the permissible track surface deviations for Classes 1, 4 and 6 so that the rate of change of the deviations between each class would be more uniform. Accordingly, the maximum permissible deviation from uniform profile would be increased from 3 inches to 3½ inches on Class 1 track, decreased from 2 inches to 1⅝ inches on Class 4 track and increased from ½ inch to ⅝ inch on Class 6 track. In addition, the maximum permissible deviation in elevation between the two rails (cross level) on tangent (straight) track would be increased from ½ inch to ⅝ inch.

The proposal would also simplify and clarify the present regulations by eliminating repetitive and unnecessary requirements. First, the present provision which places limits on the amount of rise or fall in elevation in any 31 feet of rail (runoff), would be deleted because runoff is addressed in the proposed limits on deviation from uniform profile. Second, the present provisions that limit deviations from designated (planned) elevation on spirals (track segments that serve as a transition from straight to curved track) and on curves between spirals, would be deleted because these limits are not necessary for track safety. The major safety considerations in this area are: (1) The actual difference in track elevation measured as prescribed in the last two provisions of the proposed chart; and (2) speed limitations placed on the track by the formula in § 213.57

Ballast and disturbed track. It is proposed to delete § 213.105 because its provisions concerning the condition of ballast in disturbed track are not sufficiently specific to provide meaningful guidance to railroad personnel and are virtually unenforceable. In the three year period from 1975 through 1977, FRA filed only ond defect under this section. Research has not established specific, measurable guidelines for determining when "ballast is sufficiently compacted" in disturbed track. This section may be re-established in the future as a result of further research and additional reliable data.

Crossties. Crossties are a crucial part of track safety; they are a key factor in maintaining proper track geometry thresholds and avoiding rail failures. Geometry defects and rail defects are two of the broad cause categories for track accidents. They account for 74% of the track accidents that occurred in 1977. For this reason, a significant part of FRA's enforcement effort concerns crosstie requirements. During the three year period from 1975 through 1977, FRA inspectors reported 61,687 defects and 2086 violations under this section.

During the track hearing, the issue was raised as to the difficulty of identifying defective or unsafe crossties. Both written comments and testimony indicated that under the existing rule a tie may be "defective" and still be safe to operate over. Unfortunately, to spell out all possible individual conditions as well as all possible combinations of conditions that make a tie unsafe would result in such a complex and lengthy regulation that it would be unmanageable. Identification of defective crossties has always been to some extent a matter of judgment. The rail industry has never developed a universally agreed upon definition of what constitutes a "defective" crosstie.

Another related issue raised at the hearing and in written comments was that the FRA should not prescribe those conditions that render a crosstie "defective" but should instead merely require that track be in proper alinement, gage and surface. FRA does not believe such a requirement would be sufficient to assure safety. Crossties play a crucial safety role. Without adequate crosstie support, track that is in proper alinement, gage and surface while not under load will nevertheless be unable to withstand the dynamic forces generated by passing equipment. As a result, a derailment is likely to occur.

Until a simple, enforceable definition of a defective crosstie emerges, FRA cannot justify a major departure from the existing standard. With only minor revisions, the proposed role identifies specific conditions that make a crosstie defective. It also contains a general prohibition against the use of a crosstie that "fails to effectively support the vertical, lateral, and/or longitudinal loads imposed on it".

Changes are proposed to the table in § 213.109(c). The current table does not distinguish between curved and tangent (straight) track; it merely prescribes a uniform maximum permissible distance between nondefective ties in each class of track. FRA believes that increased tie support is needed to assure track stability in Classes 1, 2 and 3 track of 4 or more degrees curvature. The level of centriugal force applied to curved track by passing equipment increases proportionately as the degree of track curvature increases. Thus, the force level in a 4 degree curve is twice that in a 2 degree curve. Moreover, the introduction of heavier and high center of gravity equipment is imposing greater lateral dynamic forces on the track structure in curves and these forces are further magnified by any track perturbations (irregularities) that are present. Accordingly, the proposed table would shorten the maximum permissible distance between nondefective ties in Class 1 track from 100 to 80 inches and in Classes 2 and 3 track from 70 to 60 inches. During 1977 and 1978, approximately 80% of all rail accidents caused by track deficiencies occurred on these classes of track.

This change also conforms with another of the recommendations based on the FRA-Chessie tests discussed earlier in this notice. The study advised that priority maintenance be directed at lateral track strengthening to provide greater rail fastening capacity in curves. This includes strengthening the track structure with additional nondefective crossties.

It is proposed that the provision of the existing table requiring a minimum number of nondefective crossties per 39 feet of track be deleted as surplusage. The proposed requirements prescribing maximum distance between nondefective ties will provide sufficient support for the track structure.

The proposal would clarify § 213.109(d) concerning the positioning and placement of nondefective crossties under rail joints. In contrast to the present requirement that merely prescribes the number of ties and their relative position with respect to the

joint, proposed § 213.109 would also require that these ties be within a prescribed distance of the joint. This change would not increase the number of ties that would be required.

Both commenters and hearing witnesses mentioned the fact that under the current § 213.109(b), (c) and (d), references to "timber" limit application of the requirements to timber crossties. The proposal would delete these references so that this section will apply to crossties made of any material.

Finally, it is proposed to delete § 213.109(e), which prohibits the use of interlaced crossties in place of switch ties (except in cases of emergency or temporary installation) because FRA has concluded that this prohibition is not necessary from the standpoint of safety. Interlaced crossties are separate standard length crossties that support only one track at switch locations. In contrast, switchties are of sufficient length to support more than one track at switch locations. Because switchties facilitate track maintenance, they are generally preferred over interlaced ties. However, if interlaced crossties meet the other requirements of proposed § 213.109, the track geometry is within the parameters prescribed in this part, and the other requirements of this part are met, FRA believes that track supported by interlaced ties will also safely handle traffic.

Defective rails. The proposal would make a number of changes in the chart in § 213.113. The chart lists various remedial actions to be taken if defective rails are not replaced. The prescribed remedial actions vary according to the size of the defect.

No changes are proposed with respect to rails with any of the following defects: transverse fissure, compound fissure, detail fracture, engine burn fracture, defective weld, ordinary break, and damaged rail.

Changes are proposed with respect to rails with the following defects: horizontal split head, vertical split head, split web, piped rail, head web separation, bolt hole crack, and broken base. These changes are described below.

Rails with a horizontal or vertical split head that is more than 4 inches long are now subject to a 10 mph speed restriction (Note B), and if any metal has broken out of the railhead, each operation over the rail must be conducted under the visual supervision of a person qualified to supervise restoration and renewal of track under traffic conditions (Note A).

The proposal provides that rails with a horizontal or vertical split head that is between 4 and 6 inches long would continue to be subject to a 10 mph speed restriction (Note B) but they would also have to be inspected after 30 days (Note G), and if the split head is more than 6 inches long, each operation over the rail would have to be conducted under the visual supervision of a qualified person (Note A).

Rails with a split web or piped rail defect that is not more than ½ inch long are now subject to a 50 mph speed restriction (Note H) and must be inspected after 90 days (Note F); if the defect is between ½ inch and 3 inches long, the rails are subject to a 30 mph speed restriction (Note I) and must be inspected after 30 days (Note G); if the defect is more than 3 inches long, they are subject to a 10 mph speed restriction (Note B); and if any metal has broken out of the railhead, each operation over the defective rails must be visually supervised by a person qualified to supervise restoration and renewal of track under traffic conditions (Note A).

The proposal provides that rails with a split web or piped rail defect that is not more than 2 inches long would be subject to a 50 mph speed restriction (Note H) and would have to be inspected after 90 days (Note F); if the defect is between 2 and 4 inches long, the rails would be subject to a 30 mph speed restriction (Note I) and would have to be inspected after 30 days (Note G); if the defect is between 4 and 6 inches long, the rails would be subject to a 10 mph speed restriction (Note B) and have to be inspected after 30 days (Note G); and if the defect is more than 6 inches long, each operation over the defective rails would have to be conducted under the visual supervision of a qualified person (Note A).

Rails with a head and web separation that is not more than ½ inch long are now subject to a 50 mph speed restriction (Note H) and must be inspected after 90 days (Note F); if the separation is between ½ inch and 3 inches long, the rails are subject to 30 mph speed restriction (Note I) and must be inspected after 30 days (Note G); if the separation is more than 3 inches long, the rails are subject to a 10 mph speed restriction (Note B); and if any metal has broken out of the railhead, each operation over the defective rails must be visually supervised by a person qualified to supervise restoration and renewal of track under traffic conditions (Note A).

The proposal provides that rails with a head and web separation that is not more than 1½ inches long would be subject to a 50 mph speed restriction (Note H) and would have to be inspected after 90 days (Note F); if the separation is between 1½ and 3 inches long, the rails would be subject to a 30 mph speed restriction (Note I) and would have to be inspected after 30 days (Note G); and if the separation is more than 3 inches long, each operation over the defective rails would have to be conducted under the visual supervision of a qualified person (Note A).

Rails with a bolt hole crack that is not more than ½ inch long are now subject to a 50 mph speed restriction (Note H) and must be inspected after 90 days (Note F); if the crack is between ½ inch and 1½ inches long, the rails are subject to a 30 mph speed restriction (Note I) and must be inspected after 30 days (Note G); if the crack is more than 1½ inches long, the rails are subject to a 10 mph speed restriction (Note B); and if any metal has broken out of the railhead, each operation over the defective rails must be visually supervised by a person qualified to supervise restoration and renewal of track under traffic conditions (Note A).

The proposal provides that rails with a bolt hole crack that is not more than 1½ inches long would be subject to a 50 mph speed limitation (Note H) and would have to be inspected after 90 days (Note F); if the crack is between 1½ and 3 inches long, the rails would be subject to a 30 mph speed restriction (Note I) and would have to be inspected after 30 days (Note G); and if the crack is more than 3 inches long, each operation over the defective rails would have to be conducted under the visual supervision of a qualified person (Note A).

Rails with a broken base that is more than 6 inches long are now required to be replaced. The proposal would allow them to remain in service but each operation over the defective rails would have to be visually supervised by a person qualified to supervise restoration and renewal of track under traffic conditions (Note A).

These proposed changes are based on results from a recent analysis of rail flaw behavior conducted by FRA that revealed that the size of some defects can be increased over existing prescribed tolerances without significantly affecting the safety of railroad operations. A copy of these results has been placed in Docket No. RST–73–1. This change is consonant with the proposed revisions of § 213.237 (Inspection of Rail), which would increase the number of rail inspections based on rail weight, rail age, and annual tonnage over the track. The increased inspections will require each railroad to monitor more closely the development of these defects and take appropriate action before they develop to the point of failure.

The proposal would also delete § 213.113(b) and (c)(12)–(14) which concern minor rail surface imperfections such as rails with shelly spots, head checks, engine burns and mill defects and rails that are flaking, slivered, corrugated and corroded. While these conditions may eventually lead to defects similar to those in § 213.113(a), they do not in themselves represent serious safety hazards. The rail inspections required under § 213.237 are designed to detect those defects before they develop to the point of rupture.

Rail end mismatch and batter. The existing § 213.115 prescribes tolerances for mismatch of rail at joints on the tread and gage side of the rail ends and § 213.117 prescribes limits on the amount of "batter" (damage or disfiguration) that rail ends may sustain. When the ends of adjoining rails are vertically or laterally mismatched, they may be damaged by the battering and pounding they receive from the wheels of passing equipment. The proposed changes would delete the portion of § 213.115 prescribing thresholds for mismatch on the tread of rail ends and would delete § 213.117 in its entirety because they are maintenance rather than safety standards. FRA recognizes that if tread mismatch and rail end batter are left uncorrected, they may eventually lead to broken and/or cracked angle bars, defective rails, and deteriorated surface conditions. However, each of these hazardous conditions is addressed elsewhere in the standards. FRA plans to conduct further research on the effect of rail tread mismatch and rail end batter on rail life and wheel damage. This research may lead to establishing safety requirements in this area.

Continuous welded rail. Current § 213.119 provides that continuous welded rail must be installed at or adjusted for a rail temperature range that should not result in forces that will produce lateral displacement of the track or the pulling apart of rail ends or welds. It also provides that after installation, continuous welded rail should not be disturbed at rail temperatures higher than its installation or adjusted temperature. FRA proposes to delete this section in its entirety because it is so general in nature that it provides little guidance to railroads and is difficult to enforce. From 1975 through 1978, a total of only 14 defects were reported by FRA inspectors and one violation was filed under this section. While the importance of controlling thermal stresses within continuous welded rail has long been recognized, research has not advanced to the point where specific safety requirements can be established. Continuing research may produce reliable data in this area in the future.

Rail joints. Section 213.121 sets forth various requirements with respect to rail joints. The proposal would clarify § 213.121(d) and (e) by specifying that each rail *end*, not simply each rail, must be bolted as required. As discussed earlier, the number of derailments due to broken rail has increased, particularly within the lower track classes. Torch cut or burned bolt holes establish stress points in the web area that often lead to broken rails. For these reasons, FRA proposes to clarify the current prohibition § 213.12(g) against the use of torch cut or burned bolt holes in rails or joint bars in Classes 3–6 track and to extend this prohibition to Class 2 track.

Tie plates. FRA proposes to delete § 213.123 which requires use of tie plates in Classes 3 through 6 track. While use of tie plates is a good maintenance practice, it is not necessary for safe operations if railroads comply with the other sections in this part. There is no evidence that the absence of tie plates has ever caused a derailment or other accident.

Rail anchoring. FRA proposes to delete § 213.125 concerning use of rail anchors. While rail anchors are an important aspect of lateral track stability, the existing rule is virtually unenforceable because of the vagueness of the term "effectively controlled". It is recognized that if longitudinal rail movement is permitted to exist, conditions may develop that lead to either track buckling or pull-aparts, both of which can and do cause train accidents. Therefore, FRA is conducting research in this area in order to more thoroughly understand track structure. This section may be reestablished when research results identify specific, measurable requirements for safe operations.

Rail fastenings. A number of changes are being proposed in recognition of the increased use of rail fastenings other than spikes. The proposed rule would change the caption of § 213.127 from "Track Spikes" to "Rail Fastenings". Similarly, the word "cut" has been deleted from § 213.127(a) to permit application to any type of spike, including screw or drive spikes.

A new § 213.127(b) would be added by the proposal to specifically address rail fastenings other than spikes. These requirements are substantially the same as those that apply to spikes.

Track shims and planks used in shimming. FRA Proposes to delete § § 213.129 and 213.131 that address the use of track shims and planks, which are pieces of wood that are placed between the base of the rail and the top of a tie. They are particularly useful to restore track to the required geometric threshold after it has been displaced by frost heaves and ground thaws. As long as the requirements of the other sections of this part, such as § 213.63, are met, the maintenance method used to achieve this result is immaterial from the standpoint of safety. Furthermore, there is no evidence that shims or planks have ever been the sole cause of a derailment or other train accident.

Switches. The existing requirements of § 213.135(b) (Switches) consider only lateral and vertical rail movement when addressing the fit of the switch point and stock rail. However, it has been recognized for some time that longitudinal rail movement in and around switches is also hazardous. Logitudinal movement of either the switch points or stock rail will result in conditions that adversely affect the ability of the wheels to make the safe transition through the switch area. Excessive rail movement in and around switches was directly related to 216 derailments in 1978.

A new § 213.135(i) would control longitudinal movement in and around switches by providing that a switch point may not have an unprotected vertical or inclined surface that is $^{15}/_{16}$ inch or wider, measured ¾ of an inch below the top of the stock rail. The parameters of the proposed rule are taken from the Penn Central MW–1 (Manual of Standards of Practice for Construction and Maintenance of Track) which is substantially the same as its predecessor used on the Pennsylvania Railroad (CE 78). The Penn Central MW–1, and its counterpart currently in use by Conrail, require that immediate remedial action be taken upon discovery of a switch point that exceeds these parameters. This practice has proven to be a good safety measure of over the years for these railroads. This proposal is also similar to the condemning limits recommended by the Engineering Division of the AAR in 1970. Although these recommendations were not adopted by FRA in the original draft of the Track Safety Standards, subsequent experience has demonstrated a need to establish condemning limits for switch points. Accident data reveals that worn or broken switch points were the cause of 1625 train accidents during the four year period of 1975 through 1978. This is 9.8% of the total number of track-related accidents of that period.

Frogs. The current § 213.137 prescribes general requirements for frogs. The proposed § 213.137 would consolidate the meaningful requirements from § 213.141, which governs self-guarded frogs, with these general requirements.

Track appliances and track-related devices. It is proposed that Subpart E, Track Appliances and Track-Related Devices, be deleted. These appliances and devices (derails and switch heaters) do not have a significant impact on track safety. A review of the accident history for the four years from 1975 through 1978 revealed a total of only 12 accidents involving track appliances and devices, all of which occurred at speeds of 10 mph or less, and none of which resulted in a death or personal injury.

Turnout and track crossing inspections. Current § 213.235 provides that each switch and track crossing must be inspected on foot each month. However, on track that is not used at least once a month, they need only be so inspected before the track is used. The proposal would clarify what must be inspected and by whom by substituting the word "turnout" for "switch" and specifying that these inspections are to be made be a qualified person designated under § 213.7(a).

Inspection of rail. The number of train accidents caused by broken rails has continued to increase during recent years. In 1975, 660 accidents were reported by carriers as caused by broken rails. In 1977, the number of accidents increased by about 30% to 855 and in 1978 the increase was about 13% to 960. These increases occurred primarily in the lower classes of track and indicate a need to strengthen the rail inspection requirements in § 213.237. In 1978, the amount of damage reported for track-related accidents caused by rail and joint bar defects constituted about 37% of the total damage caused by track-related accidents that year. Further analysis of dollar amounts of damage from track accidents reveals that accidents occurring on Class 3 track accounted for a higher dollar amount of damage than any other single class.

Current § 213.237(a) requires that all Classes 4 through 6 track and all Class 3 track over which passenger trains operate, be inspected annually for internal rail defects. The proposed § 213.237(a) would require that all track in Classes 3 through 6, as well as all Class 2 over which passenger trains operate, be inspected for internal defects at varied intervals. Depending upon the weight and age of the rail as well as the amount of traffic it carries, rail would be required to be inspected from one to four times each year.

Data from rail research clearly shows that as tonnage accumulates, rail becomes increasingly defect-prone. In older, light-weight rail that carries heavy traffic, the likelihood of rail defects growing from below detection level to rupture within the present required inspection intervals is especially high. Accordingly, under the proposed rule, the intervals between rail inspections would be based upon rail age, weight, and tons of traffic.

At the present time, if a new rail is inspected prior to installation or within the first 6 months after installation, the next inspection need not be made until 3 years after the initial inspection. FRA is proposing to require inspection of new "A" rails prior to their installation in Classes 3 through 6 track and Class 2 track over which passenger trains operate. All other new rail would not have to be inspected until 3 years after installation.

Mill defects in rails are the primary cause of service failures in new rails. These defects consist of deformations, cavities, seams, or foreign materials found in the head, web or base of a rail, that form when the ingot is poured. Mill defects may also occur when metal that splashes on the side of an ingot mold, cools and oxidizes to some extent before fusing with the liquid metal. The vast majority of these mill defects appear in the top rail rolled from each ingot. This rail is lettered "A". In order to reduce the likelihood that these defects will grow to rupture, the proposal would require inspection of the defect-prone "A" rails before installation, while permitting other rails to be installed without prior inspection.

Inspection records. Section 213.241 requires each railroad to prepare and maintain records of certain required inspections. In order to improve the quality and usefulness of these reports, a number of minor changes are proposed.

The existing § 213.241(b) describes the information the inspection report is required to contain. The proposal would clarify this requirement by listing separately and describing in more detail the items of information to be reported; it does not impose any additional reporting requirement on railroads. These changes will provide reporting uniformity and reduce confusion.

The proposal would also highlight the railroad inspector's responsibility under § 213.7 to prescribe remedial action upon discovery of track defects.

C. Economic Impact

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a regulatory analysis under Executive Order 12044 is not required (E. O. 12044, 43 FR 12661, March 24, 1978).

However, FRA has prepared a Regulatory Evaluation of the changes proposed in this notice in accordance with the DOT's policies for evaluation of regulatory impacts (Regulatory Policies and Procedures, 44 11034, February 26, 1979). After conducting an informal review, FRA secured the services of an independent consulting firm to evaluate the proposal and estimate the costs that would result if it were adopted. The consultant reviewed and assessed the cost impact of all the proposed changes and prepared a detailed impact analysis of the proposed changes in the following sections:

Sec.
213.9 Classes of Track: Operating Speed.
213.237 Inspection of Rail.
213.57 Curves, Elevation and Speed Limitations.
213.109 Crossties.

The consultant concluded that the estimated total impact of all proposed changes would increase rail industry operating expenses by $21.18 million annually and require a $47 million one-time track rehabilitation expense.

Upon reviewing the consultant's analysis, FRA found that is disagreed with many of the assumptions and the overall methodology used in that analysis. Accordingly, FRA directed its staff to perform another cost analysis and assess the benefits that would result from adoption of the proposed changes.

FRA recognizes that much of the detailed information necessary to precisely evaluate the impact of this proposal is simply nonexistent or unavailable. FRA is unaware of any reliable surveys, samplings or data banks of the myriad of important variables in track conditions throughout the nation (such as the number of miles of track within each FRA class, the number of miles of rail by specific weight in each FRA class, the number of miles of track in curves that exceed 4 degrees, and the volume of traffic and types of vehicles operating over each track class and rail weight). To assemble this information would be a massive and expensive undertaking that would require the imposition of a considerable reporting burden on the railroad industry. Moreover, much of this information changes daily as track is reclassified to reflect its current condition. In these circumstances, any cost analysis must be based largely upon the experience, judgment and "best estimate" of the analyst.

Briefly, the FRA staff analysis indicates that only four of the amended sections would have a noticeable

economic impact on the rail industry. FRA anticipates a total one-time track rehabilitation cost of about $20.2 million and a total increase of $3.5 million in annual operating costs. The proposed change to § 213.109 (Crossties) is expected to generate the largest one-time cost ($12 million) while § 213.9 (Classes of Track: Operating Speed Limits) and § 213.57 (Curves, Elevation and Speed Limitations) would result in one-time expenditures of $3.1 and $5.1 million, respectively. In addition to the one-time costs, increased operating expenditures of $3.5 million would be incurred annually under § 213.237 (Inspection of Rail). FRA's evaluation of the benefits shows that the proposal would result in an estimated $19.9 million annual saving by reducing the number of rail accidents and eliminating regulatory burdens. Reducing the number of rail accidents would reduce the number of injuries and the amount of property damage, along with other associated costs.

Copies of the cost analysis prepared by the independent consultant and of the cost benefit analysis prepared by FRA have been placed in the Public Docket for this proceeding (FRA Docket No. RST-3). Interested persons may examine these documents during regular business hours in Room 4406 of the Trans Point Building.

D. Environmental Impact

On March 16, 1979, the FRA published (44 FR 16062) revised procedures for insuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act ("DOT Act", 49 U.S.C. 1651 *et seq.*), other environmental statutes, executives orders, and DOT Order 5610.113.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provison that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve diverse factors, including environmental controversiality; the availability of adequate relocation housing, the possible inconsistency of the action with Federal, State, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of track requirements meets the seven criteria that establish an action as a non-major action.

For the reasons above, the FRA has determined that the proposed revision of Part 213, Track Safety Standards, does not constitute a major FRA action requiring an environmental assessment.

Participation in This Proceeding; Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number, and the number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, SW., Washington, D.C. 20590. Persons desiring receipt of their communications to be acknowledged should attach a stamped pre-addressed postcard to the first page of each communication. Communications received before November 30, 1979, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on November 14 and 15, 1979, in Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and will be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590 (Phone 202-426-8836), before November 7, 1979, stating the amount of time required for the initial statement.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

This notice is issued under the authority of Section 202 and 208 of the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 431 and 437); Regulations of the Office of the Secretary of transportation (49 CFR 1.49(n)). Issued in Washington, D.C., on August 23, 1979.

John M. Sullivan,
Administrator.

PROPOSED CHANGES AND ADDITIONS
TO
FRA TRACK SAFETY STANDARDS
49 CFR - Part 213

SUBPART A - GENERAL

Present	Proposed
§ 213.1 Scope of Part.	§ 213.1 Scope of Part.
	No Change.
§ 213.3 Application.	§ 213.3 Application
(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to all standard gage track in the general railroad system of transportation.	(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track over which a common carrier by railroad operates.
(b) This part does not apply to track-	(b) This part does not apply to track that is-
(1) Located inside an installation which is not part of the general railroad system of transportation; or;	(1) Used exclusively for rapid transit service by an entity other than a common carrier by railroad; or
(2) Used exclusively for rapid transit, commuter, or other short haul passenger service in a metropolitan or suburban area.	(2) Excepted under paragraph (c) and (d) of this section.
(c) Until October 16, 1972, Subparts A, B, D (except §213.109), E, and F of this part do not apply to track constructed or under construction before October 15, 1971. Until October 16, 1973, Subpart C and § 213.109 of Subpart D do not apply to track constructed or under construction before October 15, 1971.	(c) A segment of track is eligible to be excepted from the minimum requirements of this part for Class 1 track if it is
	(1) Only operated over at speeds that do not exceed 10 miles per hour;
	(2) Not used to transport passenger trains or freight cars required to be placarded by Hazardous Materials Regulations (49 CFR §172.504);
	(3) Located more than 100 feet from other active tracks, public streets and highways, occupied structures, and other facilities and installations where persons could be placed in danger by a derailment;
	(4) Not more than 10 feet higher than adjacent terrain within 50 feet of the track centerline throughout its entire length and for a distance of 200 feet beyond each end.
	(d) A railroad shall designate each segment of track to be excepted from the minimum requirements of this part for Class 1 track by:
	(1) Preparing and maintaining a record of the designation at the appropriate railroad division office that includes:
	(i) A description of the track segment;
	(ii) A statement that the track segment is eligible to be excepted under paragraph (c) (1) of this section;
	(iii) The name, title and signature of the railroad official making the designation; and

Present	Proposed
	(iv) The date of the designation; and
	(2) Filing a copy of the designation with the:
	(i) Associate Administrator for Safety (RRS-25), FRA, Washington, D. C. 20590; and
	(ii) FRA Regional Director of Railroad Safety for the region in which the track segment is located.
	(3) Whenever track that has been designated by a railroad to be excepted from the minimum require-

Present	Proposed
(3) A statement of the exact relationship between the track owner and the assignee;	
(4) A precise identification of the track;	
(5) A statement as to the competence and ability of the assignee to carry out the duties of the track owner under this part; and	
(6) A statement signed by the	

Present	Proposed
	(iv) The date of the designation; and
	(2) Filing a copy of the designation with the:
	(i) Associate Administrator for Safety (RRS-25), FRA, Washington, D. C. 20590; and
	(ii) FRA Regional Director of Railroad Safety for the region in which the track segment is located.
	(3) Whenever track that has been designated by a railroad to be excepted from the minimum requirements for Class 1 track ceases to meet the conditions set forth in paragraph (c) of this section, the track shall become subject to the requirements of this part. Within 10 calendar days after this occurs, the railroad shall so notify the Associate Administrator for Safety and the appropriate FRA Regional Safety Director. Each notification shall be in writing, identify the track that is no longer excepted, state the date this occurred, and be signed and dated by the railroad official taking the action. A copy of the record of designation for that track shall accompany each notification.
§ 213.5 Responsibility of track owners.	§ 213.5 Responsibility.
(a) Any owner of track to which this part applies who knows or has notice that the track does not comply with the requirements of this part, shall -	(a) A railroad that fails to comply with any requirement of this part with respect to any track over which it -
(1) Bring the track into compliance; or	(1) Operates; or
(2) Halt operations over that track.	(2) Authorizes any other railroad to operate;
	is subject to a civil penalty as provided in Appendix B of this part. Each day of violation constitutes a separate offense.
(b) If an owner of track to which this part applies assigns responsibility for the track to another person (by lease or otherwise), any party to that assignment may petition the Federal Railroad Administrator to recognize the person to whom that responsibility is assigned for purposes of compliance with this part. Each petition must be in writing and include the following-	(b) A railroad may petition the Federal Railroad Administrator for exemption from any or all requirements prescribed in this part. Each petition must be filed in accordance with Part 211 of this chapter.
(1) The name and address of the track owner;	
(2) The name and address of the person to whom responsibility is assigned (assignee);	

Present	Proposed
(3) A statement of the exact relationship between the track owner and the assignee;	
(4) A precise identification of the track;	
(5) A statement as to the competence and ability of the assignee to carry out the duties of the track owner under this part; and	
(6) A statement signed by the assignee acknowledging the assignment to him of responsibility for purposes of compliance with this part.	
(c) If the Administrator is satisfied that the assignee is competent and able to carry out the duties and responsibilities of the track owner under this part, he may grant the petition subject to any conditions he deems necessary. If the Administrator grants a petition under this section, he shall so notify the owner and the assignee. After the Administrator grants a petition, he may hold the track owner or the assignee or both responsible for compliance with this part and subject to penalties under § 213.15.	(c) Delete.
§ 213.7 Designation of qualified persons to supervise certain renewals and inspect track.	§ 213.7 Designation of qualified persons.
(a) Each track owner to which this part applies shall designate qualified persons to supervise restorations and renewals of track under traffic conditions. Each person designated must have -	Each railroad shall designate qualified persons to inspect track for deviations from the requirements of this part, prescribe appropriate remedial action to correct or safely compensate for those deviations, and supervise restorations and renewals of track under traffic conditions. Each person designated to perform any of these tasks shall have at least -
(1) At least -	(a) 1 year experience in railroad track inspection or maintenance; or
(i) 1 year of supervisory experience in railroad track maintenance; or	(b) a combination of experience and training from a course in track inspection and maintenance or from a college level education program related to track inspection and maintenance.
(ii) A combination of supervisory experience in track maintenance and training from a course in track maintenance or from a college level educational program related to track maintenance;	
(2) Demonstrated to the owner that he-	
(i) Knows and understands that requirements of this part;	
(ii) Can detect deviations from those requirements; and	

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Present	Proposed
§213.7 (Continued)	§ 213.7 (Continued)
(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and	
(3) Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements in this part.	
(b) Each track owner to which this part applies shall designate persons to inspect track for defects. Each person designated must have -	(b) Each person designated under this section shall demonstrate to the railroad that he or she -
(1) At least -	(1) Knows and understands the requirements of this part;
(i) 1 year of experience in railroad track inspection; or	
(ii) A combination of experience in track inspection and training from a course in track inspection or from a college level educational program related to track inspection;	(2) Can detect deviations from these requirements and record such deviations as required in 213.241; and
(2) Demonstrated to the owner that he -	
(i) Knows and understands the requirements of this part;	
(ii) Can detect deviations from those requirements; and	
(iii) Can prescribe appropriate remedial action to correct or safely compensate for those deviations; and	
(3) Written authorization from the track owner to prescribe remedial actions to correct or safely compensate for deviations from the requirements of this part, pending review by a qualified person designated under paragraph (d) of this section.	(3) Can prescribe appropriate remedial action to correct or safely compensate for those deviations.
(c) With respect to designations under paragraphs (a) and (b) of this section, each track owner must maintain written records of -	(c) Each railroad shall maintain written records of -
(1) Each designation in effect;	(1) Each of its designations in effect; and
(2) The basis for each designation; and	(2) The basis used to determine qualifications for each designation including, but not limited to, length of experience, type and length of training course and the manner in which the designee demonstrated knowledge of the requirements of this part.
(3) Track inspections made by each designated qualified person as required by § 213.241.	
These records must be kept available for inspection or copying by the Federal Railroad Administrator during regular business hours.	(d) Each railroad shall provide to the designated person, written authorization to prescribe remedial action to correct or safely compensate for deviations from the requirements in this part.

Present

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section §§ 213.57(b), 213.59(a), 213.105, 213.113(a) and (b), and 213.137(b) and (c), the following maximum allowable operating speeds apply:

Over track that meets all of the requirements prescribed in this part for-	The maximum allowable operating speed for freight train is-	The maximum allowable operating speed for passenger train is-
Class 1 track	10 m.p.h.	15 m.p.h.
Class 2 track	25 m.p.h.	30 m.p.h.
Class 3 track	40 m.p.h.	60 m.p.h.
Class 4 track	60 m.p.h.	80 m.p.h.
Class 5 track	80	90 m.p.h.
Class 6 track	110 m.p.h.	110 m.p.h.

(b) If a segment of track does not meet all of the requirements for its intended class, it is reclassified to the next lowest class of track for which it does meet all of the requirements of this part. However, if it does not at least meet the requirements for Class 1 track, no operations may be conducted over that segment except as provided in § 213.11.

§ 213.9 Classes of track: operating speed limits.

(c) Maximum operating speed may not exceed 110 m.p.h. without prior approval of the Federal Railroad Administrator. Petitions for approval must be filed in the manner and contain the information required by § 211.11 of this chapter. Each petition must provide sufficient information concerning the performance characteristics of the track, signaling, grade crossing protection, trespasser control where appropriate, and equipment involved and also concerning maintenance and inspection practices and procedures to be followed, to establish that the proposed speed can be sustained in safety.

§ 213.11 Restoration or renewal of track under traffic conditions.

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work and operations on the track must be under the continuous supervision of a person designated under § 213.7(a).

§ 213.13 Measuring track not under load

Proposed

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraph (b) of this section and 213.57(b), 213.113(a) and 213.137(b) and (c), maximum allowable operating speeds may not exceed those in the following table:

Over track that meets all of the requirements prescribed in this part for -	The maximum allowable operating speed for vehicles operating over rail of: less than 112 lb/yd	112 lb/yd to 131 lb/yd	more than 131 lb/yd
Class 1	10	10	15
Class 2	25	30	30
Class 3	30	40	50
Class 4	50	60	80
Class 5	70	80	110
Class 6	90	110	125

(b) No change

§ 213.9 Classes of track:operating speed limits.

(c) Maximum operating speed may not exceed 125 m.p.h. without prior approval of the Federal Railroad Administrator. Petitions for approval must be filed in the manner and contain the information required by Part 211 of this chapter. Each petition must provide sufficient information concerning the performance characteristics of the track, signaling, grade crossing protection, trespasser control where appropriate, and equipment involved and also concerning maintenance and inspection practices and procedures to be followed, to establish that the proposed speed can be sustained in safety.

§ 213.11 Restoration or renewal of track under traffic conditions

If, during a period of restoration or renewal, track is under traffic conditions and does not meet all of the requirements prescribed in this part, the work and operations on the track must be under the continuous visual supervision of a person designated under § 213.7.

§ 213.13 Measuring track not under load

No change.

Present	Proposed
§ 213.15 Civil penalty.	§ 213.15 Civil penalty.
(a) Any owner of track to which this part applies, or any person held by the Federal Railroad Administrator to be responsible under § 213.5(c), who violates any requirement prescribed in this part is subject to a civil penalty of at least $250 but not more than $2,500.	Delete entire section.
(b) For the purpose of this section, each day a violation persists shall be treated as a separate offense.	
§ 213.17 Exemptions.	§ 213.17 Exemptions.
(a) Any owner of track to which this part applies may petition the Federal Railroad Administrator for exemption from any or all requirements prescribed in this part.	Delete entire section.
(b) Each petition for exemption under this section must be filed in the manner and contain the information required by § 211.11 of this chapter.	
(c) If the Administrator finds that an exemption is in the public interest and is consistent with railroad safety, he may grant the exemption subject to any conditions he deems necessary. Notice of each exemption granted is published in the Federal Register together with a statement of the reasons therefor.	

SUBPART B -ROADBED

Present	Proposed
§ 213.31 Scope.	§ 213.31 Scope.
	No change
§ 213.33 Drainage.	§ 213.33 Drainage.
	No change.
§ 213.37 Vegetation.	§ 213.37 Vegetation.
	No Change.

SUBPART C TRACK GEOMETRY

Present	Proposed
§ 213.51 Scope.	§ 213.51 Scope.
	No change.
§ 213.53 Gage.	§ 213.53 Gage.
	No change.

Present

§ 213.55 Alinement.

Alinement may not deviate from uniformity more than amount prescribed in the following table:

Class of track	Tangent track The deviation of the mid-offset from 62-foot line[1] may not be more than-	Curved track The deviation of the mid-ordinate from 62-foot chord[2] may not be more than-
1	5"	5"
2	3"	3"
3	1 3/4"	1 3/4"
4	1 1/2"	1 1/2"
5	3/4"	5/8"
6	1/2"	3/8"

[1]The ends of the line must be at points on the gage side of the line rail, five-eights of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail must be used for the full length of that tangential segment of track.

[2]The ends of the chord must be at points on the gage side of the outer rail, five-eights of an inch below the top of the railhead.

§ 213.57 Curves; elevations and speed limitations.

(a) Except as provided in § 213.63, the outside rail of a curve may not be lower than the inside rail or have more than 6 inches of elevation.

(b) The maximum allowable operating speed for each curve is determined by the following formula:

$$V_{max} = \sqrt{\frac{Ea + 3}{0.0007D}}$$

where

V_{max} = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches)

D = Degree of curvature (degrees).

Proposed

§ 213.55 Alinement.

The change of alinement between any two adjacent points 31 feet apart may not exceed the amounts prescribed in the following table:

Tangent track	Curved track
Change between any adjacent 31-foot stations measured at the mid-offset from a 62-foot line[1] may not be more than-	Change between any adjacent 31-foot stations measured at the mid-offset from a 62-foot line[2] may not be more than-
Class	
1 6"	6"
2 3"	3"
3 1-3/4"	1-3/4"
4 1-1/4"	1-1/4"
5 3/4"	5/8"
6 1/2"	3/8"

[1]The ends of the line shall be at points on the gage side of the line rail, five-eighths of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail must be used for the full length of that tangential segment of track.

[2]The ends of the chord must be at points on the gage side of the outer rail, five-eighths of an inch below the top of the railhead.

§213.57 Curves; elevations and speed limitations.

(a) A curve may not have an actual elevation in excess of 6-1/2 inches.

(b)(1) Railroad equipment having a center of gravity in excess of 97 inches or trucks with more than two axles shall not exceed, on each curve, the maximum allowable speed, as determined by the following formula:

$$V_{max} = \sqrt{\frac{Ea + 1.5}{0.0007D}}$$

(2) For all other railroad equipment the maximum allowable speed for each curve shall be determined using the following formula:

$$V_{max} = \sqrt{\frac{Ea + 3}{0.0007D}}$$

(3)V_{max} = Maximum allowable operating speed (miles per hour)

E_a = Actual elevation of the outside rail (inches)

D = Degree of curvature based on field measurements (degrees)

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Present	Proposed
§ 213.59 Elevation of curved track; runoff.	§ 213.59 Elevation of curved track; runoff.
(a) If a curve is elevated, the full elevation must be provided throughout the curve, unless physical conditions do not permit. If the elevation runoff occurs in a curve, the actual minimum elevation must be used in computing the maximum allowable operating speed for that speed for that curve under § 213.57(b).	Delete entire section.
(b) Elevation runoff must be at a uniform rate, within the limits of track surface deviation prescribed in § 213.63, and it must extend at least the full length of the spirals. If physical conditions do not permit a spiral long enough to accommodate the minimum length of runoff, part of the runoff may be on tangent track.	
§ 213.61 Curve data for Classes 4 through 6 track.	§ 213.61 Curve data for Classes 4 through 6 track.
(a) Each owner of track to which this part applies shall maintain a record of each curve in its classes 4 through 6 track. The record must contain the following information:	Delete entire section.
(1) Location; (2) Degree of curvature; (3) Designated elevation (4) Designated length of elevation runoff; and (5) Maximum allowable operating speed.	
§ 213.63 Track Surface	§ 213.63 Track Surface
Each owner of track to which this part applies shall maintain the surface of its track within the limits prescribed in the following table:	Track surface shall be maintained within the limits prescribed in the following table:

Present

§ 213.63 (Continued)

Track surface	Class of track					
	1	2	3	4	5	6
The runoff in any 31 feet of rail at the end of a raise may not be more than...	3 1/2"	3"	2"	1 1/2"	1"	1/2"
The deviation from uniform profile on either rail at the midordinate of a 62-foot chord may not be more than.....	3"	2 3/4"	2 1/4"	2"	1 1/4"	1/2"
Deviation from designated elevation on spirals may not be more than...	1 3/4"	1 1/2"	1 1/4"	1"	3/4"	1/2"
Variations in cross level on spirals in any 31 feet may not be more than.....	2"	1 3/4"	1 1/4"	1"	3/4"	1/2"
Deviation from zero cross level at any point on tangent or from designated elevation on curves between spirals may not be more than..	3"	2"	1 3/4"	1 1/4"	1"	1/2"
The difference in cross level between any two points less than 62 feet apart on tangents and curves between spirals may not be more than...	3"	2"	1 3/4"	1 1/4"	1"	5/8"

Proposed

§ 213.63 (Continued)

	Class of Track					
	1	2	3	4	5	6
The deviation from uniform profile on either rail at the midordinate of 62' cord may not be more than	3-1/2"	2-3/4"	2-1/4"	1-5/8"	1-1/4"	5/8"
Deviation from zero cross level at any point on tangent or the difference in cross level between any two points 62 feet or less apart on tangents and curves may not be more than	3"	2"	1-3/4"	1-1/4"	1"	5/8"
Variations in cross level on spirals in any 31 feet may not be more than	2"	1-3/4"	1-1/4"	1"	3/4"	1/2"

SUBPART D - TRACK STRUCTURE

Present	Proposed
§ 213.101 Scope.	§ 213.101 Scope. No change.
§ 213.103 Ballast; general.	§ 213.103 Ballast; general. No change.
§ 213.105 Ballast; disturbed track. If track is disturbed, a person designated under § 213.7 shall examine the track to determine whether or not the ballast is sufficiently compacted to perform the functions described in § 213.103. If the person making the examination considers it to be necessary in the interest of safety, operating speed over the disturbed segment of track must be reduced to a speed that he considers safe.	§ 213.105 Ballast; disturbed track. Delete entire section.
§ 213.109 Crossties. (a) Crossties may be made of any material to which rails can be securely fastened. The material must be capable of holding the rails to gage within the limits prescribed in § 213.53(b) and distributing the load from the rails to the ballast section.	§ 213.109 Crossties. (a) Crossties shall be made of material to which rails can be securely fastened. The material shall be capable of holding the rails to gage within the limits prescribed in § 213.53(b) and distributing the load from the rails to the ballast section.

Present

§ 213.109 (Continued)

(b) A timber crosstie is considered to be defective when it is:

(1) Broken through

(2) Split or otherwise impaired to the extent it will not hold spikes or will allow the ballast to work through.

(3) So deteriorated that the plate or base of rail can move laterally more than one-half inch relative to the crosstie.

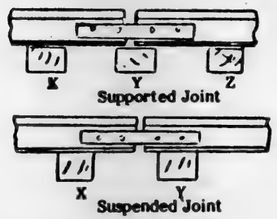
(4) Cut by the tie plate through more than 40 percent of its thickness; or

(5) Not spiked as required by Section 213.127.

(c) If timber crossties are used, each 39 feet of track must be supported by nondefective ties as set forth in the following table:

Class of track	Minimum number of nondefective ties Per 39 ft. of track	Maximum distance between non-defective ties (center to center)
1	5	100"
2,3	8	70"
4,5	12	48"
6	14	48"

(d) If timber ties are used, the minimum number of nondefective ties under a rail joint and their relative positions under the joint are described in the following chart. The letters in the chart correspond to letters underneath the ties for each type of joint depicted.



Proposed

§ 213.109 (Continued)

(b) A crosstie is defective when it is:

(1) Broken through

(2) Split or otherwise impaired to the extent it will not securely hold spikes or fasteners.

(3) So deteriorated or impaired that the tie plate or rail base can move laterally more than one-half inch relative to the crosstie

(4) Cut by the tie plate or rail base or worn by abrasion through more than 40 percent of its thickness; or

(5) Not fastened as required by Section 213.127.

(c) Maximum distance between nondefective ties center to center may not exceed those in the following table:

Class of Track	Tangent track and curved track less than 4°	Curved track 4° and greater
1	100"	80"
2,3	70"	60"
4,5 & 6	48"	48"

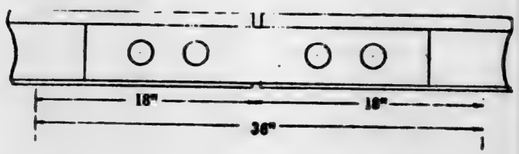
(d) The minimum number of nondefective ties and their relative position under a rail joint are described in the following table:

Class 1



Each rail joint in Class 1 track shall be supported by at least one nondefective crosstie whose centerline is within the 48" shown above.

Classes 2 and 3



Present

§ 213.109 (Continued)

Class of Track	Minimum number of nondefective ties under a joint	Required position of nondefective ties	
		Supported Joint	Suspended Joint
1	One	X, Y, or Z	X or Y
2,3	One	Y	X or Y
4,5,6	Two	X and Y, or Y and Z	X and Y

(e) Except in an emergency or for a temporary installation of not more than six months duration, crossties may not be interlaced to take the place of switch ties.

§ 213.113 Defective rails.

(a) When an owner of track to which this part applies learns, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under § 213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until -

(1) The rail is replaced; or

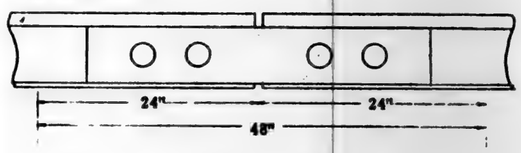
(2) The remedial action prescribed in the table is initiated:

Proposed

§ 213.109 (Continued)

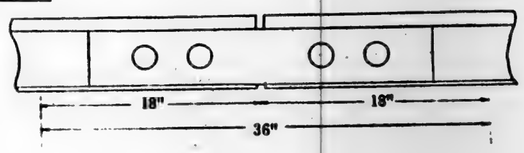
Each rail joint in Classes 2 & 3 track shall be supported by at least one nondefective crosstie whose centerline is within the 36" shown above.

Classes 4 and 5



Each rail joint in Classes 4 & 5 track shall be supported by at least two nondefective crossties. The centerline of both nondefective crossties shall be within the 48" shown above.

Class 6



Each rail joint in Class 6 track shall be supported by at least two nondefective crossties. The centerline of both nondefective crossties shall be within the 36" shown above.

(e) Delete.

§ 213.113 Defective Rails

(a) When rail in track contains a defect listed in the following table, the rail shall be replaced or the remedial action prescribed in that table be taken:

Present

213.113 (Continued)

REMEDIAL ACTION

Defect	Length of defect (inch)		Percent of railhead cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse fissure			20		B.
			100	20	B.
				100	A.
Compound fissure			20		B
			100	20	B
				100	A.
Detail fracture			20		C.
Engine burn fracture			100	20	D.
Defective weld				100	A, or E and H.
Horizontal split head	0-	2			H and I
	2	4			I and G
	4				B
Vertical split head	(Break out in railhead)				A
Split web	0		½		H and F
Piped rail	½		3		I and G
	3				B
Head web separation	(Break out in railhead)				A
	0		½		H and F
	½		1½		I and G
Bolt hole crack	1½				B
	(Breakout in railhead)				A
Broken base	0		6		E and I
	6				(Replace rail)
Ordinary break					A or E
Damaged rail					C

Proposed

213.113 (Continued)

REMEDIAL ACTION

Defect	Length of defect (inch)		Percent of railhead cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse fissure			20		B.
			100	20	B.
				100	A.
Compound fissure			20		B
			100	20	B
				100	A.
Detail fracture			20		C.
Engine burn fracture			100	20	D.
Defective weld				100	A, or E and H.

Proposed

213.113 (Continued)

REMEDIAL ACTION

Defect	Length of defect (inch) More than	Length of defect (inch) But not more than	Percent of railhead cross-sectional area weakened by defect Less than	Percent of railhead cross-sectional area weakened by defect But not less than	If defective rail is not replaced, take the remedial action prescribed in note
Horizontal split head	0	2			H and F.
Vertical split head. . .	2	4			J and G.
Split web.	4	6			B and G.
Piped rail	6				A
Head and Web Separation . . .	0	1-1/2			H and F.
Bolt Hole Crack	1-1/2	3			I and G.
	3				A
Broken Base	0		6		E and I.
	6				A
Ordinary break.					A or E.
Damaged rail.					C.

Present		Proposed	
§ 213.113 (a) (Continued)		§ 213.113 (a) (Continued)	
Remedial Action		Remedial Action	
Note:			
A -	Assign person designated under § 213.7 to visually supervise each operation over defective rail.	A -	No Change
B -	Limit operating speed to 10 m.p.h. over defective rail.	B -	No Change
C -	Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of Classes 3 through 6 track, limit operating speed over defective rail to 30 m.p.h. until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.	C -	No Change
D -	Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. Limit operating speed over defective rail to 10 m.p.h. until angle bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.	D -	No Change
E -	Apply joint bars to defect and bolt in accordance with § 213.121(d) and (e).	E -	No change

Present	Proposed
§ 213.113 (a) (Continued)	§ 213.113 (a) (Continued)
F - Inspect rail ninety days after it is determined to continue the track in use.	F - No change
G - Inspect rail thirty days after it is determined to continue the track in use.	G - No change
H - Limit operating speed over defective rail to 50 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.	H - No change
I - Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under § 213.9 for the class of track concerned, whichever is lower.	I - No change

§ 213.113

(b) If a rail in Classes 3 through 6 track or Class 2 track on which passenger trains operate evidences any of the conditions listed in the following table, the remedial action prescribed in the table must be taken:

Condition	Remedial Action: If a person designated under § 213.7 determines that condition requires rail be replaced	Remedial Action: If a person designated under § 213.7 determines that condition does not require rail to be replaced
Shelly spots	Limit speed to 20 m.p.h. and schedule the rail for replacement.	Inspect the rail for internal defects at intervals of not more than every 12 months.
Head checks.		
Engine burn (but not fracture).		
Mill defect.		
Flaking.		
Slivered. . .		
Corrugated		
Corroded. . .		

§ 213.113(c) (i) - (ii)

(12) "Shelly spots" means a condition where a thin (usually three-eighths inch in depth or less) shell-like piece of surface metal becomes separated from the parent metal in the railhead, generally at the gage corner. It may be evidenced by a black spot appearing on the railhead over the zone of separation or a piece of metal breaking out completely, leaving a shallow cavity in the railhead. In the case of a small shell there may be no surface evidence, the existence of the shell being apparent only after the rail is broken or sectioned.

Proposed	
§ 213.113	
(b)	Delete
§ 213.113(c) (i) - (ii)	No Change.
(12)	Delete.

Present	Proposed
§ 213.113(c) (Continued)	§ 213.113(c) (Continued)
(13) "Head checks" means hairline cracks which appear in the gage corner of the rail head, at any angle with the length of the rail. When not readily visible the presence of the checks may often be detected by the raspy feeling of their sharp edges.	(13) Delete.
(14) "Flaking" means small shallow flakes of surface metal generally not more than one-quarter inch in length or width break out of the gage corner of the railhead.	(14) Delete.
§ 213.115 Rail end mismatch.	§ 213.115 Rail end mismatch.
Any mismatch of rails at joints may not be more than that prescribed by the following table:	Any mismatch on the gage side of the rails ends may not be more than 1/4 inch on Class 1 track, 3/16 inch on Classes 2 and 3 track, and 1/8 inch on Classes 4, 5 and 6 track.

Class of track	Any mismatch of rails at joint may not be more than the following -	
	On the tread of the rail ends (inch)	On the gage side of the rails ends (inch)
1.....	1/4	1/4
2.....	1/4	3/16
3.....	3/16	3/16
4,5.....	1/8	1/8
6.....	1/8	1/8

§ 213.117 Rail End Batter.	§ 213.117 Rail End Batter.
(a) Rail end batter is the depth of depression at one-half inch from the rail end. It is measured by placing an 18-inch straightedge on the tread on the rail end, without bridging the joint, and measuring the distance between the bottom of the straightedge and the top of the rail at one-half inch from the rail end.	Delete entire section.
(b) Rail end batter may not be more than that prescribed by the following table:	

Class of track	Rail end batter may not be more than- (inch)
1.....	1/2
2.....	3/8
3.....	3/8
4.....	1/4
5.....	1/8
6.....	1/8

Present	Proposed
§ 213.119 Continuous welded rail.	§ 213.119 Continuous welded rail.
(a) When continuous welded rail is being installed, it must be installed at, or adjusted for, a rail temperature range that should not result in compressive or tensile forces that will produce lateral displacement of the track or pulling apart of rail ends or welds.	Delete entire section.
(b) After continuous welded rail has been installed it should not be disturbed at rail temperatures higher than its installation or adjusted installation temperature.	
§ 213.121 Rail joints.	§ 213.121 Rail Joints.
(a-c)	(a-c) No change.
(d) In the case of conventional jointed track, each rail must be bolted with at least two bolts at each joint in Classes 2 through 6 track, and with at least one bolt in Class 1 track.	(d) In the case of conventional jointed track, each rail end shall be bolted with at least two bolts at each joint in Classes 2 through 6 track, and with at least one bolt in Class 1 track.
(e) In the case of continuous welded rail track, each rail must be bolted with at least two bolts at each joint.	(e) In the case of continuous welded rail track, each rail end shall be bolted with at least two bolts at each joint.
(f)	(f) No change
(g) No rail or angle bar having a torch cut or burned bolt hole may be used in Classes 3 through 6 track.	(g) Torch cut or burned bolt holes in rails or joint bars may not be used in Class 2 through 6 track.
§ 213.123 Tie plates.	§ 213.123 Tie plates.
(a) In Classes 3 through 6 track where timber crossties are in use there must be tie plates under the running rails on at least eight of any 10 consecutive ties.	Delete entire section.
(b) Tie plates having shoulders must be placed so that no part of the shoulder is under the base of the rail.	
§ 213.125 Rail Anchoring.	§ 213.125 Rail Anchoring
Longitudinal rail movement must be effectively controlled. If rail anchors which bear on the sides of ties are used for this purpose, they must be on the same side of the tie on both rails.	Delete.

V 4 4 / 1 7 4 SEP 6 7 9 UMI

Present	Proposed
§ 213.127 Track Spikes.	§ 213.127 Rail Fastenings
(a) When conventional track is used with timber ties and cut track spikes, the rails must be spiked to the ties with at least one line-holding spike on the gage side and one line-holding spike on the field side. The total number of track spikes per rail per tie, including plate-holding spikes, must be at least the number prescribed in the following table:	(a) When conventional track is used with timber ties and track spikes, the rails shall be spiked to the ties with at least one line holding spike on the gage side and one line-holding spike on the field side. Longitudinal rail movement shall be effectively controlled. The total number of track spikes per rail per tie, including plate-holding spikes, shall be at least the number prescribed in the following table:

Minimum number of track spikes per rail per tie, including plate-holding spikes

Class of track	Tangent track and curved track with not more than 2° of curvature	Curved track with more than 2° but not more than 4° of curvature	Curved track with more than 4° but not more than 6° of curvature	Curved track with more than 6° of curvature
1	2	2	2	2
2	2	2	2	3
3	2	2	2	3
4	2	2	3	-
5	2	3	-	-
6	2	-	-	-

Minimum number of track spikes per rail per tie, including plate-holding spikes

Class of track	Tangent track and curved track with not more than 2° of curvature	Curved track with more than 2° but not more than 4° of curvature	Curved track with more than 4° but not more than 6° of curvature	Curved track with more than 6° of curvature
1	2	2	2	2
2	2	2	2	3
3	2	2	2	3
4	2	2	3	-
5	2	3	-	-
6	2	-	-	-

(b) A tie that does not meet the requirements of paragraph (a) of this section is considered to be defective for purposes of § 213.109(b).

(b) When rail fastenings other than track spikes are used, they shall be:

(1) Securely attached to the tie
(2) So positioned as to effectively restrain lateral rail movement.
(3) Properly installed
(4) Positioned so vertical and longitudinal movement of the rail is effectively controlled
(5) Installed so that at least one fastener is on each side of the rail, except when used on the same tie in combination with track spikes as prescribed in paragraphs (a) of this section.

(c) A tie that does not meet the requirements of paragraph (a) or (b) of this section is defective for purposes of § 213.109(b).

§ 213.129 Track shims.

(a) If track does not meet the geometric standards in Subpart C of this part and working of ballast is not possible due to weather or other natural conditions, track shims may be installed to correct the deficiencies. If shims are used, they must be removed and the track resurfaced as soon as weather and other natural conditions permit.

(b) When shims are used they must be -

(1) At least the size of the tie plate;

§ 213.129 Track shims.

Delete entire section.

Present	Proposed
§ 213.129 Track shims.	§ 213.129 Track shims.
(2) Inserted directly on top of the tie, beneath the rail and tie plate;	
(3) Spiked directly to the tie with spikes which penetrate the tie at least 4 inches.	
(c) When a rail is shimmed more than 1-1/2 inches, it must be securely braced on at least every third tie for the full length of the shimming.	
(d) When a rail is shimmed more than 2 inches a combination of shims and 2-inch or 4-inch planks, as the case may be, must be used with the shims on top of the planks.	
§ 213.131 Planks used in shimming.	§ 213.131 Planks used in shimming.
(a) Planks used in shimming must be at least as wide as the tie plates, but in no case less than 5-1/2 inches wide. Whenever possible they must extend the full length of the tie. If a plank is shorter than the tie, it must be at least three feet long and its outer end must be flush with the end of the tie.	Delete entire section.
(b) When planks are used in shimming on uneven ties, or if the two rails being shimmed heave unevenly, additional shims may be placed between the ties and planks under the rails to compensate for the uneveness.	
(c) Planks must be nailed to the ties with at least four 8-inch wire spikes. Before spiking the rails or shim braces, planks must be bored with 5/8-inch holes.	
§ 213.133 Turnouts and track crossings generally.	§ 213.133 Turnouts and track crossings generally.
	No change.
§ 213.135 Switches.	§ 213.135 Switches.
(a)	(a) No change.
(b) Each switch point must fit its stock rail properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail n the switch plates or of a switch plate on a tie must not adversely affect the fit of the switch point to the stock rail.	(b) Each switch point shall fit its stock rail properly. Lateral, vertical and longitudinal rail movement shall be effectively controlled so the fit of the switch point to the stock rail is not adversely affected.
(c)-(h)	(c)-(h) No Change.
	(i) A switch point may not have an unprotected vertical or inclined surface 5/16 inch or more in width at depth of 3/4 inch below the top of the stock rail.

Present	Proposed
§ 213.137 Frogs.	§ 213.137 Frogs.
(a) - (c)	(a) - (c) No Change.
	(d) The distance between the gage line and the face of the raised guard on self guarded frog may not exceed 4-3/8 inches.
§ 213.139 Spring rail frogs.	§ 213.139 Spring rail frogs.
	No change.
§ 213.141 Self-guarded frogs.	§ 213.141 Self-guarded frogs.
(a) The raised guard on a self-guarded frog may not be worn more than three-eights of an inch.	Delete entire section.
(b) If repairs are made to a self-guarded frog without removing it from service, the guarding face must be restored before rebuilding the point.	
§ 213.143 Frog guard rails and guard faces; gage.	§ 213.143 Frog guard rails and guard faces; gage.
	No change.

SUBPART E - TRACK APPLIANCES AND TRACK-RELATED DEVICES

Present	Proposed
§ 213.201 Scope.	§ 213.201 Scope.
This subpart prescribes minimum requirements for certain track appliances and track-related devices.	Delete.
§ 213.205 Derails.	§ 213.205 Derails.
(a) Each derail must be clearly visible. When in a locked position a derail must be free of any lost motion which would allow it to be operated without removing the lock.	Delete entire section.
(b) When the lever of a remotely controlled derail is operated and latched it must actuate the derail.	
§ 213.207 Switch heaters.	§ 213.207 Switch heaters.
The operation of a switch heater must not interfere with the proper operation of the switch or otherwise jeopardize the safety of railroad equipment.	Delete.

SUBPART F - INSPECTION

Present	Proposed
§ 213.231 Scope.	§ 213.231 Scope.
	No change.
§ 213.233 Track inspections.	§ 213.233 Track inspection.
	No change.
§ 213.235 Switch and track crossing inspections.	§ 213.235 Turnout and track crossing inspections.
(a) Except as provided in paragraph (b) of this section, each switch and track crossing must be inspected on foot at least monthly.	(a) Except as provided in paragraph (b) of this section, each turnout and track crossing shall be inspected on foot at least monthly by a person designated under 213.7.
(b) In the case of track that is used less than once a month, each switch and track crossing must be inspected on foot before it is used.	(b) In the case of track that is used less than once a month, each turnout and track crossing must be inspected on foot before it is used. This inspection must be made by a person designated under 213.7.
§ 213.237 Inspection of rail.	§ 213.237 Inspection of rail.
(a) In addition to the track inspections required by § 213.233, at least once a year a continuous search for internal defects must be made of all jointed and welded rails in classes 4 through 6 track, and class 3 track over which passenger trains operate. However, in the case of a new rail, if before installation or within 6 months thereafter it is inductively or ultrasonically inspected over its entire length and all defects are removed, the next continuous search for internal defects need not be made until three years after that inspection.	(a)(1) In addition to the track inspections required by § 213.233, a continuous search for internal rail defects shall be made of all rail in classes 3 through 6 track and all track over which passenger trains operate in class 2. In the case of new "A" rails to be used in Classes 3 through 6 track or Class 2 over which passenger trains operate an inspection for internal defects shall be made before installation. If all defects are removed before installation, the next continuous search for internal defects need not be made until three years after installation.

(aX2) Minimum Required Number of Rail Inspections Per Year

Rail Wt.	Rail Age More than	Rail Age Less than	Annual Million Gross Tons of Traffic During Preceeding Calendar Year (mgt) Less than 10 mgt	Between 10 and 20 mgt	Between more than 20 & 40 mgt	More than 40 mgt
less than 90 lb/yd	3	10	1	1	2	2
	10	20	1	2	2	3
	20	40	1	2	2	3
	40	—	1	2	3	4
90 lb/yd to 110 lb/yd	3	10	1/2	1	1	2
	10	20	1	1	2	2
	20	40	1	2	2	2
	40	—	1	2	2	3
More than 110 lb/yd	3	10	1/2	1	1	1
	10	20	1/2	1	1	2
	20	40	1	1	2	2
	40	—	1	1	2	2

(3) The time interval between rail inspections shall be as follows:

(i) Where inspection is required every other year (1/2 peryear) the interval between inspections may not be more than 29 months.

Present	Proposed
§ 213.237 (Continued)	§ 213.237 (Continued)
	(ii) Where one inspection per year is required, the interval between inspections may not be .nore than 14 months or less than 6 months.
	(iii) Where two inspections per year are required, there shall be at least a 4 month interval between inspections.
	(iv) Where three inspections per year are required, there shall be at least a 3 month interval between inspections.
	(v) Where four inspections per year are required, there shall be at least a 2 month interval between inspections.
(b) Inspection equipment must be capable of detecting defects between joint bars and in the area enclosed by joint bars.	(b) Inspection equipment shall be capable of detecting defects between joint bars and in the area enclosed by joint bars.
(c) Each defective rail must be marked with a highly visible marking on both sides of the web and base.	(c) Each defective rail shall be marked with a highly visible marking on both sides of the web and base.
§ 213.239 Special Inspections.	§ 213.239 Special Inspections.
	No Change
§ 213.241 Inspection records	§ 213.241 Inspection records.
(a) Each owner of track to which this part applies shall keep a record of each inspection required to be performed on that track under this subpart.	(a) No change
(b) Each record of an inspection under §§ 213.233 and 213.235 shall be prepared on the day the inspection is made and signed by the person making the inspection. Records must specify the track inspected, date of inspection, location and nature of any deviation from the requirements of this part, and the remedial action taken by the person making the inspection. The owner shall retain each record at its division headquarters for at least one year after the inspection covered by the record.	(b) Each record of an inspection under §§ 213.233, and 213.235 shall be prepared on the day the inspection is made and signed by the person making the inspection. The railroad shall retain each record at its Division Headquarters for at least one year after the inspection covered by the record. Records shall specify: (1) Track inspected and limits of inspection. (2) Class of track. (3) Date of inspection. (4) Location and a description of any deviation of the requirements of this part. The description must include measurement where necessary and indicate the defect as being a deviation from this part. (5) Remedial action prescribed by the designated person that made the inspection and indicate that: (i) the track was promptly brought into compliance by repair or reducing the maximum authorized speed; and (ii) operations were halted until the track was brought into compliance.
(c) Rail inspection records must specify the date the inspection, the location and nature of any internal rail defects found and the remedial action taken and the date thereof. The owner shall retain a rail inspection record for at least two years after the inspection and for one year after the remedial action is taken.	(c) No change.
(c)	(d) No change.
(d)	

[FR Doc. 79-26752 Filed 8-27-79; 10:43 am]
[BILLING CODE 4910-06-C]

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federal register

Thursday
September 6, 1979

Part V

Department of Energy

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Performance Standards; Public Hearing

V 4 4 / 1 7 4 S E 6 7 9

DEPARTMENT OF ENERGY

[10 CFR Part 475]

[Docket No. CAS-RM-79-201]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Performance Standards for Demonstrations; Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) is proposing amendments to the minimum performance standards required for electric and hybrid vehicles to be purchased or leased for the demonstration program implemented by DOE pursuant to section 7 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, as amended by the Department of Energy Act of 1978—Civilian Applications. DOE is required to revise the performance standards periodically as the state-of-the-art improves. The proposed amendments to the performance standards would first apply to vehicles to be purchased or leased for the demonstration program in 1980.

DATES: Written comments must be received by 4:30 p.m., e.s.t., on or before November 5, 1979. The public hearing will be held on October 16, 1979, at 9:30 a.m., e.d.t. Requests to speak at the hearing must be received by 4:30 p.m., e.d.t., on October 5, and speakers will be notified by October 8, 1979.

ADDRESSES: Send written comments, requests to speak and copies of speaker's statement to Joanne Bakos, Office of Conservation and Solar Applications, Mail Stop 2221C, Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20585. The public hearing will be held in Room 3000A, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Charles E. Pax, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4893).

Pamela M. Pelcovits, Office of the General Counsel, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-9469.

Joanne Bakos, Office of Dockets and Hearings, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-1651.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Development of the Proposed Amendments.
III. Discussion of the Proposed Amendments.
IV. Opportunities for Public Comment.
V. Other Matters.

I. Background.

A. Initial Performance Standards.

Section 7(b)(1) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Pub. L. 94-413), as amended by the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238) (together referred to as the Act) required the Department of Energy (DOE), as the successor to the Energy Research and Development Administration, to promulgate rules establishing minimum performance standards for electric and hybrid vehicles (EHV's) to be purchased or leased for use in the demonstration program established under section 7(c) of the Act. On February 6, 1978, DOE issued the proposed initial performance standards for public comment (43 FR 5841, February 10, 1978). The final regulations prescribing the initial performance standards were issued on May 24, 1978 (43 FR 23498, May 30, 1978).

As required by section 7(b)(1) of the Act, the performance standards were developed by DOE taking into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, the best current state-of-the-art and reasonable estimates as to the near-term future state-of-the-art, and other relevant considerations. As required by section 7(b)(2) of the Act, the initial performance standards were set at levels determined by DOE to be necessary to promote the acquisition and use of such vehicles for transportation purposes within the capability (determined by DOE) of EHV's.

B. The Demonstration Program.

Pursuant to section 7(c) of the Act, DOE implemented the EHV demonstration program in 1978 with the selection of demonstration site operators in both the private sector and in Federal agencies, accounting for the introduction of approximately 200 EHV's. Expansion of the demonstration program in 1979 will result in the introduction of an additional 600 vehicles in private, state and local government, university, and Federal agency demonstration sites. Additional information on the demonstration program is available as indicated later in this notice.

II. Development of Proposed Amendments.

A. Introduction.

The performance standards are to be revised, periodically, as the state-of-the-art improves, pursuant to section 7(b)(3) of the Act. In evaluating the state-of-the-art to identify areas in which the initial performance standards should be revised, DOE used information and data from the following sources: (1) the public response to a Notice of Inquiry (NOI); (2) results of DOE sponsored verification testing of vehicles which have been certified by their manufacturers as meeting the initial performance standards; (3) results and projections from ongoing research and development programs under the Act; (4) data and information from representatives of groups associated with EHV design and safety, including the Department of Transportation; and (5) other available information.

The following paragraphs discuss the contribution of the major sources of information to the proposed amendments. The detailed information used in developing the proposed amendments is available to the public as provided for later in this notice.

B. Notice of Inquiry.

As part of its consideration of what revisions were appropriate to the initial performance standards and pursuant to its policy to develop regulations in an open and accountable manner with public participation early in the rulemaking process, DOE issued an NOI regarding amendments to the performance standards on March 3, 1979 (44 FR 12685, March 8, 1979). The NOI specifically requested comments on any improvements in the state-of-the-art of electric or hybrid vehicles which would justify revisions to the initial performance standards, the manner in which the performance standards should be revised in light of these improvements, and any other basis for revising the performance standards.

In response to the NOI, three written comments were received. One comment stated that it was premature to comment extensively on the existing performance standards, since the commenter was currently testing and evaluating a vehicle for the demonstration program. The commenter referred to comments submitted in a 1978 response to the proposed initial performance standards which had stated that the performance standards, as proposed, were too stringent.

The other two comments suggested that the performance standards for acceleration, range, and forward speed

be increased. DOE has considered these comments, together with other available information, in developing the amendments to the performance standards proposed below.

These two comments also addressed the safety requirements of the performance standards. One supported the position that EHV's should be required to meet the same Federal motor vehicle safety standards as conventional vehicles but also stated that there should be additional standards in specific areas such as electric shock, interlocks and battery ventilation. The other comment stated that the existing safety standards do not adequately address the problems of safety unique to EHV's. Areas such as electrolyte spillage, retention of batteries during collisions, and general crashworthiness were specifically mentioned.

DOE recognized the importance of safety requirements in issuing the initial performance standards which require vehicles to meet all applicable Federal motor vehicle safety standards, unless a waiver is obtained from the Department of Transportation, and also set forth additional safety requirements. DOE reviewed these comments and consulted the National Highway Traffic Safety Administration (NHTSA) on the need for further safety requirements. Based on these reviews, the current safety requirements of the performance standards are appropriate for the vehicles involved in the demonstration program.

C. Results of DOE Sponsored Verification Testing.

In order for a vehicle to be eligible for inclusion in the demonstration program, the manufacturer must have vehicles available for sale or lease and must submit a certification to DOE that the vehicle meets the current performance standards. At present, manufacturers have submitted certifications for seventeen EHV's. DOE has instituted a testing program to verify the certification statements. Performance testing is conducted by the U.S. Army Mobility Equipment Research and Development Command (MERADCOM) under contract to DOE.

The comprehensive results of such testing provide the most reliable data on the EHV industry's state-of-the-art. While there has only been extensive testing of four vehicles to date, the reports on these tests were used in developing the proposed amendments, where appropriate.

D. DOE Research and Development Programs.

Pursuant to section 7(b)(1)(B), DOE is to take into account "reasonable estimates as to the future state-of-the-art, based on projections of results from research and development conducted under section 6 [of the Act]" in developing performance standards. Over the past several months, experimental vehicles have been introduced to the public which are the results of two such research and developments programs implemented under the Act: the Product Improvement Program and the Near-Term Electric Vehicle Program.

The Product Improvement Program, initiated in June 1978, has resulted in four different vehicles which, from preliminary indications, will offer improved performance over earlier vehicles. These improvements were accomplished through optimization of off-the-shelf technology and components. The vehicles were delivered to DOE in May, 1979, and will undergo testing and evaluation by DOE during the remainder of 1979.

The Near-Term Electric Vehicle Program is developing test vehicles which have been totally designed as electric vehicles and which are intended to represent significant advancement over the existing performance standards. The first such test vehicle was publicly displayed in June 1979 but has not yet been delivered to DOE for testing and evaluation. It is important to note that the goal of this program is to develop designs for vehicles that could be available for mass production by the middle of the 1980's. At present these vehicles are not produced for the consumer market.

In evaluating the current state-of-the-art and estimating future state-of-the-art, DOE has considered the goals for vehicles of the Near-Term and Product Improvement Programs. However, at the present no verified performance data on these vehicles are available, and the vehicles are still considered experimental.

E. Information From Groups Associated with EHV Design and Safety.

To further evaluate the initial performance standards, DOE contracted with the Aerospace Corporation to conduct discussions with representatives of groups involved in the EHV industry and in various parts of DOE's research, development and demonstration programs. Discussions were held with persons in the following groups: electric vehicle manufacturers, private sector demonstration site operators, Federal government agencies, universities, general vehicle manufacturers, battery manufacturers, consumer interest groups and other persons familiar with the EHV industry.

Over one-half of the people interviewed stated that, based on the present state-of-the-art, the performance standards should not be changed. Another quarter were divided between stating that specific items in the initial performance standards—such as range, acceleration, battery lifetime, and recharge time requirements—were too stringent or too lenient. The remainder of those contacted did not have any recommendations on whether to amend the initial performance standards. Details of specific discussions and the evaluation of these comments are contained in the contractor's report.

DOE also discussed the initial performance standards with representatives of NHTSA, particularly as to the need for any additional safety standards. The NHTSA representatives did not recommend any substantive changes or additions to the safety requirements of the initial performance standards but did suggest some clarifying language to the performance standards.

F. Public Access to Information.

In order to assist the public in commenting on DOE's proposed amendments, copies of the following documents will be available for public inspection and copying in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m.:

Major Sources of Information used in Evaluating the State-of-the-Art of the EHV Industry.

1. Evaluation of Demonstration Performance Standards, Electric and Hybrid Vehicle Program (Final Report), Aerospace Corporation, ATR-79 (7767)-1, August, 1979.
2. Verification Test Reports on Four EHV's Certified by Manufacturers for the Demonstration Program: Jet Industries E Van 1000 Verification and Baseline Test Results; Battronic Minivan M065NLB Verification Test Results; Electric Vehicle Associates, Change of Pace, Verification Tests; and Jet Industries Van Model 600, Verification Tests.
3. Comments received by DOE in Response to a Notice of Inquiry published in the **Federal Register** on March 8, 1979.
4. Near Term Electric Vehicle Program, Phase 2, Mid-Term Summary Report, August 1978.
5. Electric and Hybird Vehicle Program, Product-Improved Vehicles, Information Bulletin No. 402, June 1979.

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Additional Sources of Information on the State-of-the-Art of the EHV Industry.

6. United States Postal Services Specifications for light delivery truck USPS–T–855 (R&DE) February 15, 1979.

7. GSA. Interim Federal Specification Truck, Light, Commercial, Electric Powered, Front or Rear Wheel Driven, 4x2 500 to 3000 Pounds Minimum Payload. Specification number KKK–T–001985 1 September 1977.

8. State-of-the-Art Assessment of Electric and Hybrid Vehicles, Report numbers HCP/M1011–01, 1977; (HCP/M1011–0311, July, 1978; HCPM 1011–03/2. November, 1978).

9. Public Comments Received in response to a Notice of Proposed Rulemaking published in the **Federal Register** on February 10, 1978.

10. Four Reports used in Developing the Initial Performance Standards: (a) Arthur D. Little Report (SAN/1335–1); (b) General Research Corporation Report (SAN/1215–1); Society of Automotive Engineers Report (CONS/5053); and National Highway Traffic Safety Administration Report (DOT HS 802611).

Additional Information on DOE's EHV Demonstration Program.

11. EHV Program Quarterly Report Number 7, DOE/CS–0026–7.

III. Discussion of Proposed Amendments.

A. Proposed Quantitative Amendments to the Performance Standards.

DOE is today proposing amendments to the initial performance standards which would require the following quantitative changes in the performance standards for personal-use vehicles: (1) Acceleration (§ 470.10(a))—reducing the time allowed to accelerate from rest to 50 km/hr from 15 to 13.5 seconds; and (2) Range (§ 470.10(e))—increasing the distance a vehicle must be capable of operating without a recharge from 50 km (on the SAEJ227a/C cycle) to 55 km. DOE is also proposing the following quantitative changes to the initial performance standards for commercial vehicles: (1) Acceleration (§ 470.11(a))—reducing the time allowed for commercial vehicles with a payload carrying capacity of 600 kg or less to accelerate from rest to 50 km/hr from 15 to 14 seconds and eliminating any performance standard for acceleration for commercial vehicles with a payload carrying capacity of greater than 600 kg; (2) Forward Speed Capability (§ 470.11(d))—increasing the forward speed capability of commercial vehicles from 70 km/hr (for five minutes) to 75 km/hr; and (3) Range (§ 470.11(e))—increasing the range requirement for commercial vehicles from 50 km (on the SAEJ227a/B cycle) to 60 km. No quantitative changes to any of the other performance standards are proposed.

In proposing amendments to the initial performance standards, DOE has taken into account the elements required by section 7(b)(1) of the Act for developing performance standards (as set forth in section I.A. above). In determining to propose the upgrading of certain performance standards and in determining the extent of the proposed improvements, DOE has evaluated both the current state-of-the-art of the EHV industry and reasonable estimates of the future state-of-the-art when the revised performance standards will first be applicable, pursuant to section 7(b)(3) of the Act. In making these determinations, DOE has considered the interrelationship of performance characteristics in EHV's, in large part due to the limiting factor of battery capability. For example, if each performance standard were independently set at a maximum achievable level, no vehicle could meet all the performance standards, and none would, therefore be eligible to participate in the demonstration program. Accordingly, in determining which performance standards to amend, DOE has exercised its judgment in choosing to upgrade the requirements in those areas which it believes, based on the available information, are most important to potential vehicle users in the demonstration program.

Similarly, DOE has use its judgment in determing what levels of improvement to recommend. The proposed quantitative amendments reflect the trade-off among performance characteristics discussed above and DOE's interest in maintaining the potential for demonstration vehicles to represent a cross-section of available EHV technologies, pursuant to section 7(c)(1) of the Act. Moreover, the levels of improvement stated above represent the best judgment of DOE personnel based on the evaluation of verified data, program goals and the recommendations of the various representatives of organizations interested in the EHV industry, rather than exact quantitative calculations of expected improvement. More detailed information on the information used in determining the level of each proposed amendment is available as indicated in section II.F above.

It should be noted that DOE is not proposing any amendments to the performance standards for personal-use and commercial hybrid vehicles (as opposed to electric vehicles) due to the lack of sufficient data on the performance of hybrid vehicles, either from the demonstration program or the DOE research and development programs.

In evaluating the amendments to the initial performance standards, it is important to understand the scope and application of these standards. The performance standards do not establish general requirements for EHV's available to the public but are intended for use only in DOE's demonstration program established under section 7(c) of the Act. As required by section 7(b)(2) of the Act, the performance standards present minimum levels of performance which are required with respect to any vehicles to be purchased or leased in the demonstration program. In the implementation of the demonstration program, demonstration site operators may and, in fact, do require additional specifications to meet their particular operation requirements.

DOE is interested in comments on the proposed amendments. These comments would be more useful if they refer to specific requirements of the performance standards rather than the standards generally.

B. Additional Proposed Amendments to the Performance Standards.

In addition to these quantitive changes, DOE is proposing several amendments to clarify the performance standards. The definition of "personal-use vehicle" in § 475.2 "Definitions" is revised to mean a vehicle designed to carry 10 persons or less, except a "multipurpose passenger vehicle," "motorcycle," "truck," or "trailer," as those terms are defined in NHTSA's Motor Vehicle Safety Standard Regulations (49 CFR part 571). The defintion of each of these terms in the NHTSA regulations is a simple description of the design and/or purpose of the particular type of motor vehicle. DOE believes that the amended definition is more precise than the current definition which required a subjective determination as to whether a vehicle was designed and primarily used for transporting the operator and passengers. In addition, since the amended definition closely tracks the definition of "passenger vehicle" in the NHTSA regulations, it will simplify the application of NHTSA's Federal motor vehicle standards to personal-use vehicles, as required by § 475.10(o) of the performance standards.

Sections 475.10(g) and 475.11(g) are revised to make clear that an automatic recharge control is required, excluding the possibility of manual battery charging operation. Sections 475.10(1) and 475.11(1) are revised to specify that the vehicle must have the capabiliy of having a passenger comfort heater. It remains the option of the purchaser to determine if his needs require installation of a heater. However, this does not eliminate the need for vehicles to meet the windshield defrosting requirements of Federal Motor Vehicle Safety Standard 103.

Sections 475.10(o) and 475.11(o) are revised to clarify the applicability of all Federal motor vehicle safety standards to the demonstration vehicles, unless the manufacturer obtains a temporary exemption from the Department of Transportation (DOT). This clarification was requested by DOT during DOE's coordination with DOT on this rulemaking. In addition, DOE is clarifying § 475.10(o)(vi) and § 475.11(o)(vi) to indicate that "operation" after extended exposure to high or low temperature means the ability of the vehicle to move forward under its own power.

DOE is interested in comments on the appropriateness of these clarifications and any other clarifications which could be made to the performance standards.

IV. Opportunities for Public Comment.

A. Written Comments.

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations set forth in this notice. Comments should be submitted to the address indicated in the addresses section of this preamble and should be indentified on the outside of the envelope and on documents submitted to DOE with the designation "EHV Performance Standards (Docket No. CAS–RM–79–201)." Fifteen (15) copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments received by [60 days from date of publication] before 4:30 p.m., e.s.t., and all other relevant information will be considered by DOE before final action is taken on the proposed regulations.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing.

1. *Request Procedures.* The time and place of the public hearing are indicated in the dates and addresses sections of this preamble. DOE invites any person who has an interest in this proposed rulemaking or who is a representative of a group or class of persons that has an interest in the proposed rulemaking to make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address indicated in the addresses section of this preamble and must be received before 4:30 p.m., e.d.t., on October 5, 1979. A request may be hand delivered between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Request should be labeled both on the document and on the envelope "EHV Performance Standards—Public Hearing (Docket No. CAS–RM–79–201)."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where the requester may be contacted through the day before the hearing. Each person selected to be heard will be notified by DOE before 4:30 p.m., e.d.t., October 8, 1979. Fifteen (15) copies of a speaker's statement should be brought to the hearing. In the event that any person wishing to testify cannot provide 15 copies, alternative arrangements can be made in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Joanne Bakos at 376–1651.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person wishing to make an oral presentation at the hearing, but who does not file a timely request as specified above, may notify Joanne Bakos before the hearing or the presiding officer during the hearing of his or her desire to make a presentation. Such person will be admitted as a "limited" participant and will be heard at such time and for such duration as the presiding officer may permit.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

V. Other Matters

A. Environmental Review.

Upon review of an Environmental Assessment prepared to evaluate the environmental effects of the EHV Research, Development, and Demonstration Program of which this rulemaking is a part, it has been determined that the program does not constitute a major federal action significantly affecting the quality of the human environment and that, therefore, no Environmental Impact Statement need be prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

B. Regulatory Review.

It has been determined that the proposed regulation is significant, as that term is used in Executive Order 12044 and amplified in DOE Order 2030. This determination is based upon the importance of the overall electric and hybrid vehicle program in encouraging the development of alternative means of transportation. It has been further determined that this regulatory action is

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not likely to have a major impact, as defined by Executive Order 12044 and DOE Order 2030; consequently, no regulatory analysis will be prepared in this instance.

C. Urban Impact Analysis.

This proposed regulation has been reviewed in accordance with OMB Circular A–116 to assess the impact on urban centers and communities. In accordance with DOE's finding that the regulation is not likely to have a major impact, DOE has determined that no community and urban impact analysis of the rulemaking is necessary, pursuant to section 3(a) of Circular A–116.

D. Coordination with the Secretary of Transportation.

As required by section 5(a) of the Act, DOE has consulted and coordinated the proposed amendments to the performance standards with the Secretary of Transportation. Such consultation and coordination will continue during the preparation of the amendments.

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94–413, 90 Stat. 1260 *et. seq.* (15 U.S.C. 2501 *et. seq.*), as amended by the Department of Energy Act of 1978–Civilian Applications, Pub. L. 95–238; Depatment of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 *et. seq.* (42 U.S.C. 7101 *et. seq.*))

In consideration of the foregoing, DOE hereby proposes to amend Part 475 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., August 29, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

1. Section 475.2 is amended by revising the definition of "personal-use vehicle" to read as follows:

§ 475.2 Definitions.

* * * * *

"Personal-use vehicle" means a vehicle designed to carry ten persons or less, except a multipurpose passenger vehicle, motorcycle, truck, or trailer, as those terms are defined in 49 CFR 571.3.

* * * * *

2. Section 475.10 is amended by revising paragraphs (a), (e), (e)(1), (g), (l), (o)(1), (o)(2)(ii) and (o)(2)(vi) to read as follows:

§ 475.10 Minimum levels of performance for personal-use vehicles.

* * * * *

(a) *Acceleration.* The time required to accelerate from rest to 50 km/h shall not exceed 13.5s.

(e) *Range.* The distance which the vehicle can be operated with vital accessories on or equivalent shall be:

(1) For an electric vehicle, at least 55 km on the SAE J227a/C cycle, and

* * * * *

(g) *Recharge control.* The vehicle shall have an automatic recharge control which will meet the requirements of energy, life, and safety as such requirements are stated by these performance standards.

* * * * *

(l) *Passenger comfort heater.* The vehicle shall have the capability of having a passenger comfort heater installed at the option of the purchaser.

* * * * *

(o) *Safety, crashworthiness, damageability, crash avoidance and hazards.* (1) The vehicle shall comply with all applicable Federal motor vehicle safety standards as set forth in 49 CFR Part 571, unless a temporary exemption is obtained by the manufacturer from the Department of Transportation.

(2) * * *

(ii) The vehicle shall be capable of complying with the performance requirements of Federal motor vehicle safety standards 208 and 301 with all battery materials remaining outside the passenger compartment.

* * * * *

(vi) The vehicle shall be capable of being parked for up to 8 hours in temperatures of −25°C to 50°C and subsequently operated, by moving forward under its own power, at any temperature within this temperature range without damage to the vehicle or hazard to persons.

3. Section 475.11 is amended by revising paragraphs (a), (d), (e)(1), (g) (l), (o)(1), (o)(2) (ii) and (vi) to read as follows:

§ 475.11 Minimum levels of performance for commercial vehicles.

* * * * *

(a) *Acceleratin.* The time required to accelerate from rest to 50 km/h shall not exceed 14s for vehicles with a payload carrying capability of less than or equal to 600 kg.

* * * * *

(d) *Forward speed capability.* The speed which can be maintained for 5 minutes shall be 75 km/h.

* * * * *

(e) *Range.* The distance which the vehicle can be operated with vital accessories on or equivalent shall be:

(1) For an electric vehicle, at least 60 km on the SAE J227a/B cycle, and * * *

* * * * *

(g) *Recharge control.* The vehicle shall have an automatic recharge control which will meet the requirements of energy, life, and safety as such requirements are stated by these performance standards.

* * * * *

(l) *Passenger comfort heater.* The vehicle shall have the capability of having a passenger comfort heater installed at the option of the purchaser.

* * * * *

(o) *Safety, crashworthiness, damageability, crash avoidance and hazards.* (1) The vehicle shall comply with all applicable Federal motor vehicle safety standards as set forth in 49 CFR Part 571, unless a temporary exemption is obtained by the manufacturer from the Department of Transportation.

(2) * * *

(ii) The vehicle shall be capable of complying with performance requirements of Federal Motor Vehicle Safety Standards 208 and 301 with all battery materials remaining outside the passenger compartment.

* * * * *

(vi) The vehicle shall be capable of being parked for up to 8 hours in temperatures of −25°C to 50°C and subsequently operated, by moving forward under its own power, at any temperature within this temperature range without damage to the vehicle or hazard to persons.

[FR Doc. 79–27818 Filed 9–5–79; 8:45 am]
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federal register

Thursday
September 6, 1979

Part VI

Department of Energy

Environmental Effects Abroad of Major Federal Actions; Implementation of Executive Order 12114; Proposed Guidelines

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DEPARTMENT OF ENERGY

Implementation of Executive Order 12114; Environmental Effects Abroad of Major Federal Actions; Proposed Guidelines

AGENCY: Department of Energy.

ACTION: Proposed Guidelines for Implementation of Executive Order 12114.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish departmental guidelines implementing Executive Order 12114—Environmental Effects Abroad of Major Federal Actions, which was issued on January 4, 1979.

The proposed guidelines supplement the procedures set forth in DOE's proposed guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, which were published for public comment in the **Federal Register** on July 18, 1979, and are designed to be coordinated with the environmental review procedures established by those procedures. They will be applicable to all organizational units of DOE, except the Federal Energy Regulatory Commission (FERC), and independent regulatory commission within DOE not subject to the supervision or direction of the other parts of DOE.

Written comments are requested with respect to these proposed guidelines.

DATES: Comments must be received no later than November 5, 1979.

ADDRESSES: Comments should be sent to Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environment, Department of Energy, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environment, Department of Energy, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202–252–4600.

Stephen H. Greenleigh, Esq., Assistant General Counsel for Environment, Department of Energy, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202–252–6947.

SUPPLEMENTARY INFORMATION:

I. Background.
II. The Proposed Guidelines.
III. Comment Procedures.

I. Background

A. National Environmental Policy Act

The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies give appropriate weight to factors affecting the human environment during all stages of their decisionmaking process. In this connection, NEPA requires Federal agencies to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment.

B. Council on Environmental Quality NEPA Regulations

Executive Order 11991 (May 24, 1977) directed the Council on Environmental Quality (CEQ) to issue regulations implementing the procedural provisions of NEPA. CEQ promulgated those regulations on November 29, 1978 (43 FR 55978). They became binding on all non-exempt Federal agencies on July 30, 1979 for actions with impacts on the U.S., its territories or possessions. The CEQ regulations (40 CFR 1500 *et seq.*) require agencies to adopt implementing procedures no later than July 30, 1979, to supplement the uniform procedures established by CEQ.

C. Department of Energy NEPA Guidelines

On July 18, 1979, DOE published in the **Federal Register** (44 FR 42136) a notice announcing proposed guidelines implementing the CEQ NEPA regulations. These guidelines are intended for use by all persons acting on behalf of DOE in carrying out certain provisions of the CEQ regulations.

At the time the CEQ regulations became effective (July 30, 1979), DOE revoked the NEPA regulations previously promulgated by the Energy Research and Development Administration (10 CFR Part 711) and the Federal Energy Administration (10 CFR Part 208), two of the predecessor agencies of DOE, and adopted the proposed DOE guidelines on an interim basis pending publication in final form.

D. Executive Order 12114

On January 4, 1979, President Carter signed Executive Order 12114, entitled Environmental Effects Abroad of Major Federal Actions. The Order represents the exclusive and complete determination by the Executive Branch of the procedural and other actions to be taken by Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions.

The Executive Order directed every Federal agency taking actions not exempted by the Order that have significant effects on the environment outside the geographical borders of the United States and its territories and possessions to have procedures in effect to implement the Order by September 4, 1979.

II. The Proposed Guidelines

A. General

The guidelines proposed herein are intended to satisfy the requirements of Executive Order 12114 regarding supplemental implementing procedures. They are intended for use by all persons acting on behalf of the agency in carrying out the Executive Order. The Executive Order and these proposed guidelines are not intended to create or enlarge any substantive or procedural rights or cause of action against DOE.

These implementing Guidelines in large measure reiterate the Executive Order provisions. It is recommended that these guidelines be read and interpreted in conjunction with Executive Order 12114, DOE's NEPA guidelines implementing the CEQ NEPA regulations and DOE Order 5440.1 governing internal DOE NEPA processes to obtain a more complete understanding of DOE environmental review policies and procedures.

The proposed guidelines will be applicable to all organizational elements of DOE except FERC, an independent regulatory body within DOE.

B. Actions for Which Environmental Review Is Required

Part B of these guidelines describes the categories of DOE activities that require environmental review and the types of analyses necessary to satisfy this requirement. Categories of actions and required environmental reviews are listed below.

1. Major Federal actions significantly affecting the environment of the global commons outside the territorial jurisdiction of any nation, such as the oceans or Antarctica.

Preparation of an environmental impact statement for these actions is required.

2. Major Federal actions significantly affecting the environment of a foreign nation which is not participating with the United States in the activity and which is not otherwise involved in the action.

Preparation of either a bilateral (or multilateral) environmental study or, at DOE's discretion, a concise review of the environmental issues involved, such as by the preparation of an environmental assessment or summary environmental analysis, is required for these actions.

3. Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(a) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk;

(b) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

Preparation of either a bilateral (or multilateral) environmental study or, at DOE's discretion, a concise review of the environmental issues involved, such as by the preparation of an environmental assessment or summary environmental analysis, is required for these actions.

4. Major Federal actions outside the United States, its territories and possessions significantly affecting natural or ecological resources of global importance that are designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

The environmental effects of actions in this category must be analyzed in either an environmental impact statement, a bilateral or multilateral environmental study, or an environmental assessment or summary environmental analysis providing a concise review of the environmental issues involved. The specific type of document to be prepared is left to DOE's discretion.

Environmental impact statements required by these guidelines will contain the information specified in the CEQ regulations for such documents (40 CFR 1502). Bilateral or multilateral studies prepared pursuant to these guidelines must contain a currently valid analysis of all significant environmental impacts and issues associated with the proposed action. A concise analysis of the environmental issues involved, as required by sections 4.2.2, 4.3.2 or 4.4.3 of these proposed guidelines, will include brief discussions of the need for the proposed action, of reasonable alternatives to the proposal and of the environmental impacts of the proposed action and its reasonable alternatives.

Documents required by these proposed guidelines will be commenced as soon as practicable after DOE begins developing or is presented with a proposal. The documents must be completed early enough to that they can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made. The documents must be completed and considered prior to DOE taking an action which would have an adverse impact on the environment or limit or prejudice the choice of reasonable alternatives. Such documents will undergo DOE preparation in accordance with DOE Order 5440.1.

C. Actions That Are Exempted From Environmental Review Under These Guidelines

Certain actions are specifically exempted by Executive Order 12114 from its mandatory environmental review requirements. The exemptions, listed in Part C of these guidelines, include actions which DOE has determined do not have a significant effect on the environment outside the United States; actions taken by the President; actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict; intelligence activities and arms transfers; actions relating to nuclear activities, except actions providing to a foreign nation a nuclear production, utilization, or waste management facility; votes and other actions in international conferences and organizations; and disaster and emergency relief action.

The Executive Order also authorizes agencies to provide for categorical exclusions and such exemptions in addition to those listed above as may be necessary to meet emergency circumstances involving exceptional foreign policy and national security sensitivities or other such special circumstances. Section 6 of the proposed guidelines contains additional categorical exclusions and provisions for case by case exemptions. The guidelines also provide for consultation with the Department of State and the Council on Environmental Quality in utilizing such additional exemptions.

None of the above exemptions or exclusions apply to actions having a significant impact upon the environment of the global commons unless otherwise permitted by law.

Although not exempt from the mandatory environmental review requirements of Executive Order 12114, actions providing to a foreign nation a nuclear production, utilization or waste management facility are specifically excluded from these proposed guidelines. These actions will be addressed in a uniform government-wide set of procedures which are currently under inter-agency development.

None of the above exemptions or exclusions apply to actions having a significant impact upon the environment of the global commons unless otherwise permitted by law.

D. Other Provisions of the Proposed Guidelines

Pursuant to provisions in the Executive Order, DOE has provided, in Section 12 of Part D, for appropriate modifications in the contents, timing and availability of documents prepared pursuant to the guidelines proposed herein to enable the agency to decide and act promptly as and when required; avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities; or ensure appropriate reflection of diplomatic factors, international commercial, competitive and export promotion factors, or needs for governmental or commercial confidentiality, national security, and other such special considerations.

The proposed guidelines, at Section 11 in Part D, contain procedures for notification to other Federal agencies and affected foreign nations of the availability of environmental documents. Also, provisions are included for collaboration with the Department of State in exchanging environmental information and coordinating communications with foreign governments.

If a major Federal action having significant effects on the environment of the United States or the global commons requires preparation of an environmental impact statement (EIS), Section 14 of Part D of the proposed guidelines provides that the EIS need not analyze effects on the environment of foreign nations. It is anticipated that the appropriate environmental review of any such effects would be prepared as a separate document.

These proposed guidelines have been developed with the understanding that the Department of State will act as lead agency for the environmental review of actions providing to a foreign nation a nuclear production, utilization or waste management facility. These reviews will follow a uniform set of procedures which are presently being developed by an inter-agency working group. These uniform procedures will be published in proposed form for public comment. DOE will participate as a cooperating agency in conducting environmental reviews for these actions and will review its own guidelines implementing Executive Order 12114 from time to time to ensure that they do not conflict with the provisions of the uniform procedures.

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Attached as appendix A is an illustrative, non-inclusive list prepared by the Council on Environmental Quality of products, emissions, and effluents which are encompassed by Section 4.3 of these proposed guidelines regarding substances which are strictly regulated because of their toxic effects on the environment.

III. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments with respect to the proposed guidelines to Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environment, Department of Energy, Room 4G-064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Compliance with Executive Order 12114." Five (5) copies should be submitted, if possible. All comments and related information should be received by DOE on or before November 5, 1979 in order to ensure consideration. All comments submitted are subject to DOE's regulations at 10 CFR 1004 (44 FR 1908, January 8, 1979) governing freedom of information requests.

With respect to Executive Order 12044, "Improving Government Regulations," DOE has determined that the proposed guidelines are "significant" but not "major" because the anticipated effects of the guidelines would primarily be to provide internal direction for implementation of Executive Order 12114. Consequently, a regulatory analysis has not been prepared.

Issued in Washington, D.C., August 31, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

Department of Energy Guidelines for Implementation of Executive Order 12114—Environmental Effects Abroad of Major Federal Actions

Part A—General

Section:

1 Background.
2 Purpose and Scope.
3 Applicability.

Part B—Actions for Which Environmental Review is Required

4 Categories of Actions and Mandatory Environmental Review Requirements.

Part C—Actions Exempted From Mandatory Environmental Review

5 Actions Exempted by Executive Order 12114.
6 Actions Exempted by DOE.
7 Required Documentation for Exempted Actions.

Part D—Other Provisions

8 Public Involvement.
9 Timing.
10 Contents.
11 Notice of Availability.
12 Modifications to Contents, Timing and Availability.
13 Coordination With Department of State.
14 Duplication of Resources.
15 Miscellaneous Provisions.
16 Definitions.
17 Compliance.

Appendix:

A—Illustrated List for Determining Compliance with Section 4.3.
B—Categorical Exclusions.

Part A—General

Section 1 *Background*

1.1 The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. Two recent Executive Orders have been directed toward furthering the purposes of NEPA.

1.2 Executive Order 11991 (May 24, 1977) directed the Council on Environmental Quality (CEQ) to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA. Accordingly, CEQ published final NEPA regulations on November 29, 1978 (44 FR 55978) which apply to actions having an impact on the United States, its territories and possessions and which become binding on all non-exempt Federal agencies on July 30, 1979. The CEQ regulations (40 CFR 1500 *et seq.*) require agencies to adopt implementing procedures no later than July 30, 1979. To fulfill this requirement, DOE published proposed implementing guidelines on July 18, 1979 (44 FR 42136), which are intended for use by all persons acting on behalf of DOE in considering the impacts on the environment within the U.S., its territories and possessions.

1.3 Executive Order 12114 of January 4, 1979, represents the United States Government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions. The Executive Order requires that all Federal agencies taking actions subject to environmental review under the Order adopt implementing procedures by September 4, 1979.

Section 2 *Purpose and Scope*

2.1 This Part establishes guidelines for the Department of Energy's (DOE) implementation of the provisions of Executive Order 12114.

2.2 These guidelines are intended for use by all persons acting on behalf of DOE in implementing Executive Order 12114. The guidelines are not intended to create or enlarge any procedural or substantive rights or cause of action against DOE.

Section 3 *Applicability.*

These guidelines apply to all organizational elements of DOE, except the Federal Energy Regulatory Commission.

Part B—Actions for Which Environmental Review Is Required

Section 4 *Categories of Actions and Mandatory Environmental Review Requirements*

In the decisionmaking process for actions in the following categories, DOE will prepare and take into consideration the documents or studies specified below:

4.1 Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

Actions in this category require the preparation of an environmental impact statement, including, as appropriate, generic, program and project statements.

4.2 Major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action; e.g., by regulatory control.

Actions in this category require the preparation of either:

4.2.1 A bilateral or multilateral environmental study relevant or related to the proposed action. The study is to be conducted by the United States and one or more foreign nations, or by an international body or organization in which the United States is a member or participant; or

4.2.2 A concise analysis of the environmental issues involved, including environmental assessments, summary environmental analyses or other appropriate documents.

4.3 Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk (see Appendix A); or

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

For actions in this category, DOE will either:

4.3.1 Prepare a document as specified in Section 4.2.1; or

4.3.2 Prepare a document as specified in Section 4.2.2.

4.4 Major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection by the President pursuant to section 2-3(d) of Executive Order 12114 or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

For actions in this category, DOE will either:

4.4.1 Prepare a document as specified in Section 4.1; or

4.4.2 Prepare a document as specified in Section 4.2.1; or

4.4.3 Prepare a document as specified in Section 4.2.2.

Part C—Actions Exempted From Mandatory Environmental Review

Section 5 *Actions Exempted by Executive Order 12114*

5.1 The following types of actions are exempted from the mandatory environmental review requirements of Executive Order 12114 and these implementing guidelines:

5.1.1 Actions not having a significant effect on the environment outside the United States, as determined by DOE. (Actions having a potentially significant impact on the United States, its territories or possessions are subject to the provisions of CEQ's NEPA regulations and DOE's guidelines implementing those regulations.)

5.1.2 Actions taken by the President;

5.1.3 Actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict;

5.1.4 Intelligence activities and arms transfers;

5.1.5 Export licenses or permits or export approvals, and actions relating to nuclear activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1954, as amended, a nuclear waste management facility, or nuclear actions significantly affect the global commons.

5.1.6 Votes and other actions in international conferences and organizations;

5.1.7 Disaster and emergency relief action.

Section 6 *Actions Exempted by DOE*

6.1 The classes of actions which are listed in Appendix B of these guidelines are hereby categorically excluded from mandatory environmental review under Executive Order 12114 and these guidelines unless DOE determines that a particular action within such classes may possibly have a significant environmental effect requiring such review.

6.2 DOE may exempt, on a case-by-case basis, any action from the mandatory environmental review requirements of these guidelines when such exemption is determined by DOE to be necessary to meet:

6.2.1 Emergency circumstances;

6.2.2 Situations involving exceptional foreign policy or national security sensitivities;

6.2.3 Other such special circumstances.

6.3 In utilizing an exemption pursuant to section 6.2 above, DOE will consult with the Department of State and the Council on Environmental Quality as soon as is feasible.

Section 7 *Required Documentation for Exempted Actions*

For actions in connection with which DOE utilizes any categorical exclusion or other exemption pursuant to section 5 and 6 of these guidelines, DOE will prepare a brief memorandum which describes the basis for its determination to utilize such exclusion or exemption.

Part D—Other Provisions

Section 8 *Public Involvement*

DOE will provide for public involvement in the environmental review process conducted pursuant to these guidelines to the following extent:

8.1 Environmental impact statements (EIS) prepared pursuant to Sections 4.1 or 4.4.1 of these guidelines shall be subject to the provisions of:

8.1.1 DOE guidelines regarding publication of a Notice of Intent to prepare an EIS and public involvement in the EIS scoping process;

8.1.2 40 CFR 1502.9 regarding preparation of a draft and final EIS;

8.1.3 40 CFR 1503 regarding comment procedures for a draft EIS.

8.2 Documents or studies prepared pursuant to sections 4.2, 4.3 or 4.4.2 and 3 of these guidelines are not subject to the public involvement procedures in 8.1.1 through 8.1.3 above. DOE may, at its discretion, elect to utilize any or all of these procedures for any such document or study.

Section 9 *Timing*

9.1 DOE will commence preparation of environmental documents required by these proposed guidelines as close as practicable to the time DOE is developing or is presented with a proposal, and complete such documents early enough so that they can serve practically as an important contribution to the decisionmaking process.

9.2 Until an environmental document required by these guidelines has been completed and considered, DOE will take no action concerning the proposal which would have an adverse environmental impact or limit or prejudice the choice of reasonable alternatives.

9.3 For actions which have significant impacts both on the environment of the United States, its territories or possessions and on the environment of foreign nations or the global commons, documents prepared pursuant to sections 4.1, 4.2 or 4.3 of these guidelines analyzing the impacts outside the U.S. will, to the extent practicable, be prepared and reviewed in conjunction with the analyses of the domestic impacts of the proposed action.

Section 10 *Contents*

10.1 Environmental impact statements prepared pursuant to section 4.1 or 4.4.1 of these guidelines will follow the recommended format of 40 CFR 1502.10 and contain the types of information specified in 40 CFR 1502.11-1502.18.

10.2 Bilateral or multilateral environmental studies prepared pursuant to sections 4.2.1, 4.3.1, or 4.4.2 will contain a currently valid analysis of all significant environmental impacts of the proposed action.

10.3 Environmental analyses prepared pursuant to section 4.2.2, 4.3.2 or 4.4.3 will include brief discussions of:

10.3.1 the proposed action and the need therefor;

10.3.2 The reasonable alternatives to the proposed action which could be implemented directly or indirectly by the U.S.; and

10.3.3 The environmental impacts associated with the proposed action and the reasonable alternatives.

Section 11 *Notice of Availability*

11.1 DOE will, as soon as feasible, inform other Federal agencies with relevant interest and expertise of the availability of any documents prepared pursuant to these guidelines.

11.2 DOE will determine, after consultation with the Department of State, the appropriate time and manner for informing an affected nation of the availability of any relevant documents prepared pursuant to these guidelines.

11.3 As soon as practicable after notification to an affected nation in accordance with section 11.2 of these proposed guidelines, DOE will provide notice to the public of the availability of the environmental review documents specified in sections 4.1, 4.2.1, and 4.2.2 of these guidelines.

Section 12 *Modifications to Contents, Timing and Availability*

DOE will make appropriate modifications to the contents, timing and availability of documents prepared pursuant to these guidelines, where necessary to:

12.1 Enable DOE to decide and act promptly as and when required;

12.2 Avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities; or

12.3 Ensure appropriate reflection of:

12.3.1 Diplomatic factors;

12.3.2 International commercial, competitive and export promotion factors;

12.3.3 Needs for governmental or commercial confidentiality;

12.3.4 National security considerations;

12.3.5 Difficulties of obtaining information and agency ability to analyze meaningfully environmental effects of the proposed action; and

12.3.6 The degree to which DOE is involved in or able to affect a decision to be made.

12.4 DOE will utilize such modifications as permitted in this section only to the extent necessary to accomplish the purposes set forth herein. Modifications to the contents of documents might include, for example, the use of generic, typical or hypothetical environmental impact analyses where critical site specific data cannot be obtained from an affected foreign nation. Regarding modifications to the availability of a document, where an affected nation notifies DOE of its desire not to notify the public of the availability of a document prepared pursuant to sections 4.2, 4.3, 4.4.2 or 4.4.3 of these proposed guidelines, DOE may waive

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the requirements of section 11.3 above regarding notices of availability.

12.5 DOE will develop further internal guidance to reflect appropriate office roles in making the above determinations and modifications.

Section 13 *Coordination With the Department of State*

13.1 Section 2–2 of Executive Order 12114 requires the Department of State and the Council on Environmental Quality to conduct a continuing exchange program with other interested Federal agencies for information concerning the environment. DOE shall participate in such a program.

13.2 DOE will coordinate all communications with foreign governments concerning environmental agreements and other activities implementing these guidelines with the Department of State.

Section 14 *Duplication of Resources*

14.1 DOE will not have to prepare any document or study required by Section 4 of these guidelines if it determines that a document or study already exists that is adequate in scope and content to meet the requirements of these guidelines.

14.2 DOE will, in the early stages of preparing any document or study described in Section 4 above, request the cooperation of any Federal agency which DOE determines to possess a statutory mission or expertise relevant to the proposed action.

14.3 Where an action involves multiple Federal agencies including DOE, a lead agency, as determined by the agencies involved, will have responsibility for implementing the provisions of Executive Order 12114 using its own procedures implementing the Executive Order; where no such procedures exist, DOE procedures contained in these guidelines will be used.

14.4 The Department of State has been designated as the lead agency for the environmental review of all activities involving the export of a nuclear production, utilization or waste management facility. The environmental review will be conducted following a uniform set of guidelines which are presently being developed. DOE shall participate as a cooperating agency in conducting these reviews.

14.5 If a major Federal action having significant effects on the environment of the United States or the global commons requires preparation of an environmental impact statement (EIS) by DOE, and if the action is included in Section 4.2 or 4.3 above as an action having significant effects upon the environment of a foreign nation, the EIS does not have to contain a review of these foreign impacts. The appropriate type of environmental review, as described in Section 4.2 or 4.3 above, may be issued as a separate document.

Section 15 *Miscellaneous Provisions*

The provisions of Sections 5 and 6 regarding exclusions or exemptions from these procedures do not apply to any actions that have a significant impact upon the environment of the global commons unless otherwise permitted by law.

Section 16 *Definitions*

16.1 *Environment* means the natural and physical environment, and it excludes social, economic and other environments. Social and economic effects do not give rise to any requirements under these guidelines.

16.2 *Federal Action* means any action that is potentially subject to U.S. Government control and responsibility. It includes actions that are implemented, funded or approved directly or indirectly by the United States Government. It does not include actions in which the United States participates in an advisory, information gathering, representational or diplomatic capacity but does not implement, fund or approve the action or cause the action to be implemented. An action significantly affects the environment if it does significant harm to the environment even though on balance DOE believes the action to be beneficial to the environment.

16.3 *Foreign Nation* means any geographic area (land, water and airspace) that is under the territorial jurisdiction of one or more foreign governments; and any area under military occupation by the United States alone or jointly with any other foreign governments. "Foreign government" in this context includes governments regardless of whether recognized by the United States, political factions, and organizations that exercise governmental power outside the United States.

16.4 *Global Commons* are geographic areas (including land, water and airspace) that are outside the territorial jurisdiction of any nation, and include the oceans outside the territorial limits of any nation, and Antarctica.

16.5 *United States* means all States, territories, and possessions of the United States; and all waters and airspace subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Virgin Islands, American Samoa, Wake Island, Midway Island, Guam, Palmyra Island, Johnston Atoll, Navassa Island and Kingman Reef.

Section 17 *Compliance*

These guidelines are intended for use by all persons acting on behalf of DOE in carrying out the provisions of Executive Order 12114. Any deviations from the guidelines must be soundly based and must have the advance approval of the Deputy Secretary of DOE.

Appendix A—Illustrative List for Determining Compliance With Section 4.3

1. The following is an illustrative, non-inclusive list of the products, emissions and effluents encompassed by section 4.3 of these proposed guidelines: asbestos, acrylonitrile, pesticides, mercury, arsenic, polychlorinated biphenyls, vinyl chloride, isocyanates, benzene, beryllium, cadmium.

2. The following is an illustrated, non-inclusive list of the products, emissions and effluents *not* encompassed by section 4.3: ammonia, chlorine, sulphuric acid, sulphur dioxide, sulfate and sulfite liquors, caustic soda, nitric acid, nitrogen oxides, phosphoric acid.

Appendix B—Actions Categorically Excluded by DOE From Environmental Review Under These Guidelines

1. Approval of DOE participation in International "umbrella" agreements for cooperation in energy R&D which do not commit the U.S. to any specific projects or activities.

2. Approval of technical exchange arrangements for information, data or personnel with other countries or international organizations.

3. Approval of arrangements to assist other countries in identifying and analyzing their energy resources, needs and options.

4. Approval of the export of and subsequent arrangements involving "small quantities" (as defined in the documents listed below) of nuclear materials or isotopic material in accordance with the provisions of the Nuclear Non-Proliferation Act of 1978, the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (published in the Federal Register on June 9, 1978, 43 FR 25328) and Section 131 of the Atomic Energy Act of 1954, as amended.

[FR Doc. 79–27696 Filed 9–5–79; 8:45 am]
BILLING CODE 6450–01–M

federal register

Thursday
September 6, 1979

Part VII

Federal Emergency Management Agency

Federal Insurance Administration

Riots or Civil Disorders; Offer To Provide Reinsurance Against Excess Aggregate Loss

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

[Docket No. N79-11]

Offer To Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders

AGENCY: Federal Emergency Management Agency/Federal Insurance Administration.

ACTION: Notice of Offer To Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders.

SUMMARY: The Federal Insurance Administrator is publishing in this Notice the terms and conditions of the Standard Reinsurance Contract for 1979–80 governing reinsurance under the Federal insurance program reinsuring against excess aggregate losses resulting from riots or civil disorders to eligible insurers for the contract year from October 1, 1979, to September 30, 1980. In addition, this Notice sets forth the offer to provide reinsurance to eligible insurers and the method for accepting the offer. This offer and the contract set forth are authorized by 12 U.S.C. 1749bbb *et seq.*

In accordance with the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, 12 U.S.C. 1749bbb et seq. (the Act) this offer is effective only in a State which has a FAIR Plan in compliance with the statutory or regulatory criteria and in which appropriate State legislation is effective and in compliance with the Act and regulations. The Administrator informs all insurers who may accept this offer that although she is complying with the order of July 3, 1979, in *United States Fire Insurance Company, et al.* v. *U.S. Department of Housing and Urban Development, et al.* (D.C.D.C., Civil Action No. 79–1290), she has recommended appeal of that order to the United States Department of Justice, and will continue to assert the position with respect to other parties not before the Court which resulted in the decision adverse to the Government.

As of the date of this offer, information received by the Administrator indicates that only the States of Connecticut, Georgia, Illinois, Massachusetts, New Mexico, North Carolina, Rhode Island, Washington, and Wisconsin and the District of Columbia have formulated revisions of their State FAIR Plans in a manner complying with the statutory requirements.

The most recent examination by the Office of Review and Compliance indicates that Federal Riot Reinsurance will not be available under this offer in the States of California, Iowa, Kansas, Louisiana, Minnesota, Missouri, New York, Oregon, and Virginia, and the Commonwealth of Puerto Rico.

In the States of Delaware, Indiana, Kentucky, Maryland, Michigan, New Jersey, Ohio and Pennsylvania, steps toward achieving compliance with the Act have been proposed but have not yet been put into effect. The Administrator is consulting with the State insurance authorities in those States.

Therefore, this offer is effective in those States where compliance with the statutory and regulatory requirements are met no later than October, 1, 1979.

DATES: The offer is effective September 6, 1979. The Contract is effective 12:01 a.m., e.s.t., October 1, 1979 for all acceptance dispatched before 12:00 (midnight), September 30, 1979. The Contract is effective 12:01 a.m., e.s.t., of the day following dispatch of the acceptance for acceptances dispatched after September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Rose, Jr., Federal Riot Reinsurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410, Telephone number: (202) 755–6580.

SUPPLEMENTARY INFORMATION: The purposes of this Notice are:

(1) To offer publicly Federal reinsurance against excess aggregate losses resulting from defined riots or civil disorders to insurers eligible for such reinsurance for the contract year which ends September 30, 1980;

(2) To provide the method by which the offer may be accepted; and

(3) To set forth the terms and conditions of the Standard Reinsurance Contract (1979–80).

Since the offer to provide reinsurance and the terms and conditions of the Standard Reinsurance Contract for the October 1, 1979, to September 30, 1980 contract year must appear in time for acceptance by eligible insurers on or before September 30, 1979, this notice of offer to provide reinsurance against excess aggregate losses resulting from riots or civil disorders is effective September 6, 1979.

The Standard Reinsurance Contract (1979–80) provides for an aggregate basic premium rate of $0.025 per $100 of direct premiums earned on lines reinsured.

Both the aggregate basic premium and the additional premium, if any, are payable on an advance estimated basis as specified in the contract. Interest shall accrue at nine percent (9%) per annum on any portion of any amount due the reinsurer which is not paid to the reinsurer within 30 days from its due date.

The rate of $0.025 per $100 of direct premiums represents an increase of $0.005 over the rate in effect for contract year 1978–79. The right of the reinsurer to impose assessments against the company to pay for a share of excess aggregate losses incurred in a State (Section III—Assessments) has been eliminated.

The offer to provide reinsurance is as follows:

Offer To Provide Reinsurance

Pursuant to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (12 U.S.C. 1749bbb–1749bbb–21), subject to all regulations promulgated thereunder and, to the terms and conditions set forth in the Standard Reinsurance Contract (1979–80) as printed below, the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") offers to enter into the Standard Reinsurance Contract (1979–80), the terms and conditions of which are as printed hereinbelow, with any eligible insurer which accepts this offer. This offer is effective only in a state which has in effect no later than October 1, 1979 a FAIR Plan in compliance with the Reinsurer's statutory or regulatory criteria and in which appropriate state legislation is effective and complies with the Reinsurer's statutory or regulatory criteria no later than October 1, 1979. The Reinsurer's offer to provide reinsurance is effective upon publication in the **Federal Register.**

Method of Acceptance of Offer

(1) Acceptance of this offer shall be by telegraphed or mailed notice of acceptance to the Reinsurer. If the date and time of dispatch of the notice of acceptance are not later than midnight, e.s.t., September 30, 1979, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., October 1, 1979. If the date and time of dispatch of the notice of acceptance are later than midnight, e.s.t., September 30, 1979, reinsurance coverage shall be in effect from 12:01 a.m., e.s.t., on the day after such notice of acceptance is dispatched. The date and time of dispatch of the notice of acceptance must be clearly shown either by telegraph dispatched notation or postmark, and such notation or postmark shall be conclusive proof of the date and time of dispatch.

(2) The telegram or letter accepting this offer of reinsurance shall indicate

the States in which reinsurance on lines of mandatory coverage is to be provided and shall specifically designate for each such State the lines of optional coverage, if any, for which reinsurance is to be provided. The notice of acceptance shall be in substantially the following form:

The (name of insurer or insurers) hereby accepts the offer, as filed with the Office of the Federal Register, of the Standard Reinsurance Contract (1979–80), pursuant to the Urban Property Protection and Reinsurance Act of 1968, as amended, for the mandatory and (specify) optional lines in the following states: (specify).

(3) Any eligible insurer accepting this offer of reinsurance shall be supplied copies of the Standard Reinsurance Contract, (1979–80), for execution and return to the Reinsurer.

Terms and Conditions of the Standard Reinsurance Contract (1979–80)

(At this point in the contract, the insurance company or companies reinsured are required to list the names and addresses of the principal company and all property insurance companies under common or related ownership or control as defined in the contract, and space is provided for the execution of the contract by the parties.)

This contract, made by and between the Federal Insurance Administrator (hereinafter referred to as the "Reinsurer") and the company or companies specified above (hereinafter referred to as the "Company").

Witnesseth:

Subject to the provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended, and to the terms and conditions herein set forth, the Reinsurer hereby obligates itself to pay, as reinsurance of the company, the amount of the Company's excess aggregate losses resulting from riot or civil disorders in such lines of mandatory and optional coverage as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVII.

Section I. Policies Reinsured

This Standard Reinsurance Contract applies to:

(A) All policies or contracts of direct property insurance issued by the Company to any property owner, except for policies for which the business is handled for or through any State pool or any other continuing organization, pool, or association of insurers, and

(B) The Company's participations in State pools and, as may be approved by the Reinsurer, in other continuing organizations, pools, or associations of insurers, which policies, contracts, or participations are in force on the effective date hereof or which commence or are renewed on or after such effective date in all the mandatory and in such optional standard lines of property insurance listed below as are designated separately for each State by the Company in its notice of acceptance and confirmed under section XVII.

Lines of Mandatory Coverage

(A) Fire and extended coverage;
(B) Vandalism and malicious mischief;
(C) Other allied lines of fire insurance;
(D) Burglary and theft; and
(E) Those portions of multiple peril policies covering similar perils to those provided in (A), (B), (C), (D);

Lines of Optional Coverage

(F) Inland marine;
(G) Glass;
(H) Boiler and machinery;
(I) Ocean marine;
(J) Aircraft physical damage.

Section II. Premiums

The aggregate basic premium due the Reinsurer for the reinsurance coverage provided under this contract shall be computed by applying an annual rate of twenty-five thousandths of one per centum (.025%) to an aggregate premium base consisting of the sum of the products of the Company's direct premiums earned in each State for each reinsured line for the calendar year 1979 multiplied by the specified percentage of such earned premium, as defined in section XVI of this contract.

If the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued for the period between October 1, 1979, and September 30, 1980, exceeds the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts, the Company shall be obligated to pay the Reinsurer, at or subsequent to adjustment, an additional premium determined on the basis of the amount of the remainder derived by subtracting the total amount of all aggregate basic premiums paid or payable to the Reinsurer under all such contracts from the total amount of all excess aggregate losses paid by the Reinsurer under all such contracts. The amount of the additional premium shall be equal to the product of the Company's aggregate basic premium multiplied:

By a factor of one, if the remainder is greater than two times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to three times that amount;

By a factor of two, if the remainder is greater than three times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to six times that amount;

By a factor of four, if the remainder is greater than six times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to ten times that amount;

By a factor of six, if the remainder is greater than ten times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to twelve times that amount;

By a factor of eight, if the remainder is greater than twelve times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to eighteen times that amount;

By a factor of ten, if the remainder is greater than eighteen times the total amount of all aggregate basic premiums under all such contracts, but is less than or equal to twenty times that amount; or

By a factor of twelve, if the remainder is greater than twenty times the total amount of all aggregate basic premiums under all such contracts.

An advance premium, which shall be an estimated premium only, shall be computed by the Company on the basis of its direct premiums earned in the calendar year 1978 in the manner required for the computation of the aggregate basic premium. If any line of insurance is added during the term of this contract for which the Company had no premium writings in 1978, the premium base for the advance premium shall be estimated by State for the period from the date of attachment of coverage to the expiration date of this contract. In no event shall the advance premium be less than $25.00 for each State in which reinsurance is provided under this contract. The advance premium shall be paid to the reinsurer without demand within 30 days from the effective date of coverage.

At the option of the Reinsurer and prior to adjustment, the Company shall pay the additional premium on an estimated basis. An estimated additional premium payment equal to the amount of the Company's advance premium shall be payable to the Reinsurer if the total amount of all excess aggregate losses paid by the Reinsurer under this contract and all like Standard Reinsurance Contracts issued by the Reinsurer for the period between October 1, 1979, and September 30, 1980, exceeds the total amount of all estimated premiums collected by the Reinsurer under all such contracts (the total amount of all advance premiums plus the total amount of estimated additional premium payments). The

total amount of estimated additional premium payments, whether required separately or concurrently, shall not exceed twelve times the amount of the Company's advance premium. The actual amount of the additional premiums shall subsequently be computed and adjusted in accordance with the provisions of the preceding paragraphs and section VI.

With the exception of the advance premium which is due without demand of the Reinsurer within 30 days from the effective date of coverage, premium amounts shall be due 30 days after the demand of the Reinsurer. Interest shall accrue at nine per centum (9%) per annum on any portion of any premium amount which is not received on or before 30 days from its due date.

The aggregate basic premium, together with an additional premium which may be due the Reinsurer in accordance with the preceding paragraphs, shall be deemed fully earned on the date that such reinsurance coverage attaches, except as otherwise provided in section V.

Section III. Claims

The company shall advise the Reinsurer by letter (A) of all losses from a single occurance which exceed $50,000 and (B) whenever it appears that aggregate losses have been incurred in an amount equal to 90 percent (90%) of the Company's net retention in any State, on the basis of its direct premiums earned and reported to the Reinsurer for the Calendar year 1978.

When the Company incurs aggregate losses which exceed its net retention in any State, the Company may make claim upon the Reinsurer for the payment of excess aggregate losses in that State by filing a certification of loss and thereafter such supporting documentation of such losses as may be required by the Reinsurer, and following the receipt of such certifications and documentation the Reinsurer shall, as promptly as possible, in such installments and on such conditions as may be determined by the Reinsurer to be appropriate (including advance payments made on the basis of preliminary certifications of loss filed in advance of the final determination of the ultimate amount of losses paid), pay to the Company the amount of such excess aggregate losses subject to adjustments on account of underpayments or overpayments.

If the ultimate amount of losses to be paid by the Company has not been finally determined when the certification of loss is filed, the Company shall, in due course, file one or more supplementary certifications of loss and thereafter the Reinsurer or the Company, as the case may be, shall pay the balance due.

Claims paid pursuant to computations of net retentions based upon the direct premiums earned for the calendar year 1978 shall be recomputed and adjusted at the termination of the coverage provided by this contract on the basis of direct premiums earned in reinsured lines for the calendar year 1979.

Section IV. Inception and Expiration Dates

Provided the Company has requested reinsurance by States and lines of coverage on or before September 30, 1979, this Standard Reinsurance Contract shall be in effect from 12:01 a.m., e.s.t. on October 1, 1979, and shall expire at 12:00 p.m., (midnight) e.s.t. on September 30, 1980, unless sooner terminated.

If the Company applies for coverage on or after October 1, 1979, this contract shall be effective from 12:01 a.m., e.s.t. on the day after such acceptance is dispatched, as determined by the date of postmark or telegram, provided the offer is effective in any State for which the Company requests coverage specifying by State and line and providing the Company otherwise complies with the eligibility requirements of this contract.

This contract applied only to losses occurring during the term hereof, as follows:

(A) If at the inception of this contract any riot or civil disorder is in progress, no coverage shall be provided for losses resulting therefrom unless this contract is a continuation of coverage from the previous year's contract.

(B) If this contract terminates while a riot or civil disorder covered hereby is in progress, no coverage shall be provided for any losses resulting therefrom which occurred after the date and time of termination of this contract.

Section V. Cancellations

Reinsurance under this contract may be cancelled by the Company in its entirety or with respect to any State upon written notice by the Company to the Reinsurer stating that it desires to cancel the reinsurance coverage specified and that it will pay any premium due the Reinsurer in accordance with the provisions of this contract, subject to any adjustments which may be required under section VI; provided, however, that no coverage shall attach under this contract if the Company has willfully concealed or misrepresented any material fact with respect thereto.

Reinsurance under this contract may be cancelled by the Reinsurer in its entirety or with respect to any State upon 30 days written notice by certified mail to the Company of such cancellation, stating one of the following reasons for cancellation: fraud or misrepresentation subsequent to the inception of the contract, nonpayment of premium or any other amount due the Reinsurer, and the grounds set forth in the second paragraph of section XI.

Reinsurance under this contract may be cancelled by Certified mail by the Reinsurer in its entirely or with respect to any State for one of the grounds set forth in the first paragraph of section XI and such cancellation shall be effective immediately upon written notice to the company.

Whenever the Reinsurer determines, in his discretion, that any cancellation of reinsurance is involuntary and without fault on the part of the Company, the premium due the Reinsurer for the coverage afforded under this contract shall be prorated in the ratio of:

(A) The number of days for which coverage was provided prior to the cancellation of such coverage plus thirty, to

(B) The total number of days of coverage provided under this contract from the inception of coverage up to and including September 30, 1980.

In the event of any cancellation of reinsurance coverage under this section, the net retention and assessment of such Company shall be computed, without proration, on the basis of the direct premiums earned for the calendar year 1979. Refunds of premiums, if any, due the Company upon cancellation may, at the discretion of the Reinsurer, be deferred until after final adjustments have been made in accordance with the provisions of section VI hereof.

Section VI. Adjustments

The Company shall report to the Reinsurer within 60 days after request its direct premiums earned for the calendar year 1979 in all reinsured lines in all States for which reinsurance was provided under this contract, for the purpose of computing and adjusting the reinsurance premium due to the Reinsurer with respect to the coverage provided. The direct premiums earned to be reported for any line of insurance added during the contract term for any State in which the company had no premium writings in such line in 1979 shall be the direct premiums earned for the first nine months of 1980 as estimated by the Company, subject to audit by the Reinsurer.

In no event shall the adjusted amount of direct premiums earned by the Company result in a basic premium to the Reinsurer in an amount less than $25 for each State during the contract year, which shall constitute the minimum adjusted reinsurance premium for any State under this contract.

On or before December 31, 1980, or such later date as may be permitted at the option of the Reinsurer, the Company shall report to the Reinsurer its aggregate losses.

Any overpayment or underpayment between the Reinsurer and the Company shall be adjusted and paid in accordance with the obligations assumed herein under.

Section VII. Insolvency

In the event of insolvency of the Company the reinsurance under this contract shall be payable by the Reinsurer to the Company or to its liquidator, receiver, or statutory successor on the basis of the liability of the Company under all policies, contracts, or participation shares reinsured without diminution because of the insolvency of the Company.

It is further agreed that the liquidator, or receiver, or statutory successor of the Company shall give written notice to the Reinsurer of the pendency of any claim against the Company on the policies, contracts, or participation shares reinsured within a reasonable time after such claim is filed in the insolvency proceeding, and that during the pendency of such claim the Reinsurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which may be deemed available to the Company or its liquidator, receiver, or statutory successor. The expense thus incurred by the Reinsurer shall be chargeable, subject to court approval, against the Company as part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the Company solely as a result of the defense undertaken by the Reinsurer.

Section VIII. Errors and Omissions

Inadvertent delays, errors, or omissions made in connection with any transaction under this contract shall not relieve either party from any liability which would have attached had such delay, error, or omission not occurred, provided always that such delay, error or omission is rectified as soon as possible after discovery.

Section IX. Restriction of Benefits

No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Section X. Participation in Statewide Plans

No reinsurance shall be offered or be effective under this contract in any State unless there is in effect in such State, on the date coverage commences, a continuing statewide plan to make essential property insurance more widely available which is in compliance with the Reinsurer's statutory or regulatory criteria, and the Company is fully participating in such plan on a risk-bearing basis and is certified by the State insurance authority as meeting the requirements of this section. Except with respect to its runoff business after ceasing to do business within a State, the Company shall not be eligible for reinsurance under this contract in any State in which it is not engaged in the direct writing of property insurance at the time coverage is requested, or in which it is writing business on a nonadmitted basis, unless it reports such nonadmitted business to the State insurance authority and participates in the statewide plan of such State on the basis of such reported business. The Company shall file and maintain with the State insurance authority in each State in which it is participating in the statewide plan a statement pledging its full participation and cooperation in carrying out the plan and shall file a copy of each such statement with the Reinsurer. The Company shall not direct any agent, broker, or other producer not to solicit business through such plans and shall not penalize in any way any agent, broker, or other producer for submitting applications for insurance under such plans. The Company shall also establish and carry out an education and public information program to encourage agents, brokers, and other producers to utilize the programs and facilities available under such statewide plans.

In the event that the Company after the inception of this contract voluntarily withdraws from any State plan, pool, or other facility required by the provisions of this section, such withdrawal shall be deemed to constitute cancellation by the Company with respect to that State as of the effective date of the withdrawal.

Section XI. Limitations on Reinsurance

The Reinsurer shall cancel this contract in writing to the company: (a) if legislation to reimburse the Reinsurer, as necessary, for the portion of the aggregate losses specified in section 1223(a)(1) of the National Housing Act, as amended (12 U.S.C. 1749bbb–9(a)), paid by the Reinsurer under this contract, has not been enacted by the State or has expired or been repealed, or has otherwise ceased to be effective; or (b) following a merger, acquisition, consolidation, or reorganization involving the Company and one or more insurers with or without such reinsurance, unless the surviving insurer meets all criteria for eligibility for reinsurance and within 10 days pays any reinsurance premium due.

The Reinsurer shall cancel coverage, in accordance with the provisions of this contract, with respect to any State in which:

(A) the Reinsurer has found (after consultation with the State insurance authority) that (1) it is necessary to have a suitable program adopted, in addition to required statewide plans, to make essential property insurance available without regard to environmental hazards and that such a program has not been adopted, or (2) the Company is not fully participating in the Statewide plan; and , where it exists, in a State pool or other facility; and, where it exists, in any other program found necessary to make essential property insurance more readily available in the State; or

(B) the Reinsurer has found (after consultation with the State insurance authority) that a statewide plan is not complying with the Reinsurer's statutory or regulatory criteria or has become inoperative.

Notwithstanding the foregoing provisions, reinsurance may at the election of the Reinsurer be continued, up to and including September 30, 1980, for the term of such policies and contracts reinsured prior to the date of termination of reinsurance under this section, provided the Company pays the reinsurance premiums in such amounts as may be required. For the purposes of this section, the renewal, extension, modification, or other change in a policy or contract for which any additional premium is charged, shall be deemed to be a policy or contract written on the date such change was made effective.

Reinsurance under this contract shall be subject to all of the provisions of the Urban Property Protection and Reinsurance Act of 1968, 12 U.S.C. 1749bbb–1749bbb21, as amended, and to all regulations duly promulgated by the Reinsurer pursuant thereto.

Section XII. Arbitration

If any misunderstanding or dispute arises between the Company and the Reinsurer with reference to the amount of premium due, the amount of loss, or to any other factual issue under any provisions of this contract, other than as

to legal liability or interpretation of law, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding only upon approval by the Reinsurer. The Company and the Reinsurer may agree on and appoint an arbitrator who shall investgate the subject of the misunderstanding or dispute and make his determination. If the Company and the Reinsurer cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the Reinsurer.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the Reinsurer. The Company and the Reinsurer shall bear equally all expenses of the arbitration.

Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section shall, upon objection by the Reinsured or the Company, be inadmissible as evidence in any subsequent proceedings in any court or competent jurisdiction.

Section XII. Access to Books and Records

The Reinsurer and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of the Company that are pertinent to the business reinsured under this contract. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities. The Company shall keep records which fully disclose all matters pertinent to the business reinsured, including premiums and claims paid or payable under this contract. Records relating to premiums shall be retained and available for three (3) years after final adjustment of premiums, and to reinsurance claims three (3) years after final adjustment of such claims.

Section XIV. Information and Annual Statements

The Company shall furnish to the Reinsurer such summaries and analyses of information in its records as may be necessary to carry out the purposes of the Urban Property Protection and Reinsurance Act of 1968, as amended, in such form as the Reinsurer, in cooperation with the State insurance Authority, shall prescribe; and the Company shall file with the Reinsurer a true and correct copy of the Company's Fire and Casualty annual statement, or amendment thereof, as filed with the State insurance authority of the Company's domiciliary State, at the time it files such statement or amendment with the State insurance authority. The Company shall also file with the Reinsurer an equivalent of page 14 of such annual statement for each State in which reinsurance is provided under this contract.

Section XV. Exclusions

Reinsurance under this contract shall not be applicable with respect to any claim for:

(A) All or any part of a loss which is the direct or indirect result of controlled or uncontrolled nuclear reaction, radiation, or radioactive contamination; or

(B) Any loss to any aircraft while the aircraft is in flight, including that period between the time when power is turned on for the purpose of taxiing connected with takeoff until the time when the landing run has ended, taxiing has been completed, and power has been turned off; or

(C) Any loss to any aircraft, or resulting from collision with aircraft, which is precipitated or caused by hijacking or any aircraft or attempt thereat, including loss from wrongful seizure, wrongful diversion from course of flight pattern, or wrongful exercise of command or control, or an aircraft, by any person or persons, through the use of force or violance or the threat of force or violance.

Section XVI. Definitions

As used in this contract the term:

(1) "Aggregate losses" means the sum total of losses resulting from riots or civil disorders occurring in a State and allocable to a State in which reinsurance is provided;

(2) "Company" means any company authorized to engage in the insurance business under the laws of any State, except that if there are two or more companies within a State in which reinsurance is to be provided under this contract which, as determined by the Reinsurer:

(A) Are under common ownership and ordinarily operate on a group basis; or

(B) Are under single management direction; or

(C) Are otherwise determined by the Reinsurer to have substantially common or interrelated ownership, direction, management, or control; then all such related, associated, or affiliated companies, excluding nonadmitted companies, which are not specifically included by endorsement to this contract, shall be reinsured only as one aggregate entity;

(3) "Continuing organization, pool, or association of insurers" means an industry pool created to provide direct insurance to meet special problems of insurability, such as for a particular class or type of business;

(4) "Direct premiums earned" means direct premiums earned as reported in column 2 on page 14 of the Company's Fire and Casualty annual statement for the specified calendar year in the form adopted by the National Association of Insurance Commissioners, subject to (A) adjustment as approved by the Reinsurer for cessions to pools, facilities, and associations, and for the inclusion of participations in such pools, facilities, and associations, and (B) such other appropriate adjustments as may be approved or required by the Reinsurer, which shall include adjustments for dividends paid or credited to policyholders and reported in column 3 on page 14, subject to a maximum credit of 20 percent (20%) of direct premiums earned for any one line of insurance;

(5) "Excess aggregate losses" means that part of aggregate losses which is equal to the sum of:

(A) Ninety percent of the Company's aggregate losses in excess of its net retention, until the Company's 10 percent share of aggregate losses under this provision (A) equals the amount of its net retention;

(B) Ninety-five percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A)) in excess of twice its net retention, until the Company's 5 percent share of aggregate losses under this provision (B) equals the amount of its net retention; and

(C) Ninety-eight percent of the Company's remaining aggregate losses (after deducting the Reinsurer's share of aggregate losses under (A) and (B)) in excess of an amount equal to three times its net retention;

(6) "Losses" means all claims proved, approved, and paid by the Company under reinsured policies, resulting from riots or civil disorders occurring in a State during the period of this contract after making proper deduction for salvage and for recoveries other than reinsurance, together with an allowance for expense in connection therewith, hereby agreed to equal an amount per claim of 8 percent (8%) of the first $25,000 of any such claim, plus 3 percent (3%) of the amount by which such claim exceeds $25,000 but is less than $100,000, plus 1 percent (1%) of the amount by which the claim exceeds $100,000; it does not mean any claim excluded under section XV.

(7) "Net retention" means the amount of aggregate losses that the Company must stand before the Reinsurer's liability hereunder attaches. The net retention shall be one aggregate figure for each State determined by applying a factor of two and one half percent (.025) to the specified percentage of the Company's direct premiums earned in the State of the calendar year 1979 on those lines of insurance hereby reinsured. The retention amount is subject to a minimum figure of $1,000.00 for each State, and to a maximum figure of $1,000,000.00 per State.

(8) "Loss resulting from riot" means loss of or damage to property actually and immediately resulting from an overt and tumultuous disturbance of the public peace by three or more persons mutually assisting one another, or otherwise acting in designed concert, in the execution of a common purpose through the unlawful use of force and violence.

"Loss resulting from civil disorders" means:

(A) Loss of or damage to property actually and immediately resulting from any pattern of unlawful incidents taking place within close proximity both as to time and place and involving damage to property intentionally caused by persons apparently having the primary motivation of disturbing the public peace through civil disruption, civil disobedience, or civil protest; provided that at least two of such related incidents result in property damage in excess of $1,000 each; or

(B) Loss of or damage to property actually and immediately resulting from any occurrence involving property damage in excess of $2,000 caused by persons whose unlawful conduct in so causing the occurrence manifest their primary purpose of disturbing the public peace through civil disruption, civil disobedience, or civil protest.

(9) "Specified percentage" means 100 percent (100%) of the direct premiums earned for each line of insurance reinsured under this contract except that the specified percentage of homeowners multiple peril shall be 85 percent (85%) and that of Commerical multiple peril shall be 65 percent (65%);

(10) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands; and

(11) "State pool" means any State Fair Plan pool or insurance placement facility which is intended to meet the requirements of Part A of the Urban Property Protection and Reinsurance Act of 1968 (82 Stat. 558, 84 Stat, 1791, 12 U.S.C. 1749bbb–3—1749bbb–6a).

Section XVII. Schedule of Coverage

The Company shall indicate with an (X) in the appropriate column and line those States in which the mandatory lines are to be reinsured under this contract. Coverage of mandatory line may be designated only for those States in which the Company is eligible for reinsurance in accordance with section X of this contract.

The Company shall also indicate by State with an (X) in the appropriate column and line any optional lines which are to be reinsured under this contract. Coverage of optional lines is available only for those States in which the mandatory lines are reinsured.

(The schedule of mandatory and optional coverage by State and line is set forth at this point in the Contract.)

(12 U.S.C. 1749bbb *et seq.*, and Executive Order 12127 dated March 31, 1979.)

Issued at Washington, D.C. on September 4, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-27953 Filed 9-5-79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 174

Thursday, September 6, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
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523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

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523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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46273 8-7-79 / Air quality implementation plan; availability of revision for State of Hawaii

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46269 8-7-79 / Election of interim Yurok governing committee; procedures for conduct of election and committee duties

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46385 8-7-79 / Public lands and resources; planning, programming, and budgeting

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federal register

Book 1 of 2 Books
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Briefings on How to Use the Federal Register—For details on briefings in **Washington, D.C.**, and **Long Island, New York**, see announcement in the Reader Aids Section at the end of this issue.

Principles of Regulations Writing Seminar—See the Reader Aids section at the end of this issue.

52159 **National Grandparents Day** Presidential proclamation

52632 **Energy Conservation** DOE amends test procedures for water heaters; effective 10-9-79 (Part V of this issue)

52646, 52661 **Small Community Air Service Program** CAB adopts guidelines for determining essential air service; effective 9-7-79 (Part VII of this issue) (2 documents)

52283 **Construction Contractors** Labor/FCCPO proposes rules to clarify affirmative action requirements; comments by 11-6-79

52348 **Construction Industry** Labor/FCCPO proposes goals and timetables for minority participation; comments by 11-6-79

52258 **Surface Construction** Labor/MSHA proposes rules which deal with safety and health standards for surface of mine property; comments by 10-22-79

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52196 Black Lung Trusts Treasury/IRS issues rules dealing with payment of benefits and certain excise taxes; effective for taxable years after 12–31–77

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52170 Mandatory Petroleum Allocation DOE/ERA adopts rule and announces hearing to extend entitlement benefits for middle distillate imports; effective for period 9–1–79 through 10–31–79, hearing 9–25–79, requests to speak by 9–17–79

52179 Natural Gas DOE/FERC amends and makes final certain interim rules concerning the transportation by interstate pipelines on behalf of intrastate pipelines and local distribution companies; effective 10–1–79

52253 Natural Gas DOE/FERC proposes rules regarding the high cost of gas produced from tight formations; comments by 10–15–79, hearings 9–24 and 9–27–79

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52642 Municipal Waste DOE/Conservation and Solar Applications Office issues an advance notice of proposed rulemaking to promulgate rules establishing policies and procedures to implement a Federal price support program for reprocessing demonstration facilities; comments by 11–6–79 (Part VI of this issue)

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Title 3—

The President

Proclamation 4679 of September 6, 1979

National Grandparents Day

By the President of the United States of America

A Proclamation

As we seek to strengthen the enduring values of the family, it is appropriate that we honor our grandparents.

Grandparents are our continuing tie to the near-past, to the events and beliefs and experiences that so strongly affect our lives and the world around us. Whether they are our own or surrogate grandparents who fill some of the gaps in our mobile society, our senior generation also provides our society a link to our national heritage and traditions.

We all know grandparents whose values transcend passing fads and pressures, and who possess the wisdom of distilled pain and joy. Because they are usually free to love and guide and befriend the young without having to take daily responsibility for them, they can often reach out past pride and fear of failure and close the space between generations.

The Congress, by joint resolution (H.J. Res. 244), has authorized and requested the President to designate the first Sunday of September following Labor Day of each year as National Grandparents Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Sunday, September 9, 1979 and the first Sunday following Labor Day in each succeeding year as "National Grandparents Day."

I urge officials of Government at the national, State, and local levels, and of voluntary organizations to plan appropriate activities that recognize the importance and the worth of the 17 million grandparents in our nation. I urge all Americans to take the time to honor their own grandparents or those in their community.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-28208

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Rules and Regulations

Federal Register
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Friday, September 7, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 540

Merit Pay System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations implement the provisions of Title V of the Civil Service Reform Act of 1978, which establish a Merit Pay System for supervisors and management officials in positions classified in GS–13, 14, and 15. The Merit Pay System is intended to recognize and reward quality performance by merit pay increases in varying amounts. The Merit Pay System will be fully implemented in October 1981, although agencies may implement the System in whole or in part in October 1980.

DATE: These regulations are effective on September 7, 1979, although, in accordance with § 540.110 of the regulations, the Merit Pay System will not become operational before October 1980.

FOR FURTHER INFORMATION CONTACT: Barbara Fiss, (202)254–8960.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is publishing regulations to supplement and implement the Merit Pay System established by Title V of the Civil Service Reform Act of 1978, Pub. L. 95–454. Proposed regulations were published in the **Federal Register** on April 20, 1979 (44 FR 23530–23533). Substantial editorial revisions have been made in the regulations, in order to simplify and clarify them, and a number of substantive changes have also been made.

In addition to the regulations in Part 540, a number of other regulations concerning the Merit Pay System will be added to 5 CFR Chapter I in the future, dealing with the relationship of the Merit Pay System to various other provisions of law and regulation.

Analysis of Comments. The proposed regulations provided a 60-day period for public comment. The Office of Personnel Management received comments from 23 agencies, two labor organizations, three employee associations, and six individuals. Most of the comments offered specific recommendations for clarifying or modifying specific provisions of the proposed regulations. As a result, the Office has modified the final regulations, as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period.

(1) General. Editorial revisions have been made to § 540.101.

(2) Ranges of basic pay and employee coverage. Six comments expressed concern over the apparent prohibition on the use of "asterisked rates" and special rate ranges for merit pay employees. These limitations were illustrated with the reference to actual "GM" rates in the proposed regulations. The Office of Personnel Management has determined that the use of "asterisked rates" for merit pay employees in the same manner as they are used for General Schedule employees is legally permissible and consistent with congressional intent. Thus, merit pay employees could receive a "paper" adjustment if their base pay exceeded the Executive Schedule Level V ceiling (currently $47,500) by virtue of a salary increase due to the granting of the automatic portion of comparability or a merit pay determination. In regard to the special rate ranges, two commenters recommended specifying that special rate ranges are covered under the Merit Pay System. The final regulations in § 540.102 clarify that the Merit Pay System does include special rate ranges for positions covered by special rate authorizations. In relation to this issue, one commenter also recommended that the range of annual rates of basic pay for merit pay employees not be printed in the regulations, but instead, the regulations should clarify that the pay ranges are the same as the corresponding General Schedule grades. This change was incorporated in § 540.102. Finally, five commenters questioned the legality of using "GM" instead of "GS" as the pay plan code for the Merit Pay System. After restudy of the issue, the office confirms that the Merit Pay System is a separate pay system and, accordingly, that the use of "GM" as the pay plan code for the Merit Pay System is both legally permissible and necessary for identifying merit pay employees and evaluating the effectiveness of the Merit Pay System and cash award program. Forthcoming guidance in the Federal Personnel manual will provide additional information on the use of the "GM" pay plan code.

Three commenters requested clarification and expansion of the definitions of supervisor and management official. Since these definitions are contained in law, the Office of Personnel Management cannot alter or expand upon their basic meaning in regulation. However, the Office will continue to publish guidance from time to time to assist agencies in identifying merit pay employees.

One commenter recommended that coverage under the Merit Pay System be reviewed in the agency only in accordance with such procedures as the agency may prescribe, provided that the review is conducted by an official or officials other than the one who made the original coverage determination. Another commenter recommended that an appeal of coverage determinations to the Merit Systems Protection Board be provided. As the Office has indicated in previous guidance (Federal Personnel Manual (FPM) Bulletin 540–1, Attachment 3), the head of each agency has the authority for identifying employees who are supervisors or management officials for purposes of coverage under the Merit Pay System. However, § 540.102 has been modified to provide clear authority and responsibility to the head of an agency to identify merit pay employees in GS–13, 14, and 15. In regard to the recommendation for specific regulatory language on agency reviews of Merit Pay System employee coverage, Part 771 of Title 5, Code of Federal Regulations (CFR), Agency Grievance System, allows employees to grieve "any matter of concern or dissatisfaction to an employee which is subject to the control of agency management or any matter in which an employee alleges that coercion, reprisal, or retaliation has been practiced against him or her."

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Since merit pay employee coverage determinations are not among the items specifically excluded from grievance coverage, employees may grieve coverage or non-coverage under the Merit Pay System within their agency. Therefore, it would be redundant and confusing to provide for similar agency review procedures in the final merit pay regulations. The Office believes that the existing agency administrative grievance system procedures afford employees sufficient recourse in questioning their coverage under or exclusion from the Merit Pay System.

Finally, two commenters suggested that the Office exclude temporary employees, probationary employees and employees on details from the Merit Pay System. Employees on detail to merit pay positions are not included because they do not officially occupy a merit pay position. Merit pay employees on detail to another position continue to be covered by the Merit Pay System. 5 U.S.C. 5401 allows the President to exclude an agency or any unit of an agency from the Merit Pay System, but does not allow exclusion of individual employees for any reason, including appointment, career status, occupation, etc. Therefore, the suggestions for employee exclusions could not be adopted.

(3) Determination and allocation of merit pay funds. In the proposed regulations, a standard formula for uniform Government-wide use by all agencies was established as the basis for determining the amount of funds available for merit pay purposes. Five agencies disagreed with the Government-wide approach while one agency supported this approach. A detailed analysis by the Office revealed such variation among agencies in the distribution of employees among step rates, and in the use of quality step increases, that the uniform approach would produce funds in amounts bearing little relationship to what would have been paid out by agencies under the General Schedule step system. As a result, the office developed a "Merit Pay Fund Computation Table" which agencies will use to determine merit pay funds based on their merit pay employee distribution in each grade. This approach, which is incorporated in § 540.103 of the final regulations, provides the highest degree of equity possible for the establishment of individual agency merit pay funds. The provision in the proposed regulations ±5 percent variance in each agency's merit pay fund has been retained in § 540.103, in recognition of the difficulty of meeting an absolute monetary requirement, and to permit agencies some flexibility to allocate more or less of the calculated merit pay fund, depending upon the *performance* of either organizations or individuals.

Two commenters requested that the Office notify agencies as early as possible of the estimate of the amount of merit pay funds. One of these commenters specifically mentioned that there might be practical problems with budgeting for employees who are normally paid from industrial funds. With the use of the "Merit Pay Fund Computation Table" approach, agencies will have sufficient time each year to estimate the portion of the merit pay fund allocations that is attributable to what would have been allocated to within-grade and quality step increases. However, the exact amount of the total comparability adjustment may not be known until near the end of a fiscal year, as under the present General Schedule comparability pay system. Therefore, § 540.103(b) retains the requirement that the Office will provide the needed information before the beginning of each fiscal year.

One commenter noted that there were no provisions in the proposed regulations for operating under continuing resolutions at the beginning of the fiscal year, supplemental appropriations occurring during the year, and rescissions of budget authority in regard to the merit pay funds. The final regulations do not add any such provisions because merit pay funds are not a line item in agency budgets, and funding of the system, for budgeting, appropriation, and expenditure purposes, is the same as the salary funding procedures for General Schedule employees.

Several comments dealt with the computation of the merit pay funds, especially with the effect on the funds of employees positioned at the minimum and maximum of the range of basic pay. The mechanics of determining the merit pay funds are built into the "Merit Pay Fund Computation Table" and will be thoroughly explained in Federal Personnel Manual guidance. One commenter recommended that agencies distribute merit pay funds among merit pay employees in the three covered grades at their own discretion, rather than account for funds grade-by-grade. The proposed regulations did not provide for funding by grades and therefore no change is needed. Agencies have discretion to determine the procedures for internal distribution of funds, consistent with the provisions of the merit pay regulations. Distribution of funds is a matter for agencies to take into account when developing their merit pay plans.

Five commenters raised questions as to whether or not merit pay funds are limited to each appropriation account. The Office of Personnel Management is consulting with the General Accounting Office to determine whether appropriation lines may be crossed within agencies for purposes of allocating merit pay funds. The final regulations provide for a single merit pay fund in each agency but the regulations may be revised in the future in this regard.

Seven commenters recommended that the final regulations be rewritten to make evaluations of organizational accomplishment for merit pay purposes discretionary, as provided in law. It was not intended to require the consideration of organizational accomplishment, and the final regulations, in §§ 540.103 and 540.104, provide that organizational accomplishments *may* be taken into account if the agency determines it is appropriate to do so. Four commenters recommended that the Office of Personnel Management require agencies to maintain objective documentation to support any variations in the level of funding provided different organizations. The final regulations incorporate this recommendation in §§ 540.103 and 540.104.

(4) Merit pay determinations. One commenter noted that the 90-day provision for making merit pay determinations and granting any resulting increase could be a very heavy burden on an agency payroll system and instead recommended a maximum of two pay periods for these retroactive provisions. Another commenter recommended that all retroactive funds be paid to employees before the end of the calendar year, that is, by the last agency pay period in December. The Office of Personnel Management notes that the 90-day provision of the proposed regulations was written to provide agencies with the flexibility to make a merit pay determination within a reasonable period before or after the beginning of the fiscal year. In recognition of the problem described, however, the Office has modified the 90-day provision for making merit pay determinations in § 540.104 to no more than 90 days before or 60 days after October 1, and also requires in § 540.105 that all retroactive funds be paid no later than December 31 of the calendar year during which the merit pay increase takes effect. However, the Office cautions that agencies should take into consideration the administrative impact as well as the motivational impact on employees in delaying any merit pay increase.

The final regulations provide that a merit pay determination is to be based on a current performance appraisal, which shall include an appraisal of the employee's performance in meeting affirmative action goals and achieving equal opportunity requirements, *to the extent* the employee's position involves such responsibilities. One commenter objected to this provision in the proposed regulations, adding it is either superfluous or it will provide a loophole to avoid responsibility in carrying out the full requirements of a supervisory position. However, the original language has been retained in § 540.104, because there are many "management officials" who will be covered by the Merit Pay System, yet have no supervisory responsibilities. It would be unfair to require the consideration of a factor which is not a part of the employee's position.

Three commenters supported the objective documentation of merit pay determinations, one commenter requested clarification of what the Office considered to be objective documentation, and one commenter disagreed with the need for this requirement at all. In § 540.104 of the final regulations, the Office has modified the documentation requirement to include individual merit pay determinations, and organizational accomplishment, where applicable. In the case of individual merit pay determinations, a written performance appraisal, which has been provided to the employee in accordance with § 430.203(g) of the Office of Personnel Management's regulations, and which has had the concurrence of a higher level official as a part of the merit pay determination, is considered appropriate documentation; in the case of organizational accomplishments, an additional description of the differences of an organization's performance in relation to the performance of other organizations within the agency is considered appropriate documentation.

When the proposed merit pay regulations were written, the Office of Personnel Management's interim performance appraisal regulations and guidance prohibited forced distribution of employee performance ratings. At that time, the Office believed it was clear, by extension, that there was also a prohibition of forced distribution of merit pay determinations and resulting pay adjustments. Since there seemed to be some confusion on this matter during the public comment period, the final regulations in § 540.104 now specifically provide that no merit pay determination may be modified in order to force a specific distribution of performance levels among Merit Pay System employees. In addition, § 540.105 provides that a forced distribution of the dollar or percentage amounts of individual merit pay increases may not be used as a basis for distributing merit pay funds. Intrinsic to the Merit Pay System is the principle that each and every employee is limited in his or her merit pay increase and advancement in the salary range only by his or her performance. Each employee must have an equal chance to be rewarded for effort expended, achievement of objectives, and contribution to the organization. To allow artificial and arbitrary non-performance factors to control the amount of the merit pay increases would, in the Office's opinion, do irreparable harm to the Merit Pay System.

Eight comments were received in regard to the proposed requirement for agency review of merit pay determinations. Five commenters supported the requirement, two opposed it, and one recommended that the requirement be modified to include concurrence by an official at a higher level in the organization than the one who makes the initial merit pay determination. The last recommendation was incorporated in the final regulations. After an analysis of the modified provisions, the Office believes that the regulatory requirement for concurrence of merit pay determinations in § 540.104 does not conflict with or go beyond the purview of 5 U.S.C. 5402. The Office notes that each agency retains full authority to establish its own *procedures* for review; the only requirement is that some concurrence at a higher level be made before the merit pay determination is final. This regulation is based on the general authority in 5 U.S.C. 5405 for the Office of Personnel Management to provide regulations to carry out the purposes of the Merit Pay System. Virtually all existing merit pay plans outside the Federal Government require a before-the-fact merit pay review. That is, some official, other than, and at a higher level than, the one who made the initial merit pay determination, must review and approve the determination before it may become effective. Since Federal supervisors, managers, and management officials will be called upon to make compensation decisions as a new role, the requirement for concurrence is minimal, yet absolutely necessary for the credibility and integrity of the new pay system. Therefore, § 540.104 of the final regulations requires a higher level concurrence in merit pay determinations (except where there is no higher level in the agency).

(5) Merit pay increases. No section of the proposed regulations received more attention than initial merit pay determinations for employees who enter into an established agency merit pay system. It is significant that among the extensive comments received on this matter, none agreed with or supported the Office of Personnel Management's proposal. The most common criticism was lack of a sufficient period to appraise performance before making a merit pay determination. In response to this criticism and in recognition of the probably negligible effect upon most merit pay employees, the Office has eliminated these provisions from the final regulations altogether. It is important to note that in many, if not most instances, employees entering an established agency merit pay system would do so upon promotion. However, in some instances, employees would enter an existing system on the basis of a lateral reassignment. Under the provisions of the final regulations in § 540.105, these employees will be appraised under the normal operation of the Merit Pay System at the same time as the General Schedule pay comparability adjustment. The final regulations do provide in § 540.105, however, that agencies may consider the time since an employee's last increase in pay and the amount of that increase when determining the size of a merit pay increase.

The proposed provisions for merit pay increases have been rewritten for clarity in § 540.105. The final regulations specify that merit pay determinations may take into consideration (1) the employee's grade level; (2) the employee's relative position in the range of basic pay; and (3) the time since an employee's last increase in basic pay and the amount of that increase. Agencies may use these optional performance-related considerations in their merit pay plans to supplement the use of a current performance appraisal in arriving at merit pay determinations and the amounts (if any) of merit pay increases.

Three commenters agreed with the requirement that the annual merit pay adjustment be effective on the same date as the General Schedule pay comparability adjustment, while two commenters disagreed. The Office has retained the General Schedule pay comparability adjustment date for merit pay determinations in § 540.105, and

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notes that this method is the only feasible way to comply with the statutory requirement to spend neither more nor less than that which would have been available under the step system.

One commenter requested clarification as to whether or not a merit pay determination includes a determination not to grant an increase. The final regulations in § 540.105 make clear that the decision not to grant an increase is also a merit pay determination.

(6) Interrupted service. One commenter recommended coverage of employees called to active duty in all of the uniformed services as an extension of the benefit for service with the armed forces under the interrupted service provisions in 5 U.S.C. 5402(d). The Office of Personnel Management views this extension of benefit as legally permissible and that such coverage is equitable and consistent with the intent of the merit pay legislation. Therefore, § 540.106 of the final regulations makes the change.

One commenter recommended the inclusion of employees on Intergovernmental Personnel Act (IPA) mobility assignments covered by subchapter VI of chapter 33 of title 5, United States Code, under the interrupted service benefits of the Merit Pay System. This provision would be consistent with the provisions of 5 U.S.C. 3373. Therefore, Part 334 of Title 5, Code of Federal Regulations, will be revised to include such a provision in the regulations dealing with mobility assignments.

One commenter disagreed with the proposed regulations for granting employees with interrupted service the average merit pay adjustment that occurred in their absence. Another asked what guidance will be used for determining the average increase for employees returning from interrupted service. In response to these comments, the final regulations in § 540.106 provide that employees may receive the benefit of average adjustments for employees comparably situated under the Merit Pay System in the agency during the period when the employee's service was interrupted. Thus, agencies are not constrained to a strict average of funds but could take into consideration the grade level of the employee, the employee's relative position in the rate range of basic pay and the period of time since the employee's last equivalent increase in basic pay.

(7) Cash award program. The final regulations in § 540.107 on the cash award program have been revised to clarify the relationship between the merit pay cash award program established under 5 U.S.C. 5403 and the incentive award program established under chapter 45 of title 5, United States Code. Agencies are not expected to administer two separate yet essentially duplicate programs. Instead, agencies must submit to the Office of Personnel Management for approval, as a part of their merit pay plans that portion of the cash award program for merit pay employees that is performance-related. All other non-performance-related aspects of the cash award program must be administered in accordance with the provisions of Part 451 of the Code of Federal Regulations, although the statutory authority of any such cash award provision remains based on 5 U.S.C. 5403. 5 CFR Part 451 will be revised to incorporate these changes.

One commenter recommended that the Office add detailed guidance on the cash award program to the final regulations. The Office will publish Federal Personnel Manual guidance from time to time on the cash award program.

The proposed regulations required agencies to provide documentation of the reasons for cash awards to recipients of cash awards. This requirement has been removed from the final regulations in recognition that in many instances it would be impractical and unnecessary to provide employees with the actual detailed documentation of a cash award. Instead, procedures for documentation are a matter of agency discretion. The Office expects, however, that a letter of commendation or some other written communication will accompany each cash award.

(8) Agency plans for the Merit Pay System. In the proposed regulations, each agency was required to establish and furnish the Office of Personnel Management with a copy of its merit pay plan. Three commenters recommended that the Office provide criteria or additional information for merit pay plans. The Office has given further consideration to its responsibilities and relationship to the agencies under the Merit Pay System and the nature and scope of agency merit pay plans. The Office concluded that the requirement for agencies to submit merit pay plans for approval is needed. The requirement for review of agency performance appraisal systems by the Office of Personnel Management exists in law, and the Office believes that the controversial nature of merit pay and its lack of precedent in the Federal personnel system make it imperative that reasonable quality control be exercised over the proposed programs, while at the same time agencies be given as much flexibility as possible in plan design. Therefore, the Office specifies the minimal criteria for merit pay plans in the final regulations and also requires, in § 540.108, that plans be submitted at least 180 days before they are scheduled to become effective. The Office notes that under the provisions of § 540.108, April 1, 1981, will be the latest date that agencies can submit their merit pay plans for approval.

(9) Reports. There are no substantial changes to the provisions on reports in § 540.109 of the final regulations.

(10) Implementation. The proposed regulations provided for early implementation of the Merit Pay System for a group or category of employees in October 1979 or 1980. However, due to (1) the publication of the final merit pay regulations so close to the October 1979 pay adjustment and (2) the fact that agencies are not prepared to implement the pay provisions of the Merit Pay System in October 1979 (based on information provided by the agencies in a questionnaire distributed at the Interagency Advisory Group Committee on Merit Pay), the provision for early implementation in October 1979 has been removed from § 540.110 of the final regulations.

Text of Law

For the use of readers in understanding the regulations, the text of the relevant laws is set forth below:

(1) The principal statutory provisions concerning the Merit Pay System appear in chapter 54 of title 5, United States Code, the text of which follows:

CHAPTER 54—MERIT PAY AND CASH AWARDS

Sec.
5401. Purpose.
5402. Merit pay system.
5403. Cash award program.
5404. Report.
5405. Regulations.

§ 5401. Purpose.

(a) It is the purpose of this chapter to provide for—

(1) a merit pay system which shall—

(A) within available funds, recognize and reward quality performance by varying merit pay adjustments;

(B) use performance appraisals as the basis for determining merit pay adjustments;

(C) within available funds, provide for training to improve objectivity and fairness in the evaluation of performance; and

(D) regulate the costs of merit pay by establishing appropriate control techniques; and

(2) a cash award program which shall provide cash awards for superior accomplishment and special service.

(b)(1) Except as provided in paragraph (2) of this subsection, this chapter shall apply to any supervisor or management official (as defined in paragraphs (10) and (11) of section 7103 of this title, respectively) who is in a position which is in GS–13, 14, or 15 of the General Schedule described in section 5104 of this title.

(2)(A) Upon application under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency or any unit of an agency from the application of this chapter if the President considers such exclusion to be required as a result of conditions arising from—

(i) the recent establishment of the agency or unit, or the implementation of a new program,

(ii) an emergency situation, or

(iii) any other situation or circumstance.

(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency or unit to be excluded and the reasons therefor.

(C) An application for exclusion under this paragraph of an agency or any unit of an agency shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency or unit should be excluded from this chapter. The Office shall review the application and reasons, undertake such other review as it considers appropriate to determine whether the agency or unit should be excluded from the coverage of this chapter, and upon completion of its review, recommend to the President whether the agency or unit should be so excluded.

(D) Any agency or unit which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

§ 5402. Merit pay system

(a) In accordance with the purpose set forth in section 5401(a)(1) of this title, the Office of Personnel Management shall establish a merit pay system which shall provide for a range of basic pay for each grade to which the system applies, which range shall be limited by the minimum and maximum rates of basic pay payable for each grade under chapter 53 of this title.

(b)(1) Under regulations prescribed by the Office, the head of each agency may provide for increases within the range of basic pay for any employee covered by the merit pay system.

(2) Determinations to provide pay increases under this subsection—

(A) may take into account individual performance and organizational accomplishment, and

(B) shall be based on factors such as—

(i) any improvement in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;

(ii) cost efficiency;

(iii) timeliness of performance; and

(iv) other indications of the effectiveness, productivity, and quality of performance of the employees for whom the employee is responsible;

(C) shall be subject to review only in accordance with and to the extent provided by procedures established by the head of the agency; and

(D) shall be made in accordance with regulations issued by the Office which relate to the distribution of increases authorized under this subsection.

(3) For any fiscal year, the head of any agency may exercise authority under paragraph (1) of this subsection only to the extent of the funds available for the purpose of this subsection.

(4) The funds available for the purpose of this subsection to the head of any agency for any fiscal year shall be determined before the beginning of the fiscal year by the Office on the basis of the amount estimated by the Office to be necessary to reflect—

(A) within-grade step increases and quality step increases which would have been paid under subchapter III of chapter 53 of this title during the fiscal year to the employees of the agency covered by the merit pay system if the employees were not so covered; and

(B) adjustments under section 5305 of this title which would have been paid under such subchapter during the fiscal year to such employees if the employees were not so covered, less an amount reflecting the adjustment under subsection (c)(1) of this section in rates of basic pay payable to the employees for the fiscal year.

(c)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title, the rate of basic pay for any position under this chapter shall be adjusted by an amount equal to the greater of—

(A) one-half of the percentage of the adjustment in the annual rate of pay which corresponds to the percentage generally applicable to positions not covered by the merit pay system in the same grade as the position; or

(B) such greater amount of such percentage of such adjustment in the annual rate of pay as may be determined by the Office.

(2) Any employee whose position is brought under the merit pay system shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under the merit pay system, plus any subsequent adjustment under paragraph (1) of this subsection.

(3) No employee to whom this chapter applies may be paid less than the minimum rate of basic pay of the grade of the employee's position.

(d) Under regulations prescribed by the Office, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee covered by the merit pay system whose continuous service is interrupted in the public interest by service with the armed forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

(e) For the purpose of section 5941 of this title, rates of basic pay of employees covered by the merit pay system shall be considered rates of basic pay fixed by statute.

§ 5403. Cash award program

(a) The head of any agency may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs a special act or service in the public interest in connection with or related to the employee's Federal employment.

(b) The President may pay a cash award to, and incur necessary expenses for the honorary recognition of, any employee covered by the merit pay system who—

(1) by the employee's suggestion, invention, superior accomplishment, or other personal effort, contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or

(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to the employee's Federal employment.

A Presidential cash award may be in addition to an agency cash award under subsection (a) of this section.

(c) A cash award to any employee under this section is in addition to the basic pay of the employee under section 5402 of this title. Acceptance of a cash award under this section constitutes an agreement that the use by the Government of any idea, method, or device for which the award is made does not form the basis of any claim of any nature against the Government by the employee accepting the award, or the employee's heirs or assigns.

(d) A cash award to, and expenses for the honorary recognition of, any employee covered by the merit pay system may be paid from the fund or appropriation available to the activity primarily benefiting, or the various activities benefiting, from the suggestion, invention, superior accomplishment, or other meritorious effort of the employee. The head of the agency concerned shall determine the amount to be contributed by each activity to any agency cash award under subsection (a) of this section. The President shall determine the amount to be contributed by each activity to a Presidential award under subsection (b) of this section.

(e)(1) Except as provided in paragraph (2) of this subsection, a cash award under this section may not exceed $10,000.

(2) If the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort of an employee for which a cash award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be

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awarded to the employee on the approval of the Office.

(f) The President or the head of an agency may pay a cash award under this section notwithstanding the death or separation from the service of an employee, if the suggestion, invention, superior accomplishment, or other meritorious effort of the employee for which the award is proposed was made or performed while the employee was covered by the merit pay system.

§ 5404. Report

The Office of Personnel Management shall include in each annual report required by section 1308(a) of this title a report on the operation of the merit pay system and the cash award program established under this chapter. The report shall include—

(1) an analysis of the cost and effectiveness of the merit pay system and the cash award program; and

(2) a statement of the agencies and units excluded from the coverage of this chapter under section 5401(b)(2) of this title, the reasons for which each exclusion was made, and whether the exclusion continues to be warranted.

§ 5405. Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purpose of this chapter.

(2) Under 5 U.S.C. 5401(b)(1), the Merit Pay System applies to those employees in positions classified in GS–13, 14, or 15 who are "supervisors" or "management officials," as those terms are defined in paragraphs (10) and (11) of 5 U.S.C. 7103. The text of paragraphs (10) and (11) follows:

(10) "supervisor" means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority;

(11) "management official" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

(3) Section 504 of Pub. L. 95–454 contains certain special provisions relating to the initial implementation of the Merit Pay System. The text of section 504 follows:

Sec. 504. (a) The provisions of this title shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1981, except that such provisions may take effect with respect to any category or categories of positions before such day to the extent prescribed by the Director of the Office of Personnel Management.

(b) The Director of the Office of Personnel Management shall include in the first report required under section 5404 of title 5, United States Code (as added by this title), information with respect to the progress and cost of the implementation of the merit pay system and the cash award program established under chapter 54 of such title (as added by this title).

Accordingly, the Office of Personnel Management is adding to Chapter I of Title 5 of the Code of Federal Regulations a new Part 540, as set forth below:

PART 540—MERIT PAY SYSTEM

Sec.

540.101 General.
540.102 Ranges of basic pay and employee coverage.
540.103 Determination and allocation of merit pay funds.
540.104 Merit pay determinations.
540.105 Merit pay increases.
540.106 Interrupted service.
540.107 Cash award program.
540.108 Agency plans for Merit Pay System.
540.109 Reports.
540.110 Implementation.

Authority: 5 U.S.C. 5401–5405; Pub. L. 95–454, section 504.

§ 540.101 General.

Chapter 54 of title 5, United States Code (5 U.S.C. 5401–5405), provides for a Merit Pay System to recognize and reward quality performance by supervisors and management officials (as defined in 5 U.S.C. 7103(10)–(11)) in positions classified in GS–13, 14, or 15. This part contains the regulations which the Office of Personnel Management has prescribed for the Merit Pay System. This part supplements and implements the provisions of 5 U.S.C. 5401–5405, and section 504 of Pub. L. 95–454 (concerning the implementation of the Merit Pay System), and must be read together with those provisions of law.

§ 540.102 Ranges of basic pay and employee coverage.

(a) Under 5 U.S.C. 5402(a), the Office of Personnel Management is required to establish a Merit Pay System which provides a range of basic pay for each grade of the Merit Pay System. The Merit Pay System shall consist of three grades, as follows:

(1) GM–13, which shall consist of supervisors and management officials who are in positions classified in GS–13;

(2) GM–14, which shall consist of supervisors and management officials who are in positions classified in GS–14; and

(3) GM–15, which shall consist of supervisors and management officials who are in positions classified in GS–15.

(b) The range of annual rates of basic pay for each grade of the Merit Pay System shall be the same as the range of annual rates of basic pay for the corresponding grade of the General Schedule, including any rates authorized under 5 U.S.C. 5303 for any position covered by such authorization.

(c) The head of each agency shall identify employees who are supervisors or management officials for purposes of coverage by the Merit Pay System.

§ 540.103 Determination and allocation of merit pay funds.

(a) Under 5 U.S.C. 5402(b)(4), the Office of Personnel Management must determine the funds available for merit pay purposes. In order to allow the Office to do this, each agency covered by the Merit Pay System shall submit such data as the Office may require.

(b) Before the beginning of each fiscal year, the Office of Personnel Management shall issue a Merit Pay Fund Computation Table, together with instructions for its use. Each agency covered by the Merit Pay System shall use this table to determine the amount of the merit pay fund available to the agency.

(c) Each agency covered by the Merit Pay System is required to establish procedures to ensure that the merit pay fund in the agency is allocated in a fair and objective manner. Variations in the level of merit pay funding provided different organizational elements in the agency must be based solely on differences in the Merit Pay System payroll for the different organizational elements, unless the agency determines that variations should also be based on differences in organizational accomplishments of the different elements. If differences in organizational accomplishments are to be taken into consideration, those differences must be determined on the basis of a fair and objective assessment of each organization's performance in relation to that of other organizations within the agency, and the basis for the determination must be fully documented.

(d) Each agency covered by the Merit Pay System is required to establish procedures to ensure that the sum of merit pay increases awarded each year under § 540.105 of this part to Merit Pay System employees in the agency is no less than 95 percent and no more than 105 percent of the agency's merit pay fund (unless the Office of Personnel Management has granted prior approval for a lesser or greater obligation).

§ 540.104 Merit pay determinations.

(a) A merit pay determination is to be made for each employee covered by the Merit Pay System on October 1 of each year, or on the closest date before or after October 1 that is determined by the agency to be administratively feasible (but in no event more than 90 days before or 60 days after October 1).

(b) Each merit pay determination is to be based on a current performance appraisal (which shall include an appraisal of the employee's performance in meeting affirmative action goals and achieving equal employment opportunity requirements, to the extent the employee's position involves such responsibilities). Except in the case of agencies or employees not covered under chapter 43 of title 5, United States Code, performance appraisals are to be made under a performance appraisal system that has been approved by the Office of Personnel Management under 5 U.S.C. 4304(b)(1).

(c) If the agency determines it is appropriate to do so, a merit pay determination may also take into consideration the accomplishments of the organizational element within which the employee is employed. If organizational accomplishments are taken into consideration, the accomplishments of the organizational element must be determined on the basis of a fair and objective assessment of that organization's performance in relation to that of other organizations within the agency, as documented under § 540.103(c) of this part.

(d) No merit pay determination may take into consideration any preestablished or forced distribution of levels of performance among Merit Pay System employees.

(e) Agency procedures for making merit pay determinations must include a requirement for a concurrence in each merit pay determination by an official of the agency who is at a higher level than the official who made the merit pay determination (unless there is no official at a higher level in the agency).

(f) The reasons for each merit pay determination are to be documented and shall be made available to the affected employee at his or her request.

(g) No merit pay increase resulting from a merit pay determination may be put into effect until the requirements of this section have been met.

§ 540.105 Merit pay increases.

(a) Each agency shall establish a procedure for determining in a fair and objective manner the amount of merit pay increase that shall be granted each Merit Pay System employee. The amount of merit pay increase (if any) for each Merit Pay System employee each fiscal year shall be based on the merit pay determination made with respect to October 1 of that fiscal year under § 540.104 of this part, but may also take into consideration the grade level of the employee, the position of the employee's existing rate of basic pay within the range of basic pay for the employee's grade, the period of time since the employee's last increase in rate of basic pay (other than an increase under 5 U.S.C. 5303, 5305, 5307, 5343(a), 5363(a)(B), or 5402(c)(1)), and the amount of such last increase in rate of basic pay. The amount of merit pay increase for each Merit Pay System employee may not take into consideration any preestablished or forced distribution of dollar or percentage amounts of individual merit pay increases.

(b) All merit pay increases each fiscal year shall be made effective on the same day the pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective in that fiscal year. If, under § 540.104(a) of this part, a merit pay determination is not made until after a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, the resulting merit pay increase (if any) shall be made retroactive to the effective date of the pay adjustment under 5 U.S.C. 5402(c)(1). In no event shall the retroactive payment be made later than December 31 of the calendar year during which such pay adjustment takes effect.

(c) A Merit Pay System employee's rate of basic pay may not be less than the minimum nor more than the maximum rate of basic pay for the employee's grade in the Merit Pay System. Notwithstanding any merit pay determination—

(1) Each Merit Pay System employee's rate of basic pay must be increased, effective on the same day a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, by any amount necessary to raise the employee's rate of basic pay to the new minimum rate for the employee's grade; and

(2) No Merit Pay System employee's rate of basic pay may be increased by an amount that would cause that rate of basic pay to exceed the maximum rate for the employee's grade.

§ 540.106 Interrupted service.

(a) An employee covered by the Merit Pay System, whose continuous service is interrupted in the public interest by service with the uniformed services or by service in essential non-Government civilian employment during a period of war or national emergency, is entitled to have his or her pay fixed in accordance with this section upon:

(1) Reemployment in a position under the Merit Pay System not later than 52 calendar weeks after separation from active duty in the uniformed services;

(2) Restoration to a position under the Merit Pay System after separation from active duty in the uniformed services (or hospitalization continuing thereafter) as provided by law; or

(3) Reemployment in or restoration to a position under the Merit Pay System without a break in service after service in essential non-Government civilian employment during a period of war or national emergency.

(b) An employee under the Merit Pay System who is entitled to have his or her pay fixed under this section shall have his or her pay fixed within the range of basic pay for the employee's position at a rate which is the lesser of—

(1) The maximum rate of the range of basic pay, or

(2) The sum of—(i) The employee's rate of basic pay under the Merit Pay System immediately before the interruption of service entitling the employee to coverage under this section;

(ii) The adjustments that would have been made in the employee's rate of basic pay under 5 U.S.C. 5402(c)(1) had the employee's service not been interrupted; and

(iii) The average adjustments under 5 U.S.C. 5402(b) that were received by comparably situated employees under the Merit Pay System in the agency during the period when the employee's service was interrupted.

§ 540.107 Cash award program.

(a) 5 U.S.C. 5403 authorizes a cash award program as part of the Merit Pay System. Each agency covered by the Merit Pay System shall establish a cash award program for its Merit Pay System employees in accordance with the provisions of 5 U.S.C. 5403 and this section.

(b) Each agency's cash award program shall provide for the administration of cash awards for Merit Pay System employees, except as provided in paragraph (c) of this section, as a part of and in conjunction with the Merit Pay System, and shall establish procedures to ensure that:

(1) Cash awards are made in a fair and objective manner; and

(2) The reasons for each award are documented in such manner as the agency may prescribe.

(c) Cash awards that are not related to the Merit Pay System employee's performance in his or her position are to be administered in accordance with the provisions of Part 451 of this chapter and the agency's incentive award

program established pursuant to Part 451.

(d) The Office of Personnel Management shall establish and publish in the Federal Personnel Manual procedures for considering agency certifications for cash awards under 5 U.S.C. 5403(e)(2).

§ 540.108 Agency plans for Merit Pay System.

(a) Each agency with employees who are subject to the Merit Pay System shall establish a plan for administering the Merit Pay System within that agency. Each agency's plan shall be consistent with the provisions of 5 U.S.C. 5401–5403 and this part, and shall include, in addition to provisions to carry out the requirements of §§ 540.103, 540.104, 540.105, and 540.107 of this part, provisions for—

(1) Communication to the agency's Merit Pay System employees of the purpose of the Merit Pay System and how it works; and

(2) Training in the operation of the Merit Pay System for employees who are subject to that System and for employees who are responsible for its operation.

(b) Each plan for administering the Merit Pay System (and each subsequent change in that plan) shall be submitted to the Office of Personnel Management not less than 180 days before the plan (or change in the plan) is scheduled to become effective. The Office shall advise the agency within 90 days of receipt of the plan (or change in the plan) whether the plan (or change in the plan) is approved. The agency may not implement the plan (or change in the plan) unless it has been approved by the Office.

§ 540.109 Reports.

Under 5 U.S.C. 5404, the Office of Personnel Management is required to include in its annual report to the President under 5 U.S.C. 1308 a report on the operation of the Merit Pay System and the cash award program established under chapter 54 of title 5, United States Code, and the provisions of this part. In order to provide information needed for this report, each agency shall maintain such records and submit to the Office such reports as the Office may require.

§ 540.110 Implementation.

(a) Except as provided in paragraph (b) of this section, the Merit Pay System shall be effective on October 1, 1981, and a merit pay determination shall be made for each Merit Pay System employee on that date, or on the closest date before or after that date that is determined by the agency to be administratively feasible (but in no event more than 90 days before or 60 days after October 1, 1981).

(b) An agency may implement the Merit Pay System for any group or category of supervisors or management officials in positions classified in GS–13, 14, or 15 on October 1, 1980, provided that the agency advises the Office of Personnel Management of such implementation not later than March 31, 1980.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79–27916 Filed 9–6–79; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rulemaking; correction.

SUMMARY: On July 11, 1979, the Agricultural Marketing Service published final rules revising fees for cotton classing and related services. This document corrects one of the fees listed in that document.

FOR FURTHER INFORMATION CONTACT: Mr. Julius Jerome Boyd, Marketing Services Branch, Cotton Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Tel. (202) 447–7857.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–21429 appearing on page 40491 in the **Federal Register** of July 11, 1979, in Part 28-Cotton Classing, Testing and Standards, under § 28.956 Prescribed Fees, Kind of Test, in Item 9.0-Cotton carded yarn spinning test, appearing on page 40493, the fee is corrected to read "$85.00."

Dated: September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79–27910 Filed 9–6–79; 8:45 am]

BILLING CODE 4310–02–M

7 CFR Part 910

[Lemon Reg. 215]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 9–15, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 9, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on September 4, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains somewhat slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.515 Lemon Regulation 315.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 9, 1979, through September 15, 1979, is established at 210,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 6, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–28147 Filed 9–6–79; 11:15 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Submission of Translations of Documents; Remittance of Fees From Foreign Countries

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends two regulations of the Immigration and Naturalization Service. The first amendment clarifies the regulation concerning the submission of verbatim translations of foreign documents submitted in support of applications and petitions. The second amendment provides a simplified manner of remittance of fees on applications and petitions submitted from overseas.

These amendments are necessary and intended to reduce the paperwork burden on the applicants and the Government, and facilitate the processing of these applications and petitions generally.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This order amends 8 CFR 103.2(b)(1) and 8 CFR 103.7(a).

Existing 8 CFR 103.2(b)(1) provides that a foreign document must be accompanied by an English translation. This has been interpreted to require verbatim translations of all foreign documents submitted. However, such translations are not necessary in all cases. In order to clarify the regulation, and reduce the burden on the public of providing complete verbatim translations in all cases, this regulation will be revised to provide that the required English translation be provided in accordance with the instructions printed on the application or petition form.

The second amendment in this order concerns the procedure for submitting fees by means of international postal money orders at 8 CFR 103.7(a).

The existing regulation provides that if payment is made by international money order of the type which cannot be mailed with the application or petition, it must be drawn on the postmaster of the city in the United States to which the application or petition is being mailed. This type of money order must receive additional handling by the U.S. Postal Service and by our Service because the money order must first clear the Postal Service, and the fee then be reunited with the application or petition which has previously been mailed to the Service office. This cumbersome procedure is no longer necessary. Provision is now available in all foreign countries to obtain bank international money orders or foreign drafts drawn on United States financial institutions and payable in U.S. currency. Use of these instruments would eliminate much paperwork and enable the application and fee from overseas to be submitted at the same time, eliminating the delay in processing while waiting for the international postal money order to clear and be united with the application or petition.

Therefore, we will amend 8 CFR 103.7(a) to delete the existing provision relating to submission of international postal money orders, and substitute a provision under which remittance of fees may be made by means of bank international money orders or foreign drafts, drawn on U.S. financial institutions and payable in U.S. currency.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. Section 103.2(b)(1) is amended by revising the fifth sentence to read as follows:

§ 103.2 Applications, petitions and other documents.

* * * * *

(b) *Evidence* —(1) *Requirements.* * * * A foreign document must be accompanied by an English translation in accordance with the instructions on the application or petition form. * * *

* * * * * *

2. Section 103.7(a) is amended by revising the ninth (final) sentence to read as follows:

§ 103.7 Fees.

(a) *Remittances.* * * * If application is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States and payable to the Immigration and Naturalization Service in United States currency.

* * * * * *

(Sec. 103, 8 U.S.C. 1103.)

These amendments are published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments contained in this order relate to Service procedure and simplify the manner in which document translations and certain fees may be submitted to the Service.

EFFECTIVE DATE: These amendments become effective on September 7, 1979.

Dated: August 31, 1979.

Leonel J. Castillo,

Commissioner of Immigration and Naturalization.

[FR Doc. 79–27863 Filed 9–6–79; 8:45 am]

BILLING CODE 4410–10–M

V 4 4 / 1 7 5 S E 7 7 9 UMI

DEPARTMENT OF ENERGY

10 CFR Part 211

[Docket No. ERA-R-79-27A]

Final Rule to Extend Entitlement Benefits for Middle Distillate Imports

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Emergency adoption of final rule and notice of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is extending through October 31, 1979 the entitlement benefits for middle distillate imports which were originally provided in a Final Rule adopted on May 24, 1979. This action is intended to continue to encourage middle distillate imports to maintain the increased import levels which have followed the adoption of the May 24th Rule.

DATES: Effective for the period September 1, 1979 through October 31, 1979. Requests to speak by September 17, 1979. Hearing date: September 25, 1979.

ADDRESS: Written comments and requests to speak to: Office of Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-27, 2000 M Street, NW., Washington, D.C. 20461. Hearing Location: Room 2105, 2000 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gerald P. Emmer, Office of Regulations and Emergency Planning, Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7200.

Douglas McIver, Entitlements Program Office, Economic Regulatory Administration, 2000 M Street, NW., Room 6128-I, Washington, D.C. 20461, (202) 254-8660.

Ben McRae, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

William L. Webb, Office of Public Information, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

SUPPLEMENTAL INFORMATION:

I. Background and Amendment Adopted
II. Procedural Requirements
III. Comment Procedures

I. Background and Amendment Adopted

On May 24, 1979, we adopted, on an emergency basis, amendments to the entitlements program which have provided a $5 entitlement benefit to middle distillate imports for the months of May 1979 through August 1979 (44 FR 31162, May 31, 1979). This action was based on our finding that there existed a serious shortage of domestic supplies of middle distillates and was intended to facilitate and encourage the increased importation of middle distillates from refineries located in the Caribbean and elsewhere in the western hemisphere. Following the adoption of these amendments, there was an increase in both the level of middle distillate imports and the number of importers of middle distillates.

The President has set a goal of home heating oil stocks of 240 million barrels by October 31, 1979. We estimate that such primary level stocks will protect against serious harm and injury to the public health, safety, and welfare in the coming winter. At the time the May 24th Rule was adopted, stocks of middle distillate were far below levels for the same period of 1978. While present stock levels remain below those of last year, increases to those stocks are being made at a greater rate than last year and the gap is being closed. If the current rate of accumulation is maintained until the end of October, we will reach a stock level (240 million barrels) which, we believe, will assure adequate stocks of middle distillate for the winter. A reduction of middle distillate imports, on the other hand, could jeopardize that objective and the public well being. Accordingly, prudence dictates that the current entitlement benefit for imports of middle distillate should be continued to October 31, 1979.

Therefore, we are amending 10 CFR 211.67(a)(6)(i), effective immediately, to provide that entitlement benefits will be available for middle distillate imports during the period of May 1, 1979 through October 31, 1979.

Today's amendment only extends the period during which entitlement benefits are available for middle distillate imports. The description of these benefits in the May notice remains valid and is incorporated herein by reference.

II. Procedural Requirements

A. Section 501 of the DOE Act

Under section 501(e) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance. If we were to comply with these provisions prior to adopting a final rule on this subject, it is likely that middle distillate importers would await the outcome of the rulemaking proceeding before committing further volumes to the U.S. market. Such an event could seriously disrupt the effort to ensure that adequate supplies of home heating oil are available for the coming winter.

In light of all the foregoing, we have waived the requirements of section 501 (b), (c), and (d) to the extent necessary to adopt this amendment effective immediately.

However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we will hold a public hearing on September 25, 1979 and will receive written comments for a period of thirty days following the publication of this rule. We will reconsider today's action in light of the comments received in order to decide whether we should take any further action in this rulemaking proceeding.

B. Section 404 of the DOE Act

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1) or (b) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review this amendment, the FERC has declined to determine that it may significantly affect one of its functions under the sections noted above.

C. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Prior review by the EPA Administrator may be waived for a period of fourteen days if there is an emergency situation which necessitates that a proposed action be made effective at a date earlier than that which would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the **Federal Register** with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same as those which support adopting the amendment effective immediately and are set forth in the preceding sections of this preamble. A copy of the amendment and this preamble have been provided to the EPA.

D. Section 553 of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause is found to waive the section 553(d) requirement for the reasons stated above in support of adopting the amendment effective immediately.

E. Executive Order 12044

The requirements of Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to the amendment adopted today for the reasons previously stated for making that amendment effective immediately.

III. Comment Procedures

A. Written Comments

You are invided to participate in this proceeding by submitting data, views, or arguments with respect to the amendment adopted today by no later than thirty days following publication of this rule. comments should be identified on the outside of the envelope and on the documents submitted with the designation "Entitlements for Imports of Middle Distillates." Fifteen copies should be submitted. All comments that we receive will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify separately any information or data you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure to request participation.* The time and place for the public hearing are indicated in the "ADDRESSES" and "DATES" sections of this Notice. If necessary to present all testimony, the public hearing will be continued to 9:30 a.m. of the first business day following the hearing date shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., September 19, 1979. Persons scheduled to speak at the hearing must send 100 copies of their statement to the address indicated in the "ADDRESSES" section of this notice by 4:30 p.m., September 24, 1979.

2. *Conduct of the hearing.* We reserve the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those officials conducting the hearing. Each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing. Questions must be submitted three days before the hearing to the same address indicated above for requests to speak. In addition, at the hearing you may submit questions, in writing, to the presiding officer. He or she will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will notify all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below effective immediately.

Issued in Washington, D.C., August 31, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

1. Section 211.67(a) is amended by revising paragraph (a)(6)(i) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(a) * * *

* * * * *

(6)(i) For each month in the period May 1, 1979 through October 31, 1979, each firm that imports "distillate fuel oil, less No. 4" and "kerosene" as those terms are defined in the instructions to ERA Form ERA-60, that is the importer of record under a license issued pursuant to Part 213 of this chapter, and that owns the product at the time of importation thereof pursuant to that license shall be issued a number of entitlements equal to the number of barrels of distillate fuel oil, less No. 4, and kerosene imported in that month by

that firm multiplied by a fraction, the numerator of which is $5, and the denominator of which is the entitlement price for that month.

* * * * *

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101, *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

[FR Doc. 79–27984 Filed 9–6–79; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

10 CFR Part 212

[ERA–R–77–16]

Mandatory Petroleum Price Regulations; Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 16 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to reflect the current rate of inflation. This action will result in estimated first sale prices for the months of September, October, and November 1979 of $6.02, $6.06, and $6.10 per barrel (lower tier) and $13.43, $13.53, and $13.63 per barrel (upper tier), respectively.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202–634–2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202–254–6296.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*

B. *Crude Oil Price Schedule No. 16.*

A. Introduction

On May 30, 1979, we issued Crude Oil Price Schedule No. 15 (44 FR 33052, June 8, 1979), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase at the current rate of inflation. We have decided not to depart from that policy during the months of September, October, and November 1979. Accordingly we are issuing Crude Oil Price Schedule No. 16 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during those months which correspond to the current rate of inflation.

B. Crude Oil Price Schedule No. 16

Under Crude Oil Price Schedule No. 16 the August 1979 lower tier ceiling price (the May 15, 1973 posted price plus $2.29 per barrel, resulting in an average first sale price of approximately $5.98 per barrel), and the August 1979 upper tier price (the September 30, 1975 posted price plus $.66, resulting in an average first sale price of approximately $13.33 per barrel), are adjusted for inflation for September, October, and November 1979, based on the first revision of the GNP deflator published on August 21, 1979, which reflects an annual rate of inflation of 9.2 percent.

1. *Lower tier ceiling prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1979 are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00736 which when applied over a twelve-month period yields an effective annual rate of adjustment of 9.2 percent.

B. September 1979 adjustment = ($5.98)(.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

C. October 1979 adjustment = ($5.98 + .04)(.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

D. November 1979 adjustment = ($5.98 + .04 + .04)(.00736) per barrel = $.044 per barrel rounded to $.04 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of September, October, and November 1979 are computed as follows:

September 1979 = $5.98 + .04 = $6.02.
October 1979 = $6.02 + .04 = $6.06.
November 1979 = $6.06 + .04 = $6.10.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
September 1979	May 15, 1973 highest posted field price plus $2.33.	$6.02
October 1979	May 15, 1973 highest posted field price plus $2.37.	$6.06
November 1979	May 15, 1973 highest posted field price plus $2.41.	$6.10

[1] Estimated average first sale price.

2. *Upper tier ceiling prices.* Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1979 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00736.

B. September 1979 adjustment = ($13.33)(.00736) per barrel = $.098 per barrel rounded to $.10 per barrel.

C. October 1979 adjustment = ($13.33 + .10)(.00736) per barrel = $.099 per barrel rounded to $.10 per barrel.

D. November 1979 adjustment = ($13.33 + .10 + .10)(.00736) per barrel = $.100 per barrel or $.10 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of September, October, and November 1979 are computed as follows:

September 1979 = $13.33 + $.10 = $13.43.
October 1979 = $13.43 + $.10 = $13.53.
November 1979 = $13.53 + $.10 = $13.63.

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
September 1979	September 30, 1975 highest posted field price plus $0.76.	$13.43
October 1979	September 30, 1975 highest posted field price plus $0.86.	$13.53
November 1979	September 30, 1975 highest posted field price plus $0.96.	$13.63

[1] Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective September 1, 1979.

Issued in Washington, D.C., August 31, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 16 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

Appendix

* * * * *

Schedule No. 16 of Monthly Price Adjustments Effective September 1, 1979

Month	Lower tier, May 15, 1973, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (plus
1976:		
February	1.35 –	1.32
March	1.38 –	1.25
April	1.41 –	1.18
May	1.45 –	1.11
June	1.48 –	1.05
July	1.48 –	1.05
August	1.48 –	1.05
September	1.48 –	1.05
October	1.48 –	1.05
November	1.48 –	1.05
December	1.48 –	1.05
1977:		
January	1.48 –	1.25
February	1.48 –	1.25
March	1.48 –	1.70
April	1.48 –	1.70
May	1.48 –	1.70
June	1.48 –	1.70
July	1.48 –	1.70
August	1.48 –	1.70
September	1.51 –	1.44
October	1.54 –	1.18
November	1.57 –	.92
December	1.59 –	.87
1978:		
January	1.61 –	.82
February	1.63 –	.77
March	1.66 –	.71
April	1.69 –	.65
May	1.72 –	.59
June	1.75 –	.52
July	1.78 –	.45
August	1.81 –	.38
September	1.86 –	.28
October	1.91 –	.17
November	1.96 –	.08
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on September 1, 1979, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1979, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 15 effective June 1, 1979, are further increased as indicated in this schedule, effective September 1, 1979.

This schedule is effective only through November 30, 1979.

[FR Doc. 79–27979 Filed 9–6–79; 8:45 am]

BILLING CODE 6450–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[Regulation ER–1149; Amdt. No. 7; Docket 33886]

Free and Reduced-Rate Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: Current CAB regulations permit carriers to provide, subject to numerous restrictions, free or reduced-rate domestic air transportation to travel agents on promotional group tours. This amendment issued in response to a petition by certain air carriers, broadens the rule to permit carriers to offer travel agents unrestricted free or reduced-rate promotional transportation in foreign and domestic markets.

DATES: Effective: August 31, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: David R. Parker, Attorney-Advisor, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428, 202/673–5224.

SUPPLEMENTARY INFORMATION: Part 223 of the Board's Economic Regulations (14 CFR Part 223) allows carriers to provide free or reduced-rate transportation for travel agents on promotional group tours. These regulations contain conditions restricting the offer of promotional tours. The conditions in § 223.2(f)(1)–(8) restrict the geographical scope of the tour, dictate minimum tour group size, prescribe the minimum and maximum duration of the tour, regulate the tour agenda, and impose pre- and post-tour reporting requirements. Further, the term "travel agent" is defined in § 223.1 so that only agents continuously employed full-time by an agency for at least one year qualify for free transportation privileges under Part 223.

In EDR–375 (44 FR 27680, May 11, 1979), we tentatively decided that the public interest justifies eliminating the conditions and limitations on group familiarization tours set forth in §§ 223.2(f)(1)–(8) and section 223.1 to allow carriers to offer travel agents unrestricted free or reduced-rate promotional transportation in foreign and domestic markets. We found that promotional travel is a useful tool for promoting air transportation, that there are no public interest reasons to limit the type of promotional incentives carriers offer travel agents, and that there is no incentive for carriers to engage in irrational conduct and offer free transportation without countervailing benefits.

In response to EDR–375, we received comments from the American Automobile Association, Air BVI Limited (Air BVI), American Airlines, Trans World Airlines, Aerovias Nacionales De Colombia (AVIANCA), Linea Aereas Paraguayas (LAP), Finnair, Singapore Airlines Limited (SIA), Deutsche Lufthansa Aktiengesellschaft (Lufthansa) and the Government of the Virgin Islands of the United States (Virgin Islands). We also received several individual comments from travel agents.

All commenters supported the rule, but several requested that we extend unrestricted eligibility under Part 223 to certain categories of persons in addition to travel agents. AVIANCA requested that the rule be expanded to include travel agent spouses; Air BVI and LAP urged coverage for travel writers; Finnair requested coverage for travel writers and tour operators; and the Virgin Islands requested coverage for the representatives of U.S. territorial government tourism offices. We are, however, currently conducting a general review of our free and reduced-rate transportation policies and in another proceeding we intend to consider extending promotional transportation privileges to other groups in the travel industry. Therefore, we will finalize the rule substantially as proposed in EDR–375, with some minor changes.

SIA and Lufthansa requested revisions in our proposed rule to make it clear that the proposed rule applies to foreign as well as domestic carriers. The proposed rule defined a "familiarization tour" as a "tour organized and controlled by one or more *air carriers* * * *." Since *air carriers* is defined in section 101(3) of the Federal Aviation Act as referring to only U.S. carriers, the exemption set forth in EDR–375 would technically exclude foreign carriers. We did not intend this result. Therefore, in this final rule the term "carriers" replaces the phrase "air carriers," to

indicate that foreign as well as domestic carriers qualify for this exemption.

We are, as proposed, changing the definition of "travel agent" so that any person can qualify who is employed (full time or Part-time) in a travel agency and devotes his time there to promotion and sale of transportation and related services. We are substituting for the old definition of "domestic group familiarization tour" a new definition of "familiarization tour" that, in effect, allows any free or reduced-rate tours organized by an airline to promote air travel by familiarizing agents with tourist attractions, accommodations, and recreational facilities. The words "and controlled," included in the proposal, are omitted as surplusage.

Because this rule relieves a restriction and creates no additional burden, we find that it may become effective immediately.

Accordingly, we amend Part 223 of the Board's Economic Regulations (14 CFR Part 223), *Free and Reduced-Rate Transportation*, as follows:

1. In § 223.1, *Definitions*, the present definitions of "domestic group familiarization tour" and "travel agent" are deleted, and the following definitions are added:

§ 223.1 Definitions.

* * * * *

"Familiarization tour" means a tour organized by one or more carriers for the purpose of promoting the sale of air transportation by familiarizing a travel agent with tourist attractions, accommodations, and recreational facilities.

* * * * *

"Travel agent" means a person employed in a travel agency, who devotes his, or her employment time in the agency primarily to the promotion and sale of transportation and related services.

2. Section 223.2(f) is amended to read:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(f) Carriers are hereby exempted from section 403 of the Act and Part 221 of this chapter to the extent necessary to enable them to provide free or reduced-rate transportation to travel agents on familiarization tours.

* * * * *

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, 92 Stat. 1731; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27945 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

[Regulation OR-156; Amdt. No. 89; Docket 35464]

Delegations and Review of Action Under Delegation; Nonhearing Matters; Delegation to the Director, Bureau of Pricing and Domestic Aviation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In PR-213, issued simultaneously, the CAB established procedures for determining the essential air service levels for small communities. The CAB is delegating to the Director, Bureau of Domestic Aviation, the authority to issue the determinations of a community's essential air service level.

DATES: Effective: September 7, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W. Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: As a result of a recent reorganization, the name of the Bureau of Pricing and Domestic Aviation has been changed to the Bureau of Domestic Aviation. This rule also reflects that change. Further amendments to the delegations to reflect the reorganization will be made at a later date.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. Subpart B of the Table of Contents is amended by redesignating § 385.13, to read:

Subpart B—Delegation of Functions to staff Members

* * * * *

Sec.

385.13 Delegation to the Director, Bureau of Domestic Aviation.

* * * * *

2. The title of § 385.13 is amended and a new paragraph (e) is added, to read:

§ 385.13 Delegation to the Director, Bureau of Domestic Aviation.

* * * * *

(e) Issue determinations of the essential air service levels of eligible points under § 325.5 of this chapter and section 419 of the Act.

* * * * *

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27942 Filed 9-6-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Expiration of Temporary Requirements for Exports of Used Vehicles

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Expiration of Temporary Requirements.

SUMMARY: In the Federal Register of October 31, 1978 (43 FR 50674), a final rule was published amending section 30.7 of the Foreign Trade Statistics Regulations and adding a new section 30.42 to provide that for a period of 6 months only, for exports of used vehicles (including vehicles shipped to Puerto Rico), the exporter or his agent would be required to present the Shipper's Export Declaration bearing that vehicle's identification number to Customs at least 48 hours in advance of exportation, and that carriers might not transport used vehicles from the United States until a copy of the Shipper's Export Declaration approved by Customs had been delivered to the carrier.

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division (301) 763-5342.

This notice confirms that the 6-month effective period for these requirements expired on May 30, 1979. Section 30.42, and the reference to § 30.42 which appears in § 30.7, are to be deleted.

(13 USC 302; and 5 USC 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 F.R. 42765)

Dated: September 4, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 27978 Filed 9-6-79; 8:45 am]

BILLING CODE 3510-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9098]

Airco, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Montvale, N.J. manufacturer and seller of industrial gases and welding products to cease, for a period of twenty years, from entering into, or enforcing any agreement that requires a distributor of industrial gases to purchase from Airco any part of its industrial gas requirements unless the initial term or renewal of such contract and the minimum period for termination falls within specified time frame. The firm is also prohibited from requiring a distributor to purchase industrial gases at particular locations, or as a condition of purchasing welding or other industrial gas products at the same or any other location; and from refusing to sell its products to a distributor because that distributor refuses to purchase from Airco a designated part of its industrial gas requirements at a particular location. Additionally, the order prescribes arbitration for any dispute arising from company's refusal to sell; and set forth the manner and form of such arbitration.

DATES: Complaint issued May 18, 1977. Decision issued July 31, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Thursday, April 12, 1979, there was published in the **Federal Register**, 44 FR 21820, a proposed consent agreement with analysis In the Matter of Airco, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-5 Arbitration; 13.533-20 Disclosures; 13.533-45 Maintain records. Subpart—Cutting Off Access To Customers or Market: § 13.587 Selling competitive product at reduced or below cost price. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions. Subpart—Dealing On Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis; 13.670-10 Clayton Act, Sec. 3; 13.670-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 3, 38 Stat. 731; 15 U.S.C. 14.)

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27650 Filed 9-6-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2985]

Pendleton Woolen Mills, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Portland, Oreg. manufacturer of wool products to cease fixing, maintaining, or enforcing resale prices for its products; soliciting the identity of dealers who fail to conform to such prices; and taking adverse action against recalcitrants. Respondent is also prohibited from restricting the use of product trademarks or other identification in the sale or advertising of such products; and barred from suggesting retail prices for any product until April 20, 1982.

DATES: Complaint and order issued July 31, 1979.*

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102 (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Tuesday, May 22, 1979, there was published in the **Federal Register**, 44 FR 29676, a proposed consent agreement with analysis in the Matter of Pendleton Woolen Mills, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165-80 Requiring information of price cutting; 13.1165-90 Spying on and reporting price cutters, in general.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27861 Filed 9-6-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket 9106]

Universal Training Service, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

* Copies of the Complaint, and the Decision and Order filed with the original document.

* Copies of the Complaint, and the Decision and Order filed with the original document.

V 44 / 175 SEP 79

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires eight affiliated vocational schools, headquartered in Miami, Fla., and five corporate officers to cease misrepresenting the prospective earnings, employment opportunities and demand for graduates of their respective courses; the effectiveness of their job placement service; and the extent of job placement assistance they provide to their graduates. They must furnish potential customers with prescribed disclosures concerning educational and other factors considered by employers in hiring; the job success of former graduates; and contracting party's right to cancellation and refund within the provided 14-day "cooling-off" period. Additionally, the schools are required to make restitution to former eligible students in a specified manner.

DATES: Complaint issued Jan. 11, 1978. Decision issued July 27, 1979.*

FOR FURTHER INFORMATION CONTACT:

S. Edward Combs, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., N.W., Room 1000, Atlanta, Ga. 30309. (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Tuesday, April 24, 1979, there was published in the **Federal Register**, 44 FR 24080, a proposed consent agreement with analysis In the Matter of Universal Training Service, Inc., a corporation, and Universal Heavy Construction Schools, Inc., a corporation, and Universal Truck Drivers School, Inc., a corporation, and Universal Airlines Personnel Schools, Inc., a corporation, and Universal Motel Schools, Inc., a corporation, and Insurance Adjusters Schools, Inc., a corporation, and Universal Diesel and Construction Mechanic Schools, Inc., a corporation, and Universal School of Heavy Equipment Operations, Inc., a corporation, and E. McSwiggan & Associates, a partnership, and Edward McSwiggan, and Edward W. McSwiggan, Jr., and Gerald W. McSwiggan, and Agnes McSwiggan, individually and as officers or directors of each of the above-listed corporations and as a partner in E. McSwiggan & Associates, and Marilyn Anne McSwiggan, individually and as an officer of each of the above-listed corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15–20 Business methods and policies; 13.15–245 Prospects; 13.15–275 Stock, product, or service; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; § 13.90 History of product or offering; § 13.115 Jobs and employment service; § 13.143 Opportunities; § 13.175 Quality of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–35 Employment of independent agencies; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.677 Delaying or failing to deliver goods or provide services or facilities. Failing To Maintain Records: § 13.1051 Failing to maintain records. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.1960 Free service; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

James A. Tobin,

Acting Secretary.

[FR Doc. 79-27849 Filed 9-6-79; 8:45 am]

BILLING CODE 6750-01-M

*Copies of the Complaint, and the Decision and Order filed with the original document.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Poison Prevention Packaging; Exemption of Methylprednisolone From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends the child-resistant packaging regulations to exempt methylprednisolone in tablet form in packages containing no more than 84 mg. of the drug. (Methylprednisolone is a steroid oral prescription drug.) The exemption is issued because the low oral toxicity of the drug and the lack of adverse human experience associated with accidental ingestions indicate that child-resistant packaging for this product is not necessary to protect young children from serious personal injury or illness. The Upjohn Company had petitioned the Commission for the exemption (Petition PP 78–3).

DATE: The exemption is effective September 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; phone (301) 492–6400.

SUPPLEMENTARY INFORMATION:

Background

The regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471–1476) establish child protection packaging requirements (also called "special packaging") for human oral prescription drugs in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting these substances (16 CFR 1700.14(a)(10)).

On November 25, 1977, the Consumer Product Safety Commission received a petition from the Upjohn Company to exempt the Medrol Dosepak containing twenty-one 4 mg. methylprednisolone tablets from the child-resistant packaging requirements. Methylprednisolone is a steroid used in the treatment of a number of conditions, including certain types of endocrine disorders, arthritis, and skin conditions. The petition was supported by packaging specification, a description of the product, test reports relating to the toxic characteristics of methylprednisolone, and copies of

letters of complaint that Upjohn had received from persons who had difficulty opening the child-resistant packaging. After evaluating the material that was originally submitted, the Commission's staff requested additional data from the petitioner concerning the oral toxicity of methylprednisolone. These data were submitted on April 4, 1978.

Methylprednisolone is currently marketed by Upjohn in a child-resistant plastic box that contains twenty-one 4 mg tablets that are packaged on a cardboard sheet with a foil backing and a plastic blister covering each tablet.

Although it is known that prolonged use of steroids may produce adverse effects on the hormonal and lymphatic systems, there appears to be little or no effect after a single large dose. The National Clearinghouse for Poison Control Centers reports 29 ingestions of methylprednisolone by children under five years of age from 1969 through 1976. There were no reported symptoms caused by these ingestions. The information available from the National Electronic Injury Surveillance System contains no reports of methylprednisolone poisonings to children under five years of age during 1977 and 1978.

In addition, animal toxicity studies indicate the low toxicity of the product. The oral LD–50 (median lethal dose) in rats is over 12 gm per kg. Extrapolating this dose to humans indicates that a typical lethal dose for a 10 kg. (22.05 lb) child would be in excess of 120 grams, which is over 1400 times as much of the drug as is in the package to which the requested exemption applies.

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based on the lack of reported adverse human experience associated with accidental ingestion and the low acute oral toxicity of the drug, FDA concluded that the exemption should be granted.

The Commission also solicited comments from its Technical Advisory Committee on Poison Prevention Packaging. Of the 16 members that commented on the petition, 14 recommended granting the exemption, and two recommended denial due to their concern for the potentially harmful effects to the hormonal and lymphatic system. (However, as discussed above, these adverse effects appear to be associated only with prolonged use of this type of product and not with large single doses.)

Based on its evaluation the available toxicity information and human experience data, the Commission preliminarily found that this drug, in tablet form and in packages containing not more than 84 mg of the drug, does not pose a risk of serious personal illness or injury to children. The Commission therefore proposed an exemption from the poison prevention packaging standards for methylprednisolone in that form and dosage (43 FR 47738; October 17, 1978). In order that the requested exemption will apply to as many similarly situated manufacturers as possible, the proposed exemption was phrased in terms of the generic name and total amount of the drug that is present in the package rather than in terms of a specific tablet dosage or number of tablets.

Comments on the Proposal

The Commission received 9 comments in response to the proposed exemption for methylprednisolone. The comments and the Commission's response are discussed below.

1. *Support of the exemption.* Three commenters supported the exemption as proposed. Two of these commenters also stated that some consumers have difficulty with child-resistant closures and recommended that the option of noncomplying packages be permitted for all regulated products. Although this latter comment is not relevant to whether the exemption should be issued, the Commission notes that the option to use noncomplying packaging already exists. (Section 4(a) of the act allows a manufacturer or packager of a regulated non-prescription product supplied in special packaging to produce a single size of the product in conventional packaging provided it is conspicuously labeled, "This package for households without young children." In addition, section 4(b) allows prescription drugs subject to a standard to be dispensed in conventional packaging upon the request of the prescribing physician or the purchaser.)

Two of these commenters also suggested that the responsibility for the protection of young children from potentially harmful products rests with the parents of the children. They further contended that special packaging standards place an unnecessary burden on responsible parents and individuals without children.

These comments are not relevant to the issue of whether the proposed exemption should be issued, since they contend that no substance should be in special packaging. However, the Commission notes that available evidence indicates that parental negligence is not the primary cause of poisonings. See the Senate Committee on Commerce report concerning the PPPA [S. Rep. No. 91–845, 91st Cong., 2d Sess. 3, (1970)]. Also, there have been many cases where children have gained access to potentially harmful substances while visiting or being visited by persons who do not have young children in their household.

2. *Extension of the exemption to include other similar products.* A manufacturer of prednisone requested that the Commission also exempt that product. Prednisone is a similar steroid prescription drug, used in the treatment of similar maladies. Since the manufacturer contends that a 5 mg dose of prednisone would be equivalent to 4 mg of methyprednisolone, it was suggested that packages containing no more than 105 mg prednisone be allowed an exemption from the requirement for special packaging.

In evaluating petitions requesting the exemption of particular substances from regulations under the PPPA, the Commission examines the data provided by the petitioner as evidence that an exemption for that particular substance is justified. If, after consideration, the Commission concurs than an exemption is justified, it then attempts to state the exemption in generic terms so that the exemption will apply to other manufacturers of the same substance when packaged in similar amounts. However, it is necessary that such substances be chemically identical to the petitioned substance in order to insure that the exemption for them is equally justified.

Although the Commission is aware of the similarities between prednisone and the exempted product, the Commission cannot issue an exemption for prednisone without a separate evaluation of that substance.

If the commenter wishes, it could submit a separate petition for an exemption for prednisone. The petition should comply with the applicable Commission regulations (16 CFR Part 1702).

3. *Disapproval of the exemption.* One commenter did not agree with the proposed exemption since he believes that there is insufficient evidence to rule out the possibility that an acute overdose of steroid drugs might produce some long-term effects on the hormonal or reproductive systems of young children. He further stated that an exemption was not necessary since conventional packaging is available upon request.

When promulgating a regulation under the PPPA, the Commission must find "that the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required

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to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance" (section 3(a)(1) of the act, 15 U.S.C. 1472(a)(1)). However, in issuing the regulation for oral prescription drugs, the FDA (which previously administered the PPPA) decided that the most efficient way to implement the act was to issue a regulation applicable to all oral prescription drugs without analyzing the degree of risk associated with any particular drug. Since some drugs which do not necessarily pose such a hazard would also be included under this regulation, provision was made for petitioning for exemption of such products. Therefore, when considering an exemption request for an oral prescription drug, the Commission evaluates the request using the criteria for initially promulgating a regulation; that is, it decides whether the information about the product supports a finding that it does not pose a hazard to young children, and, on that basis, decided to grant or deny the petition.

In this case, the available data indicate that an acute overdose of this drug would not be expected to produce any serious harmful effects. No prolonged hormonal effects would be expected since the results from several animal studies indicate that there is a rapid (within hours) return of normal hormonal function even after massive acute dose of steroid drugs have been administered. Since the total amount of drug in the entire package is only a small fraction of the doses used in the animal studies, it would be expected that minimal hormonal effects would occur, with a rapid return to normal function. These expectations are further confirmed by the known pharmacological and physiological effects of these hormones in humans. The Commission therefore concludes that an exemption for this drug is justified.

Another commenter recommended that all drugs should be packaged in child-resistant packaging and that those individuals who are unable to use special packaging could repackage the drug themselves in conventional packaging.

However, as discussed above, the Commission may issue special packaging standards only where they are required in order to protect children from serious personal injury or serious illness. In considering exemption requests, the Commission applies these criteria.

The decision to grant an exemption is based on toxicity data and available human experience data regarding the particular product in question. In the case of methylprednisolone, the available data indicate that in tablet form and in the dosage specified in the exemption, this drug does not pose a risk of serious personal illness or injury to children. Therefore, the Commission believes an exemption is warranted.

Conclusion

Having considered the petition, the comments on the proposal, human experience data as reported to the National Clearinghouse for Poison Control Centers, and medical and scientific literature, and having consulted with the Technical Advisory Committee on Poison Prevention Packaging as required by section 3 of the Poison Prevention Packaging Act of 1970, the Consumer Product Safety Commission concludes that special packaging is not required to protect children from serious personal injury or illness resulting from handling, using, or ingesting methylprednisolone in tablet form in packages containing not more than 84 mg of the drug.

Accordingly, under provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; secs. 2(4), 3, 5; 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474 and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573; sec. 30(a); 86 Stat. 1371; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(10)(xiv) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a particular licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * * *

(xiv) Methylprednisolone in tablet form in packages containing not more than 84 mg of the drug and containing no other substance subject to the provisions of this section. (Secs. 2(4), 3, 5, Pub. L. 91–601, 84 Stat. 1670–1672 (15 U.S.C. 1471(4), 1472, 1474)).

Effective date. Since this amendment grants an exemption, the requirements of 5 U.S.C. 553 for a delayed effective date are not applicable. Therefore, this amendment is effective September 7, 1979.

Dated: August 31, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79–27938 Filed 9–6–79; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Docket No. RM79–19]

Treatment of Certain Production-Related Costs for Natural Gas To Be Sold and Transported Through the Alaska Natural Gas Transportation System; Public Hearing

August 29, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On August 24, 1979, the Federal Energy Regulatory Commission (the Commission) issued Order No. 45 in Docket No. RM79–19 (44 FR 51554, September 4, 1979). By that Order the Commission amended certain of its interim regulations promulgated under the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95–621, 92 Stat. 3353 (1978). The amendments permit producers or other first sellers of natural gas which is produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System to apply under section 110 of the NGPA for an allowance for the removal of carbon dioxide below a specified level. In addition, the Commission's Order permits the producers and other first sellers to apply under section 502(c) of the NGPA for relief or a waiver of Commission regulations with respect to other production-related costs borne by them.

Section 502(b) of the NGPA requires, to the maximum extent practicable, an opportunity for the oral presentation of data, views, and arguments prior to the effective date of any order (with certain exceptions) issued under the NGPA. In order to comply with this requirement, a public hearing on Order No. 45 will be held in Washington, D.C. on Thursday, September 27, 1979.

DATES: The hearing will be held at 10 a.m. on Thursday, September 27, 1979.

ADDRESSES: The hearing will be held at the Federal Energy Regulatory Commission, Hearing Room "A," 825 North Capitol Street NE., Washington, D.C.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should be made no later than September 20, 1979. Requests should reference Docket No. RM79–19 and should indicate the amount of time required for the oral presentation and the telephone number at which the person making the presentation can be reached.

Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the Commission on the morning of the hearing.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross-examination of persons presenting statements. However, staff may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public file for this proceeding, Docket No. RM79–19, in the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28091 Filed 9–6–79; 8:45 am]

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18 CFR Parts 157, 281, 284, Subchapter H, and Subchapter I

[Docket No. RM79–75; Order No. 46]

Sales and Transportation of Natural Gas

Issued: August 30, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending and making final certain of the interim regulations published December 1, 1978, concerning the transportation of natural gas by interstate pipelines on behalf of intrastate pipelines and local distribution companies.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8433.

Final Part 284 Regulations Under the Natural Gas Policy Act of 1978; Order amending Part 284 and issuing Subparts A, B, C, and E as final regulations (Issued August 30, 1979).

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations implementing the Natural Gas Policy Act of 1978 (NGPA) (43 F.R. 56448). Subparts A, B, and D of Part 284 of the interim rule implemented sections 311(a) and 312 of the NGPA. In the final rule, Subparts B, C, and E implement these sections.[1]

Section 311(a)(1) allows the Commission to authorize the transportation of natural gas by interstate pipelines on behalf of intrastate pipelines and local distribution companies (subpart B of the final rule). Section 311(a)(2) allows the Commission to authorize the transportation of natural gas by intrastate pipelines on behalf of interstate pipelines and local distribution companies served by interstate pipelines (subpart C of the final rule). Section 312 allows the Commission to authorize the assignment of natural gas by intrastate pipelines to interstate pipelines or local distribution companies (subpart E of the final rule).

Oral comments were made at public hearings on these subparts, and written comments were received. Several suggestions made in the comments have been incorporated in the final rule.

II. Discussion of Comments and Amendments

1. *What are the jurisdictional consequences of performing activities authorized by the Commission under sections 311 and 312 of the NGPA?*

Many parties requested clarification of the jurisdictional consequences of performing section 311 or 312 activities. Most simply requested that the regulations specifically reflect the language of section 601. It is our conclusion that sales, assignments and transportation services authorized by the Commission under sections 311 or 312 are clearly exempted from the Commission's Natural Gas Act (NGA) jurisdiction by the operation of section 601(a) of the NGPA.[2] The Commission has reflected this statutory language in the final rule in § 284.3 (a) and (b).

However, the NGPA is silent on the jurisdictional consequences of participating in the construction and operation of the facilities necessary to effectuate transportation authorized by the Commission under section 311(a). It is our view that a facility is not subject to NGA jurisdiction if it is used exclusively for transportation authorized under section 311(a);[3] thus, no certificate is required by section 7 of the NGA. This position is set out in the final rule in § 284.3(c).

One comment requested that if authorization under section 311(a) is found not to exist, the parties to such a transaction be allowed to cease operations without having NGA jurisdiction attach if the transaction was entered into in good faith. This suggestion is rejected. Section 601 removes the Commission's NGA jurisdiction from a transaction otherwise subject to NGA jurisdiction only if the transaction is "authorized" by a Commission rule or order. Section 601 does not remove the Commission's NGA jurisdiction from a transaction otherwise subject to NGA jurisdiction if the parties erroneously, in good faith, believed they had section 311(a) authorization, when in fact such authorization did not exist.

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[1] Because certain rules of general applicability were thought to be most conveniently placed at the beginning of Part 284, Subpart A of the interim rule is now issued as Subpart B, Subpart B has become Subpart C, etc. Subpart F has remained as Subpart F.

[2] Throughout Part 284, language referring to Commission authorization has been added, to emphasize the fact that transactions can take place only with Commission authorization, whether or not that authorization entails prior approval of the transaction.

[3] If the facility also transports natural gas in interstate commerce, not authorized by the Commission under section 311(a), NGA jurisdiction attaches to the facility. However, the mere fact that the volumes of natural gas were transported under section 311(a) for one part of the transportation arrangement does not render all the facilities which transport such gas to be non-jurisdictional under the NGA. For example, if an interstate pipeline must construct facilities to reach out to connect with an intrastate pipeline system to enable the interstate pipeline to receive into its system supply certain volumes transported by the intrastate pipeline under section 311(a)(2), those interstate pipeline facilities are subject to the Commission's jurisdiction under the NGA because the transportation by the interstate pipeline through those facilities is not authorized under section 311(a)(1); i.e., the transportation by the interstate pipeline is "on behalf" of itself, not any other entity. Thus, it is the nature of the transportation authorization that determines whether facilities used for that transportation are subject to NGA jurisdiction. *See* Natural Gas Pipeline Corporation of America, Docket No. CP79–200.

However, the Commission will consider the transporter's good faith, and the absence of willfull misconduct, in determining whether continuing jurisdiction attaches.

Another related issue is the extent of NGA jurisdiction over those transactions which could go forward under section 311(a)(1), but for some reason the interstate pipeline desires to obtain a certificate under section 7 of the NGA. The Commission will not issue such certificates unless the reasons for not transporting pursuant to section 311(a)(1) are extraordinary. It shall be our policy that authorization under section 311(a)(1) of the NGPA should be utilized wherever possible, without resort to certification under section 7 of the NGA. (*See*, ONG Western, Inc., Docket No. CP79–133.)

2. *Self-execution:* A. *Resale requirement.*—Although the issue was not addressed in the comments, the Commission has decided to limit the self-execution of section 311(a) (1) and (2) transportation arrangements to those arrangements in which the final recipient of the natural gas has acquired the natural gas for its system supply and will resell the gas in accordance with its applicable curtailment plan.[4] Sections 284.102(b)(1)(ii) and 284.122(b)(1)(ii) are designed to encourage transportation of gas to be used in system supply by allowing these transactions to occur without prior Commission approval. Thus, Subparts B and C of the final rule do not authorize transportation directly to end-users unless the transportation is specifically approved by the Commission.[5]

In Order No. 30, issued May 17, 1979, (44 FR 30323, May 25, 1979) the Commission promulgated Subpart F of Part 284 to authorize the transportation of natural gas directly to eligible end-users to displace fuel oil. These regulations were, in part, issued pursuant to section 311(a), and are a further exercise of the authority granted to the Commission in section 311(a). Order No. 30 constitutes the only exercise of the Commission's power to grant section 311(a) self-executing authorization for transportation arrangements other than for system supply.

One additional facet to section 311(a)(2) transportation should be pointed out. In order to qualify to transport under section 311(a)(2), the transportation must be performed by an "intrastate pipeline" within the meaning of section 2(16) of the NGPA. However, that definition would seem to require that the prospective section 311(a)(2) transporter be "engaged in natural gas transportation * * * which is not subject to the jurisdiction of the Commission under the Natural Gas Act." If a *new* pipeline company is planned, it would not fit within this literal definition of "intrastate pipeline" until it first engages in transportation. Consequently, the proposed pipeline company could not engage in section 311(a)(2) transportation unless it establishes that it is engaged in nonjurisdictional transportation. It may so establish by obtaining a declaratory order from the Commission that it qualifies as an intrastate pipeline for section 311(a)(2) transportation.[6] The Commission's interpretations procedure under 18 C.F.R. 1.42 is also available for this purpose. However, it should also be noted that if a corporate entity qualifies as an intrastate pipeline under section 2(16) it will retain that identity for its entire system even if it constructs a new portion of its system to be used exclusively for section 311(a)(2) transportation.

B. *Facilities.*—Several comments indicated that the interim rules did not address the question of the cost treatment of facilities. In Docket No. RM79–43 (44 FR 30331, May 25, 1979), the Commission issued interim rules allowing section 311(b) and 312 facilities owned and operated by an interstate pipeline to be authorized under its budget-type certificate. Final rules will soon be promulgated in that docket.

C. *"On behalf of".*—It is our view that the phrase "on behalf of", which is found in both sections 311(a)(1) and (2), should be broadly construed to give the Commission the necessary flexibility to carry out the Congressional objective of integrating the intrastate and interstate markets.[7] Obviously, some nexus is required between the transporter and the party on whose behalf the transaction will be conducted. That nexus may be an agency relationship, or having title to the transported gas reside, during the transaction, in the party on whose behalf the transportation is conducted. For those parties who wish to determine if a particular transaction meets the statutory requirements of section 311, the Commission may be requested to provide interpretations pursuant to section 502(c) of the NGPA.[8] See the Interim Regulations issued on August 7, 1979, in Docket No. RM79–65 (44 FR 48171, August 17, 1979) for the procedures for providing interpretations and interpretative rules under the NGPA.

3. *Interstate pipeline transportation.*—Several comments requested that the regulations be amended to authorize transportation services between interstate pipelines without prior Commission approval. Some comments expressed the opinion that the authority to do so lies in the NGA; that NGA certification can be dispensed with, or "blanket" authorization can be granted; or that temporary authorization could be granted under expedited procedures, which later could be changed to permanent certification.

These suggestions are rejected. Section 7 of the NGA requires certificates of public convenience and necessity for transportation arrangements between interstate pipelines. The NGPA does not supersede these requirements, although the Commission may examine, at a future date, the desirability of issuing "blanket" section 7(c) transportation certificates.

One comment suggested that interstate pipelines should be *required* to transport gas for local distribution companies, at least on a best efforts basis, up to the local distribution company's daily contract demand quantity. This comment indicates that mandatory transportation service is necessary to encourage local distribution companies to develop additional natural gas resources.

There is no indication in section 311(a)(1), or in its legislative history,

[4] Of course, the requirement of resale will not include those volumes utilized by the final recipient of the gas for compresser fuel or line loss.

[5] The Commission wishes to scrutinize such transactions except as otherwise authorized by our regulations.

[6] See the Declaratory Order issued in Texas Sea Rim Pipeline, Inc., Docket No. CP79–117, on February 16, 1979.

[7] The report of the Ad Hoc Committee explained the purpose of these sections: The amendment facilitates development of a national natural gas transportation network without subjecting intrastate pipelines, already regulated by State agencies, to FPC regulation over the entirety of their operations. Instead the intrastate pipelines are immunized from State or Federal regulation as common carriers and from FPC regulation under the Natural Gas Act. The intrastate pipelines are only subjected to FPC regulation under this legislation to the extent the intrastate pipeline is involved in an authorized sale of natural gas to interstate pipelines or an authorized transportation of natural gas on behalf of interstate pipelines. Other operations of an intrastate pipeline are not intended to be subject to FPC regulation by reason of this amendment. (H.R. Rept. No. 543, 95th Cong. 1st Sess. 45 (1977).)

[8] For example, an intrastate pipeline selling natural gas to an interstate pipeline under section 311(b) may contract with another interstate pipeline to transport the gas to the interstate pipeline purchaser, with title passing at the point of delivery to the purchaser. The intermediary interstate pipeline would be able to transport the gas under section 311(a)(1) authorization. Conversely, if the interstate pipeline purchaser contracted for the transportation, and if title passed to the purchaser at the point of delivery to the intermediary transporting interstate pipeline, the nexus would not be present and section 311(a)(1) authorization would not be available.

that interstate pipelines were intended to be required to render transportation services. Indeed, section 602(b)(2) specifically states that no person shall become a common carrier by reason of section 311(a) transportation. Thus, the Commission is without authority to require transportation services by interstate pipelines solely by reason of section 311(a)(1).

4. *Rates and Charges for Interstate Pipelines.*—Two comments suggested that the allowance of one cent per Mcf for out-of-pocket expenses is insufficient to cover the costs of participating in section 311(a)(1) transportation services. The Commission believes that the one cent allowance covers the level of out-of-pocket expenses normally incurred by interstate pipelines in rendering transportation service through its otherwise unused capacity. Later, if it becomes apparent that interstate pipelines can consistently show that the one cent allowance is insufficient, the limit can be changed. There should be no hardship as a result of the one cent allowance, because the allowance is merely a presumption that there will be out-of-pocket expenses of one cent per Mcf. If there are in fact greater expenses, the interstate pipeline will be able to recover them upon a showing to the Commission.

Other comments objected to the requirement that revenues in excess of out-of-pocket expenses must be credited to Account 191. In particular, one commenter stated that the requirement to credit Account 191 is inconsistent with setting rates based on test periods. The commenter argued that since the amount of gas transported may vary during the period a rate is in effect, there is no basis to assume that section 311(a)(1) service will result in more total revenues than the rate was designed to provide. The commenter stated further that, due to inflation, even if there is an increase in revenues there is no basis to assume that the increase will not be offset by increased costs. The Commission believes that the proper forum to address these problems is the interstate pipeline's next rate case. Consequently, the procedure for treating section 311(a)(1) revenues will not be changed.

Several comments suggested that the "out-of-pocket" limitation would not induce interstate pipelines to participate in section 311(a)(1) transactions, because there is no incentive for interstate pipelines to participate. However, the Commission is concerned that if an incentive is provided for section 311(a)(1) transactions, that very incentive may operate to make these transactions so attractive that they would have a deleterious effect on other short term transportation arrangements, as well as purchases for system supply. The Commission is studying the relationship between the rate design of all transactions which can be used to achieve the objective of opening up intrastate supplies of natural gas to the interstate market. At the completion of that study, the Commission will re-examine the necessity of providing an incentive for section 311(a)(1) transactions. In the meantime, the flow back requirement will remain unchanged.

It was apparent from these and other comments that the flow back procedures in § 284.103(d) were confusing. Accordingly, this section has been redrafted to more clearly express the intention that the one cent allowance is optional with the transporting interstate pipeline. If the interstate pipeline chooses, it may forego the allowance and demonstrate its out-of-pocket expenses to the Commission. The Commission will not require a flow back of any amount the interstate pipeline has established as representative of out-of-pocket expenses.

One comment objected to the flow back procedure of the rule becaue the flow back is system-wide even for those interstate pipelines that do not set their rates on a system-wide basis. In such a situation, it was stated that certain customers of such an interstate pipeline will receive flow back credits for transportation costs that the customers have never incurred. Although this recommendation may be appropriate in certain rare situations, the Commission feels that the general rate proceeding for the interstate pipeline is the proper place for this issue to be addressed. To attempt to address this specific refund question in this regulation would be difficult to do, given the unique fact situations involved.

One comment requested that the regulations contain a provision to set a uniform standard for determining fuel use and line loss, and a prohibition disallowing an interstate pipeline from requiring a shipper to sell to it any portion of the shipper's transportation volumes. Adopting these provisions would tightly control the terms of section 311(a)(1) contracts, and would have the effect of requiring all section 311(a)(1) compensation to be paid in a form that could be flowed back to the pipeline's customers. The Commission feels that any possible advantages to the pipeline's customers in adopting this approach would be offset by the disadvantages of strait-jacketing the parties into contracts which may be unrealistic for a particular set of circumstances. Given the importance of maximizing participation in section 311(a)(1) transactions, these limitations will not be adopted.

The Commission has amended § 284.103(c)(2) to indicate that comparison can be made to only those rate schedules filed by the interstate pipeline transporting pursuant to section 311(a)(1). Rate schedules filed by another interstate pipelines cannot be used.

5. *Terms and Conditions Imposed by the Commission on Section 311(a) Transactions.*—Several comments suggested that the two-year term is too short. One suggested that an extension past two years be self-executing. Another recommended that the two-year review by the Commission (which is predicated on the need to examine pipeline transportation capacity) be replaced with a program limiting transportation on a priority basis: section 311(a)(1) transportation volumes in excess of contract demand quantities would receive the lowest priority, and section 311(a)(1) volumes within contract demand quantities would receive the next to lowest priority. Yet another comment suggested that "best efforts" section 311(a) transportation would solve the capacity problem.

The first suggestion has already been met in § 284.105. Extensions of two years are self-executing unless the Commission decides that an extension is not in the public interest.

The other commenters' suggestions are rejected, because the Commission continues to believe that it is appropriate to review long-term transportation arrangements in order to allow an evaluation of the impact of such arrangements on the capacity of interstate pipelines to meet the needs of its customers.

Other comments suggested (1) the term "detriment or disadvantage" in § 284.104(a) be clarified; and (2) the word "prospectively", which was used in §§ 284.104(c), 284.124(c), 284.145(d), and 284.164(c) of the interim rule, be clarified to indicate that executed contracts would not be modified by future Commission action.

The phrase "detriment or disadvantage" is sufficiently clear. The Commission intends this phrase to include actual curtailment of natural gas service as well as any other adverse effect upon an existing customer or end-user.

The term "prospectively" is also sufficiently clear. Under certain circumstances the Commission may promulgate additional terms and

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conditions which establish requirements for future deliveries under contracts entered into before the promulgation of the additional requirements. Of course, the parties to the contract may provide for the termination of the contract in the event of a changed regulatory framework. In view of the fact that each transaction authorized under Part 284 should be equally subject to modification by the Commission, §§ 284.104(c), 284.124(c), 284.145(d), and 284.164(c) have been deleted and a new § 284.5 added to replace them.

One comment requested that a procedure be implemented whereby an intrastate pipeline could secure temporary authorization, pending final Commission approval, to commence long-term transportation on behalf of interstate pipelines and local distribution companies. Since an intrastate pipeline can arrange for short-term transportation without Commission action, this comment's request has already been met. During the two-year self-implementing period, the intrastate pipeline can apply for long-term approval.

6. *Rates and Charges for Intrastate Pipelines.*—One commenter expressed concern that the amount required to recover all "service" costs listed in § 284.123(b)(1)(i)(A) would be included in the rates authorized by the regulation. Since § 284.123(d)(1) presumes that rates set in accordance with § 284.123(b)(1) are fair and equitable, this concern is unfounded.

Several comments suggested that an intrastate pipeline be able to base its rate on the comparable tariffs of interstate pipelines on file with the Commission. This suggestion is rejected. It would be unreasonable to allow an intrastate pipeline to charge a rate based on the tariff of an interstate pipeline system designed for natural gas transportation of much larger volumes over much larger volumes longer distances. The costs of operation of intrastate pipelines and interstate pipelines are simply not comparable. Intrastate pipelines will be reasonably compensated under the present regulations.[9]

One comment suggested that a pipeline without a comparable tariff on file with a state regulatory agency be allowed to file one, and be able to use that tariff to set its section 311(a)(2) transportation rate, pending the approval of the tariff by the state regulatory agency. This suggestion is also rejected. The intent of the regulations is to set section 311(a)(2) rates by reference to tariffs applicable to other intrastate transportation; absent such a tariff the Commission will set the rate. It would be unwise for the Commission to delegate to a state regulatory agency the power to set the rate to be charged to an interstate pipeline for section 311(a)(2) transportation. The state agency may use different criteria for setting a section 311(a)(2) interstate rate than it would in setting intrastate rates, since its concerns would necessarily be different in the two situations. The final rule in § 284.123(b)(1)(ii) has been amended to make clear that only a "then effective" tariff filed by the transporting intrastate pipeline may be used for comparison.

The words "then effective" refer to the point in time of the deliveries of the natural gas. Thus, if the contract permits, an intrastate pipeline can raise or lower its rates after the transaction is begun, if the applicable tariff rate is changed by the appropriate state regulatory agency. Of course, as stated above, the tariff must be of general applicability, i.e., it must apply to city-gate intrastate service, and it must be the tariff under which the transaction was begun.

Another commenter suggested that a rate set by Commission order for a specific transaction take precedence over any different rate that could be derived from one of the approved formulas. This suggestion has been adopted in § 284.123(b)(2). Specific Commission action in regard to a particular transportation service overrides a rate determined by a formula set out in the regulations.

This commenter also requested the rule be amended to specify that the presumption regarding the treatment of revenues in § 284.123(c) applies only to *future* rate proceedings. This revision is unnecessary; the regulation clearly indicates the presumption applies only to future proceedings.

A state regulatory agency has concluded that the presumption contained in § 284.123(c) impermissibly reaches into the rate-making jurisdiction of the state agency and thus should be deleted. The presumption merely reflects an assumption on the part of the Commission that a state regulatory agency will not ignore the intent of Congress to prevent double recovery for section 311(a)(2) transportation arrangements.[10] Thus, the rule will not be changed.

Another commenter requested that § 284.123(c) be amended to clarify the Commission's intention that it does not require the state agency to investigate each section 311(a)(2) transaction. Such investigations are not required under § 284.123(c). Indeed, it would be impermissible for the Commission to demand that they be made.

This commenter further requested an amendment to § 284.123 to provide that there would be no refund liability on the participants to a section 311(a)(2) transaction if a rate set in good faith was later determined not to be "fair and equitable." The Commission cannot accept this position. Accordingly, a specific refund obligation has been included in the final rule in § 284.2(a) for amounts in excess of the amounts allowed by the regulations. An interest rate obligation has also been included in § 284.2(b).

One comment suggested that since not all state agencies regulate transportation rates, a transportation rate set by arms-length contractual negotiations should be defined as "fair and equitable." Adopting this suggestion would obviate the need for rate approval by any public body, and is rejected.

Section 284.123(b)(1)(i)(B) has been amended to identify more clearly the allowance upon which an intrastate pipeline may elect to base its rate. Certain state regulatory agencies do not set intrastate transportation rates directly, but rather grant natural gas distributors an allowance to pay for transportation by the intrastate pipeline to the city gate. The rule refers to this allowance.

7. *Assignments.*—One comment requested that all section 312 assignments be made self-executing. This request will not be granted. The general rule was specifically intended to limit the kinds of gas which can be assigned without Commission approval to that which is sold at a price below the section 102 price. To make the rule completely self-executing would eliminate such restraints.

Two comments requested clarification of the status of severance taxes under section 312 assignments. Specifically, they request that the rule be amended to allow the price to exceed the new gas price to the extent that the excess reflects allowable section 110 charges. One commenter noted that the new gas price limitation will prohibit the assignment of certain stripper well gas, if the price of that gas exceeds the price for new gas. This commenter is correct. At this time, however, the Commission believes that the section 102 price limitation should reflect all costs associated with the natural gas contract to be assigned. Although specific Commission authorization will be required for the assignment of certain natural gas contracts, we feel that some control should be exercised over an assignment in which the assignee pays a total price which exceeds the section 102 price.

A commenter requested that intrastate pipelines assigning natural gas contracts be given an allowance of one cent per Mcf for transportation costs under § 284.164(a); and, if the pipeline can show costs in excess of one cent per Mcf, it should be allowed that also. This suggestion will not be adopted. The rates for the transportation of natural gas by an intrastate pipeline in association with a section 312 assignment is covered by § 284.123, which covers the rates of a section 311(a)(2) transportation. No special treatment is required for transportation in connection with section 312 assignments.

One commenter has detected two citation errors in § 284.164 (a) and (b) which have been corrected.

8. *Reporting Requirements.*—One commenter states that the data required by § 284.126(d) is unnecessary, except for the information regarding total revenues. The data requirements of § 284.126(d) will be retained in order to give the Commission a complete picture of section 311(a)(2) transactions. Further, this commenter detected a citation error in § 284.126(a)(3)(v)(A) which has been corrected.

A state regulatory agency requested that copies of the filings required by § 284.165 should be sent to the appropriate state regulatory agency and the intrastate pipeline's customers. This proposal has been adopted in part, in § 284.165(a), to keep the state regulatory agency informed. It would be unduly burdensome to require copies to be sent to the customers of the intrastate pipeline.

The following two amendments are made on the basis of the Commission's experience in monitoring these transactions. First, volumes will be required to be reported in MMBtu's rather than Mcf's because MMBtu's are used throughout the NGPA. (See § 284.4(a).) Second, summary reports must be filed within 48 hours of the commencement of the transaction. (See § 284.4(b).) This requirement has been adopted because, at times, there is an urgent need to know what transactions are taking place and this need is not satisfied by the presently existing reporting requirements.

9. *Definitions.*—Section 284.128 of the interim rule (§ 284.1(b) of the final rule) limits the definition of "appropriate state regulatory agency" to mean a state agency which regulates rates and charges for transportation by the intrastate pipeline "on a cost-of-service basis." One commenter indicated that this definition may exclude some state agencies.

This evaluation is correct. Nevertheless the rule will not be changed in regard to rates. If a state agency does not use a cost-of-service basis for rate setting, the intrastate pipeline company should be required to come to the Commission for approval of a "fair and equitable" rate. The cost-of-service requirement does not apply to matters other than rates, such as the surplus gas determination under § 284.163(a). Through this definition, it is assured that all section 311(a)(2) rates will be cost based.

Two other comments requested a definition of "transportation" to include "exchange, backhaul or other method of transportation." Such definition of "transportation" is included in the final rule, in § 284.1(a). A large portion of the transportation authorization under the NGA is actually transportation by displacement or exchange. To include exchange in the definition of transportation would maximize the amount of gas moving into interstate commerce. Conversely, to limit Subpart B and C transportation to the physical movement of gas volumes would minimize the impact of section 311(a). Defining an exchange to be within the definition of transportation does not conflict with section 2(20) of the NGPA (which defines "sale" to include exchange) because an exchange may have aspects of both transportation and a sale.

One electric utility requested a definition of "intrastate pipeline company" to include not only those entities which actually own facilities, but also those which have contracts for the transportation of natural gas. This commenter states that without such a definition, it cannot dispose of natural gas which it has committed itself to purchase, even though it no longer needs the gas due to conversion to alternate fuels. Another commenter requested that those companies which hold NGA section 7(f) exemptions be declared intrastate pipeline companies. The requested definitions relating to intrastate pipeline companies would be in contravention of section 2(16) of the NGPA, and thus cannot be adopted.

III. Public Procedures and Effective Date

The final regulations in Subparts B, C, and E of Part 284 were originally proposed for comment in November, 1978, and issued as interim regulations (as Subparts A, B, and D) on December 1, 1978 (43 FR 56448, Dec. 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA. The amendments to Part 284 contained in this order rest upon considerations given to the information received during the above described notice, comment, and hearing process. Accordingly, the Commission finds that further notice and public procedure on these rules is unnecessary and impractical and that good cause exists to dispense with additional notice and procedure, and to make subparts A, B, C, and E of Part 284, effective in 30 days as final regulations. those transactions entered into before the effective date of these final regulations are subject to the revisions but only with respect to deliveries after the effective date. The revisions made herein are merely clarifications of existing Commission policy, with the exception of the reporting requirements.

(Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 F.R. 46267.)

In consideration of the foregoing, Subparts A, B, C, and E of Part 284 of Subchapter I, Chapter I, Title 18, Code of Federal Regulations, are promulgated as final regulations and amended as set forth below. Subparts D and F of Subchapter I, and Part 157 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective 30 days from the date of issuance of this order.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 157—[AMENDED]

§ 157.49 [Amended]

1. Section 157.49(a)(2) is amended in clauses (i) and (ii) by deleting the phrase "Subpart A of Part 284" wherever it occurs and substituting in lieu thereof the phrase "Subpart B of Part 284,"

[9] Section 311(a)(2)(B)(i) requires intrastate pipeline rates to "not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service." Our regulations at §§ 284.123 and 284.001(b) meet this requirement by requiring section 311(a)(2) transportation rates be established on a cost-of-service basis, as are interstate pipeline rates.

[10] See p. 109 of the Joint Explanatory Statement of the Committee on Conference.

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SUBCHAPTER H—FIRST SALE REGULATION UNDER THE NATURAL GAS POLICY ACT OF 1978

2. Chapter I, is amended in both the Table of Contents for Chapter I and the Table of Contents for Subchapter H by amending the title of Subchapter H to read as follows: "Subchapter H—First Sale Regulation Under the Natural Gas Policy Act of 1978."

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

3. Chapter I is amended in both the Table of Contents for Chapter I and the Table of Contents for Subchapter I by amending the title of Subchapter I to read as follows: "Subchapter I—Other Regulations Under the Natural Gas Policy Act of 1978 and Related Authorities."

PART 281—NATURAL GAS CURTAILMENT UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

4. Subchapter I is further amended in both the Table of Contents for Subchapter I and the Tables of Content for Parts 281 and 284 by amending the title of Part 281 to read as follows: "Part 281—Natural Gas Curtailment Under the Natural Gas Policy Act of 1978"; and amending the title of Part 284 to read as follows: "Part 284—Certain Sales and Transportation of Natural Gas Under the Natural Gas Policy Act of 1978 and Related Authorities."

5. Part 284 of Subchapter I is revised by striking out all that precedes Subpart C, striking out Subpart D, redesignating Subpart C as Subpart D, and inserting before Subpart D (as so redesignated) the following:

Subpart A—General Provisions

Sec.
284.1 Definitions.
284.2 Refunds and interest.
284.3 Jurisdiction under the Natural Gas Act.
284.4 Reporting.
284.5 Further terms and conditions.

Subpart B—Certain Transportation by Interstate Pipelines

Sec.
284.101 Applicability.
284.102 Transportation by interstate pipelines.
284.103 Rates and charges.
284.104 Terms and conditions.
284.105 Extensions.
284.106 Reporting requirements.
284.107 Applications.

Subpart C—Certain Transportation by Intrastate Pipelines

Sec.
284.121 Applicability.
284.122 Transportation by intrastate pipelines.
284.123 Rates and charges.
284.124 Terms and conditions.
284.125 Extensions.
284.126 Reporting requirements.
284.127 Applications.

Subpart D—Certain Sales by Intrastate Pipelines

Sec.
284.141 Applicability.
284.142 Sales by intrastate pipelines.
284.143 Definitions.
284.144 Rates and charges.
284.145 Terms and conditions.
284.146 Extensions.
284.147 Terminations.
284.148 Reporting requirements.

Subpart E—Assignment of Contractual Rights to Receive Surplus Natural Gas

Sec.
284.161 Applicability.
284.162 General rule.
284.163 Special rule.
284.164 Terms and conditions.
284.165 Filing requirements.

Subpart F—Transportation of Fuel Oil Displacement Gas

Sec.
284.200 Applicability.
284.201 Definitions.
284.202 Interstate pipeline transportation authorizations.
284.203 Intrastate pipeline transportation authorization.
284.204 Construction of facilities.
284.205 General conditions.
284.206 Effect on curtailments plans.
284.207 Reporting requirements.
284.208 Certificate procedures.

Subpart A—General Provisions

§ 284.1 Definitions.

(a) "Transportation" includes exchange, backhaul, displacement or other methods of transportation.

(b) "Appropriate state regulatory agency" means a state agency which regulates intrastate pipelines and local distribution companies within such state. When used in reference to rates and charges, the term includes only those agencies which set rates and charges on a cost-of-service basis.

§ 284.2 Refunds and interest.

(a) *Refunds.* Any rate or charge collected for any sale, transportation, or assignment conducted pursuant to this Part which exceeds the rates or charges authorized by this Part shall be refunded.

(b) *Interest.* All refunds made pursuant to this section shall include interest at the rate prescribed in § 154.67 of this chapter.

§ 284.3 Jurisdiction under the Natural Gas Act.

(a) For purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply to any transportation, sale or assignment in interstate commerce of natural gas if such a transaction is authorized pursuant to section 311 or 312 of the NGPA.

(b) For purposes of the Natural Gas Act, the term "natural gas company" (as defined by section 2(6) of such Act) shall not include any person by reason of, or with respect to, any transaction involving natural gas if the provisions of the Natural Gas Act do not apply to such transaction by reason of subparagraph (a) of this section.

(c) The Natural Gas Act shall not apply to facilities utilized solely for transportation authorized by section 311(a) of the NGPA.

§ 284.4 Reporting.

(a) All reports filed pursuant to this subchapter shall indicate quantities of natural gas in MMBtu's, as defined in § 270.102(b) (2) and (3) of this chapter.

(b) Within 48 hours after the commencement of deliveries of natural gas sold, assigned, or transported under any authorization of this Part, any interstate pipeline engaging in such a transaction shall file by telegram a summary report with the Commission, and any intrastate pipeline engaging in such a transaction shall file a summary report with both the Commission and the appropriate state regulatory agency. The summary report shall contain the following information:

(1) The identity of the pipeline submitting the report;

(2) The identity of the recipient;

(3) The dates of the commencement and anticipated termination of deliveries of the natural gas;

(4) The estimated total quantities to be delivered, and the estimated maximum daily deliveries; and

(5) The rate or rates to be charged.

§ 284.5 Further terms and conditions.

The Commission may prospectively, by rule or order, impose such further terms and conditions as it deems appropriate on transactions authorized by this Part.

Subpart B—Certain Transportation by Interstate Pipelines

§ 284.101 Applicability.

This subpart implements section 311(a)(1) of the NGPA and applies to the transportation of natural gas by any interstate pipeline on behalf of:

(a) Any intrastate pipeline; or

(b) Any local distribution company.

§ 284.102 Transportation by interstate pipelines.

(a) *General rule.* (1) Except as provided in paragraph (b) of this section and subject to the provisions of this subpart, any interstate pipeline is authorized, without prior Commission approval, to transport natural gas on behalf of:

(i) Any intrastate pipeline; or

(ii) Any local distribution company.

(2) Rates charged for transportation under this paragraph may not exceed just and reasonable rates as provided in § 284.103.

(3) Transportation arrangements authorized under this paragraph may be extended as provided in § 284.105.

(4) Interstate pipelines engaging in transportation arrangements authorized under this paragraph shall file reports as provided in § 284.106 and § 284.4(b).

(b) *Limitations.* (1) Authorization under paragraph (a) is limited to an arrangement:

(i) Which does not exceed a period of two years, and

(ii) In which the transported natural gas is delivered directly or indirectly, to an interstate pipeline, intrastate pipeline, or local distribution company, which receives such natural gas for its system supply for resale.

(2) An interstate pipeline proposing to enter into a transaction for the transportation of natural gas on behalf of any intrastate pipeline or local distribution company, which is not authorized under paragraph (a) because of the operation of subparagraph (b)(1), shall apply to the Commission for prior authorization of the transaction, as provided by § 284.107.

§ 284.103 Rates and charges.

(a) *General rule.* Rates and charges for transportation authorized under § 284.102(a) shall be determined as provided in paragraphs (b) and (c) of this section.

(b) *Rate schedules on file.* If an interstate pipeline has on file with the Commission a transportation rate schedule applicable to transportation arrangements authorized under § 284.102(a), the interstate pipeline shall use the rates contained in that schedule.

(c) *Election.* If an interstate pipeline does not have on file with the Commission a transportation rate schedule applicable to transportation arrangements authorized under § 284.102(a), the interstate pipeline may elect either:

(1) To base its rates upon the methodology used in designing rates to recover the transmission and related storage costs included in one of its then effective sales rate schedules; or

(2) To use the rates contained in one of its transportation rate schedules on file with the Commission which the interstate pipeline determines covers service comparable to transportation service authorized under § 284.102(a).

(d) *Treatment of Revenues.* (1) Except as provided in subparagraphs (2) and (3), all revenues received for transportation authorized under § 284.102(a) in excess of an allowance of one cent per MMBtu shall be credited to Account No. 191 and flowed back to the interstate pipeline's customers.

(2) An interstate pipeline is not required to credit revenues to Account No. 191 pursuant to subparagraph (1):

(i) To the extent revenues attributable to such services fall within representative levels which have been credited in arriving at a test period cost of service; or

(ii) To the extent that volumes transported fall within representative levels which have been included in billing determinants for the purpose of establishing rates.

(3) An interstate pipeline may elect to forego the one cent per MMBtu allowance provided in paragraph (d)(1) of this section. In such a case the interstate pipeline is not required to credit to Account No. 191 any amount which it is able to demonstrate, upon application to the Commission, represents the out-of-pocket expenses of the interstate pipeline in connection with a transaction authorized under this Subpart.

§ 284.104 Terms and conditions.

Contracts for the transportation of natural gas authorized under § 284.102(a) shall provide:

(a) That service under the contract shall be conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(b) That the transportation arrangement is subject to the provisions of this subpart.

§ 284.105 Extensions.

(a) *General Rule.* An interstate pipeline seeking to extend a transportation arrangement authorized under § 284.102(a) shall file an extension report as required in § 284.106(c).

(b) *Approval.* If an extension report as required in § 284.106(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not authorized. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

(c) *Period.* Extensions may be for a period not exceeding two years unless otherwise ordered by the Commission.

§ 284.106 Reporting requirements.

(a) *Initial full report.* Within thirty days after commencing transportation authorized by § 284.102(a), an interstate pipeline shall file with the Commission an initial full report, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the interstate pipeline and its affiliation, if any, with the other entities involved in the transaction and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this Subpart should be addressed;

(2) A general description of the interstate pipeline's existing operations;

(3) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and projected termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported; and

(v) The rate to be charged, and with respect to the rate:

(A) If the interstate pipeline is charging a rate computed pursuant to § 284.103(c)(1), an explanation of how the rate is computed; or

(B) If the interstate pipeline is charging a rate contained in one of its rate schedules under § 284.103(b), the identity of the rate schedule;

(C) If the interstate pipeline is charging a rate contained in one of its rate schedules under § 284.103(c)(2), a statement of the basis upon which the interstate pipeline determined that the rate schedule used was for comparable service; and

(4) A statement that the contract provides that:

(i) Service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing

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customers who are dependent on the pipeline's general system supply; and

(ii) The transportation arrangement is subject to the provisions of this subpart.

(b) *Subsequent reports.* If any significant change occurs with respect to the information filed under paragraph (a) of this section, the interstate pipeline shall file with the Commission, under oath, appropriate amendments to its initial full report, signed by a senior official of the company.

(c) *Extension report.* Not less than ninety days prior to the expiration of a contract for the transportation of natural gas authorized under § 284.102(a), an interstate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission under oath an extension report, signed by a senior official of the company, stating:

(1) Current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) The proposed terms of the extension.

(d) *Final report.* Within thirty days after the termination of any transportation arrangement authorized under § 284.102(a), or, if extended, within thirty days after the end of the period of the extension, the interstate pipeline shall file with the Commission a report, under oath, signed by a senior official of the company, stating:

(1) Current information with respect to the matters required to be reported under paragraph (a) of this section; and

(2) Actual total and maximum daily volumes of natural gas transported pursuant to the arrangement; and

(3) Total revenues received and a complete statement of the manner in which the revenues were treated.

§ 284.107 Applications.

(a) *Contents.* An interstate pipeline seeking Commission authorization for a transportation arrangement not authorized under § 284.102(a) shall file with the Commission an application, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the interstate pipeline and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this subpart should be addressed;

(2) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported; and

(v) The basis for any rates and charges, as provided under § 284.103; and

(3) A statement that the contract provides that:

(i) Service under the contract is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to the interstate pipeline's existing customers who are dependent on the pipeline's general system supply; and

(ii) The transportation arrangement is subject to the provisions of this subpart.

(b) *Approval or denial.* The Commission may, by order, approve or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

Subpart C—Certain Transportation by Intrastate Pipelines

§ 284.121 Applicability.

This subpart implements section 311(a)(2) of the NGPA and applies to the transportation of natural gas by any intrastate pipeline on behalf of:

(a) Any interstate pipeline, or

(b) Any local distribution company served by any interstate pipeline.

§ 284.122 Transportation by intrastate pipelines.

(a) *General rule.* (1) Except as provided in paragraph (b) of this section, and subject to the provisions of this Subpart, any intrastate pipeline is authorized, without prior Commission approval, to transport natural gas on behalf of:

(i) Any interstate pipeline; or

(ii) Any local distribution company served by an interstate pipeline.

(2) Rates charged for transportation authorized under this Subpart may not exceed fair and equitable rates as provided in § 284.123.

(3) Transportation arrangements under this paragraph may be extended as provided in § 284.125.

(4) Intrastate pipelines engaging in transportation arrangements authorized under this paragraph shall file reports as required by § 284.126 and § 284.4(b).

(b) *Limitations.* (1) Authorization under paragraph (a) is limited to an arrangement:

(i) Which does not exceed a period of two years, and

(ii) In which the transported natural gas is delivered directly or indirectly to an interstate pipeline, intrastate pipeline, or local distribution company, which receives such natural gas for its system supply for resale.

(2) An intrastate pipeline proposing to enter into a transaction for the transportation of natural gas on behalf of any interstate pipeline or local distribution company served by an interstate pipeline, which is not authorized under paragraph (b)(1) shall apply to the Commission for prior authorization of the transaction, as provided by § 284.127.

§ 284.123 Rates and charges.

(a) *General rule.* Rates and charges for transportation of natural gas authorized under § 284.122(a) shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b) *Elections.* (1) The intrastate pipeline may elect to:

(1) Base its rates upon the methodology used:

(A) In designing rates to recover the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage service) included in one of its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency; or

(B) In determining the allowance permitted by the appropriate state regulatory agency to be included in a natural gas distributor's rates for city-gate natural gas service; or

(ii) To use the rates contained in one of its then effective transportation rate schedules for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this Subpart.

(2) If an intrastate pipeline does not choose to make any election under paragraph (b)(1) of this section, it shall seek the Commission's approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing that the proposed rates and charges are fair and equitable. The intrastate pipeline may commence the transportation service and charge and collect the proposed rates upon filing the petition for approval. Collection of any rates or charges prior to the Commission's order shall be subject to the refund of any amount which the Commission determines, after affording notice and opportunity for the oral presentation of views, data and arguments, and written comments, to be in excess of those shown to be fair and equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service. A Commission order authorizing a transportation rate under this subparagraph supersedes a rate determined in accordance with subparagraph (b)(1) of this section.

(c) *Treatment of Revenues.* The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation authorized under § 284.122(a) and computed in accordance with paragraph (b)(1) of this section have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation charges by the intrastate pipeline for service to intrastate customers.

(d) *Presumptions.* If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1), the rate charged is presumed to be:

(1) Fair and equitable; and

(2) Not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

§ 284.124 Terms and conditions.

Contracts for the transportation of natural gas authorized under this Subpart shall provide that the transportation arrangement is subject to the provisions of this Subpart.

§ 284.125 Extensions.

(a) *General rule.* An intrastate pipeline seeking to extend a transportation arrangement authorized under § 284.122(a) shall file an extension report as required in § 284.126(c).

(b) *Approval.* If an extension report as required in § 284.126(c) is duly filed, the proposed extension may take effect unless the Commission, prior to the beginning of the proposed extension, and after opportunity for written comments, determines, by order, that the proposed extension is not authorized. If the Commission determines, by order, that the proposed extension shall be modified, the extension may take effect only as modified.

(c) *Period.* Extensions may be for a period not exceeding two years unless otherwise authorized by the Commission.

§ 284.126 Reporting requirements.

(a) *Initial full report.* Within thirty days after commencing transportation authorized by this Subpart, an intrastate pipeline shall file with the Commission and the appropriate state regulatory agency an initial full report, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the intrastate pipeline; and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement pursuant to this Subpart should be addressed;

(2) A general description of the intrastate pipeline's existing operations;

(3) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and projected termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the gas is to be transported; and

(v) The rate to be charged, and with respect to the rate:

(A) If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1)(i), an explanation of how the rate is computed; or

(B) If the intrastate pipeline is charging a rate contained in one of its rate schedules under § 284.123(b)(1)(ii), a statement of the basis upon which the intrastate pipeline determined that the service provided is comparable to service provided for under that rate schedule;

(4) A statement that:

(i) The appropriate state regulatory agency has been notified that the Commission has presumed that all revenues received by an intrastate pipeline in connection with the transportation arrangement authorized under § 284.122(a) and computed in accordance with § 284.123(b)(1), have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation rates charged by the intrastate pipeline for service to intrastate customers; and

(ii) The transportation arrangement is subject to the provisions of this Subpart.

(b) *Subsequent reports.* If any significant change occurs with respect to the information filed under paragraph (a) of this section, the intrastate pipeline shall file with the Commission and the appropriate state regulatory agency, under oath, appropriate amendments to its initial full report, signed by a senior official of the company.

(c) *Extension report.* Not less than 90 days prior to the expiration of a contract for the transportation of natural gas authorized by § 284.122(a) an intrastate pipeline seeking to extend the transportation arrangement beyond the initial two-year period or any period of extension shall file with the Commission and the appropriate state regulatory agency, under oath, an extension report, signed by a senior official of the company stating:

(1) Current information with respect to any matters required to be reported under paragraph (a) of this section; and

(2) The proposed terms of the extension.

(d) *Final report.* Within thirty days after the termination of any transportation arrangement authorized under § 284.122(a) or, if extended, within thirty days after the end of the period of the extension, the intrastate pipeline shall file with the Commission and with the appropriate state regulatory agency a report, under oath, signed by a senior official of the company, stating:

(1) Current information with respect to the matters required to be reported under paragraph (a) of this section;

(2) Actual total and maximum daily quantities of natural gas transported; and

(3) Total revenues received.

§ 284.127 Applications.

(a) *Contents.* An intrastate pipeline seeking Commission authorization for a transportation arrangement not authorized under § 284.122(a) shall file with the Commission an application, under oath, signed by a senior official of the company, containing the following information:

(1) The identity of the intrastate pipeline and the identity, title and mailing address of the person or persons to whom communications concerning the transportation arrangement authorized under this Subpart should be addressed;

(2) A description of the transportation service, including:

(i) The identity of the parties;

(ii) The dates of commencement and termination of the service;

(iii) The estimated total and maximum daily quantities of natural gas to be transported;

(iv) The points between which the natural gas is to be transported;

(v) The basis for any rates and charges, as provided under § 284.123, and

(3) A statement that the contract provides that the transportation arrangement is subject to the provisions of this Subpart.

(b) *Approval or denial.* The Commission may, by order, approve, or deny an application. An order approving an application shall specify the applicable rates and charges, duration and reporting requirements and such other terms and conditions as the Commission deems appropriate and in the public interest.

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6. Part 284 of Subchapter I is amended by inserting after Subpart D (as redesignated by this order) the following new Subpart E:

Subpart E—Assignment of Contractual Rights to Receive Surplus Natural Gas

§ 284.161 Applicability.

This subpart implements section 312 of the NGPA and applies to assignment by any intrastate pipeline to any interstate pipeline or local distribution company of its contractual right to receive surplus natural gas at any first sale.

§ 284.162 General rule.

Except as provided in § 284.163, no assignment pursuant to this Subpart may take place unless the Commission authorizes, by order, an application for assignment filed in accordance with § 284.165(a) upon a determination that the assignment is consistent with the NGPA and this Subpart and is necessary or appropriate in the public interest.

§ 284.163 Special rule.

An intrastate pipeline is authorized to assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas at any first sale, without prior approval of the Commission, if:

(a) *Surplus determination.* The appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current demands on the assigning intrastate pipeline for natural gas;

(b) *Price.* The price per MMBtu for the natural gas delivered in any month under the contract to be assigned does not and will not exceed an amount equal to the maximum lawful price per MMBtu for new natural gas as prescribed in Table I in § 271.101(a); and

(c) *Reports.* The reports required under §§ 284.4(b) and 284.165(d) are timely filed.

§ 284.164 Terms and conditions.

(a) *General terms and conditions.* Upon authorization by the Commission of an application for assignment, filed in accordance with § 284.165(a) or in the case of compliance with § 284.163, an intrastate pipeline may assign, without compensation, to any interstate pipeline or local distribution company all or any portion of its contractual right to receive surplus natural gas at any first sale. Rates charged for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) performed in connection with an assignment authorized under this Subpart shall be computed in accordance with Subpart C of this Part.

(b) *Termination.* Upon receipt and review of reports required under § 284.165(d) for assignments authorized without prior Commission approval, the Commission reserves the right, by order, to terminate the authorization of the assignment if it determines such termination is required in the public interest.

§ 284.165 Filing requirements.

(a) *Contents.* Pursuant to § 284.162, an application for authorization of an assignment shall be filed by the intrastate pipeline, under oath, with the Commission, and the appropriate state regulatory agency, and shall set forth the following information:

(1) A description of the proposed assignment agreement, including:

(i) The identity of the parties;

(ii) The estimated quantities of natural gas, on a total and maximum daily basis;

(iii) The price per MMBtu applicable to the quantities to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(iv) The point of delivery;

(2) A copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(3) Evidence that the appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current natural gas demands of the assigning intrastate pipeline.

(4) An attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(5) The computation of any rates to be charged pursuant to Subpart C of this Part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) to be performed by the intrastate pipeline under the assignment agreement.

(b) *Oath statement—price.* An interstate pipeline or local distribution company to which an intrastate pipeline would make an assignment authorized under § 284.162 shall file with the Commission a statement, under oath, signed by a senior official of the company, in support of the application under paragraph (a), that to the best of his knowledge, information and belief the price to be paid for the natural gas under the assignment (exclusive of any rates to be charged pursuant to Subpart C of this Part does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this Chapter.

(c) *Oath statement—effect.* An interstate pipeline to which an intrastate pipeline would make an assignment authorized under § 284.162 shall, in addition to the statement required under paragraph (a), file, under oath, with the Commission a statement in support of the application under paragraph (a) containing the following:

(1) The extent of curtailment, if any, anticipated to occur in the period in which the natural gas is to be delivered pursuant to the assignment;

(2) The effect which the price of the natural gas is expected to have on the interstate pipeline's average purchased gas cost in the period in which the natural gas is to be delivered pursuant to the assignment; and

(3) The reasons why in the opinion of the interstate pipeline the assignment should be authorized as necessary or appropriate in the public interest.

(d) *Initial full report.* Within 60 days of the commencement of deliveries under an assignment authorized under § 284.163 without prior approval of the Commission, the following information shall be filed, under oath, with the Commission:

(1) By the intrastate pipeline:

(i) A description of the proposed assignment, including:

(A) The identity of the parties;

(B) The quantities of natural gas delivered and estimated to be delivered, on a total and maximum daily basis;

(C) The price per MMBtu applicable to quantities delivered and to be delivered pursuant to the assignment and any other terms of the assignment relating to price; and

(D) The point of delivery;

(ii) A copy of the contract which covers the natural gas being assigned as surplus natural gas and any ancillary agreements;

(iii) Evidence that the appropriate state regulatory agency has determined that the natural gas to be assigned exceeds the then current demands on such pipeline for natural gas;

(iv) An attestation that the particular supplies of natural gas were not committed or dedicated to interstate commerce on November 8, 1978; and

(v) The computation of any rates charged or to be charged pursuant to Subpart C of this Part for any gathering, treatment, processing, transportation, delivery or similar service (including storage service) performed or to be performed by the intrastate pipeline under the assignment agreement;

(2) By the interstate pipeline or local distribution company to which the assignment is made, a statement under oath, signed by a senior official of the company that to the best of his knowledge, information and belief the price for natural gas under the assignment (exclusive of any rates charged or to be charged pursuant to Subpart C of this Part) does not and will not exceed the maximum lawful price applicable to first sales of such gas under the NGPA and Part 271 of this Chapter.

§ 284.205 [Amended]

7. Section 284.205(b) is amended in subparagraph (1) by deleting the phrase "subpart A of this Part" and substituting in lieu thereof the phrase "Subpart B of this Part", and is further amended in subparagraph (2) by deleting the phrase "subpart B of this Part" and substituting in lieu thereof the phrase "Subpart C of this Part."

[FR Doc. 79-27868 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 73

[Docket No. 77C-0208]

Listing of Color Additives Exempt From Certification; Ferric Ammonium Ferrocyanide; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of June 15, 1979 of a regulation that revised certain specifications for ferric ammonium ferrocyanide.

DATE: Effective date confirmed: June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A regulation published in the **Federal Register** of May 15, 1979 (44 FR 28321) revised the specifications for ferric ammonium ferrocyanide by increasing the tolerances for water-soluble cyanide, total cobalt, and total nickel, and by revising the total iron specification listed under § 73.1298(b) (21 CFR 73.1298(b)).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 as amended (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of May 15, 1979. Accordingly, the amendments promulgated thereby became effective on June 15, 1979.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27862 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 177

[Docket No. 78F-0243]

Indirect Food Additives: Polymers; Substances for Use Only as Components of Articles Intended for Repeated Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of 4-(diiodomethylsulfonyl) toluene as a component of rubber articles intended for repeated use in contact with food. This final rule is based on a petition filed by Abbott Laboratories.

DATES: Effective September 7, 1979, objections by October 9, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of September 12, 1978 (43 FR 40547) announced that a food additive petition (FAP 7B3321) had been filed by Abbott Laboratories, North Chicago, IL 60064, proposing that § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) be amended to provide for the use of 4-(diiodomethylsulfonyl) toluene as a component of rubber articles intended for repeated use in contact with food.

The Food and Drug Administration, having evaluated the data in the petition and other relevant material, concludes that § 177.2600 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 177 is amended in § 177.2600(c)(4)(ix) by alphabetically inserting a new item in the list of substances to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(ix) * * *

4-(diiodomethylsulfonyl) toluene, Chemical Abstracts Service Registry No. 20018-09-01, for use as an antifungal preservative at levels not to exceed 0.3 percent by weight of the sealants and caulking materials.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 9, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 7, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: August 24, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27461 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 520, 522

[Docket No. 79N-0270]

New Animal Drugs in Oral Dosage Form or Implantation or Injectable Dosage Form Not Subject to Certification; Ethylisobutrazine Hydrochloride Tablets, Ethylisobutrazine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for ethylisobutrazine hydrochloride tablets and ethylisobutrazine hydrochloride injection to identify the conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE. September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-101), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of ethylisobutrazine hydrochloride tablets and injection was published in the **Federal Register** of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration agreed, that the products were probably effective as tranquilizers for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that the products could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Jensen-Salsbery Laboratories, Division of Burroughs Wellcome Co., Kansas City, MO 64141, responded to the notice by submitting supplemental NADA's (11-222V and 35-265V, tablet and injectable forms, respectively) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the products as tranquilizers for animals. The supplemental applications were approved by a regulation published in the **Federal Register** of January 11, 1973 (38 FR 1273). The regulation reflecting this approval established a new section for the drug in tablet form (21 FR 135c.89, recodified at 21 CFR 520.863) and a new section for the drug in the injectable form (21 CFR 135b.73, recodified at 21 CFR 522.863). The new sections did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to identify those conditions of use for which approval for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of identical products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. In Part 520, § 520.863 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 520.863 Ethylisobutrazine hydrochloride tablets.

* * * * *

(c) *Conditions of use.*

(1) * * * [1]

(2) * * * [1]

(3) * * * [1]

(4) * * * [1]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 522, § 522.863 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 522.863 Ethylisobutrazine hydrochloride injection.

* * * * *

(c) *Conditions of use.*

(1) * * * [1]

(2) * * * [1]

(3) * * * [1]

(4) * * * [1]

Effective date. This regulation is effective September 7, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 24, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-27482 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510, 522

New Animal Drugs: Fluprostenol Sodium Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by ICI Americas, Inc., providing for use of a synthetic injectable prostaglandin in mares for its luteolytic effect, and to add ICI Americas, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Wilmington, DE 19897, filed NADA 111-529 providing for intramuscular use in mares of fluprostenol sodium as a luteolytic agent for inducing estrus. The regulations are amended to reflect approval of this NADA and to add the sponsor to the list of approved NADA sponsors. In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information supporting approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 522 are amended as follows:

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to (c)(2) to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address, and drug listing No.				
*	*	*	*	*
ICI Americas, Inc., Wilmington, DE 19897, 011511.				
*	*	*	*	*

(2) * * *

Firm name and address, and drug listing No.				
*	*	*	*	*
ICI Americas, Inc., Wilmington, DE 19897, 011511.				
*	*	*	*	*

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 522 is amended by adding new § 522.995 to read as follows:

§ 522.995 Fluprostenol sodium injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains fluprostenol sodium equivalent to 50 micrograms of fluprostenol.

(b) *Sponsor.* See 011511 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 0.55 microgram fluprostenol per kilogram of body weight.

(2) *Indications for use.* The drug is used in mares for its luteolytic effect to control the timing of estrus in estrous cycling and in clinically anestrous mares that have a corpus luteum.

(3) *Limitations.* Administer by intramuscular injection only. *Warning:* Not for use in horses intended for food. For veterinary use only. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Women of childbearing age, asthmatics, and persons with bronchial and other respiratory problems should exercise extreme caution when handling this product. In the early stages, women may be unaware of their pregnancies. Fluprostenol is readily absorbed through the skin and can cause abortion and/or bronchiospasms. Direct contact with the skin should therefore be avoided. Accidental spillage on the skin should be washed off immediately with soap and water.

Effective date. This regulation is effective September 7, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 30, 1979.

Lester W. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-27587 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 1040

[Docket No. 76N-0383]

Mercury Vapor Lamps; Radiation Safety Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes a radiation safety performance standard for high-intensity mercury vapor discharge lamps, including the metal halide type, that are designed, intended, or promoted for illumination purposes. The standard permits the manufacture of both self-extinguishing and non-self-extinguishing mercury vapor lamps. The standard requires each lamp to be properly labeled so that its type, manufacturer, and date of manufacture can be easily determined. The standard further requires that self-extinguishing lamps cease operation within 15 minutes after the outer envelope is broken to ensure that excessive human exposure to shortwave ultraviolet (UV) radiation is not likely to occur. The standard also requires adequate warning to be provided on packaging and in advertisements for a non-self-extinguishing lamp for the safe use of the product.

EFFECTIVE DATE: March 7, 1980, except that § 1040.30(d)(1)(ii) shall become effective September 7, 1981.

FOR FURTHER INFORMATION CONTACT: George C. Jan, Bureau of Radiological Health (HFX-430), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 21, 1978 (43 FR 16997), the Food and Drug Administration (FDA) proposed to establish a radiation safety performance standard for high-intensity mercury vapor discharge lamps. These lamps emit potentially harmful shortwave UV radiation if they continue to operate following breakage of the outer envelope. The public in general is not aware of this potential radiation hazard associated with the use of these lamps. The agency believes that the safe use of a product depends largely on the safety inherent in the design and performance of the product, and a regulatory standard for such products is needed to protect the public health and safety. Interested persons were given until June 20, 1978 to file written comments on the proposal.

A total of 12 comments were received—4 from manufacturers, 5 from utility companies and user groups, 2 from private citizens, and 1 from a national association of manufacturers. These comments and the agency's conclusions are summarized as follows:

1. One comment stated that the proposed standard had already created shortages in supplies for replacement because manufacturers had stopped making replacement lamps for fear they could not sell them.

No documentation was provided to substantiate the claim made in this comment. The standard permits two types of mercury vapor lamps: Self-extinguishing and non-self-extinguishing. The former now represents only a small percentage of all mercury vapor lamps sold. This agency has not received a report from any manufacturer that it plans to discontinue the manufacture of non-self-extinguishing lamps, nor has the agency received any report of a supply shortage of this type of lamp from users such as utility companies. FDA believes that the manufacture of mercury vapor lamps will be continued as long as they are needed and their use is not prohibited.

2. One comment said that the FDA's failure to set forth guidelines for recall in the proposal creates confusion. This omission leaves manufacturers of self-extinguishing mercury vapor lamps open to second-guessing situations for substantial and unnecessary risk of recall. The comment suggested that FDA should offer guidance in quality control to help prevent the introduction of defective lamps into the marketplace.

The standard requires that all mercury vapor lamps, not just a portion of them,

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comply with the standard. Regulations regarding the determination of noncomplaint or defective electronic products and the repair, replacement, or refunding the cost of such products under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602; 82 Stat. 1173 et seq.) have been issued (see Parts 1003 and 1004 (21 CFR Parts 1003 and 1004)). In exercising its authority under Part 1003 to determine that a product has a defect or fails to comply with an applicable standard and to require that notification be made to dealers, distributors, and purchasers, the agency may take into account such relevant factors as the nature, extent, and cause of the defect or failure of compliance. If a final determination has been made that a product has a defect or fails to comply with a standard and the manufacturer has not been granted an exemption from notification and repair (§ 1003.31 (21 CFR 1003.31)), the manufacturer would be required to repair, replace, or refund the cost of the defective or noncomplaint product.

Certification of compliance may be based on a testing program that is in accordance with good manufacturing practices, provided it has not been disapproved by the Director, Bureau of Radiological Health, on the ground that it does not ensure that the products comply with the standard. The agency does not intend to prescribe the use of a specific testing program or specific sampling plan because a number of different testing programs could be adopted to ensure compliance. FDA's policy, however, is to issue compliance testing guidelines before the effective date of the standard to assist industry in establishing adequate testing programs. It should be pointed out that the disapproval of a testing program does not by itself result in the need for product recall. A finding that manufactured products have defects or fail to comply with an applicable standard is required before proceedings under Part 1003 could be initiated by FDA. The agency believes this response to the comment will eliminate any confusion as to the circumstances under which recall of defective mercury vapor lamps would be required and will demonstrate that additional guidelines or regulations are not needed.

3. One comment contended that the implementation of the regulation as proposed would constitute a disservice to the general public, be contrary to the President's stated goal of easing the burden of Federal regulations, and amount to a breach of faith on the part of FDA toward the Technical Electronic Products Radiation Safety Standards Committee (TEPRSSC) and the lighting industry. The comment urged that FDA subject the regulation to the review and analysis procedures prescribed in Executive Order 12044.

The agency disagrees that implementation of the proposed performance standard would either constitute a disservice to the general public or be in conflict with the President's goal. On the contrary, in the interest of the public health, it is essential that mercury vapor lamps be designed to terminate emission of shortwave UV radiation after breakage of the outer envelope or, if the lamps are not so designed, that the purchaser and user be warned of the potential danger of the lamps. The agency is convinced that the public interest is best served by a mandatory standard.

In the development of this standard, FDA has consulted with the lighting industry and has kept TEPRSSC aware of the course the agency was taking. In fact, during the May 6, 1977 meeting of TEPRSSC, the Bureau of Radiological Health informed the Committee that FDA intended to publish a proposed regulatory standard that would provide for both self-extinguishing and non-self-extinguishing lamps, and that the extinguishing time might have to be lengthened from the previously proposed 2 minutes because of the need for lamps to self-extinguish following partial lamp breakage as well as complete breakage. The Committee did not object to this course of action.

Concerning review and analysis pursuant to the Executive Order, it is not completely clear what review and analysis procedures the comment refers to. If it means "regulatory analysis" as described in Section 3 of the Executive Order, then this type of analysis is required to be applied only to significant regulations that have major economic consequences. According to FDA's interim guidelines for the implementation of Executive Order 12044, a regulatory analysis is required if the regulation would cause either (1) an increase in total cost or price of goods or services to the national economy of $100 million in any 1 year, or (2) an increase in cost or price of goods or services of 10 percent in any 1 year in any industry or market, level of government, or geographic region, provided that the increase in cost or price of goods or services so affected exceeds $10 million annually. The economic impact assessment for the proposed mercury vapor lamp standard and its supplement as filed with the FDA Hearing Clerk indicate that neither of these criteria is exceeded. Therefore, a regulatory analysis for the mercury vapor lamp standard is not needed. However, the background documents, including the documentation report, the environmental impact analysis report, and the economic impact assessment and its supplement for this standard, in the FDA Hearing Clerk's file contain most information required by the agency's guidelines to be provided in a regulatory analysis.

The supplement to the economic impact assessment was prepared because of concern expressed by some TEPRSSC members about the cost effectiveness of the standard after it was published as a proposed rule in the **Federal Register.** The additional cost for self-extinguishing lamps was estimated in the supplement to be $2 to $5 million each year and was expected to decrease to a level of $1 to $2 million within 4 years after the standard goes into effect. Based on available data and conservative assumptions, FDA obtained an acceptable benefit/cost ratio for the standard.

4. One comment noted that, without a clear knowledge of the distance/duration/intensity characteristics of UV radiation emitted by a lamp and the likelihood of breakage of the outer lamp envelope, the user of lamps for outdoor applications is at a loss to determine which type of lamp to use. This comment suggested that FDA should offer the user specific guidelines and recommendations as to which types of installations the agency considers safe for the use of the standard non-self-extinguishing lamps.

Use conditions for lighting installations vary. Thus, the agency believes that it would be impractical to provide, in the form of labels and advertisement statements, detailed guidelines for when or where a non-self-extinguishing lamp should be used. However, educational materials for the use of mercury vapor lamps were developed and issued by this agency in November, 1977 (HEW Publication No. (FDA) 77–8041), containing some general recommendations and guidelines for the safe use of the product. These educational efforts will be continued and broadened in the future.

5. One comment argued that shielding of other radiation sources can be regulated and that the same authority could extend to mercury vapor lamp fixtures. According to this comment, adequate shielding still appeared to be the most straightforward, practical, and least costly solution to the problem.

Because fixtures for mercury vapor lamps are generally considered to be separate devices and are sold separately, it would be impractical to impose a standard on the lamp and fixture combined. The agency recognized the merit of adequate shielding and in the November 1977 Consumer Memo recommended it as a way to provide protection against the potentially hazardous radiation from existing lamps. The standard also permits adequate shielding as an alternative to the use of self-extinguishing lamps (§ 1040.30(e)(2)(ii) (21 CFR 1040.30(e)(2)(ii)).) However, regulating the fixture when the problem is associated with the broken lamp is inappropriate. Further, FDA does not agree that shielding is the most straightforward, practical, and least costly solution. For certain lighting applications where the amount of light output is critical for the performance of the intended function, the use of shielding may not be desirable. Also, the installation of a protective shield, even if it is possible depending on the type of fixture, is not necessarily less expensive than a self-extinguishing lamp. The agency believes that the public would benefit more from a choice to suit a particular need than from being unnecessarily burdened with a mandatory requirement for shielding. This approach is also consistent with the President's stated policy in Executive Order 12044 to minimize compliance costs and other burdens on the public.

6. Several comments contended that the regulatory approach would impose additional and unnecessary costs without giving the public more protection against injury. They believed that the current American National Standards Institute (ANSI) standard (C78–1330–1976, Specification for Mercury Lamps with Integral Means for Extinguishing the Arc after the Outer Envelope is Broken) is adequate to protect the public and should be adopted as a nonregulatory guideline for designing self-extinguishing mercury vapor lamps. One comment recommended that the ANSI standard be adopted with a change in the extinguishing time limit from 2 minutes to 15 minutes. Two comments suggested that the voluntary approach be coupled with an effective educational effort by both FDA and the lighting industry.

The agency is not convinced that a successful voluntary approach would be less expensive to the lighting industry, FDA, and consumers than a regulatory approach. The effectiveness of a voluntary standard depends on both FDA's and industry's programs to monitor and assure compliance. Such programs would include keeping relevant manufacturing and distribution records, preparation of reports on product safety, and adequate quality control and testing. FDA does not agree that the costs of a regulatory standard would be unnecessary or would not provide the public more protection.

In contrast to the proposed Federal performance standard, the ANSI standard does not provide for warnings in advertisements that non-self-extinguishing lamps should not be used in applications where potential acute injury to the eyes and skin from broken lamps is likely to occur. Nor does the ANSI standard require that lamps self-extinguish in the event of partial breakage of the outer envelope. The agency believes that such warnings to potential purchasers and self-extinguishing lamp characteristics are essential for protection of the public health.

7. Two comments objected to subjecting all lamp types of different wattages to the proposed requirements and suggested that applicability to a few higher wattage lamps, e.g., those over 175 watts (W), is all that is necessary.

The preamble to the April 21, 1978, proposal noted in part: "Owing to different installation conditions such as mounting heights and fixture types, radiation from a lower-wattage lamp can be just as hazardous at a closer exposure distance or for a longer period of exposure time. Further, because of the structural variations and different operating conditions, it is not uncommon for a lower wattage mercury vapor lamp to emit radiation comparable to that from a lamp of higher wattage." The agency, therefore, concluded: "It is inappropriate to exempt lower-wattage lamps from the provisions of the standard." This conclusion still remains valid in the absence of new data, and the comments are rejected.

8. One comment asked the meaning of the term "extended human exposure" and the use of a lamp in which extended human exposure to the short wavelength (UV) radiation from a broken mercury vapor lamp is considered unlikely. Other questions raised in the same comment were concerned with the concept of unacceptable exposure duration and the effect of the type of fixture or the mounting height on its likelihood of causing excessive human exposure.

Extended human exposure involves the concept of duration of exposure and would generally be considered unlikely in lighting applications such as roadway, street, and area lighting, and others where people do not remain under the light for a long time. The duration of exposure would usually be short enough to preclude injury. Excessive human exposure should be thought of in terms of total quantity of exposure that would result in human injury. Total quantity of exposure is the product of exposure duration and radiation intensity. Because the type of fixture and its mounting height can affect radiation intensity, they should be given careful consideration along with other factors, such as the intensity of the light source, in evaluating the likelihood of causing excessive human exposure. For example, a lamp would be less likely to cause excessive human exposure if mounted at a height of 40 to 50 feet than if mounted at a height of only 10 feet. The agency agrees, however, that the meaning of the term, "excessive human exposure" as contained in the proposed warning statements for non-self-extinguishing mercury vapor lamps was not sufficiently precise, and, therefore, the warning statements (§ 1040.30(e)(2)(ii) and (3)) have been revised to delete the term and make clear that such lamps should not be used where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used.

9. One comment expressed concern about the use of mercury vapor lamps for nondestructive material testing such as inspection for the existence of porosity or cracks in a metal surface by exposing the test surface under near UV light from a mercury vapor lamp. The comment claimed that it makes little difference in this application whether the lamp envelope is damaged if the filter and the housing containing the lamp remain intact and in place. Therefore, use of a self-extinguishing type of lamp in this case would be an "expensive nuisance." Use of the non-self-extinguishing type would also constitute a violation of the letter of the required label warning against use of such lamps in applications where excessive human exposure is likely to occur because the term "excessive human exposure" could also mean near UV radiation to which inspecting personnel are likely to be exposed in this application.

The agency notes that the standard does not apply to mercury vapor lamps that are not designed, intended, or promoted for illumination purposes. The agency advises, however, that § 1040.30(e)(2)(ii) and (3) has been revised to clarify that the warning statements refer only to shortwave UV radiation.

10. One comment suggested that the regulation should not apply to mercury vapor lamps that include an optical assembly, such as an aluminum reflector

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with a glass refractor completely enclosing the lamp that absorbs the shortwave UV radiation given off by a broken lamp.

The standard is intended to apply to the mercury vapor lamp only, not the lamp and fixture combined. The difficulty of treating the lamp and fixture combined as a single product has been discussed. The agency rejects the comment because a non-self-extinguishing lamp can be used under the circumstance described without violating the spirit or intention of the warning label.

11. Several comments suggested that the definition of "high-intensity mercury vapor discharge lamp" in § 1040.30(b)(1) be modified to exclude the self-ballasted type. They claimed that self-ballasted mercury lamps are fundamentally different from the standard mercury vapor lamp and have never caused a radiation burn incident. The mercury arc tube of a self-ballasted lamp is wired electrically in series with an incandescent, tungsten filament that is absolutely necessary to the functioning of the lamp and also serves as an inherently quick self-extinguishing device. Further, the total lamp wattage of the self-ballasted type lamp is divided so that, for the range of 160-W to 1250-W lamps, arc tube wattage dissipation is only about 25 to 50 percent, respectively, of the total wattage. Compared with equal wattage standard mercury vapor lamps, this design principle also results in nonsimilar mercury spectral emission properties.

A few comments also urged that metal halide lamps be excluded from the provisions of the standard. The comments contended that the quantitative characteristics of mercury vapor lamps and metal halide lamps are quite different. They argued that metal halide arc-tubes, under the same conditions of wattage and operating parameters with the envelope removed, emit less UV radiation below 320 nanometers (nm) by a factor of at least 6 than that of mercury vapor lamps. The comments also argued that extinguishing mechanisms could not arbitrarily be introduced into metal halide lamps with the anticipation of their being equally effective. In the absence of incidents due to this type of lamp, the comments considered the inclusion of metal halide lamps in the definition unwarranted.

The agency agrees to exclude from the definition of high intensity mercury vapor discharge lamps the tungsten filament self-ballasted type that extinguishes quickly in case the outer envelope of the lamp is broken. Because of this inherent safety feature, overexposure to shortwave UV radiation emitted from a broken lamp of this type is unlikely to occur. Section 1040.30(b)(1) is revised accordingly.

However, metal halide lamps have physical structure and emission characteristics similar to those of mercury vapor lamps. Sufficient shortwave UV radiation is emitted by broken metal halide lamps to lead to the conclusion that these radiation levels are capable of causing injury. Thus, the agency concludes that metal halide lamps should either by self-extinguishing or carry the proper warnings as required in the standard and rejects the comments.

12. One comment objected to the requirement that non-self-extinguishing lamps be marked with identification codes that would be visible after the envelope was broken. Because these lamps contain no safety device, extra labeling is not needed, is an unnecessary expense to the industry, and serves no purpose.

Identification of the manufacturer and date of manufacture is necessary for any electronic product subject to a standard. Because injuries from these products can occur when the lamp is broken, it is necessary to be able to identify the manufacturer and date of manufacture after the bulb is broken and to be able to investigate labeling, sales, and advertising practices. The comment is rejected and the labeling requirement of § 1040.30(c)(1)(ii) is retained.

13. Several comments contended that merely extending the time permitted for a lamp to self-extinguish from 2 to 15 minutes to ensure that a lamp shuts off when punctured but not broken was not justified. They claimed that this trade-off seemed unnecessary in view of the low incidence and uncertainty concerning reports involving small holes in the outer envelopes of mercury vapor lamps. Further, to provide for automatic cutoff in the event of a small hole in the lamp envelope would require a costly program to develop a new design that was not warranted by such a highly improbable occurrence. Some comments urged that the compliance date for partial breakage be extended to allow additional time to develop and test adequate self-extinguishing mechanisms.

More than 60 persons were reported injured in a single incident of partial breakage of the outer envelope of a mercury vapor lamp. This alone is sufficient to cause concern for similar incidents regardless of the frequency of such occurrences. Preliminary laboratory tests by FDA also show that partial breakage of the outer envelope of mercury vapor lamps is readily produced when the envelope is struck by a pellet from a low velocity air rifle. The agency believes that it is necessary to provide a shutoff mechanism in the lamp to avoid injuries when partial breakage occurs in the outer envelope. The 15-minute cutoff time, however, is not based solely on the need to protect against the occurrence of partial breakage of the lamp. The 15-minute cutoff time is believed to be a reasonable limit that would provide more flexibility for lamp design without sacrificing the intention to reduce the probability of injury effectively. However, to allow sufficient time for manufacturers to perfect their lamp designs and complete testings of the products under various breakage conditions, the agency agrees to extend the compliance date of the provision of § 1040.30(d)(1)(ii) until September 7, 1981. This extension of the compliance date would further alleviate any economic impact.

14. There was also some concern about the extra energy consumption of self-extinguishing lamps that use a tungsten fuse to satisfy the partial breakage condition requirement in the standard.

A power loss of about 12 W in the tungsten coil of a 400-W lamp was reported by a manufacturer of such lamps. This represents approximately a 3 percent lower lamp efficiency. The reduction in luminous efficiency for other lamps with different wattage ratings is not known to FDA at the present time. The reduced efficiency for 400-W lamps is too small to affect the intended function of the lamps for general illumination. The estimated reduced efficiency is also small when compared with the acceptable lamp lumen depreciation (LLD) factors specified over the useful life of the lamp, and with the inherent lamp-to-lamp variation in radiation emitted. Because the total light reduction is small and the energy consumption for the operation of a single lamp remains the same for the same wattage lamp, FDA believes that there would be little, if any, extra energy consumption from the use of such lamps. Thus, no change in the regulation is necessary.

15. One comment suggested that the proposed "T" or "R" marking on the lamp base is unnecessary because the lamp or mount remaining in the event of breakage can be identified by its manufacturer; because the surface area of the base available for such a marking is very limited; and because the marking would tend to become obliterated during lamp life. Further, marking the base would require an extra production step as well as segregation of base inventories prior to cement filling. Another comment considered additional "R" marking other than those required in ANSI's standard on lamps without a safety device confusing and unnecessary.

Because of these comments, the agency has reconsidered the requirement for locating the "R" or "T" marking on the base of the lamp. The requirement is intended to provide a means to identify quickly and readily any lamp subject to the standard in the event the outer envelope of the lamp has been broken away. Further, because the standard permits two types of lamps to be marketed, the ability to distinguish unambiguously one type from another in all cases is critical for the effective implementation and enforcement of the standard. The agency believes, however, that the intent of the proposed requirement would not be compromised if the markings were permitted to be located on any part of the lamp, provided they are clear and prominent whether the lamp is intact or the outer envelope broken or removed. The agency has, therefore, modified §§ 1040.30 (d)(2) and (e)(1) to provide the manufacturer with greater design flexibility with regard to the location of these markings. The agency, however, disagrees that additional "R" marking, other than the warning statement required in ANSI's standard on non-self-extinguishing lamps, would be unnecessary and cause confusion. On the contrary, FDA believes the "R" marking will help in identifying the lamp type directly, especially when the outer envelope of the lamp is broken or removed.

16. One comment considered the word "damaged" used in the warning statements not sufficiently precise. It suggested that the exact type of damage, namely, the broken outer envelope, be expressly referred to in those statements.

The agency agrees that the word "damaged" used in the proposed warning statements was not precise. Section 1040.30(e) (2)(ii) and (3) has been revised as suggested in this comment.

17. Several comments objected to the inclusion of the word "cancer" in the proposed warning statements. Reasons cited for this objection include: The lack of scientific evidence that cancer can result from an accidental one-time exposure to radiation from a broken mercury vapor lamp; such an exposure represents an extremely small fraction of an individual's lifetime burden of UV radiation; and the proposed wording goes beyond the contents of FDA's own recommended labeling for UV generators (§ 801.403 (21 CFR 801.403)), misleading the general public with regard to the hazard from broken mercury vapor lamps and constituting a violation of the agency's misbranding regulations. In general, these comments contended that the proposed labeling exaggerated and overemphasized the potential hazard of broken mercury vapor lamps.

The agency is concerned that even a single severe overexposure to shortwave UV radiation may increase an individual's risk of developing skin cancer. The greatest concern with shortwave UV radiations inducing skin cancer, however, is the effect of repeated overexposure. In this respect, the proposed warning may unnecessarily alarm the public, because repeated exposures to UV radiation from broken mercury vapor lamps would be unusual in the normal use of those products. Therefore, the reference to cancer has been deleted from the warning statements required by this final rule. The agency believes, however, that there is need to warn individuals, such as maintenance personnel, whose occupation would result in repeated exposures to UV radiation from broken mercury vapor lamps, and will take appropriate steps to disseminate this information.

18. A summary of significant comments as discussed in this preamble was also presented at the 17th meeting of TEPRSSC on November 9, 1978. Significant oral comments and recommendations made by members of TEPRSSC and representatives from industry attending that meeting were repeated in writing and have been carefully considered and responded to throughout this notice.

19. In addition to all comments received, the agency notes that proposed § 1040.30(d)(1), regarding the effective dates for compliance with the maximum cumulative operating time and size of the hole provisions was unclear. Section 1040.30(d)(1) (i) and (ii) has been modified in the final rule to make clear when each requirement is effective.

Also, for clarification, the agency has added a definition for "reference ballast" to the standard. Section 1040.30(b)(8) identifies this component as an inductive reactor with the operating characteristics listed in the appropriate section of ANSI C 82.5–1977.

Finally, the agency is also modifying the warning statements of proposed § 1040.30(e) (2) and (3) to ensure that users and lamp purchasers are informed of the availability of self-extinguishing lamps.

To reduce the potential hazard from mercury vapor lamps by subjecting them to the radiation safety performance requirements of the standard at the earliest possible date, this standard shall become effective March 7, 1980, except for the requirements in § 1040.30(d)(1)(ii) pertaining to punctured lamps. Because several lamp manufacturers now market self-extinguishing mercury lamps that they claim meet either the complete breakage or complete and partial breakage test conditions as required in § 1040.30(d), the agency believes that the effective date of the standard will not impose an unreasonable burden on any lamp manufacturer.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 1040 is amended by adding new § 1040.30 to read as follows:

§ 1040.30 High-intensity mercury vapor discharge lamps.

(a) *Applicability.* The provisions of this section apply to any high-intensity mercury vapor discharge lamp that is designed, intended, or promoted for illumination purposes and is manufactured or assembled after March 7, 1980, except as described in paragraph (d)(1)(ii) of this section.

(b) *Definitions.* (1) "High-intensity mercury vapor discharge lamp" means any lamp including any "mercury vapor" and "metal halide" lamp, with the exception of the tungsten filament self-ballasted mercury vapor lamp, incorporating a high-pressure arc discharge tube that has a fill consisting primarily of mercury and that is contained within an outer envelope.

(2) "Advertisement" means any catalog, specification sheet, price list, and any other descriptive or commercial brochure and literature, including videotape and film, pertaining to high-intensity mercury vapor discharge lamps.

(3) "Packaging" means any lamp carton, outer wrapping, or other means of containment that is intended for the storage, shipment, or display of a high-intensity mercury vapor lamp and is intended to identify the contents or recommend its use.

(4) "Outer envelope" means the lamp element, usually glass, surrounding a high-pressure arc discharge tube, that, when intact, attenuates the emission of shortwave ultraviolet radiation.

(5) "Shortwave ultraviolet radiation" means ultraviolet radiation with

wavelengths shorter than 320 nanometers.

(6) "Cumulative operating time" means the sum of the times during which electric current passes through the high-pressure arc discharge.

(7) "Self-extinguishing lamp" means a high-intensity mercury vapor discharge lamp that is intended to comply with the requirements of paragraph (d)(1) of this section as applicable.

(8) "Reference ballast" is an inductive reactor designed to have the operating characteristics as listed in Section 7 in the American National Standard Specifications for High-Intensity Discharge lamp Reference Ballasts (ANSI C82.5–1977)[1] or its equivalent.

(c) *General requirements for all lamps.* (1) Each high-intensity mercury vapor discharge lamp shall:

(i) Meet the requirements of either paragraph (d) or paragraph (e) of this section; and

(ii) Be permanently labeled or marked in such a manner that the name of the manufacturer and the month and year of manufacture of the lamp can be determined on an intact lamp and after the outer envelope of the lamp is broken or removed. The name of the manufacturer and month and year of manufacture may be expressed in code or symbols, provided the manufacturer has previously supplied the Director, Bureau of Radiological Health, with the key to the code or symbols and the location of the coded information or symbols on the lamp.

(2) In lieu of permanently affixing or inscribing tags or labels on the product as required by §§ 1010.2(b) and 1010.3(a) of this chapter, the manufacturer of any high-intensity mercury vapor discharge lamp may permanently affix or inscribe such required tags or labels on the lamp packaging uniquely associated with the applicable lamp.

(d) *Requirements for self-extinguishing lamps*—(1) *Maximum cumulative operating time.* (i) Each self-extinguishing lamp manufactured after March 7, 1980 shall cease operation within a cumulative operating time not to exceed 15 minutes following complete breakage or removal of the outer envelope (with the exception of fragments extending 50 millimeters or less from the base shell); and

(ii) Each self-extinguishing lamp manufactured after September 7, 1981, shall cease operation within a cumulative operating time not to exceed 15 minutes following breakage or removal of at least 3 square centimeters of contiguous surface of the outer envelope.

(2) *Lamp labeling.* Each self-extinguishing lamp shall be clearly marked with the letter "T" on the outer envelope and on another part of the lamp in such a manner that it is visible after the outer envelope of the lamp is broken or removed.

(3) *Lamp packaging.* Lamp packaging for each self-extinguishing lamp shall clearly and prominently display:

(i) The letter "T"; and

(ii) The words "This lamp should self-extinguish within 15 minutes after the outer envelope is broken or punctured. If such damage occurs, TURN OFF AND REMOVE LAMP to avoid possible injury from hazardous shortwave ultraviolet radiation."

(e) *Requirements for lamps that are not self-extinguishing lamps*—(1) *Lamp labeling.* Any high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall be clearly and legibly marked with the letter "R" on the outer envelope and on another part of the lamp in such a manner that it is visible after the outer envelope of the lamp is broken or removed.

(2) *Lamp packaging.* Lamp packaging for each high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall clearly and prominently display:

(i) The letter "R"; and

(ii) The words "WARNING: This lamp can cause serious skin burn and eye inflammation from shortwave ultraviolet radiation if outer envelope of the lamp is broken or punctured. Do not use where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used. Lamps that will automatically extinguish when the outer envelope is broken or punctured are commercially available."

(3) *Lamp advertisement.* Advertising for any high-intensity mercury vapor discharge lamp that does not comply with paragraph (d)(1) of this section shall prominently display the following wording: "WARNING: This lamp can cause serious skin burn and eye inflammation from shortwave ultraviolet radiation if outer envelope of the lamp is broken or punctured. Do not use where people will remain for more than a few minutes unless adequate shielding or other safety precautions are used. Lamps that will automatically extinguish when the outer envelope is broken or punctured are commercially available."

(f) *Test conditions.* Any high-intensity mercury vapor discharge lamp under test for compliance with the requirements set forth in paragraph (d)(1) of this section shall be started and operated under the following conditions as applicable:

(1) Lamp voltage, current, and orientation shall be those indicated or recommended by the manufacturer for operation of the intact lamp.

(2) The lamp shall be operated on a reference ballast.

(3) The lamp shall be started in air that has a temperature of 25±5° C. Heating and movement of the air surrounding the lamp shall be that produced by the lamp and ballast alone.

(4) If any test is performed in an enclosure, the enclosure shall be not less than 0.227 cubic meter (8 cubic feet).

(5) Any lamp designed to be operated only in a specific fixture or luminaire that the lamp manufacturer supplies or specifies shall be tested in that fixture or luminaire. Any other lamp shall be tested with no reflector or other surrounding material.

Effective date. This regulation shall become effective March 7, 1980, except that § 1040.30(d)(1)(ii) shall become effective September 7, 1981.

(Sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f))

Dated: August 27, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27213 Filed 9-6-79; 8:45 am]

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[1] Copies are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[T.D. 7644]

Income Tax: Taxable Years Beginning After December 31, 1953; Foundation and Similar Excise Taxes; Black Lung Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulations relating to operator's trusts for the payment of black lung benefits and excise taxes on acts of self-dealing and taxable expenditures. Changes in the applicable tax law were made by the Black Lung Benefits Revenue Act of 1977. The regulations would affect persons who are liable for the payment of benefits under Black Lung Acts.

DATE: The regulations are effective for taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: George Baker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:EE–170–78; 202–566–3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 29, 1978, the Internal Revenue Service published in the **Federal Register** proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(21) of the Internal Revenue Code of 1954, and to the regulations for Foundation and Similar Excise Taxes (26 CFR Part 53) under sections 4951 and 4952 of the Code. These amendments were proposed to conform the regulations to changes in the Internal Revenue Code made by sections 4 (a) and (c) of the Black Lung Benefits Revenue Act of 1977 (92 Stat. 15). Four comments were received from the public; no public hearing was held.

Operator's Trust for the Payment of Black Lung Benefits

Section 501(c)(21) permits the establishment of a trust for the payment of liabilities under Black Lung Acts. The term "Black Lung Acts" means Part C of Title IV of the Federal Coal Mine Health and Safety Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis. A trust that meets the requirements of section 501(c)(21) is exempt from the payment of income tax. Sections 1.501(c)(21)–1 and 1.501(c)(21)–2 apply to that section.

Excise Taxes on Acts of Self-Dealing and Taxable Expenditures

Under section 4951 a tax is imposed on acts that constitute prohibited transactions between a trust described in section 501(c)(21) and certain persons who are disqualified persons. Under section 4952 a tax is imposed on a trust described in section 501(c)(21) for acts that constitute taxable expenditures. These taxes are similar to taxes on foundation self-dealing and foundation taxable expenditures imposed by sections 4941 and 4945 of the Code. Accordingly, regulations and rulings interpreting sections 4941 and 4945 provide guidance to interpretation of sections 4951 and 4952. Sections 53.4951–1 and 53.4952–1 apply to sections 4951 and 4952.

Comments on the Proposed Regulations

Three of the four comments received from the public objected to § 53.4951–1(c) of the proposed regulations. That provision would preclude a bank that is a trustee (or is a disqualified person for another reason) from using its own commercial banking services (such as demand deposits, time deposits, or certificates of deposit) in transacting business for the trust.

The legislative history of the Black Lung Benefits Revenue Act of 1977 makes it quite clear that the Congress intended the rule contained in the proposed regulations to apply. The report of the Senate Committee on Finance stated, ". . . if a bank . . . is a trustee of the trust or otherwise is a 'disqualified person' with respect to the trust . . . no funds of the trust may be held or invested in checking accounts, savings accounts, certificates of deposits, or other time or demand deposits in that bank . . . the committee intends that a bank-trustee may not invest the funds of a section 501(c)(21) trust in the bank's savings accounts, checking accounts, or certificates of deposit, whether or not such investments would be permitted under section 4941 to a bank-trustee or [*sic*] a private foundation." S. Rep. No. 95–336, 95th Cong., 1st Sess. 14, 16 n. 7 (1977), 1978–1 C.B. 503,504. Identical statements appear in the floor discussion of the conference report of the legislation. 123 Cong. Rec. S. 19494, 19496 n. 5 (daily ed. Dec. 15, 1977).

Accordingly, the final regulations do not differ from the proposed regulations on this point, and the proposed regulations are adopted without change, other than a clerical correction of some amendatory language.

Drafting Information

The principal author of these regulations was George Baker of the Employee Plans and Exempt Organizations Division of the office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Parts 1 and 53 are hereby adopted as proposed, except that the amendatory language of paragraph 2 of the notice of proposed rulemaking is revised to read as follows:

Par. 2. Part 53 is retitled, subpart J is redesignated subpart K, and a new subpart J is added to read as follows:

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 27 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 28, 1979.

Daniel I. Halperin,

Acting Assistant Secretary of the Treasury.

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

1. Part 1 is amended by adding the following new sections:

§ 1.501(c)(21)–1 Black lung trusts—certain terms.

(a) *Created or organized in the United States.* A trust is not "created or organized in the United States" unless it is maintained at all times as a domestic trust in the United States. For this purpose, section 7701(a)(9) limits the term "United States" to the District of Columbia and States of the United States.

(b) *Insurance company.* The term "insurance company" means an insurance, surety, bonding or other company whose liability for the kinds of claims to which section 501(c)(21)(A)(i) applies is as an insurer or guarantor of the liabilities of another.

(c) *Black Lung Acts.* The term "Black Lung Acts" includes any State law providing compensation for disability or death due to pneumoconiosis even though the State law compensates for other kinds of injuries. In such a case, section 501(c)(21) applies only to the extent that the liability is attributable to disability or death due to pneumoconiosis. For this purpose, the term "pneumoconiosis" has the same meaning as it has under federal law. See 30 U.S.C. 902.

(d) *Insurance exclusively covering such liability.* The term "insurance exclusively covering such liability" includes insurance that covers risk for liabilities in addition to the liabilities to which section 501(c)(21)(A)(i) applies. In such a case, payment for premiums may be made from the trust only to the extent of that portion of the premiums that has been separately allocated and stated by the insurer as attributable solely to coverage of the liabilities to which section 501(c)(21)(A)(i) applies.

(e) *Administrative and other incidental expenses.* The term "administrative and other incidental expenses" means expenditures that are appropriate and helpful to the trust making them in carrying out the purposes for which its assets may be used under section 501(c)(21)(B). The term includes any excise tax imposed on the trust under section 4952 (relating to

taxes on taxable expenditures) and reasonable expenses, such as legal expenses, incurred by the trust in connection with an assertion against the trust of liability for a taxable expenditure. The term does not include an excise tax imposed on the trustee or on other disqualified persons under section 4951 (relating to taxes on self-dealing) or under section 4953 (relating to tax on excess contributions to black lung benefit trusts) or any expenses incurred in connection with the assertion of these taxes other than expenses that are treated as part of reasonable compensation under section 4951(d)(2)(C). See §§ 53.4941 (d)–2(f)(3) and (d)–3(c) for interpretations of similar provisions under section 4941(d)(2)(E), relating to reasonable compensation for private foundation disqualified persons.

(f) *Public debt securities of the United States.* The term "public debt securities of the United States" means obligations that are taken into consideration for purposes of the public debt limit. See, for example, 31 U.S.C. 757b.

(g) *Obligations of a State or local government.* The term "obligations of a State or local government" means the obligations of a State or local governmental unit the interest on which is exempt from tax under section 103(a). See § 1.103–1(a).

(h) *Time or demand deposits.* The term "time or demand deposits" includes checking accounts, savings accounts, certificates of deposit or other time or demand deposits. The term does not include common or collective trust funds such as a common trust fund as defined in section 584.

§ 1.501(c) (21)–2 Same—trust instrument.

A trust does not meet the requirements of section 501(c)(21) if it is not established and maintained pursuant to a written instrument. The trust instrument must definitely and affirmatively prohibit a diversion or use of trust assets that is not permitted under section 501(c)(21)(B) or section 4953(c), whether by operation or natural termination of the trust, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by any other means. No particular form for the trust instrument is required. A trust may meet the requirements of section 501(c)(21) although the trust instrument fails to contain provisions the effects of which are to prohibit acts that are subject to section 4951 (relating to taxes on self-dealing), section 4952 (relating to taxes on taxable expenditures) or the retention of contributions subject to section 4953 (relating to tax on excess contributions to black lung benefit trusts).

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

2. Part 53 is retitled, subpart J is redesignated subpart K, and a new subpart J is added to read as follows:

* * * * *

Subpart J— Black Lung Benefit Trust Excise Taxes

§ 53.4951–1 Black lung trusts—taxes on self-dealing.

(a) *In general.* Section 4951 contains provisions that correspond to provisions of section 4941 (relating to taxes on foundation self-dealing) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4951 where appropriate.

(b) *Transfer of property to trust.* A transfer of personal property without consideration to a trust for which a deduction is allowable under section 192 does not constitute a sale or exchange for purposes of section 4951 unless the property is subject to a mortgage or similar lien within section 4951(d)(2)(A). The transfer to a trust of a note or other evidence of indebtedness constitutes an extension of credit to the obligor for purposes of section 4951(d)(1)(B).

(c) *Deposits.* A time or demand deposit made with a bank or credit union that is a trustee or other disqualified person with respect to a trust constitutes a lending of money for purposes of section 4951(d)(1)(B) even though the deposit is of a kind generally authorized for investments by the trust.

(d) *Trustee.* The term "trustee" as used in section 4951(e)(5)(B) includes any person having powers or responsibilities with respect to a trust similar to those of trustees.

(e) *Misallocation of insurance premium.* Under section 501(c)(21)(A)(ii) and § 1.501(c)(21)-1(d), a trust may pay a portion of a premium for insurance which covers both black lung liabilities and other liabilities, so long as the requirements of section 501(c)(21)(A)(i) concerning allocation of the total premium are met. However, if an insurance company misallocates the total premium in a manner which benefits a disqualified person, the amount of misallocation constitutes a use of trust assets for the benefit of the disqualified person within section 4951(d)(1)(D). For these purposes, it is irrelevant whether the combination of insurance is sold under one policy or more than one policy.

(f) *Effective date.* Section 4951 applies with respect to acts that occur after December 31, 1977, in and for trust *taxable* years beginning after December 31, 1977.

§ 53.4952–1 Black lung trusts—taxes on taxable expenditures.

(a) *In general.* Section 4952 contains provisions that generally correspond to provisions of section 4945 (relating to taxes on taxable expenditures by private foundations) and section 4946 (relating to definitions and special rules). Regulations and rulings under these corresponding provisions apply to section 4952 where appropriate. See section 4952(e)(1) for the definition of "correction".

(b) *Unauthorized investments.* The term "taxable expenditure" in section 4952(d) includes an investment that is not authorized under section 501(c)(21)(B)(ii).

(c) *Effective date.* Section 4952 applies with respect to expenditures made after December 31, 1977, in and for trust taxable years beginning after December 31, 1977.

[FR Doc. 79–27997 Filed 9–6–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

32 CFR Parts 1201, 1203, 1214 and 1216

[DLAR 4105.1]

Defense Logistics Procurement

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency (DLA) is revising its Defense Logistics Procurement Regulation (DLPR) issued by authority of the Director, DLA. It implements the Defense Acquisition Regulation (DAR) and other Department of Defense publications and, pursuant to DAR 1–108, establishes for DLA procedures relating to the acquisition of supplies and services under the authority of Chapter 137, Title 10 of the United States Code, or other statutory authority.

EFFECTIVE DATE: 15 July 1979

FOR FURTHER INFORMATION CONTACT:
Mr. G. Dean Fogle, Commercial, AC 202–274–6431, AUTOVON 284–6433.

(5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301–2314; DoD Directive 5105.22.)

By Order of the Director.

William I. Starrett, Jr.,

Captain, SC, USN, Staff Director, Administration.

Miscellaneous Amendments to Subchapter

Chapter XII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1201—GENERAL PROVISIONS

Subpart C—General Policies

§ 1201.325–50 [Amended]

1. Section 1201.325–50 is amended by deleting "$25.00" in Heading and substituting "$50.00"; in title of clause by deleting "$25.00" and substituting "$50.00"; in clause paragraph by deleting "$25.00" and substituting "$50.00".

PART 1203—PROCUREMENT BY NEGOTIATION

Subpart H—Price Negotiation Policies and Techniques

2. Section 1203.805–1, paragraphs (b) and (c) are redesignated (c) and (d) and a new paragraph (b) is added to read as follows:

§ 1203.805–1 General.

* * * * *

(b) The Director/Deputy Director, Contracting and Production shall be notified of any significant change in negotiation objectives. A copy of the notification memorandum shall be incorporated into the contract file.

PART 1214—PROCUREMENT QUALITY ASSURANCE

Subpart C—Contract Provisions

§ 1214.305–2 [Amended]

3. Section 1214.305–2 is amended by adding the following sentence at end of paragraph:

Conversely, if the supplier insists on source inspection for non-critical or non-complex items which are normally assigned for destination inspection, recommend this matter be negotiated with adequate consideration flowing to the Government, on a case-by-case basis, for the added cost of performance of unnecessary Government technical inspection at source.

4. Section 1214.307 is added to read as follows:

§ 1214.307 Place of acceptance.

In addition to provisions of DAR 14–307, when a contract provides for Government procurement quality assurance at source, only one inspection point (location) shall be designated for each contract line or sub-line item. This is necessary to effectively exercise the Certificate of Conformance clause and to prevent increased administrative costs to the Government involved in multiple inspection points.

PART 1216—PROCUREMENT FORMS

SUBPART H—MISCELLANEOUS FORMS

5. Section 1216.850 is revised to read as follows:

§1216.850 Special quality assurance instructions.

1216.850.1 *General.* DLA Form 970, Special Inspection Requirements, is designed to be used by the PCO and his quality assurance specialist to inform the inspection activity at source or destination, as appropriate, of pertinent contract requirements, identification of critical application items if not done so in the contract, special product inspection or verification required, and to provide quality history of the product and contractor (see 1201.903.1(a) and 1214.306(c)). The form also provides the name, address and phone number of the cognizant quality assurance specialist at the DSC.

1216.850.2 *Conditions for Use.* DLA Form 970 shall be used on contracts when:

(a) There is unfavorable quality history for the product or the contractor;

(b) Special inspection is required at destination;

(c) It is necessary to identify critical application item or characteristics not so designated in the contract;

(d) The purchase is for a new item or the award is made to a new contractor for which there is no quality history, except when the purchase is made using the Fast Payment procedure.

1216.850.3 *Procedures.* Two copies of the completed from will be forwarded to the cognizant inspection activity or attached to inspection element copies of contracts when distributed.

1216.850.4 *General Instructions for Preparing DLA Form 970.* Instructions for block entries are as follows:

Title and/or Instructions

Block No:

8 *Contract Quality/Inspection Requirements*—Identify the contract quality/inspection requirements using DAR 14–301 as a guide.

9 *Certificate of Conformance*—Indicate "Required" when the CoC clause (see 1214.306(c)(1) is included in the contract and it is assigned for destination inspection. Indicate "Optional" when the CoC clause is included in the contract and it is assigned for source inspection.

11 *Authority for Acceptance of Nonconforming Supplies and Services is Withheld in Accordance with DAR 14–406(d).* Use only when PCO retains authority.

12 *Special Contractor Examination and Tests.* Identify any special contractor examinations and tests which should be witnessed or verified. Also, identify any special contractor examinations or tests for which the DSC quality assurance specialist desires to be present.

13 and 13a To inform when and for what purpose DSC technical representatives will participate in the contractor test program (source inspection only).

14 To provide verification test requirements and laboratory address.

15 *Product Quality History.* To provide pertinent information on problems experienced and possible trouble areas.

16 *Contractor Quality History.* To provide a pertinent general summary of contractor's past performance, where the performance may affect the quality of the supplies or services being contracted. Statements which because of their sensitive nature would have to be classified as "For Official Government Use Only" will be avoided. If sensitive data must be provided, a statement to the following effect will be included: "The Government representative should contact the individual shown in Block 18 for specific details relating to the quality history of the contractor."

[FR Doc. 79–27848 Filed 9–6–79; 8:45 am]

BILLING CODE 3820–61–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR 1152

Employee Responsibilities and Conduct

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rules.

SUMMARY: The Chairperson of the Architectural and Transportation Barriers Compliance Board is adopting final rules on employee responsibilities and conduct. The rules being adopted were first promulgated by the Civil Service Commission, and the Office of Personnel Management (successor agency to the CSC) as approved the

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Board's request for adoption of the CSC rules.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Larry Allison, Office of Public Information, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Washington, D.C. 20201 (202/245-1591).

SUPPLEMENTAL INFORMATION:

Under Executive Order 11222, each agency is responsible for issuing regulations on standards of ethical and other conduct for its employees, providing interpretations and advice to its employees, and for enforcing its regulations. The Civil Service Commission (CSC) (now the Office of Personnel Management (OPM)) regulations which implemented the Executive Order require each agency head to prepare, and submit to the OPM for approval, regulations to implement the requirements of law, the Executive Order, and the CSC regulations. 5 CFR 735.102(a).

The A & TBCB Chairperson sent her request to OPM for its approval for the Board to adopt the CSC regulations for application to the Board employees which the OPM approved. The Chairperson submits this notice to the **Federal Register** announcing the applicability of the CSC regulations to the A & TBCB employees. These actions are in accordance with 5 CFR 735.104(f).

The A & TBCB is also issuing Part 1152 which adopts the CSC regulations 5 CFR Part 735 so that it will be available to those Board employees who may need it. Part 1152 was cleared with the Office of Personnel Management in July 1979.

Since this regulation is a matter relating to Board management and personnel, notice and public procedure and deferred effective date are unnecessary.

Accordingly, the Board hereby adds the following new Part 1152 to 36 CFR Chapter XI, effective on September 7, 1979, as follows:

PART 1152—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.
1152.735–101 Purpose.
1152.735–102 Definitions.
1152.735–103 Interpretation and advisory service.
1152.735–104 Reviewing statements and reporting conflicts of interest.
1152.735–105 Disciplinary and other remedial action.

Subpart B—Ethical and Other Conduct and Responsibilities

1152.735–201 Proscribed actions.
1152.735–202 Gifts, entertainment, and favors.
1152.735–203 Outside employment and other activity.
1152.735–204 Financial interests.
1152.735–205 Use of Government property.
1152.735–206 Misuse of information.
1152.735–207 Indebtedness.
1152.735–208 Gambling, betting, and lotteries.
1152.735–209 General conduct prejudicial to the Government.
1152.735–210 Miscellaneous statutory provisions.

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

1152.735–301 Use of Government employment.
1152.735–302 Use of inside information.
1152.735–303 Coercion.
1152.735–304 Gifts, entertainment, and favors.
1152.735–305 Miscellaneous statutory provisions.

Subpart D—Statements of Employment and Financial Interests

1152.735–401 Employees required to submit statements.
1152.735–402 Employee's complaint on filing requirement.
1152.735–403 Certain members not required to submit statements.
1152.735–404 Time and place for submission of employees' statements.
1152.735–405 Supplementary statements.
1152.735–406 Interests of employees' relatives.
1152.735–407 Information not known by employees.
1152.735–408 Information not required.
1152.735–409 Confidentiality of employees' statements.
1152.735–410 Effect of employees' statements on other requirements.
1152.735–411 Procedure for obtaining waivers of the applicability of the Federal conflicts of interest statutes.
1152.735–412 Specific reporting requirements for special Government employees.

Appendix A—List of Positions Subject to Subpart D.

Appendix B—Confidential Statement of Employment and Financial Interests.

Authority: E.O. 11222; 5 CFR 735, unless otherwise noted.

Subpart A—General Provisions

§ 1152.735–101 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the Board's regulations prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests for employees and special Government employees.

§ 1152.735–102 Definitions.

(a) "Board" means the Architectural and Transportation Barriers Compliance Board.

(b) "Employee" means an officer or employee of the Board but does not include a special Government employee, public member, or a member of the uniformed services.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employee" means a "special Government employee," as defined in section 202 of Title 18 of the United States Code, that is, one appointed to serve with or without compensation, for not more than 130 days during any period of 365 days on a full-time or intermittent basis, who is employed on the Board, including a Public Member, but does not include a member of the uniformed services.

(e) "Public Member" means a member appointed by the President from among members of the general public.

(f) "Uniformed services" has the meaning given that term by Section 2101 of Title 5, United States Code.

§ 1152.735–103 Interpretation and advisory service.

(a) The General Counsel is designated Counselor for the Board to provide guidance on matters relating to ethical conduct and shall serve as the Board's designee to the Office of Personnel Management on matters covered by this part. He/she shall be responsible for coordination of the Board's counseling services provided under paragraph (b) of this section.

(b) The counseling services provided by the Office of the General Counsel include the giving of advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and other matters covered by this part.

(c) If an employee is in doubt about any matter covered by this part, or has a question as to the propriety of a past or contemplated line of conduct, he/she should discuss the problem with his/her immediate supervisor, or the Office of General Counsel.

(d) Requests for interpretative rulings concerning the applicability of the new order and regulations in this part in implementation thereof may be submitted to the Office of the General Counsel.

§ 1152.735–104 Reviewing statement and reporting conflicts of interest.

(a) Statements of employment and financial interests submitted under Subpart D of this part shall be reviewed by the Executive Director. Financial statements of all employees shall be filed in the Office of the Executive Director.

(b) When a statement submitted under Subpart D of this part or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his service for the Government, the employee, or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(c) When after explanation by the employee or special Government employee involved, the conflict or appearance of conflict is not resolved by the General Counsel, the information concerning the conflict or appearance of conflict shall be reported to the Chairperson for appropriate administrative action.

§ 1152.735–105 Disciplinary and other remedial action.

(a) Violations of the regulations in this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) When after consideration of the explanation of the employee or special Government employee provided by § 1152.735–104(b), the Chairperson decides that remedial action is required, he/she shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his/her conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders and regulations.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 1152.735–201 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1152.735–202 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with his/her agency;

(2) Conducts operations or activities that are regulated by his/her agency; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his/her official duty.

(b) The prohibitions of paragraph (a) of this section do not apply in the following cases:

(1) Obvious family or personal relationships, such as those between the parents, children, or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) [Reserved]

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in section 7342 of Title 5, United States Code.

(f) Neither this section nor § 1152.735–203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his/her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 1152.735–203 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his/her Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his/her mental or physical capacity to perform his/her Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his/her services to the Government (18 U.S.C. 209).

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, Office of Personnel Management regulations, or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that depends on information obtained as a result of his/

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her Government employment, except when that information has been made available to the general public or will be made available on request, or when the Chairperson or his/her designee gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his/her agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(d) [Reserved]

(e) This section does not preclude an employee from:

(1) [Reserved]

(2) Participation in the activities of national or State political parties not proscribed by law.

(3) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 1150.735–204 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his/her Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his/her Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, Office of Personnel Management regulations, or this part.

§ 1152.735–205 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him/her.

§ 1152.735–206 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in § 1152.735–203(c), directly or indirectly use, or allow the use of, official information obtained through or in connection with his/her Government employment which has not been made available to the general public.

§ 1152.735–207 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his/her employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1152.735–208 Gambling, betting, and lotteries.

An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by an employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927, namely solicitations conducted by organizations composed of employees among their own members for organizational support or for benefit or welfare funds for their members, or similar Board-approved activities.

§ 1152.735–210 Miscellaneous statutory provisions.

Each employee shall acquaint himself/herself with each statute that relates to his/her ethical and other conduct as an employee of the Board and of the Government. The attention of each employee is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service".

(b) Chapter II of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(c) The prohibition against lobbying with appropriate funds (18 U.S.C. 1913).

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(e) The provision relating to honoraria for speeches (2 U.S.C. 441 (i)).

(f) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(h) The prohibition against the misuse of Government vehicle (31 U.S.C. 638a(c)).

(i) The prohibition against the miuse of the franking privilege (18 U.S.C. d7d1).

(j) The prohibition against the use of deceit in an examination of personnel action in connection with Government employment (18 U.S.C. 1917).

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of government, money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his/her employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

Subpart C-Ethical and Other Conduct and Responsibilities of Special Government employees

§ 1152.735–301 Use of Government employment.

A special Government employee shall not use his/her Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself/herself or another person, particularly one with whom he/she has family business, or financial ties.

§ 1152.735–302 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his/her Government employment for private gain for himself or another person either by direct action on his/her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he/she has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner consistent with the provisions of § 1152.735–203(c).

§ 1152.735–303 Coercion

A special Government employee shall not use his/her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself/herself or another person, particularly one with whom he/she has family, business, or financial ties.

§ 1152.735–304 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with such employment, shall not receive or solicit from a person having business with the agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself/herself or another person, particularly one with whom he/she has family, business, or financial ties.

(b) The exceptions of § 1152.735–202(b) which are applicable to employees, are also applicable to special Government employees.

§ 1152.735–305 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself/herself with each statute that relates to his/her ethical and other conduct as a special Government employee of his/her agency and of the Government. The attention of each special Government employee is directed to those statutory provisions listed in § 1152.735–210 that are applicable to special Government employees.

Subpart D—Statements of Employment and Financial Interests

§ 1152.735–401 Employees required to submit statements.

Except as provided in § 1152.735–403, the following categories of employees shall submit statements of employment and financial interest:

(a) Employees classified at GS–13 or above who are in positions identified in the appendix to this part as positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or

(4) Other activities where the decision or action has an economic impact on the interest of any non-Federal enterprise.

(b) Employees classified at GS–13 or above who are in positions which the Board has determined have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive order, Office of Personnel Management regulations and this part. The positions are identified in the appendix to this part.

(c) Employees classified below GS–13 who are in positions which otherwise meet the criteria in paragraph (b) or (c) of this section. These positions have been approved by the Office of Personnel Management as exceptions that are essential to protect the integrity of the Government and avoid employees involvement in a possible conflict-of-interest situation. These positions are included among those identified in Appendix A to this part.

§ 1152.735–402 Employee's complaint on filing requirement.

Employees have the opportunity for review through the Board's grievance procedures of a complaint by an employee that his/her position has been improperly included under these regulations as one requiring the submission of a statement of employment and financial interests.

§ 1152.735–403 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in § 1152.735–401(b) may be excluded from the reporting requirement when the Executive Director determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(3) The use of an alternative procedure approved by the Board is adequate to prevent possible conflicts of interest.

(b) A statement of employment and financial interests is not required by this subpart from the Chairperson or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under the Ethics and Government Act of 1978, Pub. L. 95–521.

§ 1152.735–404 Time and place for submission of employees' statement.

(a) An employee required to submit a statement of employment and financial interest pursuant to § 1152.735–401 and Appendix A to this part shall submit that statement on Statement of Employment and Financial Interest (a copy of which is attached in Appendix B) to the Executive Director not later than:

(1) Ninety days after the effective date of this part if employed on or before that effective date; or

(2) Thirty days after his/her entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

(b) Additions to, deletions from, and other amendments of the list of positions in the appendix to this part may be made from time to time as necessary to carry out the purpose of the law, Executive Order 11222, Part 735 of the Office of Personnel Management Regulations (5 CFR Part 735), and this part. Such amendments are effective upon actual notification to the incumbents. The amended list shall be submitted at least annually for publication in the **Federal Register**.

(c) All employees shall submit their statements directly to the Executive Director for review and custody. Such statements shall be enclosed in sealed envelopes marked "Standards of Conduct—Administratively Confidential".

§ 1152.735–405 Supplementary statement.

(a) Changes in, or additions to, the information contained in an employee's statement shall be reported to the Executive Director in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required.

(b) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest or engaging in outside employment or other activity that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of Section 208 of Title 18, United States Code, or Subpart B of this part.

§ 1152.735–407 Information not known by employees.

If any information required to be included on a statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his/her behalf.

§ 1152.735–408 Information not required.

This subpart does not require an employee to report information relating to his/her connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this Section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

§ 1152.735–409 Confidentiality of employees' statement.

(a) Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence by the Board. To insure this confidentiality, the Office of Personnel Management regulations provide that:

(1) The Board shall designate which officials and employees are to review and retain the statements;

(2) Officials and employees designated under paragraph (a)(1) of this section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part; and

(3) The Board may not disclose information from a statement except as the Office of Personnel Management or the Chairperson may determine for good cause shown.

(b) For the purpose of carrying out the provisions of paragraph (a)(1) of this section, the Executive Director shall review and retain employees' statements.

§ 1152.735–410 Effect of employee's statements on other requirements.

The statements and supplementary statements required of employees pursuant to this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him/her or any other person to participate in a matter in which his/her or the other person's participation is prohibited by law, order, or regulation.

§ 1152.735–411 Specific provisions for special Government employees.

(a) Except as provided in paragraph (c) of this section, each special Government employee shall submit to the Executive Director for review and custody Statement of Employment and Financial Interest (See Appendix B).

(b) The provisions of § 1152.735–407 through 1152.735–410 are applicable to a special Government employee who is required to file a statement.

(c) The Chairperson or his/her designee may waive the provisions of this section for the submission of a statement in the case of a special Government employee who is not a consultant or an expert when the Board finds that the duties of the position held by that special Government employee are of a nature and at such level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(3) A specialist appointed for intermittent confidential intelligence consultation of brief duration.

(d) A statement of employment and financial interest required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee. Each special Government employee shall keep his/her statement current throughout his/her employment with the Board by the submission of supplementary statements.

Appendix A—List of Positions Subject to Subpart D

Officers and employees in the following positions are subject to the provisions of Subpart D of this part:
Chairperson
Board Members
Liaison Officers
Executive Director
Administrative Officer
Director, Office of Compliance and Enforcement
Director, Office of Public Information
Director, Office of Technical Services
Director, Office of Policy, Planning, and Program Development
Program Analysts

Appendix B

BILLING CODE 4110–12–M

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

(FOR USE BY SPECIAL GOVERNMENT EMPLOYEES)

PART I – TO BE COMPLETED BY EMPLOYING ORGANIZATION (Organization completes Parts III & IV after appointee completes Part II)

NAME *(Last, First, Initial)*		BIRTH DATE *(Month, Day, Year)*
ORGANIZATION LOCATION *(Principal Operating Component, Bureau, Division)*	PERIOD OF APPOINTMENT IN THIS PRINCIPAL OPERATING COMPONENT FROM: TO:	EST. NO. DAYS SERVICE TO BE PERFORMED

PART II – TO BE COMPLETED BY APPOINTEE

Information to Appointee: *Completion of this form is required for all experts and consultants and for other persons who work 130 days or less a year identified by the head of the principal operating component. The information to be furnished on this form is required by Executive Order 11222 and the regulations issued thereunder. The information you disclose will be used to determine whether a conflict exists between your employment and financial interests and the performance of your services for the Government. The information will be held in confidence and will not be disclosed except as the Chairman of the Civil Service Commission or the head of the principal operating component or designee may determine for good cause shown. The information may be used: a) by a Federal, state or local agency when there is an indication of a violation or potential violation of law; b) by a Federal agency in deciding on the hiring or retention of an employee or other benefit; or c) for other routine uses published in accordance with 5 USC 552a. Unless you provide the information requested on this form, the organization will not be able to utilize your services.*

Information is not required relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

FEDERAL GOVERNMENT EMPLOYMENT – *List all other Federal agencies [redacted] in which you are presently employed. Please specify the organization in as much detail as possible. IF NONE, WRITE "NONE."*

AGENCY	LOCATION *(Street, City, State)*	TITLE OR KIND OF POSITION	APPOINTMENT PERIOD		EST. NO. OF DAYS
			FROM	TO	

NON-FEDERAL EMPLOYMENT – *List all corporations, companies, firms, state or local government organizations, research organizations and educational and other institutions, domestic or foreign, in which you are serving as employee, officer, member, owner, trustee, director, expert, advisor, or consultant, with or without compensation, including on a part-time or seasonal basis. IF NONE, WRITE "NONE."*

NAME AND LOCATION OF ORGANIZATION *(City and State)*	KIND OF ORGANIZATION *(e.g., Manufacturing, research, insurance)*	TITLE OR KIND OF POSITION

FINANCIAL INTERESTS – *List all organizations in which you, your spouse, minor child, partner, or an organization with which you are connected have financial interests which relate directly or indirectly to your consultancy duties. IF NONE, WRITE "NONE."*

NAME OF ORGANIZATION	KIND OF ORGANIZATION (Manufacturing, storage, public utilities, etc.)	NATURE OF INTEREST AND IN WHOSE NAME HELD

I CERTIFY that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I UNDERSTAND that if, during the period of my appointment, I undertake a new employment I must promptly file an amended statement, and I must also report any new financial interest acquired during this period if related directly or indirectly to my consultancy duties.

(Signature) *(Date Signed)*

PART III – TO BE COMPLETED BY EMPLOYING ORGANIZATION

A. ESTIMATED NO. OF DAYS ON WHICH SERVICES ARE TO BE PERFORMED DURING REMAINING PORTION OF THE APPLICABLE 365 DAY PERIOD (see FPM 735-C-2, para. d):

____ (1) With this principal operating component

____ [redacted]

____ (3) With other Federal agencies

____ SUM OF (1), (2) and (3) ABOVE

B. NUMBER OF DAYS ALREADY WORKED DURING THE APPLICABLE 365 DAY PERIOD:

____ (1) For A&TBCB

____ (2) For other Federal agencies

____ SUM OF (1) and (2) ABOVE

C. TOTAL NUMBER OF DAYS (SUM OF A AND B ABOVE): ____

D. FOR APPLICABILITY OF CONFLICT OF INTEREST STATUTES (see FPM 735-C), APPOINTEE IS DESIGNATED AS A:

☐ SPECIAL GOVERNMENT EMPLOYEE

☐ REGULAR GOVERNMENT EMPLOYEE

PART IV – REVIEW BY EMPLOYING ORGANIZATION

See A&TBCB Regulations on Standards of Conduct, especially Sec. 1152.735-404(a).

NAME	DATE	REMARKS
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED
		☐ NO CONFLICT NOTED ☐ SEE ATTACHED

BILLING CODE 4110-12-C

Donald Elisburg,
Vice Chairperson, Architectural & Transportation Barriers Compliance Board.
August 24, 1979.

[FR Doc. 79-27838 Filed 9-6-79; 8:45 am]
BILLING CODE 4110-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1309-8]

Delayed Compliance Order for A. P. Green Refractories Co., Freeport, Tex.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order (DCO) to A. P. Green Refractories Co. The DCO requires the company to bring air emissions from its shaft kiln stack into compliance with certain regulations contained in the federally approved Texas State implementation plan (SIP). Source compliance with the DCO would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulation covered by the Order during the period the order is in effect.

DATES: This rule takes effect on September 7, 1979.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at U.S. Environmental Protection Agency, Region 6, Air Enforcement Branch, Enforcement Division, First International Building, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: James L. Veach, EPA, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-2760.

SUPPLEMENTARY INFORMATION: On June 7, 1979, the Regional Administrator of EPA's Region 6 office published in the **Federal Register**, 44 FR 32715 (1979) a notice proposing approval of a Delayed Compliance Order to A. P. Green Refractories Co. The notice asked for public comments by July 9, 1979, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the Delayed Compliance Order is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places A. P. Green Refractories Co. on a schedule to bring the shaft kiln in Freeport, Texas, into compliance as expeditiously as practicable with Texas Air Control Board Regulation I, Rule 105.1 and Rule 103.1, parts of the federally approved Texas State implementation plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(c) and 113(d)(7) of the Act. If the conditions of the Order are met, it will permit A. P. Green Refractories Co. to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The facility was unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place A. P. Green Refractories Co. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the Texas State implementation plan.

(42 U.S.C. 7413(d), 7601.)

Dated: August 31, 1979.

Douglas M. Costle,
Administrator.

In the consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.480 to read as follows:

§ 65.480 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulations involved	Final compliance date
A. P. Green Refractories Company.	Freeport, Tex	DCO-TX-79-1	June 7, 1979	TACB Reg. I, Rule 105.1 and 103.1.	June 30, 1979

[FR Doc. 79-27906 Filed 9-6-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 125

[FRL 1314-3]

Modification of Secondary Treatment Requirements for Discharge Into Marine Waters

AGENCY: United States Environmental Protection Agency ("EPA").

ACTION: Notice on Native Alaskan Villages.

SUMMARY: This notice delineates EPA's position on the applicability of 40 CFR Part 125 to Native Alaskan Villages and EPA's intention to consider other methods and alternative technologies for meeting the wastewater treatment needs in these native villages.

FOR FURTHER INFORMATION CONTACT: Ronald DeCesare, 301(h) Task Force Manager, Office of Water Program Operations (WH-546), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, 202/426-8973.

SUPPLEMENTARY INFORMATION: On June 15, 1979, EPA published final regulations implementing section 301(h) of the Clean Water Act ("the Act"), as amended. These final regulations establish the criteria and standards to be applied by EPA in acting on section 301(h) applications for modification to the secondary treatment requirements of the Act.

In the preamble to EPA's proposed section 301(h) regulations (43 FR 17484, 17486, April 25, 1978), EPA solicited comments on the question of whether and under what circumstances a special category could be established for small villages in Alaska, the Pacific Trust Territories and Puerto Rico. Additionally, the Agency solicited comments on how provisions of the Act other than section 301(h) might be utilized to provide assistance to these communities in dealing with their very singular health, social, economic, and water pollution control problems. The Agency, in requesting comments, recognized that many of the communities exist at near subsistence levels and do not have the technological ability either to construct and maintain secondary treatment facilities or to complete a section 301(h) permit application. Furthermore, in many cases, they have no existing collection and treatment systems and wastes are

transported from individual homes to tundras or streams which flow into the ocean.

A number of comments were received in response to EPA's request. Most commenters reiterated the unique problems of these communities and suggested that the Agency should either automatically grant section 301(h) modifications to these communities or vastly simplify the application process for them. A few commenters pointed out that section 301(h) contains no basis for excluding these communities from the application process.

In response to these comments, EPA stated in the final regulations that while section 301(h) did not allow either for automatic section 301(h) modifications or categorical exemptions from NPDES permit requirements, the Agency was aware of Congressional concern for the particular problems of these communities. The Clean Water Act, Section 113, 33 U.S.C. 1263, 44 FR 34784, 34792 (June 15, 1979). In section 113, Congress specifically authorized the Agency to enter into agreements with the State of Alaska and to coordinate and cooperate with other Federal agencies in conducting research and demonstration projects leading to the development of a comprehensive program for achieving adequate sanitation services in Native Alaskan Villages.

In consideration of Congress' expressed concerns and EPA's recognition that these native villages have more immediate needs for providing basic health protection, EPA has concluded that these native villages need not apply for a section 301(h) modified permit. The Agency will use discretion in scheduling secondary treatment, with the short term emphasis on meeting immediate public health needs. Attention will be given to examining alternatives to traditional secondary treatment, including individual systems and best practicable wastewater treatment technology including land treatment and disposal of effluents.

Ninety-five Alaskan communities submitted preliminary applications indicating that they intended to seek section 301(h) modified permits. EPA has concluded that seventy-six of these communities are Native Alaskan Villages as defined in the Alaska Native Claims Settlement Act, Pub. L. 92–203, as amended, 43 USC 1601, et seq., as follows:

Alaskan Native Villages Which Submitted Preliminary 301(h) Applications

Akhiok	Anaktuvak Pass
Akutan	Angoon
Atka	Mekoryuk
Atkasook	Naknek
Barrow	Nelson Lagoon
Bethel	Nikolski
Brevig Mission	Nuiqsut
Chignik	Old Harbor
Chignik Lagoon	Ouzinkie
Clarks Point	Perryville
Craig	Pilot Point
Deering	Platinum
Dillingham	Point Hope
Egegik	Point Lay
Ekuk	Port Graham
Elim	Port Heiden
English Bay	Port Lions
False Pass	Portage Creek
Gambell	Quinhagak
Golovin	St. George
Goodnews Bay	St. Michael
Hoonah	Sand Point
Hydaburg	Savoonga
Ivanoff Bay	Saxman
Kake	Seldovia
Kaktovik	Shaktoolik
Karluk	Shishmaref
Kasaan	South Naknek
King Cove	Stebbins
Kipnuk	Teller
Kivalina	Togiak
Klawock	Toksook Bay
Kongiganak	Tununak
Kotzebue	Unalakleet
Koyuk	Unalaska
Kwigillingok	Wainwright
Larsen Bay	Wales
Little Diomede	Yakutat

EPA has made no determination as to whether these villages qualify to apply for a section 301(h) modified permit, should they choose to submit final applications.

By this notice, EPA simply identifies which of the Alaskan section 301(h) preliminary applicants are considered Native Alaskan Villages, clarifies its policy that these native villages need not apply for a section 301(h) modification, and reaffirms the Agency's intention to examine alternative methods of meeting their wastewater treatment needs.

Dated: August 30, 1979

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-27991 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1-4

[FPR Temp. Reg. 46, Supp. 2]

Use of Small Purchase Procedures and Schedule Contracts for Automated Data Processing (ADP) Requirements

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to FPR Temporary Regulation 46 extends the expiration date of the regulation. It also removes the exception in the lead paragraph of § 1–4.1103–1 which limits the delegation of procurement authority to agencies regarding hardware monitors for measuring computer performance. In addition, the definition of ADP equipment is expanded. These changes are required to recognize the recent reclassification of items into FSC Group 70 and to provide revised procedures for the procurement of computer hardware monitors. The intended effect is to lower procurement costs and decrease the action time for the procurement of ADP items.

DATE: Effective date: September 7, 1979. Expiration date: September 30, 1980, unless earlier revised or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (703–557–8947).

SUPPLEMENTARY INFORMATION: Supplement 1 to FPR Temporary Regulation 46 (44 FR 21792, Apr. 12, 1979) is canceled. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR Chapter 1, FPR Temporary Regulation 46, Supplement 1 is deleted from and Supplement 2 is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 46, Supplement 2

To: Heads of Federal agencies.

Subject: Use of small purchase procedures and schedule contracts for automated data processing (ADP) requirements.

1. *Purpose.* This supplement 2 extends the expiration date of FPR Temporary Regulation 46, authorizes agencies to procure hardware monitors, and clarifies the definition of ADP equipment.

2. *Effective date.* This supplement 2 is effective September 7, 1979.

3. *Expiration date.* This supplement 2 and the related FPR Temporary Regulation 46 expire September 30, 1980, unless earlier revised or superseded.

4. *Background.* a. FPR Temporary Regulation 46 provides for the use of small purchase procedures in ADP procurements, revises the procurement procedures agencies are required to use for competitive ADP procurements which do not exceed $300,000, and provides interim procedures concerning the use of ADP schedule contracts. The procurement authority delegated to Federal agencies currently does not include hardware monitors used to measure computer performance.

b. The Federal Computer Performance Evaluation and Simulation Center, operated by the Department of the Air Force under a delegation of authority from the Administrator of General Services, is authorized to award or authorize the award of all Government contracts for hardware monitors. The Center's experience indicates that the exception for hardware computer performance monitors from the delegation of procurement authority provisions in the FPR should be eliminated and that the monitors should be procured in accordance with the general provisions of the FPR.

c. A number of items heretofore classified under FSC Group 74 recently were reclassified into FSC Group 70. This action makes it necessary to clarify the definition of ADP equipment.

5. *Explanation of changes.* a. The expiration date for FPR Temporary Regulation 46 is extended to September 30, 1980.

b. Section 1–4.1102–1 is amended to add paragraph (d) as follows:

§ 1–4.1102–1 Automatic data processing equipment.

* * * * *

(d) Devices used for special purposes, e.g., word processing equipment and phototypesetting machines, which are classified under FSC Group 70.

Note.—In addition to the requirements of this regulation, the acquisition of Joint Committee on Printing (JCP) controlled equipment in FSC Group 70, e.g., phototypesetting machines, continues to be subject to the Government Printing and Binding Regulations.

c. Section 1–4.1103–1 (see subparagraph 5b of FPR Temporary Regulation 46) is amended to remove the exception in the lead paragraph for hardware monitors used to measure computer system performance. The section now reads as follows:

§ 1–4.1103–1 Automatic data processing equipment.

Except as indicated in § 1–4.1103–4 regarding potential use of the ADP Fund and in Federal Property Management Regulations (FPMR) Subpart 101–36.3 with respect to the use of excess ADPE, agencies may procure ADPE without prior approval of GSA or the Federal Computer Performance Evaluation and Simulation Center provided:

* * * * *

6. *Effect on other issuances.* Supplement 1 to FPR Temporary Regulation 46 is canceled.

Dated: August 31, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-27908 Filed 9-6-79; 8:45 am]

BILLING CODE 6820-82-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 15, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on the maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colorado 80225. Hunting shall be in accordance with all State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Robert M. Ellis,

Refuge Manager.

July 26, 1979.

[FR Doc. 79-27857 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebraska to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Pheasant Nov. 3, 1979–Jan. 7, 1980; Grouse Sept. 15–Nov. 4, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasant and grouse on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, CO 80225. Hunting shall be in accordance with all State regulations covering the hunting of pheasant and grouse.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations,

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Part 32. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Robert M. Ellis,

Refuge Manager.

August 29, 1979.

[FR Doc. 79-27858 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of Valentine National Wildlife Refuge, Nebr. to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 13, 1979–January 3, 1980.

FOR FURTHER INFORMATION CONTACT: Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebraska 69201 Telephone: 402–376–3789.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colorado 80225. Hunting shall be in accordance with all State regulations covering the hunting of ducks.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistant with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Robert M. Ellis,

Refuge Manager.

August 29, 1979.

[FR Doc. 79-27884 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Chincoteague National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Chincoteague National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 13, 1979 through January 4, 1980.)

FOR FURTHER INFORMATION CONTACT: J. C. Appel, Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Virginia, 23336 Telephone No. 804–336–6122.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Chincoteague National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is by special permit only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

1. Species to be taken: (a) Archery Hunt—Sika and Whitetail deer, (b) Stag Hunt—Sika and Whitetail deer.

2. Bag Limits: (a) Archery Hunt—One per day, three per license year, (b) Stag Hunt—One per day, three per license year. The first deer must be an adult female or a buck with unbranched antlers. The second and third deer may be either an adult female, a buck with unbranched antlers, or a trophy stag (five points or better), but bag limit of three may not include more than one trophy stag or more than two adult females.

3. Season: (a) Archery—Will coincide with the State archery deer season. (b) Stag Hunt will occur within the State deer season, but will be restricted as stated in hunter permits.

4. Hunting equipment: (a) Archery—Long bow, Recurve, or Compound bow and arrows (cross bow prohibited). Archers must use broadheads with blades at least ⅞ inches wide and bows capable of propelling any arrow in their possession 125 yards. All arrows in an archer's possession while hunting must be permanently marked with hunter's name and address. Archers may not have firearms or illegal archery equipment in their possession while hunting. Quivers must have broadheads covered. (b) Stag Hunt—All firearms must function as a single shot only. Modern firearms may be used if modified to hold only one round. Rifles of .23 caliber or larger and shotguns of 20 gauge or larger will be permitted. Slugs only will be permitted in shotguns. Possession of firearms or ammunition on the refuge which is not stipulated as permitted in these regulations is prohibited.

5. Dogs are prohibited.

6. Hunting hours—Same as State hunting hours. All hunters must be clear of hunting areas by two hours after the close of legal hunting hours.

7. Carrying loaded firearms or nocked arrows in or on a vehicle or shooting from a vehicle is prohibited. Guns in vehicles must be unloaded and cased.

8. Camping and fires on refuge are prohibited.

9. All hunters under 18 years of age must be accompanied by an unarmed adult.

10. One other individual may accompany each hunter, but only the designated hunter will be allowed to carry a gun.

11. All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered.

All deer taken on the area must be brought to the maintenance area to be checked out. Jawbones may be removed by refuge personnel.

12. Shooting at wildlife other than deer is prohibited.

13. Violation of any state or federal regulation warrants withdrawal of hunting permit.

14. Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) All firearm hunters must provide proof of passing a state hunter safety course.

(b) Archery hunters must provide proof of passing the National Field Archery Association Bowhunters Education Program, or equivalent course. This course is required to be taken only once, but archery qualification is required each year.

(c) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest, and back.

(d) Youths who have not reached their 18th birthday must hunt under the control of a qualified adult hunter or a legal guardian.

(e) Hunters/Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualification test or tests:

(1) Archery: Place three out of five shots in the 9" × 14" chest area of a standard size deer target at 25 yards.

(2) Rifle, shotgun with rifle slugs, and muzzleloaders: Place three consecutive shots in a 12-inch bullseye from 50 yards or better from an offhand position. This is a lifetime qualification subject to verification.

(f) All hunters must carry into the field a police-type (metal) whistle, for use in emergency circumstances.

(g) All hunters will be charged a $10 special recreation permit fee.

The provisions of this Special Regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27854 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Eastern Neck National Wildlife Refuge, Maryland, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Eastern Neck National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 6, 1979, through December 31, 1979).

FOR FURTHER INFORMATION CONTACT: Phillip Feiger, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661, Telephone No. 301–639–7056

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that is is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Eastern Neck National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Easter Neck National Wildlife Refuge, Maryland, is permitted on all areas except county roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 1,996 acres, is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be

in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery only: October 6, 8, 10, and 13, 1979

Muzzle-loading longarm only: October 29, 31, and November 3, 1979

Shotgun only: November 19, 21, and 24, 1979

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in an out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) Hunters may not enter the refuge earlier than one-half hour before sunrise and must check out no later than one hour after sunset.

(5) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is not permitted.

(7) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 144 square inches of fluorescent orange material worn on the chest and on the back above the waistline.

(8) Hunters under 18 years of age must be accompanied by a hunting, permit-holding adult.

(9) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation Areas.

(10) All hunters must exhibit their hunting equipment, game Federal permit, Federal qualification certificate, State hunting license, and deer-turkey stamp to Federal or State officers on request.

(11) A completed proficiency certificate will be required of all hunters. Valid proficiency certificates will be honored for three (3) years. The certificate will contain identification of shooter, identification of certifying individuals and identification of bows and firearms with which the hunter is proficient. Required proficiency levels for muzzle-loading firearm and shotgun hunters are placement of three (3) consecutive shots in a twelve (12) inch bullseye at a fifty (50) and thirty (30) yard distance respectively using an off-hand firing position. Bow hunters must successfully complete part IIB of the Bow Hunter Education Course given by the National Field Archery Association requiring the placement of three (3) out of five (5) consecutive shots in a twelve (12) inch diameter circle in the chest area of a standard deer target at varying distances from ten (10) to thirty (30) yards. All firearms, ammunition, load sizes and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(12) All arrows in possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint or etched into the arrow shaft.

(13) Use or possession of alcoholic beverages by hunters is not permitted during the hunt.

(14) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to one hundred and fifteen (115) per day for gun hunts, and one hundred and fifty (150) per day for archery hunts.

(15) The permit must be returned to the refuge at check-out or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31, 1979. Noncompliance with this and other regulations will subject hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27855 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Great Dismal Swamp National Wildlife Refuge, Virginia, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Dismal Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (November 3, 10, 17, 23, 24, 1979).

FOR FURTHER INFORMATION CONTACT: Ralph M. Keel, Jr., Great Dismal Swamp National Wildlife Refuge, Box 349, Suffolk, Virginia 23434, Telephone No. 804-539-7479.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Great Dismal Swamp National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

(1) Species to be taken: Whitetail deer.

(2) Bag Limits: One per day, either sex.

(3) Season: November 3, 10, 17, 23, 24.

(4) Hunting equipment: Shotguns only, no smaller bore than 20 gauge, loaded with buckshot and/or rifled slugs.

(5) Possession of other weapons or ammunition prohibited.

(6) Dogs are prohibited.

(7) Hunting hours—same as state hunting hours. All hunters must be clear of hunting areas by two hours after the close of legal hunting hours.

(8) Carrying loaded firearms in or on a vehicle or shooting from a vehicle is prohibited.

(9) Carrying loaded firearms in or on a refuge road or shooting from or on a road is prohibited.

(10) Camping and fires on refuge are prohibited.

(11) All hunters under 18 years of age must be accompanied by an adult.

(12) All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the check station to be checked out. Jawbones may be removed by refuge personnel.

(13) Shooting at wildlife other than deer is prohibited.

(14) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescence color material on the head, chest, and back.

(15) Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) Hunters/Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Shotgun with rifle slugs: Place three consecutive shots in a 12-inch bullseye from 30 yards or better from an offhand position. This is a lifetime qualification subject to verification.

(2) Shotguns with buckshot: Place five shot pellets in a 20-inch bullseye target from a range of 30 yards.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, U.S. Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27853 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Moosehorn National Wildlife Refuge, Maine, to Hunting

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Moosehorn National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 3, 1979, through November 24, 1979. Saturday, November 3, will be open for Maine resident hunters only.

FOR FURTHER INFORMATION CONTACT: Douglas Mullen, Moosehorn National Wildlife Refuge, P.O. Box X Calais, Maine 04619, Telephone No. 207-454-3521.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Moosehorn National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Moosehorn National Wildlife Refuge, Maine, is permitted except on areas designated by signs as closed during the State firearms season. This open area, is shown on maps available at Refuge Headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Hunting shall be in accordance with State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Regional Director, Fish and Wildlife Service.

August 30, 1979.

[FR Doc. 79-27856 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Presquile National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Presquile National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 12, 1979, through November 3, 1979).

FOR FURTHER INFORMATION CONTACT: Harold Olsen, Presquile National Wildlife Refuge, Box 620, Hopewell, Virginia 23860, Telephone No. 804-458-7541.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Presquile National Wildlife Refuge was established. This determination is based upon consideration of, among other

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things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

1. A Federal permit will be required at no charge to the applicant. Bow hunter applicants who provide proof by September 25 of having successfully completed the National Field Archery Association Bowhunter Education Course and the weapons qualification test described below will be automatically issued a permit. Gun hunter applicants who provide proof of having passed a state approved hunter safety course by September 25 will also be automatically issued a permit. The permits remaining will be issued to hunters selected from a public drawing to be held at 1:00 p.m. on September 26 in the refuge office, Hopewell, Virginia. The only exception to this procedure would be if there were more applicants who had taken the specified safety course than there are stands available for hunting. In this case a drawing would be held for this particular group of people only. Permits are non-transferable. Alternates will also be selected from standby hunters at the ferry landing to fill stands left open by permittees who do not show up. Bow hunters must pass an archery qualification test which will consist of placing 3 out of 5 arrows in a 9 by 14 inch chest area of a standard deer size target at 25 yards. In order to be in the drawing for an archery permit, archers must submit a certification statement to the refuge office by September 25. The statement must bear the name and address of the archery range and signature of range official who actually witnessed the qualification.

2. Only white-tailed deer may be taken from one half-hour before sunrise to one half-hour after sunset with bow and arrow only on October 12, 13, 19, 20; and with shotgun on October 27 and November 3, 1979.

3. Bag limits: One deer per day, either sex.

4. All hunters must enter the refuge on the ferry at 6 a.m. e.d.t. (5 a.m. e.s.t.) except that boats with engines no larger than 10 hp. will be permitted only for those hunters who will be hunting in the swamp. All boat occupants must wear a life jacket. Before leaving the refuge, hunters must be checked out by refuge officials either at the official state checking station at the refuge headquarters or at the boat launch area on the mainland.

5. Possession of firearms on the refuge during the bow and arrow only hunts is prohibited.

6. All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

7. Only buckshot is permitted during the shotgun hunts.

8. Each hunter will be assigned a stand corresponding to his permit number. Shotgun hunters will remain on their assigned stand throughout the day's hunt. Bow hunters will remain on their assigned stand from one half-hour before sunrise to 10 a.m. From 10 a.m. to one half-hour after sunset, they may hunt anywhere within the open area.

Gun hunters must wear fluorescent orange (144 sq. inches min.) at all times; bow hunters must wear fluorescent orange when going to and from their stand, and when hunting away from their stand.

9. All hunters under 18 years of age must be accompanied by and under the immediate supervision of an adult.

10. Scouting will be permitted on October 5 and 8, 1979. The refuge ferry will take passengers to the island at 8 a.m. e.d.t. and return to the mainland at 10 a.m. and 12 noon.

11. Special regulations and maps are available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

William C. Ashe,

Acting Regional Director, Fish and Wildlife Service.

August 27, 1979.

[FR Doc. 79-27852 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Groundfish of the Gulf of Alaska; Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Apportionment of Reserve Amounts, Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the Groundfish of the Gulf of Alaska Fishery Management Plan (FMP) and the regulations implementing this FMP (See 43 FR 56238, 50 CFR 627.20(c), and 50 CFR 611.92(b)(1)(ii)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. vessels delivering to foreign processors at sea (joint ventures) would harvest groundfish, the FMP established a reserve of fish which could be released and added to the total allowable level of foreign fishing (TALFF) if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the Council adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,600 metric tons and increased reserves of species taken incidental to pollock. The purpose of these reserves was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations published on December 1, 1978 (43 FR 56238), established criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

These regulations provide that up to 25 percent of the initial reserve amounts will be released and added to TALFF as soon as practicable after January 2, March 2, May 2, and July 2 if it is determined that U.S. fishermen will not catch these amounts during the remainder of the fishing year.

In January, 25 percent of the reserves of each species except sablefish was released. In March, 25 percent of the reserves of sablefish, but no other species, was released. In May, 25 percent of the reserves of each species except sablefish was released. Accordingly, 50 percent of the initial reserves of all species except sablefish were eligible for the July release; of the sablefish reserves, 75 percent in all fishing areas except Southeast and 100 percent in Southeast were eligible for release.

The July release was divided into two stages, the first with an effective date of July 24, 1979, and the second on August 15, 1979, or as soon as practicable thereafter. The first stage involved the release of some or all reserves in certain fishing areas. The second stage involves the release of those amounts the Regional Director has determined will not be harvested by U.S. fishermen through the end of the fishing year.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that:

1. Under the second stage of the July release, the following amounts (metric tons) of reserves of each species in each fishing area in the Gulf of Alaska will be retained for U.S. fishermen:

	Western	Central	Eastern
Pollock	50	5,400	50
Pacific cod	500	850	150
Flounder	50	100	25
Pacific Ocean perch	200	1,250	400
Rockfish	25	100	100
Sablefish	35	130	30
Atka mackerel	5	10	10
Squid	5	10	10
Other species	20	120	10

In making this determination, the Regional Director considered to what extent U.S. vessels would harvest the remaining reserves. On the basis of current and projected catch rates and projected effort the Regional Director has concluded that U.S. vessels would take only those amounts shown in the above table. Hence, it is appropriate that the balances be transferred to the TALFF.

2. The remaining amounts (metric tons) of reserves of all species in the Gulf of Alaska will be released and added to the TALFF as follows:

	Western	Central	Eastern
Pollock	0	11,600	950
Pacific cod	864	324	0
Flounder	0	0	75
Pacific Ocean perch	250	0	225
Rockfish	0	0	100
Sablefish	150	775	780
Atka mackerel	85	690	400
Squid	120	250	240
Other species	80	80	20

During the public comment period, no testimony was received that substantiated future expansion of the U.S. fishing fleet or U.S. processing intent beyond that stated in the FMP. Therefore, current domestic annual harvests (DAH) are sufficient to provide for U.S. catches that appear likely to be delivered to U.S. processors and need not be supplemented.

The other reserves remaining after this release are sufficient to provide for joint ventures. Four permits have been issued to foreign processing vessels engaged in two joint ventures; as many as 7 U.S. fishing vessels may deliver fish to foreign processing vessels this fishing year.

III. Response to Public Comments.

Ten comments were received during the comment period, two of which favored releasing certain reserves and eight of which favored retaining certain reserves. They are summarized and responded to below:

Comment: All of the available reserves of sablefish, Pacific cod, other rockfish, and "other species" should be released to TALFF to support foreign longline fishing operations for sablefish and Pacific cod.

Response: The Pacific cod and other rockfish reserves being retained are equal to the amount of those species the Regional Director estimates U.S. fishermen will deliver to foreign vessels (joint ventures). Those estimates are based on current projected catch rates and projected effort in those joint ventures. Only enough sablefish and "other species" reserves are being retained to provide for incidental catches by U.S. fishermen fishing for joint ventures.

Comment: The entire amount remaining in the reserves should be released to TALFF.

Response: For reasons stated in the above response, certain amounts of reserves will be retained.

Comment: Joint ventures will harvest all the Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas and some of both species in the Kodiak area. Joint ventures will take substantial amounts of pollock and incidental species throughout the Gulf of Alaska. To support joint ventures, therefore, reserves of Pacific ocean perch and Pacific cod in the Shumagin and Chirikof areas, certain amounts of pollock throughout the Gulf of Alaska, and sufficient amounts of incidental species should be retained for joint ventures.

Response: As shown in the above table, various amounts of reserves are being retained to support joint ventures. The rationale for retention of those amounts is stated in the response to the first comment above.

IV. Other Matters.

An environmental impact statement was prepared for the FMP for the Groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency (EPA). A negative assessment of environmental impact prepared for the reserve release provisions of the Goundfish FMP is also on file with the EPA.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit;

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned; and

E. This action is not significant in relation to criteria prescribed by EO 12044; a regulatory analysis is not required.

Signed at Washington, D.C., this 30th day of August, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. Section 1801 *et seq.*

(A) 50 CFR 672.20 is amended by revising Table I-A—Optimum Yield and Reserves of paragraph (a) as follows:

Table I-A.—*(As Amended by Second Stage of July 1979 Reserve Release)*

Optimum Yield and Reserve, Metric Tons

Fishing Areas

Species		Western	Central	Eastern	Total
Pollock	OY	57,000	95,200	16,600	168,800
	Reserve	50	5,400	50	5,500
Pacific Cod	OY	9,600	19,400	5,800	34,800
	Reserve	500	850	150	1,500
Flounder	OY	10,400	14,700	8,400	33,500
	Reserve	50	100	25	175

Table I-A.—*(As Amended by Second Stage of July 1979 Reserve Release)*—Continued

Optimum Yield and Reserve, Metric Tons

Fishing Areas

Species		Western	Central	Eastern	Total
Pacific Ocean Perch (POP)	OY	2,700	7,900	14,400	25,000
	Reserve	200	1,250	400	1,850
Other Rockfish	OY	300	800	6,500	7,600
	Reserve	25	100	100	225
Sablefish	OY	2,100	3,800	7,100	13,000
	Reserve	-35	130	30	195
Atka Mackerel	OY	4,400	19,400	3,000	26,800
	Reserve	5	10	10	25
Squid	OY	1,000	2,000	2,000	5,000
	Reserve	5	10	10	25
Other Species*	OY	4,400	8,600	3,200	16,200
	Reserve	20	120	10	150

* The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, rattails, and Continental Shelf fishery resources.

(B) 50 CFR 611.20 is amended by revising Table I–B of paragraph (c) as follows:

Table I-B.—*(As Amended by Second Stage of July 1979 Reserve Release)*

(1) Change lines beginning "702," "129," "207," "780," "701," "849," "703," "509," "499," to read as follows:

Species code	Species	Ocean area	TALFF (metric tons)	U.S. capacity review date
702	Cod, Pacific	Gulf of Alaska	[1] [2]17,800	Jan. 2, Mar. 2, May 2, July 2.
129	Flounders, including Yellowfin Sole.	do	[1] [2]26,125	Do.
207	Mackerel, Atka	do	[1] [2]26,775	Do.
780	Perch, Pacific Ocean (POP)	do	[1] [2]22,050	Do.
701	Pollock	do	[1] [2]149,100	Do.
849	Rockfishes Other Than POP	do	[1] [2]5,375	Do.
703	Sablefish	do	[1] [2]8,805	Do.
509	Squid	do	[1] [2]4,975	Do.
499	Other Species	do	[1] [2]15,550	Do.

[1] Annual TALFF period is November 1 through October 31.
[2] Does not include an amount held in reserve.

(C) 50 CFR 611.92 is amended by revising Table I–C—Gulf of Alaska Groundfish Fishery for 1978/1979 of paragraph (b) as follows:

Table I-C.—*(As Amended by the Second Stage of July 1979 Reserve Release)*

Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Fishing Area for 1978–79, Metric Tons

Fishing Areas[1]

Species		Western	Central	Eastern	Total
Pollock	TALFF	52,150	81,800	15,150	149,100
	Reserve	50	5,400	50	5,500
Pacific Cod	TALFF	4,800	9,950	3,050	17,800
	Reserve	500	850	150	1,500
Flounders	TALFF	8,150	11,400	6,575	26,125
	Reserve	50	100	25	175
Pacific Ocean Perch (POP)	TALFF	2,400	6,350	13,300	22,050
	Reserve	200	1,250	400	1,850
Other Rockfish[2]	TALFF	175	500	4,700	5,375
	Reserve	25	100	100	225
Sablefish	TALFF	1,965	3,570	3,270	8,805
	Reserve	35	130	30	195
Atka Mackerel	TALFF	4,395	19,390	2,990	26,775
	Reserve	5	10	10	25
Squid	TALFF	995	1,990	1,990	4,975
	Reserve	5	10	10	25
Other Species[3]	TALFF	4,280	8,180	3,090	15,550
	Reserve	20	120	10	150

[1] See Figure 1 of this Section 611.92(b) for description of regulatory areas.
[2] The category "other rockfish" includes all rockfishes other than Pacific ocean perch.
[3] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead, trout, Pacific halibut, herring, rattails, and Continental Shelf fishery resources.

[FR Doc. 79-27837 Filed 9-6-79; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 175
Friday, September 7, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Parts 337, 410]

Examining System; Training

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Civil Service Reform Act of 1978 contained certain grade and pay retention provisions. The legislation authorizes (in 5 U.S.C. 5364) the Office of Personnel Management to prescribe regulations to require agencies to take several remedial actions, including steps to assure that affected employees can acquire qualifications for selection to other positions. The document implements these statutory provisions.

DATE: Written comments will be considered if received no later than November 6, 1979.

ADDRESS: Address written comments to: Assistant Director for Agency Compliance and Evaluation, Agency Relations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Lynn Waldorf, (202) 632–4473.

SUPPLEMENTARY INFORMATION: New regulations are proposed to implement provisions of Section 5364 of title 5 concerning retention and retraining of employees subject to the grade and pay retention provisions of the Civil Service Reform Act of 1978. Specifically, (1) 5 CFR 337.102 requires agencies to evaluate qualifications for promotions in a manner which will result in the maximum number of placement opportunities for each employee. This means that work experience obtained during the time an employee is in grade retention must be rated as if the employee were in the series and grade of the position from which downgraded if doing so results in a higher ranking of the employee than obtained by rating that experience in the current series and grade; and, (2) 5 CFR 410.503 provides that an exception to the prohibition against training an employee by, in, or through a non-Government facility for the purpose of promotion if there is another employee in the agency qualified to fill the position and available within a reasonable distance from the location of the position to be filled will be inserted for employees trained under the provisions of 5 U.S.C. 5364. This exemption would be applicable only to those employees in pay retention since employees in grade retention would not be "promoted" to positions at or below their retained grade. Additionally, an exception to 5 U.S.C. 4107 (c)(1) is provided if the retraining is for a position with no greater promotion potential and at or below the employee's retained grade. This applies to employees in retained grade as well as retained pay status.

Previous to the passage of the CSRA of 1978 certain agencies had been permitted to delay until December 31, 1979, the effective date of downgradings. FPM Bulletin 273–17, March 5, 1979, entitled "Policy on Demotion Delay/Grade Retention" cancelled the demotion delay authority in order to conform with the intent of Congress in the passage of grade retention. The Bulletin provided that agencies must take appropriate downgrading actions and develop classification and placement plans by June 30, 1979. The two regulations would permit agencies to fully utilize 5 U.S.C. 5364 (2) implementing these plans. Specifically:

(1) 5 CFR 337.102 ensures employees will receive the benefit of the most advantageous qualifications determinations, and

(2) 5 CFR 410.503 carries out the statutory directive in 5 U.S.C. 5364(2) to take appropriate steps to assure employees receiving benefits under grade and pay retention *have the opportunity to obtain necessary qualifications for the selection to positions which would minimize the need for application of such benefits.*

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM proposes to amend 5 CFR as follows:

PART 337—EXAMINING SYSTEM

(1) Part 337 is amended by adding § 337.102 as follows:

§ 337.102 Evaluating Qualifications for Employees who are in a Retained Grade.

(a) Employees who are in a retained grade must have the experience they gain subsequent to the downgrading action that placed them in a retained grade considered in the following manner. For placements during the period the employee is in a retained grade, agencies must consider the experience subsequent to the downgrading action to be either

(1) At the level of the retained grade and in the series of the position which he or she occupied at the time of the downgrading, or

(2) At the grade and in the series of the position to which the employee is downgraded.

(b) Agencies must determine which experience to consider on the basis of which will most likely result in placement. For placements or promotions after the retained grade period, the experience is considered only at the grade level and in the series of the position to which the employee ws downgraded.

(5 U.S.C. 5364)

PART 410—TRAINING

(2) Part 410, subpart E is amended by revising § 410.503 as follows:

§ 410.503 General Prohibitions, Training Through Non-Government Facilities.

(a) An agency may not authorize the training of an employee through a non-Government facility for the purpose of making a promotion if another employee with the agency is—

(1) Equal in ability and suitability;

(2) Fully qualified to fill the position; and

(3) Available within a reasonable distance from the position location.

(b) To assure adherence to the constraint of paragraph (a) of this section, the agency head shall establish policies and procedures he or she considers reasonable and necessary relating to areas of consideration and to determinations concerning—

(1) Ability;

(2) Suitability;

(3) Availability;

(4) Qualifications; and

(5) Geographic location.

(c) An exception to the constraint of paragraph (a) is granted for training an employee under the authority of 5 U.S.C. 5364.

(d) An exception to 5 U.S.C. 4107(c)(1) is provided to employees trained under the authority of 5 U.S.C. 5364 if:

(1) The career ladder of the new occupation does not provide a greater potential for promotion than the occupation from which the employee was downgraded; and

(2) The new position is at or below the employee's retained grade.

(5 U.S.C. 5364)

[FR Doc. 79-27901 Filed 9-6-79; 8:45 am]

BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

[5 CFR Part 432]

Federal employees; reduction in grade and removal based on unacceptable performance; request for comments on regulation review.

AGENCY: Merit Systems Protection Board.

ACTION: Request for Comments on Regulation Review.

SUMMARY: On July 31, 1979, (44 FR 44857) the Merit Systems Protection Board ("the Board") published a request for comments on the Board's review of certain interim regulations published by the Office of Personnel Management (OPM) under 5 U.S.C. Chapter 43 (performance appraisal). Comments to the Board regarding this proceeding were due by August 24 and oral arguments on the matter were scheduled for September 20. By order of August 29, 1979 the Board expanded the scope of its review and extended the period for comments. This notice sets forth the details of that order for public review.

DATE: Comments on this expanded proceeding must be received by September 17, 1979. Comments should make reference to: *In Re Wells* v. *Harris* (formerly *In Re Wells* v. *Califano*). Oral arguments will be held at 1717 Pennsylvania Avenue, NW, Room 640, Washington, D.C. at 2:00 p.m., on September 27.

ADDRESS: Send comments to Merit Systems Protection Board, Office of the Secretary, 1717 H Street, NW., Room 220, Washington, D.C. 20419.

Oral arguments will be held at 1717 Pennsylvania Ave., NW., Room 640, Washington, D.C. at 2:00 p.m.

Board orders, petitions and other papers relating to this action are available for public inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, (Federal holidays excepted) at the Merit Systems Protection Board, Office of the Secretary, 1717 H Street, N.W., Room 220, Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Donald Cox, Deputy General Counsel, on 202-653-7165.

SUPPLEMENTARY INFORMATION: On July 25, 1979 the Board granted a petition of the American Federation of Government Employees requesting review of the interim regulations of OPM implementing 5 U.S.C. Chapter 43 and specifically interim regulation 5 CFR § 432.206 as implemented by the Department of Health, Education and Welfare. Subsequently, OPM published final regulations implementing 5 U.S.C. Chapter 43 (44 FR 45587, August 3, 1979). The Board has now expanded the scope of its review to include consideration of final regulation 5 CFR § 432.205 as contained in the August 3 issuance. Additionally, the Board has requested that the parties submit further arguments or evidence addressing the issues of:

(a) whether final regulation 5 CFR § 432.205 on its face would require any employee to violate 5 U.S.C. § 2302(b)(11); and

(b) whether the Board's review of the interim regulation 5 CFR § 432.206 is rendered moot by OPM's issuance of its final regulation at 5 CFR § 432.205.

Because of the Board's request for further information from the parties involved and the public, the Board has extended the time for making such submissions until September 17 and has postponed hearing on the matter until September 27.

By Order of the Board,

Ruth T. Prokop,

Chairwoman.

[FR Doc. 79-27807 Filed 9-6-79; 8:45 am]

BILLING CODE 6325-30-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-381; Termination of Proceeding AO-381]

Apples Grown in States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination.

SUMMARY: This document terminates proceedings with respect to a proposed marketing order program because it was not favored by the required two-thirds majority of growers voting in the referendum, either by number of producers or the volume of production they represented. The proposal had been requested by the "New England Apple Marketing Order Study Committee" on behalf of producers and handlers of apples grown in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The proposed marketing order would have: Established a committee of growers and handlers for local administration; authorized establishment of maturity standards for apples; and authorized the committee to engage in production and marketing research and promotional activities to promote distribution and consumption of apples.

EFFECTIVE DATE: September 7, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued October 26, 1978; published October 31, 1978 (43 FR 50691); Notice of Recommended Decision—Issued May 11, 1979; published May 17, 1979 (44 FR 28806); and Final Decision—Issued July 26, 1979; published July 31, 1979 (44 FR 44867).

PRELIMINARY STATEMENT: A public hearing was held upon the proposed marketing agreement and order (hereinafter referred to collectively as the "order") regulating the handling of apples grown in the designated States. The hearing was held at West Springfield, Mass., on December 4-5, 1978, and at Brentwood (Epping), New Hampshire, on December 7, 1978, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable procedure specified in 7 CFR Part 900.

The recommended decision of the Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, was published on May 17, 1979 (44 FR 28806). On July 31, 1979 (44 FR 44867) the final decision of the Assistant Secretary for Marketing and Transportation Services was published and directed that a referendum be conducted among producers of apples in the production area to determine whether the required percentage of producers favored issuance of the proposed order.

It is hereby determined on the basis of the referendum, conducted August 14-23, 1979, that the proposed order failed to get the required two-thirds favorable producer vote and therefore the proposed order should not be made effective.

Accordingly, the proceeding, with respect to the proposed order, is hereby terminated.

Signed at Washington, D.C., on September 4, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

[FR Doc. 79-27981 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 904]

[Docket No. AO-385]

Grapefruit Grown in a Designated Area in California; Decision and Referendum Order on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a marketing agreement and order regulating the handling of grapefruit grown in southeastern California. Grapefruit producers will be given the opportunity to vote in a referendum to determine if they favor the proposed marketing order.

The proposed order would establish a committee of four producers, four handlers, and one public representative for local administration. It would provide for establishment of grade, quality, size, and maturity requirements for grapefruit based on committee recommendations. Also, it would authorize the committee to engage in production and marketing research and promotional activities designed to promote distribution and consumption of grapefruit. Consumers should benefit from an improved product and producers by an expanded market.

DATE: The representative period for purposes of the referendum herein ordered is September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing; issued February 1, 1979, and published in the **Federal Register** (44 FR 7729) on February 7, 1979; and Notice of Recommended Decision; issued July 2, 1979, and published in the **Federal Register** (44 FR 39413) on July 6, 1979.

Preliminary Statement

The proposed marketing agreement and order were formulated on the record of a public hearing held at Coachela, California, March 8-9, 1979. Notice of Hearing was published in the February 7, 1979, issue of the **Federal Register** (44 FR 7729). The notice set forth a proposed marketing order submitted by the California members of the Administrative Committee, which locally administers Federal Marketing Order No. 909.

On the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on July 5, 1979, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision which contained notice of the opportunity to file written exceptions thereto by July 26, 1979. One exception was filed.

Rulings on Exceptions

An exception was filed on July 30, 1979, by Paul Ames, Indio, California, on behalf of the California Grapefruit Advisory Board and the California Grapefruit Administrative Committee. The exception expressed the view that a public member on the committee should be optional with the committee. The exception was carefully and fully considered, and it is determined that the findings and conclusions and the provisions set forth in the recommended decision are appropriate and are hereby affirmed. Therefore, the exception is denied.

The material issues, findings and conclusions, rulings and general findings of the recommended decision set forth in the July 6, 1979, issue of the **Federal Register** (44 FR 39413; FR Doc. 79-20815) are hereby approved and adopted as the material issues, findings and conclusions, rulings and general findings of this decision as if set forth in full herein, subject to the following corrections:

Page	Column	Line	Change
39416	1	3	"current" to "current of".
39417	1	31	"grape fruit" to "grapefruit".
39417	1	62	"and research promotion" to "research and promotion".
39417	2	28	"provde" to "provide."

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Grapefruit Grown in a Designated Area in California", and *Marketing Order Regulating the Handling of Grapefruit Grown in a Designated Area in California,* which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire decision except the annexed marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order regulating the handling of grapefruit grown in a designated area in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be September 1, 1978, through August 31, 1979.

The agents of the Secretary to conduct such referendum are hereby designated to be Roland G. Harris and John H. Clark, Los Angeles Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 417 South Hill Street, Suite 900-B, Los Angeles, California 90013.

A Final Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447-5975.

Copies of this Decision are being mailed to known interested persons. Others may obtain copies from the designated referendum agents or from Mr. McGaha.

Signed at Washington, D.C., on: September 4, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

Marketing Order [1] Regulating the Handling of Grapefruit Grown in a Designated Area in California.

Findings

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of grapefruit grown in a designated area in California.

Upon the basis of the record it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of grapefruit grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of grapefruit shall be in conformity to and in compliance with the following terms and conditions:

The provisions of the proposed order contained in the recommended decision issued by the Deputy Administrator on July 2, 1979, and published in the **Federal Register** on July 6, 1979 (44 FR 39413), shall be and are the terms and provisions of this order, and are set forth in full herein.

Marketing Order [1] Regulating the Handling of Grapefruit Grown in a Designated Area in California.

PART 904—GRAPEFRUIT GROWN IN A DESIGNATED AREA IN CALIFORNIA

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Authority: §§ 904.0 to 904.58, inclusive, issued under Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Definitions

§ 904.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 904.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1973, as amended (48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ 904.3 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 904.4 Grapefruit.

"Grapefruit" means all varieties of Citrus paradisi, MacFayden, grown in the production area.

§ 904.5 Production area.

"Production area" means the following counties or their segments in the State of California described as follows: Imperial County; that part of San Bernardino County situated east of a line due north and south through Rice; that part of Riverside County situated east of a line due north and south through the Post Office in Whitewater; and that part of San Diego County situated east of a line due north and south through the Post Office in Julian.

§ 904.7 Producer.

"Producer" is synonymous with grower and means any person engaged in a proprietary capacity in the production of grapefruit.

§ 904.8 Handler.

"Handler" means any person (except a common or contract carrier of grapefruit owned by another person) who handles grapefruit in fresh form.

§ 904.9 Handle.

"Handle" means to sell, ship, consign, deliver, or transport grapefruit or cause grapefruit to be sold, shipped, consigned, delivered, or transported between the production area and any point outside thereof, or within the production area; *Provided,* That the term handle shall not include (a) the transporting or shipping of grapefruit by common carrier when such grapefruit is owned by another person; (b) the sale of grapefruit on tree; (c) the transporting of grapefruit from the point of production to a packinghouse within the production area for preparation for fresh market; or (d) the transporting of grapefruit from the point of production to a packinghouse outside the production area for preparation for fresh market under a special handling permit issued pursuant to § 904.45.

§ 904.10 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on September 1 of one year and ending on the last day of August of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 904.11 Variety.

"Variety" or "varieties" means any one or more of the following classifications or groupings of grapefruit: (a) White or golden seeded and white or golden seedless grapefruit; and (b) pink or red seeded grapefruit and pink or red seedless grapefruit.

§ 904.12 Committee.

"Committee" means the California Grapefruit Administrative Committee established under § 904.20.

Administrative Body

§ 904.20 Establishment and membership.

(a) There is hereby established a California Grapefruit Administrative Committee consisting of nine members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Four of the members and their alternates shall be producers or officers or employees of producers, henceforth referred to as "producer members" of the committee. To the extent practicable producer members shall not be handlers or directors or employees exercising a supervisory or managerial function of a handler, but members of a cooperative marketing organization shall not be considered as handlers because of such membership. Four of the members and their alternates shall be handlers or directors, officers, or employees of a handler, henceforth referred to as "handler members" of the committee. One member and alternate shall represent the public, henceforth referred to as "public member." The public members and his or her alternate shall be nominated by the committee and selected by the Secretary.

(b) Allocation of the producer member positions shall, to the extent practicable, be at least one member to represent producers affiliated with cooperative marketing organizations, henceforth referred to as "cooperative producers", and at least one member to represent growers who are not so affiliated, henceforth referred to as "independent producers." A second producer member shall be allocated to any group (cooperative or independent) which during the fiscal period preceding the fiscal period in which nominations are made produced more than 37.5 percent but not more than 62.5 percent of the total production of grapefruit; and any group whose production is more than 62.5 percent shall be allocated a third member. At least one producer alternate member shall be a producer from outside that portion of Riverside County which is east of a line due north and south through the post office at Whitewater and west of a line due north and south through Chiriaco Summit, and any such alternate member need not be of the same affiliation as the member.

(c) Allocation of handler member positions shall be at least one member to represent cooperative marketing organizations, henceforth referred to as "cooperative handlers", and at least one member to represent handlers who are not cooperative marketing organizations, henceforth referred to as "independent handlers." A second handler member shall be allocated to any group (cooperative or independent) which during the fiscal period preceding the fiscal period in which nominations are made handled more than 37.5 percent but not more than 62.5 percent of the total quantity of grapefruit handled by all handlers; and any group which handled more than 62.5 percent shall be allocated a third member.

(d) The committee may, with the approval of the Secretary, change the number of producer or handler positions on the committee, reapportion the membership between cooperatives and independents, and limit the number of positions that may be filled by persons affiliated with the same packinghouse or handling organization, as may be necessary to assure equitable representation.

§ 904.21 Term of office.

The term of office of the members and alternate members shall be two fiscal periods: *Provided,* That the term of office of initial members and alternates shall begin as soon as practicable subsequent to the effective date of this part and end August 31, 1981. Each member and alternate shall serve during the term of office for which that person is selected and has qualified and shall continue to serve until a successor is selected and has qualified.

§ 904.22 Nomination.

(a) *Initial producer and handler members.* Nomination for the initial members and alternate members of the committee for each position may be submitted to the Secretary by individual producers and handlers. Such nominations may be made by means of meetings of handlers and meetings of producers of the applicable groups (cooperative or independent). Any such nominations shall be filed with the Secretary not later than the effective date of this part. If such nominations are not filed as specified in this section, the Secretary may select initial members and alternate members, without regard to nomination, on the basis of the representation provided in § 904.20.

(b) *Successor producer members.* (1) The Secretary shall cause to be held, not later than July 1 of each odd-numbered year, meetings of producers for the purpose of making nominations for members and alternate members of the committee.

(2) Only producers, including duly authorized officers or employees of producers, who are present shall participate in the nomination of producer members and alternates. Each producer shall be entitled to cast only one vote for each nominee to be selected. To the extent practicable, only producers affiliated with cooperative marketing organizations may elect nominees affiliated with such organizations; and only producers not affiliated with cooperative marketing organizations may elect nominees not so affiliated. In the event some of a producer's grapefruit is handled through a cooperative marketing organization and some is handled through an organization that is not a cooperative marketing organization, such producer shall be eligible to participate only in the category (i.e., cooperative or independent) in which such producer's major volume of fruit is handled.

(c) *Successor handler members* (1) The Secretary shall cause to be held, not later than July 1 of each odd-numbered year, meetings of handlers for the purpose of making nominations for members and alternate members of the committee.

(2) Only handlers, including duly authorized officers or employees of handlers, who are present and who are eligible to serve as handler members of the committee shall participate in the nomination of handler members and alternate handler members of the committee. Each handler shall be entitled to cast only one vote for each nominee to be selected.

(3) To the extent practicable, only handlers affiliated with cooperative marketing organizations may vote for nominees affiliated with such organizations, and only handlers not affiliated with cooperative marketing organizations may vote for nominees not so affiliated.

(d) *Reapportionment.* Any required reapportionment of committee membership shall be announced at nomination meetings prior to the making of any nomination.

(e) *Public member.* Nominations for the public member and alternate member shall be made by the committee, from qualified persons residing in the production area.

(f) *Failure to nominate.* In the event nominations are not made as specified in § 904.22, the Secretary may select

members and alternate members, without regard to nominations, from any eligible persons.

§ 904.23 Selection.

The Secretary shall select members and alternates of the committee from persons nominated pursuant to § 904.22, § 904.26, or from other qualifed persons.

§ 904.24 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 904.25 Alternate members.

An alternate member shall act in the place of the member during such member's absence. In the even of the death, removal, resignation, or disqualification of a member, the alternate shall act for that member until a successor for such member is selected and has qualified. In the event that neither the member nor that member's alternate are able to attend a committee meeting, the chairman, with the concurrence of the majority of the members present may designate any other alternate present who is not acting as a member to serve in such member's place at the meeting. To the extent practicable, any such alternate so designated shall have the same affiliation as the absent member and only producer alternates may serve for absent producer members and only handler alternates may serve for absent handler members.

§ 904.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member, or as an alternate member of the committee to qualify, or in the event of the removal, resignation, disqualification or death of any member or alternate member, a successor for such person's unexpired term shall be nominated by a majority of the remaining committee members to provide, to the extent practicable, equitable representation as provided in § 904.20, and selected as provided in § 904.23. If nomination to fill any such vacancy is not made within 30 calendar days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

§ 904.27 Powers.

The Committee shall have the following powers;

(a) To administer this part in accordance with its terms and provisions;

(b) To make and adopt rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 904.28 Duties.

It shall be the duty of the committee: (a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary; and to mail a copy of the minutes to the Secretary promptly following each committee meeting and to any other interested person who has filed his name and address with the committee for such purpose;

(c) To act as intermediary between the Secretary and the producers and handlers;

(d) To furnish the Secretary with such available information as the Secretary may request;

(e) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(f) To cause its books to be audited by a competent public accountant at least once for each fiscal period, and at such other time as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(g) To prepare a monthly statement of financial operations of the committee and to make such reports, together with the minutes of the meetings of the committee, available for inspection by any producer or handler at the office of the committee;

(h) To determine as near as practicable the total crop of grapefruit, and to make such determinations, including determinations by grade and size as if may deem necessary or as may be prescribed by the Secretary, in connection with the administration of this part;

(i) To investigate the growing, handling, and marketing conditions with respect to grapefruit and to assemble data in connection therewith;

(j) To prepare and mail, as soon as practicable after the close of each fiscal period, to the Secretary, and to each handler and grower who make requests therefor, an annual report covering the operation of the previous fiscal period;

(k) With the approval of the Secretary, to increase or decrease the membership of the committee;

(l) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part; and

(m) To establish, with the approval of the Secretary, procedures for the nomination of and qualification for a public member and alternate.

§ 904.29 Compensation and expenses.

The members of the committee and alternates when acting as members, shall serve without compensation, but they shall be reimbursed for reasonable expenses, as approved by the committee, incurred by them in the performance of their duties under this part. Alternate members shall be reimbursed for expenses necessarily incurred by them in attending committee meetings at the request of the committee, notwithstanding that the committee member for whom they serve as alternate also attends such meeting, and for performing other committee business at the request of the committee.

§ 904.30 Procedure.

(a) Five members of the committee shall constitute a quorum, and any action of the committee shall require at least 5 votes: *Provided,* That if the number of committee members is changed purusant to § 904.20 or § 904.28, the committe may with the approval of the Secretary change the number of members required to constitute a quorum, or the number of affirmative votes required to take any action on behalf of the committee, or both.

(b) The committee shall give to the Secretary and to any other interested persons who have filed their names and addresses with the committee requesting such notice the same notice of meetings of the committee as is given to the members of the committee.

(c) At any assembled meeting each vote must be cast in person. At any meeting other than an assembled meeting, the committee may vote by telephone, telegraph, or other means, and any such vote cast by the telephone shall be confirmed promptly in writing.

Expenses and Assessments

§ 904.34 Expenses.

The committee is authorized to incur such expenses, incuding inspection expenses, as the Secretary finds are reasonable and likely to be incurred to carry out the functions of the committee during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers, as provided in § 904.35.

§ 904.35 Assessments.

(a) Each handler who first handles grapefruit shall, with respect to the grapefruit so handled, pay to the committee, upon demand, such handler's pro rata share of expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period.

(b) The Secretary shall fix the rate(s) of assessment to be paid by handlers and such rate(s) may be fixed by variety. At any time during or after a fiscal period, the Secretary may increase the rate(s) of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increased rate with respect to any particular variety shall be applicable to all grapefruit of that variety handled during that fiscal period. To provide funds for the administration of this part, the committee may accept the payment of assessments in advance, or may borrow money for such purpose.

(c) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(d) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary.

§ 904.36 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the handlers from whom it was collected. *Provided,* That any sum paid by a handler in excess of his or her pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided,* That such reserve shall not exceed an amount approximating one full fiscal period's expenses, exclusive of inspection costs. Any such reserve may be maintained by variety. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, or (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practical, such funds shall be returned pro rata to the handlers from whom such funds were collected.

(b) All funds received by the committee shall be used solely for purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

Research and Market Development

§ 904.37 Production research, marketing research, and market development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve or promote the marketing, distribution, consumption or efficient production of any variety or varieties of grapefruit. The expense of such activities shall be paid from funds collected under § 904.35. Such projects may provide for any form of marketing promotion, including paid advertising. Any such project for promotion and advertising may utilize an identifying mark or term which shall be made available for use by all handlers in accordance with such terms and conditions as the committee, with the approval of the Secretary, may prescribe.

Regulation

§ 904.38 Marketing policy.

Prior to submitting recommendations under § 904.39, the committee shall submit to the Secretary a report setting forth the marketing policy it deems advisable for the ensuing fiscal period. Additional reports shall be submitted from to time it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation for grapefruit. The committee shall publicly announce the submission of each marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or handler. In determining each such marketing policy the committee shall give due consideration to the following:

(a) Market price by grade and size of each variety of grapefruit;

(b) Supply of grapefruit by grade and size of each variety of grapefruit;

(c) Supply of competing fruits;

(d) Expected demand conditions for grapefruit in different market outlets;

(e) Type of regulation expected to be recommended during the fiscal period;

(f) Trend and level of consumer income;

(g) Marketing conditions affecting grapefruit prices; and

(h) Other relevant factors.

§ 904.39 Recommendations for regulation.

Whenever the committee finds it advisable to regulate the handling of any particular grade, quality, size, or maturity, or any combination thereof, of any variety of grapefruit during any period, it shall recommend such regulation for that period. Recommendations may include different grade, quality, size, or maturity requirements, or any combination thereof, for any variety handled to any of the marketing zones established pursuant to § 904.43.

§ 904.41 Issuance of regulations.

(a) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that limiting the handling of any variety of grapefruit to any particular grade, quality, size, or maturity, or any combination thereof, would tend to effectuate the declared policy of the act, the Secretary shall so limit the handling of the variety for a specified period; and the limitation may prescribe different grade, quality, size, or maturity requirements, or any

combination thereof, for the handling of any such variety by the initial handler thereof directly to the marketing zones specified. The committee shall be informed immediately of any such regulation issued by the Secretary; and the committee shall promptly give adequate notice thereof to handlers.

(b) Whenever the Secretary finds from the recommendation and information submitted by the Committee, or from other available information, that to establish and maintain in effect minimum standards of quality or maturity, or both, for the handling of grapefruit during any period would tend to effectuate the declared policy of the act and be in the public interest, the Secretary shall establish in terms of grades, sizes, or both, such standard, designate such period, and so limit the handling of such grapefruit. The Secretary shall immediately notify the committee of the issuance of any such regulation; and the committee shall promptly give adequate notice thereof to handlers.

§ 904.42 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued under § 904.41 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendation and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of grapefruit in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 904.43 Marketing zones.

(a) The committee, with the approval of the Secretary, may prescribe different grade, quality, size, or maturity requirements, or any combination thereof, for any variety of grapefruit handled for shipment to the following marketing zones:

(1) Zone 1: The State of California.

(2) Zone 2: The State of Arizona.

(3) Zone 3: The State of Florida.

(4) Zone 4: The State of Texas.

(5) Zone 5: The States of Washington, Oregon, Montana, Idaho, Wyoming, Nevada, and Utah.

(6) Zone 6: The States not included in Zones 1, 2, 3, 4, 5, and 7.

(7) Zone 7: All export markets including the States of Alaska and Hawaii.

(b) The committee, with approval of the Secretary, may redefine and establish any other combination of marketing zones.

§ 904.44 Grapefruit not subject to regulation.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 904.35, 904.41, and 904.42, and the regulations issued thereunder, ship grapefruit or any variety as follows: (1) to a charitable institution for consumption at such institution; (2) to a relief agency for disposition by such agency; (3) for conversion by a commercial processor into any processed or manufactured product, including canned or bottled grapefruit juice, frozen products or beverage base; or (4) by express, parcel post or common or contract carrier in units of five cartons or less.

(b) Upon the basis of recommendation and information submitted by the committee, or from other available information, the Secretary may relieve in whole or in part from any or all of the requirements under this part, the handling of grapefruit in such minimum quantities, in such types of shipments, in such types of outlets, or for such specific purposes as the committee may recommend.

(c) The committee shall, with the approval of the Secretary, prescribe rules, regulations, and safeguards necessary to assure compliance with this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle grapefruit under this section, and that such application be accompanied by certification by the intended purchaser or receiver that the grapefruit will not be used for any purpose not authorized by this section.

§ 904.45 Special handling permit.

The committee may issue special handling permits authorizing the transportation of grapefruit in bulk lots to packing facilities outside the production area for preparation for fresh market, which facilities will be handlers under the order. All such lots shall be handled in accordance with the rules and regulations prescribed by the committee with the approval of the Secretary, and shall be subject to assessments, regulations, and the inspection and certification requirements prescribed in §§ 904.35, 904.41, 904.43 and 904.46. Any special handling permit may be revoked by the committee if the holder of such permit fails to comply with the applicable rules and regulations.

Inspection and Certification

§ 904.46 Inspection and certification.

(a) During any period in which the Secretary has regulated the handling of any variety or varities of grapefruit pursuant to §§ 904.41, 904.42 or 904.43, each handler shall, prior to the handling of any lot of such variety or varieties, cause such lot to be inspected by an authorized representative of the Federal or Federal-State Inspection Service. Promptly thereafter, such handler shall submit to the committee a copy of the inspection certificate issued thereon. The provisions of this section shall not be applicable to any lot which has been so inspected and a copy of such inspection certificate has been submitted to the committee.

(b) The committee may enter into an agreement with the Federal or Federal-State Inspection Service with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

Reports

§ 904.47 Reports.

(a) The committee may require information from each handler regarding the grade, quality, size, maturity, and variety of each carton contained in each individual shipment, and may require such information to be delivered to the committee at such time and in such manner as the committee may request and upon forms prepared by it.

(b) The committee may require each handler to furnish the following information with respect to grapefruit: the quantity of each variety handled in interstate commerce and to Canada; the quantity of each variety handled by express and parcel post; the quantity of each variety handled for distribution to persons on relief, including donations for charitable purposes; the quantity of each variety handled for consumption in fresh form within the production area; the quantity of each variety exported to countries other than Canada; the quantity of each variety sold or otherwise disposed of for canning or for manufacturing into by-products; and the quantity of each variety disposed of otherwise.

(c) For the purpose of enabling the committee to perform its functions and

duties under this part, each handler shall furnish to the committee such other information in such form and at such times and substantiated in such manner as shall be prescribed by the committee and approved by the Secretary.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

§ 904.48 Records.

Each handler shall maintain such records of all grapefruit handled, or otherwise disposed of as will substantiate the required reports and as may be prescribed by the committee. All such records shall be maintained for not less than two years after the termination of the fiscal period in which the transactions occurred or for such lesser period as the committee may direct.

§ 904.49 Verification of reports and records.

For the purpose of assuring compliance and checking and verifying the reports filed by handlers, the Secretary and the committee, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where grapefruit are received, stored, or handled, and, at any time during reasonable business hours, shall be permitted to inspect such handlers' premises and any and all records of such handlers with respect to matters within the purview of this part.

Miscellaneous Provisions

§ 904.50 Compliance.

Except as provided in this part, no person shall handle grapefruit except in conformity to the provisions of this part and the regulations issued thereunder.

§ 904.51 Right of the Secretary.

The members of the committee (including successors and alternates), any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 904.52 Termination.

(a) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part upon finding that such provisions do not tend to effectuate the declared policy of the act.

(b)(1) The Secretary shall terminate the provisions of this part at the end of the then current fiscal period whenever the Secretary finds that continuance is not favored by producers, but any such termination shall be announced before June 15 of such fiscal period.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing agreement and order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approved by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged within the production area in the production of grapefruit for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of grapefruit produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of grapefruit produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(c)(1) The Secretary shall conduct a referendum no later than May 15, 1985, and no later than that date every fifth year thereafter to ascertain whether continuance of this part is favored by producers: *Provided,* That if an intervening continuance or amendment referendum is conducted and the vote in that referendum is affirmative, the next continuance referendum shall be conducted five years after the date of such latest referendum.

(2) The committee may request that the Secretary conduct a referendum during any fiscal period, provided such request is made prior to March 15.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 904.53 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. Any action by said trustee shall require the concurrence of a majority of the trustees.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the committee and upon the trustees.

§ 904.54 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 904.55 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part cease upon its termination, except with respect to acts done under and during the existence of this part.

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§ 904.56 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 904.57 Personal liability.

No member or alternate of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for act of dishonesty, willful misconduct, or gross negligence.

§ 904.58 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

[FR Doc. 79-27980 Filed 9-6-79; 8:45 am]
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[7 CFR PART 1280]

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education Order; Recommended Decision and Opportunity to File Written Exceptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision concerns a proposed research and nutrition education order to establish a nationally coordinated program of research and nutrition education for wheat, processed wheat, and wheat end products as authorized by the Wheat and Wheat Foods Research and Nutrition Education Act. Interested persons may file written exceptions concerning the recommendations made herein.

The program, under the proposed order, would be financed by assessments of up to five cents per hundredweight, to be paid by end product manufacturers on their purchases of processed wheat. The order limits the assessment to one cent per hundredweight during the first two years of the program. The program would be administered by a twenty-member Council, composed equally of representatives of wheat producers, processors, end product manufacturers and consumers.

The Act authorizes the Secretary to exempt specified end products from assessment under the order. Proponents of the order have proposed that end products in which wheat is a characterizing or major ingredient be subject to assessment and that end products in which wheat is not a characterizing or major ingredient be exempt from assessment under the order. Lists of end products, both those subject to and those exempt from assessment are included in this recommended decision under the discussion of the assessments provision of the proposed order.

DATE: Written exceptions to this recommended decision may be filed by October 22, 1979.

ADDRESSES: Written exceptions should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, DC 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, DC 20250, Phone: 202-447-3970.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued January 22, 1979 and published January 26, 1979 (44 FR 5450).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed wheat and wheat foods research and nutrition education order.

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Wheat and Wheat Foods Research and Nutrition Education Act (7 USC 3401 *et seq.),* and in accordance with the applicable rules of practice and procedure governing proceedings to formulate such an order (7 CFR Part 1280).

In September 1978, a proposed order was submitted to the Department by the Wheat and Wheat Foods Foundation, a group representing producers, processors and end product manufacturers. A notice of hearing and the proposed order were published in the **Federal Register** on January 26, 1979. A hearing on the proposed order was held in Minneapolis, Atlanta, and Denver during February and March 1979. Opportunity was provided for the submission of written briefs. This document contains the recommended decision and order.

Recommended Decision

1. *Decison.* The Act provides that the Secretary shall determine, on the basis of hearing evidence, if the proposed order tends to effectuate the declared policy of the Act which is to establish a research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the U.S. The criteria used in this determination included an evaluation of: (1) the need for the program, (2) the adequacy of the proposed funding level from end product manufacturers, (3) the design of potential plans and projects for research concerning wheat quality and utilization and nutrition education as authorized in the Act, (4) the likelihood that these projects will improve nutrition and per capita consumption of wheat and (5) the specific terms and provisions of the proposed order. It is concluded from evidence introduced at public hearings that there is a need to establish a wheat research and nutrition education program. The criteria used in this conclusion is summarized below.

Need for Program—From 1910 to 1978, per capita consumption of wheat flour decreased about 50 percent. There is growing concern by the industry that consumption may continue to decline because of misconceptions that wheat-based foods are both fattening and lacking in nutritional value. Research has shown that increased consumption of wheat-based foods would contribute to both a healthier and more economical diet for U.S. consumers. Representatives from nearly every segment of the wheat industry presented evidence which strongly supports the need for a Wheat and Wheat Foods research and Nutrition Education Order.

Funding—An assessment of up to 5 cents per cwt. or, up to a maximum funding of about $10 million annually on processed wheat would be remitted to the Wheat Industry Council by the end product manufacturers (primarily wholesale bakers.) The program is voluntary and those who do not wish to support it can request and receive a refund of their assessment from the council.

Plans and Projects—Basic research on nutrition, health, products, processing and marketing of wheat-based foods would be conducted. Nutrition and health research could further investigate the role of wheat-based foods in diets designed to reduce both body weight and cholesterol levels. Product research could focus on improved and new wheat food products while processing research could continue to seek more efficient use of products from wheat. Market research could emphasize more in-depth study of consumer attitudes toward wheat-based foods and stepped up nutrition education activities could provide nutritional information to homemakers, the food service industry, and food editors of newspapers and magazines. Based on hearing testimony concerning similar type programs, it appears that the plans and projects authorized under the Order could be designed to achieve many of the objectives of the Act.

Possible Program Results—While it is expected that the Order will increase the demand for wheat-based foods relative to other foods, problems in isolating the effects of other influencing factors may make it difficult to evaluate the program's performance. However, hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthier and more economical diet for the American people but would also result in a 20 percent increase in bread production. All income groups could benefit from the program, but the poor, the elderly and teen-age consumers would be expected to derive proportionately greater benefits from increased knowledge of the economic and nutritional advantages of wheat-based foods as a source of good nutrition.

Specific Terms and Provisions—To accomplish the declared policy of the Act, numerous specific terms and provisions are needed to govern the operation of a program. The terms and conditions of the Order contained in this document are recommended as the detailed means of carrying out the declared policy of the Act.

2. *Procedure and Background.* The Wheat and Wheat Foods Research and Nutrition Education Act, passed in 1977, authorized the establishment of a wheat research and nutrition education program to make the most efficient use of American wheat and ensure an adequate diet for the people of the United States.

The Act is enabling legislation which authorizes any individual or organization to submit a proposed order to the Secretary to implement the program authorized by the Act. The Act provides that when the Secretary has reason to believe that a proposed order will implement the program authorized by the Act the Secretary shall issue a notice and hold a hearing on the proposed order. The applicable rules of practice and procedure provide for the Department to issue a recommended decision and order if it is determined, based on the hearing evidence and written briefs, that an order will tend to implement the Act. A 45-day period is being provided for public comment on this action. If the Secretary finds after a review of these comments and the entire hearing record that the order will implement the policy of the Act, a final decision will be issued, and a referendum among end product manufacturers will be held to determine if they wish to put the order into effect. If the vote is favorable, a wheat research and nutrition education order would be established. The Wheat Industry Council, authorized under the proposed order, would be responsible for preparing detailed project proposals for wheat and wheat foods research and nutrition education. The Act requires that the proposed projects be reviewed and approved by the Secretary before project expenditures may be authorized by the Council. The order would continue indefinitely unless:

1. The Act is repealed;
2. The Secretary finds that the order or any provision(s) thereof obstructs or does not effectively carry out the policy of the Act, or;
3. End product manufacturers reject the order in a referendum for termination.

Material Issues

The material issues presented in the record of hearing are as follows:

(1) The need for the Proposed Wheat and Wheat Foods Research and Nutrition Education Order to effectively carry out the declared policy and purposes of the Act.

(2) The adequacy of the proposed level of funding, from end product manufacturers, to support the proposed program.

(3) The adequacy of the design of potential research and nutrition education plans and projects to implement the proposed program.

(4) The possible effect of the proposed program on nutrition education and per capita consumption of wheat.

(5) The determination of the specific terms and provisions of the proposed order necessary to effectively carry out the declared policy and purposes of the Act, including:

(a) Definitions of terms used therein which are necessary and incidental to achieve the objectives of the Order;

(b) The establishment, maintenance, composition, powers, duties, procedures, and operation of a Council which shall be the administrative agency for this Order;

(c) The authority for establishing and financing the development and implementation of programs and projects of research and nutrition education to establish a nationally coordinated program of research and nutrition education for wheat, processed wheat and wheat end products;

(d) The procedures to levy assessments on processed wheat purchased by end product manufacturers, to make refunds of assessments to end product manufacturers who request them, and to incur necessary expenses;

(e) The provisions concerning recordkeeping requirements and reports by end product manufacturers and

(f) The need for additional terms and conditions as set forth in §§ 1280.166 through 1280.172 of the Order which are necessary to effectuate provisions of the Act.

Findings and Conclusions

Evidence presented on the record at the public hearings indicates that wheat is produced, in some quantity, in all 50 states and wheat based foods are produced and consumed in all 50 states. Therefore, it is found that wheat and wheat based foods move in interstate and foreign commerce and that which does not move in such channels of commerce directly burden, or affect interstate commerce of wheat and wheat based foods. The findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof and are as follows:

(1) *Need for the Order.* The record herein establishes that from 1910 to 1978, per capita consumption of wheat flour decreased about 50%. Most of the decrease took place prior to the mid 1960's. Since that time, per capita consumption has stabilized around the current level of 115 pounds per person. However, because of popular misconceptions that wheat based foods are fattening and lacking in nutrition, it is possible that per capita consumption may decline further. As a result, U.S. wheat producers as well as processors and end product manufacturers face a domestic market for their products which, at best, may be expected to gorw with population.

U.S. wheat producers have seen little growth in the domestic food market for wheat. The domestic food market is currently less than 600 million bushels annually. However, the export market has increased from less than 300 million bushels in 1948 to about 1.2 billion bushels in the current marketing year.

There are indications that some of this export increase may be directly attributed to promotional efforts financed jointly by producers and the U.S. Department of Agriculture.

Cereal grain based products are an economical source of protein, energy (calories) and essential vitamins and minerals. Americans currently spend an average of 12% of their food budget on cereal grain products which provide 26% of the calories, 21.5% of the protein and significant percentages of essential vitamins and minerals in their diet. In 1910, cereal grain products were the chief source of protein (38%) in the U.S. diet. Since 1910 the consumption of cereal grain products has decreased while fat and sugar consumption has increased.

The record reveals a need to communicate factual information to consumers as well as nutrition and health professionals about the nutritional properties of wheat based foods. Many consumers perceive wheat based foods as fattening and lacking in nutritional value. They do not realize that wheat based foods are highly nutritious and that the increased consumption of wheat based foods has been strongly recommended by many nutritional authorities. Educational programs could provide sound information to consumers concerning the nutritional properties of wheat based foods. Educational material that has been developed for use with consumers has been well received. However, funding to develop and distribute this information has been lacking, therefore, the material has had limited impact.

Testimony in support of the proposed Order was received from: (1) The Wheat and Wheat Foods Foundation on behalf of its 45 producer, 53 processors, 36 end product manufacturer and 9 other members;

(2) Producers, including the National Association of Wheat Growers which represents state wheat grower associations in 16 states which produce over 80% of the wheat grown in the U.S., the U.S. Durum Growers Association, Women Involved in Farm Economics (WIFE), and 5 state wheat growers commissions;

(3) Processors, including the Millers National Federation whose members account for 87% of the flour produced in this country;

(4) End product manufacturers, including the American Bakers Association, representing wholesale bakers and representatives of cereal and pasta manufacturers;

(5) Labor through testimony by the Bakers, Confectionary and Tobacco Workers International Union of the AFL–CIO;

(6) The two principal trade publications in the wheat and wheat foods industry, "Milling and Baking News" and "Bakery Production and Marketing Magazine"; and

(7) Organizations and firms in research and/or nutrition education activities relating to wheat and other commodities including several universities, the American Institute of Baking, the National Wheat Institute, Great Plains Wheat, Western Wheat Associates, the Potato Board and several private firms.

(2) *Level of Funding:* (i) *General.* The research and nutrition education activities to be conducted under the proposed program would be funded by an assessment on processed wheat purchased by end product manufacturers. During the first two years, the proposed order calls for an assessment of one cent per hundredweight of processed wheat purchased. Both the enabling legislation and the proposed order provide for a maximum assessment of five cents per hundredweight of processed wheat purchased. It is estimated that initial collections at the one cent level would be about $2 million annually. At the maximum assessment level of five cents per hundredweight collections would be about $10 million annually.

The assessment on the processed wheat would be recorded by the end product manufacturer at the time the processed wheat is purchased and remitted to the Wheat Industry Council on a regularly scheduled basis. The program would be voluntary, in that end product manufacturers who pay an assessement and do not wish to support the program can request and receive a refund.

The implementation of the Act would directly affect all wheat end product manufacturers including retail bakers and end product manufacturers using less than 2000 hundredweight of processed wheat annually even though the latter groups would not be assessed for the program. Other groups directly impacted would include the recipients of the funds expended by the Wheat Industry Council such as university and other research entities, product promotion firms, advertisers and the media.

The impact on producers and processors of wheat and consumers of wheat based foods would be less direct than the impact on end product manufacturers and would depend on the nature and extent of programs developed by the Wheat Industry Council.

(ii) *Cost Impacts.* The cost impact on wheat end product manufacturers would vary from one cent per hundredweight of processed wheat as authorized in the proposed order to a maximum of five cents per hundredweight of processed wheat as permitted by the Act. At the one cent per hundredweight assessment level, the cost per one pound loaf of bread would be about seven one-thousandths of a cent per loaf. At the maximum assessment level of five cents per hundredweight the cost per one pound loaf of bread would be about three one-hundredths of a cent. Proponents have stated that given the competitive nature of the wholesale baking industry and the minuscle amount of the assessment per unit of production, the assessment will not be passed on to the consumer. Proponents point out that a very small increase in volume will reduce per unit costs to more than offset the cost of the assessment.

End product manufacturers have testified that the proposed order will not result in increased recordkeeping costs because existing records can be used to comply with the recordkeeping requirements of the proposed order.

The proposed order will have no cost impact on wheat producers. Processors purchase their wheat needs at competitive market prices. The export market accounts for about two-thirds of total usage of U.S. wheat and as such, the U.S. farm price of wheat is determined by the world supply and demand situation.

Processors who supply bakery mixes to end product manufacturers will be required to show the processed wheat content within plus or minus 3% on invoices to end product manufacturers in order for end product manufacturers to determine their use of processed wheat. Processors have testified that this requirement will not increase their costs.

(iii) *USDA and Other Federal Costs.* The Act provides that the Council will reimburse the Department, from assessments, for expenses incurred in conducting the referendum and for all expenses incurred relating to this program, including salaries.

(3) *Plans and Projects.* Below is a description of the type of impacts that may result from a nutrition education and promotion program based on experience in other commodity programs. Also included is a brief discussion of the types of programs which could be conducted by the Wheat Industry Council. Nutrition education and generic promotion of commodities in the United States and bread, in some European markets, is a relatively new phenomenon. These recent experiences show marked changes in consumer attitudes with mixed results in terms of impact on consumption.

European processors and end product manufacturers faced a continuous decline in per capita consumption of flour. Sponsors of these programs worked closely with and in some cases gained active support from medical and nutrition professionals as well as government agencies in explaining the nutritional benefits from increased consumption of wheat based foods. Since the adoption of the programs, the per capita consumption of flour has stabilized and in some cases increased.

In the U.S., per capita potato consumption in the early 1950's was about 100 pounds, about half of what it was in 1910. In the 1960's, consumption increased to about 110 pounds, probably as a result of the introduction of processed potato products. However, consumption of fresh potatoes continued to decrease. One of the reasons given for the decline in consumption was the rather prevalent opinion that potatoes are fattening. Actually, potatoes are a nutritious food, rich in the vitamins and minerals necessary in the daily diet.

In 1971, the Potato Research and Promotion Act was passed in an effort to increase the per capita consumption of potatoes. The National Potato Promotion Board set out to dispel the negative image of potatoes as fattening and to educate the consumer to their nutritional value. The program has been one of generic promotion with strong emphasis on nutrition education. As a result of the efforts of the Potato Board, consumer attitudes toward potatoes are now more positive. Per capita consumption of fresh potatoes has shown some increase in the last 3 years.

Per capita consumption of eggs declined over 25% between 1950 and 1974. In 1974, the Egg Research and Consumer Information Act was passed in an effort to increase per capita consumption of eggs. The American Egg Board has made several research grants to investigate nutritional aspects of the cholesterol controversy. In addition, the Board, through the use of a generic education and promotion program, has improved consumer attitudes towards eggs. In 1978, the per capita consumption of eggs showed the first increase since 1971.

The impact of any ongoing research and nutrition education program is difficult to measure because of the problems in isolating the effects of other influencing factors. Estimating the possible impacts of a potential program is even more troublesome.

The results of the various programs under the Wheat and Wheat Foods Research and Nutrition Education order will be a function of the priority given to the research and education programs by the Wheat Industry Council. It is anticipated that in addition to domestic research and nutrition education activities, the Council will also be involved in export development activities.

Basic research could include nutrition and health research as well as product, processing and market research. Nutrition and health research could further investigate the role of wheat based foods in weight loss diets and diets designed to reduce blood cholesterol levels. Product research could develop new or improved wheat based products. Research into processing methods could result in more efficient processing methods as well as more efficient utilization of wheat in the production of flour and other flour mill products. Market research could involve an in-depth study of consumer attitudes toward wheat based foods. Nutrition education activities could provide nutrition, health and education material for nutrition and health professionals as well as food editors, homemakers, the food service industry and school children. Foreign market development activities could be carried out to increase export markets for U.S. wheat and flour. Obviously, for all of these possible opportunities, there is always a risk of failure. The rate of return for various potential projects could undoubtedly vary significantly. Thus, the Wheat Industry Council should attempt to choose those projects with a high probability of successfully achieving a high rate of return.

(4) *Possible Results:* (i) *General.* Per capita consumption of bread in the U.S. averages about five slices per person per day. Research based on the McGovern committee report "Dietary Goals for the United States" has suggested that any increase in consumption up to 67 percent over the present level, of wheat based foods would contribute to a healthier and more economical diet for the American people. The record emphasizes the role of wheat based foods in a balanced diet. However, it points out that wheat based foods are only part of a balanced diet. Hearing testimony indicated that a one slice per day increase in the per capita consumption of bread would not only contribute to a healthier and more economical diet for the American people but would also result in a 20% increase in bread production.

Bakers testified to the existence of excess capacity in the wholesale baking industry. Given the existence of excess baking capacity, an increase in volume would result in reduced per unit costs of production. As a result of the competitive nature of the wholesale baking industry, any significant cost reductions resulting from increases in volume would either be passed on to the consumer in terms of lower prices or used to offset cost increases that would otherwise be passed on to consumers.

(ii) *Competitive Impact.* It is expected that the order will increase the demand for wheat based foods relative to other types of food. The impact of the proposed program on different types of end product manufacturers will depend on the specific research and education projects undertaken by the Council. However, it is the intent of the proposed order that the Council represent and act in the best interests of the entire wheat industry, including all types of end product manufacturers.

(iii) *Distribution of Effects by Income Classes.* The proposed order provides for a program of research and nutrition education. Previous research efforts have shown that wheat based foods are nutritious and an economical source of protein, energy (calories) and essential vitamins and minerals. All income groups could benefit from the program by receiving sound nutritional information and learning how to use this information to develop more nutritious meals at lower cost. However, the poor, the elderly and teenage consumers would be expected to derive proportionately greater benefits from increased knowledge of the economic advantages of wheat based foods as a source of good nutrition. Research has indicated that these groups are the most at-risk categories for poor nutrition and related health problems.

(5) *Terms and provisions of the Order.* (a) *Definitions.* "Processed wheat" is defined to mean the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means. The definition is necessary to specify one of the products to which research and nutrition education plans or projects may apply, and to determine applicability of the assessment.

"End product" is defined to mean any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional, incidental preparation which may be necessary by the ultimate

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consumer. For example, bread, cake, cookies, crackers, breakfast cereals, and pasta products would all be end products.

This definition is necessary to determine products to which plans or projects may apply, as well as to determine applicability of the assessment and certain exclusions therefrom.

The terms "processed wheat" and "end product" as used in the Act are mutually exclusive. An "end product" is defined as a product which contains "processed wheat" as an ingredient and which is intended as produced to be used for consumption as human food, notwithstanding any incidental preparation which may be necessary by the ultimate consumer. "Incidental preparation" means such actions as thawing frozen bakery products or baking brown-and-serve products, so that frozen cakes, breads, or bread doughs, brown-and-serve rolls, etc. would be considered "end products" and, therefore, would be subject to the assessment.

On the other hand, "processed wheat" means the wheat-derived content of substances such as flour, self-rising flour, and cake mixes, which are not normally consumed as human food in that form, but rather used as ingredients of "end products."

Products such as Graham crackers, granola, or other substances which may be consumed in their present form or used as an ingredient of another end product are within the definition of end product. Therefore, the assessment on the processed wheat purchased for use in the manfacturer of such substances would be paid by the end product manufacturer who first manufactures them into a substance which can be consumed as human food. No further assessment, however, would be due from subsequent end product manufacturers producing such end products for use as ingredients of other end products.

It should also be noted that the assessment would apply to the end products of an end product manufacturer regardless of whether the end product is consumed in the U.S. or exported.

"Wheat producer" is defined to mean any person who grows wheat within the United States for market. The definition is necessary to define one class of persons eligible for representation on the Wheat Industry Council.

"Processor" is defined to mean-any person who commercially produces processed wheat within the United States. This definition specifies a class eligible for Council representation and subject to reporting and record-keeping obligations under § 1280.160 and § 1280.161 of the order but not subject to assessments.

"End product manufacturer" is defined to mean any person who commerically produces an end product within the U.S., but does not include such persons to the extent they produce end products on the premises where such products are to be consumed by an ultimate consumer, including, but not limited to hotels, restaurants, and institutions. Nor does the term include persons who produce end products for their own personal, family or household use.

The definition establishes a class eligible for Council representation, subject to certain reporting and recordkeeping obligations, and liable for the assessment under the order. Only those who will be liable for the assessment will be eligible to vote in the referendum.

With respect to voting in the referendum, each end product manufacturer will be allowed one vote whether such end product manufacturer is an individual, a partnership or a corporation. The principal of one "person" (as defined in the Act) one vote will apply regardless of the number of subsidiaries, affiliates or divisions a corporation may have or the number or type of end products it may produce. The interests of large end product manufacturers will be given appropriate consideration because volume of processed wheat purchased will be taken into account in the referendum as required by section 1708 of the Act.

It is intended under the Act that entities such as hotels, restaurants, institutions, etc., which produce end products on the premises where they are to be consumed by an ultimate consumer should not be subject to any obligations under the Act of the proposed order, and this definition so provides. Furthermore, there may be some hotels, restaurants or institutions which prepare end products at central commissaries and then distribute them to several locations (e.g., a restaurant with three or four locations in the same city which bakes end products at one central location). Such end products would not technically be "consumed on the premises" where baked. However, it is intended that the persons who produce these end products be excluded from those covered by the end product manufacturer definition since they are still clearly within the class at which the statutory exemption is aimed.

"Research" is defined to mean any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

The definition is broad enough to include any type of research aimed at achieving the general objectives of the Act but narrow enough to assure projects will not go beyond the scope of those objectives.

"Nutrition education" is defined to mean any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat and end products.

Nutrition education activities must be based on the results of research (whether conducted by the Wheat Industry Council *or* others). They would not include promotion efforts based solely on the desirability of wheat, processed wheat or end products. Such activities, that encourage consumption for its own sake without imparting any knowledge of nutritional facts or economic value, are clearly not intended under the Act and its legislative history, and they would not be included under this definition. One of the roles of the Council could be to serve as a clearinghouse for all wheat research information and to insure that valuable research results, from whatever source, are given the widest possible distribution to achieve the maximum economic and social benefits.

"Wheat Industry Council" is defined as the administrative agency or body charged by the Act with the duty to administer the order. The administrative agency would be composed of wheat producers, processors, end product manufacturers, and consumers selected by the Secretary from nominations submitted by eligible producer, processor, end product manufacturer and consumer organizations.

"Person" is defined to mean any individual, partnership, corporation, association or other entity. This conforms to the definition in the Act and, in combination with the definitions of producer, processor and end product manufacturer, covers the range of possible different entities that may be subject to the order.

"Fiscal period" is defined to mean the calendar year or such other consecutive twelve-month period as the Council, with the approval of the Secretary, may determine. The Wheat Industry Council is required to submit to the Secretary, for approval, budgets on a fiscal period basis containing anticipated expenses and disbursements in the various areas expenditures are authorized.

"Eligible organization" is defined to mean any organization or assoication which has been certified by the Secretary pursuant to § 1280.165. There

are many organizations and associations representing producers, processors, end product manufacturers and consumers throughout the U.S., both nationwide and in various specific geographical areas. The Act requires eligible organizations to carry the major responsibility for nominating members to the Council. The final determination of eligibility rests with the Secretary.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Act; "subpart" means any portion or segment of such part. These are necessary technical definitions.

"Retail baker" is defined to mean an end product manufacturer who sells end products directly to the ultimate consumer: *Provided,* That such term shall not include any end product manufacturer who derives less than ten per centum of gross end product sales revenues from sales to ultimate consumers or who derives ten per centum or more of gross food or food product sales revenues from the sale of such products manufactured or produced by others.

This definition is necessary to describe a class of persons who are exempt from payment of the assessment, from voting in the referendum on the order, and from serving on the Council.

Retail bakers are specifically exempted from all provisions of the Act as a matter of statutory right. The effect of this exemption is to free retail bakers from all obligations under the Act, including payment of the assessment, voting in the referendum, or serving on the Council.

End product manufacturers which derive less than ten percent of gross end product sales revenues from sales to ultimate consumers are excluded from the definition so that wholesale bakers who do some minor retail sales will remain subject to the Act. End product manufacturers which derive ten percent or more of gross food sales revenues from sales of products manufactured or produced by others are excluded from the definition of retail bakers with the effect that only substantial operations, such as large chain grocery store bakery operations will remain subject to the Act.

To receive the benefit of the exemption it would only be necessary for any end product manufacturer to demonstrate to the Secretary, if so requested: (1) that it does sell end products directly to ultimate consumers; (2) that it derives ninety percent or more of its gross end products sales revenues from such sales to ultimate consumers; and (3) that it does not derive ten percent or more of its gross food or food products sales revenues from the sale of such products manufactured or produced by others. It is not expected that the Secretary would use his authority to require retail bakers to prove eligibility for the exemption except in rare instances.

The 10% limitation concerning sales to ultimate consumers is not expected to exclude any wholesale bakers from the assessment. Most wholesale bakers operate retail stores to sell bread and other bakery foods which have passed the typical supermarket shelf-life period. The baker's goal is to recover costs of production through his "day-old bread" or "thrift store" operations. Bakery driver-salemen retrieve the products from supermarkets after one to three days, and the bakers offer them at significantly reduced prices. But these retail activities typically account for only 2 to 3 percent of an average wholesale baker's total sales and would not, in any case approach 10%.

Wholesale bakers participating in the program under the proposed order who operate such retail stores would not be entitled to an exemption from assessments on their retail volume.

The second 10% limitation excludes from the retail baker definition, and hence from the exemption, persons who derive 10% or more of their gross food sales revenues from the sale of foods produced by others. This statutory provision is aimed at chain store bakeries. Although the class has diminished significantly in recent years, bakeries owned and operated by chain stores and supermarkets still account for about 10% of sales nationally within the wholesale baking segment.

The preponderance of income for these firms is derived from retail grocery sales—sales of products produced by others. However, their captive baking operations can give them exclusive brands and additional profits. And in those supermarkets where baking is done in the store, grocers benefit from increased customer interest and satisfaction in seeing products come fresh—and aromatic—from the oven.

Many of these chain store bakery operations are quite substantial in size. Since none of them have gross food sales revenues from their own products even approaching 90 percent, they will be excluded from the retail baker exemption and will be subject to assessment as end product manufacturers. Chain store bakeries of small size, which might find the recordkeeping or reporting provisions of the order inconvenient, will, however, be exempt from the assessment under the 2,000 hundredweight exemption, which will be discussed at a later point in this recommended decision.

The definitions of "intra-company transfers," "related companies or divisions of the same company," and "control" are all interrelated. "Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company. "Related companies or divisions" means subsidiaries, affiliates or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer. "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

These three definitions are necessary to determine when the assessment vests with respect to certain end product manufacturers. They are required due to the structure of certain segments of the wheat industry where some diversified corporations include both processing and end product manufacture divisions or affiliates. Under this definition, the assessment will vest upon purchase of processed wheat for use in the manufacture of end products, and a "purchase" would include an "intra-company transfer." Thus, the Council will be able to determine exactly when the assessment will vest with respect to each such transfer.

The percentage of processed wheat subject to intra-company transfers is not large. Only about six wheat processor firms are also involved in end product manufacturing. Among all of those firms, the two operations are maintained separate from each other and intra-company transfers are treated substantially the same by both entities as a normal purchase and sale of processed wheat. Therefore, it is not anticipated that either entity would have any problem with the reporting or recordkeeping provisions of the order, or in calculating and remitting assessments.

"Act" is defined to provide the correct legal citation for the statute pursuant to which the Order may be put into effect and operated. The inclusion of this definition makes it unnecessary to refer to such law and statutory citation each time reference is made to the Act in the provisions of the Order. "Act" also is defined to include any amendments that may be made to the Wheat and Wheat

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Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.).

(b) *Wheat Industry Council.* A Wheat Industry Council is established to act as the administrative body for this Order as specified in Section 1706 of the Act. It is composed of wheat producers, processors, end product manufacturers and consumers appointed by the Secretary from nominations submitted by eligible organizations. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by any eligible organization, then nominations shall be submitted in a manner authorized by the Secretary. Each member has an alternate to serve in the member's stead as necessary.

Membership. The Act provides for the Council to consist of "not more than" twenty members, to be divided equally among producers, processors, end product manufacturers and consumers. In view of the broad representation on the Council, and the diverse interests to be represented, the proposed order provides for the maximum allowable Council size, i.e., twenty members, five from each segment. A Council of less than twenty members would not be able to provide adequate representation to consumers and all segments of the wheat industry.

Term of office. The term of office for Council members and their alternates is 2 years as provided in the Act. Such a period of time is necessary to permit a member to become familiar with the programs and operations of the Council and to make an effective contribution. Initial appointments shall be, proportionately, for 2 and 3 year terms, giving staggered terms for Council members so that all terms would not expire at the same time. This will help to insure continuity of program efforts and program direction.

The Order provides for continuation of a member's service until his or her successor qualifies so as to avoid gaps in Council membership and assure equal representation at all times of all four segments on the Council.

No member or alternate shall serve more than three consecutive terms in the same capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity. Thus, persons who have served as a member can then be appointed as an alternate, and vice versa.

Certification of organizations. Any organization or association may ask the Secretary to certify its eligibility to participate in nominating members and alternates to the Council and to represent producers, processors, end product manufacturers or consumers. Eligibility will be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination. The report must include information which will allow the Secretary to determine that nominating organizations or associations do represent their respective segments of the industry or consumers. The information includes:

(1) Geographic territory covered by the organization's active membership.

(2) Nature and size of the organization's active membership, including (for non-consumer organizations) the total number of active wheat producers, processors or end product manufacturers represented.

This is particularly significant with respect to producers. General farm organizations wishing to make nominations would need to show the number of wheat producers they represent. Testimony suggested that to the extent that the same producers are also members of organizations specifically representing wheat interests, they would be better represented on the Council by such wheat organizations.

(3) The extent to which producer, processor or end product manufacturer membership, respectively, is represented in setting the organization's policies.

(4) Evidence of stability and permanence of the organization;

Testimony suggested that the Council will be around for a long time and organizations wishing to be involved in the nomination of Council members should likewise be required to demonstrate their stability and permanence.

(5) Sources from which the organization's operating funds are derived;

To insure fair representation on the Council, the operating funds of any organization wishing to submit nominations should, to the extent possible come from those it represents.

(6) Functions of the organization;

The functions of any nominating organization should be consistent with the purposes and goals of the Act.

(7) The organization's ability and willingness to further the aims and objectives of the Act;

Testimony suggested that an organization which is not committed to these aims and objectives would certainly not be likely to produce a constructive member of the Council.

The order states that the primary consideration in determining eligibility of a non-consumer organization shall be whether its membership consists primarily of producers, processors or end product manufacturers who produce a substantial volume of wheat, processed wheat or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing or end manufacturing of wheat or wheat products and the nutritional attributes thereof. This requirement should insure that Council members fairly represent the interests of their particular segment of the industry.

The order sets out the criteria for consumer organizations. They include the requirement that the primary consideration for a consumer organization shall be whether: (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education; (2) such organization has a broadly representative constitutency of consumers, with active membership participation on a regular basis; and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act. Testimony suggested that a member nominated by an organization which opposes the objectives of the act would be detrimental to the efficient functioning of the Council and the achievement of the Act's objectives.

Any organization or association which the Secretary finds to be eligible under this section will be certified. The Secretary's determination shall be final. Because the functions, goals and membership of any organization may change over time, organizations are required to request recertification every five years after their originial certification. This will insure that the Council members they nominate will continue to be representative of their particular segment of the industry, or of consumers. Additionally, if the Secretary believes that any organization is no longer representative he may require recertification at any time.

Nominations. Orderly procedures are to be established for producer, processor, end product manfacturer and consumer organizations and to submit nominations for Council members and alternates to the Secretary. If the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not represented by eligible organizations then the Secretary will establish a procedure for obtaining

nominations to represent such wheat producers, processors, end product manufacturers or consumers. It is essential that the nominations and appointments be completed in a timely fashion, but adequate time must be provided for each group to consider and select their nominees and for the Secretary to make the appointments. A final Order establishing a Wheat Industry Council becomes effective only upon approval by end product manufacturers voting in a referendum. Nominations shall be submitted to the Secretary within 60 days after it is determined that the results of the referendum favor the Order, but the Secretary may prescribe a longer period if necessary.

Eligible organizations may caucus to jointly nominate qualified individuals for each member and each alternate member to be appointed to the Council. If they do not caucus or if they fail to agree on nominees, each eligible organization is authorized to submit nominations for each position to be filled. The Secretary also is required to determine whether a substantial number of producers, processors, end product manufacturers or consumers are not members of or their interests are not represented by any eligible organization and, if so, provide a manner for such individuals to submit nominations. A minimum of 60 days is necessary, after approval of the Order, to permit the Department to certify eligible organizations and for certified organizations to caucus, make their selections, and submit their nominations to the Secretary. The Secretary may prescribe a longer period if necessary.

After the initial Council has been established, nominations for subsequent appointments of Council members and alternates should be submitted sufficiently in advance to permit the Secretary to select the members, to inform them of their selection, and to obtain acceptance of such appointments before the beginning of the term of office for which they are being appointed. It is necessary to make these subsequent appointments in a timely fashion in order that operations of the Council can continue without interruption when normal changes in membership of the Council occur. Therefore, submission of nominations to the Secretary for subsequent Council members and alternates shall be at least 60 days prior to the expiration of the terms of members and alternates previously appointed to the Council. Other aspects of the nomination procedures for these appointments to the Board are the same as those for nominating members and alternates to the initial Council.

In the selection of producer representatives for the Council, consideration shall be given to the selection of members that will be representative of the classes and volume of wheat produced as well as the geographic distribution of that production. Council members will be appointed to represent each of the following areas:

1. The Eastern States—all states east of a north-south line from the western boundary of Minnesota to the western boundary of Louisiana. This will encompass all of the Soft red winter production area and the eastern White wheat production area. It is a natural unit from the standpoint of classes of wheat, methods of farming operations, market channels, and end use interests.

2. North Dakota and South Dakota—This area embraces the unique Durum Wheat class and most of the Hard red spring production. Durum is unique from the other classes because of its end uses as pasta products. The Hard red spring production area is a heavily concentrated wheat production area. In this area farming practices and marketing bases differ markedly from the Hard red winter wheat areas.

3. Kansas and Nebraska—This is a heavily concentrated portion of Hard red winter wheat production. Kansas alone is the leading state in the nation in wheat production. Record testimony indicates that there should be two producer representatives from Hard red winter states (one from area number 3 and one from area number 4) because the volume of production of Hard red winter is more than double that for any other class and this class of wheat is very heavily used in domestic markets.

4. Oklahoma, Texas, Montana, Wyoming, Utah, Colorado and New Mexico—This area comprises the remainder of the Hard red winter production. Its production and marketing problems are generally distinct from those of producers to the east or west. It embraces the very heart of conditions representative of the Great Plains area and much of the Rocky Mountains. Wheat production is not as concentrated as in area number 3.

5. The Western States—Idaho, Washington, Oregon, California, Utah and Arizona—This area encompasses the western White wheat production areas and the production and marketing patterns and problems of the western states. Any export marketings from this area follow different channels from those of the midwest and east. The varieties of wheat produced, farming practices, and research needs are generally different from the other areas.

The above areas represent the following percentages of 1978 wheat production: area number one—18 percent; area number two—19 percent; area number three—22 percent; area number four—23 percent and area number five—18 percent.

The criteria to be used in selecting processor members for the Council include class and amount of wheat processed and geographic distribution. Different classes of wheat are used in the production of different types of end products.

The record suggests that processor representation on the Council should be determined primarily on the basis of the class of wheat processed so that the Council should include at least one individual representing processors who are major suppliers of wheat for: (1) baked goods; (2) biscuits and crackers; (3) cereals; and (4) pasta products.

To insure that appropriate consideration is also given to volume and geographical considerations processor members should be selected so that at least one represents the eastern area (east of the Mississippi River), at least one represents the midwestern area (from the Mississippi to the Rockies) and at least one represents the far west (west of the Rockies). Further, at least one of the five should represent a processor who is in the bottom third of the industry in terms of volume of processed wheat produced, at least one represent the middle third and at least one represent the top third. This will assure that the interests of processors of all sizes will be adequately represented.

Although there is some overlap in these categories, i.e., one processor member might at the same time represent suppliers of processed wheat to bakers, processors in the midwestern area, and processors in the top third of the industry in terms of volume. By taking all these factors into consideration, it should be possible to provide full and fair representation of the interests of all processors.

With respect to end product manufacturers, the criteria for selecting Council members should include the generic type of end product produced by each segment of the end product industry and the percentage each such segment uses of the total processed wheat used by all segments of the industry.

Segments of the industry by generic type include: (1) baked goods, (2) biscuits and crackers, (3) cereals, and (4) pasta products. Each of these four industry segments is well represented

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by a nationwide trade association. Record testimony has indicated that if each of these associations do propose nominees, then each of the four industry segments they represent should have at least one Council member. If any of these associations fails to submit nominations, then that seat may be allocated to a representative of other end product manufacturers. Since the industry segment which produces baked goods uses the largest percentage of processed wheat (45 percent), the baked goods segment should be represented by at least two members on the Council, with each of the other three industry segments having one Council member if they choose to submit nominations.

Criteria to be considered in the selection of consumer representatives are discussed under the prior section, entitled "Certification of organizations."

Appointments. The Order provides that the Secretary will select and appoint Council members and an alternate for each from nominations submitted. Written notice of their acceptance of the appointment will be submitted to the Secretary promptly by member and alternate designates.

Vacancies. The nomination and appointment procedures for individuals to fill unexpired terms when vacancies occur are the same as those specified for the normal appointment and reappointment of members and alternates. It is important that vacancies be filled promptly in order to maintain full membership and representation on the Council and a minimum of disruption. Accordingly, nominations to fill vacancies are to be submitted to the Secretary within 60 days of the time the vacancy occurs. Such a period provides a reasonable amount of time for selection of nominees. However, should a vacancy occur within 6 months of the expiration of the term of a Council member or alternate, the Secretary need not fill the vacancy.

Alternate members. Each Council member has an alternate designated to serve in the member's place as necessary. On occasions, a Council member may find it necessary to be absent from Council meetings. An alternate member should be available so that the business affairs of the Council will not be impaired. The alternate member will serve at Council meetings in the absence of the member. Also, in the event of a vacancy on the Council for any reason, the alternate will act until a successor is appointed. Alternate member do not automatically serve in place of Council members on committees and other special assignments unless specifically selected to do so by the Council. The Council is not precluded from assigning other duties to alternates in addition to their responsibility to serve in the absence of Council members. The same criteria and procedures are used for nominating and appointing alternates as those for Council members. Alternates also are limited to 6 consecutive years of service as an alternate. However, nothing precludes an alternate from replacing or succeeding a member and that alternate is permitted to serve up to three terms as a Council member, without regard to the length of time served as an alternate.

Procedure. The Council should adopt bylaws governing its organization and operation. However, the method of voting in decisions of the Council and quorum requirements are specified in the Order. The presence of a majority of the members and alternates acting for members constitutes a quorum. On any vote taken by the Council, a majority of those present and voting must concur before any action can be taken.

It is necessary that the Council adopt procedures which will assure that it operates properly and efficiently and it should schedule regular meetings. However, there may be instances when it is necessary to transact routine, noncontroversial business or take rapid action at times when it would be expensive and unnecessary to call an assembled meeting. Therefore, the Council is authorized to vote by telephone, telegraph, or other means of communication in such instances. However, any such vote by telephone shall be confirmed promptly in writing. The Council should have authority to determine when it will be necessary to transact business without calling an assembled meeting.

Compensation. Council members and alternates serve without compensation, but it is appropriate that members and alternates be reimbursed for necessary and reasonable expenses incurred when performing authorized Council business. The Council, with the approval of the Secretary, shall set standard procedures governing reimbursement, including the forms to be used, receipts or other documentation required, and the limits of reasonable expenses.

Powers. The Council must have the powers specified in Section 1706 of the Act in order to effectively provide administrative direction of the program. The Council has the power to administer all terms and provisions of the Order and carry out the plans and programs authorized by the Act. The Council is empowered to develop rules and regulations necessary for implementing and operating the program and submit them to the Secretary for approval and issuance. Such rules and regulations are necessary to set the procedures under which the Council exercises its responsibilities. They govern the method of collecting assessments, the refund procedures, the actions to be taken to implement specific programs, the records that must be kept by end product manufacturers and processors, and the related provisions necessary to meet the requirements of the Order.

Violations of the rules and regulations issued pursuant to the Order may occur and the Council has the power to investigate alleged violations. Procedures established for handling such violations should assure fair and equitable treatment in all instances. The Council should take all reasonable steps to settle violations and in the event that settlement cannot be reached, report violations, with documentation, to the Secretary for appropriate action.

Problems may arise or conditions may change within the industry that would necessitate amendments to the Order. The Council should maintain regular surveillance of the need for amendments and should exercise the power to recommend amendments of the Order to the Secretary when it deems that such action is necessary.

Duties. The duties of the Council as set forth in the Order are necessary for the discharge of its responsibilities. The stated duties provide authority and guidance concerning many details common to the operation of an administrative entity such as the Council.

They include the duty to meet and organize, elect officers, and establish committees and subcommittees of Council members as necessary to handle the affairs of the Council. Bylaws should be adopted governing the conduct of business by the Council. The Council also has authority to appoint advisory committees, which would include persons who are not members of the Council, in order to gain added expert advice and counsel on problems, procedures, and programs. Such committees can act in an advisory position only; final decisions and actions are reserved to the Council, and only the Council may take action authorizing the expenditure of funds. The Council has the authority to reimburse advisory committee members for travel and other expenses arising from their assignments.

The Order provides that the Council may appoint an executive committee of not less than four nor more than eight members to administer the terms of the order under the direction of the Council and within policies determined by the Council. An executive committee is not required, but may be appointed if the

Council believes it to be necessary or appropriate. The option to appoint an executive committee gives the Council needed flexibility in its operating procedures. However, because of the diversity of membership on the Council, record testimony indicates that any executive committee appointed have at least one member from each of the four groups represented on the Council.

The Act provides that the Wheat Industry Council shall have the authority to employ staff members, specifiying their duties and compensation, and to administer the provisions of the Order under the direction of the Council and within policies established by the Council. The Council should establish and maintain an effective managerial team composed of Council members and the administrative staff of the Council.

A major duty of the Council is the development of plans and programs to implement the Order. The Council has authority to initiate contracts or agreements with other organizations to conduct program activities. Contractors are required to provide plans for each project or program, outline procedures to be followed, and submit a detailed estimate of the costs. Further, contractors are required to keep adequate records and submit regular reports of their activities on a project showing progress made, disbursement of funds, and any other relevant information required by the Council or the Secretary. Contracts and agreements of the Council may become effective only upon approval of the Secretary. In addition to contracting with others, the Council has authority to conduct program activities on its own if such an approach can be shown to be more effective or efficient in furthering the purposes of the Act and Order.

The Council shall prepare a budget of its anticipated income and expenses each fiscal period and submit it to the Secretary for approval. The Secretary should specify the date for submission of the budget for approval, allowing adequate time for review prior to the beginning of the fiscal period. In addition to income and expenses, the budget statement should show program plans, the distribution of anticipated expenses for each major program category, the estimated cost for administration, and detailed justification of the plans.

Each budget should also include a brief general description of the proposed research and nutrition education programs. This general description will be included with the summary of the budget, as approved by the Secretary, which must be published in the **Federal Register.**

Other duties of the Council outlined in the Order are those necessary to assure that it operates in a businesslike fashion. They involve requirements for maintaining records and submitting reports of activities as required by the Secretary, making annual reports of activities to producers, processors, end product manufacturers and the public, accounting for funds received and expended each fiscal period, and initiating an annual audit of its financial status by an outside party. Further, the Council is required to give the Secretary the same notice of meetings as is given Council members and to provide any other information pertaining to the Order which the Secretary requests.

(c) *Programs and Projects.* The Council has the authority to determine the type of research, market development, education, and producer, processor, end product manufacturer and consumer information projects to be undertaken, and it is charged with the responsibility of initiating and recommending to the Secretary the establishment of such projects as are authorized by the Act. The projects and programs should be designed to improve and enhance the quality and make the most efficient use of American wheat, processed wheat and wheat end products. The authority is broad and flexible to enable the Council to use the most efficient and effective methods of carrying out the purposes of the Act. Emphasis should be placed on developing a coordinated national program, with activities designed to complement the efforts of groups, organizations, or agencies which are currently engaged in research and promotion activities.

The Council has the authority to recommend programs designed to expand sales in foreign markets for wheat, processed wheat and wheat end products. This area of activity should include steps to increase sales to present overseas customers as well as to develop new outlets and tailor products to their needs. Cooperative efforts with existing programs of this nature conducted by Federal and state governments and private interests may prove to be an effective approach.

Programs or projects conducted by the Council shall be periodically reviewed to determine if each such plan or project contributes to an effective and coordinated program of research, information, and education. Upon such review the Board shall terminate any program or project which it determines does not further the purpose of the Act.

The provision of the Order and Act that no programs or projects shall make any reference to private brand names of wheat based products is necessary to avoid discrimination. The Council represents all interests in the industry and therefore must be fair to all segments and elements of the wheat and wheat foods industry. Prohibition of the use of false or unwarranted claims in behalf of wheat or wheat based products or false or unwarranted statements with respect to the attributes or uses of competing products is also necessary for proper administration of the Order.

An economically viable wheat and wheat based foods industry is clearly in the public interest. Maintenance and expansion of existing markets and the development of new markets, both at home and abroad, are essential if the wheat and wheat based foods industry is to be healthy enough to supply the needs of consumers. Therefore, the Order provides the necessary authorizations for research and information designed to accomplish this objective. It enables the Council to undertake production research, marketing research, product or market research, and other research designed to improve efficiency throughout the production and marketing chain from the earliest stages of production up to the time the product reaches the consumer. In addition, information derived from research and other factual information would be made available to producers, processors, end product manufacturers and consumers.

The Council may either perform research or information work within its own organization, or it may contract for such research, market development, education, production information, and consumer information projects and programs with public and private research and development agencies which are capable of performing the work needed. While the projects and programs must be submitted to the Secretary for approval, it is recognized that study and planning may be involved in the development of such activities. Therefore, reasonable expenses which may be incurred by the Council in connection with such development should be authorized as part of the annual plan or budget even though prior to the time such projects are submitted.

(d) *Assessments, Refunds, Expenses. Assessments.* The Act provides that each end product manufacturer, excluding retailers and those using less than 2000 hundredweight of processed wheat per year, shall pay to the Council,

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pursuant to regulations issued by the Council, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products. Additionally, the Act authorizes the Secretary to exempt specified categories of end products from assessment under the order. It is recommended that end products in which wheat is a characterizing or major ingredient be subject to assessment and that end products in which wheat is not a characterizing or major ingredient be exempt from assessment under the order.

Table A, below, identifies end products in the Standard Industrial Classification code in which wheat is a characterizing or major ingredient. This list includes end products which would be subject to assessment under the order. The Council, with approval of the Secretary, may revise the list as needed. Table B, below, identifies many, but not necessarily all, of the end products in the Standard Industrial Classification code in which processed wheat is a minor ingredient but is not a characterizing or major ingredient. End products listed in Table B, similar end products identified in comments on this recommended decision and any other end products which contain processed wheat as a minor ingredient but not as a characteristic or major ingredient would be exempt from assessment under the order and would not be considered "end products" for the purpose of weighted referendum voting.

Table A. A list of wheat end products included within the "end product" definition of § 1280.103, of the proposed Wheat and Wheat Foods Research and Nutrition Education Order, which should be subject to the assessment established under § 1280.151.

SIC No.

2032 Macaroni, canned, Ravioli, canned, Spaghetti, canned
2038 Baked goods, frozen, Pies, frozen (except meat), Pizza, frozen Spaghetti and meat balls, frozen, Waffles, frozen
2041 Dough, biscuit: canned, Doughs, refrigerated
2043 Breakfast foods, cereal (wheat based), Wheat flakes
2045 Dough, biscuit: canned, Doughs, refrigerated
2051 Bagels, Bakery products, partially cooked (not frozen), Bakery products, "perishable": bread, cakes, doughnuts, pastries, etc. (including croutons), Biscuits, baked: baking powder and raised, Bread, brown: Boston and other—canned, Buns (bakery products), Charlotte Russe (bakery products), Crullers, Knishes, Pastries: Danish, French, etc., Pies, except meat pies, Rolls (bakery products), Sponge goods (bakery products), Sweet yeast goods
2052 Bakery products, "dry": biscuits, crackers, pretzels, etc. Biscuits, baked: dry, except baking powder and raised biscuit, Cookies, Crackers: graham, soda, etc., Saltines, Zwieback, machine-made
2098 Macaroni and products, dry: including alphabets, rings, seashells, etc., Noodles: egg, plain and water, Spaghetti, except canned, Vermicelli
2099 Pizza, refrigerated: not frozen

Table B. List of wheat end products which could technically be included in the "end product" definition, but which should be exempted under rules issued pursuant to § 1280.151(a)(2) of the proposed Order, and Section 1705(d) and Section 1716 of the Act.

SIC No.

2034 Soup mixes and powders
2035 Sauces
2038 Frozen dinners
2052 Cones, ice cream
2085 Distilled, Rectified, and Blended Liquors

The rate of assessment may not exceed the statutory maximum of five cents per hundredweight of processed wheat purchased or transferred. Further, § 1280.151 of the Order specifies that assessments may not exceed one cent per hundredweight during the first 2 years that assessments are collected. The Council may recommend changes in the rate of assessment subject to approval by the Secretary.

The Wheat Industry Council is authorized to set aside funds in an operating reserve and to budget for such a reserve. Such a reserve will allow the Council to meet expenses already committed to in the event that the amount of assessments should decrease unexpectedly. The size of the reserve should be determined by the Council, with the approval of the Secretary, on the basis of the level of assessments being received, and the existing liabilities and anticipated expenses.

Refunds. Assessments are due from commercial end product manufacturers. There are relatively few such firms, in comparison with the numbers of producers who have been subject to assessments under other research and education orders, and some of these firms are extremely large. Obviously, one very large end product manufacturer unexpectedly requesting a refund of its assessments could cripple ongoing plans and projects undertaken in expectation of receiving such assessments. Therefore, in order to allow the Council to undertake planning of its activities with a reasonable degree of certainty, the order provides for a refund election procedure. Under such procedure, end product manufacturers will have a 60-day period from the date of publication of the summary of the Council budget, to elect to reserve the right to seek refunds. Only those end products manufacturers making such an election shall be eligible for refunds of assessments paid during the one year period immediately following the 60-day election period.

In practice, the initial budget summary would be published 60 days prior to the date on which the obligation to pay assessments will vest. All end product manufacturers not reserving the right to request refunds during this 60-day period would thereafter be committed to pay assessments for the first year of the program. Thereafter, a summary of the second year's budget would be published 60 days before the beginning of the second year of the program, and so on.

The budget summary would include a brief general description of the proposed research and nutrition education programs contemplated. The description should be sufficient to allow end product manufacturers to evaluate the Council's proposed program and make a considered decision on whether to elect to reserve the right to seek refunds.

A similar election period and procedure would apply with respect to amendments to the budget. However, this provision would be interpreted to require a summary of budget amendments to be published only in the case of amendments so significant as to substantially change the nature of the ongoing plans or projects upon which the most recent refund election was based. This is essential to avoid the confusion and severe administrative burden on the Council that would result from publication of a new budget summary, and initiation of a new refund election period, on the basis of every minor change in the budget. If, however, there were a change in the Council's priorities of the magnitude described, a description of the budget amendments entailed by such change would be published. All persons subject to the assessment would thereafter have 60 days within which to make the election.

In order to avoid confusion if such a mid-year budget amendment is published, the order provides that an election made on the basis of a budget amendment shall apply only until the end of the one year period then in effect with respect to the annual budget.

If there is such a mid-year change in Council plans and priorities all end product manufacturers which have not already elected to reserve the right to request refunds will be given an opportunity to do so. The right will apply only until the end of the budget

period then in effect. By that time, however, such persons will have had an opportunity to make a further election based on the publication of the summary of the next annual budget. This procedure will carry out the intent of the Act in allowing end product manufacturers to make an informed decision on whether to reserve the right to seek refunds. And it will give them the necessary information upon which to base this decision. However, it will avoid the confusion and additional administrative expense that could otherwise result from overlapping refund eligibility periods due to a change in priorities in the middle of a budget year.

The order allows end product manufacturers who have paid an assessment, but reserved the right to seek a refund to demand and receive from the Council a refund of assessments they have paid. The refund procedure, in combination with the obligation to describe proposed plans and projects to end product manufacturers 60 days in advance of the initiation of assessments, should provide a good check to insure that the Council plans its activities, and spends assessments, wisely. As provided in the Act, the demand for the refund shall be made by end product manufacturers, in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary. It will also require submission of proof satisfactory to the Council that the end product manufacturer paid the assessment. Any such refund shall be made within 60 days after demand is received.

Expenses. Council expenses shall be paid from assessments received and any other funds which accrue to the Council. The Council may incur expenses which are found by the Secretary to be reasonable for the functioning and maintenance of the Council and necessary for the Council to exercise its powers and duties.

The Act and its legislative history make it clear that the expenses of the Council shall include reimbursement by the Council to the Secretary for such expenses as the Secretary determines were incurred by the government in preparation of an original order and for the conduct of the referendum and, subsequently, for all administrative costs, including salaries, which the Secretary determines are incurred by the government under the approved Order.

(e) *Records and Reports.* The Act authorizes the Secretary and the Council to establish record keeping and reporting requirements in the order and in the regulations issued under the Order. Further, the legislative history of the Act makes it clear that such record keeping and reporting requirements shall be the minimum necessary, consistent with the achievement of the objectives of the Act. However, the Act and the legislative history makes it clear that record keeping and reporting requirements shall be subject to the discretion of the Secretary and the Council and shall include all information deemed necessary or appropriate to the effectuation, administration and enforcement of the Act, Order and regulations. It would not be appropriate in view of Congressional intent to limit in any way this discretion by including the proposed section 1280.159 and, therefore, that section of the proposed order has been deleted.

The Act imposes requirements on end product manufacturers to keep records and make such reports as necessary to the effectuation, administration, and enforcement of the Act and the Order or regulations issued pursuant to it. The Council has authority, with approval of the Secretary, to establish regulations requiring end product manufacturers to keep necessary books and records and to report to the Council periodically as the Council determines is necessary. Details on the information needed in records and reports and the frequency and timing of reports are to be established by the Council and shown in the regulations. Record evidence indicates some concern that unduly burdensome requirements may be imposed on end product manufacturers. It was suggested that existing records systems of the industry should be utilized to the extent possible, and the Council should be cognizant of this recommendation when formulating regulations for approval by the Secretary.

All books and records required under the regulations must be made available by end product manufacturers for inspection by representatives of the Council or the Secretary as necessary to verify reports on assessments made and forwarded to the Council. These records are to be retained at least 2 years beyond the fiscal year of their applicability. Such a time period is necessary to permit the completion of authorized audits, investigation, or other actions that may be necessary in administering and enforcing the provisions of the Order and the Act.

Representatives of the Council or the Secretary, while acting in their official capacities, on occasion are likely to have access to records and accounts of end product manufacturers, processors and distributors of processed wheat, and others which may reveal trade secrets. The Act requires that the confidential nature of such business records be protected. Therefore, the Order provides that informtion obtained from books, records, and reports required of end product manufacturers and information about refunds made to end product manufacturers, shall be kept confidential by employees of the Council and of the Department of Agriculture. Also, any such information which becomes available to contracting parties should be kept confidential by officers and employees of such parties. However, the Secretary retains the authority to permit disclosure of such information, but only in a suit or administrative hearing relevant to the Order brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party.

It should be recognized that some information about the program may be of interest and benefit to the general public. Accordingly, the Order does not prohibit (1) the issuance of general statements concerning the number of persons subject to the Order or statistical data collected which do not identify the information furnished by any person; (2) the publication, as approved by the Secretary, of general statements relating to refunds made by the Wheat Industry Council which do not identify any person to whom a refund is made; or (3) the publication by direction of the Secretary of the name of any person violating the Order, together with a statement of the provisions of the Order violated.

(f) *Other Terms and Conditions.* The record shows a need for several other miscellaneous terms and conditions as shown in §§ 1280.166 through 1280.172 of the Order. Each section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the Order. These provisions are incidental to, and not inconsistent with, the terms and conditions of the Act, are necessary to effectuate the other provisions of the Order, and are supported by the record evidence.

Rulings on Briefs, Proposed Findings, and Conclusions

At the close of the hearing, the Administrative Law Judge fixed April 24, 1979, as the final date for interested parties to file briefs, proposed findings, and conclusions based on the evidence received at the hearing. One brief was filed on behalf of the Wheat and Wheat Foods Foundation by Donald H.

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Heitman, Attorney, Wheat and Wheat Foods Foundation, Washington, D.C.

The brief reiterated points made by witnesses at the hearing. The points in the brief were carefully considered along with the record evidenced received at the hearing in making the findings and conclusions set forth herein as discussed in this recommended decision. To the exent that the suggested findings and conclusions are inconsistent with the findings and conclusions as set forth herein, requests to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

General Findings

On the basis of the evidenced presented at the hearing and the record thereof, it is found that:

1. The Wheat and Wheat Foods Research and Nutrition Education Order and all of the terms and conditions thereof as hereinafter set forth will tend to effectuate the declared policy of the Act; and

2. The following terms and conditions of the Order are recommended as a detailed means of carrying out the declared policy of the Act with respect to the development of effective and continuous coordinated programs of research and nutrition education for wheat, processed wheat and wheat end products with adequate financing through assessments on the purchase of processed wheat.

Recommended Wheat and Wheat Foods Research and Nutrition Education Order

The following national Research and Nutrition Education Order is recommended as the appropriate means by which the foregoing conclusions may be carried out.

A new subpart is added to Part 1280 of Title 7, CFR as follows:

PART 1280—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION

Subpart—Wheat and Wheat Foods Research and Nutrition Education Order

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1280.102 Processed wheat.
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1280.107 Research.
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1280.116 Representative of wheat producers.
1280.117 Representative of processors.
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Wheat Industry Council

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Research and Nutrition Education

Sec.

1280.145 Research and nutrition education.

Expenses and Assessments

1280.150 Expenses.
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1280.152 Refunds.
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Reports, Books, and Records

1280.160 Reports.
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1280.162 Confidential treatment.

Certification of Organizations

1280.165 Certification of organizations.

Miscellaneous

1280.166 Suspension and termination.
1280.167 Proceedings after termination.
1280.168 Effect of termination or amendment.
1280.169 Personal liability.
1280.170 Patents, copyrights, inventions, and publications.
1280.171 Amendments.
1280.172 Separability.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et., seq.).

Definitions

§ 1280.101 Wheat.

"Wheat" means all classes of wheat grains grown in the United States.

§ 1280.102 Processed wheat.

"Processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

§ 1280.103 End Product.

"End product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

§ 1280.104 Wheat producer.

"Wheat producer" means any person who grows wheat within the United States for market.

§ 1280.105 Processor.

"Processor" means any person who commercially produces processed wheat within the United States.

§ 1280.106 End product manufacturer.

"End product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

§ 1280.107 Research.

"Research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

§ 1280.108 Nutrition education.

"Nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

§ 1280.109 Wheat Industry Council or Council.

"Wheat Industry Council" or "Council" means the administrative body established pursuant to § 1280.130.

§ 1280.110 Department.

"Department" means the United States Department of Agriculture.

§ 1280.111 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

§ 1280.112 Person.

"Person" means any individual, partnership, corporation, association or other entity.

§ 1280.113 United States.

"United States" means the several States and the District of Columbia, including any territory or possession.

§ 1280.114 Fiscal period.

"Fiscal period" means the calendar year or such other period as the Council may determine.

§ 1280.115 Eligible organization.

"Eligible organization" means any organization or association which has been certified by the Secretary pursuant to § 1280.165.

§ 1280.116 Representative of wheat producers.

"Representative of wheat producers" means a wheat producer, the owner, officer, or employee of a producer, or an officer, or employee of an organization or association representing wheat producers certified under § 1280.165.

§ 1280.117 Representative of processors.

"Representative of processors" means a processor, the owner, officer, or employee of a processor, or an officer, or employee of an organization or association representing processors certified under § 1280.165.

§ 1280.118 Representative of end product manufacturers.

"Representative of end product manufacturers" means an end product manufacturer, the owner, officer, or employee of an end product manufacturer, or an officer or employee of an organization or association representing end product manufacturers certified under § 1280.165.

§ 1280.119 Representative of consumers.

"Representative of consumers" means a consumer, or an officer or employee of an organization or association representing consumers certified under § 1280.165.

§ 1280.120 Part and subpart.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Wheat and Wheat Foods Research and Nutrition Education Act. "Subpart" means any portion or segment of such part.

§ 1280.121 Retail baker.

"Retail baker" means an end product manufacturer who sells end products directly to the ultimate consumer: *Provided*, That such term shall not include any end product manufacturer who derives less than 10 percentum of gross end product sales revenues from sales to ultimate consumers or who derives 10 percentum or more of gross food or food product sales revenue from the sale of such products manufactured or produced by others.

§ 1280.122 Intra-company transfers.

"Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company.

§ 1280.123 Related companies or divisions of the same company.

"Related companies or divisions of the same company" means subsidiaries, affiliates, or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer.

§ 1280.124 Control.

"Control" including the terms "controlling", "controlled by", and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

§ 1280.125 Act.

"Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et. seq.) and any amendments thereto.

§ 1280.126 Plans and projects.

"Plans and projects" means those research and nutrition education plans, studies or projects pursuant to § 1280.145.

Wheat Industry Council

§ 1280.130 Establishment and membership.

There is hereby established a Wheat Industry Council of twenty members, each of whom shall have a specific alternate. The Council shall be composed equally of representatives of wheat producers, processors, end product manufacturers and consumers, appointed by the Secretary from nominations submitted by eligible organizations certified pursuant to § 1280.165, or from nominations in a manner authorized by the Secretary pursuant to § 1280.132(a).

§ 1280.131 Term of office.

The members of the Council and their alternates shall serve for terms of two years, except appointments to the initial Council shall be proportionately for terms of two and three years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has qualified. No member or alternate shall serve more than three consecutive terms in such capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity.

§ 1280.132 Nominations.

All nominations authorized under § 1280.130 shall be made in the following manner:

(a) Within 60 days after approval of this order by referendum, or such other period as determined by the Secretary, nominations shall be submitted to the Secretary as specified in paragraph (d) of this section by eligible organizations or associations certified pursuant to § 1280.165. Alternatively, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not members of, or their interests are not represented by, any such eligible organizations or associations, then nominations shall be submitted by such wheat producers, processors, end product manufacturers and consumers in a manner authorized by the Secretary;

(b) After the establishment of the initial Council, the nominations for subsequent Council members and alternates shall be submitted to the Secretary not less than sixty days prior to the expiration of the terms of the members and alternates previously appointed to the Council;

(c) Where there is more than one eligible organization or association representing wheat producers, processors, or end product manufacturers within any geographic area, or within any segment of the wheat producing, processing, or end product manufacturing industry, they may caucus for the purpose of jointly nominating two or more qualified persons for each member and alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization or association may submit to the Secretary two or more nominations for each appointment to be made;

(d) In selecting such members and their alternates, factors such as those listed below shall be considered in determining equitable representation on the Council:

(1) For wheat producers, class and volume of wheat produced and geographic distribution;

(2) For processors, class of wheat processed, amount of wheat processed and geographic distribution;

(3) For end product manufacturers, the generic type of end product produced by each segment of the end product industry (baked goods, biscuits and crackers, cereals, pasta products) and the percentage each such segment uses of the total processed wheat used by all such segments of the end product industry; and

(4) For consumers, the factor set out in § 1280.165.

§ 1280.133 Appointment.

From the nominations made pursuant to § 1280.132, the Secretary shall appoint the members of the Council, and an alternate for each such member, on the basis of representations provided for in §§ 1280.130, 1280.131 and 1280.132.

§ 1280.134 Acceptance.

Any person appointed by the Secretary as a member, or as an alternate member, of the Council shall qualify by filing a written acceptance with the Secretary within a period of time prescribed by the Secretary.

§ 1280.135 Vacancies.

To fill any vacancy occasioned by the failure to qualify of any person appointed as a member, or as an alternate member, of the Council, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Council, a successor for the unexpired term of such member or alternate member shall be nominated, qualified, and appointed in the manner specified in §§ 1280.130, 1280.132(b)(c)(d), 1280.133 and 1280.134, except that replacement of a Council member, or alternate, with an unexpired term of less than six months is not necessary.

§ 1280.136 Alternate members.

An alternate member of the Council, during the absence of the member for whom he is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed and has qualified.

§ 1280.137 Procedure.

(a) A majority of the members, including alternates acting for members of the Council, shall constitute a quorum, and any action of the Council shall require the concurring votes of at least a majority of those voting.

(b) For routine and non-controversial matters which do not require deliberation and exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Council, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing.

§ 1280.138 Compensation and reimbursement.

The members of the Council and alternates shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Council, incurred by them in the performance of their duties under this subpart.

§ 1280.139 Powers of the Council.

The Council shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 1280.140 Duties.

The Council shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Council members, and to adopt such rules for the conduct of its business as it may deem advisable. The Council may also establish advisory committees of persons other than Council members and pay the necessary and reasonable expenses of the members of such committees;

(b) To appoint from its members an executive committee consisting of not less than 4 nor more than 8 members, and to delegate to the committee authority to administer the terms and provisions of this subpart under the direction of the Council and within the policies determined by the Council, if such a committee is believed to be necessary or appropriate, and to appoint or employ such persons as it may deem necessary and define the duties and determine the compensation of each;

(c) To develop and submit to the Secretary for approval, research plans or projects and nutrition education plans or projects resulting from research conducted either by the Council or others;

(d) To prepare and submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of research and nutrition education plans or projects, and also including a general description of the proposed research and nutrition programs contemplated therein;

(e) To prepare a summary of the approved annual budget, or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, which shall be published promptly in the **Federal Register.**

(f) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) With the approval of the Secretary, to enter into contracts or agreements for the development and conduct of the activities authorized under § 1280.145 of this subpart and for the payment of the cost thereof with funds collected through the assessments pursuant to § 1280.151. Any such contract or agreement shall provide that: (1) the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project; (2) any such plan or project shall become effective upon approval of the Secretary; and (3) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1280.151 in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(j) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(k) To give the Secretary the same notice of meetings of the Council as is given to members in order that he or his representative may attend such meetings; and

(l) To submit to the Secretary such information pursuant to the subpart as he may request.

Research and Nutrition Education

§ 1280.145 Research and nutrition education.

The Council shall develop and submit to the Secretary for his approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products;

(b) The establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable;

(c) Each plan or project authorized under paragraph (a) or (b) of this section shall be periodically reviewed or evaluated by the Council to insure that each such plan or project contributes to an effective coordinated program of research and nutrition education. If it is found by the Council that any such plan or project does not further the purposes of the Act, then the Council shall terminate such plan or project; and

(d) In carrying out any plan or project, no reference to a private brand or trade name shall be made unless the Secretary determines that such reference will not result in undue discrimination against wheat, processed wheat or end products of other persons. No such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

Expenses and Assessment

§ 1280.150 Expenses.

(a) The Council is authorized to incur such expenses, (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1280.151.

(b) The Council shall reimburse the Secretary, from assessments, for all the expenses and expenditures, including any referendum and administrative costs incurred by the Secretary under the Act, as the Secretary finds are reasonable and likely to be incurred under this subpart during any period specified by the Secretary.

§ 1280.151 Assessments.

(a) Each end product manufacturer shall pay to the Council, pursuant to regulations issued by the Council, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products, from processors, distributors, or (in the case of such intra-company transfers) related companies or divisions of the same company: *Provided,* That no person, including any end production manufacturer who makes intra-company transfers, shall be required to pay more than one assessment with respect to the same processed wheat, whether or not such processed wheat is further processed by such person: *And provided further,* That the following end product manufacturers shall be exempt from such assessment:

(1) Retail bakers, as defined in § 1280.121, including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products; *Provided,* That any person exempted under this subparagraph may waive such exemption, upon application to and approval by the Council, and thereafter will be treated as a non-exempt end product manufacturer under this subpart unless and until such person requests that such exemption be reinstated.

(2) End product manufacturers who manufacture specified end products, or types or categories thereof, which are exempted under rules or regulations issued pursuant to § 1716 of the Act to the extent of the processed wheat they purchase for use in the manufacture of such exempted products.

(b) The Council, with the approval of the Secretary, shall set the amount of the assessment, not to exceed five cents per hundredweight of processed wheat purchased or transferred: *Provided, however,* That the assessment rate for the first two years of the effectiveness of the order shall not exceed one cent per hundredweight.

(c) In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products shall disclose to such end product manufacturers the amount or proportion of processed wheat contained in such products, plus or minus 3 per centum.

(d) End product manufacturers shall remit assessments to the Council at such times and in such manner as prescribed by regulations issued by the Council, but in no case shall assessments be required to be remitted more often than quarterly.

§ 1280.152 Refunds.

(a) Subsequent to the publication of the summary of the Council budget, or amendments thereto, provided for under § 1280.140(e), all end product manufacturers not exempt from the assessments under § 1280.151 shall have 60 days from the date of publication within which to elect to reserve the right to seek refunds under paragraph (b) of this section. Reserving the right to seek refunds shall be indicated to the Council in writing, by registered or certified mail under such conditions as the Secretary may prescribe. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such 60-day period: *Provided,* That, an election made on the basis of a budget amendment shall apply only until the end of the one-year period then in effect with respect to the annual budget.

(b) Notwithstanding any other provision of this subpart, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under paragraph (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided,* That such demand shall be made by such end

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product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand is received therefor.

§ 1280.153 Influencing governmental action.

No funds collected by the Council under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

Reports, Books and Records

§ 1280.160 Reports.

Each end product manufacturer subject to this subpart, and other persons subject to section 1705(c) of the Act, may be required to report to the Council periodically such information as is required by the regulations recommended by the Council and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of hundredweights of processed wheat purchased, sold, or initially transferred (as described in § 1280.122 and § 1280.151(a)) for use in the manufacture of end products;

(b) The number of hundredweights of processed wheat on which an assessment was paid; and

(c) The date any assessment was paid.

§ 1280.161 Books and records.

Each end product manufacturer who is subject to this subpart, and other persons subject to section 1705(c) of the Act, shall maintain and make available for inspection by the Council or the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

§ 1280.162 Confidential treatment.

All information obtained from such books, records or reports under the Act and this part, and all information pertaining to refund requests and refunds, shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information. Only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit: (a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (c) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

Certification of Organizations

§ 1280.165 Certification of organizations

(a) Any organizations or association may request the Secretary for certification of eligibility to participate in nominating members and alternate members of the Council to represent wheat producers, processors, end product manufacturers or consumers. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization;

(3) The extent to which wheat producer, processor, or end product manufacturer membership, respectively, of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanence of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacturing of wheat or wheat products, and the nutritional attributes thereof.

(c) In determining the eligibility of a consumer organization, the primary consideration shall be whether (1) a principal purpose of the organization is to promote consumer interest, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act.

(d) The Secretary shall certify any organization or association which is found to be eligible under this section and the determination as to eligibility shall be final. After the original certification of organizations, such organizations shall request recertification every five years and the Secretary may require recertification at any time.

Miscellaneous

§ 1280.166 Suspension and termination.

(a) The Secretary shall, whenever it is found that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percentum or more of the number of end product manufacturers subject to this subpart, to determine whether such manufacturers favor the termination or suspension of the subpart, and the Secretary shall suspend or terminate such subpart within six months after the Secretary determines that suspension or termination of the subpart is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 percentum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.167 Proceedings after termination.

(a) Upon the termination of this subpart the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Council under any contracts or agreements entered into by it pursuant to § 1280.140(g); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and (4) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of coninuing one or more of the research or nutrition education plans or projects hitherto authorized.

§ 1280.168 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the Unites States, or of the Secretary, or of any person, with respect to any such violation.

§ 1280.169 Personal liability.

No member, alternate member or employee of the Council shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts either of commission or omission, of such member, alternate or employee, except for acts of dishonesty or willful misconduct.

§ 1280.170 Patents, copyrights, inventions and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Council, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the wheat and wheat foods industry. Upon termination of this subpart, § 1280.167 shall apply to determine disposition of all such property.

§ 1280.171 Amendments.

Amendments to the subpart may be proposed, from time to time by the Council, or by any organization or association certified pursuant to § 1714 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1280.172 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart or the applicability thereof to other or circumstances shall not be affected thereby.

Copies of this recommended decision may be procured from W. David Spalding, Livestock, Poultry, Grain and Seed Division, Agricultural Marketing Service, Room 2610 South Building, United States Department of Agriculture, Washington, D.C. 20250, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-27983 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1280]

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Procedure for the Conduct of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The proposed regulation would establish the procedure for the conduct of referendums with respect to any Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued pursuant to the Wheat and Wheat Foods Research and Nutrition Education Act. An initial referendum would not be held unless the Secretary determines, based on public hearing evidence, that an Order would carry out the intent of the legislation. This regulation is necessary because the Act provides that an Order must be approved in a referendum among eligible end product manufacturers before it can become effective.

DATE: Comments must be received by October 22, 1979.

ADDRESS: Send written comments to Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: W. David Spalding, Livestock, Poultry, Grain and Seed Division, AMS, USDA, Washington, DC 20250, Phone: 202-447-3970.

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of Agriculture shall issue a Wheat and Wheat Foods Research and Nutrition Education Order, or amendments thereto, applicable to end product manufacturers, if the Secretary finds and sets forth in such order, upon evidence introduced at hearing, that such order or amendment will tend to effectuate the declared policy of the Act. The Act further provides that the Secretary shall conduct a referendum among end product manufacturers for the purpose of ascertaining whether the issuance of an Order is approved or favored by end product manufacturers. This proposed procedure for the conduct of referendums is in accordance with the

authority vested in the Secretary of Agriculture by the Act.

The following terms: wheat, processed wheat, end product, end product manufacturer, retail baker, United States, related companies or divisions of the same company, and control are defined in the Order itself and shall have the same meaning as therein.

The public is invited to submit written exceptions or recommendations regarding the proposed regulations to the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, DC 20250, no later than (45 days after publication in the Federal Register), to be sure of considerations. Each person submitting comments, suggestions, or objections regarding the proposed regulations shall include the person's name and address and give reasons for any suggested changes. Copies of all written communications received will be available for examination by interested persons at the office of the Hearing Clerk during regular business hours.

In accordance with the above, it is proposed to amend 7 CFR Part 1280 by adding a new Subpart as follows:

Subpart 1280.2—Procedure for the Conduct of Referendums in Connection With Wheat and Wheat Foods Research and Nutrition Education Order

Sec.

1280.200 Referendums.
1280.201 Definitions.
1280.202 Supervision of Referendums.
1280.203 Requirements of Referendum.
1280.204 Computation of Time.
1280.205 Public Notice.
1280.206 Eligibility.
1280.207 Registration.
1280.208 Voting.
1280.209 Challenge of Eligibility.
1280.210 Canvassing Ballots.
1280.211 Results of the Referendum.
1280.212 Disposition of Ballots and Records.
1280.213 Suspension and Termination of Order.
1280.214 Instructions and Forms.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95–113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401–3417.

§ 1280.200 Referendums.

Referendums for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a Wheat and Wheat Foods Research and Nutrition Education Order, or the amendment, continuance, termination, or suspension of such an Order, is favored by end product manufacturers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this Subpart.

§ 1280.201 Definitions.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

(b) "Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*) and any amendments thereto.

(c) "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any other officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(d) "Referendum agent" means the individual or individuals designated by the Secretary to conduct the referendum.

(e) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(f) "Qualified" or "eligible" end product manufacturer means any end product manufacturer as defined in the Order who used at least 2000 hundredweight of processed wheat per year in the manufacture of end products which are subject to assessment and who is not subject to exemption from payment of assessments as a retail baker.

(g) "Order" means the Wheat and Wheat Foods Research and Nurtrition Education Order or any amendment thereto promulgated pursuant to the Act with respect to which the Secretary has directed that a referendum be conducted.

(h) "Representative Period" means a consecutive twelve-month period preceding the registration period as designated by the Secretary.

(i) "Registration Period" means a period to be announced for the registration of end product manufacturers who desire to vote in a referendum. The registration period shall end not less than 30 days prior to the first day of the voting period.

(j) "Voting Period" means a 12–day period to be announced for voting in a referendum.

§ 1280.202 Supervision of referendum.

The Administrator shall be in charge of and responsible for conducting each referendum in accordance with this Subpart.

§ 1280.203 Requirements of referendum.

No Wheat and Wheat Foods Research and Nutrition Education Order or amendment issued under the Act shall become effective unless the Secretary determines (a) that valid ballots were cast by at least 50 percent of the eligible end product manufacturers registered to vote, and (b) that the issuance of such Order is approved or favored by not less than two-thirds of the end product manufacturers casting valid ballots in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured during the representative period by those voting in the referendum.

§ 1280.204 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided,* That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1280.205 Public notice.

Advance public notice of the referendum shall be provided by the Administrator (a) by utilizing, without advertising expense, available media of public information (including, but not limited to press and radio facilities) to announce the dates for registration and voting, eligibility requirements and other pertinent information, and (b) by such other means as the Administrator may deem advisable.

§ 1280.206 Eligibility.

(a) *Eligible End Product Manufacturer.* Each end product manufacturer who, during the representative period, used at least 2000 hundredweight of processed wheat in the manufacture of end products which are subject to assessment, and who is not subject to exemption from payment of assessments as a retail baker, is entitled to register and to cast one vote in the referendum. Related companies or divisions of the same company as defined in the order shall not be entitled to cast individual ballots in the referendum.

(b) *Proxy Registration and Voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate end product manufacturer, or any guardian, administrator, executor, or trustee of the estate of an end product manufacturer, or an authorized representative of any end product manufacturing entity other than an individual proprietor, such as a corporation or partnership may register and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any end product manufacturing entity shall certify that the individual is authorized by such entity to take such action.

§ 1280.207 Registration.

(a) *Registration Procedure.* The referendum agent will mail registration forms and instructions and, except in the case of a referendum on the termination or continuance of an order, a summary of the terms and conditions of the order to each eligible end product manufacturer whose name and address are known to the referendum agent. To register each end product manufacturer must complete the registration form and mail it to the referendum agent during the registration period. A registration form shall be considered received during the registration period if it was postmarked not later than midnight on the final day of the registration period and was received by the referendum agent prior to the close of business on the fourth day after the close of the registration period. At the time of registration each end product manufacturer shall certify to the referendum agent, in the manner prescribed, the amount of processed wheat contained in the end products manufactured by such end product manufacturer during the representative period: *Provided,* That no person who claims to be eligible to register shall be refused a registration form.

(b) *List of Registered End Product Manufacturers.* The referendum agent shall determine which end product manufacturers are eligible to vote in the referendum and publish the list of eligible voters. The list shall include all persons who submitted a valid registration form in a timely manner.

§ 1280.208 Voting.

Voting instructions and ballots shall be mailed by the referendum agent to eligible end product manufacturers who have registered with the agent: *Provided,* That no person who claims to be qualified to vote shall be refused a ballot. Ballots will not be provided or accepted prior to the voting period. Each registered end product manufacturer shall cast his or her ballot on the form provided for that purpose by mailing it to the referendum agent during the voting period.

A ballot shall be considered to have been received during the voting period if it was postmarked not later than midnight on the final day of the voting period and was received by the referendum agent prior to the close of business on the fourth day after the close of the voting period. The ballot shall be marked to indicate "yes" or "no" and must be signed by the end product manufacturer. Ballots received by the referendum agent shall be kept in the agent's custody or secured at all times until they are disposed of pursuant to section 1280.212.

§ 1280.209 Challenge of eligibility.

(a) *Who May Challenge.* A person's eligibility to register and vote may be challenged by any person. The referendum agent shall review all registrations and promptly challenge any registrant who appears to be ineligible. Any challenge of a person's eligibility to register and vote must be made prior to the end of the voting period.

(b) *Determination of Challenges.* Any person whose eligibility to register and to vote has been challenged must prove to the satisfaction of the referendum agent that he or she was an eligible end product manufacturer during the representative period. Records such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is a qualified end product manufacturer. The referendum agent shall make a determination concerning the eligibility of an end product manufacturer who has been challenged as soon as practicable, and in all cases before the opening of the ballots.

(c) *Challenged Ballot.* A person whose eligibility to register or to vote has been challenged but not resolved by the referendum agent, if an appeal, may be allowed to cast a ballot, but such ballot shall be considered a challenged ballot for the purpose of the referendum until a resolution of the challenge has been made. A challenged ballot shall be determined to have been resolved if no appeal is taken from the determination of the referendum agent within the time allowed for appeal or there has been a determination by the Administrator after appeal.

(d) *Appeal.* Appeal from a decision by the referendum agent on the eligibility of a person to register or vote must be made to the Administrator within three business days after notification of such decision. An appeal shall be determined by the Administrator as soon as practicable, but in all cases not later than 5 days after the opening of the ballots.

§ 1280.210 Canvassing ballots.

(a) *Counting the Ballots.* As soon as possile after the start of business on the fifth day after the close of the voting period, the referendum agent shall open and count the ballots. The ballots shall be tabulated as follows: (1) number of eligible end product manufacturers casting valid ballots, (2) number of end product manufacturers favoring the order, (3) number of end product manufacturers not favoring the order, (4) the amount of processed wheat contained in the end products manufactured by end product manufacturers in each of the preceding three categories, (5) the number of challenged ballots deemed invalid, and (6) the number of spoiled ballots.

(b) *Spoiled Ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, mutilated, or marked in such a way that it cannot be determined whether the ballot is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this Subpart or as the Secretary may direct. The public may witness the opening of the ballots and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1280.211 Results of the referendum.

(a) The Administrator shall prepare and submit to the Secretary or the Secretary's designee a report of the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given and other information pertinent to analysis of the referendum and its results. The official results of the referendum shall be published in the **Federal Register.**

Summaries and related papers shall be available for public inspection in the office of the Director, Livestock, Poultry, Grain and Seed Division, AMS, U.S. Department of Agriculture, Room 2631 South Building, Washington, D.C.

(B) If the Administrator or the Secretary deems it necessary, the report of the results of the referendum shall be reexamined and checked by such persons as may be designated by the Administrator or the Secretary.

§ 1280.212 Disposition of ballots and records.

The referendum agent shall place the registration forms, list of registrants, eligible voter lists, voted ballots, challenged registration forms and challenged ballots found to be ineligible, spoiled ballots, and summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the

referendum agent for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Administrator by the end of such time, the records shall be destroyed.

§ 1280.213 Suspension and termination of order.

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of end product manufacturers subject to the Order, to determine whether such manufacturers favor the termination or suspension of the Order, and the Secretary shall suspend or terminate such Order within six months after the Secretary determines that suspension or termination of the Order is approved or favored by a majority of end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 percent of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§ 1280.214 Instructions and forms.

The Admininistrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this Subpart to govern the conduct of the referendum.

Signed at Washington, D.C., on September 4, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-27962 Filed 9-6-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 233 and 302]

[EDR-387/PDR-68, Economic Regulations Procedural Regulations Docket: 36497, dated August 31, 1979]

Transportation of Mail and Establishment of Mail Rates and Rules Applicable to Mail Rate Proceedings; Establishing Service Mail Rate Zones for Interstate, Overseas and Foreign Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is considering prescribes interstate, overseas and foreign service mail rates under section 406 of the Federal Aviation Act. The CAB proposes to end its present practice of prescribing fixed service mail rates, and in its place to establish zones for each category of mail, within which all rates would be deemed to be fair and reasonable. Each zone would be defined by maximum and minimum rates prescribed by the Board, and air carriers would be free to contract with the Postal Service for the carriage of mail at any price within the zone.

DATES: Comments by: October 22, 1979; Reply Comments by: November 6, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: September 17, 1979

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Comments should be sent to Docket 36497, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark S. Kahan, Assistant Director, Fares, Rates, and Tariffs, Bureau of Domestic Aviation, or Lawrence Myers, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202/673-5858; 673-5791.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is considering modifying the procedures by which it regulates interstate, overseas, and foreign service mail rates[1] pursuant to section 406 of the Federal Aviation Act. 49 U.S.C. § 1376. At present the Board prescribes precise rates based on a two-element formula—a linehaul charge per ton-mile and a terminal charge per-pound—for each of several categories of mail service.[2]

Our current methodology is designed to reflect industry average costs for the domestic trunks and all-cargo carriers, and yields uniform rates which apply across the board to all mail markets, irrespective of the differences in the economic characteristics of these markets. In the most recently decided cases, we have expressed the view that these particular fully allocated cost methodologies generally tend to overstate the true economic cost of carrying mail, a service which is frequently performed as a byproduct of passenger services. See, *e.g.*, Order 78-12-159, pp. 34-35, 52.

We propose to stop prescribing mail rates in this way, and instead to establish, for each category of mail, rate zones which would operate similarly to the passenger fare zones established by the Airline Deregulation Act of 1978, § 1002(d)(4) of the Federal Aviation Act, as amended, 49 U.S.C. § 1482(d)(4), and by the Board in PS-80, 43 FR 39522 (September 5, 1978). Each zone would be defined by a maximum and a minimum rate prescribed by the Board, and within the zone all rates would be deemed to be fair and reasonable. The Postal Service and the air carriers would be free to contract for the carriage of mail at any price within each zone without action by the Board.

Under the Airline Deregulation Act of 1978, the Board's postal ratemaking function will terminate on January 1, 1985, and the Postal Service will assume full authority to contract for interstate and overseas airmail transportation. 49 U.S.C. § 1551(b)(1)(D). By acting now to replace fixed service mail rates with a range, we will ease the transition to the more competitive system contemplated by the Deregulation Act, by permitting economic forces to move service mail rates toward the actual costs involved without the need for substantial regulatory intervention. In addition, the Board in its recent rate investigations has stated an intention to improve its ratemaking procedure by estimating what mail costs would be under competitive conditions, instead of allocating joint and common costs using traditional accounting techniques. *See* Order 78-11-80. Our proposal would hasten the realization of the price and service improvements we are seeking in this effort.

[1] Interstate, overseas, and foreign service mail rates include, respectively, the rates of compensation established for the carriage of mail by aircraft, in commerce between, (a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same Territory or possession of the United States, or the District of Columbia; (b) a place in any State of the United States, or the District of Columbia; and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States; (c) a place in the United States and any place outside thereof; whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation. Service mail rates between points within Alaska and within Hawaii are also established by the Board under the Act. *See* sections 101(24) and 105(b)(1), 49 U.S.C. § 1301(24)

[2] In the domestic formula, for example, recently established by Order 78-11-80, distance-related capacity costs are recovered through the line-haul element, while departure-related capacity costs and noncapacity costs are recovered through the terminal charge. Costs were assigned to mail service based on the allocation methods adopted in that proceeding. Order 78-11-80, *Priority and Non-priority Domestic Service Mail Rates Investigation* (November 16, 1978); see also, Order 78-12-159, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation* (December 21, 1978). A single-element formula is applied in Alaska and Hawaii, traditionally separate ratemaking entities. In addition, mail rates within Alaska are

Interstate and Overseas Service Mail Rates

At present, the Board establishes the major domestic and international service mail rates through the hearing procedures prescribed by Part 302 of the Board's Procedural Regulations.[3] The prescription of fixed mail rates using quasi-judicial procedures is by its nature a grossly inefficient process which wastes Board resources, engenders lengthy litigation, and produces rate adjustments with far less facility than would a system which minimized regulatory intervention between the Postal Service and the air carriers. The existing ratemaking process involves petitions, answers, a Board finding to initiate the investigation, prehearing conferences to fix the issues and scope of the investigation, the preparation of direct and rebuttal exhibits by all the parties, a hearing before an administrative law judge (ALJ), briefs to the ALJ by all parties, the ALJ's Initial or Recomended Decision, party exceptions to the ALJ's findings and conclusions, requests for Board review (which are usually granted), briefs to the Board by all parties, the parties' oral arguments before the Board's decision, petitions for reconsideration, and the Board's decision on reconsideration. Efforts by Administrative Law Judges and Board staff in recent rate investigations to obtain stipulations of fact, to minimize redundant carrier participation, and to encourage informally negotiated agreements have been largely unsuccessful, and have had no significant success in shortening the duration of the litigation. It took the Board eight years to complete the two phases of the *Priority and Nonpriority Domestic Service Mail Rates Investigation* decided last year.[4]

We think the explanation for the length of time involved lies in three characteristics of the present process: (a) the analytical difficulty of determining a single correct rate for each category of mail service, or mail service as a whole, provided in combination with passenger and cargo service; (b) the byproduct character of most mail service combined with rates based on fully allocated cost, which means that mail revenues make a disproportionate contribution to profit on most flights, thus exaggerating the financial significance to carriers of even relatively minor adjustments in mail rates; and (c) uniform rates for carriers and flights with differing marginal costs of mail carriage. While we have for the future determined to use a formula updating techniques coupled with a semi-annual establishment of final future rates by show-cause order, *see* Order 78-11-80, pp. 25-31, this process still involves fixing uniform rates for carriers with different marginal costs and does nothing to reduce the incentive for air carriers and the Postal Service to litigate each rate adjustment.

The new approach we are considering, which relies more on competition than on regulatory involvement to produce service mail rates, would improve the administration of the mail rate process. The annals of the Board's mail ratemaking proceedings demonstrate how unwieldy these proceedings have become, despite their reliance on costing techniques less refined than we would prefer to employ if we are to regulate mail rates effectively. Our recent decisions in these cases make plain our intent to rely heavily on micro-economic principles and the dictates of efficient pricing in any rate decision that will in the future be required from us. Orders 78-11-80 and 79-7-18; Orders 78-12-159 and 79-7-17. Other regulatory agencies are now struggling with varying degrees of success to answer the many difficult questions of theory and detail, such as the relevant time periods for consideration and the treatment of common and joint costs, which attend such inquiries. It would be difficult and costly for the Board to solve all such problems before the sunset of our jurisdiction over service mail rates. However, by devoting the Board's resources to maximizing competition, we minimize our need for complex proceedings. And, by moving toward ratesetting by the market within limits prescribed by the Board, we will ease the transition to an era where our rate-setting authority ends. In the process, the Postal Service with experience which will be valuable to both in establishing fair and efficient mail transportation transactions when the Board is no longer able to serve as "referee" to their conflicts.

Not only are existing mail ratemaking procedures administratively undesirable, but they also are antiquated when examined in the light of the purposes for which they were designed and the interests they purport to serve. Historically, the Board's service mail ratemaking function arose from three facts: (1) the early dependence of the air transport industry on postal revenues, as opposed to passenger and freight revenues, to finance its growth and development; (2) the relationship between postal contracts and route authority during this same period; and (3) the existence of incentives prior to the enactment of the Civil Aeronautics Act of 1938 which encouraged carriers to enter below cost bids for the carriage of mail. None of these conditions exist today.

A review of the history of postal rate regulation illustrates these developments. During the period 1918-1925, passenger traffic, which now covers most of the costs of mail carriage, was virtually nonexistent. Under such conditions, only a government-supported system could provide air mail service, and, until 1925, the Post Office itself provided the service.

In 1925 the Post Office Department first sought air mail bids from private contractors, pursuant to the Air Mail Act of 1925, ch. 128, 43 Stat. 805. However, because passenger traffic and commercial aircraft technology were still at early states of development, there was virtually no prospect of profitability for individual carriers without government subsidy. An amendment the following year initiated a subsidy system, Act of June 3, 1926, ch. 460, 44 Stat. 692, but low volume and high costs outweighed the subsidy benefit.

In 1928, further amendment of the Air Mail Act greatly increased the level of subsidy. Act of May 17, 1928, ch. 603, 45 Stat. 594. In addition, it substantially reduced the air mail postage rate (cutting it in half), thereby inducing a large increase in volume. Because this volume could be carried under available capacity there was virtually no additional cost to the carriers. More importantly, however, the 1928 amendment provided carriers with exclusive rights to carry mail over particular routes, thereby altering substantially the nature of postal ratemaking. In exchange for the

[3] 14 CFR § 302.300 *et seq.* Postal rates for intra-Alaska and intra-Hawaii services are generally determined through less complex informal procedures pursuant to Part 302. Other miscellaneous services, such as those provided by commuter air taxi operators, are directly contracted for by the U.S. Postal Service under the authority of the Postal Reorganization Act, 39 U.S.C. § 3402. This rulemaking does include both intra-Alaska and intra-Hawaii services.

[4] The Board instituted the investigation by Order 70-12-48 (December 8, 1970), and established final service mail rates in Order 78-11-80 (November 16,

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cancelled. The rates contained in these contracts served as ceilings for maximum compensation, with the actual rates to be determined through negotiations with Post Office Department. However, the rapidly improving technological and economic picture made the existence of such a ceiling of little consequence.

In 1930, Congress enacted the Watres Act. Act of April 29, 1930, ch. 223, 46 Stat. 259, which again changed the subsidy and ratemaking components of air mail carriage. As before, compensation was to be determined by competitive bidding. The Post Office would continue to award route certificates, and would also fix rates on an annual basis after the conclusion of the initial contract period. The rates of compensation, however, were based on available capacity for mail carriage rather than the percentage of capacity actually utilized. This served to increase greatly the potential profitability of mail carriage operations. However, between 1930 and 1934 the focus of government regulation shifted from air mail carriage to developing an overall system or air transportation in the United States. The cost of this new program to expand passenger services was supported by the mail rates paid by the Post Office.

Concern over irregularities in the awarding of route certificates led to the Air Mail Act of 1934. Air Mail Act of 1934, ch. 466, 48 Stat. 933. This legislation once again provided for competitive bidding. After the initial contract period, however, the ratemaking authority was removed from the Post Office Department and placed in the Interstate Commerce Commission, which was given the authority to determine "fair and reasonable" levels of compensation.

This brought about numerous difficulties. Because contracts could be extended indefinitely, they became *de facto* route awards. It became advantageous for carriers to present absurdly low bids in order to obtain an initial contract, which could later be adjusted upward by the ICC.

In 1938, Congress sought to eliminate this system, which it felt had led to destructive competition caused by below cost pricing. The 1938 Civil Aeronautics Act ch. 601, 52 Stat. 973, transferred the air mail ratemaking function to the CAB. In addition, it eliminated the Post Office's ability to make *de facto* route awards through the contract system. The 1938 Act required the CAB to issue certificates based upon "the public convenience and necessity," and only such certificated carriers would be permitted to carry mail. It also authorized the CAB to fix the rates of mail carriage compensation. These rates were to take into account not only the cost of mail carriage, but also the need to "insure the performance of such service and . . . to maintain and continue the development of air transportation . . ."

With development of passenger markets following World War II, mail revenues steadily diminished in their importance to air carriers. While some airlines—notably the local service carriers—were thought to be still in need of subsidy, the airline industry generally was recognized to have attained sufficient maturity to be able to survive without direct government payments to individual carriers except on an *ad hoc* basis.

In 1953 the payment of subsidy based on carrier need was separated by administrative order from payments for the carriage of mail. Reorganization Plan No. 10 (1953). The Federal Aviation Act of 1958, 49 U.S.C. § 1376, amended section 406 to recognize this separation of functions. Service rates and subsidy rates have been determined separately by the CAB for over 25 years, and service mail rates are intended only to compensate the carriers for the carriage of mail.

Commercial air transportation today is reliant on passenger rather then mail revenues for its survival. The industry's mail service revenues account for less than two percent of operating revenues, *see* Appendix A, and the carriers no longer require non-competitive service mail rate protection to insure performance and continued development. We think that Board intervention in mail rates is unncessary to prevent below cost biddding on mail contracts or to otherwise insure either the viability of air carriers or the delivery of the mail. We recently concluded, after reviewing the record in the eight-year *Priority and Nonpriority Domestic Service Mail Rates Investigation*, that "the carriage of mail is . . . apparently a minor by-product of passenger service." Order 78–11–80. p. 23. Contemporary airline schedules are determined by passenger markets. Mail is generally carried in "unused space in combination aircraft bellies (which) is produced as the pure by-product of passenger service." Order 78–11–80, p. 16. Today, no trunk or local service carrier is dependent for its survival on the contribution made by mail revenues to its gross revenues. *See* Appendix A. Under these conditions, there is no basis for concern that a reduction of regulatory intervention in the determination of mail rates would lead to uneconomic bidding or inadequate mail service a fact which Congress recognized in the Airline Deregulation Act of 1978, when it provided that the Postal Service shall determine interstate and overseas service mail rates directly after January 1, 1985, either through negotiation or competitive bidding. See 49 U.S.C. 1551(b)(1)(D).

Our existing mail ratemaking process is an artifact of history which produces needless delay and expense and now presents a barrier to an effective transition to a deregulated mail contracting system. Moreover, it prevents the Postal Service—and the public—from benefiting from air carrier competition for postal business. Competition could produce lower rates, better timed schedules, increased mail volume, novel forms of service, and assured capacity. In prescribing domestic service mail rates last year, we observed: "We are more than a little troubled by the possibility that the rates we set here are too high from the standpoint of efficient pricing, given the extent of excess capacity in aircraft bellies apparent on this record. For the future, we intend to explore procedural and analytical methods which will facilitate the establishment of mail rates on a marginal cost basis, where reasonable, either through regulatory proceedings or through the operation of the competitive market place itself." Order 78–11–80, p. 23.

Not only do the rates set by the Board apparently fail to reflect accurately the incremental costs of mail carriage on flights scheduled to attract passengers and freight; they are also insufficiently flexible to reflect the cost of particular operations tailored to the needs of the Postal Service. The Postal Service has repeatedly stated that it wishes to deal with air carriers on a customer-supplier basis, [5] and has consistently asked Congress to expand its contracting authority. *See* testimony of the Postal Service in the Postal Modernization hearing. *supra* at 385–403; Postal Oversight hearings before the S. Comm. on Post Office and Civil Service, 93rd Cong., 1st Sess., Pt. 5 at 142–143 (1973).

The Postal Service has, moreover, testified that the carriage of mail at firm contract rates determined in advance would allow better planning by both the Postal Service and the airlines, and

[5] *See, e.g.*, Postal Modernization hearings before the S. Comm. on Post Office and Civil Service, 91st Cong., 1st & 2nd Sess., pt. 1, 385–403 (1969—70). Postmaster General Bount testified: "We believe that certificated carriers should be permitted to compete for mail traffic, just as they compete vigorously for freight, in a given market . . . We simply do not see why mail should be treated as a special category of traffic to be specifically deprived of the normal economic influences in the market place." *Id* at 391–392.

would greatly reduce the costs of uncertainty imposed by the present system. Postal oversight hearings, *supra* at 142. We are undertaking this proceeding in part to assit the Postal Service and the public, consistent with our statutory obligations, to obtain the benefits of price and service competition for the carriage of mail.

The fact that Congress in 1970 and 1973 rejected requests by the Postal Service for increased contracting authority does not, in our view, suggest that it is the intent of Congress that we continue to prescribe fixed mail rates under section 406. That section is broadly written and, like most ratemaking statutes, need not be construed in an inflexible manner which fails to take note of the changing context of the industries affected and the basic goals which the agency has been enjoined to foster. See, *Permian Basin Area Rate .Cases*, 390 U.S. 747 (1968). Moreover, Congress has directed in the Airline Deregulation Act that domestic service mail rates be established by either negotiation or competitive bidding beginning January 1, 1985. Thus Congress has determined that there is no reason in principal that fixed service mail rates must be set domestically by a regulatory body. Rather, Congress established a period of transition leading to the determination of these rates by competitive bidding or negotiation.

In addition, Congress has endorsed Board efforts to achieve a transition to a more competitive market place in aviation generally. H. R. Rep, No. 95–1779, 95th Cong., 2d Sess. 56 (1978) Conference report accompanying the Airline Deregulation Act of 1978, including Board policies favoring multiple permissive entry and the use of a presumtively suspend-free zone for passenger fares. § 1002(d)(4) of the Federal Aviation Act, as amended, 49 U.S.C. § 148(d)(4). The options we are considering here represent similar transitional initiatives intended to minimize the disruption to organized processes which might result from the abrupt termination of a regulatory regime. Finally, it should be noted that the Board opposed past efforts of the Postal Service to persuade Congress to increase its contracting authority. *See* testimony of the C.A.B., Postal Modernization hearings, *supra* at 411–413. Congressional action consistent with the Board's position on a matter by law subject to the Board's jurisdiction can hardly serve to predict what the Congressional attitude might be on the same question if the Board's position were reversed.

At the same time, we do not perceive the existing statutory scheme for the establishment of mail rates to be incompatible with the zone concept which we are proposing here. Since the mail ratemaking sections of section 406 were divorced from the section 406 subsidy function by Reorganization Plan No. 10 and the 1958 amendment of section 406, 49 U.S.C. § 1376(c), those sections have operated in the typical fashion of statutes governing public utility ratemaking activities. Section 406 directs the Board "to fix and determine from time to time, after notice and hearing, the fair and reasonable rates of compensation for the transportation of mail by aircraft . . ." Using virtually the same terms, section 5(a) of the Natural Gas Act of 1938, 15 U.S.C. § 717 *et seq.*, directed the Federal Power Commission to "determine the just and reasonable rate" to be observed in the interstate sale of natural gas. In *FPC* v. *Natural Gas Pipeline Co.*, 315 U.S 575 (1942), the Supreme Court "emphasized that courts are without authority to set aside any rate adopted by the Commission which is within a zone of reasonableness." *In Re Permian Basin Area Rate Cases*, 390 U.S. 747, 796 (1968). The Court defined the "lowest reasonable rate"as "one which is not confiscatory in the constitutional sense." *Id.* at 585. Then, taking as its premise the existence of a"a zone of reasonableness within which the Commission is free to fix a rate varying in amount and higher than a confiscatory rate, see *Banton* v. *Belt Line Ry. Corp.* 268 U.S. 413, 422, 423; *Columbia Gas Co.* v. *Commission*, 292 U.S. 398, 414; *Denver Stockyard Co.* v. *United States*, *supra*, 483, "it found that the Commission was "free under § 5 to decrease any rate which is not the 'lowest reasonable rate'." *Id.* at 585–86. Within the zone of reasonableness, the Commission may "employ price functionally in order to achieve relevant regulatory purposes." *Permian Basin Area Rate Cases*, *supra* at 796. Permian Basin summarized these standards by stating that a court reviewing a Commission rulemaking order is limited to determining whether the order (1) exceeds the Commission's regulatory authority, (2) is supported by substantial evidence, and (3) demonstrates that the Commission has given "reasoned consideration" to whether the rate structure will maintain financial integrity, attract necessary capital, compensate investors fairly, and protect public interests. *Id.* at 791–792.

We tentatively conclude that a regulatory agency operating under a ratemaking statute such as § 5(a) of the Natural Gas Act of 1938, as we do in determining service mail rates, is free to employ a zone of reasonableness, instead of determining fixed rates, if it meets these standards. Our use of a zone of reasonableness seeks to accomplish regulatory purposes of importance to our statutory responsibilities in airmail transportation: reduction of administration expense and delay, achievement of a smooth transition to a deregulated mail ratemaking system, and assistance of the Postal Service in improving the efficiency of airmial transportation. The boundaries of each zone are based on evidence accumulated in our recently completed domestic and international service mail rates investigations. In each case, the bottom of the zone is not confiscatory, because carriers will be obligated to transport mail only at the highest rate within the zone, and we have found the ceiling rate for each zone, after lengthy proceedings, to be fair and reasonable. Moreover, we find support for our proposal in our general rulemaking authority under section 204 of the Act. As the Supreme Court has recently held in a case involving similar statutory provisions under the Communications Act:

> * * * It is now well established that this general rulemaking authority supplies a statutory basis for the Commission to enact regulations codifying its view of the public interest standard, so long as that view is based on consideration of permissible factors and is otherwise reasonable. *F.C.C.* v. *National Citizens Committee for Broadcasting*. 436 U.S. 775, 793 (1978).

Next we turn to the question whether the Postal Service has the legal authority to contract with carriers for the carriage of mail at rates within a Board-defined zone. We have tentatively concluded that the Postal Service possesses the necessary authority, after analysis of two sections of the Postal Reorganization Act, 39 U.S.C. § 101 *et seq.*, which bear on this question.

An initial question is raised by 39 U.S.C. § 101(f), which states in part that it shall be the policy of the Postal Service, to "make a fair and equitable division of mail business to carriers providing similar modes of transportation to the Postal Service." Does this require the Postal Service to give all carriers on a route equal amounts of mail business, irrespective of differences in the price at which the carriers are willing to transport mail? We think not, as long as the carriers concerned are all given a fair opportunity to obtain postal contracts. In our tentative view, a division of mail

business on the basis of price would be "fair and equitable" within the meaning of this section if all "carriers providing similar modes of transportation" are provided an opportunity to compete for business on the same basis. A Congressional intent to construe § 101(f) in this way is evidenced by the fact that Congress left this provision intact in enacting the Airline Deregulation Act, thus indicating that it is to be construed in a manner which is consistent with mail contracting based on competitive bidding. 2A C. Sands, Sutherland Statutory Construction § 51.02 (4th ed. 1973). Indeed, because of the inefficiency which would result from a policy of equal division, a contrary interpretation of § 101(f) would be inconsistent with the additional directive in § 101(f) that "In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economically delivery of all mail." In our tentative view, § 101(f) cannot be read to bar the Postal Service from contracting for airmail carriage at rates within a Board-established zone.

A second issue arises from 39 U.S.C. §§ 5401–02, which on its face, may appear to place an absolute limit on the contracting authority of the Postal Service.[6] Our tentative reading of this provision is that it instead represents an exception to the general rule that Postal Service contracting activities must take place at rates set by the Board. Section 405 of the Federal Aviation Act restricts the actions the Postmaster General may take in arranging airmail transportation to actions which are "not inconsistent with the provisions of this Act, or any order, rule, or regulation made by the Board thereunder. . . " Since the Board has historically set mail rates at uniform fixed levels by order, the Postal Service has been prohibited by section 405 from entering into contracts at other prices. In order to do so, it was necessary for the Postal Service to obtain legislation—as in the case of 39 U.S.C. 540102—or Board exemption.[7] Wih our adoption of a rule establishing a postal rate zone, however, the Postal Service would be able to contract for mail carriage at any rate within the zone consistent with section 405, and there will be no need for an independent statutory basis for contracting with certificated carriers, as is currently provided by 39 U.S. § 5402 on a limited basis.

The fact that Congress did not alter this §§ 5401–02 when it mandated an end in Board ratemaking after 1985 in the Airline Deregulation Act supports our conclusion. Surely, if USPS may contract directly for mail carriage after 1985 despite these provisions, it may do so under Board supervision. These provisions should, therefore, be construed as limiting the extent to which the Postal Service can contract without Board authority, rather than as imposing an absolute limit, since an absolute limit would render the provisions of the ADA unworkable.[8]

Foreign Service Mail Rates

The considerations which have led us to examine the possibility of reforming the procedures by which we determine interstate and overseas service mail rates apply equally to the procedures by which we prescribe foreign service mail rates. First, both domestic and international ratemaking investigations are governed by the same procedural rules (14 CFR 300.300 *et seq.*) and involve delays of similar magnitude. The *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation,* Docket 26487, completed last year, occupied the Board for almost five years.[9] In addition, the regulation of domestic and international service mail rates developed for the same historical reasons. The changes in air transportation since 1938 which have led us to question the continued justification for the Board's mail ratemaking posture domestically have similarly cast doubt upon the continued validity of the historical premises of the Board's prescription of fixed foreign service mail rates. Finally, the argument that competition will produce price and service benefits applies internationally as well as domestically.

The fact that the Fair Competitive Practices Act of 1974 (FCPA) [10] must be considered in the determination of international but not domestic mail rates does not, in our tentative view, preclude the use of a zone for international rates. In a recent analysis of the effect of the FCPA on our ratemaking function, we concluded that while this Act introduces three new elements into international mail rate investigations, "the FCPA should be construed as leaving the Board with the discretion, if not the obligation, to reject . . . ratemaking elements to the extent that such elements would produce international mail rates above the carrier's cost as reasonably determined by the Board under the traditional 'fair and reasonable' standard." Order 78–12–159, p. 10. The three elements which the FCPA requires us to consider in addition to information about the U.S. carriers' costs—the rates of the Universal Postal Union, the ratemaking elements employed by the UPU, and any competitive disadvantage to U.S. carriers caused by the receipt of UPU rates by foreign air carriers—can be and have been taken into consideration in the establishment of a zone or zones for foreign service mail rates separate from the zone or zones for interstate and overseas rates.

Description of the Procedure Under Consideration

The procedural change under consideration entails our establishing for each class of mail a zone defined by a maximum rate and a minimum rate. Within these limits all service mail rates would be deemed to be fair and reasonable within the meaning of section 406 of the Federal Aviation Act. Since an important objective of the replacement of fixed rates with a zone of rates is the realization of rates reflecting the costs of providing the services involved, air carriers would be free to contract with the Postal Service for the carriage of mail at any rate

[6] Section 5401(b) states: "Except as otherwise provided in section 5402 of this title, the Postal Service may make such rules, regulations, and orders consistent with sections 1301–1642 of Title 49, or any order, rule, or regulation made by the Civil Aeronautics Board thereunder, as may be necessary" for the transportation of mail by aircraft. Section 5402 permits the Postal Service to contract with air taxi operators where service by certificated carriers is determined to be inadequate; with any air carrier where certificated service in nonexistent; and with any certificated carrier "for the transportation of at least 750 pounds of mail per flight, and no more than 10 percent of the domestic mail transported under any such contract or 5 percent, based on weight, of the international mail transported under any such contract shall consist of letter mail."

[7] Prior to the passage of § 5402, for example, the Board used its exemption power to permit air taxis to provide airmail service by contract where certificated service was unavailable.

[8] It is a basic principle of statutory construction that statutes *in pari materia* are to be construed harmoniously together:

> In terms of legislative intent, it is assumed that whenever the legislature enacts a provision it has in mind previous statutes relating to the same subject matter, wherefore it is held that in the absence of any express repeal or amendment therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together.
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> * * * *
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> Statutes *in pari materia*, although in apparent conflict, are so far as reasonably possible construed to be in harmony with each other. But if there is an irreconcilable conflict between the new provision and the prior statutes relating to the same subject matter, the new provision will control as it is the later expression of the legislature. 2A C. Sands, Sutherland Statutory Construction, § 51.02 (4th ed. 1973) [Footnotes omitted].

[9] The Board opened the investigation on March 8, 1974, by Order 74–3–40, and established final service mail rates on December 21, 1978, in Order 78–12–159.

[10] P.L. 93–623, 88 Stat. 2103. Section 4 of the FCPA added subsections (h)(2) and (h)(3) to section 406 of the Federal Aviation Act.

within the applicable zone. Such contracts need not be filed with the Board or embodied in tariffs.[11] In markets served by more than one carrier, we expect competition to be an important factor in determining the rates at which mail is transported.

Rates outside each zone should be subject to closer scrutiny and possible challenge to determine if the cost of providing mail service under particular circumstances is indeed above or below zone limits. In order to facilitate such a review, by both interested parties and by the Board, the proposed rule requires carriers to file with the Board all contracts for rates outside the zone. The filing and review procedure for such contracts tentatively is similar to that currently embodied in section 5402 of the Postal Reorganization Act, which provides that mail service contracts entered into between the Postmaster General and certificated air carriers under that section be filed with the Board not later than 90 days before the contract effective date, and that they shall become effective automatically "unless the Board shall determine otherwise" under the public interest criteria specified in section 102 of the Federal Aviation Act, not later than 10 days prior to the effective date. This is a relatively simple procedure which reconciles the need of the Postal Service for reasonable dispatch with the opportunity for the Board to exercise its underlying responsibilities under the Act. Of course, we will consider modifications to this procedure dictated by the expanded scope of the contracting freedom proposed by the new rule, such as changes in the period for advance filing. The criteria for Board review, with or without the filing of objections by interested parties, are those embodied in the "fair and reasonable" standard of section 406, and the policy considerations set forth in section 102 of the Act. Comments proposing that more specific, or additional, criteria be set forth in the rule should provide a detailed justification.

We tentatively intend to maintain the classification of types of mail service upon which current rates are based. For each class of mail, we propose to define the upper limit as the rate applicable to each class on the effective date of the rule.[12] We propose to fix the lower limit at slightly above the average variable cost of service, by entity and type of mail. This benchmark represents the point at which a rate becomes profitable and is accordingly a widely discussed benchmark of predatory pricing. See, *e.g.*, P. Areeda & D. Turner, Predatory Pricing and Related Practices Under Section 2 of the Sherman Act, 88 Harv. L. Rev. 697 (1975). These boundaries are derived from our consideration of the costs of mail service in our most recent rate investigations. In those investigations we determined the rates we propose to use as ceiling rates to be fair and reasonable in all markets, including single carrier markets. Thus we see no reason for concern that an air carrier in a monopoly market might harm the public through the exercise of market power in mail transportation. The calculations used to determine tentatively the lower limits may be found in Appendix B.

At the same time, we have sought to avoid the possibility that an air carrier might be required to transport mail at an uneconomic rate. The proposed rule provides that, in the event the Postmaster General requires an air carrier to carry mail, the rate of compensation shall be no lower than the ceiling rate of the applicable zone. Should the parties fail to reach agreement on a price at or above the ceiling rate, we are prepared to use our powers under Section 406 of the Act. We would expect such instances to be rare, however, and we will deal with them, if they arise, on a case-by-case basis.

Our power to make this determination derives from the same section of the Federal Aviation Act, 401(1), 49 U.S.C. § 1371(1), which gives the Postmaster General the authority to require the transportation of mail. That section provides that an air carrier required to carry the mail "shall be entitled to receive reasonable compensation therefor as hereinafter provided." While in some markets the applicable zone floor may in fact exceed the economic costs of mail carriage, we do not assume that this is true for all markets. To avoid the possibility that an air carrier might be offered only the floor rate while being required to transport mail in a market in which the costs exceeded the lower zone limit, we have tentatively determined that any rate of compensation which is below the applicable ceiling rate is unreasonable when offered to a carrier required to transport mail under section 401(1). This provision should work no hardship on the Postal Service, since in any non-monopoly market in which mail transportation costs are under the ceiling, the operation of the competitive market should permit the Postal Service to contract for mail carriage at a below-ceiling rate without reliance on section 401(*1*).

We propose to review and revise the limits of each zone periodically, using the updating techniques developed in the *Priority and Nonpriority Service Mail Rates Investigation,* Order 78–11–80, pp. 25–32, but relying procedurally on notice and comment rulemaking. Also, interested persons could petition us at any time to amend the existing rule. We are prepared to deem reasonable all rates within the zones because we cannot now conceive of persuasive grounds to disapprove a rate under section 406, agreed to by willing buyers and sellers, which falls between a reasonable calculation of average variable costs and fully allocated costs. We recognize that setting up the zones of reasonableness as presumptions, as we did in PS–80, would provide additional procedural opportunities to competing carriers to challenge low rates.[13] PS–80, however, did not involve willing buyers and sellers, and we think challenges by competitors to non-predatory low rates are properly discouraged. Parties who disagree with this tentative conclusion should furnish plausible hypothetical examples which demonstrate that rates within the zones we are setting could be unreasonable.

We think our use of notice and comment rulemaking procedure to establish zone boundaries now and in the future is both appropriate as a matter of policy and justified under the notice and hearing requirement of section 406(a). We are developing and propose to apply a procedure not to adjudicate disputed facts in particular cases but rather to promulgate policy-type standards of industry-wide application. For this reason we think that it makes more sense to employ notice and comment rulemaking procedure than quasi-judicial procedure. The question whether notice and comment rulemaking procedure satisfies a notice and hearing ratemaking requirement under these circumstances has been repeatedly answered in the affirmative on judicial review. *United*

[11] Part 291 of the Board's Economic Regulations, 14 CFR § 291.31, currently exempts carriers from filing tariffs for "domestic cargo transportation," which includes mail, except within Alaska and Hawaii. The proposed rule would make it clear, by exemption, that tariffs need not be filed for any mail services, either within or without the zones.

[12] A special case may be presented by intra-Alaska service regarding which rates have traditionally been established on a carrier-by-carrier basis. We tentatively propose to consider as the upper limit the rate applicable to each carrier, but invite comment on alternative approaches to the establishment of an upper limit or limits in this ratemaking entity.

[13] Carriers would be unlikely to challenge rates as too high since the more efficacious response in such a situation is to under-bid the offending carrier.

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States v. *Florida East Coast R. Co.*, 410 U.S. 224 (1973); *Phillips Petroleum Co.* v. *FPC*, 475 F. 2d 842 (10th Cir. 1973), cert. denied 414 U.S. 1146 (1974); *American Public Gas Association* v. *FPC*, 567 F. 2d 1016, 1064–67 (D.C. Cir. 1977); *Bell Telephone Co. of Pennsylvania* v. *FCC*, 503 F. 2d 1250 (3d Cir. 1974), cert. denied 422 U.S. 1026 (1975).

The Board requests comments on all issues raised by this notice of proposed rulemaking. It is incumbent on any party asserting that the calculations by which the zone limits have been determined are deficient to supply the alternative procedures and calculations which it would advocate be used if the Board finalizes the present type of proposal.

Accordingly, it is proposed that the following changes be made to chapter II, Title 14, Code of Federal Regulations:

1. A new Part 233 would be added to read as follow:

PART 233—TRANSPORTATION OF MAIL AND ESTABLISHMENT OF MAIL RATES

Sec.

233.1 Applicability and purpose.
233.2 Establishment of service mail rate classes and zones.
233.3 Exemption from requirements to file tariffs.
233.4 Minimum rate of compensation for carriers required to transport mail.
233.5 Domestic sack mail zone.
233.6 Domestic containerized mail zone.
233.7 International mail zone.

Authority: Secs. 204, 401, 403, 405, and 406 of the Federal Aviation act, as amended; 72 stat. 743, 754, 758, 760, 763, as amended; 49 U.S.C. 1324, 1371, 1373, 1375, 1376.

233.1 Applicability and purpose.

This part applies to air carriers engaging in the carriage of mail in interstate, overseas or foreign air transportation, including carriage wholly within Alaska or Hawaii, as defined in sections 101(24) and 105(b)(1) of the Act, 49 U.S.C. § 1301(24) and § 1305(b)(1). Its purpose is to increase flexibility in the exercise of the Board's service mail ratemaking functions under sections 401*(l)*, 405 and 406 of the Act, 49 U.S.C. § 1371*(l)*, § 1375 and § 1376, by establishing a zone of service rates, limited by a maximum and a minimum rate. Within this zone carriers and the Postal Service may contract for rates without the need for prior Board notification or approval.

233.2 Establishment of service mail rate classes and zones.

(a) The Board shall establish classes of mail where necessary and shall fix and determine for each class of mail a zone of service rates defined by a maximum rate and a minimum rate.

(b) All rates within each zone, including the zone limits, are deemed to be fair and reasonable.

(c) Mail service contracts at rates within the applicable zone are not required to be filed with the Board.

(d) An air carrier intending to transport mail under contract at a rate outside an applicable zone shall file the contract with the Board, including all applicable terms and conditions of service, at least 90 days before the transportation is to begin. The contract shall become effective unless the Board, under sections 102 and 406 of the Act, decides otherwise not later than 10 days prior to the effective date.

(e) Petitions to change the definitions of the class or zone shall be filed according to Subpart a of Part 302 of this chapter.

§ 233.3 Exemption from requirements to file tariffs.

Air carriers providing mail service under contract are exempted from section 403 of the Act and the Board's regulations thereunder to the extent that a requirement to file tariffs with the Board would be imposed with regard to such service.

§ 233.4 Minimum rate of compensation for carriers required to transport mail.

No air carrier shall be required by the Postmaster General to transport mail at a rate lower than the upper limit of the zone or zones applicable to the mail to be transported.

§ 233.5 Domestic sack mail zone.

The zones of reasonableness for sack mail in interstate and overseas transportation (including carriage wholly within Alaska or Hawaii) shall have as their upper limits the rates fixed periodically by applicable Board order, and, as their lower limits, levels equivalent to 50 percent of such rates.

§ 233.6 Domestic containerized mail zone.

The zones of reasonableness for containerized mail in interstate and overseas transportation (including carriage wholly within Alaska or Hawaii) shall have as their upper limits the rates fixed periodically by applicable Board order, and, as their lower limits, levels equivalent 20 percent of such rates.

§ 233.7 International Mail Zone.

The zones of reasonableness for foreign mail shall have as their upper limits the reates fixed periodically by applicable Board order; and, as their lower limits, levels equivalent to 30 percent of such rates.

PART 302 [Reserved]

2. Subpart C of Part 302, Code of Federal Regulations, Rules Applicable to Mail Rate Proceedings, 14 CFR § 302.300—321, would be revoked and reserved.

By the Civil Aeronautics Board,

Phyllis T. Kaylor,

Secretary.

Domestic Operations

Percentage of Mail Revenues to Total Revenues

[Year Ended Mar. 31, 1978]

	Mail revenues	Total operating revenues	Percent mail to total revenues
	(In millions of dollars)		
Trunk Carriers and Flying Tiger: [1]			
American	28,211	2,172,583	1.3
Braniff	13,042	639,721	2.0
Continental	7,805	669,735	1.2
Delta	31,065	1,923,037	1.6
Eastern	29,533	1,780,877	1.7
Flying Tiger	503	118,830	0.4
National	5,784	519,168	1.1
Northwest	19,330	795,714	2.4
Trans World	26,257	1,567,849	1.7
United	37,385	3,040,764	1.2
Western	11,003	680,840	1.6
Total	209,918	13,909,118	1.5
Local Service and Regional Carriers:			
Allegheny	17,722	515,425	3.4
Frontier	4,422	247,037	1.8
Hughes	2,667	265,697	1.0
North Central	778	238,847	0.3
Ozark	4,102	200,158	2.0
Piedmont	2,200	118,478	1.2
Southern	2,792	164,873	1.7
Texas Int'l	1,590	42,225	3.8
Air Midwest	5	4,387	0.1
Air New England	106	18,605	0.6
Total	36,385	1,885,732	1.9
Grand Total	247,303	15,794,850	1.6

[1] Excludes Pan American.

SOURCE: Air Carrier Financial Statistics March 1978, Expedited Issue

Summary of Costs Assigned to Mail—Calendar Year 1974

[In millions of dollars]

Domestic	Sack	PAL	Containers: Standard	Containers: Daylight
Total Economic Costs [1]	134,664	3,070	1,339	12,602
Labor and Support Exp. [2]	54,788	1,467	220	2,090
Ratio of Labor and Support Expense to Total Economic Costs	40.68%	47.79%	16.43%	16.58%

[1] Order 78–11–80, November 16, 1978, Appendix E, page 2.
[2] Order 78–11–80, November 16, 1978, Appendix E, page 5.

Summary of Costs Assigned to Mail—Calendar Year 1974

[In millions of dollars]

	Priority and MOM	SAM
Transatlantic:		
Total Economic Costs [1]	25,305	16,119
Noncapacity Costs [1]	5,074	4,623
Ratio of Noncapacity Costs to Total Economic Costs	20.05%	28.68%
Transpacific:		
Total Economic Costs [2]	23,977	20,317
Noncapacity Costs [2]	3,908	4,944
Ratio	16.30%	24.33%
Latin American:		
Total Economic Costs [3]	4,162	668
Noncapacity Costs [3]	1,037	180
Ratio	24.92%	26.95%

[1] Order 79–7–17, July 3, 1979, Appendix D–1.
[2] Order 79–7–17, July 3, 1979, Appendix D–2.
[3] Order 79–7–17, July 3, 1979, Appendix D–3.

[FR Doc. 79–27944 Filed 9–6–79; 8:45 am]

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[14 CFR Parts 207, 208, 212, and 214]

[EDR–243C; Docket 25563, Dated August 31, 1979]

Charter Contracts by U.S. and Foreign Air Carriers; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The Civil Aeronautics Board is terminating a rulemaking that would have prohibited both U.S. and foreign air carriers from entering into charter contracts except in accordance with currently effective tariffs on file with the Board. The basis of the rulemaking no longer exists, since charter tariffs have been eliminated.

DATED: August 31, 1979.

FOR FURTHER INFORMATION CONTRACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5442.

SUPPLEMENTARY INFORMATION: By EDR–243, 38 FR 10462, April 27, 1973, the Board proposed to prohibit U.S. and foreign air carriers from entering into charter contracts that varied from their currently effective tariffs on file with the Board, and from later filing tariffs that would have the effect of increasing the charter rates above those specified in such contracts. Recently, however, the Board exempted U.S. and foreign air carriers from having to file tariffs for their charter flights. See ER–1125, 44 FR 33056, June 8, 1979. The elimination of charter tariffs removes the basis for the proposal.

Accordingly, the Civil Aeronautics Board is terminating this rulemaking proceeding.

(Sec. 204, 401, 402, 407, 416, and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 757, 766, 771, 788, 49 U.S.C. 1324, 1371, 1372, 1377, 1386, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27943 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 271 and 274]

[Docket No. RM79–76]

High Cost Natural Gas Produced From Tight Formations; Proposed Rulemaking and Public Hearings

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking and public hearings

SUMMARY: The Commission is considering promulgating a regulation regarding non-associated natural gas produced from tight formations in order to promote production of such gas through use of incentive pricing. The proposed regulation establishes which gas will qualify for the incentive prices, the price to be charged for such gas, and the procedures for qualifying gas for the incentive price. The Commission intends to hold public hearings on this proposed rule in Washington, D.C. and Denver, Colorado.

DATES: Written comments on Docket No. RM79–76 to be received by October 15, 1979. Public hearings September 24, 1979 in Washington, D.C. and September 27, 1979 in Denver, Colorado at locations to be announced. Requests to participate in public hearings to be received in the Office of the Secretary no later than 7 days prior to the hearing.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Philip Yates, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4308–D, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8078.

OR

Wayne Thompson, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 6106–A, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–4562.

OR

Victor Zabel, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, Room 6100–C, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275–4568.

Issued: August 29, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations in order to implement sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 301, *et seq.*, (NGPA) as they relate to non-associated natural gas produced from tight formations. Sections 107(b) and 107(c)(5) of the NGPA allow the Commission to set "reasonable" incentive prices for natural gas "produced under such . . . conditions as the Commission determines to present extraordinary risks or costs."

for seeking a determination under Part 274 that gas is produced from a well which produces tight formation gas and the incentive price to be charged for such gas.

The Commission proposes to establish which natural gas produced from tight formations will qualify for the section 107 incentive price by specifying what formations or portions of formations should qualify as tight formations and establishing the criteria under which a particular well drilled into such formations will qualify for the section 107 incentive price.

different formations may require different techniques, the Commission proposes to determine the appropriate techniques for each particular designated tight formation. The Commission has tentatively identified certain specific tight formations in the proposed rule, but has not specified appropriate techniques for those tight formations. However, in addition to seeking comments on the tight formations listed in the proposed rule the Commission is also soliciting comments as to which techniques would be appropriate for increasing gas

reflects what the Staff currently believes may be examples of qualifying tight formations. The Commission is soliciting comments on the listed formations as well as the guidelines for identifying such formations. Those comments which suggest that a particular area not be included in the list must indicate which of the guidelines it fails to meet and support such allegations with the information required under § 271.705. Those comments which recommend that a listed formation or additional formations be included in the list must

Once the Commission has determined that the area into which a well has been drilled qualifies as a tight formation, the well must meet three additional criteria before gas produced from it may qualify for the incentive price: (1) The well must have been spudded on or after the date upon which this proposed rule was voted on by the Commission, i.e., August 17, 1979; (2) The well must qualify under Subpart C of Part 271 as a new, onshore production well; and (3) The well must have been subject to a technique which the Commission has identified as a

referenced to the price of crude oil rather than residual fuel oil because both this gas and crude oil are subject to additional costs of rough equivalence before they are delivered to the end user. However, the Commission is seeking comments on whether the price of tight formation gas should be indexed to the price of crude oil or residual fuel oil.

The world price of Saudi Arabian benchmark crude oil is $18.00 a barrel,[2] which is equivalent to $3.1035 per MMBtu.[3] The Commission proposes to

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I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations in order to implement sections 107(b) and 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 301, *et seq.*, (NGPA) as they relate to non-associated natural gas produced from tight formations. Sections 107(b) and 107(c)(5) of the NGPA allow the Commission to set "reasonable" incentive prices for natural gas "produced under such . . . conditions as the Commission determines to present extraordinary risks or costs."

"Tight formation" gas is non-associated natural gas produced from geological formations of low permeability. In order to produce natural gas in economical quantities from such formations, certain enhanced production techniques must be applied in order to create fractures to enhance the flow of gas. At present, only hydraulic fracturing and explosive fracturing have been proven to be commercially practical, although other techniques may be developed in the future.

A Notice of Inquiry was issued on June 13, 1979, in Docket No. RM79–44, requesting comments on sections 107(b) and 107(c)(5). Of the many comments that were received, only a few mentioned natural gas produced from tight formations. The Commission anticipates that many more comments on tight formations will be elicited by this notice of proposed rulemaking. However, Congress has already recognized that gas production from tight formations entails "extraordinary" costs within the meaning of section 107(c)(5). See Joint Explanatory Statement of the Committee on Conference, H.R. Rep. No. 95–1752, 95th Cong., 2d. Sess. 87 (1978). In addition, the President indicated in his recently announced energy program that production from tight formations is essential to meet the nation's energy needs. The Secretary of Energy, in a letter to the Commission dated July 21, 1979, also emphasized the need to expeditiously promulgate rules providing a reasonable incentive price for gas produced from tight formations. This regulation is now being proposed in response to that need.

II. Summary of the Proposed Rule

The regulation here proposed establishes which natural gas will qualify under section 107 because produced from a tight formation, which procedures the Commission will follow in determining whether a formation is a tight formation, the filing requirements for seeking a determination under Part 274 that gas is produced from a well which produces tight formation gas and the incentive price to be charged for such gas.

The Commission proposes to establish which natural gas produced from tight formations will qualify for the section 107 incentive price by specifying what formations or portions of formations should qualify as tight formations and establishing the criteria under which a particular well drilled into such formations will qualify for the section 107 incentive price.

The Commission is proposing to define tight formation gas based on the known or estimated characteristics of the particular formation or portion thereof from which the gas is produced and on certain easily ascertainable characteristics for the well rather than upon the well's specific producing characteristics. The Commission proposes to adopt this methodology because it would be difficult to define tight formation gas by exclusive reference to specific producing characteristics of a well and the burdens of such a requirement might operate to discourage drilling into tight formations. Were a production test to be adopted, testing would be required for each well and, because it is difficult to estimate *in situ* gas permeability based on core analysis, extensive and expensive pressure build-up analysis would be required to determine each well's true production characteristics.

Although many geological formations have been considered to be tight formations, most geologists agree that a majority of the geological indicia, such as permeability, porosity, net pay thickness, etc., vary widely from formation to formation and from area to area within the same formation. However, tight formations are generally characterized by low gas permeability, resulting in low rates of production which can be substantially increased through the use of enhanced recovery techniques such as fracturing. Therefore, the commission is proposing to consider as tight formations those formations or portions thereof which have low production rates due to low gas permeability and for which an appropriate tight formation enhanced recovery technique is available.

An appropriate technique is one which is expected to increase substantially the rate of natural gas production which could be achieved without use of the technique. Such a technique must also be substantially more expensive than those techniques used for a typical well which does not produce from a tight formation. Because different formations may require different techniques, the Commission proposes to determine the appropriate techniques for each particular designated tight formation. The Commission has tentatively identified certain specific tight formations in the proposed rule, but has not specified appropriate techniques for those tight formations. However, in addition to seeking comments on the tight formations listed in the proposed rule the Commission is also soliciting comments as to which techniques would be appropriate for increasing gas production from those formations.

The Commission seeks to establish an incentive price that will lead to the development of areas with low deliverability that would not be expected to be developed in the absence of an incentive price because of the high cost of production. In addition to proposing certain areas as tight formations the Commission is also proposing four general guidelines for qualifying an area as a "tight formation": (1) The formation or portion thereof must have an estimated average *in situ* gas permeability, throughout the pay section, of .03 millidarcies [1] or less; (2) A well drilled into the formation or portion thereof must be *expected* to produce, with no production stimulation, an average of 200 Mcf or less per day. (3) Production from such a well must be *expected* to be increased substantially after the completion of an appropriate technique; and (4) No field rules for development of the formation or portion thereof can have been established by or requested of a jurisdictional agency.

The Commission Staff has preliminarily identified the following formations all or portions of which may qualify under the guidelines:

Basin	Formation
Greater Green River	Fort Union. Almond A, or B, Erickson, Rock Springs/Blair, other Mesa Verde.
Piceance	Fort Union, Corcoran-Cozette, other Mesa Verde.
Uinta	Wasatch, Barren, Coaly, Castlegate.
Northern Great Plains and Williston	Judith River, Eagle, Carlisle, Greenhorn/Frontier.
Big Horn	Mesa Verde.
Douglas Creek Arch	Mancos, Dakota.
Sonora	Canyon.
Cotton Valley Sweet	Cotton Valley and Gilmer Lime.
Denver	Niobrara, Sussex, Dakota.
Ouachita	Stanley.
San Juan	Dakota.
Wind River	Frontier, Muddy.
East Texas	Bossier, Cotton Valley Sandstone, Haynesville, Smackover.

The list is neither exhaustive nor conclusive as to eligibility. It merely

[1] A "darcy" is a unit for measuring permeability.

reflects what the Staff currently believes may be examples of qualifying tight formations. The Commission is soliciting comments on the listed formations as well as the guidelines for identifying such formations. Those comments which suggest that a particular area not be included in the list must indicate which of the guidelines it fails to meet and support such allegations with the information required under § 271.705. Those comments which recommend that a listed formation or additional formations be included in the list must establish that the formation meets the guidelines based on the information required under § 271.705.

Section 271.705 requires that a recommendation include geographical and geological descriptions of the formation or portion of the formation which is recommended for classification as a tight formation; geological and engineering data to support the recommendation and the source of that data; the number and location of all wells which produce or have produced natural gas from the recommended tight formation; the types and extent of appropriate techniques which are expected to be necessary to increase production from a well producing from the recommended tight formation and the expenditures necessary for employing those techniques; the degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate; information indicating that no field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency; and any other information which the applicant deems relevant.

The Commission will look to the comments submitted on the proposed list of tight formations for evidence as to whether the formations currently proposed meet the guidelines for defining a tight formation set forth in § 271.703(b)(5) and will decide whether to include a formation in the list issued in the final rule based on those comments. The Commission also intends to provide an opportunity for comment on any formations which it may add to the list. The Commission anticipates that many recommendations will be submitted by jurisdictioinal agencies. Because it recognizes that such agencies are especially familiar with the geological and production characteristics of particular formations, the Commission will solicit and give special attention to any recommendations or comments from those agencies.

Once the Commission has determined that the area into which a well has been drilled qualifies as a tight formation, the well must meet three additional criteria before gas produced from it may qualify for the incentive price: (1) The well must have been spudded on or after the date upon which this proposed rule was voted on by the Commission, i.e., August 17, 1979; (2) The well must qualify under Subpart C of Part 271 as a new, onshore production well; and (3) The well must have been subject to a technique which the Commission has identified as a technique which requires extraordinary expenditures and which must be employed in order to increase substantially the production from that tight formation.

The Commission is proposing these three criteria in order to encourage additional gas production while avoiding the drilling of unnecessary wells. Thus, no well drilled into a reservoir which can be effectively and efficiently drained by an old well can qualify as a tight formation well under this proposed rule. In addition, the Commission believes that use of an appropriate technique should be a condition precedent for qualifying a well as a tight formation well, because the incentive price is intended to encourage producers to undertake the costs of employing such techniques.

The proposed regulation is intended to provide price certainty based on reasonable geological *expectations*. The designation of a tight formation will be based on geological evaluations founded upon the best information available. Once the Commission has designated an area as a tight formation, any well completed in the formation will qualify for the incentive price so long as the well itself meets the three additional criteria. The actual production figures of a well would be irrelevant. If fracturing does not substantially increase a qualifying well's production, that fact would also be irrelevant so long as the technique used has been designated by the Commission as an appropriate technique for the tight formation.

In addition to designating what gas will qualify under section 107(c)(5) of the NGPA, the Commission is also authorized under section 107(b) to set a "reasonable" incentive price for section 107(c)(5) gas. The Secretary of Energy has requested that the maximum lawful price for tight formation gas be related to the price of "deregulated oil" because the increased natural gas production will compete with refined oil products. The Commission believes that price comparability requires that the wellhead price for tight formation gas be referenced to the price of crude oil rather than residual fuel oil because both this gas and crude oil are subject to additional costs of rough equivalence before they are delivered to the end user. However, the Commission is seeking comments on whether the price of tight formation gas should be indexed to the price of crude oil or residual fuel oil.

The world price of Saudi Arabian benchmark crude oil is $18.00 a barrel,[2] which is equivalent to $3.1035 per MMBtu.[3] The Commission proposes to set the incentive price for section 107(c)(5) tight formation gas at 150 percent of the section 103 price ($2.079 [4] per MMBtu × 150% = 3.1185). Because the section 103 price includes an adjustment for inflation, the maximum lawful price for section 107(c)(5) tight formation gas will in all likelihood escalate over time. However, such escalations will be keyed to the monthly inflation adjustment factor prescribed by the NGPA rather than to increases in the world price for oil. The Commission believes that this pricing mechanism will provide sufficient price predictability and will keep the price for section 107(c)(5) tight formation gas even with inflation.

The Commission specifically invites comment on the issue of deregulation of section 107(c)(5) tight formation gas. The definition for tight formation wells incorporates the criteria for section 103 wells; thus tight formation wells are also section 103 wells. Under section 121 of the NGPA certain section 103 wells become deregulated in 1985, others in 1987. Section 101(b)(5) of the NGPA provides that, if gas qualifies for a maximum lawful price under more than one provision, "the provision which could result in the highest price shall be applicable." The Commission is soliciting comments as to whether section 101(b)(5) requires that tight formation wells become deregulated either in 1985 or 1987 if the *deregulated* price for section 103 gas will be higher than the regulated price for tight formation gas.

III. Public Procedure

A. Written Comments

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825

[2] This figure is based upon the latest figures supplied by the Department of Energy Weekly Petroleum Status Report, August 10, 1979.

[3] Using a conversion factor of 5.8.

[4] The August maximum lawful price for section 103 gas.

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North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–76. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, October 15, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

B. Public Hearings

Public hearings on this proposed rule will be held on September 27 in Denver, Colorado, and on September 24 at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. The exact locations will be announced prior to September 5, 1979, by notice published in the **Federal Register**. Interested persons may also obtain this information by calling the Office of the Secretary of the Commission.

Requests to participate in either of the hearings should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, no later than seven days prior to the hearing. Requests should reference Docket No. RM79–76, and should indicate in which hearing the person wishes to participate, the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in each hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

The hearings will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for this proceeding, Docket No. RM79–76, in the Commission's Office of Public Information.

(Natural Gas Act as amended, 15 U.S.C. 717 *et seq.*; the Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; EO 12009, 42 FR 46267)

Based on the foregoing, the Commission proposes to amend Parts 271 and 274 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 271 is amended in the Table of Contents under Subpart G by deleting the item "271.703 Definition of deep, high-cost natural gas" and inserting in lieu thereof the item "271.703 Definitions" and is further amended by adding an item after item 271.704 to read as follows: "271.705 recommendations regarding tight formations."

2. Subpart G of Part 271 is amended in §§ 271.701, 271.702 and 271.703 to read as follows:

§ 271.701 Applicability.

This subpart implements section 107 of the NGPA and applies to the first sale of natural gas which a jurisdictional agency determines is deep, high-cost natural gas or high-cost natural gas produced from a tight formation.

§ 271.702 Maximum lawful price.

(a) The maximum lawful price, per MMBtu, for deep, high-cost natural gas shall be the price specified for Subpart G of Part 271 in Table I of § 271.101(a).

(b) The maximum lawful price, per MMBtu, for high-cost natural gas produced from tight formations shall be equal to 150 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a).

§ 271.703 Definitions.

For purposes fo this subpart the following definitions apply.

(a) Deep, high-cost natural gas is natural gas which a jurisdictional agency determines, in accordance with Parts 274 and 275, is produced:

(1) From any well, the surface drilling of which began on or after February 19, 1977; and

(2) From a completion location which is located at a depth of more than 15,000 feet.

(b) High-cost natural gas produced from a tight formation is natural gas which a jurisdictional agency has determined, in accordance with Parts 274 and 275, is non-associated natural gas produced from any well:

(1) The surface drilling of which began on or after August 17, 1979;

(2) Which qualifies as a new, onshore production well as defined in § 271.303;

(3) Which has been subject to an appropriate technique as defined in paragraph (c) of this section; and

(4) Which has been drilled into one of the following tight formations:

(i) The following designated tight formations:

Basin	Formation	Appropriate technique
Greater Green River	Fort Union, Almond A, or B, Erickson, Rock Springs/Blair, other Mesa Verde.	
Piceance	Fort Union, Corcoran-Cozette, other Mesa Verde.	
Uinta	Wasatch, Barren, Coaly, Castlegate.	
Northern Great Plains and Williston.	Judith River, Eagle, Carlisle, Greenhorn/Frontier.	
Big Horn	Mesa Verde	
Douglas Creek Arch	Mancos, Dakota	
Sonora	Canyon	
Cotton Valley Sweet	Cotton Valley and Gilmer lime.	
Denver	Niobrara, Sussex, Dakota.	
Ouachita	Stanley	
San Juan	Dakota	
Wind River	Frontier, Muddy	
East Texas	Bossier, Cotton Valley Sandstone, Haynesville, Smackover.	

(ii) Any other area of low deliverability that would not be expected to be developed in the absence of an incentive price because of the high costs of production and which the Commission has determined is a tight formation based upon the following guidelines:

(I) The formation must have an estimated average *in situ* gas permeability, throughout the pay section, of .03 millidarcies or less;

(II) A well drilled into the formation must be expected to produce, with no production stimulation, an average of 200 Mcf or less per day;

(III) Production from such a well must be expected to be increased substantially after the completion of an appropriate technique; and

(IV) No field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency.

(c) The term "appropriate technique" is any technique (applied to a particular designated tight formation) which is:

(1) Substantially more expensive than those techniques used for a typical well which is not drilled into a tight formation; and

(2) Expected to increase substantially the rate of natural gas production which could be achieved without the technique.

3. Subpart G of Part 271 is further amended by adding § 271.705 to read as follows:

§ 271.705 Recommendations regarding tight formations.

In determining which additional formations constitute tight formations (for purposes of § 271.703(b)(4)(ii)) the Commission will consider all recommendations which contain the following information:

(a) Geographical and geological descriptions of the formation or portion of the formation which is recommended for classifcation as a tight formation;

(b) Geological and engineering data to support the recommendation and the source of that data;

(c) The number and location of all wells which produce or have produced natural gas from the recommended tight formation;

(d) The types and extent of appropriate techniques which are expected to be necessary and the expenditures necessary for employing those techinques;

(e) The degree of increase in production to be expected from use of such techniques and engineering and geological data to support that estimate;

(f) Information indicating that no field rules for development of the formation or portion thereof have been established by or requested of a jurisdictional agency; and

(g) Any other information which the applicant deems relevant.

4. Section 274.205 is amended to read as follows:

§ 271.205 High-cost natural gas.

(a) *Deep, high-cost natural gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a well which is a deep, high-cost well shall file an application with the jurisdictional agency which contains the following items:

(1) FERC Form No. 121;

(2) All well completion reports for which a determination is sought;

(3) Well logs or well servicing company reports or such other information which will corroborate the depth of the completion location reported in the well completion report;

(4) Directional drilling surveys if available;

(5) A statement by the applicant, under oath, that the surface drilling of the well for which he seeks a determination began on or after February 19, 1977, and that the well completion location is below a true vertical depth of 15,000 feet; and that he has no knowledge of any information not described in the application which is inconsistent with his conclusions; and

(6) If the jurisdictional agency so requires, certified copies of records relied on by the applicant, including copies of the agency's official files.

(b) *Natural gas produced from tight formations.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is produced from a tight formation well shall file with the jurisdictional agency an application which contains the following items:

(1) All those items specified in § 274.204 except the item specified in paragraph (d)(1) of that section;

(2) A map of sufficient clarity to locate and identify the well for which a determination is sought as being within a tight formation or portion thereof;

(3) Documentary evidence that the well has undergone an appropriate technique designated for the tight formation by the Commission; and

(4) A statement by the applicant, under oath, that the surface drilling of the well for which a determination is sought was begun on or after August 17, 1979.

[FR Doc. 79–27901 Filed 9–6–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 118]

[Docket No. 79N–0313]

Cacao Products and Confectionery; Current Good Manufacturing Practice Regulation; Proposed Revocation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revoke the current good manufacturing practice (CGMP) regulation for cacao products and confectionery. Applicable CGMP provisions for these products have been incorporated in a proposed revision of the "umbrella" CGMP regulation covering the manufacturing, processing, packaging, or holding of human food in general. The purpose of this document is to propose the elimination of a regulation that appears to be no longer necessary to protect the public health.

DATES: Comments by December 31, 1979. The agency proposes that the final rule based upon this proposal be effective 180 days after its date of publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The final regulation establishing a current good manufacturing practice regulation (CGMP) for cacao products and confectionery (21 CFR Part 118, formerly 21 CFR Part 128c, before recodification of March 15, 1977 (42 FR 14302)) was published in the **Federal Register** of June 4, 1975 (40 FR 24162). Specific CGMP's were proposed for bakery foods in the **Federal Register** of February 12, 1976 (41 FR 6456) and for tree nuts and peanuts in the **Federal Register** of June 30, 1976 (41 FR 27000). The CGMP's for these specific segments of the food industry were intended to complement the overall "umbrella" CGMP's provided for in 21 CFR Part 110 (formerly 21 CFR Part 128 before the recodification of March 15, 1977 (42 FR 14302)). The "umbrella" CGMP's were published as a final regulation in the **Federal Register** of April 26, 1969 (34 FR 6977). The experience gained by the agency in regulating the food industry, in drafting various additional CGMP's for specific segments of the industry, in reviewing the comments received, and in evaluating other pertinent information, has shown that many of the problems addressed in the specific CGMP regulations are common to all parts of the food industry. Based on its experience, the agency believes that, rather than continuing to maintain and propose specific CGMP regulations for each of the numerous segments of the food industry, the better course is to revise the "umbrella" CGMP's in 21 CFR Part 110 to include all necessary CGMP requirements, including applicable portions of 21 CFR Part 118 and the proposed CGMP's for bakery foods and peanuts and tree nuts.

A proposed revision of 21 CFR Part 110, published in the **Federal Register** of June 8, 1979 (44 FR 33238), would establish detailed good manufacturing practices for food industry personnel, plants and grounds, sanitary operations, facilities and controls, equipment and utensils, processes and controls, product coding, warehousing and distribution, records, and natural or unavoidable defects. As stated in the preamble to that proposal, the agency is staying the rulemaking proceedings on the CGMP proposals for bakery foods and tree nuts and peanuts pending evaluation of comments on the proposed revision of the "umbrella" CGMP's. The June 8, 1979 preamble also stated that, after the

comments are evaluated, the agency would determine what action to take with respect to those proposed regulations and would consider whether all or part of the cacao products and confectionery CGMP's should continue in effect. As stated above, the agency's present intention is to include all necessary CGMP requirements in the "umbrella" CGMP's making it possible to revoke the separate cacao products and confectionery CGMP's. By proposing the revocation of Part 118 at this time, FDA will be in a position to take final action on the revocation if final action is taken to promulgate Part 110.

FDA will hold public hearings on the proposal to revise Part 110 in Chicago, IL, September 11, 1979; in San Francisco, CA, October 3, 1979; and in Atlanta, GA, October 24, 1979, as announced in the **Federal Register** of June 19, 1979 (44 FR 35242). The confectionery industry is invited to comment at the hearings or in writing on the proposal to revise Part 110 with specific emphasis on the aspects relating to confectionery manufacture. Members of the baking and tree nut and peanut industries as well as all other food processors are also invited to comment at the hearings or in writing on the proposal to revise Part 110.

FDA proposes that any final rule based on this proposal be effective 180 days after its date of publication in the **Federal Register**. Further, FDA intends to publish the final regulation on 21 CFR Part 118 in the same issue of the **Federal Register** as the final regulation revising 21 CFR Part 110.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 302, 303, 304, 402(a), 701(a), 52 Stat. 1043–1046 as amended, 1055 (21 U.S.C. 332, 333, 334, 342(a), 371(a))) and the Public Health Service Act (sec. 361, 58 Stat. 703 (42 U.S.C. 264)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by revoking Part 118—Cacao Products and Confectionery.

Interested persons may, on or before December 31, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 31, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27861 Filed 9–4–79; 11:11 am]

BILLING CODE 4110–03–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 110]

Safety and Health Standards for Surface Construction

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary of Labor is considering a regulation which consists of safety and health standards applicable to construction on the surface of mine property. The Secretary is required to develop these rules under section 101(a)(8) of the Federal Mine Safety and Health Act of 1977. The Mine Safety and Health Administration (MSHA) has developed a draft regulation which represents the first step in the rulemaking process and which is available for the public comment.

DATES: Comments must be received on or before October 22, 1979.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances; MSHA, Room 631, Ballston Towers #3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Regina F. Johnson, Room 631, Ballston Tower #3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: In considering this regulation, the Secretary has taken into account two principles:

1. The similarity between the hazards in both mining and nonmining surface construction, and

2. The desirability of having a single set of standards within the Department of Labor (DOL) which would apply to all construction activity, whether related to mining or not.

For these reasons, MSHA believes that promulgation of the standards identified by the Occupational Safety and Health Administration (OSHA) of DOL as applicable to construction activities within the jurisdiction of that agency, would fulfill the principles enumerated above and that these same standards should be applied to construction activities on mine property as well. The draft proposed regulation being considered is essentially that published in the **Federal Register** by OSHA on February 9, 1979 (44 FR 8577), i.e., 29 CFR Part 1926 (Occupational Safety and Health Regulations for Construction) and those standards in Part 1910 (General Industry Safety and Health Standards) that are applicable to construction work.

A draft of this proposed regulation has been mailed to persons known to be interested. All other interested persons may obtain a copy of the draft by submitting a request to the address provided above.

Dated: September 4, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–28003 Filed 9–4–79; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 103]

Financial Recordkeeping and Reporting of Currency and Foreign Transactions

AGENCY: Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the currency transaction reporting regulations to require that (1) the reports be filed more timely; (2) that more complete identification of the customer be furnished; (3) that the financial institution be required to retain a copy of the report for five years; and (4) that the exemption from the reporting requirement for transactions with an established customer maintaining a deposit relationship be limited to retail business in the United States and that the location and character of the business shall be identified in the report of exempt customers furnished to Treasury.

DATE: Comments must be received on or before November 6, 1979.

ADDRESS: Comments on this proposal should be sent to Assistant Secretary (Enforcement and Operations) Department of the Treasury, Rm. 4308 1500 Pennsylvania Avenue, N.W. Washington, D.C. 20220

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Adviser to the Deputy Assistant Secretary (Enforcement), 202–566–5630.

SUPPLEMENTARY INFORMATION: The Currency and Foreign Transactions Reporting Act (Pub. L. 91–508, Title II, October 26, 1970) requires that certain transactions involving currency be reported to the Secretary of the Treasury by financial institutions. A financial institution within the United States generally must file a Currency Transaction Report, IRS Form 4789, for each deposit, withdrawal or exchange of currency or other transaction which involves more than $10,000 in currency. The report is required to be filed with the Internal Revenue Service on or before the 45th day following the date on which the transaction occurred.

Recent studies have shown, however, that the level of cash transactions continues to increase. The pattern of these increases suggests that there is still much that is not known about the nature of this currency flow and that not all transactions that should be reported are being reported. The following amendments to the regulations under the Currency and Foreign Transactions Reporting Act are designed to provide enhanced capability to monitor and try to assure complaince with this statute. They will also provide additional information concerning possible illegal or improperly unreported flows of currency in the United States. This will enable determinations to be made as to the need for follow-up investigations and/or other legal action.

The proposed amendments would:

(1) Require that the report be filed within 15 days after the day on which the transaction occurred. Financial institutions are expected to have little difficulty in meeting this deadline, and the increased promptness should substantially increase the value of the information to law enforcement agencies.

(2) Require financial institutions to retain a copy of each Currency Transaction Report for a period of five years. While it is our understanding that many banks routinely retain copies of the reports, the requirement would ensure that copies would be available for the use of the bank supervisory agencies that have the responsibility for examining financial institutions for compliance with the reporting requirement.

(3) Refine the requirements for the identification of a customer for whose account an unusual currency transaction is to be effected, and his agent in such transactions, to specify the documents that will be acceptable for identification of aliens and citizens and require that the method used be included in the report.

(4) Banks are not presently required to report transactions solely with, or originated by, financial institutions or foreign banks. The revision would limit this exemption to transactions with other domestic banks. The change would require banks to report large currency transactions with securities dealers, foreign banks, and miscellaneous financial institutions, such as exchange dealers, persons in the business of transferring funds for others, and money order issuers. The additional information concerning the currency transactions with foreign banks and non-bank financial institutions will substantially improve the Treasury Department's ability to obtain overall compliance with the regulations and alert the Department to unusual transnational movements of currency.

Since Treasury presently does not receive reports of currency transactions between domestic and foreign banks, it is not possible to develop information concerning normal international flows or to identify unusual movements which might relate to criminal activities. The proposed requirement would correct this deficiency.

The proposed requirement that banks report transactions with securities brokers/dealers and other miscellaneous financial institutions would provide an effective and badly needed check on the compliance of such institutions with the regulations. Such institutions are much more difficult to recognize and catalogue than are banks. Therefore, it is not surprising that there are indications that many of them have not been identified or inspected for compliance. By requiring banks to report large currency transactions with such firms, the opportunity to identify those that are dealing in significant amounts of currency will be greatly increased. Once identified, they can be scheduled for compliance checks.

(5) Banks are exempted from reporting currency transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry or profession of the customer concerned. This requires the bank to exercise its professional judgment in determining whether or not a currency transaction report should be filed. The proposed revision would require a record of the exemption to be made at the time it is granted and would limit the exemption to an established customer who operates a retail type of establishment within the United States. If the customer is located in a contiguous or neighboring country, or if the business is not a retail establishment, a currency transaction report would be required.

The exemption procedure, which has been in effect since the regulations were initially issued, was provided to reduce unnecessary and unproductive reporting by the banks. The exemption has been limited to retail type businesses, such as a small loan company, a race track, a department store, a theater, a supermarket, sports arena, etc. It is unlikely that other types of lawful businesses would routinely deposit large amounts of currency.

(6) To ensure that this exemption is judiciously employed by the bank, a report listing the customers whose currency transactions are not reported because of the above exemption is now required to be made to the Secretary of the Treasury or his delegate upon demand. The revision would: (1) specify that such report shall include the name, street address of the business, nature of the business, taxpayer identification number, and deposit account number of the customer whose transactions have been exempted under this provision; (2) elaborate on the Secretary's authority to require the filing of the Form 4789 reports for any customer listed and (3) require the report to be submitted within 15 days following receipt of the demand for the report. These amendments would provide the information Treasury needs to review the exemptions to ensure that they are appropriate.

DRAFTING INFORMATION: The principal authors of this document are Robert J. Stankey, Adviser to the Deputy Assistant Secretary (Enforcement) and Shanley Keeter, Attorney Adviser, Office of the General Counsel. However, other personnel of the Office of Enforcement and Operations and the Office of the General Counsel participated.

AUTHORITY AND ISSUANCE: Accordingly, the proposed regulations are being issued under the authority contained in the Currency and Foreign Transactions Reporting Act, 84 Stat. 1118, 31 U.S.C. 1051–1122, as follows:

1. Section 103.22 of Part 103 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves a transaction in currency of more than

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$10,000. Such reports shall be made on forms prescribed by the Secretary and all information called for in the forms shall be furnished.

(b) Except as otherwise directed in writing by the Secretary this section shall not: (1) require reports of transactions with Federal Reserve Banks or Federal Home Loan Banks; or (2) require reports by banks of transactions with other domestic banks.

(c) Except as otherwise directed in writing by the Secretary, a bank is not required to routinely report currency transactions with an established depositor who is a United States resident and operates a retail type of business in the United States, where such transactions are in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the lawful, domestic business of that customer, such as, for example, a small loan company, a race track, a department store, a theater or sports arena, etc. A record of the exemption must be made at the time it is granted. Such exemptions may be reviewed by the Assistant Secretary (Enforcement and Operations); and he may require a bank to file the usual reports as prescribed in paragraph (a) of this section with respect to any depositor whose transactions have been previously exempted. A report listing the name, street address of the business, nature of the business, taxpayer identification number, and deposit account number of each customer, who engages in transactions which are not reported because of the exemption contained in this paragraph shall be made to the Assistant Secretary (Enforcement and Operations) within 15 days following receipt of his request.

2. Paragraph (a) of § 103.25 of Title 31, Code of Federal Regulations, as revised, reads as follows:

§ 103.25 Filing of reports.

(a) A report required to be filed by the first paragraph of § 103.22 shall be filed within 15 days following the day on which the transaction occurred. A copy of each such report shall be retained by the financial institution for a period of five years from the date of the report. The reports shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by the Secretary. All information called for in such forms shall be furnished.

. . . . .

3. Section 103.26 of Part 103, Code of Federal Regulations, as revised, reads as follows:

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under paragraph (a) of § 103.22, a financial institution shall verify and record the name and address of the person presenting the transactions, as well as record the identity, account number, and the social security or taxpayer identification number, if any, of the person for whose account such transaction is to be effected. Verification of the identity of aliens must be made by passport, alien identification card, or other official document evidening foreign nationality or residence. Verification of identity in any other case may be by examination of a document normally acceptable as a means of identification when cashing checks, for example, a driver's license or credit card. In each instance, the method used in vertifying the identify of the customer shall be recorded on the report.

Dates: August 31, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement & Operations).

[FR Doc. 79-27894 Filed 9-6-79; 8:45 am]

BILLING CODE 4810-25-M

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-3A]

Compulsory License for Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Announcement of availability of background paper and notice of meeting.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress (1) has prepared a background paper addressing certain aspects of § 201.18 and § 201.19 of its regulations, as amended (or an interim basis) on October 30, 1978; and (2) will hold a public meeting on October 19, 1979, to consider comments on the principles and conclusions embodied in the background paper. These regulations were issued to implement section 115 of the Copyright Act of 1976, which establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. The effect of the interim regulations, as amended, was to establish requirements governing the content and service of certain notices and Statements of Account to be filed by persons exercising the compulsory license. After extensive hearings, public comments, and study of the problem, the Copyright Office has reached tentative conclusions on the principal points in issue, and these conclusions are described and discussed in some detail in the background paper. Following an informal discussion of these conclusions at the public meeting on October 19, 1979, the Copyright Office will institute further proceedings aimed at the issuance of final regulations on the subject.

DATES: The meeting will be held at 9:30 a.m. on October 19, 1979.

ADDRESSES: The background paper, embodying the Copyright Office's tentative conclusions with respect to the calculation of royalty payments under section 115, will form the basis of discussion at the meeting to be held on October 19, 1979. Copies of the paper may be obtained by writing to or calling: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202, (703) 557–8731. If you wish to pick up a copy in person, you should come to the following address: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting to discuss the conclusions outlined in the background paper will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Advance requests to participate will not be required, but will be helpful to the Copyright Office in planning the meeting. Similarly, written comments on the background paper (or on other written comments) are not required but could prove useful to the Copyright Office and to the other parties. Anyone filing written comments should submit ten copies, preferably on or before October 12, 1979. Requests to participate and written comments should be addressed, if by mail, to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202, (703) 557–8731. Or, if delivered by hand, requests or comments should be brought to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Crystal Mall Building No. 2, Room 519, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 557–8731.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to bring

together the representatives of the interests concerned with the calculation of royalty payments under section 115, for a full, informal discussion, in an effort to sharpen, narrow, and, if possible, settle remaining issues and thus to assist the Copyright Office in issuing final regulations on the subject. To encourage an atmosphere of free-wheeling, open, give-and-take interchanges among the parties, the Copyright Office decided: (1) to make the meeting open for participation or attendance by the public; (2) to concentrate on discussion of issues among the participants rather than formal presentations; and (3) to prepare summary minutes of the meeting rather than a verbatim transcript.

Section 115 of 17 U.S.C. provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes. A compulsory license permits that use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

Paragraphs (b) and (c) of section 115 direct the Copyright Office to issue regulations governing the content and filing of certain notices and Statements of Account under this section. On April 26, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), we held a public hearing aimed at formulating regulations under this section. After considering the testimony given at the hearing and in supplemental statements, on December 29, 1977 (42 FR 64889), we issued interim regulations. We then considered public comments received in response to the interim regulations and, on September 28, 1978 (43 FR 44511), we: (1) Adopted amendments to the interim regulations; and (2) announced a public hearing to be held on November 28 and 29, 1978, to take testimony on the interim regulations as amended. The record ramained open until January 31, 1979 (43 FR 57252), for receipt of written statements from any interested person, including supplemental statements from the witnesses.

Paragraph (c)(2) of section 115 states that statutory royalties are payable for every phonorecord made and distributed under the license; it defines distribution as occurring when "the person exercising the compulsory license has voluntarily and permanently parted" with possession of the phonorecord. In discussing the meaning of the term "permanent" for these purposes, the Report of the Judiciary Committee of the House of Representatives states (H.R. REP. NO. 94–1476, 94th Cong., 2d Sess. at 110–111):

> Under existing practices in the record industry, phonorecords are distributed to wholesalers and retailers with the privilege of returning unsold copies for credit or exchange. As a result, the number of recordings that have been "permanently" distributed will not usually be known until some time—six or seven months on the average—after the initial distribution. In recognition of this problem, it has become a well-established industry practice, under negotiated licenses, for record companies to maintain reasonable reserves of the mechanical royalties due the copyright owners against which royalties on the returns can be offset. The Committee recognizes the possibility that, without proper safeguards, the maintenance of such reserves could be manipulated to avoid making payments of the full amounts owing to copyright owners. *Under these circumstances, the regulations prescribed by the Register of Copyrights should contain detailed provisions ensuring that the ultimate disposition of every phonorecord made under a compulsory license is accounted for, and that payment is made for every phonorecord "voluntarily and permanently" distributed. In particular, the Register should prescribe a point in time when, for accounting purposes under section 115, a phonorecord will be considered "permanently distributed,"* and should prescribe the situations in which a compulsory licensee is barred from maintaining reserves (e.g., situations in which the compulsory licensee has frequently failed to make payments in the past.) *[Italics added]*

Most of the testimony at the public hearing held on November 28 and 29, 1978, dealt with our amended interim regulations [§ 201.19(a)(4)] designed to implement this provision. The record of the hearing, including the testimony and the written statements received before and after the hearing, helped a great deal to clarify the difficult accounting issues presented by section 115. The Copyright Office has given careful consideration to the information and arguments that came out of the November 1978 hearing, and has reached some tentative conclusions as to what our final regulations on the point should provide. These conclusions have been set out in the background paper referred to above, and will be the subject of the meeting to be held on October 19, 1979.

The following is a very brief summary of the conclusions set out and discussed in detail in our background paper:

1. *Certain earlier conclusions confirmed.* The hearing served to reinforce certain conclusions underlying our interim regulations now in effect:

(a) *GAAP.* Reserves must be estimated in accordance with generally accepted accounting principles (GAAP).

(b) *One-year cut off.* The "point in time" when a phonorecord is considered "permanently distributed"—when reserves must be paid out—is one year, measured from the month of a particular shipment of phonorecords (not from the initial release date of the recording).

(c) *No percentage limitation.* GAAP would control the setting of reserve percentages, and there would be no fixed percentage limitations on the number of phonorecords that may be reserved.

(d) *No refunds under regulations.* The regulations will not include a provision explicitly requiring the refund of royalties in the case of overpayments.

(e) *No middle paragraph.* The CPA certification of the Annual Statement of Account would not contain a "middle paragraph" allowing the accountant to explain or qualify the Statement.

2. *Changes in earlier conclusions.* The hearing convinced us that some of our earlier conclusions were wrong, and that our interim regulations should be changed accordingly:

(a) *No tracking.* We now conclude that a requirement for actually tracking particular phonorecord shipments, and determining whether phonorecords are destroyed or reshipped, is impractical.

(b) *Use of FOFI.* Instead of tracking, the compulsory licensee should be required to reduce phonorecord reserves in accordance with the "first-out-first-in" (FOFI) accounting convention.

(c) *New formula for calculating royalties.* As a result of the foregoing conclusions, we have developed a formula to be used in computing monthly royalty payments under the compulsory license.

Step 1: Compute the total gross number of phonorecords shipped in the given month. (*Add* the gross number relinquished from possession for purposes other than sale *and* the gross number relinquished from possession for purposes of sale.)

Step 2: Subtract the number that have been reserved in the given month. (*Deduct* from the total arrived at in Step 1 the gross number of phonorecords relinquished from possession for purposes of sale in the given month that have been reserved under GAAP.)

Step 3: Add the amount of lapsed reserves. (*Add,* to the subtotal resulting from Step 2, the number of phonorecords relinquished from possession for purposes of sale that have been reserved in the 12th previous month and have not been offset under FOFI by actual returns. *This gives you the*

monthly total of voluntarily distributed phonorecords.

Step 4: Multiply by the statutory royalty rate. (Multiply the result of Step 3 by the statutory rate of 2¾ cents or ½ cent per minute or fraction of playing time, whichever is larger; *this gives you the monthly royalty payment.*)

Our hope is that those participating in the October 19, 1979, meeting will concentrate their comments on this formula, including the use of FOFI, and that they will not restate positions and arguments already amply documented in the record of these proceedings. The record of this phase of the proceedings will be kept open until November 19, 1979, for receipt of written supplemental comments.

(17 U.S.C. 115; 702; 708.)

Dated: August 29, 1979.

Barbara Ringer,

Register of Copyrights.

Approved:

Donald C. Curran,

Acting Librarian of Congress.

[FR Doc. 79-27940 Filed 9-6-79; 8:45 am]

BILLING CODE 1410-03-M

POSTAL SERVICE

[39 CFR Part 775]

National Environmental Policy Act (NEPA) Implementing Procedures

AGENCY: Postal Service.

ACTION: Addition to June 25, 1979 Proposed Rule.

SUMMARY: On June 25, 1979, the Postal Service published in the Federal Register (44 FR 36991) for comment a proposed rule implementing the National Environmental Policy Act (NEPA) in voluntary compliance with the Council on Environmental Quality's NEPA regulations which were published in November, 1978. (43 FR 55978). The proposed rule contained in section 775.4(b), under the subheading *Categorical Exclusions*, a list of the classes of actions which normally do not require either environmental assessment or environmental impact statements. Subsequent to that publication, the Postal Service has identified several additional types of actions which we believe have no significant impact on the human environment. We are proposing to add those actions to the previously published proposed list of categorical exclusions.

DATE: Written comments must be received by September 24, 1979.

ADDRESS: Written comments should be sent to Director, Office of Program Planning, Real Estate and Buildings Department, United States Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 AM and 4 PM, Monday through Friday, in Room 8992, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Frank Rowan, (202) 245-4348.

SUPPLEMENTARY INFORMATION: The five typical classes of action that are proposed to be added to the list of categorical exclusions involve (1) new facility construction of 10,000, or less, net square feet; (2) purchase or lease of an existing building containing 20,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved; (3) repair to or replacement in kind of building equipment or components (e.g., electrical distribution or HVAC systems, doors, windows, roofs); (4) disposition of real property consisting of (i) one acre, or less, of unimproved land in an urban area; (ii) five acres, or less, of unimproved land in a rural area; (iii) permits, licenses, or leases for a one year term, or less; and (iv) line-of-sight, utility, aviation, flight clearance, and right-of-way easements; and (5) routine actions normally conducted to protect and maintain properties.

Notwithstanding the listing of the above kinds of actions as categorical exclusions as is proposed herein, an environmental assessment will have to be made in every case unless a written determination is made under § 775.6(a)(1) after adoption of the previously published proposed rule, that the action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect.

In addition, the Postal Service is making a minor revision to § 775.4(a)(2) of the June 25, 1979 proposed rule by adding, after the word, "statements", a comma and the following phrase "except as excluded by § 775.4(b) below:". The phrase is being added to clarify that the categorical exclusions in proposed § 775.4(b) are exceptions to the requirements of proposed § 775.4(a).

When the Postal Service publishes proposed regulations in the Federal Register for comment, it generally allows a comment period of 30 days or more. In this case, however, it seems unnecessary to provide the full 30 day period, since the proposal published here is a minor addition to the proposal published on June 25, 1979. The customary 30 day comment period was given for that proposal and no comments from the public were received. In addition, publishing this proposal with a 30 day comment period would delay publication and implementation of the final rule. Accordingly, the Postal Service believes there are good reasons to shorten the comment period to 15 days in this case.

Although exempt from the notice and comment requirement of the Administrative Procedure Act, 5 U.S.C. 553(b), (c), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of Title 39, CFR:

PART 775—ENVIRONMENTAL PROCEDURES

Revise proposed § 775.4(a)(2) and add new proposed § 775.4(b)(5)–(9) to read as follows:

§ 775.4 Typical classes of action.

(a) * * *

(2) Those which normally require environmental assessment but not necessarily environmental impact statements, except as excluded by § 775.4(b) below:

(b) * * *

(5) New construction, including lease-construction, of 10,000, or less, net square feet.

(6) Purchase or lease of an existing building containing 20,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved.

(7) Repair to or replacement in kind of building equipment or components (e.g., electrical distribution or HVAC systems, doors, windows, roofs).

(8) Disposition of real property as follows:

(i) One acre, or less, or unimproved land in an urban area.

(ii) Five acres, or less, of unimproved land in a rural area.

(iii) Permits, licenses, or leases for a one year term, or less.

(iv) Line of sight, utility, aviation flight clearance, and right-of-way easement.

(9) Routine actions normally conducted to protect and maintain properties.

(39 U.S.C. 401)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-27909 Filed 9-6-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 52 and 81]

[FRL 1313-3]

Approval and Promulgation of Non-Attainment Plan for Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Part D of the Clean Air Act, as amended in 1977, requires States to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, Federal Register (44 FR 20372), and supplemented on July 2, 1979 (44 FR 38583).

In this notice the Iowa SIP submission is summarized, and issues that affect SIP approval are discussed. It should be noted that the emphasis is on deficiencies in the SIP. An evaluation report which describes the submission in greater detail is available for inspection by interested persons.

EPA proposes to approve fully certain portions of the Iowa submission and to approve other parts subject to certain conditions. The SIP submission consists of a mix of strategies including more stringent emission limits and commitments to conduct studies to determine what additional control measures are necessary. In addition to addressing the requirements of Part D, the submission was accompanied by recommendations and supporting information for revision of the non-attainment designations for total suspended particulate matter (TSP), sulfur dioxide, and ozone which were promulgated by EPA on March 3, 1978, (43 FR 8962). The State has not submitted a control strategy for areas which it has requested be redesignated as attainment or unclassified. These areas remain non-attainment until any redesignation is finally approved.

Approval means that regulations adopted by the State will also become enforceable by the Federal Government. Strategies, committed to by the State submission, become obligations upon the State.

DATES: Comments must be received before October 9, 1979.

ADDRESSES: Comments should be sent to: Mr. Daniel J. Wheeler, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

Copies of the State submission and of the evaluation report are available during normal business hours at the above address and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C.
Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa.
Iowa Department of Environmental Quality, Regional Office, 209 North Franklin Street, Manchester, Iowa.
Iowa Department of Environmental Quality, Regional Office, 509 South President, Mason City, Iowa.
Iowa Department of Environmental Quality, Regional Office, 401 Grand Avenue, Suite 24, Spencer, Iowa.
Iowa Department of Environmental Quality, Regional Office, 316 Walnut, Atlantic, Iowa.
Iowa Department of Environmental Quality, Regional Office, 117 North Second Avenue, Washington, Iowa.
Des Moines-Polk County Health Department, East First and Des Moines Streets, Des Moines, Iowa.
Linn County Health Department, 751 Center Point Road, NE., Cedar Rapids, Iowa.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

A. General Discussion

The Clean Air Act as amended in 1977 contains requirements which must be addressed in a State Implementation Plan submission. Part D (section 171-176) details the requirements for an approvable non-attainment plan. The general requirements for SIPs are found in section 110. Section 120 requires non-compliance penalties. Section 121 requires the state to consult with local governments on certain matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate pollution abatement. Section 127 requires public notification of violations of health related standards. Section 128 imposes requirements concerning conflicts of interest. Part C (Section 160-169) requires plans to contain measures for the prevention of significant deterioration of air quality.

For general background the reader may refer to the Federal Registers of April 4 and July 2, 1979, for the general preamble to the proposed rulemaking for all non-attainment plan submissions. Section 172 of Part D requires states to submit, to EPA, plan revision containing strategies to attain ambient air quality standards in all areas designated non-attainment. Non-attainment designations are codified in 40 CFR Part 81.

The state of Iowa has submitted revisions to its SIP as required by Part D. The state submittal does not address the other requirments of the Act. The submittal consists of five separate documents. The first is a package containing a series of requested redesignations. The other four documents are attainment plans for various pollutants for four major non-attainment areas.

These revisions were submitted by the Iowa Department of Environmental Quality (IDEQ) at the request of the Governor, to EPA on June 22, 1979. Receipt of the Iowa revisions was first announced in the Federal Register of July 17, 1979, (44 FR 41488) and public comment on the revisions was requested at that time.

The following areas are now designated in 40 CFR Part 81 as non-attainment for the indicated pollutants:

Total Suspended Particulates, Primary and Secondary—Mason City, Keokuk, Cedar Rapids, Des Moines, Council Bluffs, Davenport, Fort Dodge, Sioux City.
Total Suspended Particulates, Secondary Only—Clinton, Marshalltown, Muscatine, Waterloo.
Sulfur Dioxide, Primary and Secondary—Dubuque.
Ozone—Cedar Rapids, Des Moines, Council Bluffs, Davenport.
Carbon Monoxide—Des Moines.

The following areas are currently unclassified for the indicated pollutants:

Total Suspended Particulate—Ames, Iowa City, Burlington, Ottumwa, Cedar Falls.
Carbon Monoxide—Cedar Rapids, Davenport.

Of the above areas, the state has submitted plan revisions to attain the primary TSP standards in Des Moines, Mason City, Cedar Rapids and Davenport. The state has also submitted SIP revisions to attain the standards for carbon monoxide (CO) in Des Moines and ozone in Cedar Rapids. For other areas it has requested redesignations as discussed in the following section.

B. Redesignation Requests

The state's recommended changes in attainment status and EPA's proposed action are discussed for each applicable pollutant in the following section. Public comments on the original designations are also summarized.

A proposal to redesignate an area as attainment or unclassified for a particular standard is also a proposal to not require a non-attainment plan for that standard in that area. Areas that are finally redesignated will not need plans. Areas that are not redesignated will not need plans. Areas that are not redesignated will still be required to submit plans.

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The Iowa Air Quality Commission (IAQC) has adopted criteria which were used by the state to make decisions on redesignations of non-attainment areas. Even though the redesignation criteria have been adopted in a state rule, they are not officially submitted. Thus, this proposal does not involve approval/disapproval of the state designation criteria. However, because the state applied the criteria in cases where redesignations were recommended, comments are provided to explain the basis for EPA's action on area redesignations.

The state criteria differ from EPA guidelines on area redesignation in two important aspects: (1) the amount of recent air quality data used in making the decision; and (2) the allowance for fugitive dust.

The Iowa criteria allow redesignations on the basis of a minimum of 18 months of air quality data. The state uses six consecutive running 12 month means as the criterion for determining compliance with the long-term annual pollutant standards. The State believes that the requirement for six consecutive running means is sufficient to establish a trend of attainment or non-attainment. The rules also base the attainment and the non-attainment of all short-term standards, except ozone, on any consecutive 12-month period in the most recent 18-month period. Ozone classifications use 24 months of data to determine the status. This criterion also requires the establishment of trends and prevents the attainment status of areas from changing rapidly.

Generally, EPA requires a minimum of eight quarters (24 months) of ambient air quality data showing no violations before an attainment redesignation can be approved. However, an attainment redesignation using at least four quarters of data can be approved if the reductions in pollutant levels can be attributed to real emission reductions from sources covered by enforceable state regulations.

Even though the state redesignation criteria do not meet EPA guidance for minimum air quality data availability, each geographic area which is a candidate for redesignation has been evaluated by the EPA on a case by case basis and where there is sufficient information, it has been used in this proposed rulemaking.

(1) *Total Suspended Particulates (TSP).*—Twelve areas in Iowa are designated non-attainment for either the primary or secondary standard. The designations were based on state recommendations using monitored violations of annual and/or short term ambient air quality standards. Where the boundaries of areas actually in non-attainment were uncertain, the state recommended that a number of townships adjoining those with monitored violations be included in the designated non-attainment areas.

The state conducted extensive air quality simulation modeling for all Iowa non-attainment areas in conjunction with development of SIP revisions for these areas. The state has refined the initial non-attainment area boundaries based upon the results of the modeling and on air quality data collected since the original designations.

The Iowa redesignation criteria contain a provision which provides for deduction of what is termed "rural fugitive dust" once it has been demonstrated that the primary TSP standards have been met in any area. The state's definition of rural fugitive dust is "dust resulting from agricultural activities and travel on rural unpaved roads." Thus, the state believes that the total particulate background concentration in any area is dependent on natural worldwide background concentration, plus the local and statewide rural fugitive background concentrations.

The state has computed a value for the rural fugitive background for all particulate non-attainment areas in the state. These values contain a component for emissions from unpaved roads and an additional amount assumed to be from agricultural processes, such as tilling and soil erosion. The agricultural contribution to background was computed specifically for each area based upon climatic factors, soil types, soil erodibility, crops planted, and tilling frequencies. This background value was subtracted from the actual or projected air quality levels once attainment of the primary air quality standards was shown. The result in either case was used to show secondary standard attainment without additional emission controls.

The EPA policy on accounting for fugitive dust in attainment status designations is described in the March 3, 1978, (43 FR 8962) rulemaking. Under the policy, rural areas experiencing TSP violations that could be attributed to fugitive dust can, in certain specific cases, be designated as attainment. The policy was written to recognize the relatively lower environmental impact of fugitive dust in rural versus urban areas. This was based upon the belief that the toxic fraction of fugitive dust in rural areas without impact of industrial pollutants is likely to be small.

In order to be classified as rural under the policy, an area must meet two criteria: (1) lack major industrial development or significant industrial sources of particulate emissions; and (2) have low urbanized population. For this proposed rulemaking action, significant industrial sources are defined as those with actual particulate emissions of more than 100 tons per year. Areas with low urbanized population would be those metropolitan areas with less than 50,000 population.

The Iowa redesignation criterion pertaining to the rural fugitive dust is not consistent with EPA policy because Iowa applies the criterion in areas with high population and significant industrial sources of particulate emissions. Therefore, if secondary particulate air quality standards were exceeded in such areas, EPA will not accept the state's recommendation to designate them as unclassified or attainment, but proposes to designate those areas as secondary non-attainment.

The reader should refer to the March 3, 1978, **Federal Register** for information concerning existing non-attainment area designations. The present designations use township boundaries to describe the non-attainment areas. In some cases, several townships are included in a non-attainment area. In the Iowa request for redesignation, non-attainment areas have been refined and in most cases reduced in size. Boundaries for the areas follow streets, railroads, highways or other physical land features. The precise description of the areas is in the state submission and in the evaluation report. In order to simplify the discussion in this proposal, non-attainment areas will be identified by the largest city in the area.

a. Waterloo (Black Hawk County). The present designation of Waterloo is secondary standard non-attainment with surrounding areas in Cedar Falls and East Waterloo townships unclassified. The state recommended that a portion of the City of Waterloo be redesignated as unclassified and the remainder of the area as attainment. Modeling by the state indicates part of the area exceeds secondary particulate standards. Air quality data indicate violations of the secondary standard. Because of these indications, EPA believes the area should still be designated as secondary non-attainment. The EPA proposes to reduce the size of the secondary non-attainment area in Waterloo to coincide with the unclassified area recommended by the state.

b. Mason City (Cerron Gordo County). The present designation of Mason City is primary particulate non-attainment. The designation was based on data showing primary and secondary violations in Mason City. Only one of the three monitors in the area has shown violations of the primary standard over the past two years and diffusion modeling by the state indicates the size of the primary non-attainment area should be reduced. The modeling and monitoring indicate the secondary standards are still exceeded in two areas outside the primary non-attainment area. The state has proposed to redesignate these areas, as unclassified based upon the rural fugitive dust criterion. EPA disagrees with the state's recommendation because of the presence of significant industrial sources in the area. Therefore, EPA proposes to retain the secondary non-attainment classification for the areas the state has proposed to be unclassified. EPA proposes to accept the state recommendation to reduce the size of the primary particulate non-attainment area in Mason City. These proposals are to adjust the size and shape of the areas and do not represent new designations.

c. Clinton (Clinton County). The present designation for Clinton is secondary non-attainment. The submission indicates both monitored and modeled violations of the secondary particulate standard. The modeling indicates the size of the secondary non-attainment area is not as large as the area presently designated. There are significant sources of particulates in the area. The state has recommended that part of the area be redesignated to unclassified based upon rural fugitive dust and that the remainder be classified as attainment. EPA accepts the state analysis but disagrees with the conclusion. EPA proposes to reduce the size of the non-attainment area to coincide with the recommended unclassified area.

d. Keokuk (Lee County). The present designation of Keokuk is primary non-attainment. Measured air quality data over the past two years indicate that the primary TSP standards have been attained. Monitoring still shows secondary violations. The state recommends that the area be redesignated as unclassified based upon its rural fugitive dust criterion. Because the area contains significant industrial sources, EPA disagrees with the state recommendation. EPA proposes to remove the primary non-attainment designation and to retain the secondary non-attainment designation. Modeling indicates the size of the designated area can be reduced to coincide with the state proposed unclassified area.

e. Cedar Rapids (Linn County). The present designation of Cedar Rapids includes a primary particulate non-attainment area surrounded by several townships which are unclassified. The state recommends that the designated primary non-attainment area be reduced in size based upon results from monitoring and modeling. The area around the primary particulate non-attainment area would be designated unclassified by the state based upon the rural fugitive dust criterion. EPA proposes to accept the state recommendation for the primary non-attainment area in Cedar Rapids. However, because of the substantial population of the region (over 130,000) and the number of significant sources in the area, EPA cannot accept the rural fugitive dust explanation. Therefore, EPA proposes to retain the secondary non-attainment designation for the state proposed unclassified area.

f. Marshalltown (Marshall County). The present designation of Marshalltown is secondary non-attainment for particulates. Measured air quality data indicate that the secondary standards have been exceeded over the past two years. There are significant sources of particulates in the area. The state recommended redesignation to attainment based on fugitive dust. Because there are significant stationary particulate sources, EPA cannot accept an attainment designation for an area with monitored violations. EPA does not propose to change the present secondary particulate non-attainment designation for the City of Marshalltown.

g. Muscatine (Muscatine County). Muscatine is designated as secondary particulate non-attainment. A comment was received concerning the designation of Muscatine in the March 3, 1978 **Federal Register** from a local industry. The commentor indicated that the data used for the original designation should be discounted because of fugitive dust sources in the vicinity of the sampler. The State of Iowa evaluated the data and determined it was valid. EPA accepted the state determination.

The state recommended that the area be redesignated as unclassified based upon its rural fugitive dust criterion. There are a number of significant industries and public utilities in the area which are sources of particulate matter. There are still monitored and modeled violations of the secondary particulate air quality standards. Based on the modeling conducted by the state, EPA proposes to reduce the size of the designated non-attainment area to coincide with the unclassified area recommended by the state.

h. Des Moines (Polk County). The Des Moines area is presently designated a primary particulate non-attainment area. Air quality modeling and monitoring results indicate that only four portions of the designated area are exceeding primary standards. One of the portions for which monitored values exceed the primary particulate standard is the City of Ankeny which is located approximately 12 miles north of downtown Des Moines. Because the area is a part of the Des Moines metropolitan area and because there are indications the standards violations resulted from unpaved parking lots and streets, the primary particulate non-attainment designation was applied to the area by the state. Modeling indicates three areas in Des Moines also exceed the primary standards. The state has recommended that only the four specific portions of the area remain primary standard non-attainment.

Additional portions of the Des Moines area have been shown to violate only the secondary particulate standards. The areas shown to be violating secondary standards were recommended to be designated unclassified based on the states rural fugitive dust criterion. EPA proposes to accept the state's recommendation for primary particulate non-attainment designation in the Des Moines area. However, the area recommended to be designated as unclassified by the state does not quality as a rural area. EPA proposes to retain the secondary standard non-attainment designation for this area.

i. Council Bluffs (Pottawattamie County). The present designation of Council Bluffs is priamry particulate standard non-attainment in the area of Kane Township. Particulate sampling in the past three years has been deficient at some stations because inadequate samples were collected to calculate valid annual values. Three TSP sampling stations were operated in Council Bluffs during 1977 and 1978. Two of the samplers registered violations of the secondary standards. One station violated short term primary standards. However, this station is unduly influenced by reintrained road dust and is not representative of air quality in the area, so the data have been discounted. The area has been modeled and the results indicate the secondary standards are exceeded.

The state has recommended an attainment designation based on its rural fugitive dust criterion. However, Council Bluffs is part of metropolitan Omaha and cannot be considered rural. For Kane Township, EPA proposes to

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remove the primary non-attainment designation and retain the secondary designation.

j. Davenport (Scott County). Several townships in the Davenport area are presently designated primary non-attainment. Monitoring indicates that primary particulate standards are exceeded in only a small area near downtown Davenport. Monitored violations of secondary standards have occurred throughout the area. Modeling results confirm measured air quality values. The state's recommendation is to reduce the size of the primary particulate standard non-attainment area and redesignate a large surrounding area as unclassified based upon rural fugitive dust. EPA proposes to accept the area defined by the state as primary particulate standard non-attainment. However, EPA proposes that the state recommended unclassified area remain secondary non-attainment because of the monitored violations and the population of the area.

k. Fort Dodge (Webster County). Fort Dodge is presently designated primary particulate non-attainment. Monitoring data from 1977 to 1978 indicate no violations of the annual or 24 hour primary standard. Violations of the secondary standard were monitored during 1977 and 1978. The state's recommendation is to designate part of the Fort Dodge area as unclassified based upon it's rural fugitive dust criterion. Because there are a number of significant sources in the area and modeling by IDEQ indicates these sources have a considerable impact on air quality. EPA cannot approve the state recommendation. EPA proposes to remove the primary non-attainment designation and to retain the secondary designation for an area to coincide with the suggested unclassified area.

l. Sioux City (Woodbury County). Sioux City is presently designated primary particulate standard non-attainment. Monitoring data for 1977 indicated that primary standards were exceeded. However, in 1978, the air quality improved dramatically. This improvement was assumed by the state to result from the completion of construction work in the vicinity of the two monitors where violations were measured. This assumption was confirmed by modeling the impact of the fugitive emissions from the construction. Both modeling and recent air monitoring results indicate the primary particulate standards have been met but secondary standards have not. The state proposed to redesignate the area as unclassified based on fugitive dust. Because of population and significant sources, Sioux City cannot be considered a rural area. EPA proposes to remove the primary non-attainment designation and to adjust the boundries of the secondary non-attainment area to coincide with the state's recommended unclassified area.

(2) *Ozone.*—The March 3, 1978, **Federal Register** designated four Iowa counties as non-attainment for ozone. These counties are Linn, Polk, Pottawattamie and Scott. In addition, several counties were identified by the state as being unclassified. Iowa proposes to redesignate Polk County and Pottawattamine County as attainment and Scott County as unclassified for ozone. Linn County would remain a non-attainment area for ozone.

The recommendation to eliminate the ozone non-attainment designation from three of four Iowa counties results from the revision to the National Ambient Air Quality Standard from 0.08 ppm oxidant (maximum hourly average) to 0.12 ppm ozone. Where ambient monitoring data showed air quality was better than the revised standard, the state recommended that the counties be redesignated as attainment. Where ambient air quality standard violations have not been monitored, but where sufficient data is not available, Iowa recommended redesignation as unclassified.

The state has submitted data to EPA showing attainment of the ozone standard in Polk and Pottawattomie Counties. Data for the Davenport area have been inconclusive. EPA proposes to approve the redesignations of these counties.

(3) *Sulfur Dioxide (SO_2).*—The only area in Iowa presently designated non-attainment for SO_2 is Julien Township which includes the city of Dubuque. A comment was received from the city health director concerning the designation. The comment indicated the data used for the designation should be discounted because of the location of the monitor and lack of maintenance and calibration. The State of Iowa evaluated the data and determined it was valid. However, additional monitors have been located in the area and recorded no violations of the SO_2 standards since October, 1977. Iowa recommends that Dubuque be redesignated unclassified. EPA will not redesignate a properly designated non-attainment area to unclassified. It can be changed to unclassified only if it is shown that the data used originally is invalid. A non-attainment area can be redesignated attainment only if it is shown that the area does not violate standards. In this case, sufficient data have not been provided to justify redesignation. When eight quarters of data are available, EPA will reevaluate the request and, if necessary, an appropriate redesignation will be proposed. Until such time, Dubuque is still non-attainment for SO_2.

c. Non-Attainment Plan Provisions

The State has submitted plan revisions addressing non-attainment problems in these areas:

Mason City, particulate.
Davenport, particulate.
Cedar Rapids, particulate and ozone.
Des Moines, particulate and carbon monoxide.

The state did not submit plans for the other areas. Instead, the state requested the redesignations discussed above. Non-attainment plans are required as long as these areas are officially designated as non-attainment. At the present time there is no approved plan for these areas.

Section 172 of the Act contains the requirements for non-attainment plan revisions. The following is a listing of the requirements of Section 172 and discussion of how the Iowa plan addresses each issue.

Where the plan submission is deficient with respect to some requirement, it will be discussed in detail under the heading "E. Approvability Issues." Items which are not identified as approvability issues are proposed to be approved as meeting the appropriate requirements.

(1) *Demonstration of Attainment.* Section 172(a)(1) requires the plan to provide for attainment of NAAQS as expeditiously as practicable. Primary standards are to be met no later than December 31, 1982.

The submission contains demonstrations that the primary TSP standards will be attained by 1982 in Des Moines, Cedar Rapids, and Davenport. It also demonstrates attainment by 1982 for CO in Des Moines and ozone in Cedar Rapids. It does not indicate that Mason City will attain the primary TSP standard. The submission does not address attainment of TSP secondary standards, or the 24-hour TSP primary standard. Nor does it address maintenance of standards which is also required. These issues will be discussed in Section E (1).

(2) *Attainment Date Extensions.* Section 172(a)(2) authorizes an extension of the attainment date to not later than 1987 for CO and ozone if the state demonstrates the standards cannot

be met by 1982 despite implementation of reasonably available control measures.

The state of Iowa has demonstrated that the CO and ozone standards will be attained by 1982 and has not requested an extension.

(3) *Public Participation.* Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

The non-attainment plans were subjects of a public hearing which was announced in several newspapers the week following January 13, 1979, and in the Iowa Administrative Bulletin of February 7, 1979. The hearing was held in Des Moines, Iowa, on March 15, 1979. The plans were formally adopted by the IAQC at a public meeting on June 14, 1979, and were formally submitted to the EPA by the IDEQ on June 22, 1979.

(4) *Reasonably Available Control Measures.* Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable. This issue will be discussed in Section E(2).

(5) *Reasonable Further Progress (RFP).* Section 172(b)(3) requires that the state demonstrate it will make reasonable progress toward attaining the standard until such time as the standard is attained, including such emission reductions from existing sources as may be obtained through the implementation, as a minimum, of RACT. The state has demonstrated that it will make RFP for all pollutants in areas for which it has submitted a plan.

(6) *Emission Inventory.* Section 172(b)(4) requires the plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is designated non-attainment. It also requires the inventory to be updated as frequently as necessary to assure that RFP is indeed being made and to assure that the standard will be met by the required date.

Iowa has submitted inventories for each area for each non-attainment pollutant. The state has committed to providing annual updates of emission information.

(7) *Emission Growth.* Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

For particulate matter, Iowa has provided for industrial growth by adopting an emission offset rule rather than by providing a margin for growth. The new rule, 400—3.5 *Particulate Matter Emission Offsets,* requires that reductions in existing emissions be obtained for any major new source or major modification in a non-attainment area or any major new source or major modificaiton outside a non-attainment area which affects the area.

The Iowa submission contains no identification or quantification of emissions from major new or modified sources of CO or VOC. Therefore, offsets under Section 173 of the Act will be required for new sources unless the state can identify and quantify growth margins for carbon monoxide and ozone. This will be discussed in Section E(3).

(8) *Permit Requirements.* Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified major stationary sources in accordance with section 173 (relating to permit requirements).

The particulate offset rule cited in C(7), above, contains the provisions required in section 173 for particulate non-attainment areas. In addition to requiring offsets, it specifies that the particulate emission reductions must be greater than the new emissions in a secondary non-attainment area and must be 25 percent greater than the new emissions in a primary non-attainment area. The rule requires that all other sources owned or operated by the applicant in Iowa shall be either in compliance with applicable emission standards or on a compliance schedule approved by the Air Quality Commission. It also details ways of obtaining offsets, authorizes banking of excess offsets, and requires that the new source emit at the lowest achievable emission rate. This requirements, as it pertains to carbon monoxide and ozone, will be discussed in Section E(4).

(9) *Resources.* Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provision. The state did not specifically identify the resources to be committed. This issue will be discussed in Section E (5).

(10) *Schedules.* Section 172(b)(8) requires emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section. The emission limits are discussed under C (4) and E (2).

This revision package does not contain schedules of compliance for particulate sources because the state maintains that all such sources are in compliance with existing state regulations which require measures that represent RACT be applied. It does not contain them for sources of carbon monoxide and ozone.

The state submission contains a regulation requiring more stringent emission limits for traditional sources of particulate emissions. The emission inventory projections to 1982 do show some reduction from some sources. However, there are no compliance schedules committing the sources to implement the shown reductions. This means that all affected sources must be in compliance on the effective date of the regulation, January 1, 1980. Sources that are not in compliance on the effective date of the regulation, January 1, 1980. Sources that are not in compliance on January 1, 1980, will be subject to monetary noncompliance penalties under section 120 of the Act.

In addition, the plan must contain other measures as necessary. The state has submitted some commitments for future activities. These are discussed in E (6).

(11) *Public, Local Government and State Legislative involvement.* Section 172(b)(9), requires evidence of involvement and consultation of the public, local government and state legislature in the planning process and an identification and analysis of the air quality health, welfare, economic, energy and social effects of the revision and a summary of public comments on the analysis.

The Iowa plan contains information on public hearings, cooperative agreements between agencies and legislative involvement. This is discussed in Section E (7).

(12) *Commitments.* Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legal requirements and that the agencies responsible are committed to their implementation and enforcement. When the deficiencies in the plan are corrected, the state will have to submit the appropriate evidence for the new requirements.

(13) *Delayed Attainment Dates and 1982 Submission.* Section 172(b)(11) and section 172(c) contain requirements for plans with attainment dates after 1982. These sections do not apply to the Iowa SIP.

Issues and Proposed Action: A number of issues were identified above as issues which might interfere with plan approval. These will be discussed individually in Section E. Approvability Issues, and each one will have its own proposed action. For items which were discussed above and which are not specifically identified as approvability issues, EPA is proposing to approve those elements as meeting the requirements of the Clean Air Act.

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D. Other Provisions

This section discusses each requirement, other than those in Part D, that a State Implementation Plan must meet in order to be fully approvable under the Clean Air Act as amended in 1977.

(1) *New source review.* Section 110(a)(2)(D) requires the plan to include a program for enforcement of limitations on emissions due to modification, construction or operation of stationary sources including a permit program for new major sources. This permit, described in Section 110(a)(4), requires, among other things, a preconstruction review of the proposed source.

Although the state of Iowa has a permit program, it does not meet the requirements of this section in that there is no authority to require review of the location of a source prior to the commencement of construction. This issue will be discussed in Section E (8).

(2) *Interstate air pollution.* Section 110(a)(2)(E)(i) requires the SIP to contain provisions prohibiting stationary sources within that state from causing violations of standards, significant deterioration of air quality, or interfere with measures to protect visibility in another state. It also requires the plan to contain provisions insuring compliance with the requirements of section 126. Section 126 requires each plan to contain requirements for each major proposed new source to provide written notice to all nearby states which may be affected at least sixty days prior to the day on which commencement of construction is to be permitted.

The Iowa submission does not identify interstate issues. This is an issue which will be discussed in Section E (9).

(3) *State boards.* Section 128 places requirements concerning conflicts of interest on member of state bodies which approve permits or enforcement orders. The state submission does not address section 128. This will be discussed in detail in Section E (10).

(4) *Permit fees.* Section 110(a)(2)(K) requires a permit fee for the issuing of any permit required under the Act. The plan does not address this issue. Permit fees will be discussed in Section E (11).

(5) *Non-compliance penalties.* Section 120 requires sources not in compliance with applicable emission limits to pay a penalty based on the economic benefits of not installing control equipment and provides that the state may assess the penalty if it has an approved plan to do so. The Iowa SIP does not address this issue. This is not an approvability issue since it is not required that the state assess these penalties. For sources in Iowa, the federal government will assess and collect any non-compliance penalties.

(6) *Consultation.* Section 121 of the Act requires the SIP to contain a satisfactory process of consultation between the state and various officials affected by the SIP. The state has not provided the description of the process used, but it has provided evidence of extensive consultation with appropriate officials. This issue is discussed further in E (12).

(7) *Stack heights.* Section 123 of the Act requires that the degrees of emissions limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding Good Engineering Practice or any other dispersion technique.

The state has not submitted any information on this at this time. This will be discussed in Section E (13).

(8) *Public notification.* Section 127 states that each state plan shall contain measures to notify the public of instances in which health-related standards were exceeded. The state submission does not contain any information in this area. The state's compliance with section 127 will be discussed in section E (14).

(9) *Prevention of significant deterioration (PSD).* Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under section 107 of the Act.

The state does not have adequate statutory authority to pursue the PSD program. This is discussed in E (15).

(10) *Excess emissions.* The SIP does not define all excess emissions as violations. This is discussed in E (16).

E. Approvability Issues

This section contains a discussion of the issues identified above which could affect approval of the Iowa SIP. The discussion includes a general description of the deficiency or issue and possible corrective actions. This section also sets forth alternative approaches to final rulemaking with respect to these issues. In some cases, EPA proposes to conditionally approve the plan where there are minor deficiencies with the requirement that the state will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved and on what deadlines should apply. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

(1) *Demonstration of attainment.* The Iowa submission generally provides for attainment of standards by 1982. There are four issues of importance in the Iowa plan relating to attainment of the standards for TSP.

(a) *Attainment of annual primary standard.* The control strategy demonstration indicates that reasonable further progress will be made and the primary annual standard attained by 1982 except for Mason City. For Mason City there appear to be some errors in the presentation of the control strategy demonstration. The state has been notified of this problem and has indicated that it can be readily corrected. Therefore, EPA has requested the state to submit additional information concerning the attainment demonstration.

Proposed action: The EPA proposes to approve the attainment demonstration with the condition that additional supporting information be submitted by January 1, 1980.

(b) *Attainment of primary 24 hour standard.* The Iowa submission is directed toward attainment of the primary annual standard only. The State has conducted a review of minitoring data to determine if the annual average or the 24 hour average was more stringent. The plan states that the 24 hour average was violated only when the annual primary standard was violated. Therefore, the State concluded that the annual primary standard is more stringent than the 24 hour primary standard. The State intends to perform further analyses of short term standard attainment after it has selected an appropriate short term air quality model. EPA believes that the State should either demonstrate that the annual standard is indeed more stringent than the 24 hour or it should demonstrate that the control measures selected will also achieve the 24 hour standard. Proposed action: EPA proposes to approve the plan for attainment of the 24 hour primary standard on the condition that the additional material discussed above be submitted. EPA proposes to require the State to submit its already completed comparison of standards by October 1, 1979. If it is necessary to conduct additional modeling, the demonstration of 24-hour standard attainment must be submitted by January 1, 1980.

(c) *Attainment of secondary standards.* The submission states that attainment of the secondary standard will be accomplished through an allowance for rural fugitive dust. As discussed above, the EPA fugitive dust policy does not allow for discounting of non-traditional emissions in non-rural areas or areas of significant industrial emissions. Therefore, the contention that the plan need not address secondary attainment is not approvable.

The plan states that non-fugitive emissions from traditional sources are controlled by State regulations to a level representing RACT in all areas of the State including the secondary non-attainment areas. The plan also states that application of reasonably available control measures will not be sufficient to demonstrate attainment of the secondary standard. Since the State has committed to conducting additional studies to determine what measures can be used to attain primary standards, EPA believes it is reasonable to require that the same measures be implemented in the secondary non-attainment areas.

Proposed action: Under section 110(b) the Administrator may, whenever he determines necessary, extend the period for submission of any plan which implements a secondary standard for a period not to exceed 18 months from the date otherwise required. This plan submission was originally required January 1, 1979. The EPA proposes to extend the submission date for a plan for attainment of particulate standards in all secondary non-attainment areas to July 1, 1980.

(d) *Maintenance of standards.* The plan states that maintenance of standards would be accomplished through the construction permit program. However the plan indicates the major danger to the standards is not from traditional sources which would require permits but from non-traditional fugitive sources. The two regulations submitted in the plan apply only in non-attainment areas. In fact the revision to the fugitive dust regulation applies only in primary non-attainment areas. The language of these regulations could be construed such that they are no longer in force once an area has been designated attainment. If the regulations are in fact needed to achieve attainment then they are also necessary to assure continued compliance with the standards.

Proposed action: The EPA proposes to approve the Iowa plan with respect to maintenance of standards on the condition that the state submit a satisfactory demonstration of maintenance containing whatever measures are necessary to assure maintenance, by April 1, 1980.

(2) *Reasonably available control measures.* (a) *Particulate Matter.* The state has submitted one regulation reflecting reasonably available control technology (RACT) as applied to fugitive sources of particulate matter in primary non-attainment areas and has certified that existing state regulations represent RACT on existing stationary sources.

Proposed action: EPA proposes approval with respect to RACT for particulate sources in non-attainment areas.

(b) *Carbon monoxide (CO).* The state has not submitted RACT regulations for stationary CO sources. The emission inventory indicates that there are probably no stationary sources of CO to which RACT can be applied. If this is the case the state should certify this as such. If not, it must adopt regulations to control stationary sources.

Proposed action: EPA proposes approval once Iowa certifies there are no major sources to be controlled.

(c) *Volatile organic compounds (VOC).* Plans for ozone non-attainment areas must include regulations requiring RACT on those sources of VOC for which EPA has issued a control technique guideline (CTG) prior to January 1, 1978, and a commitment to adopt RACT for other categories in the future. For areas under 200,000 population, EPA believes RACT is mandatory only for large stationary sources (over 100 tons per year). The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. There are 11 categories for which CTGs were issued prior to January 1, 1978. Although the Iowa submission contains no RACT requirements, EPA proposes conditional approval, because the plan demonstrates expeditious attainment before 1982 even without the RACT requirements. The plan demonstrates that 11 percent reductions in VOC emissions are needed for attainment, 14 percent reductions are expected from control of motor vehicle emissions under the Federal Motor Vehicle Control Program, and the RACT requirements now due would result in only a minor additional reduction. RACT is needed despite the demonstration of attainment, because the demonstration does not employ photochemical dispersion modeling. *See* 44 FR 20376 col. 3 (April 4, 1979). However, the plan seems sufficiently complete now to warrant conditional approval.

EPA proposes to fix a deadline of July 1, 1980, for the State to submit RACT requirements for cutback asphalt and degreasing. This should allow time for the State to complete adoption of enabling legislation, which has been enacted by one house and is pending before the other house. For other RACT categories for which requirements are now due, the State should certify by October 1, 1979, that there are no large sources in Linn County.

Proposed action: EPA proposes conditional approval if the State provides assurances that regulations will be adopted by July 1, 1980, requiring RACT on cutback asphalt, degreasing and other categories for which RACT is required prior to July 1, 1980; and that the State certify by October 1, 1979, that there are no large sources in Linn County in categories for which the regulations are not adopted.

(3) *Emission Growth.* The State submission does not identify emission growth for CO or VOC. The State has indicated that projections through 1982 have been made but were omitted from the SIP. EPA has requested this information.

Proposed action: EPA proposes approval if the State submits the information described above.

(4) *Permit Requirements.* As noted in C (8), the State submission does not contain permit regulations for CO or VOC. It states there is no such regulation for VOC because there are no emission standards for VOC. It does not address this issue for CO. EPA cannot approve the Iowa Plan as generally meeting the requirements of Section 173 without regulations requiring offsets (or accommodation) in the non-attainment area, a requirement for the lowest achievable emission rate for new sources and a certification by owners of new sources that all existing sources are in compliance.

EPA is considering whether or not it may approve submission conditionally, with the requirement that the State submit the necessary regulations by a certain date. A date of January 1, 1980 would be possible if the State already has statutory authority. If, as the State has indicated, it is necessary to secure additional statutory authority, then a date of July 1, 1980, would be more appropriate.

EPA could also disapprove the SIP. If this is necessary, new source construction would be prohibited under section 110(a)(2)(I) of the Act. This growth restriction is explained in detail in the **Federal Register** of July 2, 1979, (44 FR 38471). The growth restriction went into effect automatically on July 1, 1979, and remains in effect until the SIP is approved or conditionally approved.

Before EPA could conditionally approve, the State would have to certify that new sources could be permitted only if the SIP were revised specifically so the new source would meet the requirements of Section 173. Each such revision would have to be approved by EPA before the source could commence construction. This cumbersome system

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could mean that new projects would be delayed a year or more while the necessary plan revision and supporting materials were developed, submitted, evaluated and approved.

Proposed action: EPA does not make a specific proposal on permit requirements for VOC and CO. EPA requests comments on this issue. The final decision will be based on comments received and on a detailed evaluation of the situation.

(5) *Resources.* The submission commits the DEQ to implementation of the plan. There is an appendix containing commitments made in the annual agreement between EPA and the State regarding air programs. EPA believes this qualifies as a commitment of financial and manpower resources, but not as a specific identification of such resources as required by section 172(b)(7). EPA has notified the State of this deficiency and expects that an adequate identification of resources will be submitted before the final rulemaking action.

Proposed action: EPA proposes to approve the Iowa plan as meeting the requirements of Section 172(b)(7) if the state submits the information described above.

(6) *Schedules.* The state submission contains commitments for the implementation of future control measures by state or local authorities.

As discussed above, the plan does not contain a commitment for adoption of RACT regulations for VOC sources. It does contain commitments to conduct studies and implement measures for CO and TSP. It does not, however, detail what measures are to be studied or predict which will be implemented. No schedule of when measures will be studied, adopted and submitted to EPA is provided for CO. EPA has requested this information be submitted. The information on particulate studies is expected to be submitted before final action is taken on the state submission. Information on CO is expected to be submitted in the application for grant support under section 175 of the Act which is under preparation by the Central Iowa Regional Association of Local Governments. This information is also expected to be submitted before final approval of the state plan submission.

Proposed action: The EPA proposes to approve the Iowa plan conditioned on submission of the above information by October 1, 1979.

(7) *Public, Local Government and State Legislative Involvement.* The state submission included some information related to the requirements of section 172(b)(9). It did not specifically address the identification and analysis of the effects of the plan and its alternatives. The state has been notified of this deficiency and will be able to remedy it prior to EPA's final rulemaking action.

Proposed action: EPA proposes to approve the Iowa SIP as meeting the requirements of section 172(b)(9) if the state submits the information described above.

(8) *New Source Review.* The existing new source procedures provide for review of plans and specifications for the installation of emitting or emission control equipment. The review is conducted at the time the process equipment or air pollution controls are ready to be installed. In some cases this allows construction to commence on new sources without a review by the state. This is inadequate to provide the review of the location of a proposed source as required by section 110(a)(2)(D). The state asserts that it does not have the legal authority to conduct the required review. The bill now before the legislature does not contain adequate authority to satisfy this requirement.

Proposed action: EPA does not propose any approval or disapproval action at this time. In accordance with the requirements of section 110(a)(2)(H) of the Act and 40 CFR 51.6, EPA proposes a finding of deficiency and further proposes to require the state to correct this deficiency by submitting legally enforceable preconstruction review requirements by July 1, 1980. EPA solicits comment on whether or not the state permit requirements are deficient, the proposed corrective action, and the proposed deadline for submission of adequate requirements.

(9) *Interstate Pollution.* Section 110(a)(2)(E) issues were not addressed in the state submission. Additional information has been requested from the state regarding sources which may interfere with attainment and maintenance of standards in another state or with measures in another state's plan to prevent significant deterioration of air quality, and regarding notification to other states of new sources.

Proposed action: None at this time.

(10) *State Boards.* Section 128 requires that any existing state board which is empowered to approve or enforce permits must have a majority of members who represent the public interest. Members with any potential conflict of interest must disclose that fact. The authority to implement this requirement is pending in the legislature.

Proposed action: None at this time.

(11) *Permit Fees.* The State of Iowa does not have the authority to charge for permits as required by section 110(a)(2)(K). This authority is contained in pending legislation.

Proposed action: None at this time.

(12) *Consultation.* Section 121 requires a state to provide a satisfactory process for consultation with various officials and federal land managers on the development of the SIP. The submittal does not indicate any contact with federal land managers, nor does it provide for a continuing consultation process.

Proposed action: None at this time. EPA promulgated regulations governing consultation on June 18, 1979 (44 FR 35176). The SIP revision complying with these regulations is due December 18, 1979.

(13) *Stack Heights.* The state did not identify any method to limit credit for the use of stacks taller than good engineering practice or other dispersion techniques.

Proposed action: No action is proposed.

(14) *Public Notification.* The state has been advised of its responsibilities under section 127. Iowa operates a statewide air monitoring network and reports to the public using a modified Pollutant Standard Index. EPA believes the state can demonstrate it meets Section 127.

Proposed action: EPA proposes approval if the state submits the above demonstration.

(15) *Prevention of Significant Deterioration.* The major problem with implementing section 161 is that there is no statutory authority to prevent the construction of new stationary sources of air pollution. This was discussed in section E(6) above.

Proposed action: None at this time. Until the state has approved PSD procedures, source owners must apply to EPA for permission to construct new facilities.

(16) *Excess Emissions.* The plan commits to a revision of the state rule regarding excess emissions. The state has been notified previously that its rule is not approvable unless all emissions exceeding the applicable limits are considered violations. The state has committed to propose a rule by October 1979 and to formally submit the adopted rule by July 1980.

Proposed action: EPA does not propose to take any action until the regulation described above is submitted.

F. Conclusion

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether or not the amendments meet the requirements of Part D and section

110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Deficiencies in the state plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP. However, the state is preparing revisions that may rectify plan deficiencies.

The measures proposed today, if formally approved by EPA, will be in addition to, and not in lieu of existing state regulations. The present emission control regulations will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reaons, the pre-exisiting regulations will be applicable and enforceable.

This notice of proposed rulemaking is issued to advise the public of EPA's intended action on the Iowa SIP submission. EPA requests comments on all aspects of the Iowa SIP, not just those specifically identified above.

Comments received within 30 days will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

(1) the SIP has been available for inspection and comment since July 17, 1979, so that the total comment period is more than 60 days; and

(2) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979, on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of sectio 110 of the Clean Air Act, as amended.

Dated: August 13, 1979.

Kathleen Q. Camin,

Regional Administrator.

[FR Doc. 79-27095 Filed 9-6-79; 8:45 am]

BILLING CODE 6565-01-M

[40 CFR Parts 52]

[FRL 1313-6]

Proposed Revision to Idaho State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed Rulemaking.

SUMMARY: On July 10, 1979 EPA published in the **Federal Register** and Advanced Notice of Proposed Rulemaking (44 FR 40360–61) describing the settlement reached between the Bunker Hill Company and EPA on June 11, 1979 and announcing its availability for inspection. EPA is today proposing as a revision to the Idaho State Implementation Plan (SIP), the Interim Regulation contained in that Settlement Agreement.

DATE: Comments on the proposed revision will be accepted by EPA until October 9, 1979.

ADDRESSES: The Settlement Agreement and Interim Regulation and Docket No. 10A–79–4, containing material relevant to this action may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying. The docket is located at the following EPA offices: Air Programs Branch M/S 629, Docket No. 10A–79–4 Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Central Docket Section, Room WSM–2903B, Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20460. Send comments to: Laurie Kral, 1200 Sixth Avenue, Seattle, Washington 98101, Mail Stop 629.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Chief, Technical Support and Special Projects Section, Air Programs Branch, M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone No. (206) 442–1125, (FTS) 399–1125.

SUPPLEMENTARY INFORMATION:

Background

On January 1972, the State of Idaho submitted a SIP to EPA in accordance with Section 110 of the Clean Air Act. On May 31, 1972 (37 FR 10842), EPA approved the SIP except for the sulfur dioxide (SO_2) control strategy and compliance schedule sections. On October 7, 1974 (39 FR 36018), EPA proposed regulations for the control of sulfur oxides from the Bunker Hill complex requiring 98 percent permanent control of SO_2. Thereafter, on January 10, 1975, the State of Idaho submitted to EPA, as a proposed revision to the SIP, a regulation (Regulation S) for the control of SO_2 at the Bunker Hill complex. On April 10, 1975 EPA proposed to disapprove the Idaho submission on the grounds that it did not meet the requirements of Section 110 of the Clean Air Act and 40 CFR 51.13. On November 19 1975, EPA approved portions of the State of Idaho's Regulation S including the ultimate emission limitation, disapproved other portions of Regulation S including the interim emission limitation, and promulgated federal regulations to replace the disapproved portions (40 FR 53584). Thereafter, the Bunker Hill Company challenged EPA's final rulemaking action in this matter.

The United States Court of Appeals for the Ninth Circuit issued its opinion [1] on July 5, 1977 and remanded the matter back to EPA for further administrative proceedings.[1] The Court stated that a more extensive administrative record was needed to show that the requirements promulgated by EPA dealing the with interim emission limitation were technologically feasible.

In response to a request by Bunker Hill EPA promulgated regulations on November 8, 1977 defining requirements pertaining to excess emissions caused by startup, shutdown or malfunction of equipment (42 FR 58171). On November 23, 1977 Bunker Hill challenged EPA's rulemaking on excess emissions and EPA consented to consolidate the November 8, 1977 regulations into the remand of the November 19, 1975 regulations.

During the period of time from December 28, 1977 through June 11, 1979, EPA and the Bunker Hill Company engaged in extensive document discovery, document production, and the development of written testimony for the remand proceedings. Concurrently, EPA and the Bunker Hill Company entered into a preliminary understanding which set forth, in principle, the areas of agreement between EPA and the Bunker Hill Company. On June 11, 1979, representatives of the Bunker Hill Company and EPA executed a Settlement Agreement and Interim Regulation which is the basis for this proposed rulemaking.

[1] Bunker Hill Company v. EPA, 572 F.2d 1286 (9th Cir. 1977), hearing denied, No. 75–3670 (December 28, 1977).

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The regulations promulgated by EPA in November 1975 called for an interim overall plant SO_2 emission limit of 680 tons per week (approximately 82% control), acid plant tailgas limits of 2,600 parts per million (ppm) (6-hour average) and a prohibition of bypassing strong gas streams around the acid plant and to the atmosphere. In technical support document for that rulemaking EPA suggested that supplemental SO_2 injection techniques using a sulfur combustion furnace could be utilized to remedy certain acid plant design deficiencies to enable Bunker Hill to meet the SO_2 control requirements. The sulfur combustion furnace was not a regulatory requirement but rather was suggested as on possible remedy to the SO_2 control problems at Bunker Hill.

As a result of the remand proceedings EPA initiated a complete re-evaluation of the remanded SO_2 control regulation. The purpose of the review was to demonstrate that either the existing regulation or a more stringent regulation was technically feasible and also to present numerous alternative methods for meeting SO_2 control requirements.

The review included two major segments—an analysis of the Bunker Hill operation and an evaluation of other non-ferrous smelters and acid plants where a high degree of SO_2 capture has been achieved. In addition, the cost and feasibility of SO_2 control alternatives were examined. The technical material supporting this proposed rulemaking is summarized in a report entitled "Summary of Technical Material Supporting EPA Rules Governing Sulfur Dioxide Capture at Bunker Hill", August 1979.

In brief, if EPA were to carry out the remand, it would be the Agency's contention that the technical information gathered during the remand proceedings affirms the technological feasibility of the original November 19, 1975 and November 8, 1977 EPA rulemaking and perhaps a more restrictive degree of control. However, as a result of the 1977 Clean Air Act Amendment, these questions are to be decided under section 119 of the Act. It is the Administrator's judgment on the basis of information submitted by Bunker Hill during the remand proceedings that bunker Hill will probably be eligible for a primary Nonferrous Smelter Order (NSO) under section 119 when final national NSO rules are promulgated.

Implementation of the Settlement Agreement

In accordance with the Settlement Agreement, EPA is today proposing the regulatory portion of the Settlement Agreement (Section II) as a revision to the Idaho State Implementation Plan (42 CFR Part 52, Subpart N). Information gathered and testimony prepared by EPA as well as other related materials which have been previously prepared for the remand proceedings and settlement negotiations are contained in the docket and form the basis for the provisions of the Interim Regulation.

The Settlement Agreement provides, in brief, that EPA will ultimately issue a first NSO under section 119 of the Act to Bunker Hill. The Agreement specifies the contents of the NSO, and provides procedures for its issuance. Because EPA has not yet promulgated final national rules governing the NSO program, the Agreement calls for the terms of the NSO to be implemented in the interim through a revision of the Idaho SIP, through appropriate rulemaking procedures.

It should be noted that EPA would ordinarily be legally prohibited by section 110, 123, and 302 of the Act from allowing the use of unauthorized dispersion techniques in a state implementation plan. However, the Administrator believes that this situation presents unique circumstances under which the provisions of the savings clause (section 406) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95) permit the proposed interim amendment of the existing Idaho SIP. The Administrator also believes that after promulgation of the final national NSO rules, provisions allowing the use of dispersion techniques must be removed from the SIP and those provisions then be converted into an NSO if Bunker Hill is eligible.

The Agreement also provides that Bunker Hill will not challenge the first NSO if it contains the same terms as specified by the Agreement. EPA has agreed to treat the detailed technical and economic information submitted by Bunker Hill during the remand proceeding as Bunker Hill's NSO application. That material contains substantially the same information EPA has proposed to require of all NSO applicants. The provisions of the Interim Regulation and the first NSO issued to them will govern the obligation of Bunker Hill with respect to interim sulfur dioxide (SO_2) controls until the January 1, 1983 expiration date of the first NSO.

The Regulation

Emission Limits. The proposed regulation establishes SO_2 emission limits which bunker Hill must meet by June 11, 1980. These limits include an overall plant SO_2 emission limit from the two tall stacks of 625 tons per running 7-days. One exceedence of the 7-day limit is allowed per calendar quarter. The overall limit includes acid plant bypass emissions and excess emissions caused by start-up, shutdown, maintenance and malfunction. Acid plant tailgas SO_2 emissions are limited to 2600 ppm averaged over a running 6-hour period. All emissions are to be measured by approved continuous monitoring equipment which meet specified criteria.

Excess Emissions. Bypass of process exhaust strong gas streams around an acid plant is excused but only under five narrowly defined situations. The regulation specifies the amount of time bypass can occur following process or acid plant breakdown. It also specifies the amount of time (in terms of operating parameters) that process exhaust gas can bypass the acid plant during acid plant restart. After June 11, 1980 and except as described below, Bunker Hill is prohibited from continuing to operate its processes while the applicable acid plant is shutdown for the annual maintenance period.

Annual Acid Plant Maintenance Offset. Continued process operation while an acid plant is shutdown for annual maintenance is allowed to occur for up to 14 days per year provided an offset of emissions is achieved. An interim method is provided to establish the offset until the new SO_2 control system is on line. Effective June 11, 1982 for every ton of SO_2 that is bypassed during the annual maintenance period Bunker Hill must, during the course of the year, capture an additional ton of SO_2. Such additional SO_2 must be removed from either the sinter machine weak stream or the blast furnace SO_2 stream—neither of which are currently controlled.

Fugitive SO_2 Emission Program. The Bunker Hill Company is required to install a system to eliminate over 90 percent of the blast furnace upset conditions. This system should result in the capture of approximately 21 tons per week of fugitive SO_2 emissions. those emissions will be released to the atmosphere via the main stack. If the blast furnace fugitive emission program captured less than 21 tons per week, the overall plant SO_2 emission limit will then be reduced by that portion of the 21 ton per week which is not captured.

Research and Development Program. The proposed regulation requires the Company to immediately commence a continuous research and development program. Bunker Hill is, however, provided with the option of either employing a full scale or a reduced scale program. Successful implementation of the full scale program would satisfy the acid plant maintenance offset provision. If the Company choses to implement the reduced scale program, the smelting processes must be shutdown while the applicable acid plant is shutdown during the annual acid plant maintenance period.

The reduced scale program requires that by February 11, 1982 an FGD system must be placed into service to treat a portion of either the sinter machine weak SO_2 stream or the blast furnace exhaust gas. Under the terms of the proposed regulation, the reduced scale program must have a minimum volume operating capacity of 5000 scfm. 95% SO_2 capture efficiency, 95% on-line availability, continuous measurement instrumentation and must be automatically controlled.

Supplementary Control System. The Company is allowed to employ SCS to meet NAAQS using an SCS implementation plan and operating manual approved by EPA. SCS program deficiencies defined by an EPA study entitled "Review of the SCS Used by the Bunker Hill Company-Kellogg, Idaho" (EPA 330/2–79–001) must be corrected.

A study must also be performed by Bunker Hill to demonstrate that ambient SO_2 monitors are located in all areas of maximum expected ambient SO_2 concentrations. Alternative techniques are allowed where air quality in a monitored location is used in conjunction with modelling techniques to predict SO_2 concentrations elsewhere. The modelling techniques, however, must be calibrated using temporary SO_2 monitors. A compliance schedule specifies when the study is to be complete, when a revised SCS plan and operational manual are to be submitted and when the new SO_2 monitors are to be placed into service. Until such time that the Administrator approves the new SCS program, the existing SCS and SO_2 monitors will be used on an interim basis to assure attainment of NAAQS.

Solicitation of Comments

The Agency at this time actively solicits comments on all aspects of the proposed regulation. The Administrator does not intend to hold a public hearing on these proposed regulations unless requested by third parties to do so.

Authority: Secs. 110, 119, and 301 of the Clean Air Act as amended (42 USC 7410, 7419, and 7601), and section 406 of Pub. L. No. 95–95 (August 7, 1977).

Dated: August 30, 1979.

L. Edwin Coats,

Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart N—Idaho

Section 52.676, paragraphs (a)(2) and (b) are revised as set forth below and paragraph (b) is also amended by adding an Appendix A as set forth below:

§ 52.676 Control strategy: Sulfur oxides—Eastern Washington-Northern Idaho Interstate Region.

(a)

. . . . .

(2) Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is approved with the exception of Section IV. Section IV of Regulation S of the "Rules and Regulations for the Control of Air Pollution in Idaho" is disapproved and is replaced by paragraph (b) of this section as shown below.

(b) *Interim Regulation for control of sulfur dioxide (SO_2) emissions from the Bunker Hill Company lead and zinc smelter located in Shoshone County in the Idaho portion of the Eastern Washington-Northern Idaho Interstate Region.*

(1) *SO_2 emission limitations.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(1) of this section in regard to the capture of SO_2. The requirements governing SO_2 gas stream bypass during the annual acid plant maintenance period as provided by paragraphs (b)(5) and (b)(6) of this section shall become effective on June 11, 1979.

(i) The owner(s) or operator(s) of the smelter subject to paragraph (b)(1) of this section shall not cause or allow the discharge of gases in excess of:

(A) 2600 parts per million (by volume) SO_2 averaged over any hourly running 6-hour averaging period, from any sulfuric acid plant as determined by continuous monitoring equipment specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. In determining violations of the 6-hour averaging period, no two violations shall contain any common hourly data points; and

(B) 567,000 kg (625 tons) SO_2 over a daily (midnight to midnight) running 7-day period as determined by continuous monitoring equipment[1] specified in paragraph (b)(1)(iv) of this section and in accordance with the compliance procedures specified in paragraph (b)(4)(iii) of this section. Such limitation is plant wide and shall apply to the sum total of SO_2 emissions from the lead smelter main stack and the zinc plant main stack and shall include all excess emissions as defined in paragraph (b)(2)(i) of this section. Except as provided in paragraph (b)(6)(ii) of this section the emission limitation shall not be exceeded more than once per three (3) month calendar quarter, e.g., January, February and March. Such single excused emission shall be the first exceedence of the 7-day limit in the three month quarterly period. In determining violations of the 7-day limit, no two violations shall contain any common daily (midnight-to-midnight) data points. As provided in Appendix A to this regulation and upon notification by the Enforcement Division Director of the EPA-Region X the plant wide emission limit shall be decreased to not less than 548,000 kg (604 tons) SO_2.

(ii) *Bypass prohibition.* Except as provided in paragraph (b)(2)(ii) below, all SO_2 gas streams discharged from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine shall at all times be processed in an SO_2 removal facility. The owner(s) or operator(s) shall not cause or allow these SO_2 gas streams to be discharged to the atmosphere.

(iii) *Circumvention.* Other than for temporary process control or to temporarily prevent significant equipment damage, dilution air or other extraneous gases shall not be allowed to enter or combine with any process gas normally treated by an SO_2 removal facility or with any acid plant tailgas prior to SO_2 concentration or flow measurement where the purposes of such combination would be to:

(A) In other than the lead smelter or zinc plant main stacks decrease the concentration of SO_2 in such streams;

(B) Otherwise adversely effect the operation of any SO_2 removal system, SO_2 concentration measurement device or gas flow measurement device; and

(C) Decrease the concentration of SO_2 in gases exhausted from the sinter machine and zinc roasters which will have the effect of circumventing the requirements of paragraph (b)(2)(ii) of this section. The owner(s) or operator(s) must promptly inform the Administrator of any substantial changes in process gas flow which may affect the performance of any SO_2 removal facility or measurement device, regardless of the purpose for any such change.

(iv) *Continuous Monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording SO_2 emission concentrations, gas volumetric flow

[1] The owner(s) or operator(s) shall have the right in any enforcement proceeding to raise the issue of the accuracy of continuous monitoring instruments.

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rates and gas flow indication in accordance with paragraph (b)(4)(ii) of this section for the monitoring equipment listed and at the following locations:

(A) Continuously operated SO_2 emission concentration and gas volumetric flow rate monitors and recorders located immediately downstream of each acid plant such that the measurement system measures only the tailgas from one acid plant;

(B) Continuously operated SO_2 concentration and gas volumetric flow rate monitors and recorders located in the zinc plant main stack;

(C) Continuously operated SO_2 concentration and gas volumetric flow rate monitors and recorders located in the lead smelter main stack and the lead smelter acid plant (upstream of the acid plant converter);

(D) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet from the sinter machine where SO_2 gas streams normally treated in an SO_2 removal facility may be bypassed around such facility and be routed to the atmosphere;

(E) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in each of the individual five ducts receiving the bypass exhaust gas from zinc roasters #1 through #5. Each device must be located to monitor the bypass from only one roaster;

(F) Continuously operated gas flow indicating devices which will indicate and record the presence of gas flow in any duct or outlet where a single zinc roaster or combination of zinc roasters exhaust gas streams may be bypassed around an acid plant and routed to the atmosphere; and

(G) Based on a filing that the monitoring equipment specified herein is reasonably deemed to be inadequate to provide for effective regulatory compliance the Administrator may require the owner(s) or operator(s) to install and continuously operate gas volumetric flow rate monitor(s) and recorder(s) in any duct or outlet where exhaust gas may by bypassed around the acid plant(s) and routed to the atmosphere. In the event that such a finding is made by the Administrator, the owner(s) or operator(s) agree to install and operate such continuous monitors on or before sixty (60) days after the owner(s) or operator(s) receive such written notification by the Enforcement Division Director of Region X–EPA.

(v) *Continuous process monitoring.* The owner(s) or operator(s) shall install and calibrate, and shall thereafter maintain, operate and periodically test measurement systems for continuously monitoring and recording process parameters for the monitoring equipment listed and at the following locations:

(A) Continuous temperature monitors located to measure and record the inlet gas temperature at the first and third catalyst beds of each sulfuric acid plant;

(B) Continuously operated monitors which will detect and record the commencement and cessation of concentrate feed entering each zinc roaster. The recorded data from such monitors shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(l)(iv)(E) and (F) of this section from each individual zinc roaster; and

(C) Continuously operated monitor which will detect and record the commencement and cessation of concentrate feed entering the sinter machine. The recorded data from such monitor shall be printed on the same chart as used to record bypass gas flow in paragraph (b)(l)(iv)(D) of this section from the sinter machine; and

(vi) *Fugitive SO_2 emissions.* The owner(s) or operator(s) shall utilize best engineering techniques to capture and vent such fugitive SO_2 gases through stacks serving the facility. Such techniques shall include but not be limited to:

(A) Maintaining and operating all ducts, flues and stacks in a leak-free condition;

(B) Maintaining and operating all process equipment and gas collection systems in such a fashion that out-leakage of SO_2 gases will be prevented to the maximum extent possible;

(C) Instituting a program to reduce the fugitive emissions from the zinc roasters by reducing the frequency of positive pressure surges in the zinc roasters. This will be accompanied by component replacement, new fans, better operating practices, or other improvements to the integrity of the gas collection system as necessary to attain the Occupational Safety and Health Administration (OSHA) lead standard. This project will be completed on the dates required by the OSHA regulation to meet the lead workplace concentration standard. The estimated reduction in SO_2 fugitive emissions is approximately 8 tons per week and after treatment in an acid plant is expected to increase the total SO_2 emissions in the zinc smelter main stack by no more than 1 ton per week;

(D) Instituting a program to improve the draft maintained in the sinter machine hooding. This program will include increased maintenance on the strong and weak gas ducts, complete replacement of any mild steel hood material with stainless steel, excluding the last two hood sections which are not subject to high corrosion, and improvements in other system components to achieve 90% collection of the existing fugitive emissions estimated to be 4 tons of SO_2 per week. Part of the these emissions will be treated in an acid plant so the increase in emissions through the lead smelter tall stack is estimated to be 3 tons of SO_2 per week. Such a program is expected to increase the total SO_2 emissions from the lead smelter main stack by no more than 3 tons per week; and

(E) Installing and operating a manual and if necessary automatically controlled tuyere air flow control system on both blast furnances on or before June 11, 1980. The system is to be designed to eliminate over 90% of the current furnace upset conditions that result in fugitive SO_2 emissions. Such a program is expected to increase the total SO_2 emissions from the lead smelter main stack by no more than 21 tons per week. The program will be designed to reduce the frequency of blast furnance upset conditions to an aggregate total of less than 3.4 hours per week.

(F) Compliance with the fugitive SO_2 emission control program will be judged by Appendix A to this regulation.

(2) *Excess emissions.* Effective on June 11, 1980, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(2) of this section in regard to acid plant bypass, excess emissions and equipment malfunction. The requirements governing excess emissions during the annual acid plant maintenance period as set forth in paragraphs (b)(5) and (b)(6) of this section shall become effective on June 11, 1979.

(i) *Definition of excess emissions.* Any SO_2 emissions exceeding the limitations specified in paragraph (b)(l)(i) of this section shall constitute on excess emission. SO_2 gas streams discharged to the atmosphere from any zinc plant roaster and from the strong gas exit point on the input end of the lead smelter sinter machine without being processed in an SO_2 removed facility shall also constitute an excess emission.

(ii) *Presumptively excused excess emissions.* Where the owner(s) or operator(s) fully comply with the reporting requirements of paragraph (b)(2)(iv) of this section and further demonstrate that the conditions specified in paragraphs (b)(2)(ii)(A) through (E) below have been met, the bypass of SO_2 gas streams around an SO_2 removal facility shall be excused. Any excess emissions, whether or not claimed by the owner(s) or operator(s) to be excused excess emissions, may be deemed by the Administrator to violate this regulation where the owner(s) or operator(s) fail to comply with any requirement of paragraph (b)(2)(ii) of this section or upon a finding by the Administrator that the excess emissions claimed to be excusable by the owner(s) or operator(s) were caused by one or more of the conditions set forth in paragraph (b)(2)(v)(A) through (C) of this section. Excess emissions resulting from the following conditions are presumptively excused:

(A) *Process shutdown following acid plant breakdown.* In the event of a breakdown or malfunction of an acid plant, the owner(s) or operator(s) may bypass the gas stream normally controlled by such acid plant, only for the time period necessary to shutdown the process equipment (zinc roaster(s) or sintering machine) whose SO_2 streams would normally by controlled by such acid plant. Shutdown of the process equipment shall be initiated immediately and the time period to accomplish the shutdown and during which bypass is excused shall not exceed the following:

(*1*) 15 minutes for the sinter machine except where complete emptying of the sinter belt is required the time period shall not exceed 60 minutes; and

(*2*) 30 minutes for shutdown of any single zinc roaster or combination of zinc roasters;

(B) *Process shutdown following zinc roaster breakdown.* In the event of a breakdown or malfunction of a zinc roaster, the owner(s) or operator(s) may bypass the gas exhausted from that individual roaster around an acid plant and to the atmosphere commencing five minutes after concentrate feed ceases to enter such roaster;

(C) *Process startup following zinc roaster shutdown.* During the period when a zinc roaster is restarted following its shutdown the owner(s) of or operator(s) may bypass the gas exhausted from that individual roaster around the acid plant and to the atmosphere *only* as follows:

(*1*) If either of the zinc plant acid plants is being restarted the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the roaster exhaust gas *only* for the time period necessary for a well designed, operated and maintained acid plant [3] to establish autothermal [4] operation; and

(*2*) If no acid plant is being restarted and if one or more zinc roasters is operating the owner(s) or operator(s) may bypass, around an acid plant and to the atmosphere, the exhaust gas from the individual roaster which is starting-up but *only* for the time period which ends 15 minutes after concentrate feed commences to enter such roaster;

(D) *Process start-up following sinter machine shutdown.* In the event that the sinter machine has been shutdown, and upon its restart, the owner(s) or operator(s) may bypass the exhaust gas, around the acid plant and to the atmosphere, *only* as follows:

(*1*) If the sintering machine has been shutdown for greater than three hours bypass may occur but may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation; and

(*2*) If the sintering machine has been shutdown due to an acid plant component failure and the repair of the acid plant component takes longer than three hours bypass during restart of the sinter machine may occur. Such bypass may not exceed the time period necessary for a well designed, operated and maintained acid plant to re-establish autothermal operation;

(E) *Continued process operation during annual acid plant maintenance.* The owner(s) or operator(s) may bypass the process emissions around the acid plant and to the atmosphere during the annual acid plant maintenance period *only* to the extent allowed by paragraphs (b)(5) and (b)(6) of this section;

(iii) *Other excess emission.* The owner(s) or operator(s) may in the required excess emission report of paragraph (b)(2)(iv) of this section claim that excess emissions should be deemed by the Administrator to be excusable. Any excess emission claimed to be excusable under this paragraph (b)(2)(iii) of this section shall be a violation of this regulation unless and until the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator that such excess emission should be excused. For the purpose of illustration, cited below are categories of other excess emissions which may be excused:

(A) Bypass of gas around SO_2 removal facilities where necessary to prevent loss of life, personal injury or severe property damage. (Severe property damage does not include economic losses caused by production losses such as those caused by shut down of the blast furnace or electrolytic zinc processes due to lack of feed material.); and

(B) Sudden and unavoidable excess acid plant tailgas SO_2 emissions which are beyond the control of the owner(s) or operator(s). However, excess emissions shall not be deemed beyond the control of the owner(s) or operator(s) if caused by one or more of the following:

(*1*) Improperly designed acid plant components;

(*2*) Improperly operated process(es) or acid plant equipment;

(*3*) Inadequate maintenance of acid plant and/or gas cleaning systems; and

(*4*) In general, any fluctuations in volume or SO_2 concentrations of the acid plant feed gas.

(iv) *Excess emission report.* For any excess emissions, including those covered in paragraphs (b)(2)(ii) and (b)(2)(iii) of this section the owner(s) or operator(s) shall submit on initial report to the Enforcement Division Director of the EPA—Region X. The report shall be submitted monthly within 15 days from the last day of the prior month. The owner(s) or operator(s) shall also record and maintain other supplemental information as set forth in paragraph (b)(2)(iv)(B) of this section.

(A) The initial report shall contain the following information:

(*1*) Identity of the gas stream, stack or other point where the excess emissions occurred;

(*2*) General magnitude of the excess emissions;

(*3*) Time and duration of the excess emissions;

(*4*) Nature and cause of such excess emissions; and

(*5*) Identity of the equipment causing the excess emissions;

(B) The supplemental information shall include the following and if requested be provided to the Enforcement Division Director of EPA—Region X within 30 days of request;

(*1*) Specific steps taken by the operator(s) to limit the excess emissions and when those steps were commenced;

(*2*) If the excess emissions were the result of equipment malfunction, the steps taken to remedy the malfunction and to prevent the recurrence of such malfunction;

[3] As used in this regulation, in a well designed, operated and maintained acid plant the first catalyst bed must be at or be heated to a minimum temperature of 750° F before the zinc roaster (or sinter machine) the acid plant serves re-starts.

[4] As used in this regulation the term "autothermal operation" is defined as the point in time when the temperature of gases entering the first catalyst bed in the acid plant converter is at 825° F or when the temperature of gases entering the third catalyst bed is at 750° F whichever comes first. The owner(s) or operator(s) shall insure that at any time an acid plant is started up sufficient gas will be routed to the acid plant as soon as possible to achieve autothermal operation. Further, the fan supplying gas to the lead smelter acid plant (Fan #8) shall upon start-up of the sinter machine immediately be brought up to full R.P.M. and operating Logs maintained to document full RPM flow rate.

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(3) Specific magnitude of the excess emissions including monitoring data and calculations which describe or may be used in determining the magnitude of the excess emissions;

(4) Maintenance schedules applicable to the equipment causing the excess emissions;

(5) Copies of properly signed contemporaneous operating log sheets; and

(6) Other related documentation as may be reasonably required by the Director to assist him in the evaluation of the excess emissions including any information necessary to make the determinations set forth in paragraph (b)(2)(v) of this section.

(C) Failure of the owner(s) or operator(s) to provide the EPA with a full and complete excess emissions report within a timely fashion, shall constitute a violation of this regulation.

(v) *Evaluation of excess emission report.* In evaluating the excess emissions, the Enforcement Division Director shall take into consideration, the following:

(A) Whether the air pollution control systems and process equipment were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with best practice for minimizing emissions;

(B) Whether the amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions, and process equipment was shut down within the shortest reasonable time after the SO_2 removal facility shut down occurs; and

(C) Whether the excess emissions were part of a recurring pattern indicative of serious deficiencies in, the design, operation or maintenance of, the process(es), the gas cleaning equipment or the SO_2 removal facility, including whether prescribed maintenance schedules were followed.

(vi) Nothing in this subsection shall be construed to limit the authority of the Administrator to take any action under Section 303 of the Clean Air Act.

(3) *Supplementary Control System.* Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter, in addition to meeting the SO_2 capture requirements of paragraph (b)(1) of this section shall employ a supplementary control system (SCS) to the extent necessary to meet National Ambient Air Quality Standards (NAAQS) for SO_2 and such other additional control measures as may be necessary, to assure the attainment and maintenance of NAAQS for SO_2. The requirements applicable to the SCS program and meeting ambient air quality standards are as follows:

(i) *SCS analysis.* On January 18, 1979, the Administrator provided the owner(s) or operator(s) with a copy of an EPA technical analysis of the existing SCS program detailing deficiencies in such program;

(ii) *Final SCS Program.* Except during the interim period as provided in paragraph (b)(3)(vii) of this section, the final SCS program shall be conducted in accordance with the provisions of an SCS implementation plan and an SCS operational manual, both of which must be approved by the Administrator. The SCS implementation plan shall describe the administrative requirements, personnel staffing, components and equipment of the SCS system. The SCS manual shall describe the circumstances under which, the extent to which, and the procedures through which emissions shall be curtailed to prevent violations of the NAAQS for SO_2. Process SO_2 emissions shall be curtailed in accordance with the SCS operating manual whenever the potential for violating any NAAQS for SO_2 is indicated at any point in a designated liability area (as defined in paragraph (b)(3)(v) of this section) by air quality measurements and air quality predictions;

(iii) *The SCS Implementation Plan.* An approvable SCS implementation plan shall contain (but not be limited to) the following:

(A) A detailed description of the emission monitoring system and the continuous SO_2 monitoring network that will be used in the SCS to detect maximum ground-level SO_2 concentrations in the designated liability area (DLA). Such description must specify the number, type and exact location of each SO_2 monitor and in-stack monitor to be used. An approvable monitoring system/network must include the following:

(*1*) Except as provided in paragraph (b)(3)(viii)(C) of this section, the continuous SO_2 monitoring equipment shall be located at all ambient air [5] points of expected maximum ground-level SO_2 concentrations in the DLA provided that if deemed necessary to guarantee attainment and maintenance of standards, monitors may be located in other locations with the approval of the Administrator. The determination of the locations where maximum concentrations may occur shall take into account all reasonably probable meteorological and process operating conditions, as well as the presence of other sources of SO_2 significantly affecting SO_2 concentrations in the DLA;

(*2*) The number and location of sites shall be based on dispersion modelling, measured ambient air quality data, meteorological data and other meteorological information;

(*3*) The system shall include the use of fixed SO_2 ambient monitors and one mobile monitor to be sited as, from time to time, the EPA–Region X may reasonably direct unless the Administrator determines, on the basis of a demonstration by the owner(s) or operator(s), that the use of fewer monitors would not limit coverage of points of maximum concentration or otherwise reduce the capability of the owner(s) or operator(s) to prevent any violations of the NAAQS in the DLA; and

(*4*) All monitors shall be continuously operated and maintained and shall meet the performance specifications contained in CFR Part 53. The monitors shall be capable of routine real time measurement of maximum expected SO_2 concentrations for the averaging times of SO_2 NAAQS.

(B) A detailed description of the meteorological sensing network. Such description must specify the number, type and exact location of each meteorological insturment to be used. An approvable network must have an assessment capability adequate to identify conditions requiring emission curtailment to prevent possible violations of the NAAQS. The meteorological assessment capability shall provide all forecast and current information necessary for successful use of the system's operational manual;

(C) A program whereby the owner(s) or operator(s) systematically evaluates and improves the ability of the SCS to protect against violations of the NAAQS. Such program must be based upon the information contained in the EPA Guideline Document–OAQPS 1.2–036; and

(D) A clear delineation of authority delegated to an appropriate named company official to require all other smelter personnel to comply with the SCS operator's curtailment decisions. The identity of responsible and knowledgeable on-site company personnel who are the qualified SCS operators and are authorized to initiate and supervise the actions that will be taken to curtail emissions shall be listed; such personnel must, upon request, be able and be authorized by the Company to inform the Administrator as to the status of the SCS, meteorological and air quality conditions at any time and whether and to what extent the recommendations or determinations of the SCS operator(s) were followed or overridden by any Company official in making any curtailment or operating decision;

(iv) *The SCS Operating Manual.* An approvable operational manual shall require operation of the SCS to include (but not be limited to) the following:

(A) Prescribed emission curtailment decisions based on the use of real time information from the air quality monitoring network, dispersion model estimates of the effect of SO_2 emissions on air quality, and meteorological observations and predictions;[6]

(B) The maintenance and calibration procedures and schedules for all SCS equipment;

(C) The procedures to be followed for the regular acquisition of all meteorological information necessary to operate the system;

(D) The ambient concentrations and meteorological conditions that shall be used as criteria for initiating various degrees of non-discretionary emission curtailment;

(E) The meteorological variables including the thresholds, ranges and combinations of values as to which judgments may be made to anticipate the onset of, and apply, the criteria stated in sub-paragraph (b)(3)(iv)(D) above. Specifically, the maximum emission rates which may prevail under each of these meteorological and air quality situations must be specified. Such emission rates shall be determined by in-stack monitors and shall be the basis for determining whether provisions of the operationsl manual are adhered to;

(F) The procedures through which and the maximum time period within which a curtailment decision will be made and implemented by the SCS operator;

(G) The method for immediately evaluating the adequacy of a particular curtailment decision, including the factors to be considered in that evaluation;

(H) The procedures through which and the time within which additional necessary curtailment will immediately be effected; and

(I) The procedures to be followed to protect the NAAQS for SO_2 in the event of a mechanical failure in any element of the SCS.

(v) *Designated Liability Area.* The DLA shall be the area within two circles, each with a radius of 10 statute miles (16 kilometers) with the center point of such circles coinciding, respectively, with the main stack serving the lead smelter and the main stack serving the zinc plant. If new information becomes available which demonstrates that the DLA should be redefined, the Administrator shall consider such information and if appropriate, redefine the DLA.

(vi) *Consent to liability.* On or before July 11, 1979, the owner(s) or operator(s) shall submit to the Administrator an affidavit signed by a responsible company official, empowered to do so, stating that in any judicial or administrative proceeding to enforce this regulation the owner(s) will accept responsibility for violations of the NAAQS for SO_2 in areas of ambient air in the DLA as defined by paragraph (b)(3)(v) of this section.

(vii) *Interim conduct of SCS Program.* Until the Administrator approves under paragraph (b)(3)(x) of this section a revised SCS implementation plan and a revised SCS operational manual required under paragraph (b)(3)(ix)(C) of this section, the owner(s) or operator(s) shall conduct the SCS program in accordance with the existing SCS operational manual and the existing SCS implementation plan which has been approved by the Director of the State of Idaho Department of Health and Welfare (IDHW) provided that, upon execution of the consent to liability as required by paragraph (b)(3)(vi) of this section, the existing manual and plan shall be deemed modified by such consent.

(viii) *Study regarding NAAQS.* Within the times specified by paragraph (b)(3)(ix) of this section, the owner(s) or operator(s) shall submit a study to EPA—Region X which accomplishes the following:

(A) Demonstrates that the NAAQS for SO_2 are being met in all areas of ambient air within the DLA surrounding the smelting complex;

(B) Corrects the deficiencies in the existing SCS operational manual and SCS implementation plan described in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i) of this section or documents that the EPA study erroneously described such deficiencies;

(C) Demonstrates that ambient SO_2 monitors are located (or will be located) in all areas of maximum expected ambient SO_2 concentrations that take into account all probable meteorological and operating conditions. For specific locations of maximum expected ambient SO_2 concentrations, if the owner(s) or operator(s) can demonstrate in the study that maximum ground-level SO_2 concentrations can be predicted through use of alternate techniques then SO_2 ambient monitors may not have to be placed at each such respective location, provided that such respective localities are inaccessible. "Alternative techniques" as used here shall be deemed to be a demonstration through SO_2 monitoring and calibrated modeling techniques that the compliance status of each unmonitored location of maximum expected SO_2 concentration will be accurately determined from data collected at an alterntive monitoring site; and

(D) Failure to timely submit an approvable study shall constitute a violation of this regulation.

(ix) *Required submissions.* The following items must be submitted to the Administrator within the time limitations shown:

(A) Within two (2) months following the date of promulgation of the final NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a study plan for the study required by paragraph (b)(3)(viii) of this section; within one (1) month following receipt of such plan the Administrator will provide comments to the owner(s) or operator(s) on such study plan;

(B) Within five (5) months following the date of promulgation of the final NSO regulations under Section 119 of the Act, the owner(s) or operator(s) shall submit a final study plan for the study required by paragraph (b)(3)(viii) of this section which incorporates the EPA comments described in paragraph (b)(3)(ix)(A) of this section;

(C) Within one (1) year following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 [7] of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator the NAAQS attainment and SO_2 ambient monitor placement study required by subparagraph (b)(3)(viii);

(D) Within eighteen (18) months following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator an approvable SCS implementation plan and an approvable SCS operational manual which accomplishes the following:

(*1*) takes into account the placement of SO_2 ambient monitors in the areas of maximum expected ambient SO_2

[5] As used in this regulation the term "ambient air" shall be defined in the same manner as that term is defined in the Clean Air Act and regulations promulgated thereunder.

[6] The intent behind this sub-paragraph is set forth in Sub-Part D of the recently proposed NSO regulations (44 FR 6283; 6290–6291 (January 31, 1979) and 44 FR 11098; 11097 (February 27, 1979).

[7] These Section 123 tall stack regulations were proposed in the Federal Register on January 12, 1979 (44 FR 2,608).

concentrations, as specified by paragraph (b)(3)(viii)(B) of this section; and

(*2*) incorporates the requirements of paragraphs (b)(3)(iii) and (b)(3)(iv) of this section and which remedies the problems identified in the EPA technical study of the present SCS program as described in paragraph (b)(3)(i) of this section; and

(E) Within twenty-four (24) months following the date of promulgation of the final NSO regulations under section 119 of the Act or the final tall stack regulations under section 123 of the Act (whichever is later), the owner(s) or operator(s) shall submit to the Administrator a certification that placement of SO_2 ambient monitors is in accordance with paragraph (b)(3)(viii)(C) of this section.

(x) *Final conduct of SCS Program.* Upon the Administrator's review and approval of the information submitted under paragraph (b)(3)(ix)(D) of this section, the owner(s) or operator(s) will be required to conduct the SCS program in accordance with a revised SCS operational manual and the revised SCS implementation plan approved herein. Failure of the owner(s) or operator(s) to timely submit an approvable study plan, study, SCS implementation plan or SCS operational manual will constitute a violation of this regulation.

(xi) *SCS violations.* During the interim conduct of the SCS program as discussed in subparagraph (b)(3)(vii), failure to curtail SO_2 emissions when and as much as indicated by the applicable SCS operational manual or to follow the provisions of the applicable SCS manual and SCS implementation plan shall constitute a violation of this regulation if the NAAQS for SO_2 are exceeded as a result of such failure. Upon commencement of the final SCS program as discussed in paragraph (b)(3)(x) of this section, failure to curtail SO_2 emissions when and as much as indicated by the revised SCS operational manual or to follow the provisions of the revised manual and SCS implementation plan shall constitute a violation of this regulation. Any violation of the NAAQS for SO_2 in the DLA shall be a violation of this regulation unless EPA determines on the basis of a showing by the owner(s) or operator(s) that:

(A) The smelter owner(s) or operator(s) had taken all emission curtailment action indicated by the SCS operational manual; and

(B) The violation was caused in significant part by emissions of another source(s) which were in excess of the maximum permissible emissions applicable to such source(s).

(xii) *Continuing review of the SCS Program.* The owner(s) or operator(s) shall continuously review the design and operation of the SCS program to determine what measures may be available for improving the performance of the system. An annual report shall be submitted to the Administrator by March 1 of each calendar year detailing the results of this review and specifying measures implemented to prevent the recurrence of any ambient SO_2 violations.

(4) *Monitoring, compliance reporting and compliance determination.* Effective on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(4) of this section in regard to monitoring, compliance reporting and compliance determination except where such requirement is to be met in accordance with a separate compliance schedule provided for by this regulation.

(i) *SCS Program.* For the SCS program, the owner(s) or operator(s) shall:

(A) Maintain, in a usable manner, records of all air quality measurements made, meteorological information acquired, and emission curtailments ordered (including the identity of the persons making such decisions) during the operation of the SCS. Such records shall be retained for at least two years; and

(B) Submit to the Administrator, on a monthly basis, within 15 days after the end of each month, all measurements made of air quality and all other information regarding the SCS program that the Administrator may request. Such submission shall include a monthly summary indicating all dates and times when a NAAQS for SO_2 was exceeded or equalled in the DLA.

(ii) *Compliance Monitoring.* For compliance monitoring, the owner(s) or operator(s) shall:

(A) *SO_2 concentration monitors.* Install, operate and maintain SO_2 concentration measurement system(s) in accordance with the performance specifications and other requirements contained in Appendix D to 40 CFR Part 52, and the conditions outlined as follows:

(*1*) All SO_2 monitors shall be operated continuously and each monitor shall take and record at least one measurement [8] of SO_2 concentration in each 15 minute period;

(*2*) The sampling point shall be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator;

(*3*) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645m^2 (50 ft^2) or at a point no closer to the wall than 0.914m (3 ft.) if the cross sectional area is 4.645 [2] (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct; and

(*4*) The SO_2 concentration measurement system(s) shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(B) *Gas volumetric flow rate monitors.* Install, operate and maintain gas volumetric flow rate system(s) in accordance with the performance specifications and other requirements contained in Appendix E to 40 CFR Part 52 and the conditions outlined as follows:

(*1*) The monitors are to be operated on a continuous basis and must be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flange, unless another location is approved by the Administrator.

(*2*) The sampling point within the duct shall be representative of the average flow in the duct or at the point specified by the instrument manufacturer.

(*3*) The instrument used to monitor SO_2 gas streams which bypass the lead smelter acid plant shall be adequate to disclose the time of the bypass and its duration.

(*4*) The measurement system(s) shall be subjected to the manufacturer's calibration procedures at intervals recommended by the manufacturer. Records of these procedures shall be made which clearly show instrument readings before and after any adjustments. If manufacturers calibration procedures do not exist procedures will be specified by the EPA.

[8] In the event SO_2 measurements cannot be recorded because monitoring equipment was out-of-service for periodic zero adjustment and calibration or maintenance an arithmetic mean shall be used to determine SO_2 concentration for a given time interval. 75% of the required data will be considered sufficient to calculate a valid arithmetic average.

(C) *Gas flow indicating devices.* Install, operate, and maintain a system to detect the occurrence of situations when any gas is bypassed around an acid plant as specified in paragraph (b)(1)(iv) of this section in accordance with the following conditions:

(*1*) The system design for detecting gas flow shall be approved by the Enforcement Division Director of the EPA Region X;

(*2*) The device shall be located in each flue or duct where gas may bypass an acid plant;

(*3*) The system shall be capable of detecting gas flows as low as 5% of the maximum expected flow through each duct; and

(*4*) The system shall be continuously operated and capable of disclosing and recording the time of the bypass and its duration.

(D) *Field test.* All continuously operated instrumentation required herein shall be field tested after installation. If field test requirements are not specified by the manufacturer EPA will provide test requirements. The Administrator shall be notified at least 20 days prior to that start of the field test period, to afford the Administrator the opportunity to have an observer present.

(E) *Certification of monitors.* With the exception of the 168 hour break-in period for the SO_2 concentration measurement system(s), all SO_2 concentration and gas volumetric flow rate and gas flow indicating system(s) shall be recertified by the owner(s) or operator(s) at reasonable intervals as requested by the Administrator but in no case less frequently than once per year. The Administrator shall be notified in writing at least 20 days prior to any tests associated with this requirement so that he may have an observer present. A report of the results of each test shall be forwarded to the Administrator within 60 days of the completion of each test;

(F) *Continuous data recorder.* The equipment utilized to record the data and parameters measured by continuous monitoring instrumentation shall meet the following requirements or alternate equivalent requirements as the Administrator may require:

(*1*) Where various parameters are recorded on one strip chart the data must, to the Administrator's satisfaction, be continuously traced and each trace be individually and continuously identifiable when the chart is reproduced. In the event a color coded system of data recording is utilized copies of strip chart recordings submitted to the EPA must also be color coded or include a mathematically reduced tabulation of the data on at least 15 minute intervals;

(*2*) The scale for all SO_2 concentration readings must be set so that maximum expected reading will be at least 40% of full scale;

(*3*) The scale for all gas volumetric flow readings must be set so that the maximum expected readings will be at least 80% of full scale; and

(*4*) Other requirements regarding data reduction and recording may be specified by the Administrator or as required to enforce this regulation.

(G) All SO_2 concentration, gas volumetric flow rate and gas flow indicating measurement and recording instruments shall be maintained on operational mode and one line at *all* times except that provision will be made excusing the owner(s) or operator(s) from monitoring during periods when monitors break down due to causes beyond the control of the owner(s) or operator(s). In such an event, the owner(s) or operator(s) shall notify the Administrator within three (3) days of such a break down and provide information as to actions taken during the instrument malfunction period. All strip chart recordings of the instrumentation of paragraphs (b)(1)(iv) and (b)(1)(v) of this section must be marked once per shift as to the actual time a selected recorded measurement is being recorded. Quality assurance checks shall be performed on all continuous monitoring instrumentation at the frequency specified by the manufacturer or as otherwise reasonably required by the Administrator;

(H) Maintain, in a usable manner, process strip chart recordings, records of all measurements accumulated by the continuous monitoring systems of paragraph (b)(1)(iv) and (b)(1)(v) of this section and compliance determination calculations (measurements) of paragraph (b)(4)(iii) of this section. Such information shall be retained for at least two years. The Administrator or his authorized representative shall have reasonable access to these records; and

(I) Maintain, in a useable manner, process strip chart recordings, records and operators log sheets of plant operations for a period of at least 2 years. The Administrator or his authorized representative shall have access to those records.

(iii) *Compliance determination.* For compliance determination, the following shall apply:

(A) *Acid plant tailgas—continuous monitors.* Compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. An hourly running six-hour averaging period shall commence at each clock hour and continue for a consecutive six clock hour period. A new hourly running six-hour average period will commence at every clock hour. For example, in a given day the following typical hourly running six-hour averaging periods will occur: 2 a.m. to 8 a.m.; 3 a.m. to 9 a.m.; 4 a.m. to 10 a.m.; and 5 a.m. to 11 a.m. *et seq.* Six-hour average SO_2 concentration shall be calculated as of the end of each clock hour for the preceeding six hours, in the following manner:

(*1*) Divide each 6-hour period into not less than twenty-four (24) equally spaced time intervals;

(*2*) Determine on a compatible basis an SO_2 concentration for each individual time interval.[9] These measurements may be obtained either by continuous integration of all measurements recorded during the time interval or from the arithmetic average of any number of SO_2 concentration readings equally spaced over the time interval. In the latter case, the same number of concentration readings shall be taken in each interval and the readings shall be similarly spaced within each interval; and

(*3*) Calculate the arithmetic average of all interval concentration measurements in each 6-hour period.

(B) *Acid Plant Tailgas—Manual Test.* Notwithstanding the requirements of paragraph (b)(4)(iii)(A) of this section, compliance with the requirements of paragraph (b)(1)(i)(A) of this section shall also be determined by using the methods described below at such times as may be reasonably specified by the Administrator. For any acid plant, a 6-hour average SO_2 concentration shall be determined as follows:

(*1*) The test of each acid plant tailgas SO_2 concentration shall be conducted while the acid plant is operating at or above the maximum rate at which it will be operated and under such other conditions as the Administrator may specify;

(*2*) Concentrations of SO_2 in emissions shall be determined by using Method 8 as described in 40 CFR Part 60. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling, may be omitted from the over-all test procedure;

(*3*) Three independent sets of measurements of SO_2 concentrations

[9] *Supra* note 8.

shall be conducted during three 6-hour periods for each acid plant. Each 6-hour period will consist of three consecutive 2-hour periods. All tests must be completed within a 72-hour period;

(*4*) In using Method 8, traversing shall be conducted according to Method 1 as described in 40 CFR Part 60. The minimum sampling volume for each 2-hour test shall be 1.132 m^3 (40 ft^3) corrected to standard conditions, dry basis;

(*5*) The velocity of the total effluent from each acid plant evaluated shall be determined by using Method 2 as described in 40 CFR Part 60 of this chapter and transversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in 40 CFR Part 60. Moisture content shall be determined by using Method 4 except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content;

(*6*) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point;

(*7*) The SO_2 concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 6-hour test period each consisting of three 2-hour tests; and

(*8*) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(C) *7-Day emissions—continuous monitoring.* Compliance with the requirements of paragraph (b)(1)(i)(B) of this section shall be determined using the continuous measurement system(s) of paragraph (b)(1)(iv) of this section installed, calibrated, maintained and operated in accordance with the requirements of paragraph (b)(4)(ii) of this section. A daily running 7-day period shall commence at midnight of each day and continue for a consecutive 7-day period. A new daily running 7-day period will commence at midnight of every day. For example, in a given week the following typical daily running 7-day periods will occur: Tuesday (0000 hours) to Monday (2400 hours); Wednesday (0000 hours) to Tuesday (2400 hours) and Thursday (0000 hours) to Wednesday (2400 hours), *et seq.* The SO_2 emission rate for a 7-day period shall be calculated on a daily basis (midnight to midnight) in the following manner:

(*1*) Divide each 6-hour period into not less than twenty-four (24) equally spaced time intervals;

(*2*) Determine on a compatible basis an SO_2 concentration and a stack gas flow rate measurement for each individual time interval for each affected stack.[10] These measurements may be obtained either by continuous integration of SO_2 concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the time interval or from the arithmetic average of any number of SO_2 concentration and stack gas flow rate readings equally spaced over the time interval. In the latter case, the number of concentration readings shall be taken in each time interval and the readings shall be similarly spaced within each time interval;

(*3*) Calculate the arithmetic average (pounds SO_2 per hour) of all interval emission rate measurements in each 6-hour period for the zinc plant main stack and the lead smelter main stack and multiply that arithmetic average by the number of time intervals in the 6-hour period; and

(*4*) Calculate the SO_2 emission rate for each consecutive 7-day period (midnight to midnight) by summing the twenty-eight (28) 6-hour average SO_2 emission rates for each stack measured over a 7-day period.

(D) *Miscellaneous source SO_2 emissions.* The owner(s) or operator(s) shall perform a manual source test of the SO_2 emissions from the zinc fuming furnace and any other SO_2 emitting process equipment whose SO_2 emissions are not routed through the zinc plant main stack or lead smelter main stack. These emissions will not be used in calculating the 7-day SO_2 emissions as described in subparagraph (b)(4)(iii)(c) above but must be submitted to the Administrator on an annual basis. The following shall apply to the performance of the manual source test:

(*1*) Manual source test methods shall be in accordance with the procedures contained in Appendix A to 40 CFR Part 60 and as follows:

(*i*) SO_2 emissions shall be measured by Method 8 sampling train; three runs of at least 60 minutes sampling time per run will constitute one manual source test. The minimum sampling volume for each 1-hour test shall be 1.15 m^3 (40.6 ft^3) corrected to standard conditions, dry basis. The analytical and computational portions of Method 8 as they related to determination of sulfuric acid mist, as well as the isokinetic sampling, may be omitted from the overall test procedure.

(*ii*) Sampling will be conducted at a rate proportional to gas velocity determined according to Methods 1 and 2.

(*iii*) Two gas samples will be collected during each sampling run, according to Method 3.

(*iv*) Moisture content of the gas stream will be determined from the weight gain of the Method 8 train impingers.

(*v*) When necessitated by process variables or other factors, changes to the above test procedures may be approved by the Administrator.

(*2*) Source tests shall be conducted on or before (twelve months following execution of this Agreement) and at intervals specified by the Administrator but in any event not less than once per year;

(*3*) The process(es) tested shall be operated at or above the maximum rate at which it will be operated during the year and under such other conditions as the Administrator may specify; and

(*4*) The Administrator shall be notified in writing at least 20 days prior to any such test so that he may have an observer present.

(5) *Research and development program.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(5) of this section in regard to research and development. The provisions of this paragraph are intended to be read together with those set forth in paragraph (b)(6) below regarding bypass of SO_2 streams during the annual acid plant maintenance period:

(i) *Full scale research and development program.* Except as provided in paragraph (b)(5)(iii) of this section, the owner(s) or operator(s) shall implement a full scale program to capture and control an SO_2 gas stream which was not controlled as of September 28, 1978. A qualfiying program shall meet the requirements of paragraphs (b)(5)(ii), (iv), (v), (vi), (vii) and (viii) of this section, and shall consist of one of two options:

(A) An SO_2 removal facility (flue gas desulfurization system) to capture the weak stream exhausted from the sinter machine; or

(B) Substantially complete recirculation of the sinter machine weak stream [11] and treatment of the resultant gas stream in an SO_2 removal facility.

(ii) *Full scale system design criteria.* The following shall consitute the design criteria for the full scale research and development system:

(A) Sinter machine weak stream flue gas desulfurization system:

(*1*) 95% SO_2 capture efficiency as determined by monitoring equipment continuously measuring feed gas SO_2 concentration and tail gas SO_2 concentration; and

(*2*) 95% on-line availability;

(B) Substantially complete sinter machine weak stream recirculation:

(*1*) Not less than 97% partitioning of SO_2 generated in the machine shall be routed to an SO_2 removal facility;

(*2*) *Not more than 3% partitioning of the SO_2* gas generated in the machine shall be routed to the atmosphere via the tip end gas stream; and

(*3*) The SO_2 capture efficiency of the SO_2 removal facility shall not be imparied because of the additional gas captured through utilization of weak stream recirculation.

(iii) *Reduced scale research and development program.* The owner(s) or operator(s) may elect not to perform the full scale research and development program as set forth in paragraph (b)(5)(i) of this section, provided that:

(A) The owner(s) or operator(s) notify the EPA–Region X, in writing, of such decision no later than June 11, 1980, and provide a detailed account of the reasons for rejection of the full scale research and development program, including all cost and design information considered in the decision;

(B) The owner(s) or operator(s) immediately submit for the Administrator's approval a substitute research and development program, consisting of construction and operation of a flue gas desulfurization system with a minimum volume operating capacity of 5000 SCFM to treat a portion of the weak gas exhausted from the sinter machine or blast furnace;

(C) Such flue gas desulfurization system is constructed and operated in accordance with the requirements of paragraphs (b)(5) (iv), (v), (vi), and (viii) of the section within the time periods specified in paragraph (b)(5)(vii) of this section. The following shall constitute the design criteria for the reduced scale research and development system:

(*1*) 95% SO_2 capture efficiency as determined by monitoring equipment continuously measuring feed gas SO_2 concentration and tailgas SO_2 concentration:

(*2*) 95% on-line availability;

(*3*) Continuous measurement instrumentation to monitor and record the following:

(*i*) System temperatures, pressures and gas and liquid flow rates;

(*ii*) Feed gas and tail gas SO_2 concentration;

(*iii*) Pressure drop within the system, and

(*iv*) pH and all other critical flue gas desulfurization operating parameters such as liquid make-up and recirculations flow rates;

(*4*) To the extent technically feasible sufficient automatic control instrumentation shall be provided such that the system automatically compensates for feed gas excursions in particulate loading, flow rate and SO_2 concentration while insuring minimum design criteria are maintained; and

(*5*) To the extent technically feasible system design and control should be such that correct chemical balance is maintained to avoid scaling, corrosion and equipment malfunction.

(D) The flue gas desulfurization system shall be operated continuously, except during periods of reasonably unavoidable equipment failure in accordance with good engineering practice and in a manner such that the project will result in the collection of information adequate to determine the economic and technological feasiblity of a full scale application of such flue gas desulfurization system.

(iv) *Evaluation of the research and development program.* Effective on June 11, 1979, the owner(s) or operator(s) shall evaluate the research and development program and prepare and submit an annual report to the Administrator by March 1 of each calendar year on the progress of the research and development project and detailing the following:

(A) Capital, operating and other costs of the system;

(B) Disposal of by-products (or waste material) and associated environmental impact;

(C) Energy utilization and related potential effects on energy conservations;

(D) The effectiveness of the system to improve capture of other pollutants of both occupational and environmental significance;

(E) Problems in system design and suggested methods or acutal methods undertaken to improve the design including any anticipated scale-up problems;

(F) Maintenance requirements and frequency of system shutdown;

(G) Personal staffing requirements;

(H) SO_2 capture efficiency as impacted by process exhaust gas fluctuations and sinter machine (or blast furnace) shutdowns; and

(I) Such other related technical information as may be reasonably required by the Administrator to assist him in the evaluation of the research and development program.

(v) *System operation.* The owner(s) or operator(s) shall install and operate the full scale or reduced scale removal facility, whichever it elects, in accordance with good engineering practice and shall make a good faith effort to operate the project continously, except for periods of reasonably unavoidable malfunction until the expiration date of the first primary non-ferrous smelter order or until discontinuance is authorized under paragraph (b)(6)(iii) of this section or by written authorization of the Administrator, and in such manner as will result in the collection of information necessary to determine the economic and technological feasibility of the facility. If technically feasible, system performance must be at the design criteria as specified in paragraphs (b)(5)(ii) of (b)(50(iii) of this section subsequent to its initial break-in period.

(vi) *Sanctions.* Except where the owner(s) or operator(s) have first demonstrated to the satisfaction of the Administrator that due to technical infeasibility design criteria cannot be achieved, departure from the design criteria of paragraphs (b)(5)(ii) and (iii) (as applicable) above in the final construction or operation of the research and development program, or failure to meet the compliance schedule and reporting requirements, shall constitute a violation of this regulation.

(vii) *Research and development compliance schedule.* The owner(s) or operator(s) shall comply with the following research and development program compliance schedule:

(A) Complete an engineering evaluation of the full scale and reduced scale research and development systems listed in paragraphs (b)(5)(i) and (b)(5)(iii) of this section and submit a complete report and data to the Administrator on or before June 11, 1980;

(B) Notify the Administrator of the research and development system and the gas stream to be treated on or before June 11, 1980;

(C) Complete all engineering and design work on the research and development system on or before ten months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than April 11, 1981. The Administrator shall be provided with a copy of the engineering design for the techniques selected;

(D) Award construction contracts for the SO_2 capture system on or before fourteen months following the notification of paragraph (b)(5)(vii)(B) of this section but in any event not later than August 11, 1981. Such award shall be contingent upon a primary non-ferrous smelter order first being issued to the owner(s) or operator(s);

(E) If the full scale research and development system is selected, complete construction of the SO_2 capture system and begin acceptance

[10] *Supra* note 8.

[11] Nothing in this regulation shall be constured to relieve the owner(s) or operator(s) from meeting the requirements of the Clean Air Act or regulations promulgated thereunder regarding construction or modification requirements concerning new sources.

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testing on or before March 11, 1982; and complete all start-up and acceptance testing of the SO_2 capture system and place such system in service by June 11, 1982; and

(F) If the reduced scale research and development system is selected, complete construction of the flue gas desulfurization system by December 11, 1981, and place such system in service by February 11, 1982.

(viii) *Consent to access.* The owner(s) or operator(s) shall submit a binding written agreement, signed by a responsible corporate official empowered to do so consenting to:

(A) Grant the representatives and contractors of the EPA access to any information or data employed or generated in the research and development program, including any process, emissions, or financial records which the EPA determines are needed to evaluate the technical or economic merits of the program;

(B) Grant physical access to the representatives and contractors of the EPA to each facility at which such research is conducted; and

(C) Grant the representatives and contractors of the EPA reasonable access to the persons in charge of conducting the program on behalf of the smelter owner for discussions of progress, interpretation of data and results, and any other similar purposes as deemed necessary by the EPA.

(6) *Annual acid plant maintenance offset.* Commencing on June 11, 1979, the owner(s) or operator(s) of the subject smelter shall comply with the requirements of paragraph (b)(6) of this section in regard to continued process operation during the period when an acid plant is shut down for annual maintenance.

(i) *Bypass prohibition.* Except as provided in paragraph (b)(6)(ii) of this section, the owner(s) or operator(s) shall not operate the lead smelter sinter machine or any zinc plant roaster when any acid plant(s) serving that process is shut down for maintenance.

(ii) *Criteria for continuing process operation.* Excess emissions occurring during the period when the acid plant is shut down for the annual maintenance period [12] shall not constitute a violation of paragraph (b)(1)(ii) of this section or be included in the computation of the plant wide SO_2 emissions of paragraph (b)(1)(i)(B) of this section, provided that:

(A) The owner(s) or operator(s) commits to install additional SO_2 removal facilities and/or performs process changes to capture a gas stream in accordance with the full scale research and development program requirements of paragraphs (b)(5)(i) and (b)(5)(vii) of this section. If at any time the owner(s) or operator(s) elect not to undertake a full scale qualifying project, excess emissions occurring during the period when the acid plant is shut down for any annual maintenance period shall constitute a violation of this regulation.

(B) The owner(s) or operator(s) provide written notification to the EPA—Region X on or before June 11, 1980, that it will perform the full scale research and development program. During the period prior to such notification, excess emissions occurring when the acid plant is shut down for the annual maintenance period shall not constitute a violation of this regulation. Such continued operation while an acid plant is shut down for annual maintenance shall not in any event exceed 14 calendar days per year for each acid plant for the first 12 months following execution of this Agreement.

(C) Commencing with the first twelve month period after the election of a full scale qualifying research and development system under paragraph (b)(5)(i) of this section, and until the system is required to be placed in service under paragraph (b)(5)(vii) of this section, the combined amount of SO_2 which is released by reason of continued process operation during the annual acid plant maintenance period for all three acid plants does not exceed the lesser of 14 days for each acid plant per year or the annual incremental SO_2 capture for which the full scale research and development system is designed.

(D) During the period of time commencing when the full scale research and development system is required to first be placed in service under paragraph (b)(5)(vii) of this section and ending on the expiration date of the first primary non-ferrous smelter order, the following shall apply:

(*1*) No process operation is allowed to continue while the respective acid plant is shut down for its annual maintenance period until and unless the full scale system or process change has operated for the time period specified in paragraph (b)(6)(iii) of this section;

(*2*) During such time period, the full scale system or process change must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section;

(*3*) The owner(s) or operator(s) must continue to operate the full scale research and development system beyong the time period described in paragraph (b)(6)(iii) of this section and until the expiration date of the first primary non-ferrous smelter order; further the system must perform substantially in accord with the system design criteria set forth in paragraph (b)(5)(ii) of this section; and

(*4*) The combined annual amount of SO_2 which is released by reason of continued process operation during the annual acid plant maintenance period shall not exceed for all three acid plants the annual incremental SO_2 capture for which the full scale research and development system is designed and operated;

(E) Annual maintenance shall not be performed simultaneously on the lead smelter acid plant and any zinc acid plant or simultaneously on both zinc plant acid plants. If, under paragraph (b)(5)(i) of this section, a sinter machine flue gas desulfurization system is installed, annual maintenance shall not be performed simultaneously on the lead smelter acid plant and the flue gas desulfurization system; further, the sinter machine flue gas desulfurization system shall receive the maximum quantity of SO_2 practicable from the sinter machine when the lead smelter acid plant is shutdown. During annual acid plant maintenance at the zinc plant, the zinc plant acid plant which remains in service shall receive the maximum quantity of SO_2 practicable from the operating zinc roasters; and

(F) Continued process operation while an acid plant is shutdown for annual maintenance shall not in any event exceed 14 calendar days for each acid plant per year.

(iii) *Discontinuance of full scale research and development program.* In the event that severe and unavoidable production losses are incurred as a direct result of the operation of the full scale research and development system or process change during a full nine month period for the flue gas desulfurization system or three month period for the sinter machine weak stream recirculation, or upon terms otherwise agreed, in writing, by the Administrator, the owner(s) or operator(s) may discontinue operation of the full scale research and development project provided that:

(A) Notification to the Administrator of discontinuance of such operation shall be given within one month following the expiration of the requisite period. Such notification shall be accompanied by a full written justification of an analysis for the discontinuance; and

(B) Until the expiration date of the first primary non-ferrous smelter order, the lead smelter sinter machine and any zinc plant roaster shall be shut down during any subsequent annual acid plant maintenance period.

(iv) *Pre-determined SO_2 emissions.* For the purposes of determining compliance with the design and operating criteria set forth in paragraphs (b)(6)(ii)(C) and (D) of this section, the quantity of incremental SO_2 deemed captured by the full scale qualifying project shall be calculated using a predetermined quantity of SO_2 which is emitted in the relevant gas stream prior to installation of such full scale project. The determination of pre-existing SO_2 emissions shall be as follows:

(A) For the sinter machine weak stream, a value of 15.7 tons of SO_2 per 24 hours of operation shall be used;

(B) For the blast furnace, a value of 18.3 tons of SO_2 per 24 hours of operation shall be used; and

(C) On or before June 11, 1980, if the owner(s) or operator(s) demonstrate to the satisfaction of the Administrator, using manual source test techniques, continuous SO_2 measurement techniques, or equivalent alternatives, that a different pre-existing SO_2 emission value is correct, that value may be substituted for the value(s) listed in paragraphs (b)(6)(iv) (A) and (b) of this section upon agreement of the Administrator.

(7) *Violations*—(i) *Violations of Provisions.* Failure to comply with any provisions of this regulation or with the NSO issued to replace this regulation may subject the owner(s) or operator(s) to enforcement and sanctions as set forth in the Clean Air Act and regulations promulgated thereunder.

(ii) *Violations of NAAQS.* Nothing in this subparagraph shall be construed to relieve the owner(s) or operator(s) from liability for violations of the NAAQS.

Appendix A to § 52.676(b)—Fugitive Sulfur Dioxide Emission Control Program and Its Impact To Total Plant Emissions

The total plant emission limitation of paragraph (b)(1)(i)(B) was developed based on historical emission data and included the increase in SO_2 emissions from the main stacks that would likely occur as a result of implementation of the fugitive control program described in paragraphs (b)(1)(vi)(C) (zinc roaster), (b)(1)(vi)(D) (sinter machine), and (b)(1)(vi)(E) (blast furnace). Accordingly, failure of the owner(s) or operator(s) to comply with any of the provisions of the fugitive SO_2 control program will be deemed a violation of the regulation. Compliance will be determined as follows:

a. The zinc roaster program of paragraph (b)(1)(vi)(C) is based on compliance with applicable OSHA lead workplace standards in accordance with the OSHA schedules of compliance;

b. The sinter machine program of paragraph (b)(1)(vi)(D) must ensure complete installation of new stainless steel hooding with the exception of the last two (2) sections of the hood which are not subject to high corrosion on or before June 11, 1980; and

c. The blast furnace program of paragraph (b)(1)(vi)(E) must eliminate 90% of the blast furnace upset conditions (currently occurring approximately 20% of the time).

EPA inspection of the blast furnace operation will be made to ensure that upset conditions occur no more than an aggregate total of 3.36 hours per any 7-day period. The owner(s) or operator(s) explicitly agree that failure to meet the requirements stated herein at any time subsequent to June 11, 1980, will immediately result in the decrease in the plant wide emission limit in proportion to the amount the objective was not attained. The proportional formula is shown below:

$$\text{Amount of plant wide emission reduction from the 625 tons per 7-day limit} = ? = \left[1 - \frac{93.6 - 28\ H_U - 3.36)}{93.6}\right]$$

Where H_U = hours in any 7-day period when the blast furnace is in an upset condition. For the purpose of use in this formula H_U cannot exceed 20.16 hours.

For example, if blast furnace upset conditions occur for 8.36 hours in any 7-day period the plant wide emission limit would be reduced 6 tons per running 7-day period, i.e. the new plant wide emission limit would be 619 tons SO_2 per running 7-days.

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[12] The term "annual maintenance period" as used herein is defined as the period occurring once (or twice if the catalyst needs to be replaced two times a year) per year for each acid plant when various maintenance functions such as catalyst replacement and heat exchanger cleaning occur. This period normally lasts less than two weeks.

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Part 60-4]

Construction Contractors; Affirmative Action Requirements; Proposed Rule

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify the requirement that a covered construction contractor's total construction workforce is protected under the requirements of 41 CFR Part 60–4 even though some of the employees perform work on non-Federal or nonfederally assisted construction contracts and such non-Federal work may occur in geographical areas where the contractor has no Federal or federally assisted construction contracts.

DATES: Comments will be received until November 6, 1979.

FOR FURTHER INFORMATION CONTACT: Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C3324, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–9426.

SUPPLEMENTARY INFORMATION:

Published elsewhere in the Federal Register today is a proposed notice which would establish goals for minority employment utilization in the construction industry. The notice is published pursuant to 41 CFR 60–4.6 which authorizes the Director of OFCCP to establish goals for the construction industry in the form of a Federal Register notice to the public.

To establish goals for minority utilization, the proposed notice would establish Standard Metropolitan Statistical Areas (SMSAs) and Economic Areas (EAs) as the basic geographical units. By using these units goals would be established for the entire country thereby considerably expanding the number of locations which would have specific minority utilization goals.

Although 41 CFR Part 60–4 makes it clear that a covered construction contractor or subcontractor (i.e., one who has a Federal or federally assisted construction contract or subcontract in excess of $10,000) is required to comply with 41 CFR Part 60–4 with respect to its total construction workforce regardless of the fact that some of the construction employees perform no work on Federal or federally assisted construction contracts, some clarity may nevertheless be needed when a covered contractor performs a construction contract which is neither a Federal nor federally assisted contract in an SMSA or EA in which it does not have a Federal or federally assisted construction contract. For example, contractor A has a Federal construction contract in excess of $10,000 in SMSA X and a construction contract in SMSA Y which is neither Federal nor federally assisted. The contract in SMSA X obligates the contractor to comply with 41 CFR Part 60–4 with respect to all its construction work—Federally involved and nonfederally involved. However, the applicable goals for each contract would be the goals established for the SMSA where the contract is to be performed. That is, the contractor would adhere to the goals for SMSA X with respect to its total workforce performing construction work in SMSA X and similarly, would comply with the goals for SMSA Y for its total workforce performing construction work in SMSA Y.

To clarify these requirements, amendments are proposed to 41 CFR 60–

4.3(a) and 41 CFR 60–4.6. These amendments would make it clear that covered construction contractors must comply with the minority and female goals requirements in all areas where it performs construction work even though it may not have a covered contract in that specific geographical location, and that the applicable goal is the goal established for the geographical area where the contract is to be performed.

Accordingly, 41 CFR Part 60–4 is proposed to be amended as set forth below.

Dated: August 30, 1979.

Ray Marshall,
Secretary of Labor.

Donald Elisburg,
Assistant Secretary, Employment Standards Administration.

Weldon J. Rougeau,
Director, Office of Federal Contract Compliance Programs.

1. 41 CFR 60–4.3(a) is amended by adding a new paragraph q after paragraph p in clause 7 of the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) to read as follows:

q. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the **Federal Register** in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers.

2. 41 CFR 60–4.6 is amended to read as follows:

§ 60–4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the **Federal Register**, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60–4.2. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed.

[FR Doc. 79-27784 Filed 9-6-79; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 672]

Groundfish of the Gulf of Alaska Fishery Management Plan Amendment; Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce (NOAA).

ACTION: Notice of amendment of fishery management plan; proposed regulations.

SUMMARY: An amendment (amendment number 7) to the fishery management plan (FMP) for the Gulf of Alaska groundfish fishery is approved by the Secretary under authority of the Fishery Conservation and Management Act of 1976. The purposes of the amendment are to renew the plan for the fishing year November 1, 1979–October 31, 1980, and to implement provisions of Pub. L. 95–354 to promote domestic fisheries while affording U.S. harvestors, in appropriate situations, opportunity to market catches to foreign processors. Regulations to implement the amendment are proposed.

DATE: Comments are invited until October 20, 1979.

ADDRESSES: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone: (907) 586–7221.

SUPPLEMENTARY INFORMATION: On April 21, 1978, an FMP for the Gulf of Alaska Groundfish, prepared by the North Pacific Fishery Management Council (Council) and approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) was published (43 FR 17242). This FMP has been amended six times. In summary, the purposes of the amendments were to: (1) extend the fishing year to October 31, 1979, (43 FR 34825); (2) allow a directed Pacific cod fishery to concentrate in one portion of a fishing area (43 FR 47222); (3) raise reserves to allow for possible joint ventures (43 FR 46349); (4) modify regulatory areas; modify fishing restrictions on foreign vessels; increase the OY for squid and Atka mackerel; relax domestic restrictions on trawl gear; require annual renewal of domestic fishing permits, and extend the period for submitting domestic catch reports (44 FR 40099); (5) establish an OY for fish of the genus *Coryphaenoides* (rattails) (44 FR 42738); and (6) reduce the domestic annual harvest (DAH) on most groundfish species and reallocate the surplus to total allowable level of foreign fishing (TALFF) (44 FR 46904).

This amendment (number 7) renews the FMP for the fishing year November 12, 1979—October 31, 1980. Certain information and data necessary for reassessment of: (1) the status of fish stocks, (2) domestic processing capacity and the extent to which domestic processors will process the U.S. harvested portion of the OY, and (3) joint venture performance and intent were not available to the Council early enough to satisfy the procedural requirements of a Council amendment prior to expiration of the plan on October 31, 1979. The amendment is therefore initiated by the Secretary as the most expeditious means of avoiding the social and economic consequences of an unnecessary hiatus in the foreign and joint venture groundfish fisheries.

The Council intends to consider additional amendments to the FMP soon after evaluating the new information and data. As stated in the advance notice of proposed rulemaking (44 FR 47124), new information, testimony, or Council recommendations or amendments resulting from the August 23–24 Council meeting will be considered by the Assistant Administrator in determining the final form of this amendment and implementing regulations.

With one exception, amendment number 7 does not change the optimum yields (OY) or the estimates of domestic processor capacity or utilization (DAP) of the U.S. harvest established by amendments 4, 5, and 6. The DAP for sablefish has been raised to reflect new information from domestic processors. Until further new information is received, amendments 4, 5, and 6 are considered to reflect the best information available. To implement the intent of Pub. L. 95–354, however, the amendment redefines the expected DAH as including the portion of the U.S. harvest utilized by domestic processors (DAP), the portion of the U.S. harvest discarded (DIS), and the portion of the U.S. harvest estimated for delivery to foreign processing vessels (JVP) and the amount of non-processed fish (NPF) harvested. The amendment also establishes a reserve equal to 20 percent of the OY. In consequence, DAH values are revised to reflect the summing of the components: DAP, DIS, NPF and JVP. The values of JVP are changed in accordance with the best available information. The total allowable level of foreign fishing (TALFF) is redefined as follows: TALFF=OY−DAH−Reserve.

Although the OY's for particular species and species groups remain unchanged, the Assistant Administrator is considering reorganization of species categories which include species of little commercial value which are routinely harvested incidental to directed fisheries for more valuable species. As accuracy of reporting by species increases, and as fishing strategies change, significant and unexpected incidental harvests of commercially valueless species are becoming known. Unanticipated harvests of these species (not included in the calculation of OY's for e.g., "other species" or "other rockfish") may cumulatively result in premature cessation of directed fishing, even though the individual incidental species are generally harvested in small quantities and are in little danger of being overfished. Comments are solicited on the necessity for, and method of, treating these species. One method may be establishment of a category such as "unspecified species," with a total OY based on actual incidental harvests during the fishing year.

Response to Comments

Part of the process of preparing this Secretarial Amendment included an Advance Notice of Proposed Rulemaking (44 FR 47124). This notice requested comments on the secretarial amendment and indicated that comments received before August 20 would be considered in preparing the Secretarial Amendment. One comment was received. Following is a point by point summary and response to the comment received.

1. *Comment.* Urge that 1980 DAH levels reflect *actual* capacity and intent and that unexpected increases in domestic harvesting should be covered by a reserve.

Response. We agree with the thrust of this point. The DAH levels for the 1979–80 fishing year reflect harvest actually processed during the first nine months of the 1978–79 fishing year plus processors' expectations for the last three months of the 1978–79 fishing year. It is anticipated that this estimate will be a fairly accurate estimate of the harvest for 1979–80. Unanticipated growth in domestic harvest will be covered by the reserve.

2. *Comment.* Joint venture harvest estimates should be part of DAH. These estimates should be based on actual proven capacity. Uncertainty in the estimates should be included in reserves.

Response. NOAA agrees with the sense of this comment. However, it is difficult to develop accurate estimates of capacity of joint venture harvest because this operation is in a formative stage of development and there is a limited amount of data available. We invite further comments on the estimate of JVP, with particular reference to actual catches and catch rates in August and September. We also encourage information on definite plans to fish in joint venture operations.

3. *Comment.* Because of lags in apportioning and allocating reserves, the last reserve reapportionment date should occur some time during the seventh month of the fishing year. The Regional Director should have authority to make other reapportionments at any time during the fishing year that it becomes apparent that reserves will not be necessary for domestic purposes.

Response. The proposed regulations allow more flexibility to the Regional Director in releasing reserves. By lifting the limit on the amount that can be released, larger amounts can be released earlier should the uncertainties disappear. There is provision for additional releases. It is our preliminary judgement that the last release during the seventh month may be too early to provide accurate forecasts for the rest of the year.

4. *Comment.* A DAH reapportionment mechanism, similar to the reserve reapportionment mechanism discussed above, might be appropriate.

Response. It is our understanding that the Council is addressing this consideration.

5. *Comment.* Careful attention should be given to the by-catch requirements of target fishing operations.

Response. We agree. As we gain a better understanding of by-catch, efforts will be made to establish reasonable by-catch OY's and TALFF's, within the constraints of domestic needs and biological considerations.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has made an initial determination that this amendment to the FMP (1) is necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement; and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

Authority: 16 U.S.C. 1801 *et seq.*

Signed at Washington, D.C. this 31st day of August, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

A. The Fishery Management Plan for Groundfish of the Gulf of Alaska, published on April 21, 1978, in the **Federal Register** (43 FR 17242) is amended as follows:

(All changes are made in sequential order by **Federal Register** page number and section).

Federal Register, *page 17245—No.2.* change—Delete all after "formula," and insert the following:

Initial Foreign Allocation=(0.8 OY)—DAH. The 20 percent of OY held as a reserve should be reallocated either to the foreign fisheries or to the domestic fishery in season, following a reassessment of the performance of these fisheries.

Page 17245; No. 3; change. Delete present language and insert the following:

Base DAH on the esitmated catch by U.S. fishermen.

Page 17247; Section 2.2.2.(b); change. Delete present language and insert the following:

Expected domestic annual harvest (DAH) is the estimated portion of the U.S. groundfish harvest which will be utilized by domestic processors (DAP), the estimated portion which will enter non-processed fish markets (NPF), the estimated portion which is discarded (DIS), and the estimated portion, if any, delivered to foreign processors (JVP) which are permitted to receive U.S. harvested groundfish in the fishery conservation zone.

DAP is derived from the last year's purchase of fish by U.S. processors modified by the net change resulting from the expected purchases during the plan year. The Council will reasses and revise the DAP periodically during the plan year, based on processor reports and any changes in factors that would alter the levels of resource utilization.

NPF is derived from estimates of the quantities and species of groundfish that enter non-processed fish markets. The principal utilization is for pot bait in the crab fisheries with lesser quantities being utilized as bait in the longline fisheries. Minor quantities enter the institutional and household markets. Determinations of NPF are based on reported sales and interviews of fishermen who directly utilize groundfish catches for bait. Projected utilization in the plan year takes account of changing demand related to the planned magnitude of fisheries requiring groundfish as bait.

DIS, a small component of fishery mortality which is included for completeness, is

derived from fishermen interviews that solicit information on the species and quantities that are of no commercial value, extraneous to their operations, and are discarded.

JVP is the U.S. harvested portion of the OY, in excess of the estimated portion of the U.S. harvest expected to be utilized by U.S. processors, that will be delivered to foreign processors who are authorized to receive such U.S. harvested fish in the fishery conservation zone.

Current information on levels of discard and on non-processed fish is meager and accurate estimates of DIS and NPF are not available. Therefore, until better information is available, DIS is being implicitly treated as a component of natural mortality and is accounted for in the OY estimates.

The components of the DAH are dynamic and require periodic reassessment to assure that DAH remains realistic and is based on the best available current information. For example, changes resulting from additional vessels entering a fishery or from vessels leaving a fishery, changes in processing capacity or changes in a variety of other factors can alter DAH. Accordingly, DAH values will be amended as required by changes in its component elements.

Page 17247; Section 2.2.3; change.—Delete present language and insert the following:

Determination of the total allowable level of foreign fishing (TALFF). The total allowable level of foreign fishing is determined by deducting the DAH and the reserve from the OY.

Page 17247; Section 2.2; change. Add a new paragraph to read as follows:

4. A reserve is established equal to 20 percent of the OY of each species in each regulatory area to account for uncertainties arising from harvests delivered to U.S. processors, U.S. processing capacity, joint ventures, and imprecise allocations of by-catch species in mixed species fisheries. Reserves are to be apportioned promptly to the DAH (DAP or JVP), and TALFF in that order of priority, in accordance with the procedures and criteria specified in the regulations as necessary to achieve the FMP objectives.

Page 17313; Section 5.2.2; change. First paragraph, last line, delete "1978" and insert "1980."

Page 17313; Section 5.2.2; change. Second paragraph, delete all after "U.S. fishing vessels." on line 9 and insert the following:

This form of domestic utilization was allowed during four months of 1978 and more than six months in 1979. The conservation and management regime in the plan provides for a continuation of deliveries of U.S. harvested fish to foreign processors who have been issued permits to receive such fish. This provision is intended to allow for an increase in the U.S. harvested portion of the OY beyond the extent to which U.S. processors will utilize the resources (see below for estimates of JVP). Thus, in the absence of actual domestic markets, U.S. harvesters may take advantage of foreign markets through joint venture arrangement.

Page 17313; Section 5.2.2.1; change. Delete all of 5.2.2.1 except heading and insert the following:

While most U.S. processors interviewed showed an intense interest in developing a fishery for Gulf of Alaska ground fish, early expectations have not been realized. The predicted 1979 harvest of 44,500 mt proved to be more than twice the actual harvest. The State of Alaska, the Federal Government, and the fishing industry are presently investing funds and effort in well organized groundfish fishery development efforts. The probability is high that substantial expansion of the domestic groundfish industry will occur in the next few years.

The domestic annual processing estimates (DAP) were reassessed in June, 1979, following a survey of U.S. processors and an evaluation of the performance of U.S. harvestors. This reassessment also included an examination of other factors, including the seasonality of all fisheries, the status of alternative fisheries, and changes in fleet size, processing capacity and markets. The processor survey inquiry went to forty Gulf of Alaska processors and requested information on (1) the amount of fish processed to date and (2) their intent and capacity to process groundfish for the remainder of the fishing year ending October 31. There were 33 responses, which included the major groundfish processors.

As a result of the reassessment, the DAP was amended downward and re-distributed to TALFF among three regulatory areas according to processor location (Table 64).

The survey and reassessment methodologies were designed to provide results consistent with the plan and the intent of Pub. L. 95-354. The DAP values established by this reassessment are applicable to the 1980 fishing year (November 1, 1979–October 31, 1980) although subject to revision on the basis of periodic reassessments during the year.

Page 17313; Section 5.2.2.2; change. Delete present language and insert the following:

Three foreign processing vessels were issued permits to receive U.S. harvested groundfish from U.S. fishermen in the Gulf of Alaska during part of both 1978 and 1979. Although the current permits originally authorized receipt of up to 155,000 mt of pollock and assorted by-catch set aside as a joint venture reserve (JVP), the quantities of U.S. harvested fish actually delivered were minor and much of the JVP was incrementally reallocated to the TALFF.

The number of U.S. vessels participating in joint ventures numbered one in 1978 and four or five in 1979. Additional vessels are now being outfitted for groundfish trawling by U.S. principals in joint ventures resulting in the likelihood that 1980 operations will include eight or more full time specialized trawlers as well as smaller vessels on an intermittent basis.

Catch rates have increased steadily as experience is gained by U.S. fishermen. An August 1979 survey on the intentions and resource needs of U.S. interests involved with joint ventures clearly reveals the potential for rapid expansion of this means of utilization. In recognition of this probability and consistent with the provisions of Pub. L. 95-354, the plan provides an initial JVP amount of 97,845 mt of all species combined for the 1980 plan year (November 1, 1979–October 31, 1980). Should the performance of joint ventures fail to meet expectations or the demands of DAP exceed DAP plus available reserves, the JVP will be reduced accordingly. JVP surpluses not required in the DAH will be made available to the TALFF during the plan year.

Page 17314; Section 7.0—delete the last sentence of paragraph and the last three paragraphs of this section as amended by Amendment number 4, (44 FR 40102).

Page 17315; change. Table 62—delete and insert new table.

Table 62.—Gulf of Alaska Groundfish TALFF

(1,000 mt)

Species	OY	Reserve	DAH	TALFF
Pollock	168.8	33.76	64.6	70.44
Cod	34.8	6.96	15.5	12.34
Flounders	33.5	6.7	8.5	18.30
Pacific ocean perch	25.0	5.0	10.095	9.905
Rockfish	7.8	1.52	2.05	4.03
Sablefish	13.0	2.48	7.7	2.82
Atka mackerel	26.8	5.36	5.5	15.94
Squid	5.0	1.0	0.5	3.5
Rattails	13.2	2.64	1.332	9.228
Other	16.2	3.24	1.15	11.81
Total	343.9	68.66	117.627	157.613

Page 17316; change. Table 64—delete and insert new table.

Table 64.—OY, Reserve, DAH, DAP, JVP, and TALFF by Area

(1,000's mt)

Species		Western	Central	Eastern	Total
Pollock	OY	57.0	95.2	16.6	168.8
	Reserve	11.4	19.04	3.32	33.76
	DAH				64.6
	DAP	0.025	5.38	0.695	
	JVP	22.1	30.55	5.85	
	TALFF	23.475	40.23	6.735	70.44
Pacific Cod	OY	9.6	19.4	5.8	34.8
	Reserve	1.92	3.88	1.16	6.96
	DAH				15.5
	DAP	0.24	3.48	0.29	
	JVP	4.0	5.25	2.25	
	TALFF	3.44	6.79	2.11	12.34
Flounders	OY	10.4	14.7	8.4	33.5
	Reserve	2.08	2.94	1.68	6.7
	DAH				8.5
	DAP	0.1	0.3	0.9	
	JVP	2.3	3.15	1.75	
	TALFF	5.92	8.31	4.07	18.3

Table 64.—OY, Reserve, DAH, DAP, JVP, and TALFF by Area

(1,000's mt)

Species		Western	Central	Eastern	Total
Pacific Ocean Perch	OY	2.7	7.9	14.4	25.0
	Reserve	0.54	1.58	2.88	5.0
	DAH				10.095
	DAP	0.025	0.295	0.08	
	JVP	1.245	3.7	4.75	
	TALFF	0.89	2.325	5.69	9.905
Other Rockfish	OY	0.3	0.8	6.5	7.6
	Reserve	0.06	0.16	1.3	1.52
	DAH				2.05
	DAP	0.045	0.2	0.455	
	JVP	0.1	0.2	1.05	
	TALFF	0.095	0.24	3.695	4.03
Sablefish	OY	2.1	3.8	7.1	13.0
	Reserve	0.42	0.76	1.3	2.48
	DAH				7.7
	DAP	1.0	1.0	4.0	
	JVP	0.65	0.85	1.1	
	TALFF	0.93	1.19	0.7	2.82
Atka Mackerel	OY	4.4	19.4	3.0	26.8
	Reserve	0.88	3.88	0.6	5.36
	DAH				5.5
	DAP	0	0	0	
	JVP	1.1	4.15	0.25	
	TALFF	2.42	11.37	2.15	15.94
Squid	OY	1.0	2.0	2.0	5.0
	Reserve	0.2	0.4	0.4	1.0
	DAH				0.5
	DAP	0	0	0	
	JVP	0.1	0.2	0.2	
	TALFF	0.7	1.4	1.4	3.5
Rattail	OY	3.3	7.1	2.8	13.2
	Reserve	0.66	1.42	0.56	2.64
	DAH				1.332
	DAP	0.033	0.033	1.268	
	JVP	0	0	0	
	TALFF	2.607	5.647	0.974	9.228
Other Species	OY	4.4	8.6	3.2	16.2
	Reserve	0.88	1.72	0.64	3.24
	DAH				1.15
	DAP	0.1	0.1	0.1	
	JVP	0.4	0.45	0.15	
	TALFF	3.02	6.38	2.46	11.81

Page 17324; Section 8.5.1; First paragraph, first line, change.—Insert (A) ahead of "Fishery."

Page 17325; Section 8.5.1; change.—Insert two new sections as follows:

(B) Processor reports. All processors of groundfish and those buyers of groundfish whose purchases enter non-processed fish markets, except fishermen buying for their own bait needs, shall report information necessary for periodic reassessment of DAP and NPF. The regulations implementing this Plan specify the information to be reported and the time schedule for reporting.

(C) Joint ventures reports: Persons delivering U.S. caught groundfish to foreign processors vessels shall report information required for periodic reassessment of JVP. The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

Page 17325; Section 8.9.1; change—Footnote 2 under "Estimated Management Costs," delete period after "1978" and substitute comma; add "$70,000 in fiscal year 1979, and $100,000 in fiscal year 1980."

PART 611—FOREIGN FISHING

B. 50 CFR Part 611 is proposed to be amended as follows:

§ 611.20 [Amended]

1. Section 611.20(c), remove the portion of Table I applicable to Gulf of Alaska Groundfish and replace it with the following Table I:

Table I

Fishery	Species	Species code	TALFF (metric tons)
Gulf of Alaska Groundfish	Cod, Pacific	702	15,500
Do	Flounders, including yellowfin sole.	129	18,300
Do	Mackerel, Atka	207	15,940
Do	Perch, Pacific ocean	780	9,905
Do	Pollock	701	70,440
Do	Rattails	315	9,228
Do	Rockfishes, other than Pacific ocean perch.	549	4,030
Do	Sablefish	703	2,820
Do	Squid	509	3,500
Do	Other Species	499	11,810

§ 611.92 [Amended]

2. Section 611.92(b), remove Table I and replace it with the following Table I:

Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1979–1980*

[Metric tons]

Species		Western	Central	Eastern	Total
Pollock	TALFF	23,487	40,230	6,735	70,440
	Reserve	11,400	19,040	3,320	33,760
Pacific cod	TALFF	3,440	6,790	2,110	15,500
	Reserve	1,920	3,860	1,160	6,960
Flounders	TALFF	5,920	8,310	4,070	18,300
	Reserve	2,080	2,940	1,680	6,700
Pacific ocean perch	TALFF	890	2,325	5,590	9,905
	Reserve	540	1,580	2,880	5,000
Other rockfish	TALFF	95	240	3,695	4,030
	Reserve	60	160	1,300	1,520
Sablefish	TALFF	930	1,190	700	2,120
	Reserve	420	760	1,420	2,600
Atka mackerel	TALFF	2,420	11,370	2,150	15,940
	Reserve	880	3,880	600	5,360
Squid	TALFF	700	1,400	1,400	3,500
	Reserve	200	400	400	1,000
Rattails	TALFF	2,607	5,647	974	9,228
	Reserve	660	1,420	560	2,640
Other species	TALFF	3,020	6,330	2,460	11,810
	Reserve	880	1,720	640	3,240

3. Section 611.92(a)(3) is amended to (a) delete "1978" and substitute "1979;" (b) to change "October 31, 1979" to "October 31, 1980"; and (c) to delete the final sentence: "After . . . amended."

4. Section 611.92(b)(1)(ii) is amended to read:

(ii) *Reserves.*—(A) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, and on other dates as determined by the Regional Director, the Regional Director shall apportion to the TALFF's or DAH an appropriate portion of the reserve amount set out in Table I of this section for each species in each regulatory area: January 2, March 2, May 2, July 2.

(B) *Determination—(1) General.* In making the apportionment described in paragraph (b)(1)(ii)(A) of this section, the Regional Director shall determine the appropriate portion of the reserve amount to be apportioned to DAH or to TALFF, and whether apportionment is required on other dates, based on consideration of the following factors:

(*i*) Reported U.S. catch and effort by species and area, compared to previously projected U.S. harvests;

(*ii*) Projected U.S. catch and effort by species and area for the remainder of the fishing year;

(*iii*) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected estimates of processing or utilization;

(*iv*) Projected processing capacity and utilization of that capacity by U.S. processors for the remainder of the fishing year; and

(*v*) The need to adjust by-catch species allowances in mixed stock fisheries in order to maintain orderly fisheries and promote full utilization of fishery resources.

(*2*) *Public comment.* (*i*) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest and U.S. processors will process reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska, 99802).

(*ii*) For the dates specified in paragraph (b)(1)(ii)(A), comments must be submitted no later than the following respective dates: December 18, February 16, April 17, and June 18. When apportionment is deemed necessary at times other than on the dates specified, the Regional Director shall publish in the **Federal Register** a notice of the proposed apportionment which shall state the period, of not less not 15 days, during which comments must be submitted.

(*iii*) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determination specified in paragraph (b)(1)(ii)(B)(1) of this section.

(*iv*) The Regional Director shall compile in aggregate form the most recent available reports on: (*1*) Level of catch and effort by vessels of the United States fishing in the Gulf of Alaska groundfish fishery; and (*2*) the amounts of fish processed by U.S. fish processors. These data shall be available for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska, 99802, during the last 15 days of each comment period.

(*3*) *Procedure.* As soon as practicable after each of the dates stated in paragraph (b)(1)(ii)(A) of this section, or as stated in the **Federal Register** notice of the proposed apportionment on other dates, the Regional Director shall publish in the **Federal Register**: (*i*) the final amounts of reserves to be apportioned to DAH or to TALFF's; (*ii*) the reasons for the determination; and (iii) a summary of and responses to any comments received.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

C. 50 CFR Part 672 is proposed to be amended as follows:

1. Section 672.9, Reporting Requirements, is amended by adding paragraphs (e) and (f) as follows:

§ 672.9 Reporting requirements.

* * * * *

(e) Any fish buyer or processor (i.e., any person who receives fish for a commercial purpose from a fishing vessel subject to this part) shall, in response to written surveys to be conducted by the Regional Director semi-annually, or more frequently when the Regional Director determines it is necessary, report the following information: (1) Changes in the capacity of plants; (2) changes in the availability of groundfish by species; (3) changes in market demand, if known; (4) changes in expected utilization of processing capacity or expected purchases of groundfish by species for the subsequent 12 month period; and (5) changes in other factors that the buyer or processor believes relevant to the accurate determination of domestic annual processing capacity (DAP).

(f) The owner or operator of any fishing vessel of the United States which delivers groundfish to foreign processing vessels shall, in response to surveys to be conducted by the Regional Director semiannually, or more frequently when the Regional Director determines it is necessary, report the following information: (1) Changes in the number and capacity of the vessels of the owner or operator which harvest groundfish to be delivered to foreign processing vessels; (2) changes in expected regulatory areas of operations; (3) changes of the foreign processing vessel to which deliveries are expected to be made; (4) changes in groundfish quantities and/or species expected to be delivered by vessels of the owner or operator in the subsequent 12 month period; and (5) changes in other factors the owner or operator believes relevant to the accurate determination of joint venture processing capacity.

§ 672.20 [Amended]

2. Amend § 672.20(a)(1) by deleting the second sentence ("These * * * 1979") and substituting the following:

These specifications of OY and reserves are effective for a fishing year beginning on November 1, 1979 and ending on October 31, 1980.

§ 672.20 [Amended]

3. Section 672.20(a), remove Table I and replace it with the following Table I:

Table 1.—*Optimum Yield and Reserves; Regulatory Areas*

[Metric Tons]

Species		Western	Central	Eastern	Total
Pollock	OY	57,000	95,200	16,600	168,800
	Reserve	11,400	19,040	3,320	33,760
Pacific cod	OY	9,600	19,400	5,800	34,800
	Reserve	1,920	3,860	1,160	6,960
Flounder	OY	10,400	14,700	8,400	33,500
	Reserve	2,080	2,940	1,680	6,700
Pacific ocean perch	OY	2,700	7,900	14,400	25,000
	Reserve	540	1,580	2,880	5,000
Other rockfish	OY	300	800	6,500	7,600
	Reserve	60	160	1,300	1,520
Sablefish	OY	2,100	3,800	7,100	13,000
	Reserve	420	760	1,420	2,600
Atka mackerel	OY	4,400	19,400	3,000	26,800
	Reserve	880	3,880	600	5,360
Squid	OY	1,000	2,000	2,000	5,000
	Reserve	200	400	400	1,000
Rattails	OY	3,300	7,100	2,800	13,200
	Reserve	660	1,420	560	2,640
Other species	OY	4,400	8,600	3,200	16,200
	Reserve	880	1,720	640	3,240

3. Section 672.20(c) is amended to read as follows:

(c) *Reserves*—(1) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, and on other dates as determined by the Regional Director, the Regional Director shall apportion to the Total Allowable Level of Foreign Fishing (TALFF's), or to Domestic Annual Harvest (DAH) an appropriate portion of the reserve amount set out in Table I of this section for each species in each regulatory area: January 2, March 2, May 2, July 2.

(2) *Determination*—(i) *General.* In making the apportionment described in paragraph (c)(1) of this section, the Regional Director shall determine the appropriate portion of the reserve amount to be apportioned to DAH or to TALFF, and whether apportionment is required on other dates, based on consideration of the following factors:

(A) Reported U.S. catch and effort by species and area, compared to previously projected U.S. harvesting capacity;

(B) Projected U.S. catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected estimates of processing or utilizations;

(D) Projected processing capacity and utilization of capacity by U.S. processors for the remainder of the fishing year; and

(E) The need to adjust by-catch species allowances in mixed stock fisheries in order to maintain orderly fisheries and promote full utilization of fishery resources.

(ii) *Public comment.* (A) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest and U.S. processors will process reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska, 99802).

(B) For the dates specified in paragraph (c)(1), comments must be submitted no later than the following respective dates: December 18, February 16, April 17, and June 18. When apportionment is deemed necessary at times other than on the dates specified, the Regional Director shall publish in the **Federal Register** a notice of the proposed apportionment which shall state the period, of not less than 15 days, during which comments must be submitted.

(C) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determination specified in paragraph (c)(2)(i) of this section.

(D) The Regional Director shall compile in aggregate form the most recent available reports on: (1) Level of catch and effort by vessels of the United States fishing in the Gulf of Alaska groundfish fishery; and (2) the amounts of fish processed by U.S. fish processors. This data shall be available for public inspection during business hours at the National Marine fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska, 99802, during the last 15 days of each comment period.

(iii) *Procedure.* As soon as practicable after each of the dates stated in paragraph (c)(1) of this section, or as stated in the **Federal Register** notice of the proposed apportionment on other dates, the Regional Director shall publish in the **Federal Register**: (A) The final amounts of reserves to be apportioned to DAH or to TALFF's; (B) the reasons for the determination; and (C) a summary of and responses to any comments received.

[FR Doc. 79-27828 Filed 9-6-79; 8:45 am]

BILLING CODE 3510-22-M

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR Part 810]

Exports of Appendix II Species: Bobcat, Lynx, River Otter, Alaskan Brown Bear, and Alaskan Gray Wolf; Proposed Export Findings for the 1979–1980 Season; Revised Proposal and Additional Comment Period

AGENCY: Endangered Species Scientific Authority.

ACTION: Proposed rulemaking.

SUMMARY: On July 12, 1979, the Endangered Species Scientific Authority (ESSA) proposed findings on a state-by-state basis as to whether export of bobcat, lynx, and river otter pelts harvested in 1979–1980 will not be detrimental to the survival of those species (44 FR 40841 et seq.). The ESSA has received subsequently several state reports in support of a no detriment finding. Because we desire maximum public input, we are revising our July 12 proposals in light of these reports, and we are extending until September 14 the comment period for these revisions only. The nature, circumstances, and anticipated consequences of these proposed findings are described in detail in the proposed findings of July 12. In the July 12 publication, findings were also proposed relative to whether export of these species, Alaskan brown bear and Alaskan gray wolf would not be detrimental to the survival of similar species. No changes are proposed at this time for those proposals.

DATES: Comments on this supplement are due on or before September 14, 1979. The comment period for the original July 12 proposal is unchanged, and closes on September 10.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240. Forthcoming comments and comments already received will be available for public inspection at 1717 H Street, NW., Room

536, Washington, D.C. 7:45 a.m. to 5:30 p.m., Mondays through Fridays except federal holidays.

FOR FURTHER INFORMATION CONCERNING BIOLOGICAL FINDINGS CONTACT: Dr. Peter C. Escherich, Staff Zoologist, Endangered Species Scientific Authority, 18th and C Streets, NW., Washington, D.C. 20240, 202/653-5948.

FOR INFORMATION CONCERNING EXPORT PERMITS CONTACT: Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202/634-1496.

SUPPLEMENTARY INFORMATION: The ESSA revises its proposed export findings of July 12 consistent with the following modifications in the tables published as part of that proposal, based on new information received. The information and proposed findings provided below for different states and species are hereby substituted for the information and proposed findings for those same states and species currently contained in pages 40847 to 40852 of the July 12 proposal, Volume 44 of the **Federal Register:**

BOBCAT

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Alabama	NS	1,631 3,302	VT TR, DR	VTA'78	LH	Major study recently completed; Summary only available to date. Harvest estimate based on projection of incomplete trappers and dealers reports.	A
Arizona	5,500 - 6,500	6,492 6,754	VT TS	VTA'77	LH, LS	Local unit managers (83 management units) make recommendations concerning species in their units. "At present, there does not appear to be any significant population changes, except in those areas where home developments, etc. have displaced wildlife."	A
Arkansas	3,500 max	3,278 3,250	DR TR, IR	VTA'77 MTA'78	LH	'79 - '80 season reduced ten days. Fur takers permits to be required. Dealer report mandatory. Management goal: "Harvest approx. 10%...and/or to maintain a desired age structure." Age structure data being collected.	A
Colorado	3-4,000,M	2,543 2,907 1,045	TR TS+HS+ADC DR	MTA'78	LH,LS	Age structure analysis in progress. Current status evaluate annually based on comparison of prey abundance, harvest success ates, and habitat suitability by management units.	A
Idaho	NS	1,320	VT	VTA'78	LH,LS	Study in progress. '79-80 season reduced to 23 days. Skulls and reports to be required for tagging.	A

BILLING CODE 3510-55-M

BOBCAT

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Kansas	2,000	822 1,166 +539	TR TS HS	MSA'78	LS	Tag required for sale, purchase, or shipment from state. Carcass turn-in required for tagging. In-state dealers bought 949 in 1977-78 season.	A
Massachusetts	50 max	29	TR	MTA'77	LH,LM	Age structure analysis in progress. "Anticipate ... mandatory carcass turn in for 1979-80." "Field reports of bobcat activity were exceptionally high last winter."	A
New Mexico	M, 6,000 max	4,393	VT	VTA'77	LH	No legislative authority to manage species. Severe winter weather apparently reduced trapping effort in much of state. In-state dealers bought 3,116 pelts. Skulls and data cards required for tagging. Estimate 97% of pelts are tagged. Previous population model being refined. Research on geographical variation in progress.	O: 6,000
Oregon	4,000	2,950	VT	VTA'78 MTT'79	LH,LM	Season to be re-opened in eastern Oregon with bag limit of 3, based on reports by all 15 local field biologists in area that status is improving. Tagging made mandatory. No limit in vest, but nontransferable tags only available to individual hunter or trapper for one half of state. Beginning several studies, including age structure (E and W), local surveys, live-trap and tagging, track counts, food habits, reproduction, density.	A
South Carolina	1,000	458-578	TR,IR	MTT'78	LH	Harvest report represents 458 indicated on received harvest reports plus 120 tags held by persons whose mandatory reports and unused tags not yet received. New Furbearer Management Section set up. Will be carrying on detailed studies and making management recommendations.	A

BOBCAT

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
South Dakota	M	153	TR, HR	MTA'77	LH,LM	Current assessment of age structure indicates population "nearly stable or possibly increasing slightly," confirmed by reports at hearings of increasing populations. (Season was reduced to 1 month and closed east of Missouri River following '77 reports of declining population.) '79-80 season also closed in Corson County, which has been high harvest area. Data reports, teeth, and carcass collected at tagging. Age structure and harvest analysis continuing.	A
Utah	2,000 -2,500	closed '76 - '79		MTT/MSA'79		5/79: Management authority assigned to Utah Division of Wildlife Resources. Work in progress on survey techniques. General indication of increasing populations by Field Agents and by houndsmen. Two month season to be opened '79-'80. Bag limit of 4, enforced by required special permit including 4 possession tags. Prior to sale, agent must replace with metal sale tag and collect data and jaw. Will analyze age structure from collected teeth.	A
Vermont	100 max	59	TR, HR	MTA'76	LH, LS	To increase sample collection for age, sex, reproductive and food habits data. November hunting season eliminated. More stringent furbuyer reporting system planned for 1981.	A
Wisconsin	260	223	TR, HR	MTA'73	LH, LS	Continuing surveys by track counts and harvester questionnaires. "Field surveys indicate ... relatively stable population."	A

RIVER OTTER

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	REPORTED 1978 - 1979 How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Alabama	NS	882 2,145	VT TR, DR	VTA'78	LH	Continuing research on otters in state. Reduced pelt price for beaver expected to reduce otter harvest. Harvest estimate based on projection of incomplete trapper and dealer reports.	A
Alaska	2,200	1,991	TR	MTA'77	LM	Relatively constant harvest since 1961, averaging 2,729 per year (range 1500-4010). Trapping localized and by relatively by individuals. Habitat little modified. Strong effect by weather and accessibility on harvest level. Harvest report was to be revised upward slightly on final tabulation.	A
Arkansas	600	749 421	DR TR	MTA'77	LH	'79 - '80: Season reduced 10 days; fur taker's permit to be required; dealer report mandatory. "Reports from the public indicate ... population is increasing..." Age structure not yet analyzed.	A
Massachusetts	100 ± 30	121	TR	MTA'76	LH, LS	Age structure analysis in progress for '78 - '79 sample. Re-analysis of '77 - '78 age structure indicates older average age than previously suggested.	A
New Hampshire	200	206	TR	MTA	LH, LM	Carcasses collected, '78 - '79; to be mandatory '79 - '80 for tagging. To study age, sex, reproductive information, food habits, parasites.	A

RIVER OTTER

STATE	HARVEST OBJECTIVES 1979-1980	REPORTED 1978 - 1979 Number	How Reported	TAGGING	LOCAL DATA & MGMT.	RECENT CHANGES AND COMMENTS	FINDINGS & CONDITIONS UNDER ARTICLE II 2(a) for '79-'80
Oregon	350	348	VT	VTA	LH	'79 - '80: Season reduced by two weeks in best habitat, no longer coincident with beaver season. "Catch ... relatively stable over the past five years ... few trappers concentrate on otter."	A
South Carolina	1,000	476-617	TR,IR	MTT'78	LS	Harvest reports represents 476 indicate on received harvest reports plus 141 tags held by persons whose mandatory reports and unused tags not yet received. New Furbearer Management Section set up -- will be carrying on detailed studies and making management recommendations.	A
Vermont	80 max	76	TR	MTA'73	LH	To increase sample collection for age, sex, reproductive, and food habits data. More stringent furbuyer reporting system planned for 1978.	
Wisconsin	7,100	962	TR	MTA'55	LH	Status study begun: to develop harvest evaluations, population model, and aerial track count survey. "Field surveys indicate ... relatively stable population."	A

BILLING CODE 8310-55-C

Lynx

Alaska

Harvest objective: 2,800. Harvest (MTA '77): 2,310 Local: LM, LH, LS. "The most recent harvest data available indicate that the lynx cycle in northern Alaska is at or near its 10-year peak. In southcentral and central regions peak densities will occur during the 1981–83 period." "Age distributions . . . compiled from data on the sealing documents. These provide a quantitative assessment of cyclic behavior for population in several areas of the state." Finding: A.

Proposed Regulations Promulgation

Accordingly, it is hereby proposed amend Part 810, Chapter VIII, Title 50 of the Code of Federal Regulations. To those rules proposed on July 12, 1979 (44 FR 40855–40857) the following states would be added in correct alphabetic sequence as approved for 1979–80 in the appropriate sections:

To Annex C—Bobcat, under 1979–1980 Harvest, would be added:

Alabama, Arizona, Arkansas, Colorado, Idaho, Kansas, Massachusetts, New Mexico (Q≤6,000) Oregon, South Carolina, South Dakota, Utah, Vermont, Wisconsin.

To Annex D—River Otter, under 1979–1980 Harvest, would be added:

Alabama, Alaska, Arkansas, Massachusetts, New Hampshire, Oregon, South Carolina, Vermont, Wisconsin.

To Annex E—Lynx under 1979–1980 harvest would be added:

Alaska.

Publication of these proposed findings has been approved by the Members of the Endangered Species Scientific Authority.

Dated: September 4, 1979.

William Y. Brown,

Executive Secretary.

[FR Doc. 79-27985 Filed 9-6-79; 8:45 am]

BILLING CODE 8310-55-M

Public information meetings will be held in order to provide public input and procedures required by the National environmental Policy Act of 1969.

Norwood High School, all purpose room, West Summit Avenue, Norwood,

Notices

Federal Register
Vol. 44, No. 175
Friday, September 7, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: The purpose of this document is to give notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan (NPIP).

PLACE, DATE AND TIME OF MEETING: Room 3524, South Agriculture Building, Washington, D.C., 9:00 a.m. to 5:30 p.m., September 27, 1979, and 9:00 a.m. to 12:00 (noon), September 28, 1979.

SUPPLEMENTARY INFORMATION: The General Conference Committee of the NPIP was established in the Science and Education Administration, via Secretary's Memorandum No. 1891, Revised, dated August 1, 1978.

The purpose of the committee is to make recommendations to the Department relative to the successful operation of the NPIP.

Responsibility for the NPIP was transferred from the Science and Education Administration to the Animal and Plant Health Inspection Service via Secretary's Memorandum 1983, dated April 9, 1979.

The purposes of the meeting are to advise the Department on keeping the programs of the NPIP geared to the needs of the industry and to make recommendations to the Department on interpretation of and changes in certain provisions of the NPIP.

Matters scheduled for consideration at the meeting are:

1. Use of NPIP Form 15.
2. Alternatives to the present delegate representation system at Plan Conferences.
3. Labeling of poultry being shipped through the U.S. Postal Service.
4. Started Pullet Certification Program.
5. *S. gallinarum* as an exotic disease.
6. Blood testing of waterfowl.

The meeting will be open to the public. Written statements concerning this matter may be filed with the committee before or at the time of the meeting.

Further information may be obtained from, and written statements may be forwarded to Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Bldg. 265, BARC–E, Beltsville, MD 20705, 301–344–2227.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

Dated: August 30, 1979.

[FR Doc. 79–27565 Filed 9–6–79; 8:45 am]
BILLING CODE 3410–34–M

Rural Electrification Administration

Associated Electric Cooperative, Inc.; Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination as to the need for an Environmental Impact Statement by REA in connection with possible financing assistance to Associated Electric Cooperative, Inc. (Associated) of Springfield, Missouri, for the construction of ash dewatering and barge loading facilities required for the sale of slag at the New Madrid Power Plant located at New Madrid, Missouri.

REA adopts the "Associated Environmental Analysis for Ash Loading Facility at New Madrid Power Plant—New Madrid, Missouri" as REA's assessment regarding the environmental impact associated with REA's provision of financing assistance for this project. REA concluded that REA financing assistance in this case does not constitute a major Federal action significantly affecting the quality of the human environment and that, in this case, no REA Environmental Impact Statement is necessary.

Copies of REA's record setting forth this decision and reasons for the determination are available to the public upon request to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D. C. 20250.

No final REA action will be taken with respect to this matter until September 24, 1979.

Dated at Washington, D. C., this 29th day of August, 1979.

Joseph Vellone,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79–27567 Filed 9–6–79; 8:45 am]
BILLING CODE 3410–15–M

Basin Electric Power Cooperative; Intent To Prepare Two Draft Environmental Impact Statements and Public Information Meetings

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare two Draft Environmental Impact Statements (DEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 in connection with anticipated loan request for financial assistance from Basin Electric Power Cooperative (Basin), 1717 East Interstate Avenue, Bismarck, North Dakota 58501, to provide certain generation and related facilities.

The proposed facilities will consist of two possible 1,000 MW coal-fired generating stations and related facilities. One 1,000 MW plant will be located in South Dakota or western North Dakota and will serve the eastern portion of Basin's system. The other 1,000 MW plant will be located in eastern Montana or northeastern Wyoming and will serve the western portion of Basin's system. Basin's system is electrically separated into eastern and western systems. This separation exists nationally from Canada to Texas. Several small tie lines connect the east and west systems but none have adequate capability to transfer large quantities of power. An independent DEIS will be prepared for each facility.

As a result of discussions in May 1979 among Federal and State agencies who may have responsibilities with respect to the proposed projects, including REA, U.S. Environmental Protection Agency, and U.S. Department of Interior, REA has been identified as Federal lead agency in preparation of the environmental impact statements.

Public information meetings will be held in order to provide public input and comments concerning the need for the project, sites and route locations, potential alternatives, significant issues that should be addressed in the environmental impact statement and other matters concerning the proposed construction. A representative of REA will act as chairperson for said meetings, and other involved Federal and State agencies have been invited to send representatives. The meetings are scheduled as follows:

West

Holiday Inn, 2009 South Douglas Highway, Gillette, Wyoming, September 12, 1979, 7:00 p.m.

Olive Motor Inn, 501 Main Street, Miles City, Montana, September 13, 1979, 7:00 p.m.

East

Basin Electic Power Cooperative Board Room, 1717 East Interstate Avenue, Bismark, North Dakota, September 17, 1979, 7:00 p.m.

Alternatives to be considered by REA and the borrower are described in REA Bulletin 20–21:320–21 and may include (a) no project, (b) conservation measures, (c) purchase power from other utilities, (d) shared generating units with other utilities, (e) alternative sites for the generating plant and transmission lines, (f) alternative fuels, and (g) alternative methods of generation.

The Rural Electrification Administration encourages the public to attend the meetings and provide their input. Any person, group or governmental entity which desires to make its comments, questions and/or recommendations in writing may do so either at the meeting or by writing to Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of the meeting and comments made will be responded to in the draft environmental impact statement. In addition, the records of proceedings will be held open through October 15, 1979.

Any questions prior to the meeting concerning the nature of the project should be directed to Basin at its address given above or by calling (701) 223–0441.

Any loan or loan guarantee commitment which may be made pursuant to this potential application will be subject to and release of funds thereunder will be contingent upon, REA's reaching statisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental impact statement procedures required by the National environmental Policy Act of 1969.

Dated at Washington, D.C. this 28th day of August 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 79–27488 Filed 9–6–79; 8:45 am]
BILLING CODE 3410–15–M

Colorado-Ute Electric Association, Inc.; Notice of Intent To Prepare a Draft Environmental Impact Statement, Hold an Interagency Meeting and Public Information Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare a draft environmental impact statement (EIS) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a possible loan guarantee commitment to Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401. Notice is also given that an interagency meeting was held and public information meetings will be held concerning the proposed project.

The statement will address a proposed 345 kV transmission line in western Colorado from Rifle, Colorado, to San Juan, New Mexico. Interested persons are invited to submit comments which may be helpful to REA in the preparation of a draft EIS. Comments should be sent to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

An interagency meeting was held on August 29, 1979, at the Colorado State Bank Building, Room 700, 1600 Broadway, Denver, Colorado, at 1:00 p.m. Federal, state and local agencies were invited to attend. Issues discussed included (a) designation of the lead federal agency, (b) determination of the project scope and identification of the significant environmental issues, (c) elimination of issues which are not significant from detailed study, (d) identification of cooperating agencies and allocating assignments to them for the EIS process, (e) identification of other environmental review, consultation, and study requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS, (f) identification of exclusion areas and/or other potential transmission corridors, and (g) Federal, state and local coordination.

Public information meetings will also be held on September 17, 1979, at the Norwood High School, all purpose room, West Summit Avenue, Norwood, Colorado, at 7:00 p.m.; on September 18, 1979, at the Delta High School Auditorium, 822 Grand Avenue, Delta, Colorado, at 7:00 p.m.; on September 20, 1979, at the Durango Senior High School Auditorium, 2390 Main Avenue, Durango, Colorado, at 7:00 p.m.; and on September 21, 1979, at the Farmington Civic Center, Meeting Room CD, 200 West Arrington, Farmington, New Mexico, at 7:00 p.m. These public information meetings, to be co-chaired by representatives of REA and Colorado-Ute, will be held in order to receive public input and comments concerning the need for the project, potential transmission corridors, significant issues that should be addressed in the EIS and other matters concerning the proposal. A record will be made of the meetings and comments made will be addressed in the draft EIS.

REA encourages the general public to attend these public information meetings and provide their input. Any person or group which desires to place its comments, questions or recommendations in writing, may do so either at the meetings or by submitting them to REA. Comments may be sent to the Rural Electrification Administration, at the address given above.

Requests for additional information or questions concerning the meetings may also be directed to Colorado-Ute at its address given above.

Dated at Washington, D.C., this 31st day of August, 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 79–27904 Filed 9–6–79; 8:45 am]
BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

Chilcotin-Cariboo Aviation, Ltd., Foreign Air Carrier Permit Between Canada and the United States

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79–8–169.

SUMMARY: The Board proposes to approve the following application:

Applicant: Chilcotin-Cariboo Aviation Ltd.

Application Date: April 9, 1979. Docket: 35284.

Authority Sought: Foreign air carrier permit authorizing small aircraft charters between points in Canada and points in the United States.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that

this authority should be granted, as

Dated at Washington, D.C., August 31,

By the Civil Aeronautics Board.

Domestic Aviation, Civil Aeronautics

rod components [accepted August 29,

approved the coastal program of

this authority should be granted, as described in the order cited above, shall, no later than October 9, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35284, Docket Section, Civil Aeronautics Board, Washington, D. C. 20428.

Mr. Gerhard Riedmann, President, Chilcotin-Caribbo Aviation, Ltd., P.O. Box 4691, Williams Lake, British Columbia, Canada V2G 2V7.

TO GET A COPY OF THE COMPLETE ORDER, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board (202) 673–5104.

By the Civil Aeronautics Board, August 31, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27913 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

[Docket 36063]

Increased Excess Baggage Charges in Overseas and International Air Transportation Proposed by Pan American World Airways, Inc.; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter, previously postponed at the request of the parties, is assigned to be held on October 3, 1979, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., August 31, 1979.

Henry M. Switkay

Administrative Law Judge.

[FR Doc. 79–27911 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

Meridian Air Cargo, Inc., et al.; Proposed Revocation of All-Cargo Air Service Certificates

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 79–8–176.

SUMMARY: The Board is proposing to revoke the All-Cargo Air Service Certificates of Meridian Air Cargo, Inc. (Docket 31651); Pacific Aero, Inc. (Docket 31783); Nor-Cal Aviation, Inc. (Docket 31896); Georgia Air Freight, Inc. (Docket 31905); Air Trans Commuter, Inc. (Docket 31911); and Commercial Air Transport, Inc. (Docket 31919) for non-compliance with certificate conditions regarding the filing of insurance certificates in accordance with Section 291.22 of the Board's Economic Regulations. (The complete text of this order is available as noted below).

DATES: All interested persons having objections to the Board issuing an order making final the tentative finding, shall file with the Board and serve upon the appropriate carrier(s), no later than October 5, 1979, a statement of objections, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections.

ADDRESSES: Objections should be addressed to the appropriate docket, Docket Section, Civil Aeronautics Board, Washington, D. C. 20428.

FOR FURTHER INFORMATION CONTACT: John McCamant, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5082.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Secretary of the Board will enter an order making final our tentative findings and revoking the All-Cargo Air Service Certificates of the subject carriers.

The complete text of Order 79–8–176 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–8–176 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

August 31, 1979.

[FR Doc. 79–27912 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

United Air Lines, et al; Proposed Grants of Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–8–185.

SUMMARY: The Board is proposing to grant Denver-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Fort Lauderdale-Miami and Chicago-Orlando-Tampa-Sarasota-West Palm Beach-Fort Lauderdale-Miami authority to United; Denver-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami and Chicago-Orlando/Tampa/Sarasota/West Palm Beach/Fort Lauderdale/Miami nonstop authority to Ozark; Denver-Orlando-Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami nonstop authority to Continental; Denver/Colorado Springs-Orlando/Tampa/Fort Lauderdale/Miami nonstop authority to National; Denver/Chicago-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Fort Lauderdale-Miami authority to Western; Chicago-Orlando/Tampa/Miami/Ft. Lauderdale nonstop authority to Trans International and any of the authority in issue to any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than October 5, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than September 20, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36499, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, (202) 673–5384.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: United Airlines, Ozark Air Lines, Continental Air Lines, National Airlines, Western Air Lines, Trans International Airlines, Eastern Air Lines, Republic Airlines and Northwest Airlines.

The complete test of Order 79–8–185 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–8–185 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–27914 Filed 9–6–79; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from twelve firms: (1) Ericksen Textile Company, 626 North Locust Street, Momence, Illinois 60954, a producer of fishing nets, seines, bags, and lines; and basketball goals (accepted August 23, 1979); (2) Crescent Glass Company, Inc., Sixth and Yankee Streets, Wellsburg, West Virginia 26070, a producer of glass candle holders and lamp parts (accepted August 23, 1979); (3) K & R Handbags, Inc., 10 North Cherry Street, Poughkeepsie, New York 12601, a producer of handbags (accepted August 27, 1979); (4) Big Johns Shingle Mill Inc., 308 Main Street, Caribou, Maine 04736, a producer of cedar shingles (accepted August 27, 1979); (5) Peppy Girl, Inc., 116 West 32nd Street, New York, New York 10001, a producer of children's dresses, playwear, shirts, and blouses (accepted August 27, 1979); (6) Johnson Steel & Wire Company, Inc., 53 Wiser Avenue, P.O. Box 247, Worcester, Massachusetts 01613, a producer of steel wire (accepted August 28, 1979); (7) H. Margolin and Company, Inc., 380 River Street, Fitchburg, Massachusetts 01420, a producer of women's handbags (accepted August 28, 1979); (8) Varmac Manufacturing Company, Inc., 4201 Redwood Avenue, Los Angeles, California 90066, a producer of fishing rod components (accepted August 29, 1979); (9) Patton Shirt Manufacturing Company, Inc., P.O. Box 206, Patton, Pennsylvania 16668, a producer of men's and women's shirts (accepted August 29, 1979); (10) Poliplast, Inc., 177 Merrimack Street, Lawrence, Massachusetts 01843, a producer of shoe soles (accepted August 30, 1979); (11) Solboro Knitting Mills, Inc., 15 Pond Road, Oakdale, New York 11769, a producer of women's sweaters (accepted August 30, 1979); and (12) Spring Pond Nursery, 229 New Boston Road, Canastota, New York 13032, a producer of potted and other annual plants (accepted August 30, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for firms and communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Charles L. Smith,

Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79–27984 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–24–M

National Oceanic and Atmospheric Administration

Approval of the Delaware Coastal Zone Management Program

Pursant to the authority contained in Section 306(a) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1445(a), notice is hereby given that, on behalf of the Secretary of Commerce and the Administrator of the National Oceanic and Atmospheric Administration (NOAA), NOAA's Assistant Administrator for Coastal Zone Management on August 21, 1979, approved the coastal program of Delaware.

Pursuant to the Federal consistency provisions of the Coastal Zone Management Act, this approval activates Federal Agency responsibility for insuring that their activities are consistent with this program as of the date of approval.

Further information on these consistency responsibilities may be found in 15 CFR Part 930 published in the **Federal Register** at page 37142 on June 25, 1979.

A copy of the findings made by the Assistant Administrator in determining that the program meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the Delaware program should be addressed to: John C. Phillips, South Atlantic Regional Manager, Office of Coastal Zone Management, NOAA, Page Building #1, Room 356, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 254–7494.

M. P. Snidero,

Acting Assistant Administrator for Administration.

[FR Doc. 79–27917 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–08–M

South Atlantic Fishery Management Council's Inter-Council Billfish Steering Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Inter-Council Billfish Steering Committee, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review and approve rewrite of portions of the Billfish Fishery Management Plan in light of Committee action taken at the St. Thomas meeting on August 14–15, 1979; review draft plan from standpoint of addressing seven national standards; and consider area/season restrictions on foreign longlining in the Atlantic Fishery Conservation Zone.

DATES: The meeting will convene on Monday, September 17, 1979, at 9 a.m., and will adjourn on Tuesday, September 18, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Council Headquarters, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite

306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: August 31, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–27833 Filed 9–6–79; 8:45 am]

BILLING CODE 3510–22–M

CONSUMER PRODUCT SAFETY COMMISSION

[Petition CP 78–16]

Child-Resistant Matchbook Covers; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition to amend its matchbook safety standard. The requested amendment would have exempted certain matchbooks with child-resistant covers from the requirement that friction strips be located on the back cover of a matchbook. Among other reasons for denial of the petition, the Commission believes that this "reverse friction" requirement is needed to address a matchbook risk of injury. In addition, the matchbook standard does not preclude child-resistant designs that utilize reverse friction. Since matchbook child resistance is therefore consistent with reverse friction, no amendment is necessary.

ADDRESS: Copies of the petition and the staff's briefing materials on the petition may be obtained from the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6453.

SUPPLEMENTARY INFORMATION:

A. Background

On April 1, 1976 the Commission proposed for public comment a safety standard for matchbooks (41 FR 14112–20) which contained a requirement for child-resistant covers. The Commission proposed that matchbooks meet a latching cover design requirement or some other design providing equivalent child resistance (a committee would have screened alternative designs for acceptability). The Commission also proposed that friction strips be located on the outside back cover near the bottom of the matchbook ("reverse friction").

Based on the comments received from the public, the Commission decided in August 1976 to exclude child-resistant cover requirements from the final matchbook standard. However, the final standard did contain the reverse friction and other design requirements. The Commission issued the final standard on May 4, 1977 and it became effective on May 4, 1978 (42 FR 22656–70; 16 CFR Part 1202). A matchbook manufacturer, D.D. Bean and Sons Co., and a matchbook cover inventor, Robert R. Giglio, petitioned the U.S. Court of Appeals for the First Circuit for review of the Commission's matchbook standard. D.D. Bean asked the Court to set aside the entire standard. Mr. Giglio challenged the reverse friction requirement and asked the Court to order the Commission to consider his invention of a child-resistant matchbook cover, the "Childguard" matchbook.

On March 31, 1978 the Court set aside portions of the standards, but upheld the reverse friction requirement *(D.D. Bean and Sons* v. *CPSC,* 574 F. 2d 643 (1st Cir. 1978)). In addition, the Court refused to order the Commission to consider Mr. Giglio's Childguard invention *(Giglio* v. *CPSC,* 575 F. 2d 1 (1st Cir. 1978)). (The matchbook standard appears in its current form at 43 FR 53709–11, November 17, 1978.)

B. Petition

On August 3, 1978 Consumer Alert, Inc. petitioned the Commission under section 10 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2059) for an amendment to the matchbook standard. Under the requested amendement, matchbooks with child-resistant covers that are "accepted" by the Commission would be exempted from the reverse friction requirement.

The petition suggested that a committee of Commission staff personnel would evaluate all child-resistant cover designs submitted to it. Based on specified criteria, the committee would reject or preliminarily accept the design. The Commission would seek public comment on those it accepted preliminarily. After considering the comments, the Commission could publish in the **Federal Register** final acceptance of a design. Only those matchbooks which comply with an accepted cover design would be exempt from complying with the reverse friction requirement.

In its petition, Consumer Alert asserted that matchbooks present an unreasonable risk of injury and that a requirement for child-resistant matchbook covers is reasonably necessary to eliminate or reduce that risk. The petition discussed and submitted injury data from the National Fire Protection Association, and concluded that the need for child-resistant provisions is greater now than the Commission believed in April 1976. Consumer Alert also claimed that "at least one apparently effective design for a child-resistant matchbook cover does exist today," and attached to the petition a description of the Childguard matchbook.

The petition discussed other factors in support of the requested amendment. Most of these factors were ones which the Commission specifically considers in granting or denying petitions (16 CFR 1110. 11).

C. Decision and Findings

The Consumer Alert petition posed a difficult dilemma for the Commission. An existing provision in the matchbook standard, reverse friction, precludes some existing cover designs that are claimed to be child-resistant, including Mr. Giglio's Childguard matchbook.

Therefore, before resolving this dilemma and before deciding the petition, the Commission considered very carefully whether mandated reverse friction stifles innovation in the field of matchbook child resistance. This consideration included such broad factors as the need for innovation and enterprise and the benefits of responsible safety regulation. It included such specific factors as the nature and the effectiveness of the many matchbook cover designs in the Commission's possession. The Commission evaluated the value of reverse friction; the potential for child resistance in matchbook; the Childguard design; other designs; the risks of injury presented by matchbooks; and the suggestions made in the petition to address the risks. In addition to the staff's briefing materials which discussed these factors, the Commission considered comments from Childguard Research and Development Corporation, from a number of state fire marshals, and from other interested persons.

After balancing all of the safety and economic factors involved, the Commission denies the Consumer Alert petition and make the following findings:

1. The reverse friction provision is "reasonably necessary" to reduce the risk from flaming matchbooks, as held by the U.S. Court of Appeals in *D.D. Bean and Sons, Inc.* v. *CPSC,* 574 F. 2d 643, 649 (1st Cir. 1978). However, until reverse friction has been in effect for a longer period of time, injury data cannot provide a meaningful measure of its effectiveness.

2. A serious risk of injury is presented when children play with matchbooks.

3. The Commission has not yet seen a child-resistant matchbook design which it can determine would be effective in addressing the risk presented by children who play with matchbooks. This includes the Childguard design and many others submitted to the Commission during the last four or more years.

4. A number of claimed child-resistant matchbook designs comply with the reverse friction provision and these can be marketed without restriction under the Commission's matchbook standard.

5. the reverse friction provision leaves room for future innovation in the area of child-resistant matchbooks and the Commission encourages such innovation.

6. In these circumstances the Commission concludes that revoking the reverse friction provision would not be justified by the possibility that an effective child-resistant matchbook would result. If such a matchbook is developed, the Commission can then consider amending its standard to resolve reverse friction, if warranted.

7. The Commission has doubts about the legal validity of the petition's suggested amendment, involving committee evaluation of child-resistant designs.

D. Discussion

The following discussion supports the above findings and may help to clarify them (the categories below discuss the same subjects as the findings, but the numbering does not correspond):

1. *Statutory background.* Whenever an amendment to a consumer product safety standard would involve a "material change," the Commission must follow the procedures and requirements of sections 7 and 9 of the Consumer Product Safety Act (see section 9(e) of the CPSA, 15 U.S.C. 2058(e)). The Commission believes that the amendment requested in the petition would involve a material change, and therefore considered the petition with sections 7 and 9 in mind.

In addition, the Commission considered the following factors: (a) whether matchbooks present an unreasonable risk of injury to children who play with and misuse them; (b) whether the requested amendment to the standard could and would effectively reduce or eliminate that risk, at least as well as the existing reverse friction requirement does; (c) whether the requested amendment could and would reduce or eliminate other matchbook risks, at least as well as the existing reverse friction requirement does; and (d) whether such an amendment is necessary and appropriate. In part, these factors are based on statutory provisions in the CPSA.

2. *Risk of injury.* Based on the available injury information, the Commission believes that the risk of children playing with matches is a serious one. However, the Commission questions the accuracy of some of the injury information that Consumer Alert cited in support of its petition.

For example, the petition cited injury information from a 1976 National Fire Protection Association (NFPA) publication entitled "Facts About Fire." This information, drawn from 1974 data, is that "* * * some 3,750 children die and tens of thousands more suffer painful, tragic burn injuries" yearly in fires in which "the combination of children and matches is responsible." The Commission notes that these estimates cannot be supported with subsequent NFPA data or other existing data. Since the 1974 figures were published, NFPA has made refinements in its data collection which have resulted in changes in the kinds and magnitudes of statistics presented. Therefore, comparable estimates of deaths of children associated with match fires are not available from this source.

The Commission has also reviewed substantiated data from the National Center for Health Statistics (NCHS) which indicate that approximately 1,600 children ages 0–14 die annually in the United States from burns. The majority of these deaths (1,200) are in private dwelling conflagrations. The level of specificity needed to relate these deaths to matches is lacking. However, in general, these substantiated figures are considerably smaller than the 3,750 deaths cited by the petitioner.

The Commission has also considered data from its National Electronic Injury Surveillance System (NEISS). NEISS data discussed in the preamble to the matchbook standard included an estimate that 9,500 match-related accident victims were treated in the nation's hospital emergency rooms in 1975: For calendar year 1977 the NEISS estimate is that 7,100 such victims were treated, but the difference between the 1975 and 1977 NEISS estimates is not statistically significant. The 1978 NEISS data have recently become available, but the matchbook standard did not become effective until May 1978.

3. *Evaluation of child-resistant cover designs.* Before approving any child-resistant cover design to address the risk of children playing with matchbooks, the Commission would have to evaluate and be able to support the effectiveness of the design. The Commission believes that this would be extremely difficult.

Numerous factors might play a role in the evaluation of a specific child-resistant matchbook cover design. These include the dexterity and coordination required to strike the match; the intelligence of the user; the attention span of the user; the age of the user; the complexity and number of discrete motions involved in striking the match; the learning patterns of children; and even the attractiveness of the design to children. Each of these factors potentially affects the likelihood that a particular design would reduce the risk of children playing with matches.

In addition, the child-resistant benefits of a design would have to be balanced against any detrimental effects on other matchbook safety factors. For example, the risk from fragmentation or accidental ignition might be greater with a particular child-resistant design than with existing designs.

The relevant factors would be best evaluated with tests on children. Such tests would have to be conducted in accordance with the Commission's regulations on Protection of Human Subjects (16 CFR Part 1028). The testing benefits must outweigh any hazards associated with the children playing with matchbook designs during the tests (16 CFR 1028.7(b)(3)).

4. *Amendment requested in petition.* Rather than mandating a particular child-resistant cover design, the amendment requested in the petition would delay this decision until particular designs were submitted to the Commission for acceptance. Then, a staff evaluation committee, the public, and ultimately the Commission would evaluate the effectiveness of the designs. However, the problems discussed under *Evaluation of child-resistant cover designs,* above, would apply whenever the evaluation of effectiveness occurs.

The approach of delaying evaluation involves other problems, too. As noted under *Statutory background,* above, sections 7 and 9 of the CPSA would apply to an amendment like the one sought in the petition. Section 7 provides the Commission with authority to issued safety standards consisting of specified types of requirements. Aside from requirements for warnings and instructions, this authority is limited to "[r]equirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product" (section 7(a)(1)). The Commission has doubts about whether the amended provision requested in

Consumer Alert's petition would be one of these types.

In addition, the Commission believes it would have difficulty making the findings required by section 9(c) before issuing the amendment. These findings involve the need for the amendment, its probable economic effects, its application to the risk of injury, the public interest, and other factors. These findings must be based on evidence in the record. A court may not affirm the amendment unless these findings "are supported by substantial evidence on the record taken as a whole" (section 11(c) of CPSA, 15 U.S.C. 2060 (c)).

Without specific perfomance criteria or a specific matchbook cover design to evaluate, the Commission would have difficulty in making the findings. The effect of the requested amendment would be to postpone the rulemaking until sometime after the Commission issues the amendment in final form. Without a rule (or in this case, an amended rule), evaluation would be difficult, inadequate, or meaningless.

The Commission recognizes that, in April 1976, it proposed cover design acceptance procedures similar to those included in the petition. However, the April 1976 procedures were proposed as just one provision in a child-resistant cover requirement. The requirement also consisted of a latching cover design (§ 1202.4(a)(1); 41 FR 14117, April 1, 1976). The Commission's acceptance of alternate cover designs would have been based in part on their "[equivalence] to the effectiveness of designs that comply with the latching cover requirements" (§ 1202.4(a)(2)(iii)(A)).

The petition suggests use of acceptance procedures for cover designs without requiring any comparison of the cover design possibilities with an existing design or with performance criteria or even with a general concept. If it adopted these procedures, the Commission would be performing a licensing role more than a standard-setting role.

5. *Benefits of reverse friction.* The requested amendment would waive the reverse friction requirement for matchbooks with an acceptable child-resistant cover design. Therefore, if the Commission adopted this amendment, some consumers might be denied the benefits of reverse friction. This is troubling to the Commission because reverse friction does provide safety benefits to matchbook users by principally addressing the risk that flying fragments produced during the striking of a match will ignite the entire matchbook.

In recent coversations with the Commission staff, a Canadian product safety official has supported this belief. Canada's reverse friction has been in effect since 1974 and this official has observed a decline in the number of consumer complaints reporting injuries associated with whole book ignition.

6. *Evaluation of Childguard matchbook design.* The Commission staff has evaluated the Childguard design referenced in the petition, and believes that it is not safer for the adult user than existing matchbooks (those which meet the requirements of the standard). This view is based on the staff's expert opinion (as discussed fully in the briefing materials available from the Office of the Secretary) that consumers would use greater force to strike the Childguard match. This could lead to more incidents of fragmentation than would occur with existing matchbook designs.

The staff has also found that matches from Childguard matchbooks can be ignited by being placed between the cover and the friction strip. In the staff's view, this could make it easier for small children, with limited dexterity, to ignite matches.

Further, the child resistance of the Childguard design relies in part on the fact that children will not find the actual friction strip. However, the Commission staff's experience is that children's observation and imitation of adults will lead them to discover quickly that the friction strip on the reverse of the matchbook is not the one used for ignition of matches. Although the Commission itself has made no judgment regarding the staff's view that the Childguard design may be less safe than existing matchbook designs, it does believe that the Childguard design provides no greater measure of child resistance than existing designs.

7. *Priorities.* The Commission has already considered and rejected, following extensive public comment, the possibility of issuing child-resistant requirements for matchbooks. Devoting additional resources to this matter, especially absent new data, would delay existing priority projects which would address different consumer products and different risks of injury.

8. *Summary.* The Commission has denied Petition CP 78–16 from Consumer Alert, Inc., because it does not believe that the requested amendment is reasonably necessary to reduce or eliminate the risk of injury presented by children who play with matchbooks. The Commission also does not believe that its failure to issue such an amendment would unreasonably expose the petitioner (its members) or other consumers to that risk of injury.

Section 10 of the CPSA (15 U.S.C. 2059) provides that any interested person may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. As required by section 10, the Commission has published in this **Federal Register** document its reasons for denying the Consumer Alert petition (CP 78–16).

Dated: September 4, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79–27937 Filed 9–6–79; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Flood Control Study at Garapan, Island of Saipan, Commonwealth of the Northern Mariana Islands (CNMI)

August 27, 1979.

AGENCY: U.S. Army Corps of Engineers, Pacific Ocean Division, Honolulu District.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Brief Description of the Proposed Action.* The U.S. Army Corps of Engineers is studying flooding and related problems in the Garapan area, Island of Saipan, CNMI, in order to develop adequate flood control measures to protect the area from future flood damages.

2. *Brief Description of Reasonable Alternatives.* Both non-structural and structural alternative flood control measures are being considered at this time:

a. No Action. This alternative would preserve the existing setting in Garapan. Periodic flooding and subsequent property damage would still occur.

b. Floodproofing. This is a non-structural plan that would consist of elevation of buildings, walls around structures, and/or waterproof panels and sealing around structure openings.

c. Construction of a collector and disposal system. This would involve a system which would divert flood flows from homes and effectively dispose of storm waters.

3. *Brief Description of the Corps Scoping Process.* a. Proposed Public Involvement Program. The program involves coordination with other federal agencies, local government offices, community organizations and the general public. Activities will include public workshops, meetings, formal hearings, issuance of public notices and letter responses. A workshop attended by local government representatives and the general public was held at Garapan on 21 March 1979. A formal public meeting is scheduled for May, 1980 at Garapan. All interested agencies, organizations and individuals are invited to participate in the early planning process by providing written comments or oral testimony to the Corps.

b. Identification of Significant Environmental Issues to be Analyzed in Depth in the DEIS.

(1) Effect of alternatives on known and unknown archaeological and historic resources.

(2) Effect of alternatives on the socio-economic climate of the Garapan area.

(c) Possible Assignments for Input into the DEIS under Consideration Among the Lead and Cooperating Agencies and Organizations:

(1) *U.S. Fish and Wildlife Service:* Provision of a planning aid letter and 2(b) report.

(2) *Pacific Studies Institute:* Provide details of archaeological and historic resources within the project area, and recommendations for preservation or mitigation for valuable sites.

(3) *CNMI Historic Preservation Officer:* Evaluation of archaeological/historical survey results and identification of sites (if any) eligible for listing in the National Register of Historic Places.

d. Identification of Other Environmental Review and Consultation Requirements.

(1) "Protection of Historic and Cultural Properties," 36 CFR Part 800 (44 Federal Register, 30 January 1979), pursuant to Section 106 of the National Historic Preservation Act of 1966.

(2) Section 44 of the Clean Water Act.

(3) Fish and Wildlife Coordination Act.

4. A scoping meeting will not be held on this study. Cooperating agencies involved in the planning process have been informed of the proposed study. These agencies include the U.S Fish and Wildlife Service, National Park Service, CNMI Historic Preservation Officer, and other CNMI offices.

5. Under the present schedule the Draft Environmental Impact Statement will be made available to the public in April, 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Russell Takara, U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, Hawaii 96858, Telephone: (808) 438–9526.

Date: 27 August 1979.

B. R. Schlapak,

Lt. Col., Corps of Engineers, District Engineer.

[FR Doc. 79–27918 Filed 9–6–79; 8:45 am]

BILLING CODE 3710–HN–M

Intent To Prepare Draft Environmental Impact Statement for San Luis Rey River, San Diego County, Calif., Project

AGENCY: US Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Proposed Action. The tentatively selected plan for flood control along the San Luis Rey River at Oceanside, San Diego County, California, would provide for approximately 7.2 miles of channel improvements along the river from Murray Road to the Pacific Ocean. The proposed action (identified as the single levee plan) consists of the following elements: a revetted earth-bottom trapezoidal channel, about 2.2 miles long from Murray Road to the Pilgrim Creek confluence (bottom width 400 feet); about 3.5 miles of single levee with 30 groins on the south side of the river with a 30-foot-wide riparian corridor in the 400-foot-wide channel; about 1.5 miles of channel grading which, in general, would be limited to the removal of spoil banks from 1 mile upstream of Interstate 5 to the ocean; some stone-revetted levee along the stream at the ocean; and removal of the sand plug at the mouth of the river. Mitigation measures include removal of the sand plug at the mouth of the river, which will increase the size of the lagoon; removal of the above-mentioned spoil banks, which will increase riparian vegetation in this reach; planting of trees and shrubs outside the landward toe of the levee; designation of a 30-foot-wide riparian cooridor within the channel; a wildlife transition area between the end of the riparian corridor and Whelan Lake; a grain stock seeding program for waterfowl in the channel in the vicinity of Whelan Lake; managed plant communities, developed through natural succession, in the ponding areas on the south side of the river; and an operation and maintenance program of selected cutting.

2. Alternatives. Alternatives considered during preliminary planning included upstream dams, a concrete channel, 100-year levee, grass swale, purchase of 100-year floodway, and removal of the spoil bank and sand plug only. These alternatives were removed from further consideration because they were either not economically justified, were environmentally unacceptable, or did not provide the necessary degree of flood protection. Alternatives considered during the detailed planning process include one double levee and three single levee alternatives. All of the alternatives include removal of spoil banks in the Narrows and removal of the sand plug at the mouth of the river. The Floodway Levee (double levee) plan includes a system of levees at the floodway line with no excavation (base width up to 1,000 feet) from Murray Road to Douglas Drive; a revetted earth-bottom trapezoidal channel (base with 500 feet) from Douglas Drive to about 1 mile upstream from Interstate 5; and some stone-revetted levee along the stream at the ocean. The plan would require an additional ponding area, located on the north side of the river, and local purchase of 126 acres of land upstream from Murray Road. The Single Levee plan (the National Economic Development plan) is described in paragraph No. 1, Proposed Action. The Shortened Single Levee plan would include collector levees east of Douglas Drive and the purchase of 203 acres to preclude development, and about .75 mile of double levee revetted earth-bottom trapezoidal channel (bottom width 400 feet) to the confluence of Pilgrim Creek; from this point to the ocean, the plan is similar to the single levee plan. The Widened Single Levee plan (the Environmental Quality plan) features a system of levees at the floodway line with no excavation (base width up to 1,000 feet) from Murray Road to Douglas Drive, and a revetted earth-bottom trapezoidal channel with a base width of 500 feet from Douglas Drive to the confluence of Pilgrim Creek; from this point to the ocean, the plan is similar to the single levee plan.

3. Scoping Process. Congress has provided funds to initiate an advance engineering and design study for flood control improvements along the San Luis Rey River. A public meeting was held in Oceanside, California, on 11 May 1978 to discuss the Corps flood control study and to form a citizens committee to assist the Corps in continuing the study. The Citizens Advisory Committee has met a number of times (often twice monthly) to help gather information and data, express local desires, and assist in project formulation. Through this process, the single levee plan has been tentatively selected as the recommended plan. Measures to mitigate adverse environmental impacts

of the proposed project have been

of the proposed project have been identified and incorporated into the tentatively selected plan (see Para No. 1). Remaining environmental concerns include impact of the proposed project on wildlife and endangered species utilizing habitats along the San Luis Rey River, size of the ponding areas on the south side of the river, and selection of an acceptable maintenance plan. The Corps has initiated and is conducting extensive coordination efforts with the U.S. Fish and Wildlife Service and the California Department of Fish and Game to resolve potential environmental problems and arrive at a mitigation plan acceptable to wildlife agencies and the Corps.

4. Future Public Meetings. A public meeting will be scheduled sometime during winter 1979/80 to discuss all of the alternatives and obtain public comment, and another public meeting will be held in spring 1980.

5. Publication of DEIS. The draft environmental impact statement is expected to be available to concerned agencies and the interested public for review and comment by the end of 1979.

ADDRESS: Questions about the proposed action and draft environmental impact statement can be answered by Captain Peter C. Glyer, Water Resources Branch, US Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053.

Dated: August 28, 1979.

Gwynn A. Teague,

Colonel, CE, District Engineer.

[FR Doc. 79-27919 Filed 9-6-79; 8:45 am]

BILLING CODE 3710-KF-M

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Hydropower Project at Bradley Lake Near Homer, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed DEIS is to evaluate engineering, environmental and economic feasibility of a dam and lake tap at Bradley Lake, a hydropower plant connected to Bradley Lake by a tunnel and underground penstock, and access roads and transmission lines associated with the project. Surveys and studies of hydrology, foundation and construction materials, geology, environmental resources, and cultural resources will be conducted. The results of the surveys and studies will be used to select project alternatives, design the project, develop mitigation measures, and identify impacts of the projects.

The tentative plan would dam Bradley Lake at the present lake outlet to raise the maximum lake elevation by approximately 90 feet. A lake tap approximately 70 feet beneath the present surface elevation would transport water from the lake through a tunnel and underground penstock approximately 13,400 feet in length to an underground powerhouse. The project would produce approximately 118 megawatts. Power generated by the project would be transmitted to 115 kilovolt lines being constructed by the Homer Electric Association approximately 5 miles northeast of the project site. The transmission line corridor and project access routes have not been selected.

2. Alternatives to the proposed project include the use of non-renewable resources, no action, and tie-in with more distant power sources. Alternative project designs include alternative powerhouse and tailrace locations, dam and spillway elevations, building material sources, access routes and transmission corridor routes. Diversion of part of the upper Nuka River will be considered.

3. Coordination has been initiated with concerned State and Federal agencies as required by the Fish and Wildlife Coordination Act of 1956. Participation by affected Federal, State, and local agencies and by private organizations and individuals will be encouraged at public meetings to be held during the DEIS scoping process and during the data acquisition and analysis phase.

Significant issues to be analyzed in the DEIS are the selection of construction alternatives and mitigation measures, and the impacts of the proposed project on the biological resources and the socio-economic conditions of the region.

4. A public meeting and an interagency meeting will be held during the DEIS scoping progress.

5. The DEIS is expected to be available for public review in September 1981.

ADDRESS: Questions about the proposed project and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: August 27, 1979

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-27839 Filed 9-6-79; 8:45 am]

BILLING CODE 3710-ML-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Columbia Gas Transmission Corp., et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16212/79-1784
2. 17-109-21955
3. 102 103
4. The Louisiana Land & Exploration Co
5. LL&E Fee #1-156885
6. Bayou Jean La Croix
7. Terrebonne LA
8. 548.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Transmission Corp

1. 79-16213/79-1735
2. 17-109-21955
3. 102 103
4. The Louisiana Land & Exploration Co
5. LL&E Fee #1-D-157893
6. Bayou Jean La Croix
7. Terrebonne LA
8. 73.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Transmission Corp

1. 79-16214/79-1737
2. 17-109-21769
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #3-151682
6. Bayou Penchant
7. Terrebonne LA
8. 519.0 million cubic feet
9. August 13, 1979
10. J P Stevens and Company Inc

1. 79-16215/79-1738
2. 17-109-21530
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #2-146434
6. Lake Hatch
7. Terrebonne LA
8. 365.0 million cubic feet
9. August 13, 1979
10.

1. 79-16216/79-1684
2. 17-075-22469
3. 102
4. Gulf Oil Corporation
5. SL 195 QQ #284 Quarantine Bay
6. Quarantine Bay
7. Plaquemines LA
8. 60.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Company

1. 79-16217/79-1685
2. 17-075-22487
3. 102
4. Gulf Oil Corporation
5. VU 65 B L D E #150 West Bay
6. West Bay
7. Plaquemines LA
8. 55.0 million cubic feet
9. August 13, 1979
10. Texas Eastern Transmission Corp, United Gas Pipeline Co

1. 79-16218/79-1686
2. 17-075-22312
3. 102
4. Gulf Oil Corporation
5. VU 65 B L D E #146 West Bay
6. West Bay
7. Plaquemines LA
8. 29.0 million cubic feet
9. August 13, 1979
10. Texas Eastern Transmission Corp, United Gas Pipeline Co

1. 79-16219/79-934
2. 17-053-20481
3. 102
4. Henry Goodrich D/B/A Goodrich Oil Co
5. Goodrich Oil Co-Pelto Oil Co #1
6. Mermentau West
7. Jefferson Davis LA
8. 180.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Company

1. 79-16220/79-939
2. 17-069-20337
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #135
6. Bayou Couba
7. St Charles LA
8. 15.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16221/79-940
2. 17-089-20352
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #137
6. Bayou Couba
7. St Charles LA
8. 40.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16222/79-941
2. 17-089-20353
3. 102
4. Gulf Oil Corporation
5. Delta Securities Company Inc #138
6. Bayou Couba
7. St Charles Parish, LA
8. 300.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16223/79-943
2. 17-089-20355
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #139
6. Bayou Couba
7. St Charles LA
8. 22.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16224/79-944
2. 17-089-20356
3. 102
4. Gulf Oil Corporation
5. Delta Securities Co Inc #140
6. Bayou Couba
7. St Charles LA
8. 75.0 million cubic feet
9. August 13, 1979
10. Transcontinental Gas Pipeline

1. 79-16225/79-949
2. 17-075-22486
3. 102
4. Gulf Oil Corporation
5. SL 195 QQ #287-D
6. Quarantine Bay
7. Plaquemines LA
8. 767.0 million cubic feet
9. August 13, 1979
10. United Gas Pipeline Co

1. 79-16322/79-1695
2. 17-075-22143
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #9-151430
6. Lake Washington
7. Plaquemines LA
8. 200.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16323/79-1694
2. 17-075-22137
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #8-151359
6. Lake Washington
7. Plaquemines LA
8. 183.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16324/79-1693
2. 17-075-22079
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #7-150414
6. Lake Washington
7. Plaquemines LA
8. 204.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

1. 79-16325/79-1692
2. 17-075-22073
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee #6-150314
6. Lake Washington
7. Plaquemines LA
8. 183.0 million cubic feet
9. August 14, 1979
10. Mid-Louisiana Gas Company

Montana Board of Oil and Gas Conservation

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16372/5-79-198
2. 25-005-21983
3. 102
4. Tricentrol United States Inc
5. Weaver 7-3-28-17
6. Wildcat—Sherard Area
7. Blaine MT
8. 283.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16327
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Skelly Penrose B Unit No 39
6. Langlie-Mattix
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company Natural Gas Plant

1. 79-16328
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Rodman Jones #1
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 10.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16329
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Mobil-King #1
6. Langlie Mattix Seven River Queen
7. Lea NM
8. 6.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16330
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Sinclair B State #4
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 11.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16331
2. 30-025-00000
3. 108

4. Albert Gackle (Operator) et al
5. R W Cowden C #4
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea NM
8. 10.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16332
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 86
6. Eumont
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp

1. 79-16333
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No 99
6. Eumont
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp

1. 79-16334
2. 30-025-26263
3. 103
4. Doyle Hartman Oil Operator
5. J Hiram Moore State No 1
6. Penrose-Skelly
7. Lea NM
8. 119.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16335/HWT-352
2. 30-025-25921
3. 103
4. Amoco Production Company
5. Cone /B/ No 2
6. House Drinkard
7. Lea NM
8. 1059.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co

1. 79-16336
2. 30-025-26212
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Eaves Well No 7
6. Undesignated Wantz Granite Wash
7. Lea NM
8. 93.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16337
2. 30-025-00000
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Mark Well No 8
6. Wantz Granite Wash
7. Lea NM
8. .0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16338
2. 30-025-26192
3. 103
4. Union Oil Company of Calif
5. Pipeline 16 State #1
6. Quail Ridge-Bone Springs
7. Lea NM
8. 146.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16339
2. 30-005-00000
3. 103
4. El Ran Inc
5. Roberts #3 Prod Unit #17163
6. Chaveroo (San Andres)
7. Chaves NM
8. 16000.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co

1. 79-16340
2. 30-015-22809
3. 103
4. Southland Royalty Comompany
5. Parkway A State Com #1
6. Undesignated
7. Eddy NM
8. 100.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16341
2. 30-015-22562
3. 103
4. Gulf Oil Corporation
5. Eddy Gz State Com Well No 1
6. Undesignated Strawn
7. Eddy NM
8. 9.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16342
2. 30-025-26238
3. 103
4. Warren Petroleum Co Div/Gulf Oil
5. Lea 30 State Well No 1
6. Airstrip Wolfcamp
7. Lea NM
8. .0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16343
2. 30-005-20657
3. 103
4. Moranco
5. Western Reserves 32 State No 3
6. Tom-Tom (San Andres)
7. Chaves NM
8. 7.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company

1. 79-16344
2. 30-025-10745
3. 108
4. Millard Deck
5. Kelly State #4
6. Langlie Mattix Seven Rivers Queen
7. Lea NM
8. 4.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16345
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Lovington San Andres Unit #7
6. Lovington San Andres
7. Lea NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16346
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. George Etz #4
6. Jalmat-Tansill-Yates-Seven-Rivers P
7. Lea, NM
8. 6.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16347
2. 30-015-22820
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F 363
6. Empire ABO
7. Eddy, NM
8. 69.0 million cubic feet
9. August 14, 1979
10. Amoco Production Company, Phillips Petroleum Co.

1. 79-16348
2. 30-025-00000
3. 108
4. Sohio Natural Resources Company
5. Pruitt #1
6. Penrose Skelly Grayburg
7. Lea, NM
8. 2.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company.

1. 79-16349
2. 30-025-00000
3. 108
4. Sohio Natural Resources Company
5. Grizzell #1
6. Drinkard
7. Lea, NM
8. 7.0 million cubic feet
9. August 14, 1979
10. Getty Oil Company.

1. 79-16350
2. 30-025-10823
3. 108
4. Millard Deck
5. May A #1
6. Langlie Mattix Queen
7. Lea, NM
8. 2.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas.

1. 79-16351
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Lovington San Andres Unit #53
6. Lovington San Andres
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79-16352
2. 30-015-00000
3. 108
4. David Fasken
5. Fasken-Brown-Yates No. 1
6. Atoka (Penn)
7. Eddy, NM
8. 7.2 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company.

1. 79-16353
2. 30-015-22712
3. 103
4. Yates Petroleum Corporation
5. Niles Ka Com No. 1

6. Und Wolfcamp
7. Eddy, NM
8. .0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co.

1. 79-16354
2. 30-025-00000
3. 108 denied
4. Harper Oil Company
5. Sarkeys 1 (Drinkard)
6. Drinkard
7. Lea, NM
8. 3.0 million cubic feet
9. August 14, 1979
10. Gulf Oil Corporation (Warren Pet Co.) Warren Petroleum Corp.

1. 79-16355
2. 30-025-00000
3. 108 Denied
4. Harper Oil Company
5. Sarkeys 3 (ABO)
6. Wantz ABO
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company, Warren Petroleum Corp

1. 79-16356
2. 30-015-22800
3. 103
4. Yates Petroleum Corporation
5. Upham Kn No. 1
6. West Atoka Morrow
7. Eddy, NM
8. .0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Company.

1. 79-16357
2. 30-015-22591
3. 102
4. Delta Drilling Co
5. South Culebra Bluff No. 2
6. Wildcat
7. Eddy, NM
8. 730.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Co.

1. 79-16358
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. Mobil-King #2
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 3.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79-16359
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. H E Esmond A #1
6. Jalmat Yates Seven Rivers
7. Lea, NM
8. 18.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79-16360
2. 30-025-00000
3. 108
4. Getty Oil Company
5. Lovington Paddock Unit #79
6. Lovington Paddock
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company.

1. 79-16361
2. 30-025-00000
3. 108
4. Albert Gackle (Operator) et al
5. R W Cowden B #1
6. Jalmat-Tansill-Yates-Seven Rivers P
7. Lea, NM
8. 3.5 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79-16362
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 30
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp.

1. 79-16363
2. 30-025-00000
3. 108
4. Getty Oil Company
5. East Eumont Unit No. 42
6. Eumont
7. Lea, NM
8. 1.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company, Warren Petroleum Corp.

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s).

1. 79-16373/00004
2. 35-129-20289
3. 103
4. Grace Petroleum Corporation
5. Berry No. 2-12
6. West Cheyene
7. Roger Mills, OK
8. 4417.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company.

1. 79-16374/00132
2. 35-045-20676
3. 103
4. Hoover & Bracken Energies
5. State #1-12
6. Higgins
7. Ellis, OK
8. 730.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co., Laclede Gas Company.

1. 79-16375/00036
2. 35-059-00000
3. 102
4. Amarex Inc
5. C R Smith #1
6. NE Fort Supply
7. Harper, OK
8. 270.0 million cubic feet
9. August 14, 1979
10.

1. 79-16376/00022
2. 35-051-00000
3. 103
4. Amarex Inc
5. Sabine Royalty Corp et al. #1
6. NW Chitwood
7. Grady, OK
8. 131.2 million cubic feet
9. August 14, 1979
10. Oklahoma Natural Gas

1. 79-16377/00160
2. 35-007-21367
3. 103
4. Mesa Petroleum Co
5. Adams 1-20
6. Mocane Chester
7. Beaver, OK
8. .0 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Company, Northern Natural Gas Company.

1. 79-16378/00141
2. 35-151-20816
3. 103
4. Imperial Oil Company
5. Bouziden No 1-23
6. NE Falkner
7. Woods, OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipe Line Company.

1. 79-16379/00159
2. 35-093-21536
3. 103
4. Red Eagle Oil Co
5. Hubble No 1
6. Ringwood
7. Major, OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16380/00136
2. 35-059-20645
3. 103
4. Elder & Vaughn
5. Holmes #1
6. Laverne-Chester (Pool No 91)
7. Harper, OK
8. 125.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipeline Co.

1. 79-16381/00131
2. 35-043-20897
3. 103
4. John A Taylor
5. Chain Ranch #1-33
6. Putnam
7. Dewey, OK
8. 128.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipe Line Corp.

1. 79-16382/00148
2. 35-073-22067
3. 103
4. Texasgulf Inc
5. Marlin et al Bollenbach No 1
6. North Okarche
7. Kingfisher OK
8. 275.0 million cubic feet
9. August 14, 1979
10.

1. 79-16383/00149

2. 35-017-21059
3. 103
4. Quanah Company
5. Montgomery #1
6. Yukon-Richland
7. Canadian OK
8. 300.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16384/00104
2. 35-129-20247
3. 103
4. Grace Petroleum Corporation
5. Tracy #1-31
6. West Cheyenne
7. Roger Mills OK
8. 2372.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16385/00122
2. 35-017-20763
3. 103
4. Helmerich & Payne Inc
5. Wilkerson No 2
6. East Hinton
7. Canadian OK
8. 1825.0 million cubic feet
9. August 14, 1979
10. Michigan Wisconsin Pipe Line Company Oklahoma Gas & Electric Company

1. 79-16386/00001
2. 35-151-20735
3. 103
4. W B Osborn Jr (Operator)
5. Kletke #2
6. Northwest Avard
7. Woods OK
8. 60.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline

1. 79-16387/00002
2. 35-129-20292
3. 103
4. Grace Petroleum Corporation
5. Berry No 1-7
6. West Cheyenne
7. Roger Mills OK
8. 1054.1 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16388/00003
2. 35-129-20249
3. 103
4. Grace Petroleum Corporation
5. Swope #1
6. Reydon
7. Roger Mills OK
8. 21.9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16389/00006
2. 35-017-20923
3. 103
4. Sunrise Exploration Inc
5. Riekensberg-McKay #1
6. Lookeba
7. Canadian OK
8. 640.0 million cubic feet
9. August 14, 1979
10. Michigan-Wisconsin Pipe Line Co

1. 79-16390/00007
2. 35-043-20920
3. 103
4. OFT Exploration Inc
5. IVA Haun 1-06
6. Webb Putnam Section 6-17N-17W
7. Dewey OK
8. 2400.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipe Line Co

1. 79-16391/00009
2. 35-153-20843
3. 103
4. OFT Exploration Inc
5. Finnegan 1-04
6. N E Cedardale Section 4-22N-18W
7. Woodward OK
8. 150.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16392/00010
2. 35-153-20863
3. 103
4. OFT Exploration Inc
5. Virginia Gonser 1-02
6. N E Cedardale Section 2-22N-18W
7. Dewey OK
8. 100.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16393/00012
2. 35-153-20836
3. 103
4. OFT Exploration Inc
5. Patricia Trost 1-33
6. N E Cedardale Section 33-23N-18W
7. Woodward OK
8. 75.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16394/00013
2. 35-153-20832
3. 103
4. OFT Exploration Inc
5. Gertie Walters 1-34
6. N E Cedardale Section 34-23N-18W
7. Woodward OK
8. 300.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16395/00014
2. 35-153-20875
3. 103
4. OFT Exploration Inc
5. Mary Benbrook 1-27
6. Section 27-23N-18W
7. Woodward OK
8. 50.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16396/00015
2. 35-007-00000
3. 103
4. Amarex Inc
5. Alva Howard #1-33
6. Mocan-Laverne
7. Beaver OK
8. 365.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Co

1. 79-16397/00023
2. 35-075-00000
3. 103
4. Amarex Inc
5. Cline Unit #1-12
6. Gotebo
7. Kiowa OK
8. 195.4 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16398/00018
2. 35-139-21095
3. 103
4. Mobil Oil Corporation
5. Mueller (62) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79-16399/00017
2. 35-139-21092
3. 103
4. Mobil Oil Corporation
5. Langley (67) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79-16400/00020
2. 35-139-21096
3. 103
4. Mobil Oil Corporation
5. R A Parker (111) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79-16401/00016
2. 35-139-20930
3. 103
4. Mobil Oil Corporation
5. Johnson EST (76) Unit #2
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79-16402/00019
2. 35-139-21087
3. 103
4. Mobil Oil Corporation
5. Weeden #2 (182) unit #3
6. Guymon-Hugoton
7. Texas OK
8. 200.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Company

1. 79-16403/00107
2. 35-013-20050
3. 103
4. Grace Petroleum Corporation
5. Godfrey #1-22
6. Lakeside
7. Bryan OK
8. 345.0 million cubic feet
9. August 14, 1979
10. Pioneer Gas Products Company

1. 79-16404/00100
2. 35-025-00000
3. 103
4. Gulf Energy Producing Company
5. Taylor Well No 1-23
6. Keyes Field
7. Cimarron OK
8. 150.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline Company

1. 79-16405/00098
2. 35-077-20162
3. 103
4. John C. Oxley
5. Erle Ranch No 1

6. Blocker Southeast
7. Latimer OK
8. 399.0 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16406/00090
2. 35-003-20561
3. 103
4. Okmar Oil Company
5. Davis #2-23
6. Goltry
7. Alfalfa OK
8. 40.0 million cubic feet
9. August 14, 1979
10. Union Texas Petroleum

1. 79-16407/00074
2. 35-135-20050
3. 103
4. John C Oxley
5. Kelley No 1
6. Paw Paw Northeast
7. Sequoyah OK
8. 585.5 million cubic feet
9. August 14, 1979
10. Arkansas Louisiana Gas Company

1. 79-16408/00043
2. 35-047-21342
3. 103
4. Union Texas Petroleum
5. L M Atherton #2
6. Waukomis Sw Sec 3 T21N R7W
7. Garfield OK
8. 55.0 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline Co

Texas Railroad Commission, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16226/04810
2. 42-211-30712
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-207
6. Red Deer Creek
7. Hemphill TX
8. 592.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16227/04919
2. 42-115-31152
3. 103
4. Amoco Production Company
5. Arther Nolen A well No 1
6. Lamesa West/Spraberry
7. Dawson TX
8. 4.0 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company Northern Natural Gas Company

1. 79-16228/04811
2. 42-211-30700
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-211
6. S W Canadian
7. Hemphill TX
8. 210.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company

1. 79-16229/04814
2. 42-211-30961
3. 103
4. Gulf Oil Corporation
5. Isaacs #4-207
6. Red Deer Creek
7. Hemphill TX
8. 406.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16230/04853
2. 42-079-30865
3. 103
4. Amoco Production Company
5. Landreth B No 5A
6. Bledsoe (San Andres)
7. Cochran TX
8. 54.8 million cubic feet
9. August 14, 1979
10. Cities Service Company

1. 79-16231/04835
2. 42-211-31035
3. 103
4. Kerr-McGee Corporation
5. Petree #2-5
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 265.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16232/04834
2. 42-211-30708
3. 103
4. Kerr-McGee Corporation
5. Mary Jones #3
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 180.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16233/04833
2. 42-211-30879
3. 103
4. Kerr-McGee Corporation
5. Petree #3
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 43.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co

1. 79-16234/04812
2. 42-211-30948
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-208
6. S W Canadian
7. Hemphill TX
8. 21.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co

1. 79-16235/04860
2. 42-115-31200
3. 103
4. Petroleum Expl & Dev Funds Inc
5. Crow #1
6. Patricia NE (Spraberry)
7. Dawson TX
8. 5.1 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company

1. 79-16236/04862
2. 42-219-32469
3. 103
4. Amoco Production Company
5. Northwest Mallet Unit No 154
6. Slaughter
7. Hockley TX
8. 5.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company

1. 79-16237/04631
2. 42-391-31288
3. 103
4. Continental Oil Co
5. J F Welder Heirs -R- No 7 79548
6. West Vidauri (4800)
7. Refugio TX
8. 181.5 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipe Line Company

1. 79-16238/04636
2. 42-323-31254
3. 103
4. Continental Oil Co
5. N J Chittim No 546 02082
6. Sacatosa (San Miguel #1. SAND)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16239/04637
2. 42-131-32511
3. 103
4. Continental Oil Co
5. Robert Driscoll No 130-L 77830
6. Conoco Driscoll (Govt Wells 1 UP)
7. Duval TX
8. 84.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line (C-4005) City of Benavides

1. 79-16240/04638
2. 42-367-31463
3. 103
4. Ben J Taylor
5. Rhoades No 2
6. Carterville (Strawn-Upper)
7. Parker TX
8. 100.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Company

1. 79-16241/04690
2. 42-335-31320
3. 103
4. Sun Oil Company (Delaware)
5. V T McCabe B No 28
6. Jameson North (Strawn)
7. Mitchell TX
8. 37.0 million cubic feet
9. August 14, 1979
10. Lone Star Gas Company

1. 79-16242/04686
2. 42-335-30842
3. 103
4. Sun Oil Company (Delaware)
5. V T McCabe B No 12
6. Jameson North
7. Mitchell TX
8. 110.0 million cubic feet
9. August 14, 1979

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V 44/175 SE 7 79

10. Lone Star Gas Company
1. 79-16243/04710
2. 42-135-32979
3. 103
4. Cities Service Company
5. Scharbauer G #8
6. Goldsmith
7. Ector TX
8. 1.2 million cubic feet
9. August 14, 1979
10. Phillips Petroleum Company
1. 79-16244/04720
2. 42-211-31034
3. 103
4. Kerr-McGee Corporation
5. Mary Jones #5
6. Hemphill (Granit Wash)
7. Hemphill TX
8. 285.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co Kansas—Nebraska Pipeline Panhdle Eastern Pipeline Co
1. 79-16245/04798
2. 42-211-30925
3. 103
4. Gulf Oil Corporation
5. Isaacs #3-207
6. Red Deer Creek
7. Hemphill TX
8. 531.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79-16246/04780
2. 42-211-30925
3. 103
4. Kerr-McGee Corporation
5. Petree #4
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 152.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Company Kansas-Nebraska Pipeline Panhandle Eastern Pipeline Co
1. 79-16247/04799
2. 42-211-30886
3. 103
4. Gulf Oil Corporation
5. Ora Morris #2-92
6. Alpar
7. Hemphill TX
8. 82.0 million cubic feet
9. August 14, 1979
10. Cities Service Gas Co
1. 79-16248/04804
2. 42-109-31355
3. 103
4. Gulf Oil Corporation
5. Txl Cx (Nct-A) No 8
6. Geraldine (Ford)
7. Culberson TX
8. 11.0 million cubic feet
9. August 14, 1979
10. Continental Oil & Gas Co
1. 79-16249/04809
2. 42-211-30958
3. 103
4. Gulf Oil Corporation
5. Isaacs #4-209
6. S W Canadian
7. Hemphill TX
8. 366.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79-16250/04808
2. 42-211-30899
3. 103
4. Gulf Oil Corporation
5. Isaacs #2-209
6. Red Deer Creek
7. Hemphill TX
8. 331.0 million cubic feet
9. August 14, 1979
10. Pioneer Natural Gas Co
1. 79-16251/04596
2. 42-427-31191
3. 103
4. Continental Oil Co
5. T B Slick Est—A No 150-U 74078
6. Rincon (B-2 Frio)
7. Starr TX
8. 109.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline Co
1. 79-16252/04600
2. 42-131-32513
3. 103
4. Continental Oil Co
5. Robert Driscoll No 131-U 77831
6. Conoco Driscoll
7. Duval TX
8. 147.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line City of Benavides
1. 79-16253/04604
2. 42-323-31282
3. 103
4. Continental Oil Co
5. N J Chittim No 7118 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16254/04605
2. 42-323-31291
3. 103
4. Continental Oil Co
5. N J Chittim No 6409 02082
6. Sacatosa (San Miguel No 1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo Vaca Gathering Company
1. 79-16255/04606
2. 42-323-31218
3. 103
4. Continental Oil Co
5. N J Chittim No 6925 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16256/04609
2. 42-323-31180
3. 103
4. Continental Oil Co
5. N J Chittim No 4061 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo Vaca Gathering Company
1. 79-16257/04614
2. 42-233-31299
3. 103
4. Continental Oil Co
5. N J Chittim No 7020 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16258/04615
2. 42-131-32448
3. 103
4. Continental Oil Co
5. Robert Driscoll No 1239 73901
6. Conoco Driscoll
7. Duval TX
8. 123.0 million cubic feet
9. August 14, 1979
10. Transco Gas Pipe Line City of Benavcides
1. 79-16259/04619
2. 42-323-31178
3. 103
4. Continental Oil Co
5. N J Chittim No 6659 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16260/04618
2. 42-323-31283
3. 103
4. Continental Oil Co
5. N J Chittim No 6410 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16261/04630
2. 42-505-30941
3. 103
4. Continental Oil Co
5. J G Rathmell A No 1 75826
6. Hundido (Lobo)
7. Zapata TX
8. 103.5 million cubic feet
9. August 14, 1979
10. Houston Pipeline Company
1. 79-16262/04628
2. 42-467-30412
3. 103
4. Continental Oil Co
5. Merle Shaw Oil Unit No 1 02078
6. East Fruitvale (Rodessa)
7. Van Zandt TX
8. 69.0 million cubic feet
9. August 14, 1979
10. Delhi Gas Pipeline Corporation
1. 79-16263/04625
2. 42-323-31279
3. 103
4. Continental Oil Co
5. N J Chittim No 6661 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16264/04624
2. 42-323-31221
3. 103
4. Continental Oil Co
5. N J Chittim No 6547 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company

1. 79-16265/04622
2. 42-073-30323
3. 103
4. Continental Oil Co
5. Coon Creek Gas Unit No 1 78493
6. Coon Creek (Rodessa)
7. Cherokee TX
8. 60.9 million cubic feet
9. August 14, 1979
10.
1. 79-16266/04621
2. 42-323-31215
3. 103
4. Continental Oil Co
5. N J Chittim No 7114 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16267/04620
2. 42-323-31219
3. 103
4. Continental Oil Co
5. N J Chittim No 6645 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lovaca Gathering Company
1. 79-16268/00642
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Satterfield #2 33870
6. East Panhandle
7. Wheeler TX
8. 1.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16269/00641
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Satterfield #1 33869
6. East Panhandle
7. Wheeler TX
8. 1.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16270/00643
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Trostle #1 35026
6. East Panhandle
7. Wheeler TX
8. .9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16271/00644
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lisle #1 33874
6. East Panhandle
7. Wheeler TX
8. 6.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16272/00645
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Howe A-1 33857
6. East Panhandle
7. Wheeler TX
8. 4.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16273/00646
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Poole #1 35027
6. East Panhandle
7. Wheeler TX
8. 14.4 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16274/00647
2. 42-087-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Knoll #1 26337
6. East Panhandle
7. Collingsworth TX
8. 7.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas
1. 79-16275/00649
2. 42-195-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Brooks #1 49745
6. Farwell Creek/Lower Morrow
7. Hansford TX
8. 8.7 million cubic feet
9. August 14, 1979
10. Panhandle Eastern Pipeline
1. 79-16276/00651
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Bearrow A-1 33768
6. East Panhandle
7. Wheeler TX
8. 15.7 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16277/00652
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Harvey B-1 33770
6. East Panhandle
7. Wheeler TX
8. 5.4 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16278/00653
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Martin #1 26346
6. East Panhandle
7. Wheeler TX
8. 9.2 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16279/00654
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Fields #1 33873
6. East Panhandle
7. Wheeler TX
8. 17.4 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16280/00655
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lisle A-1 33859
6. East Panhandle
7. Wheeler TX
8. 11.3 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16281/00656
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Morgan A-1 33878
6. East Panhandle
7. Wheeler TX
8. 18.2 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16282/00658
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. O Gorman #2 33772
6. East Panhandle
7. Wheeler TX
8. 12.5 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16283/00659
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Henry #1 36315
6. East Panhandle
7. Wheeler TX
8. 5.6 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16284/00660
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. O Gorman A-1 33854
6. East Panhandle
7. Wheeler TX
8. 13.3 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16285/00661
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas inc
5. Ogorman B-2 33656
6. East Panhandle
7. Wheeler TX
8. 2.9 million cubic feet
9. August 14, 1979
10. Warren Petroleum
1. 79-16286/00664
2. 42-427-00770
3. 108
4. Joseph G Gibson
5. A E Guerra Jr NCT-1 #1
6. La Reforma
7. Starr TX
8. 11.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline Co
1. 79-16287/00815
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp B-3

V 44 / 175 SEP 79 UMI

6. Ozona Canyon Sand Field
7. Crockett County TX
8. 13.8 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16288/00669
2. 42-365-00786
3. 108
4. Joseph G Gibson
5. T C Adams NCT-1 #E-1-T
6. Bethany
7. Panola TX
8. 4.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79-16289/00670
2. 42-293-00615
3. 108
4. Joseph G Gibson
5. Janie B Battle NCT-1 O/A #1-C
6. Oletha
7. Limestone TX
8. 2.6 million cubic feet
9. August 14, 1979
10. Texas Utilities Fuel Company

1. 79-16290/00720
2. 42-175-00000
3. 108
4. M D Abel
5. Z A Booth #1 ID#70728
6. South Albrecht (1950)
7. Goliad TX
8. 11.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79-16291/00612
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Henderson No B-1
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 11.2 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16292/00613
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Henderson No C-1
6. Ozona Canyon Sand Field
7. Crockett TX
8. .0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16293/00614
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp et al B-1
6. Ozona Canyon Sand Field
7. Crockett TX
8. 8.5 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16294/00128
2. 42-383-31211
3. 103
4. Texas Oil & Gas Corp
5. Noelke 8 #1 76805
6. Benedum NE (Bend Lime)
7. Reagan TX
8. 350.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16295/00129
2. 42-505-00000
3. 108
4. Gulf Energy Producing Company
5. Joseph Ramirez #Q-2
6. Lopeno (Queen City Upper)
7. Zapata TX
8. 14.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79-16296/00132
2. 42-505-00000
3. 108
4. Gulf Energy Producing Company
5. Manuel Ramirez #2
6. Lopeno (Reklaw B)
7. Zapata TX
8. 4.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79-16297/00127
2. 42-295-30500
3. 103
4. Texas Oil & Gas Corp
5. Harrelson #1 76441
6. Follett (Morrow)
7. Lipscomb TX
8. 750.0 million cubic feet
9. August 14, 1979
10. Northern Natural Gas Company

1. 79-16298/00088
2. 42-355-31249
3. 103
4. Pennzoil Producing Company
5. E A Kinsey No B-3 (U)
6. Aqua Dulce
7. Nueces TX
8. 250.0 million cubic feet
9. August 14, 1979
10. United Gas Pipeline Company

1. 79-16299/00133
2. 42-505-00000
3. 108
4. Gulf Energy Producing Company
5. Avelino Guerra #1-A-LT
6. Lopeno (Wilcox G)
7. Zapata TX
8. 7.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79-16300/00305
2. 42-365-00000
3. 108
4. Erso Inc
5. Carthage Unit 5-IT
6. Carthage
7. Panola TX
8. 8.8 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79-16301/00349
2. 42-295-30311
3. 103
4. Texas Oil & Gas Corp
5. Schultz B #1
6. Mammoth Creek North (Cleveland)
7. Lipscomb TX
8. 350.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co.

1. 79-16303/00350
2. 42-295-30523
3. 103
4. Texas Oil & Gas Corp
5. Schultz C #1
6. Mammoth Creek North (Cleveland)
7. Lipscomb TX
8. 75.0 million cubic feet
9. August 14, 1979
10. Transwestern Pipeline Co

1. 79-16303/00476
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Timmins Gas Unit #3
6. Bethany
7. Harrison TX
8. 5.0 million cubic feet
9. August 14, 1979
10. Tennessee Gas Pipeline

1. 79-16304/00808
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #502
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 12.1 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16305/00612
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 5.4 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16306/00611
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #2
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 10.6 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16307/00809
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M baggett Jr #802
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 9.9 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16308/00614
2. 42-105-00000
3. 108
4. Amarex Inc
5. Friend #4-1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 2.7 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16309/00613
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #701
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 9.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16310/00616
2. 42-105-00000
3. 108
4. Amarex Inc
5. Friend 1-1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 2.6 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16311/00615
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #14-164
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 12.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16312/00618
2. 42-105-00000
3. 108
4. Amarex Inc
5. Friend 2-1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 4.2 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16313/00617
2. 42-105-00000
3. 108
4. Amarex Inc
5. Friend #3-1
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 6.5 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16314/00624
2. 42-497-00000
3. 103
4. Taylor Operating Company
5. F L Partin No 1(18894)
6. Chico W (Congl 5700)
7. Wise TX
8. 150.0 million cubic feet
9. August 14, 1979
10. Cities Service Company

1. 79-16315/00619
2. 42-105-00000
3. 108
4. Amarex Inc
5. J M Baggett Jr #13-164
6. Adams-Baggett Ranch (Canyon Sand)
7. Crockett TX
8. 6.8 million cubic feet
9. August 14, 1979
10. Lo-Vaca Gathering Company

1. 79-16316
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Martin A-1 33867
6. East Panhandle
7. Wheeler TX
8. 3.8 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16317/00637
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Caperton #1 33769
6. East Panhandle
7. Wheeler TX
8. 1.2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16318/00636
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Boston #1 33862
6. East Panhandle
7. Wheeler TX
8. 11.6 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16319/00638
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Lax #1 33865
6. East Panhandle
7. Wheeler TX
8. .2 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16320/00639
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Reeves #1 33868
6. East Panhandle
7. Wheeler TX
8. 10.7 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

1. 79-16321/00640
2. 42-483-00000
3. 108
4. Sidwell Oil & Gas Inc
5. Leake #1 33866
6. East Panhandle
7. Wheeler TX
8. 3.9 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas

U.S. Geological Survey Metairie, La.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-16370/G8-179
2. 17-715-00000-0000-0
3. 102
4. Ocean Production Company
5. OCS-G 065 No B-10A
6. South Timbalier BIK 86
7. 86
8. 950.0 million cubic feet
9. August 13, 1979
10. Trunkline Gas Company

1. 79-16371/G9-766
2. 42-711-40353-00S1-0
3. 102
4. Exxon Corporation
5. OCS-G 2740 No B-6
6. High Island
7. A-342
8. 5000.0 million cubic feet
9. August 13, 1979
10. Columbia Gas Trans Corp, Trunkline Gas Co, Natural Gas Pipeline Co

U.S. Geological Survey Casper, Wyo.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16364/CC119-9
2. 05-102-07850-0000-0
3. 108
4. Lawrence Barker Jr
5. Government #1M/34
6. South Douglas Creek
7. Rio Blanco CO
8. 10.0 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79-16365/CC828-9
2. 05-103-08049-0000-0
3. 108
4. Coseka Resources (USA) Limited
5. Taiga Federal 3-L-20
6. Thunder
7. Rio Blanco CO
8. 13.5 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79-16366/CC833-9
2. 05-103-08048-0000-0
3. 108
4. Coseka Resources (USA) Limited
5. Taiga Federal #1-G-20-4S-102W
6. Thunder
7. Rio Blanco CO
8. 5.1 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79-16369/UC897-9
2. 43-019-30429-0000-0
3. 103
4. NP Energy Corporation
5. Federal 30-1
6. Cisco Dome Area
7. Grand County UT
8. 21.0 million cubic feet
9. August 14, 1979
10. Northwest Pipeline Corporation

1. 79-16326/W519-9
2. 49-019-20448-0000-0
3. 102
4. Cities Service Co
5. Federal AT #1
6. Table Mountain
7. Johnson WY
8. 12.0 million cubic feet
9. June 19, 1979
10. Phillips Petroleum Co

1. 79-16367/W683-9
2. 49-007-20338-0000-0
3. 102
4. Sun Oil Company (Delaware)
5. Echo Springs Federal Well 1-12
6. Echo Springs
7. Carbon WY
8. 1277.0 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Co

1. 79-16368/W684-9
2. 49-037-20689-0000-0
3. 108
4. Santa Fe Energy Company
5. Canyon Creek 12-3
6. Canyon Creek (Wasatch)
7. Sweetwater WY
8. 2.3 million cubic feet
9. August 14, 1979
10. Colorado Interstate Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 24, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27897 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

Columbia Gas Transmission Corp., et al.; Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16628/79-1994
2. 17-097-20460
3. 107
4. Shell Oil Company
5. 17600 Tusc Ra Sua Hagger No 1
6. Big Cane
7. St Landry LA
8. 3600.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Transmission Corp

1. 79-16629/79-1993
2. 17-007-20226
3. 103
4. J M Huber Corporation
5. MA-1 RB Sub Martin & Sons No 4
6. Coteau Frene
7. Assumption LA
8. 438.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp

1. 79-16630/79-1995
2. 17-057-21582
3. 103
4. Great Southern Oil & Gas Co Inc
5. SL 4534 No 1
6. Lake Raccourci
7. Lafourche Parish LA
8. 548.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Development Corp

1. 79-16631/79-1938
2. 17-111-01384
3. 108
4. Eason Oil Company
5. Barr A 3 #103466
6. Monroe
7. Union LA
8. 8.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16632/79-1939
2. 17-111-01303
3. 108
4. Eason Oil Company
5. Beasley 1 #32131
6. Monroe
7. Union LA
8. 14.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16633/79-1933
2. 17-073-00136
3. 108
4. Eason Oil Company
5. Stubbs 1 #12999
6. Monroe
7. Ouachita LA
8. 3.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16634/79-1934
2. 17-111-01446
3. 108
4. Eason Oil Company
5. Allen 1 #31705
6. Monroe
7. Union LA
8. 15.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16635/79-1935
2. 17-111-01375
3. 108
4. Eason Oil Company
5. Allen 2 #32049
6. Monroe
7. Union LA
8. 8.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16636/79-1936
2. 17-111-01183
3. 108
4. Eason Oil Company
5. Barr 1 #23848
6. Monroe
7. Union LA
8. 2.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16637/79-1937
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Barr 2 #31882
6. Monroe
7. Union LA
8. 13.5 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16638/79-1791
2. 17-111-21535
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #718
6. Monroe Gas Field
7. Union Parish LA
8. 8.0 million cubic feet
9. August 15, 1979
10. Mid Louisiana Gas Company

1. 79-16639/79-1841
2. 17-067-20012
3. 108
4. Primos Production Co
5. Tensas Delta #52
6. Monroe Gas Field
7. Morehouse LA
8. 22.5 million cubic feet
9. August 15, 1979
10. United Gas Pipeline

1. 79-16640/79-1932
2. 17-073-00000
3. 108
4. Eason Oil Company
5. Feazel-Frierson 4 #12749
6. Monroe
7. Ouachita LA
8. 3.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16641/79-1974
2. 17-111-01318
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 4 #26181
6. Monroe
7. Union LA
8. 11.7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16642/79-1975
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 1 #23098
6. Monroe
7. Union LA
8. 5.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16643/79-1976
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 2 #23212
6. Monroe
7. Union LA
8. 1.2 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16644/79-1632
2. 17-073-00586
3. 108
4. Pennzoil Producing Company
5. Breard, Mrs H A, No 1
6. Monroe

7. Ouachita LA
8. 2.0 million cubic feet
9. August 15, 1979
10. United Gas Pipe Line Company

1. 79-16645/79-1951
2. 17-111-00398
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 19 #106081
6. Monroe
7. Union LA
8. 12.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16646/79-1952
2. 17-111-00377
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 20 #107066
6. Monroe
7. Union LA
8. 13.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16647/79-1953
2. 17-111-20112
3. 108
4. Eason Oil Company
5. Edwards 1-A #132853
6. Monroe
7. Union LA
8. 18.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16648/79-1954
2. 17-111-01330
3. 108
4. Eason Oil Company
5. Edwards 2 #23581
6. Monroe
7. Union LA
8. 9.8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16649/79-1970
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Edwards 3 #31346
6. Monroe
7. Union LA
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16650/79-1971
2. 17-111-01314
3. 108
4. Eason Oil Company
5. Edwards, J H, 1 #25991
6. Monroe
7. Union LA
8. 11.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16651/79-1972
2. 17-111-01160
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 2 #26179
6. Monroe
7. Union LA
8. 9.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16652/79-1973
2. 17-111-01164
3. 108
4. Eason Oil Company
5. Edwards, Joe M, et al 3 #26180
6. Monroe
7. Union LA
8. 19.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16653/79-1940
2. 17-111-00448
3. 108
4. Eason Oil Company
5. Bird 1 #31706
6. Monroe
7. Union, La
8. 3.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16654/79-1941
2. 17-111-00425
3. 108
4. Eason Oil Company
5. Day 1 23213
6. Monroe
7. Union, La
8. 16.5 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16655/79-1942
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 4 #24051
6. Monroe
7. Union, La
8. 7.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16656/79-1943
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 5 #23435
6. Monroe
7. Union, La
8. 2.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16657/79-1944
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 7 #23434
6. Monroe
7. Union, La
8. 4.1 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16658/79-1945
2. 17-111-00547
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 8 #33293
6. Monroe
7. Union, La
8. 7.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16659/79-1946
2. 17-111-00464
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 9 #33395
6. Monroe
7. Union, La
8. 6.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16660/79-1947
2. 17-111-00378
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 11 #33581
6. Monroe
7. Union, La
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16661/79-1948
2. 17-111-00329
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 13 #33679
6. Monroe
7. Union, La
8. 9.8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16662/79-1949
2. 17-111-00328
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 14 #33680
6. Monroe
7. Union, La
8. 6.6 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16663/79-1950
2. 17-111-00369
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 18 #34533
6. Monroe
7. Union, La
8. 7.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp

1. 79-16664/79-1998
2. 17-007-20227-0000-1
3. 103
4. Petro-Lewis Funds Inc
5. Up Cr II Ra Suxi Lussier #2-D
6. Napoleonville
7. Assumption, La
8. 350.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company

1. 79-16665/79-1997
2. 17-007-20227-0000-2
3. 103
4. Petro-Lewis Funds Inc
5. L Cr II R8 Su Ai Lussier #2
6. Napoleonville
7. Assumption, La
8. 350.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company

1. 79-16666/79-1977
2. 17-023-21203
3. 103
4. General American Oil Company of Tx
5. H5 Rasufi Harms #4
6. Johnson Bayou
7. Cameron, La
8. 27.0 million cubic feet
9. August 15, 1979
10. Transcontinental Gas Pipe Line Corp, United Gas Pipeline Co

1. 79-16667/79-2000
2. 17-075-22441
3. 103
4. Gulf Oil Corporation
5. E-1 Ra Suc Bld D #15-D
6. South Pass Blk 24
7. Plaquemines, La
8. 73.0 million cubic feet
9. August 15, 1979
10. Southern Natural Gas Co
1. 79-16668/79-1999
2. 17-007-20264
3. 103
4. Petro-Lewis Funds Inc
5. Lwr Cr fl Rasuki Hebert #2
6. Napoleonville
7. Assumption Parish, La
8. 100.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Company
1. 79-16669/79-1978
2. 17-023-21303
3. 103
4. Natomas North America Inc
5. P-4C Rb Su A Vincent Heirs #3-D
6. Cameron
7. Cameron, La
8. 700.0 million cubic feet
9. August 15, 1979
10. Williams Exploration Company, Louisiana Resources Co
1. 79-16670/79-1979
2. 17-023-21303
3. 103
4. Natomas North America Inc
5. P-5 Ra Sua Vincent Heirs #3
6. Cameron
7. Cameron, La
8. 270.0 million cubic feet
9. August 15, 1979
10. Williams Exploration Company, - Louisiana Resources Co
1. 79-16671/79-1981
2. 17-003-00170
3. 108
4. Estate of H L Hunt
5. Yegua Ra Sue Poole #1 (59640)
6. Oberlin
7. Allen, La
8. 7.0 million cubic feet
9. August 15, 1979
10. Park Pipe Line Co, Transcontinental Gas Pipe Line Corp
1. 79-16672/79-1980
2. 17-003-00166
3. 108
4. Estate of H L Hunt
5. Yegua Ra Sui Bel S #3 (60655)
6. Oberlin
7. Allen, La
8. 10.0 million cubic feet
9. August 15, 1979
10. Park Pipe Line Co, Transcontinental Gas Pipe Line Corp
1. 79-16673/79-1983
2. 17-700-20153-00S2
3. 103
4. Chevron USA Inc
5. OCS-G-1439 #7
6. West Cameron Block 49
7. Offshore Cameron, La
8. 1117.0 million cubic feet
9. August 15, 1979
10. Natural Gas Pipline Co of America
1. 79-16674/79-1982
2. 17-057-21255
3. 102
4. Union Oil Company of California
5. State Lease 6324 Well No 2
6. West Timbalier Bay
7. Lafourche, La
8. 750.0 million cubic feet
9. August 15, 1979
10. Mid-Louisiana Gas Company
1. 79-16675/79-1985
2. 17-023-21335
3. 103
4. IMC Exploration Company
5. Cameron Parish Sch Bd #1 (160720)
6. Chalkley
7. Cameron, La
8. 110.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16676/79-1984
2. 17-023-21336
3. 103
4. Amoco Production Company
5. Miami Corp I R/A C No 14
6. Little Pecan Lake
7. Cameron, La
8. 1186.0 million cubic feet
9. August 15, 1979
10. Columbia Gas Transmission Corp
1. 79-16677/79-1992
2. 17-089-20353
3. 103
4. Gulf Oil Corporation
5. Bayou Couba DSCI #136
6. Bayou Couba
7. St Charles, La
8. 296.0 million cubic feet
9. August 15, 1979
10. Transcontinental Gas Pipeline Corp
1. 79-16678/79-1965
2. 17-111-00471
3. 108
4. Eason Oil Company
5. Harrell 1 #79301
6. Monroe
7. Union, La
8. 3.4 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16679/79-1966
2. 17-111-00503
3. 108
4. Eason Oil Company
5. Pilgreen GW 2 #79880
6. Monroe
7. Union, La
8. .8 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16680/79-1967
2. 17-111-00470
3. 108
4. Eason Oil Company
5. Russell D 1 #79303
6. Monroe
7. Union, La
8. .7 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16681/79-1968
2. 17-111-00417
3. 108
4. Eason Oil Company
5. Smith Ruth Day 1 (34457)
6. Monroe
7. Union, La
8. 8.3 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16682/79-1969
2. 17-111-00322
3. 108
4. Eason Oil Company
5. Springfield Bapt Church 1 #85367
6. Monroe
7. Union, La
8. 1.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16683/79-1991
2. 17-089-20385
3. 103
4. Exxon Corporation
5. P Ra Sul Sarpy Bros No 27
6. Good Hope
7. St Charles, La
8. 55.0 million cubic feet
9. August 15, 1979
10. United Gas Pipe Line Co
1. 79-16684/79-1987
2. 17-031-00349
3. 108
4. Phillips Petroleum Company
5. NSU-D-Provost No 1
6. Spider
7. Desoto, La
8. 19.5 million cubic feet
9. August 15, 1979
10. Southern Natural Gas Co
1. 79-16685/79-1988
2. 17-705-20086
3. 108
4. CNG Producing Company
5. S L 5008-5054 #2
6. Vermilion Block 16
7. Vermilion, La
8. 4.0 million cubic feet
9. August 15, 1979
10. Consolidated Gas Supply Corp
1. 79-16686/79-1989
2. 17-015-01022
3. 108
4. Texas Gas Exploration Corporation
5. USA (4425) #3AT
6. Sligo Field (old)
7. Bossier, La
8. 8.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp.
1. 79-16687/79-1990
2. 17-015-01017
3. 108
4. Texas Gas Exploration Corporation
5. USA 0236 #1
6. Sligo Field (old)
7. Bossier, La
8. 17.0 million cubic feet
9. August 15, 1979
10. Texas Gas Transmission Corp
1. 79-16688/79-1986
2. 17-119-20200
3. 103
4. Richard B Nelson et al
5. Hill Su LL Woodard-Walker A-1
6. Ada
7. Webster, La
8. 150.0 million cubic feet
9. August 15, 1979
10. Arkansas-Louisiana Gas Company
1. 79-16746/79-2048

2. 17-067-20128
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co Inc No 98
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16747/79-2047
2. 17-067-20124
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 97
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16748/79-2046
2. 17-067-20125
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 96
6. Monroe
7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16749/79-2045
2. 17-067-20023
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 95
6. Monroe
7. Morehouse, La
8. 14.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16750/79-2044
2. 17-067-20006
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 89
6. Monroe
7. Morehouse, La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16751/79-2038
2. 17-119-20172
3. 102
4. Sandefer & Andress Inc
5. Pruitt Gray RB Sua No 1
6. Cotton Valley Field
7. Webster, La
8. 350.0 million cubic feet
9. August 16, 1979
10. Arkansas Louisiana Gas Company
1. 79-16752/79-2055
2. 17-067-20178
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 105
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16753/79-2054
2. 17-067-20179
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 104
6. Monroe
7. Morehouse, La
8. 1.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16754/79-2053
2. 17-067-20180
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 103
6. Monroe
7. Morehouse, La
8. 2.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16755/79-2052
2. 17-067-20181
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 102
6. Monroe
7. Morehouse, La
8. 17.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16756/79-2051
2. 17-067-20133
3. 108
4. Pennzoil Producing Company
5. Crossett TR & Dv Co Inc No 101
6. Monroe
7. Morehouse, La
8. 5.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16757/79-2050
2. 17-067-20130
3. 108
4. Pennzoil Producing Company
5. Crossett TR & Dv Co Inc No 100
6. Monroe
7. Morehouse, La
8. 7.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16758/79-2049
2. 17-067-20129
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 99
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16759/79-2057
2. 17-067-20176
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 107
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16760/79-2056
2. 17-067-20177
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 106
6. Monroe
7. Morehouse, La
8. 16.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16761/79-2068
2. 17-067-20203
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 119
6. Monroe
7. Morehouse, La
8. 11.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16762/79-2067
2. 17-067-20202
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 118
6. Monroe
7. Morehouse, La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16763/79-2066
2. 17-067-20230
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 117
6. Monroe
7. Morehouse, La
8. 4.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16764/79-2065
2. 17-067-20226
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 116
6. Monroe
7. Morehouse, La
8. 6.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16765/79-2064
2. 17-067-20227
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 115
6. Monroe
7. Morehouse, La
8. 16.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16766/79-2063
2. 17-067-20229
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 114
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16767/79-2062
2. 17-067-20228
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 113
6. Monroe
7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79-16768/79-2061
2. 17-067-20236
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 112
6. Monroe

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7. Morehouse, La
8. 13.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79–16769/79–2060
2. 17–067–20173
3. 108
4. Pennzoil Producing Company
5. Crossett TBR & Dev Co No 110
6. Monroe
7. Morehouse, La
8. 9.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79–16770/79–2059
2. 17–067–20174
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 109
6. Monroe
7. Morehouse La
8. 8.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Co
1. 79–16771/79–2058
2. 17–067–20175
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 108
6. Monroe
7. Morehouse La
8. 7.0 million cubic feet
9. August 16, 1979
10. United Gas Pipe Line Company
1. 79–16772/792022
2. 17–111–01255
3. 108
4. Eason Oil Company
5. Crow V Edwards Et al 3 #38474
6. Monroe
7. Union La
8. 3.9 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16773/79–2021
2. 17–111–00000
3. 108
4. Eason Oil Company
5. Crow V Edwards Et al 2 #38407
6. Monroe
7. Union La
8. 5.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16774/79–2020
2. 17–111–01213
3. 108
4. Eason Oil Company
5. W C Beasley 3 #38137
6. Monroe
7. Union La
8. 4.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16775/79–2023
2. 17–111–01274
3. 108
4. Eason Oil Company
5. Crow 4 #38602
6. Monroe
7. Union La
8. 4.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16776/79–2024
2. 17–111–01275
3. 108
4. Eason Oil Company
5. Crow 6 #79304
6. Monroe
7. Union La
8. 4.4 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16777/79–2026
2. 17–111–00419
3. 108
4. Eason Oil Company
5. Day Clayton 1 #34927
6. Monroe
7. Union La
8. 7.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16778/79–2025
2. 17–111–20030
3. 108
4. Eason Oil Company
5. Crow 7 #120490
6. Monroe
7. Union La
8. 3.5 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16779/79–2027
2. 17–111–00418
3. 108
4. Eason Oil Company
5. Day Clayton E 2 #83692
6. Monroe
7. Union La
8. 3.6 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16780/79–2028
2. 17–111–00370
3. 108
4. Eason Oil Company
5. Edwards Dora 1 #40593
6. Monroe
7. Union La
8. 3.1 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16781/79–2029
2. 17–111–01297
3. 108
4. Eason Oil Company
5. Freeman M L Et al 1 #110595
6. Monroe
7. Union La
8. 4.3 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16782/79–2030
2. 17–111–01400
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 1 #41537
6. Monroe
7. Union La
8. 5.9 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16783/79–2031
2. 17–111–01569
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 2 #41536
6. Monroe
7. Union La
8. 7.2 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16784/79–2032
2. 17–111–01399
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 3 #99343
6. Monroe
7. Union La
8. 6.3 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16785/79–2033
2. 17–111–20031
3. 108
4. Eason Oil Company
5. Frost Lbr Ind Inc 4 #120491
6. Monroe
7. Union La
8. 6.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16786/79–2034
2. 17–111–00608
3. 108
4. Eason Oil Company
5. Green J A 1 #82749
6. Monroe
7. Union La
8. 1.0 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16787/79–2035
2. 17–111–00609
3. 108
4. Eason Oil Company
5. Green J L 1 #83349
6. Monroe
7. Union La
8. 2.2 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp
1. 79–16788/79–2036
2. 17–111–01193
3. 108
4. Eason Oil Company
5. Haile 1 #37222
6. Monroe
7. Union La
8. 8.7 million cubic feet
9. August 16, 1979
10. Texas Gas Transmission Corp

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–16689
2. 30–005–20656
3. 103
4. Moranco
5. Western Reserves 32 State No 2
6. Tom-Tom (San Andres)
7. Chaves NM

8. 7.0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company
1. 79–16690
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #8
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company
1. 79–16691
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #6
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company
1. 79–16692
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #5
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company
1. 79–16693
2. 30–045–00000
3. 108
4. Great Western Drilling Company
5. J E Decker #4
6. Blanco Pictured Cliffs Ext
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company
1. 79–16694
2. 30–045–23267
3. 103
4. Dugan Production Corp
5. Com #3
6. Harper Hill Fruitland PC
7. San Juan NM
8. 25.0 million cubic feet
9. August 16, 1979
10.
1. 79–16695
2. 30–025–26244
3. 103
4. Texas Pacific Oil Company Inc
5. J W Cooper No 8
6. Jalmat
7. Lea NM
8. 128.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas
1. 79–16696
2. 30–025–05477
3. 103
4. Southern Union Exploration Company
5. Lea A State #6
6. Vacuum
7. Lea NM
8. 12.0 million cubic feet
9. August 16, 1979
10. Phillips Petroleum Company
1. 79–16697
2. 30–015–22746
3. 103
4. Yates Petroleum Corporation
5. Irish Hills Je St Com #1
6. Boyd Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company
1. 79–16698
2. 30–025–25888
3. 103
4. Energy Reserves Group Inc
5. Amoco State #1
6. Buckeye-ABO
7. Lea NM
8. 32.0 million cubic feet
9. August 16, 1979
10. Philips Petroleum Company
1. 79–16699
2. 30–015–0000
3. 103
4. Texas Oil & Gas Corp
5. Shugart State Com #1
6. Undesignated N Shugart (Morrow)
7. Eddy NM
8. 1095.0 million cubic feet
9. August 16, 1979
10. Bixoo Inc
1. 79–16700
2. 30–015–25850
3. 108
4. Yates Petroleum Corporation
5. Jackson st No 9
6. E Eagle Creek Atoka-Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company
1. 79–16701
2. 30–015–22789
3. 103
4. Yates Petroleum Corporation
5. Ingram Jackson BV #7
6. East Eagle Creek Atoka-Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Co
1. 79–16702
2. 30–015–25850
3. 103
4. Yates Petroleum Corporation
5. Armstrong KS State Com #1
6. Und Kennedy Farms Morrow
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Co
1. 79–16703
2. 30–015–22760
3. 103
4. Yates Petroleum Corporation
5. Patterson El #2
6. Eagle Creek Atoka Morrow East
7. Eddy NM
8. .0 million cubic feet
9. August 16, 1979
10. Transwestern Pipeline Company
1. 79–16704
2. 30–045–00000
3. 103
4. Great Western Drilling Company
5. J E Decker #7
6. Blanco Pictured Cliffs
7. San Juan NM
8. 365.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Company
1. 79–16705
2. 30–045–23197
3. 103
4. Palmer Oil & Gas Company
5. Montoya #27–1—Mesaverde
6. Blanco—Mesaverde
7. San Juan NM
8. 36.0 million cubic feet
9. August 16, 1979
10. Southwest Gas Corporation
1. 79–16706
2. 30–015–22739
3. 103
4. HNG Oil Company
5. NM State 16 #1 LG 5175
6. Malaga West (Morrow)
7. Eddy NM
8. 767.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co
1. 79–16707
2. 30–025–26052
3. 103
4. Warren Petroleum Div/Gulf Oil
5. Mark Owen Well No 8
6. Wantz Granite Wash
7. Lea NM
8. .0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co
1. 79–16708
2. 30–025–26107
3. 103
4. Arco Oil and Gas Company
5. Sinclair State No 2
6. Eumont Yates 7 Rivers Queen
7. Lea NM
8. 1.5 million cubic feet
9. August 16, 1979
10.
1. 79–16709
2. 30–025–26222
3. 103
4. Phillips Petroleum Company
5. Leamex No 21
6. Leamex Paddock
7. Lea NM
8. 23.0 million cubic feet
9. August 16, 1979
10. El Paso Natural Gas Co
1. 79–16710
2. 30–025–26103
3. 103
4. Wood McShane & Thams
5. Lineberry No 1
6. Rhodes Pool
7. Lea NM
8. 182.5 million cubic feet
9. August 16, 1979
10.

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State of Block No.

V 44/175 SEP 79 UMI

V 4 4 / 1 7 5

8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-16711/02245
2. 42-375-30595
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8-23 RO
6. West Panhandle Red Cave
7. Potter TX
8. 31.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co
1. 79-16712/02246
2. 42-375-30604
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 16-2 RO
6. West Panhandle Red Cave
7. Potter TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co
1. 79-16713/01168
2. 42-221-00000
3. 108
4. UV Industries Inc
5. Houston Ranch No 4
6. Houston Ranch
7. Hood TX
8. 4.7 million cubic feet
9. August 15, 1979
10. Northern Gas Products Company
1. 79-16714/01167
2. 42-221-00000
3. 108
4. UV Industries Inc
5. Houston Ranch No 4
6. Houston Ranch
7. Hood TX
8. 8.0 million cubic feet
9. August 15, 1979
10. Northern Gas Products Company
1. 79-16715/01147
2. 42-507-30970
3. 102
4. George D. Weatherston
5. Flowers & Ward #2-24 (78322)
6. Gato Creek (San Miguel)
7. Zavala TX
8. 54.0 million cubic feet
9. August 15, 1979
10.
1. 79-16716/01075
2. 42-211-31002
3. 103
4. Pioneer Production Corporation
5. Shell-George Unit No 2-169
6. Canadian East (Douglas)
7. Hemphill TX
8. 330.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company
1. 79-16717/01147
2. 42-211-30726
3. 103
4. Pioneer Production Corporation
5. Shell-George Unit No 1-169 (#74894)
6. Canadian East (Douglas)
7. Hemphill TX
8. 140.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company
1. 79-16718/01005
2. 42-233-00000
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No 1
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company
1. 79-16719/01004
2. 42-233-30589
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No 3-4
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company
1. 79-16720/01003
2. 42-233-20600
3. 103
4. W R Edwards Jr
5. Cal Merchant A Well No C-3
6. Panhandle Hutchinson County
7. Hutchinson TX
8. 92.0 million cubic feet
9. August 15, 1979
10. Panhandle Producing Company
1. 79-16721/00819
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #A-1
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 5.0 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company
1. 79-16722/00810
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #15
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 18.7 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company
1. 79-16723/00817
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #14
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 10.8 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company
1. 79-16724/00816
2. 42-105-00000
3. 108
4. Suburban Propane Gas Corporation
5. Suburban Propane Gas Corp #10
6. Ozona Canyon Sand Field
7. Crockett County TX
8. 17.0 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company
1. 79-16725/01182
2. 42-389-30893
3. 107
4. Texas West Oil & Gas Corporation
5. State #1 RRC Lease #79728
6. Greasewood Siluro-Devonian
7. Reeves TX
8. 912.5 million cubic feet
9. August 15, 1979
10. El Paso Gas Transportation Co
1. 79-16726/01971
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers #2
6. McDaniel 2800 Sand
7. Jackson TX
8. 55.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp
1. 79-16727/01970
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers #3
6. McDaniel 3600 Sand
7. Jackson TX
8. 157.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp
1. 79-16728/01969
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers 1-T
6. McDaniel 3300 Sand
7. Jackson TX
8. 120.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp
1. 79-16729/01968
2. 42-239-00000
3. 102
4. Dixel Resources Incorporated
5. Dixel-W H Borchers 1-C
6. McDaniel 2900 Sand
7. Jackson TX
8. 20.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp
1. 79-16730/01881
2. 42-165-31259
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #2507
6. Adair
7. Gaines TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company
1. 79-16731/01880
2. 42-165-31258
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1805
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company
1. 79-16732/01879
2. 42-165-31257
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1707
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Pioneer Natural Gas Company
1. 79-16733/01849

2. 42-227-31187
3. 103
4. Sun Oil Company (Delaware)
5. Dora Roberts B D & E #4100
6. Howard Glasscock
7. Howard TX
8. 1.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co
1. 79-16734/01768
2. 42-123-30876
3. 102
4. A Nelson McCarter Inc
5. Ogla Nagle (78978)
6. Arneckeville Yegua 5260
7. DeWitt TX
8. 146.0 million cubic feet
9. August 15, 1979
10. Texas Eastern Transmission Corp
1. 79-16735/01575
2. 42-483-00000
3. 108
4. Sidwell Oil and Gas Inc
5. Morgan #1 26437
6. East Panhandle
7. Wheeler TX
8. 4.7 million cubic feet
9. August 15, 1979
10. Warren Petroleum Co
1. 79-16736/01334
2. 42-495-00000
3. 108
4. Mobil Oil Corporation
5. J B Walton No 209
6. Kermit (Yates)
7. Winkler TX
8. 13.5 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company
1. 79-16737/01332
2. 42-371-00000
3. 108
4. Mobil Oil Corporation
5. State-Vollmar No 1
6. Abell (Silurian/Montoya)
7. Pecos TX
8. 3.2 million cubic feet
9. August 15, 1979
10. PGP Gas Products Inc
1. 79-16738/01331
2. 42-475-00000
3. 108
4. Mobil Oil Corporation
5. George Sealy Sec 43 No 5
6. Magnolia Sealy South (Yates Lower)
7. Ward TX
8. 9.9 million cubic feet
9. August 15, 1979
10. Cabot Corporation
1. 79-16739/01330
2. 42-389-00000
3. 108
4. Mobil Oil Corporation
5. Wayne Moore No 12
6. Waha West (Ellenburger)
7. Reeves TX
8. 15.1 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Company
1. 79-16740/01329
2. 42-165-00000
3. 108
4. Mobil Oil Corporation
5. H & J Section 195 No 17
6. Seminole (Yates)
7. Gaines TX
8. 10.8 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company
1. 79-16741/01296
2. 42-135-32980
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 184
6. Gowden South
7. Ector TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation
1. 79-16742/01291
2. 42-135-32984
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 177
6. Cowden South
7. Ector TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation
1. 79-16743/01283
2. 42-135-32982
3. 103
4. Sun Oil Company (Delaware)
5. Paul Moss Unit No 171
6. Cowden South
7. Ector TX
8. 8.0 million cubic feet
9. August 15, 1979
10. Odessa Natural Corporation
1. 79-16744/02247
2. 42-375-30347
3. 103
4. Gas Producing Enterprises
5. Bivins 17-7 RO
6. West Panhandle Red Cave
7. Potter TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co
1. 79-16745/02248
2. 42-375-30353
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 17-8 RO
6. West Panhandle Red Cave
7. Potter TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 24, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27898 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CS71-912]

Cusack Interests, c/o John Patrick Cusack, Jr. (J. P. Cusack); Applications for "Small Producer" Certificates [1]

August 30, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket Nos. CS71-912, et al.

Docket No.	Date Filed	Applicant
CS71-912	[1]6/18/79	Cusack Interests, c/o John Patrick Cusack, Jr. (J. P. Cusack) 3815 McCart Street Fort Worth, Texas 76110
CS79-529	8/10/79	Wilham Investment, Inc. 1135 East Harvester Pampa, Texas 79065
CS79-530	8/23/79	Roxane Kamenstein, *et al.* P.O. Box 663 Oklahoma City, Okla. 73101

[1] J. P. Cusack deceased 2-10-73 and small producer certificate CS71-912 now in the name of Cusack Interests, c/o John Patrick Cusack, Jr.

[FR Doc. 79-27808 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-81]

J. P. Owen & Co., Inc.; Petition for Declaratory Order

Issued: August 28, 1979.

Take notice that on July 31, 1979, J. P. Owen and Co., Inc. (Petitioner), P.O. Box 51144, Oil Center Station, Lafayette, Louisiana 70505, filed a petition for a declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure. Petitioner requests that the Commission issue a declaratory order stating which maximum lawful price a particular contract is eligible for under the Natural Gas Policy Act of 1978 (NGPA).

Petitioner states that it is an independent small producer who, on December 15, 1976, succeeded as seller to an existing emergency gas purchase contract (No. 06456) with Transcontinental Gas Pipe Line Corporation (Buyer). This contract expired on August 8, 1979. Petitioner states that it intends to enter into another contract with Buyer for this gas and it seeks to establish the applicable maximum lawful price under the NGPA. Certain details of the contract at issue are set forth in Petitioner's application, a copy of which is available in the Commission's public files.

Petitioner states that since the contract expired on August 8, 1979, time is of the essence in resolving this issue.

Accordingly, it appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 1979, file a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27890 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-343]

Western Gas Interstate Co.; Application

August 28, 1979.

Take notice that on June 6, 1979, Western Gas Interstate Company (Western), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP79-343 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of gas transmission facilities and the sale of natural gas transported by such facilities during the period, June 1, 1979, through May 31, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Western seeks authorization to transport gas purchased from producers to the interstate pipeline systems of El Paso Natural Gas Company (El Paso) and others and either cause all of such volumes to be transported by other interstate pipelines and then sell the volumes after redelivery to the gas distribution divisions of Southern Union Company or sell all or a portion of such volumes to the transporting pipelines to the extent such volumes are, on any given day, excess to the requirements of Southern Union Company. Western would purchase new supplies of natural gas from various producers, including Southern Union Exploration Company (SX), usually at the well head, under conventional gas sale and purchase agreements. Western would then transport the gas as necessary to the interstate pipeline facilities of El Paso and others. It is further stated that at the points of interconnection, Western would either deliver the gas to the transporting pipeline for further transportation for the account of Western and delivery into the facilities of Southern Union or sell all or a portion of the available volumes to the transporting pipeline as excess gas.

Western states it would sell the gas involved in the supplemental supply projects to Southern Union under the terms of its proposed FERC Rate Schedule No. X-2, Gas Sales and Purchase Agreement, dated as of January 20, 1978. It is indicated that this contract has already been filed with the Commission in support of Western's certificate application in the Barker Dome Storage Project.

Western indicates that the rate for such sales is determined according to a cost-of-service formula contained in the contract. Western would recover through its cost-of-service tariff only the cost of the supplemental supplies made available through this project and the other costs directly associated with making such supplies available. Additionally, states Western, the sales under this formula are made at a single rate, rather than multiple rates based on delivery zones, in order to simplify and harmonize the supplemental supply costs which are being flowed-through to all of Southern Union's customers.

Since Southern Union may not need all of the supplemental supplies which would be available, Western proposes to keep the flexibility to sell all or a portion of the gas to the transporting pipelines as excess gas. Western and El Paso have entered into an excess gas sales contract for this purpose, dated January 31, 1979, which Western is filing as its proposed Rate Schedule No. X-3.

Western is seeking authority to construct facilities necessary to attach gas supplies in the counties of San Juan, Rio Arriba, Chaves, McKinley, Sandoval, Lea and Eddy, New Mexico. Western would seek additional authorization should it secure gas supplies in other areas. It is indicated that Western seeks authority to sell up to 10,000 Mcf per day of natural gas under its proposed Rate Schedule X-2 and its various excess gas agreements. Western also proposes to make additional sales of excess gas to intermediate transporting pipelines. Such sales would be made to pipelines which are certificated to transport gas for Western as part of this supplemental supply project. Western states that

authorization would be effective, with respect to each sale, upon the filing by Western of the contract for the sale as a special rate schedule, without any further certificate filing being required.

The first construction planned under Western's proposal involves the purchase of the production from two wells located in San Juan County, New Mexico. These facilities are approximately one mile of 2-inch pipeline, with appurtenances, commencing at the wellhead of each of the two wells and terminating at a point of interconnection with the El Paso line in San Juan County, New Mexico. Western estimates the cost of the facilities to be $26,424.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27900 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Exxon Co., U.S.A., Case No. 630R00189; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Office of Special Counsel for Compliance (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes notice of its execution and solicits and considers public comments with respect to its terms. On May 7, 1979, DOE published Notice of a Consent Order which was executed between Exxon Company, U.S.A. and DOE (44 FR 26790, May 7, 1979). With that Notice and in accordance with 10 CFR 205.199J(c) DOE invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. DOE has concluded that the Consent Order as executed between DOE and Exxon is an appropriate resolution of the Compliance proceedings described in the Notice published on May 7, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, upon publication of this Notice in the Federal Register (September 7, 1979).

Issued in Washington, D.C., on the 20th day of August, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-27889 Filed 9-6-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1314-2]

ESK Corp., Putnam County, Ill.; Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to ESK Corporation, Putnam County, Illinois.

On June 30, 1978, ESK Corporation submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a silicon carbide production plant. Additional information was submitted by the Company on August 15 and 22, 1978. The application was submitted pursuant to the regulations for PSD.

On September 8, 1978, ESK Corporation was notified that its application was complete and preliminary approval was granted.

On September 22, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to ESK Corporation. No comments or requests for a public hearing were received.

After review and analysis of all materials submitted by ESK Corporation, the Company was notified on December 7, 1978, that U.S. EPA had determined that the proposed new construction in Putnam County, Illinois, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve ESK Corporation of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State, and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed 60 days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2090.

John McGuire,

Regional Administrator, Region V.

Aug. 27, 1979

U.S. Environmental Protection Agency

Region V

In the matter of ESK Corporation. Proceeding pursuant to the Clean Air Act, as amended (EPA-5-A-79-4).

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The ESK Corporation (ESK) proposes to construct a silicon carbide production plant

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in Hennepin Township, Putnam County, Illinois.

2. Putnam County is a Class II area as determined pursuant to Section 162 of the Act and has been designated as a nonattainment area for particulate matter by the State of Illinois pursuant to Section 107 of the Act.

3. The proposed silicon carbide plant is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The plant is not subject to the Interpretive Ruling (41 FR 55524–30) because the allowable emission rate of particulate matter from the proposed plant is less than 100 tons annually.

4. The sulfur dioxide emissions from the silicon carbide plant will be temporary. ESK will pipe the gas containing sulfur dioxide produced in the silicon carbide process to an Illinois Power generating station not later than two years after start-up of the silicon carbide plant.

5. ESK submitted a PSD application on June 30, 1978. On August 15 and 22, 1978, ESK submitted additional information to remedy deficiencies in their application. The U.S. Environmental Protection Agency (U.S. EPA) notified ESK on September 8, 1978, that their application was complete and that preliminary approval was granted.

6. On September 29, 1978, U.S. EPA published notice in the *Hennepin News Tribune* seeking written comments from the public on ESK's application and U.S. EPA's review and preliminary approval. There were no public comments and no requests for a hearing.

7. After review of all the materials submitted by ESK, U.S. EPA has determined that emissions from the operation of the silicon carbide plant will be reduced by application of the best available control technology and that emissions from the plant will not adversely impact air quality.

Conditions

8. There shall be no visible emissions of particulate matter from any building or operation at the ESK plant.

9. Stack emissions of particulate matter shall not exceed 0.015 grains per dry standard cubic feet.

10. Products of the silicon carbide operation shall not be moved unless it is in covered or enclosed trucks or railroad cars.

11. The height of the flare stack shall not be less than 15 meters.

12. ESK shall install and operate an ambient air monitoring system designed to measure carbon monoxide ground level concentrations at its plant boundaries. The instrumentation and operating procedures for this system shall be those agreed to by letter of November 17, 1978 from U.S. EPA to ESK.

13. ESK shall inform U.S. EPA in writing of the initial start-up date of the silicon carbide plant, 30 days prior to start-up.

14. Prior to two years after initial start-up, ESK shall cease all sulfur emissions to the ambient air from its silicon carbide plant. ESK shall notify U.S. EPA of this cessation, in writing, five days after it occurs.

Conditions 8 through 12 represent the application of the best available control technology as required by 40 CFR 52.21. Conditions 13 and 14 are necessary to insure that emissions of sulfur dioxide from the silicon carbide plant are of a temporary nature, consistent with the definition at 41 FR 26394. ESK was exempted from a sulfur dioxide air quality impact study based upon the representation that sulfur dioxide emissions were of a temporary nature.

15. ESK must construct and operate the silicon carbide plant in accordance with the descriptions presented in their application for approval to construct. Any change in the plant might alter U.S. EPA's conclusions and therefore, any changes must receive the prior written authorization of U.S. EPA.

Approval

16. Approval to construct the silicon carbide plant is hereby granted to the ESK Corporation subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in the application must receive the prior written authorization of U.S. EPA.

17. This approval to construct does not relieve ESK of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

18. A copy of this approval has been forwarded to the Putnam County Library, Hennepin, Illinois, for public inspection.

Dated: December 7, 1978.

John McGuire,

Regional Administrator, Region IV.

[FR Doc. 79-27092 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1306-4]

New Source Performance Standards for Sulfuric Acid Plants; Final EPA Remand Response

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Remand Response.

SUMMARY: In *Essex Chemical Corp., et al.* v. *Ruckelshaus*, 486 F.2d 427 (September 10, 1973) the U.S. Court of Appeals for the District of Columbia Circuit remanded the record to EPA for further consideration of certain issues. EPA published a draft response for public comment on August 29, 1975 (40 FR 39927). In its draft response, EPA tentatively concluded that the new source performance standards for sulfuric acid plants should not be revised. This action addresses the comments received on the draft remand response, and announces EPA's final conclusion that the new source performance standard for sulfuric acid plants should not be revised.

ADDRESSES: The single comment letter received on the draft remand response is available for public inspection and copying at the EPA Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jim Herlihy, Division of Stationary Source Enforcement (EN–341), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; telephone 202–755–8137.

SUPPLEMENTARY INFORMATION: A total of eleven comments on EPA's draft remand response were recevied in a letter from an acid manufacturer. EPA has made a thorough evaluation of the comments and has determined that no additional revisions should be made to the standard or the draft remand response.

Because no revision is necessary, a copy of the draft respnse and this notice will be submitted to the U.S. Court of Appeals for the District of Columbia Circuit as EPA's final action in this remand proceeding.

Summaries of the comments and EPA responses are presented below. Although responses are given to all the comments, it should be noted that some comments concern issues that are beyond the scope of the remand. As EPA noted in its draft response (40 FR at 39927), the case was remanded for consideration of the following specific issues:

(a) The reasonableness of the opacity standards.

(b) The need for variant provisions in the standards for periods of start-up, shutdown, or malfunctions.

(c) The adverse environmental effects of waste streams resulting from the control of recycle acid plants.

Comments 1, 2, 3, 4, 5 and part of 11, therefore, concern issues outside the scope of the remand.

Comment No. 1: In footnote a of the draft remand response, EPA cites the du Pont Tysul® (peroxide) sulfur dioxide abatement process—now in use only at du Pont's East Chicago Plant—as a technology capable of meeting the four pounds per ton sulfur dioxide standard for recycle acid plants. The Tysul® process, while a technical success, has not proven economical for any other company because of the high day-to-day operating costs. Because of the costs, no other company has found the Tysul® abatement system to be suitable even for a virgin acid plant much less a recycle plant where much more sulfur dioxide would need to be abated. The purge stream from this process is a weak sulfuric acid which can be recycled to process providing the water balance is not critical. In recycle plants burning refinery alkylation acid, water generated in the process could preclude recycle and the plant would have to contend with alternate disposal of a weak acid

significantly more dilute that the usual commercial grades. If the acid were precipitated with lime, a solid waste amounting to as much as 105 pounds of calcium sulfate per ton of acid produced would have to be landfilled.

Response No. 1: The commenter indicates only that under current economic conditions, the peroxide system is not competitive with other sulfur dioxide control systems applicable to sulfuric acid plants. Nothing has been provided to show that the system is prohibitively expensive or that it will not be a viable scheme for those plants with conditions comparable to the du Pont plant in which it is now functioning.

As cited in the draft response, other processes are available to remove sulfur dioxide and allow compliance with the standards. 40 FR at 39927. For the cases where weak acid from the du Pont process cannot be blended into the product, it appears that most operators would choose another process.

Comment No. 2: It should be obvious to EPA that (1) the 0.15 pound per ton limit cannot be met based on vapor loading alone, (2) if the vapor pressure data are questionable, their arguments relative to footnote j are erroneous. For all final absorber conditions, the tail gas will contain vapors (SO_3 and H_2SO_4) at concentrations exceeding 1.0 milligrams per standard cubic foot. Since the 0.15 pound per ton limit equates to 0.8 milligram per standard cubic foot, it is clearly shown that the 0.15 pound limit cannot be met if the measurement of "acid mist" includes the true amount of sulfur trioxide and sulfuric acid vapor.

Since Table 1 data using EPA Method 8 do not account for all the vapors present (as indicated by footnote j), we can only conclude that EPA Method 8 does not quantitatively determine vapors in tail gas streams.

Response No. 2: The commentor has calculated the amount of acid vapor theoretically present in exhaust gases and presented certain other information to show that if a minor portion of the acid vapor were collected in a Method 8 test, the emission limit would be exceeded. But the commentor also states his conclusion that Method 8 does not quantitatively determine vapors in tail gas streams. This is an important point, because the standard limits the amount of acid mist as measured by Method 8, not the theoretical amount that may be present. Moreover, emission tests at plants that employ the most effective control technology show that the theoretical amount of acid vapor is not collected, and that the amount of acid vapor plus sulfur trioxide and liquid acid collected by Method 8 does not exceed the emission limit. (Refer to Table 1 of the draft remand response.) The Administrator has determined, therefore, that even if the comment is correct, it is not relevant.

Comment No. 3: Table 1 of EPA's draft remand response clearly shows that the 0.15 pound per ton limit for acid mist is not acceptable because:

(a) The analysis of variances indicates as much as 400 percent variation in results at the same site. Although the average of all data in Table 1 is 0.10 pound per ton, the standard deviation is 0.07. Therefore, the average plus three times the standard deviation is 0.31 pound per ton. Clearly, 0.15 is not statistically sound based on Table 1 data.

(b) If only the six plants exhibiting zero opacity are considered, the average plus three times the standard deviation becomes 0.24 pound per ton.

Response No. 3: The Administrator disagrees for the following reasons:

(a) The validity of the 0.15 pound per ton acid mist standard is an issue that the Court has specifically resolved in favor of EPA. In its review of the acid mist standard, the Court reached the following conclusion:

"Our review of the record leads us to conclude that ample evidence exists, in terms of both technical literature and results of EPA conducted tests, to satisfy us of the reasoned nature of the EPA's acid mist standard." 486 F.2d at 439.

(b) The commentor's statistical analysis overlooks the fact that the plants on which the standard is based show results well below the standard. These plants are the first three plants listed in Table 1 of the draft remand response, which also shows the range of the test results. The averages for the three plants are 0.04, 0.10, and 0.08 pound per ton. From these results, it can be clearly seen that the emission standard is achievable.

(c) The anlysis used by the commentor indicates the confidence intervals associated with the test results. For example, for the interval represented by the average of the emission test results plus and minus one standard deviation, there would be about sixteen chances in a hundred that the true emission rate is greater than any number within the interval. If the interval were increased to plus and minus two standard deviations, the chances would decrease to about two in a hundred, and so on. No matter how large the interval became, however, the probability would never decrease to zero. This means that no matter how high the emission limitations were set, there would always be a finite probability that the true emission rate would exceed the emission limitation. It is not significant, therefore, that the commentor has found an interval for which there is a small probability that the true average is greater than EPA's emission limitation. For this type of analysis to be persuasive, the commentor would have to show why the calculated probability is unacceptable. No such showing has been made or attempted. In the Administrator's opinion, therefore, the commentor's analysis does not support his conclusion.

Comment No. 4: The industry defines acid mist as liquid particulate sulfuric acid because sulfur trioxide and sulfuric acid vapor, being gases, cannot be removed by commercial demisting equipment. The modified Monsanto Method represents the industry standard as it measures particulate mist (no vapors) which is related more directly to mist abatement equipment design. The modified Monsanto Method should be specified as the analytical method for source performance testing and compliance.

Response No. 4: EPA defines acid mist as the material measured by EPA Method 8. 40 CFR 60.81(b). This material comprises sulfur trioxide gas and some of the acid vapor as well as acid liquid. Acid vapor will condense to liquid at atmospheric conditions and sulfur trioxide combines with moisture in the air to form liquid acid. Since both substances form liquid acid at atmospheric conditions, both are properly included in a definition of acid mist for purposes of air pollution control. This will help ensure that all emissions that produce acid mist in the atmosphere will be controlled. It is not critical that gases and vapors may pass through the mist removal equipment because they can be controlled by proper design and operation of the absorber and oleum tower. The Administrator has determined, therefore, that the definition of acid mist should not be changed.

Method 8 and the modified Monsanto Method both collect acid liquid. The principal difference between them, is that Method 8 also collects sulfur trioxide and some of the acid vapor. Since both additional components are properly included in acid mist, Method 8 is a superior test method. In fact, the modified Monsanto Method is the one that is subject to serious errors: if plant emissions contain significant amounts of sulfur trioxide because of poor plant design or operation, such emissions would be largely undetected by the modified Monsanto Method.

The Administrator has therefore concluded that EPA Method 8 should be retained as the reference test method, and that the modified Monsanto Method is not an acceptable equivalent. It should be noted that the use of Method 8 was specifically upheld by the Court. 486 F.2d at 440.

Comment No. 5: Du Pont concludes that the data used by EPA are statistically unsound and based on an analytical method subject to serious errors. Therefore, industry cannot be assured that they can meet the 0.15 pound per ton mass emission limitation even after application of best available technology. Du Pont recommends that the new source performance standards provide for a variance when best available technology (in the case of sulfuric acid—high efficiency mist eliminators) has been installed and yet mass limits are not achieved in operation.

Response No. 5: The commentor's conclusion is based on his belief that the EPA test method is subject to serious errors, and that the data used by EPA is statistically unsound. These two points are discussed in Responses 4 and 3 respectively. The Administrator disagrees with the commentor on both points, and therefore concludes that the commentor has not shown that variance provisions should be adopted.

As examples where variances would be appropriate, the commentor cites two recycle plants that have installed high efficiency mist eliminators. The Administrator does not believe that such installations, by themselves, are sufficient. For optimum mist control at a recycle plant, effective primary and secondary mist collectors must be installed. The primary collector removes mist formed prior to the catalyst bed while the secondary collector, located downstream of the acid tower, removes mist from stack gases just prior to emission to the atmosphere. Installation of high efficiency secondary mist eliminators alone does not ensure attainment of the standard, since even

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these units can become overloaded by abnormally high acid mist inlet concentrations. The overloading effect may be aggravated by the smaller mist particles typically associated with recycle acid plants which use variable feedstocks. Abnormally high acid mist inlet concentrations can stem from inadequate primary acid mist removal during the cooling and cleaning of gases from the spent acid decomposition furnace. The two plants cited by the commentor do not use electrostatic precipitators, which are generally considered the most effective primary mist collectors. The Allied Chemical Company's recycle acid plant in Elizabeth, New Jersey, reported in Table 1, is similar in design to the two plants cited by the commentor except that it is equippped with electrostatic precipitators for primary mist control; emissions are well within the acid mist standard. The recycle acid plant operated by Olin Chemical Company in Paulsboro, New Jersey, reported in Table 1, is also equipped with electrostatic precipitators for primary mist collection. This plant was tested by EPA in 1971 and it too met the standard.

The design, operation, and maintenance of the oleum tower and absorption tower ahead of the final mist eliminator also influence emissions of acid mist as does the physical integrity of the final eliminator and supporting ductwork. Even a small leak can allow by-passing of the collector in sufficient magnitude to exceed the standard. Such a situation was noted as suspect during inspection of the Essex Chemical Company's Newark, New Jersey sulfuric acid plant (Table 1 of EPA's draft response).

In summary, it appears that organic sulfide and nitrogen feedstocks can increase acid mist and opacity emissions from recycle acid plants. But several recycle plants have been found to achieve the standard, and no evidence has been submitted which shows that emissions from a properly designed and operated recycle plant will exceed the standard. In the Administrator's opinion, therefore, there is no need for a variance provision such as the one suggested by the commentor.

Comment No. 6: The opacity standard should be left open pending action by the U.S. Supreme Court in *Portland Cement Association* v. *Ruckleshaus. 486 F. 2d 375 (D.C. Circuit 1973).*

Response No. 6: This point is moot since the Supreme Court denied certiorari in this case on May 6, 1974. 417 U.S. 921.

Comment No. 7: Opacity should be used at most as an indicator of noncompliance with the mass emission limit. Table 3 of the draft remand response shows that no correlation exists between mass emission and opacity and is consistent with du Pont experience. Opacity is an unnecessary and misleading standard when used to measure and regulate emissions from sulfuric acid plants without regard to feedstocks being consumed, the technology of mist formation, mist particle size distribution, and the major dependence of acid mist visibility capacity on particle size rather than acid mist concentration.

Response No. 7: Opacity is governed by several factors. Acid mist concentration is a major determinant, but other parameters, such as particle size distribution and stack diameter, are also important. As a result, one should not expect opacity to be correlated with acid mist concentrations alone. But this does not mean that the opacity standard should be withdrawn. Opacity is a strong indicator of acid mist emissions and the opacity standard provides an effective complement to the emission limitations for ensuring that sources will be well controlled. Without an opacity standard, it would be difficult to ensure that a plant operates continuously with good control of acid mist emissions, except for the brief periods during which Method 8 performance tests are run.

As discussed in the draft remand reponse, the Administrator recognizes that certain size distributions may result in higher than usual opacities. 40 FR at 39931. To accommodate such situations, EPA promulgated 40 CFR 60.11(e). As pointed out, the purpose of that regulation was to provide a generally applicable mechanism for any owner/operator to petition the Administrator to obtain a higher opacity standard for any facility that demonstrates compliance with the mass emission standard concurrent with failure to attain the promulgated opacity standard. 40 FR at 39929. (As discussed in Response No. 3, the Court has specifically upheld the 0.15 pound per ton mass emission standard. 486 F. 2d at 439.)

For the reasons discussed above, the Administrator has determined that the opacity standard should be retained.

Comment No. 8: In Table 1 of the draft remand response, the Essex opacity was greater than 10 percent. EPA ignored this opacity (selecting data) by rationalizing the greater than 10 percent as "probable" by [sic] passing of tail gas around the mist eliminator. Opacity measurements in Table 1 of EPA's draft remand response could not have been made by modified Method 9 for all locations, since the first three sites were sampled in 1971.

Response No. 8: Whether or not the visible emissions at the Essex chemical plant resulted from a malfunction is not critical, because readings at this plant are not relied on to support the standard. Numerous readings of zero opacity were made at other plants. It should be pointed out that the opacity for the Essex Chemical plant is given incorrectly in Table 1, due to a typographical error. The correct value is *less* than 10 percent opacity, as shown in Reference 19 of the draft remand response.

Although the Table 1 data were taken before Method 9 was modified, and therefore may not have been obtained by modified Method 9 procedures, the Administrator believes that the opacity standard is achievable, the record supports the Administrator's conclusion for the following reasons:

(a) Six of the plants in Table 1 have average opacity readings of zero. The averages for the first three of these plants result from numerous determinations [three, nine, and four, respectively]—all of which are zero. [Reference 19 of the draft remand response at Table 1.] At least one of those determinations [namely, the one made July 27, 1971 at the Allied Chemical plant is itself an average of multiple readings of zero percent opacity. [Reference 18 of the draft remand response at page 3.]

(b) The standard allows for a margin of error in the above readings, since opacities of less than 10 percent are in compliance.

A summary of the Administrator's consideration of the achievability of the opacity standard is contained in the draft remand response. 40 FR at 39930–39931.

Comment No. 9: EPA is urging the burning of more wastes and many plants may in the future find it necessary to dispose of many types of sulfur and nitrogen bearing wastes and will be unable to achieve the 10 percent opacity standard.

Response No. 9: The Administrator considered this issue in the draft remand response. 40 FR at 39931. He stated that inorganic sulfides and high nitrogen bearing wastes will not be present in the feedstocks of most plants and that such situations are clearly within the intent of 40 CFR 60.11(e). A plant such as the one described by the commentor, therefore, is a specific example of the general case discussed in Response No. 7.

Even if the Administrator's projection is incorrect, and a large number of plants processing inorganic sulfides and high nitrogen-bearing wastes are built, each plant will be able to rely on 40 CFR 60.11(e).

Comment No. 10: 40 CFR 60.11(e) allows the EPA Administrator to establish a different opacity limit when mass emissions are met. However, many state and city regulations do not have such a provision and will prosecute opacity violations even when mass emission limits are being met.

Response No. 10: State and local agencies are free to enact regulations or to adopt policies more stringent than the new source performance standards promulgated by EPA. But they are free to do this whether or not EPA promulgates less stringent standards. Even if other agencies were influenced by EPA's standards, such a consideration would not be material to the setting of EPA's new source performance standards, which are governed by Section 111 of the Clean Air Act.

Comment No. 11: EPA has not given adequate consideration to the information contained in a letter from C.C. Quarles to Mr. D.R. Goodwin, dated June 11, 1975 (Reference 23 in the draft remand response).

Response No. 11: The subject letter contains a report originally submitted to EPA regarding the agency's guidelines for emission standards for existing sulfuric acid plants. The sections of the report that pertain to new source performance standards and the issues in this remand are the Introduction (Section I), the Summary and Conclusions (Section II), Aspects of Vapor Emission Problem and Method of Analysis (Section III), and Opacity (Section V). The Administrator has considered all the information in those sections. The main points of the sections are summarized in the subject letter, and the Administrator's consideration of each point is indicated below.

The first major point in the subject letter is that the mass emission limit of 0.15 pound per ton is inappropriate for four basic reasons.

(a) The inclusion of vapors as mist is inappropriate and inadequately supported.

—The Administrator's consideration of this point is summarized in Responses 2 and 4 above.

(b) The 0.15 pound per ton limit is exceeded by two of the five Du Pont plants equipped with high efficiency mist eliminators.

—The Administrator's consideration of this point is summarized in Response No. 5 above.

(c) The 0.15 pound per ton standard is not statistically sound, based upon EPA sampling of only three acid plants in the industry. Analysis of the variance of these limited tests confirms this point.

—It is true that the EPA tests were performed for a limited number of plants and process conditions. Plants operating with different kinds of feed, or producing a higher ratio of oleum to acid, or operating at a higher capacity may, as the commentor indicates, have greater emissions than the plants tested by EPA. But it is also true that the emission controls, which were designed for the requirements of the particular plants on which they are installed, can be made more efficient. This can be done, for example, by increasing the number of tubes in the vertical tube mist eliminator or by packing them more tightly. In the Administrator's opinion such design improvements can reasonably and easily be made, with the result that all new acid plants can be controlled well enough to meet the new source performance standard. This is consistent with the Court's finding that:

"It is the [emission control] system which must be adequately demonstrated and the standard which must be achievable. This does not require that a sulfuric acid plant be currently in operation which can at all times and under all circumstances meet the standards . . . An achievable standard is one which is within the realm of the adequately demonstrated system's efficiency and which, while not at a level that is purely theoretical or experimental, need not necessarily be routinely achieved within the industry prior to its adoption." 486 F. 2d at 433.

—The commentor's analysis of the variance of the emission test results (pages 8 and 9 of the report contained in the subject letter) is similar to the analysis in Comment No. 3, but is based on data for only the first three plants in Table 1 of EPA's draft remand response. The Administrator's consideration of this type of analysis is summarized in Response No. 3.

(d) The EPA analytical method (EPA Method 8 for acid mist) is subject to serious questions of accuracy and reproducibility.

—The subject letter makes an argument (at pages 11–15 of the report) in addition to those in Comments 2 and 4 above. Specifically, the commentor points out certain inconsistencies in comparative tests involving Method 8 and the modified Monsanto Method, and concludes that until the discrepancies are resolved the modified Monsanto Method should be specified as the analytical method for source performance testing and compliance. In the Administrator's view, the fact that Method 8 and the modified Monsanto method sometimes produce inconsistent results does not support the conclusion that the modified Monsanto method should be preferred over Method 8. The commentor has not shown that the inconsistencies are attributable to errors in Method 8 rather than the modified Monsanto method; on the basis of the inconsistencies, therefore, there is no reason to prefer the modified Monsanto method. Moreover, as discussed above in Response No. 4, and modified Monsanto method is inherently less accurate than Method 8, because the modified Monsanto method does not measure sulfur trioxide or any portion of the acid vapor—substances that are properly included in the definition of acid mist. Accordingly, the Administrator believes that Method 8 should be retained as the reference test method. Moreover, as noted above, the use of Method 8 was specifically upheld by the Court. 486 F.2d at 440.

The second major point in the subject letter is that opacity should not be used as a regulatory limit but rather, at most, as an indicator of noncompliance, because opacity is determined primarily by factors other than acid mist concentration. The Administrator's consideration of these arguments is summarized above in Responses No. 7 and 9.

Douglas M. Costle,

Administrator.

August 31, 1979.

[FR Doc. 79–27990 Filed 9–6–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1314–6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of August 27 to August 31, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from September 7, and will end on October 22, 1979. The 30-day wait period for final EIS's as calculated from September 7, 1979 will end on October 8, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245–3006.

Summary of Notice

On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30 day wait period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 27 to August 31, 1979, the 30 day wait period will be calculated from September 7 1979. The wait period will end on October 8, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 13 to August 17, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II included the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

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Dated: September 5, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I—EIS's Filed With EPA During the Week of August 27 to 31, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Draft

Chatham and Stikane Areas Timber Sale, Tongass National Forest, Alaska, August 31: Proposed is a timber sale operating plan for the Chatham and Stikane areas of the Tongass National Forest on the Islands of Kuiu, Baranof and Chichagof. The recommended action proposes harvest of 525 MMBM of timber from eight management areas for which a total of 369 miles of road must be constructed. Eight alternatives are considered. (EIS order No. 90932.)

North Siskiyou Planning Unit, Siskiyou County, Calif.; Jackson, Josephine Counties, Oreg., August 30: Proposed is a land management plan for the 155,000 acre North Siskiyou Planning Unit within the Klamath, Rouge River, and Siskiyou National Forests located in Siskiyou County, California and Jackson and Josephine Counties, Oregon. The preferred alternative includes: 1) the designation of 25,870 acres of the Kangaroo Roadless area as wilderness; 2) Emphasis on primitive and undeveloped dispersed recreation in higher elevations; 3) emphasis on timber production and general dispersed recreation in the more densely forested lower elevations; and 4) emphasis on Wildlife Management, Visual Resources, and Water Quality. (DEIS–05–05–79–02) (EIS order No. 90924.)

Final

Burnt Powder Planning Unit, Wallowa-Whitman National Forest, several counties in Oregon, August 28: Proposed is a land management plan for the Burnt Powder Planning Unit located in the Wallowa-Whitman National Forest in the Counties of Baker, Grant, Malheur and Union, Oregon. The proposal will cover 670,778 acres of National Forest Lands. The preferred alternative includes management or maintenance of: (1) Wood fiber production, (2) Big game winter area and habitat, (3) Scenic and recreation characteristics, (4) Municipal watershed values, (5) Wilderness, (6) Undeveloped forest characteristics, and (7) Other features. (USDA–FS–R6–FES(ADM)–78–17). Comments made by: AHP, BPA, COE, DOI, DOE, EPA, HUD, USDA, State and local agencies, groups, individuals and businesses. (EIS order No. 90917.)

Rural Electrification Administration

Final

New Madrid-Blytheville 500kv Transmission Line, New Madrid County, Mo.; Mississippi County, Ark., August 31: Proposed is the awarding of financing assistance for the construction of a portion of the 55 mile New Madrid-Blytheville 500kv transmission line and related facilities. The transmission line would begin in New Madrid County, Missouri, pass through Pemiscott County and possibly (depending on the alternative chosen) Dunklin County, and ending at Blytheville, Mississippi County, Arkansas. The facilities include construction of a new substation in Blytheville and expansion of the existing 354kv substation at New Madrid. Assistance would apply only to the Missouri portion of the project. (USDA–REA–EIS(ADM)–79–2–F). Comments made by: EPA, USDA, DOI, State agencies. (EIS order No. 90928.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 693-6795.

Draft

Ogdensburg Harbor Navigation Improvement, St. Lawrence County, N.Y., August 27: Proposed are commercial navigation improvements for Ogdensburg Harbor located in St. Lawrence County, New York. The current federally authorized depths are for channels 19 feet and for the lower basin 21 feet. The Ogdensburg Bridge and Port Authority dredged a portion of the basin to 27 feet. The improvements would include an authorized maintenance of 27 feet depth for the channel. The alternatives considered include: (1) No action, (2) removal of hard shoal area, (3) Dredging of the lower basin to seaway depth, (4) Maintenance of channel at 27 foot depth, and (5) Others. (Buffalo District). (EIS Order No. 90910.)

Final

Boat Key Harbor Navigation and Safety Improvement, Monroe County, Fla., August 31: The project described in this statement concerns improvements to the Boat Key Harbor, located in the city of Marathon, Monroe County, Florida. The purpose of these actions are to provide safe navigation and reduce periodic boat damages by deepening the cahnnel to 12 feet, widening it to 100 feet, and providing a turning basin 200 x 500 feet. The dredged material will be removed by barges to transfer points and piped into Borrow Pits at Ohio Key Bahia Honda Bridge. The Spanish Harbor Key Borrow Pit will also be used. The original draft EIS, No. 70139, filed February 1977 was replaced by revised draft, No. 80566, filed May 25, 1977. (Jacksonville District). Comments made by: DOI, DOC, EPA, NWF, State and local agencies. (EIS Order No. 90929.)

Mariners Two Marina, Permit, Middle River, Baltimore County, Md., August 31: The proposed action is the issuance of a permit to construct a 330-slip commercial marina with 16 piers and catwalks, the installation of 536 mooring piles and a travel lift. In addition, the applicants intend to provide a restaurant, a swimming pool, several tennis courts, bathhouses, boating sales and services, and pump-out facilities. The proposed project will be known as The Mariners Two Marina and would be located about ten miles east of downtown Baltimore on a tributary to the Middle River which is in Baltimore County, Maryland. (Baltimore District). Comments made by: HEW, DOI, EPA, DOC, State and local agencies, groups, individuals and businesses, (EIS Order No. 90933.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694–4269.

Draft

RMA Expanded North Boundary Containment Operations, Adams County, Colo., August 31: Proposed is the construction and operation of an expanded North Boundary containment treatment system for contaminated groundwater control at Rocky Mountain Arsenal in Adams County, Colorado. The plan involves extending the existing pilot containment system which consists of a groundwater collection subsystem, a water purification subsystem, and a groundwater recharge subsystem. The alternatives considered are: (1) no further expansion of the pilot system, and (2) delayed action with initiation of only source control measures. (EIS Order No. 90927.)

DEPARTMENT OF COMMERCE

Final Supplement

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.

Surf Clam and Ocean Quahog Industries, FMP (FS–2), Atlantic Ocean, August 30: This statement supplements final EIS No. 71292, filed October 17, 1977. Proposed is Amendment 2 to the Surf Clam and Ocean Quahog FMP for the NW Atlantic Ocean. This extends the current FMP through the end of calendar year 1981. The FMP remains in the existing form which includes: rebuilding the declining surf clam populations; minimize short-term economic dislocations to the extent possible; and prevent the harvest of ocean quahog from exceeding maximum sustainable yield and direct the fishery toward maintaining optimum yield. Comments made by: DOT, State agencies, businesses. (EIS Order No. 90922.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

Final

Elk Hills Naval Petroleum Reserve No. 1, Kern, County, Calif., August 30: This statement evaluates the DOE's proposed plans for increasing the production of Naval Petroleum Reserve No. 1, (Elk Hills) located in Kern County, California. The production rate would be increased to the maximum efficient rate mandated by Public Law 94–258. The actions involved would include required systems for oil, gas, and water collection and distribution; gas processing and transport; wastewater disposal; and support facilities and roads. Alternatives to this proposal include: alternative maximum production methods, other methods for shipping gas liquids, postponement, and no action. (DOE/EIS–0012–F). Comments made by: AHP, USDA, COE, DOI, DOT, EPA, State and local agencies. (EIS Order No. 90926.)

ENVIRONMENTAL PROTECTION AGENCY

Draft

Contact: Mr. Eugene Wojcik, Chief, EIS Section, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–2157.

Rural Lake waste treatment systems, case study 3, Emmet County, Mich., Sept. 30: Proposed is the awarding of a grant for a 201 facility plan for the Crooked/Pickerel Lakes facility planning area located in Emmet County, Michigan. The Preferred Alternative is a limited action alternative and includes: (1) The upgrading of most on-site systems by replacing undersized septic tanks, and upgrading existing drainfields or replacing them with elevated sand mounds, (2) service of the Ellsworth Point and Botsford Landing areas by cluster systems, and (3) service of the Crooked/Pickerel Channel area by holding tanks. Five other alternatives are considered. This is case study 3 for alternative waste treatment systems for Rural Lake projects. (EIS Order No. 90925.)

Final

Huron Valley WWT control system facilities plan, Wayne and Oakland Counties, Mich., Sept. 28: Proposed is the construction of the Huron Valley wastewater control system to provide service to portions of Wayne and Oakland Counties, Michigan. The project will consist of a regional interceptor sewer approximately 50 miles long and a 49.2 MGD. Wastewater treatment plant which would be built adjacent to Lake Erie. Effluent would be discharged via a 10,000 foot outfall sewer to the mid-channel confluence of the Detroit River and Lake Erie. The new treatment facility would provide conventional secondary treatment with phosphorus removal. Comments made by: DOT, DOC, State and local agencies, groups, individuals and business. (EIS Order No. 90921.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 275–4150.

Supplement

Kerckhoff project No. 96, San Joaquin River (DS–1) Fresno and Madera Counties, Calif., Sept. 30: This statement supplements a final EIS filed in February of 1979 concerning the issuance of a license to modify, operate, and maintain the existing Kerckhoff project No. 96 located on the San Joaquin River in Fresno and Madera Counties, California. This statement discusses modification of the construction plans. The modifications include: (1) Access to the new powerhouse by Smalley Road, (2) relocation of the switchyard spoil pile, (3) increase of the length of the tailrace channel, and (4) consolidation of the three proposed construction work areas into one site. (FERC/EIS–0005–S) (EIS Order No. 90923.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Draft

Archdale Subdivision, Charleston, Dorchester County, S.C., Sept. 30: Proposed is the issuance of HUD home mortgage insurance for the Archdale Subdivision located in Dorchester County, South Carolina. The development will contain approximately 1500 dwelling units including single-family housing, apartments, and patio homes. Also included in the plan is development of an 80 acre tract of land for commercial, industrial and institutional facilities. (HUD–RO4–EIS–78–15) (EIS Order No. 90930.)

Hunter's Hollow planned community, Shelby County, Tenn., Sept. 27: Proposed is the issuance of HUD home mortgage insurance for the Hunter's Hollow planned community located in Shelby County, Tennessee. The development would include single-family houses, apartments, and townhouses for a total of 2,326 dwelling units. Also included are plans for a community shopping complex and a church. Construction of a health care facility is considered as an alternative use of the area planned for townhouses on the corner of Macon Road and Germantown Road. (HUD–RO4–EIS–78–20) (EIS Order No. 90912.)

Final

Single family construction application procedures policy, Sept. 22: Proposed is a major revision of HUD Handbook 4123.1, "Procedures for Approval of Single Family Proposed Construction Applications in New Subdivisions," providing new procedures to be used in lieu of standard subdividion analysis conducted by HUD staff. These new procedures would be implemented through two major changes which are: (1) Local area certification, and (2) developer certification. Local area certification will be issued for local jurisdictions which HUD determines have subdivision and environmental criteria and controls acceptable to HUD. The developer certification procedure will be used in noncertified communities. Comments made by: (EIS Order No. 90934) (see Appendix VI.)

Final

Cross Creek Community, Plano, Collin County, Tex. Sept. 27: Proposed is the issuance of HUD home mortgage insurance for a portion of the Cross Creek Community in Plano, Collin County, Texas. The plan considers the development of 793 acres of the 1,214 acre project area with 3,612 dwelling units at a density of 4 units per acre-single family, and 12 per acre-multifamily units consisting of duplexes, apartments, townhouses, condominiums, or clusters. (HUD–R06–EIS–79–18F) Comments made by: EPA, DOI, DOE, USDA, COE, VA, DOT, AHP, State and local agencies. (EIS order No. 90913.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Burbank City Center redevelopment project (CDBG), Los Angeles County, Calif., Sept. 28: Proposed is the awarding of CDBG funds to the city of Burbank, Los Angeles County, California for the development of a regional shopping center. The shopping center would consist of four, or possible five, major department stores, along with other complementary uses, comprising up to 896,000 square feet of leaseable area and associated parking for 3,900 cars. (EIS Order No. 90920)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft

OCS five year oil and gas lease schedule, several areas, Sept. 28: Proposed is a five-year schedule consisting of 30 oil and gas lease sales in 15 areas of the OCS. Seven alternatives are considered which include: (1) Two which would delay sales, (2) three which would involve omissions of sales from the schedule, (3) a final schedule for 33 sales in 13 leasing areas, and (4) no action. The schedule includes sales offshore of all east coast states, Alabama, Mississippi, Louisiana, Texas, California, and Alaska. (EIS Order No. 90919.)

Bureau of Reclamation

Final

Closed Basin Division, San Luis Valley project, Alamosa and Saguache Counties, Colo., Sept. 27: Proposed is a multiple-purpose water resource project for the Closed Basin Division of the San Luis Valley project, located in Alamosa and Saguache Counties, Colorado. The project will deliver water to the Rio Grande River now being removed by evaporative processes from the Closed Basin. Project features consist of: 95 to 165 production wells, laterals, electric transmission facilities, conveyance channel, and miscellaneous structures. The project will also include the establishment of the Mishak National Wildlife Refuge (NWR), delivery of water to the Alamosa NWR, stabilization of the San Luis Lake water level, and recreational facilities at San Luis Lake. (FES–79–37) Comments made by: AHP, COE, DOC, HEW, DOI, EPA, FERC, USDA, DOT, State and local agencies, groups and individuals. (EIS Order No. 90914)

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INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 3371, 12th & Constitution Ave., N.W., Washington, D.C. 20433, (202) 275–7692.

Draft

Purchase of Rock Island Railroad Line, New Mexico, and Missouri, August 31, 1979. Proposed is the purchase of a portion of the Rock Island Railroad Company's line between Santa Rosa, New Mexico and St. Louis, Missouri by the St. Louis Southwestern Railroad Company. In addition the Missouri Pacific Railroad Company has filed application for purchase of the same line. The purchase would also involve the rehabilitation and upgrading of the line along with alteration of certain freight movement patterns. Five alternatives are considered. (Finance Docket Nos. 28799 & 29028). (EIS Order No. 90931.)

Final

Discontinuance of Conrail Operation, Indiana, and Illinois, August 28, 1979. Proposed is the discontinuance of the operation of Consolidated Rail Corporation (Conrail) passenger trains, Nos. 453 through 456, between Valparaiso, Indiana and Chicago, Illinois. The total distance is 44 miles. If discontinuance is authorized, a mass transportation system is Northwest Indiana will be eliminated. The applicant is contemplating the elimination of freight service also. The alternatives include: (1) Denial, (2) Partial discontinuance, (3) Funding or continued operation by others, (4) Fare increase, (5) Replacement bus service and (6) Improved service. (Docket No. 29021F.) Comments made by: DOT, State and local agencies, businesses. (EIS Order No. 90916.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Draft

Logan International Airport, Runway 22 Right, Suffolk County, Mass., August 27: Proposed is the selection of a procedure for use by turbojet aircraft using runway 22right to depart Logan International Airport located in Suffolk, County, Massachusetts. The alternative procedures considered are: (1) a 210 degree compass heading, (2) a 180 degree compass heading with right turn, (3) a 180 degree compass heading with left turn around, (4) a 140 degree compass heading to intercept the 160 degree radial of the Boston Vortac, and (5) a 195 degree compass heading to intercept the 220 degree radial of the Boston Vortac. (EIS order No. 90911.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

IN–66 Improvement, 4th Avenue to Proposed I–164, Vanderburgh County, Ind., August 28: Proposed is the improvement of IN–66 from Fourth Avenue to the proposed I–164 in Evansville, Vanderburgh County, Indiana. The improvement would be the construction of a new roadway along the existing alignment for approximately 6.5 miles. The facility would be six lanes from Fourth Avenue to Green River Road and then four lanes to the I–164 spur. Access would be limited to selected roadways. The alternatives considered are build and no action. (FHWA–IND–EIS–78–07–D). (EIS order No. 90918.)

Draft

Lomas Verdes Avenue, PR–174 to PR–176, Puerto Rico, August 25: Proposed is the construction of Lomas Verdes Avenue from PR–174 in the municipality of Bayamon on the west to PR–176 in the municipality of San Juan on the west within Puerto Rico. The project is approximately 6.4 miles in length and will be a six lane, divided arterial highway classified locally as an avenue. Access to the facility would be uncontrolled except within and at approaches to, major intersections. Throughout most of the length of the project, the roadway will overlie the two to four lane highway which would be replaced. (FHWA–PR–EIS–79–01–D) (EIS Order No. 90773.)

The Above Draft EIS has been retracted as of this September 7, 1979 **Federal Register**. (See Appendix IV.) The EIS was refiled as of August 31, 1979. The comment period will begin on September 7, 1979 and comments will be due October 22, 1979.

Final

LaFayette Railroad relocation Tippecanoe County, Ind., Sept. 28: The proposed action is to relocate and consolidate the N&W and L&N Railroad rights-of-way into one corridor through the city of LaFayette and to separate the major highway crossings from the combined railroad facilities. Approximately 4.2 miles of N&W double-track main line and 2.6 miles of L&N single-track main line would be relocated. This project is located in Tippecanoe County, Indiana. (FHWA–Ind—EIS–77–05–F.) Comments made by: COE, DOT, DOC, EPA, HUD, USDA, DOI, state and local agencies, groups, individuals and businesses. (EIS Order No. 90915.)

EIS's Filed During the Week of Aug. 27 to 31, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Alaska		Draft	Chatham and Stikane Areas Timber Sale, Tongass NF.	90932	08–31–79	USDA
Atlantic Ocean		Final	Supp. Surf Clam and Ocean Quahog Industries, FMP (FS–2).	90922	08–30–79	DOC
Arkansas	Mississippi	Final	New Madrid-Blytheville 500kV Transmission Line	90928	08–31–79	USDA
California		Draft	North Siskiyou Planing Unit	90924	08–30–79	USDA
	Fresno	Supple	Kerckhoff Project No. 96, Sun Joaquin River (DS–1)	90923	08–30–79	FERC
	Kern	Final	Elk Hills Naval Petroleum Reserve No. 1	90926	08–30–79	DOE
	Los Angeles	Draft	Burbank City Center Redevelopment Project (CDBG).	90920	08–28–79	HUD
	Madera	Supple	Kerckhoff Project No. 96, Sun Joaquin River (DS–1)	90923	08–30–79	FERC
Colorado	Adams	Draft	RMA Expanded North Boundary Containment Operations.	90927	08–31–79	USA
	Alamosa	Final	Closed Basin Division, San Luis Valley Project	90914	08–27–79	DOI
	Saguache	Final	Closed Basin Division, San Luis Valley Project	90914	08–27–79	DOI
Florida	Monroe	Final	Boat Key Harbor Navigation and Safety Improvement.	90929	08–31–79	COE
Illinois		Final	Discontinuance of ConRail Operation	90916	08–28–79	ICC
Indiana		Final	Discontinuance of ConRail Operation	90916	08–28–79	ICC
	Tippecanoe	Final	Lafayette Railroad Relocation	90915	08–28–79	DOT
	Vanderburgh	Draft	IN–66 Improvement, 4th Avenue to Proposed I–164	90918	08–28–79	DOT
Maryland	Baltimore	Final	Manners Two Manna, Permit, Middle River	90933	08–31–79	COE
Massachusetts	Suffolk	Draft	Logan International Airport, Runway 22Right	90911	08–27–79	DOT
Michigan	Emmet	Draft	Rural Lake Waste Treatment Systems, Case Study 3.	90925	08–30–79	EPA

EIS's Filed During the Week of Aug. 27 to 31, 1979

[Statement Title Index—By State and County] —Continued

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
	Oakland	Final	Huron Valley WWT Control System Facilities Plan	90921	08–28–79	EPA
	Wayne	Final	Huron Valley WWT Control System Facilities Plan	90921	08–28–79	EPA
Missouri		Draft	Purchase of Rock Island Railroad Line	90931	08–31–79	ICC
Missouri	New Madrid	Final	New Madrid-Blytheville 500 kV Transmission Line	90928	08–31–79	USDA
New York	St. Lawrence	Draft	Ogdensburg Harbor Navigation Improvement	90910	08–27–79	COE
New Mexico		Draft	Purchase of Rock Island Railroad Line	90931	08–31–79	ICC
Oregon		Draft	North Siskiyou Planing Unit	90924	08–30–79	USDA
	Several	Final	Burnt Powder Planning Unit, Wallowa-Whiteman NF	90917	08–28–79	USDA
	Josephine	Draft	North Siskiyou Planing Unit	90924	08–30–79	USDA
Puerto Rico		Draft	Lomas Verdes Avenue, PR–174 to PR–176	90773	08–31–79	FHWA
Several		Draft	OCS Five Year Oil and Gas Lease Schedule	90919	08–28–79	DOI
South Carolina	Dorchester	Draft	Archdale Subdivision, Charleston	90930	08–31–79	HUD
Tennessee	Shelby	Draft	Hunter's Hollow Planned Community	90912	08–27–79	HUD
Texas	Collin	Final	Cross Creek Community, Plano	90913	08–27–79	HUD
Policy		Final	Single Family Construction Applications Procedures	90934	08–22–79	HUD

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.	Chatham and Stikane Areas, Tongass National Forest, Timber Sale Operating plan, Alaska.	Draft 90932	Sept. 7, 1979 (see app. I).	Extension	Dec. 1, 1979.
DEPARTMENT OF DEFENSE, ARMY					
Col. Charles E. Sell, Chief of The Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C 20310, (202) 694–4269.	Fort Sill Training Installation, Ongoing Mission, Okla.	Draft 90611	June 29, 1979	Extension	Sept. 28, 1979
	Fort Wainwright, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90698	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Greely, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90699	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Richardson, Land Withdrawal for the 172d Infantry Brigade, Alaska.	Draft 90700	July 20, 1979	Extension	Oct. 1, 1979.
	Fort Bliss, Ongoing Mission and Activities, Tex.	Draft 90701	July 20, 1979	Extension	Sept. 28,1979.
	Ongoing Mission, Fort Story, Va	Draft 90743	July 27, 1979	Extension	Sept. 28, 1979.
	Fort Lewis Military Installation, Fort Lewis and Yakima Firng Center, Wash.	Draft 90744	July 27, 1979	Extension	Oct. 1, 1979.
	Fort Wainwright, Installation Utilization for 172d Infantry Brigade.	Draft 90799	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort Belvoir, Ongoing Mission, Fairfax County, Va.	Draft 90800	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Fort Greely Installation Utilization for the 172d Infantry Brigade, Alaska.	Draft 90801	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort McCoy Ongoing Mission, Sparta, Wis.	Draft 90802	Aug. 3, 1979	Extension	Sept. 28, 1979
	Fort Richardson Installation Utilization for the 172d Infantry Brigade, Alaska.	Draft 90803	Aug. 3, 1979	Extension	Oct. 15, 1979.
	Fort Eustis Ongoing Mission, U.S. Army Transportation Center, Va.	Draft 90804	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Fort Lee Ongoing Mission, U.S. Army Quartermaster Center, Prince Georges County, Va.	Draft 90806	Aug. 3, 1979	Extension	Sept. 28, 1979.
	Carlisle Barracks Ongoing Mission, Carlisle Borough, Cumberland County, Pa.	Draft 90839	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort Leonard Wood Ongoing Mission, Pulaski, LaClede, and Texas Counties, Mo.	Draft 90840	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort A. P. Hill Ongoing Mission, Bowling Green, Va.	Draft 90841	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort McClellan Ongoing Mission, Ala.	Draft 90842	Aug. 10, 1979	Extension	Oct. 15, 1979.
	Fort Leavenworth Ongoing Mission, Kans.	Draft 90866	Aug. 17, 1979	Extension	Oct. 19, 1979.

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Appendix III.—*EIS's Filed With EPA Which Have Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice Of availability published in "Federal Register"	Date of Withdrawal
None				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS Status/number		Date notice published in "Federal Register"	Reason for retraction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. 7th Street SW. Washington, D.C. 20590, (202) 426-4357..	PR-177 Lomas Verdes Avenue, PR-174 to PR-176 Bayamon, Guaynobo and San Juan, P.R.	Draft 90773	Aug. 3, 1979	The final EIS was retracted in the Sept. 7, 1979, Federal Register The EIS has been refilled as of Aug. 31, 1979. The comments are due on Oct. 22, 1979 (See app. I).

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No
None			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/ accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Streeet S.W., Washington, D.C. 20590, (202) 426-4357	Primary Highway Extension I-40/ I-95 near Benson to Wilmington, North Carolina	Final Supp. 90720	July 20, 1979	Agency number was incorrect should have been (FHWA-WA-NC-EIS-77-07-FS).
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Procedures for approval of single family proposed construction, applications	Final 90934		Should have been published in the Aug. 31, 1979 FEDERAL REGISTER. The comment period began on Aug. 31, 1979 and will end on Oct. 1, 1979. (See app. I).

[FR Doc. 79-28049 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1314-4]

Proposed New System of Records

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed new system of records.

SUMMARY: As required by law (5 U.S.C. 552a) the U.S. Environmental Protection Agency is publishing for comment a new system of records that is maintained by the Agency. The proposed system is "Time Accounting Information System".

EFFECTIVE DATE: This system shall become effective as proposed, without further notice on November 5, 1979, unless comments are received on or before October 8, 1979, which would result in a contrary determination.

ADDRESS: Send comments to the Office of Toxic Substances, Office of Pesticide Programs, Program Support Division (TS-757), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Chlosta, Program Support Division, Office of Pesticide Programs (TS-757), 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 755-8026.

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SUPPLEMENTARY INFORMATION: Reports describing this system have been filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget in accordance with 5 U.S.C. 552a (o) of the Privacy; Act.

Dated: September 4, 1979.

C. W. Carter,

Acting Assistant Administrator for Planning and Management.

EPA-12

SYSTEM NAME:

Time Accounting Information System.

SYSTEM LOCATION:

Environmental Protection Agency, Office of Pesticide Programs, Program Support Division (TS-757), 401 "M" Street, S.W., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Most current and past Office of Pesticide Programs (OPP) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records are computerized and contain information about OPP employees including employee's name, employee identification number, hours worked during each pay period, and work-activity classification for each pay period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-396 92 STAT. 838 7 U.S.C. 136y.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

These records and information in the records may be used: As a data source for management information to produce summary descriptive statistics and analytical studies reflecting the OPP allocations of costs and work-hours by budget decision unit. Reports generated by this system may be used by OPP managment to substantiate requests from EPA Management; Office of Management and Budget, and Congress concerning activities conducted under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. To respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on time sheets, magnetic tape, and magnetic disk.

RETRIEVABILITY:

The records are indexed by employee number, name, and organization.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. The system manager must authorize managers to use the system in writing prior to reports being generated from the system. Any release of information contained in this system outside the Office of Pesticide Programs, without the written consent of the system manager, is prohibited.

RETENTION AND DISPOSAL:

These records are maintained on magnetic tape on a permanent basis. Tape and disk files, on which data are stored, are only available through the Chief, Systems Support Branch, Program Support Division. Information contained will not be released without the written approval of the system manager.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Support Division (TS-757), Office of Pesticide Program, U.S. Environment Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426-9033.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contain a record pertaining to the requesting individual may be made in person during normal business hours at the Director's Office, Program Support Division, Office of Pesticide Programs, 401 M Street, S.W., Washington, D.C. 20460.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact or address their inquiries to the system manager listed above.

CONTESTING RECORD PROCEDURES:

See record access procedures above.

RECORD SOURCE CATEGORIES:

The data sources are the bi-weekly Pesticide Program Time Sheet, submitted by the individual employees of the OPP.

[FR Doc. 79-28048 Filed 9-6-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Title I—Elementary and Secondary Education Act, Intent To Waive Certain Requirements for Puerto Rico

AGENCY: Office of Education, HEW.

ACTION: Notice of Intent to Waive Certain Title I, ESEA Requirements for Puerto Rico, during the period July 1, 1979 through July 1, 1980.

DATES: All written comments must be received on or before October 9, 1979.

ADDRESSES: Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 3642-E, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve Dane, (202) 245-2506.

SUMMARY: Notice is hereby given that, under the Education Amendments of 1978, the Commissioner intends to waive certain Title I, ESEA requirements for the Puerto Rico Department of Education during the period July 1, 1979 through July 1, 1980. In addition to identifying the title I requirements that the Commissioner intends to waive, this notice contains the terms and conditions, upon which the Commissioner intends to grant the waiver.

SUPPLEMENTARY INFORMATION:

A. Authority for Granting a Waiver

The Elementary and Secondary Act of 1965 was amended by the Education Amendments of 1978 to authorize the Commissioner to waive title I, ESEA requirements for Puerto Rico. In particular, section 1004(b)(1) of the Act states that "if the Commissioner determines that compliance with any of the requirements of title I by Puerto Rico is impractical or inappropriate because of conditions particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency . . . ."

B. Waiver Request

On June 15, 1979, the Puerto Rico Department of Education requested the Commissioner to waive the applicability of certain title I requirements to all title I funds obligated by the Department during the period from July 1, 1979 through July 1, 1980. This waiver request identifies the requirements contained in, or based upon, the following sections of the title I statute as those for which the Puerto Rico Department of Education is seeking a waiver:

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Section 123(a)
Section 124(a)
Section 124(b)
Section 124(g)(1)
Section 126(b)
Section 126(c)
Section 126(e)
Section 183(f)

The June 15, 1979 waiver request clearly describes why the title I requirements listed above are impractical or inappropriate in light of conditions in Puerto Rico. In general, the request is based upon the widespread poverty and educational deprivation that exists throughout the Island. By seeking a waiver for some of the "categorical" requirements of title I, the Puerto Rico Department of Education hopes to be permitted to use title I funds for activities that are designed to upgrade the entire system.

C. Management Plan

Section 1004(b)(2) of the Elementary and Secondary Act of 1965 provides that any waiver of title I requirements for Puerto Rico must ". . . be subject to such terms and conditions as the Commissioner deems necessary to carry out the purpose of title I, including the submission by Puerto Rico of a plan for the management of the funds provided under such title, in order to insure that those funds are used in a manner designed to achieve the purpose of such title."

In accordance with section 1004(b)(2), the Puerto Rico Department of Education submitted a management plan in conjunction with its June 15, 1979 waiver request. Although the management plan indicates how the total of approximately $102 million in title I funds that will be obligated by the Puerto Rico Department of Education during the period covered by the waiver will be spent, continuing title I funded programs and services are not specifically described. The plan does describe in greater detail how the Department proposes to spend $32 million of the title I funds for new activities that it asserts would upgrade the entire educational system in Puerto Rico. The Department further asserts that these new title I activities (teacher training leading to degrees and certification, remodeling of classrooms that have walls made of asbestos cement, and the hiring and training of district managers) deal with deficiencies in the educational system that effect all students.

We believe that the Puerto Rico Department of Education has made a convincing case that—since the vast majority of students in Puerto Rico are eligible for title I services—the improvements resulting from the proposed teacher training and remodeling of classrooms would significantly benefit the title I children. On the other hand, we are not convinced that the proposed hiring of district managers would meet the standards contained in section 1004(b) of the Elementary and Secondary Education Act.

D. Notice of the Commissioner's Intent To Grant a Waiver

Section 1004(b)(1) of the Elementary and Secondary Education Act requires that at least 30 days prior to approving a request for a waiver of any title I requirements for Puerto Rico, the Commissioner must ". . . publish in the **Federal Register** a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted."

In accordance with the above requirement, notice is hereby given that, subject to the terms and conditions described below, the Commissioner intends to waive the requirements contained in the following sections of the title I statute during the period July 1, 1979 through July 1, 1980: 123(a), 124(a), 124(b), 124(g)(1), 126(b), 126(c), 126(e), and 183(f). As requested by the Puerto Rico Department of Education, the Commissioner also intends to exempt Puerto Rico form any regulations or guidelines that are promulgated to implement or interpret those sections. In addition, the Puerto Rico Department of Education's obligation to monitor and enforce compliance with title I requirements (under part C of the title I statute) will be limited to those requirements which are not waived.

Unless the Commissioner publishes another notice in the **Federal Register**, the Commissioner's approval of Puerto Rico's June 15, 1979 waiver request as described in this notice will be granted on the thirtieth day after publication of this notice of intent.

E. Terms and Conditions Upon Which the Commissioner Intends To Grant a Waiver

The Commissioner intends to approve the request for a waiver only if the Puerto Rico Department of Education formally agrees to comply with the following terms and conditions:

(1) All title I funds that are obligated by the Puerto Rico Department of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those title I requirements specifically identified in the waiver;

(b) These terms and conditions;

(c) The management plan that was submitted in conjunction with the June 15, 1979 waiver request, as modified by the Commissioner's decision to disapprove the proposed use of title I funds to pay the salaries of, or provide training to, district managers; and

(d) A title I budget, for the period covered by the waiver, which has been submitted to and approved by the Commissioner.

(2) If the Puerto Rico Department of Education wishes to deviate from the following proposed expenditures for the new title I special activities by more than 5 percent in either category, it must obtain the prior approval of the Commissioner:

(a) Remodeling of classrooms which have walls built with asbestos cement	$10,000,000
(b) Training of uncertificated teachers which will lead to degrees and certification	20,350,000
Total approved from new special activities	30,350,000

(3) The Puerto Rico Department of Education must, on the following dates, submit status reports to the Commissioner which indicate specifically what has been accomplished by each of the new title I funded special activities (including how many classrooms in rural and urban areas have been remodeled and how many teachers from rural and urban areas have received training):

(a) October 1, 1979;
(b) January 1, 1980; and
(c) April 1, 1980.

(4) In carrying out the new title I funded special activities the Puerto Rico Department of Education must ensure that—

(a) At least an equitable number of the uncertificated teachers who receive training are employed in rural schools;

(b) At least an equitable number of the classrooms that are remodeled are located in rural areas; and

(c) The remodeling of classrooms is done in such a way as to premanently solve the asbestos problem.

(5) During the period covered by the waiver, the Puerto Rico Department ment of Education must make all the staff and the documents that relate to the title I funded special activities available when representatives of the U.S. Office of Education conduct site visits. A team of individuals representing the Office of Education will make at least one visit to Puerto Rico during the period covered by the waiver to observe title I activities. This team may also hold a public meeting to elicit comments from interested persons.

(6) By October 1, 1980, the Puerto Rico Department of Education must submit a report to the Commissioner which includes—

(a) A breakdown of all title I obligations that were incurred during the period covered by the waiver; and

(b) A list of all classrooms that were remodeled which indicates whether the school is located in a rural or urban area; and

(c) A list of the teachers who received training, which indicates whether the teacher is employed by a school in a rural or urban area and whether the training resulted in that teacher becoming certificated.

(7) By December 1, 1979, the Puerto Rico Department of Education must submit to the Commissioner its plan for meeting all title I requirements as of July 2, 1980.

F. Opportunity for Public Comments

The Commissioner invites public comments on this notice of intent. Interested persons may send written comments to Mrs. Genevieve Dane, at the address at the beginning of this notice. All comments must be received by October 9, 1979.

(Catalog of Federal Domestic Assistance No. 13.428, Educationally Deprived Children Local Educational Agencies)

Dated: August 1, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

[FR Doc. 79-28012 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-102-M

Food and Drug Administration

[Docket No. 79M-0201]

Aquarius Soft Lens, Inc.; Premarket Approval of Aqua-Soft®(Deltafilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Aqua-Soft® (deltafilcon A) Hydrophilic Contact Lens sponsored by Aquarius Soft Lens, Inc., Indianapolis, IN. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 9, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Aquarius Soft Lens, Inc., Indianapolis, IN 46222, submitted an application for premarket approval of the Aqua-Soft® (deltafilcon A) Hydrophilic Contact Lens to FDA on June 14, 1978. The application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On March 14, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583) (the amendments), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) (the act), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the information upon which the agency's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

The labeling of the Aqua-Soft® (deltafilcon A) lens, like that of other approved soft contact lenses, states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling helps to inform new lens users that they must avoid purchasing inappropriate products, e.g., solutions for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new solutions that FDA approves for use with an approved lens. A sponsor who does not update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR part 12) of the FDA administrative practices and procedures regulations or a review of the application of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 9, 1979, file with the Hearing Clerk (HFA-305, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Maryland 20857, four copies of each petition and supporting

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data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 23, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27884 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Frederick Carlson, District Director, Newark District, East Orange, NJ.

DATE: The meeting will be held at 1 p.m., Thursday, September 27, 1979.

ADDRESS: The meeting will be held at the Food and Drug Administration, 2d floor, 20 Evergreen Pl., East Orange, NJ.

FOR FURTHER INFORMATION CONTACT: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 20 Evergreen Pl., East Orange, NJ 07018, 201-645-3265 or 645-6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's policymaking decisions on vital issues.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27865 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Teratology Subcommittee of the Science Advisory Board	October 2 and 3, 9 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing, October 2, 9 a.m. to 10 a.m.; open committee discussion, October 2, 10 a.m. to 4:30 p.m., October 3, 9 a.m. to 12 m.; Ruth Magee, National Center for Toxicological Research, Jefferson, AR 72079, 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the introduction to teratogensis research and NCTR; the role of teratogensis research in the National Toxicology Program; projects within the perinatal and postnatal branch; the pharmacokynamics branch research; and developmental mechanisms research.

Committee name	Date, time, and place	Type of meeting and contact person
2. Endocrinologic and Metabolic Drugs Advisory Committee	October 4, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Gemfibrozil (IND 8057); Calderol (NDA 18-312); and guidelines for the clinical evaluation of lipid altering agents.

Committee name	Date, time, and place	Type of meeting and contact person
3. Carcinogenesis Subcommittee of the Science Advisory Board.	October 4 and 5, 9 a.m., National Center for Toxicological research, Jefferson, AR.	Open public hearing October 4, 9 a.m. to 10 a.m.; open committee discussion October 4, 10 a.m. to 4:30 p.m., October 5, 9 a.m. to 1 p.m.; Ruth Magee, National Center for Toxicological research, Jefferson, AR 72079, 501-541-4528.

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General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the overall view of the carcinogenesis program; introduction to proposed projects; status report on DNA adduct study; circadium rhythm study; and saccharin update.

Committee name	Date, time, and place	Type of meeting and contact person
4. Pathology Subcommittee of the Science Advisory Board	October 5, 9 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing October 5, 9 a.m. to 10 a.m.; open committee discussion October 5, 10 a.m. to 12 m.; Ruth Magee, national Center for Toxicological Research, Jefferson, AR. 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drug and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the status report on personnel and pathology backlog; proposed new experiments; and TDMS pathology systems.

Committee name	Date, time, and place	Type of meeting and contact person
5. Oncologic Drugs Advisory Committee	October 11 and 12, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion October 11, 9 a.m. to 11:30 a.m.; open public hearing October 11, 11:30 a.m. to 12:30 p.m.; open committee discussion October 11, 12:30 p.m. to 5 p.m., October 12, 9 a.m. to 3:30 p.m.; Joyce Creamer, (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Estramustine; Streptozotocin (NDA 17-961); and subcommittee reports on preclinical toxicology guidelines and clinical guidelines for oncologic drugs.

Committee name	Date, time, and place	Type of meeting and contact person
6. Antimicrobial Panel	October 12, and 13, 9 a.m., Conference Rm. 8, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD., (October 12), Holiday Inn, Bethesda, MD, (October 13).	Open public hearing October 12, 9 a.m. to 10 a.m.; open committee discussion October 12, 10 a.m. to 4:30 p.m.; October 13, 9 a.m. to 4:30 p.m.; Lee Geismar, (HFD-512), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available date concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 9, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review date submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

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Committee name	Date, time, and place	Type of meeting and contact person
7. Gastrointestinal Drugs Advisory Committee	October 15 and 16, 9 a.m., Conference Rm. G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing October 15, 9 a.m. to 10 a.m.; open committee discussion October 15, 10 a.m. to 5 p.m., October 16, 9 a.m. to 3 p.m.; Joan Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of gastrointestinal disease.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss metaclopramide (NDA 17-854); carbenoxylone (NDA 18-059); revised labeling for Tagamet (NDA 17-920); and revision of guidelines for the evaluation of gastrointestinal motility modifying agents.

Committee name	Date, time, and place	Type of meeting and contact person
8. Science Advisory Board	October 23 and 24, 8 a.m., National Center for Toxicological Research, Jefferson, AR.	Open public hearing October 23, 8 a.m. to 9 a.m.; open committee discussion October 23, 9 a.m. to 4:30 p.m., October 24, 8 a.m. to 2:30 p.m.; Ruth Magee, National Center for Toxicological Research, Jefferson AR 72079, 501-541-4528.

General function of the Committee. The Committee advises on the establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the review of carcinogenesis activities; subcommittee report on micro/immunology/cell biology; indepth review and discussion on teratogenesis research; toxicology data management systems report; and subcommittee reports on mutagenesis and pathology.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HCF-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: August 30, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27586 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0271; DESI 11683]

Antineoplastic Agents Containing Cyclophosphamide or Thiotepa; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 79-23134, published at page 44271, on Friday, July 27, 1979, on make the following corrections:

a. On page 44272, in the third column, under "Cyclophosphamide", in the last line of the paragraph labeled "1.", "histicocytic" should be corrected to read "histiocytic";

b. On page 44273, in second column, in the last paragraph, in the sixth and seventh lines, "September 27, 1979" should be corrected to read "September 25, 1979".

BILLING CODE 1505-01-M

[Docket No. 79F-0310]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-sulfoethyl methacrylate as a component of copolymers used as adhesives in articles intended for food-contact applications.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street, SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3448) has been filed by the Dow Chemical Co., Midland, MI 48640, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 2-sulfoethyl methacrylate as a component of copolymers used as adhesives in articles intended for food-contact applications.

The agency has determined that the proposed action falls under § 25.1(f)(1)(v) (21 CFR 25.1(f)(1)(v)) and is exempt from the requirements of an environmental impact analysis report and that no environmental impact statement is necessary.

Dated: August 27, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-27477 Filed 9-16-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77N-0145 (Sub 2)]

Orphengesic Tablets (Orphenadrine Citrate With Aspirin, Phenacetin, and Caffeine); Denial of Hearing; Refusal To Approve Abbreviated New Drug Application; Declaration of "New Drug" Status

Correction

In FR Doc. 79-23498 appearing at page 44943 in the issue for July 31, 1979, make the following corrections:

(1) On page 44943, in the third column, under the heading, "Effective Date," substitute "July 31, 1979" for "August 30, 1979".

(2) On page 44948, in the second column, in the fourth full paragraph, in the third line, delete the word "close" which appears between the words "come" and "to".

BILLING CODE 1505-01-M

[Docket No. 75N-0232]

Bulk Flavor Labeling; Extension of Effective Date for Compliance

Correction

In FR Doc. 79-23500 appearing on page 44940 in the issue for July 31, 1979, make the following correction: In the second column, under the heading "Supplementary Information," in the second paragraph, in the second line, replace the citation, "32 CFR 1.12(g)(2)" with the citation "21 CFR 1.12(g)(2)".

BILLING CODE 1505-01-M

National Institutes of Health

Report on Bioassay of Dimethyl Terephthalate for Possible Carcinogenicity; Availability

Dimethyl terephthalate (CAS 120-61-6) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of dimethyl terephthalate for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a monomer from which ployester fiber is synthesized.

Although it is recognized that both rats and mice may not have received a dose of the test chemical sufficiently high to provide maximum test sensitivity, it is concluded that under the condition of this bioassay, dimethyl terephthalate was not carcinogenic for F344 rats or B6C3F1 mice.

Single copies of the report, Bioassay of Dimethyl Terephthalate for Possible Carcinogenicity (T.R. 121), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 30, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-27607 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-08-M

Report on Bioassay of Procarbazine for Possible Carcinogenicity; Availability

Procarbazine (CAS 366-70-1) has been tested for cancer-causing activity with rats and mice in the Caracinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of procarbazine for possible carcinogenicity was conducted by administering the test chemical by intraperitoneal injection to Sprague-Dawley rats and B6C3F1 mice. Applications of the chemical include use as an anticancer drug.

It is concluded that under the conditions of this bioassay, procarbazine was carcinogenic for both Sprague-Dawley rats and B6C3F1 mice, producing several types of tumors in both sexes of these two species.

Single copies of the report, Bioassay of Procarbazine for Possible Carcinogenicity (T.R. 19), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 30, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-27606 Filed 9-6-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Accelerated Wilderness Intensive Inventory for the Overthrust Belt Special Inventory, Arizona Strip District

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), and the Bureau of Land Management's Wilderness Inventory Handbook, the public comment period on the completed Wilderness Intensive Inventory for the Overthrust Belt will begin on September 13, 1979 and will end on December 12, 1979.

The comment period for this special wilderness intensive inventory has been

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accelerated in order to release lands not having wilderness character from further consideration as wilderness in the Overthrust Belt Area which may contain high energy fossil fuel potential.

The BLM Arizona Strip District Office will hold "open houses" to discuss the findings and to receive public comments.

The schedule for the open houses is as follows:

Flagstaff, Monday, October 1, Coconino County Health Department Auditorium, 2500 North Fort Valley Road.
Phoenix, Friday, October 5, Quality Inn West, 2420 West Thomas Road.
Tucson, Wednesday, October 10, Western Savings and Loan, 3002 North Campbell.
St. George, Utah, Monday, October 15, Four Seasons Motel (North), 747 St. George Blvd.

All Open Houses will be from 3:30 p.m. to 8:00 p.m. Maps and other information about the wilderness intensive inventory can be obtained from the Bureau of Land Management, Arizona Strip District Office, 196 East Tabernacle, St. George, Utah 84770; phone (801) 673–3545.

Edward F. Spang,

Acting State Director.

[FR Doc. 79-27840 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Accelerated Wilderness Intensive Inventory for the Hualapai-Aquarius Planning Area, Phoenix District

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579), and the Bureau of Land Management's wilderness Inventory Handbook, the public comment period on the completed Wilderness Intensive Inventory for the Hualapai-Aquarius Planning Area will begin on September 13, 1979 and will end on November 12, 1979.

The comment period for the Hualapai-Aquarius wilderness intensive inventory has been accelerated in order to comply with a court-ordered land-use planning and environmental statement schedule.

The BLM Phoenix District Office will hold "open houses" to discuss the findings and to receive public comments.

The schedule for the open houses is as follows:

Flagstaff, Monday, October 1, Coconino County Health Department Auditorium, 2500 North Fort Valley Road.
Kingman, Tuesday, October 2, Mohave County Fairgrounds.
Bagdad, Wednesday, October 3, Copper Kettle Restaurant Lindahl Road.
Wickenburg, Thursday, October 4, Mac Lennan School, 260 West Yavapai.
Phoenix, Friday, October 5, Quality Inn West, 2420 West Thomas Road.
Tucson, Wednesday, October 10, Western Savings and Loan, 3002 North Campbell.

All Open Houses will be from 3:30 p.m. to 8:00 p.m.

Maps and other information about the Hualapai-Aquarius wilderness intensive inventory can be obtained from the Bureau of Land Management, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, phone (602) 261–4231.

Edward F. Spang,

Acting State Director.

[FR Doc. 79-27841 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Dyce Creek; Proposed Motorized Vehicle Travel Restrictions

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on proposed motorized vehicle restrictions in the Dyce Creek area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. (These restrictions apply to all motorized vehicles, and become effective October 9, 1979.) The area affected by this proposal is located approximately 30 miles west of Dillon, Montana.

It was determined through updating the planning in the Dillon Resource Area in 1979 that no motorized vehicle travel will be allowed from December 1 to May 1 in order to protect wintering deer and elk herds. Prior to recent years the area supported a growing herd of approximately 100 elk, but current census data indicates snowmobile activity has displaced the current herd to less desirable ranges. Also, heavy snowmobile activity has limited opportunities for the wintering herd to increase from the improved range condition realized from better livestock management. It is concluded that these vehicular use restrictions are necessary to protect the wildlife resources.

The specific area affected by this proposal includes all public land within the following area:

T. 6 S., R. 11 W., PMM,
Section 18.
T. 6 S., R. 12 W., PMM,
Sections 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35.
T. 7 S., R. 12 W., PMM,
Sections 2, 3, 4, 5, 9, 10, 15.

Additional information can be obtained at the Dillon Resource Area Office and the Butte District Office, Bureau of Land Management, Montana.

Kannon Richards,

Acting State Director.

[FR Doc. 79-27844 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Muddy Creek Road Closure; Proposed Closure of Road to Motorized Vehicles

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on motorized vehicle restrictions in the Muddy Creek Basin area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. The area affected by this proposal is located approximately 70 miles south of Dillon, Montana.

The proposed action would close the Muddy Creek Road to motorized vehicle use from December 1 to May 1. These restrictions would apply to all motorized vehicle travel, and become effective 30 days after publication of this notice.

Approximately 5,400 acres within the closure area serve as elk winter range. The western portion of Muddy Creek Basin provides good security and thermal cover for approximately 100 head of elk; however, the eastern portion of the area lacks extensive areas of such habitat. Elk are easily displaced from this potential winter range by vehicles and snowmobiles. An additional 3,000 acres could be added to this winter range if the proposed vehicle restrictions were implemented. It has been identified through updating the planning in the Dillon Resource Area in 1979 and is concluded that these vehicle restrictions are necessary to protect the wildlife resources.

The specific area affected by this proposal includes all public land within the following area:

T. 12 S., R. 10 W., PMM
Sections 29, 30, 31, 32.
T. 13 S., R. 10 W., PMM
Sections 5, 6, 7, 8, 9, 15, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33.
T. 14 S., R. 10 W., PMM
Sections 4, 5, 8, 9.
T. 14 S., R. 11 W., PMM
Sections 1, 2, 12, 13.

Additional information regarding these restrictions can be obtained at the Dillon Resource Area Office and Butte District Office, Bureau of Land Management, Montana.

Kannon Richards,

Acting State Director.

[FR Doc. 79-27845 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. M-44456]

Montana; Right-of-Way Corridor Designation

August 28, 1979.

Notice is hereby given that pursuant to section 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1763), the following described public lands are designated as a transportation and utility corridor.

Montana Principal Meridian, Montana

Sec.	Acres
T. 27 N., R. 59 E.	
17: N½SW¼, SE¼	240.00
20: NE¼NE¼, S½NE¼	120.00
21: W½NW¼, NW¼SW¼	120.00
26: SW¼, E½SE¼	240.00
27: NW¼NW¼, S½NW¼	120.00
T. 29 N., R. 54 E.	
3: Lot 1	31.85
T. 29 N., R. 55 E.	
4: SW¼SW¼	40.00
5: SW¼NE¼, NW¼SE¼	80.00
8: E½NE¼	80.00
9: NW¼NW¼	40.00
T. 33 N., R. 36 E.	
1: Lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼	399.06
4: Lot 4	39.11
12: N½NW¼	80.00
T. 33 N., R. 37 E.	
1: Lots 1, 2, 3, 4, S½N½, S½	641.08
2: Lots 1, 2, 3, 4, S½N½, S½	641.68
3: Lots 1, 2, 3, 4, S½N½, S½	638.18
4: Lots 1, 2, S½NE¼, SE¼	318.04
5: Lot 1, SE¼NE¼	79.08
7: NE¼, E½NW¼, N½SE¼	320.00
8: All	640.00
9: All	640.00
10: N½, W½SW¼, E½SE¼	480.00
11: N½	320.00
12: All	640.00
13: N½, N½S½	480.00
14: N½, N½S½	480.00
15: N½NE¼, SE¼NE¼	120.00
T. 33 N., R. 38 E.	
1: Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼	599.60
2: Lots 1, 2, 3, 4, S½N½, NW¼SW¼, NE¼SE¼	399.66
4: Lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, S½	603.40
5: Lots 1, 2, 3, 4, S½N½, S½	642.60
6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼	643.41
7: Lots 1, 2, 3, 4, E½, E½W½	649.00
8: All	640.00
9: All	640.00
10: SW¼, S½SE¼	240.00
11: SW¼SW¼	40.00
12: NE¼, E½NW¼, SW¼NW¼, S½	600.00
13: N½, E½SE¼, SW¼SE¼	440.00
14: NE¼NE¼, W½W½	200.00
15: All	640.00
17: All	640.00
18: Lots 1, 2, 3, 4, E½, E½W½	647.00
19: N½NE¼	80.00
20: N½, N½SE¼	400.00
21: All	640.00
22: All	640.00
23: W½	320.00
24: NE¼	160.00
26: N½NW¼, SW¼NW¼	120.00
27: N½, N½	160.00
28: NE¼NE¼	40.00
T. 33 N., R. 39 E.	
4: SW¼	160.00
5: S½N½, SE¼	320.00
6: Lots 7, 8, 9, 10, 11, 12, SE¼	392.65
T. 33 N., R. 39 E.	
7: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,11, 12, SE¼	626.60
8: NE¼, W½SW¼	240.00
10: E½	320.00
18: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, W½NE¼	468.52
19: Lots 2 and 3	77.33
T. 34 N., R. 36 E.	
7: S½NE¼, NE¼SW¼, N½SE¼	200.00
8: SW¼NW¼, NW¼SW¼	80.00
9: SE¼SE¼	40.00
10: SW¼, S½SE¼	240.00
13: SW¼, W½SE¼	240.00
14: NW¼NW¼, SW¼SE¼	80.00
15: All	640.00
18: SE¼SW¼, SW¼SE¼	80.00
19: Lots 2, 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼	239.52
20: S½SE¼	80.00
21: Lots 1, 2, 3, 4, S½N½, SW¼, N½SE¼	561.20
22: NW¼, N½SW¼	240.00
24: E½NW¼, SW¼NW¼, NE¼SW¼	160.00
25: W½NW¼	80.00
26: NE¼, N½NW¼, SE¼NW¼, E½SW¼	360.00
27: NE¼SW¼	40.00
28: SW¼NE¼, W½, W½SE¼, SE¼SE¼	480.00
29: E½SW¼	80.00
30: NE¼, E½NW¼, E½SE¼	320.00
31: Lots 1, 2, 3, 4, E½NE¼, SW¼NE¼, E½SW¼, SE¼	558.12
32: NE¼NE¼, W½NW¼, W½SW¼, SE¼SW¼	240.00
33: E½, N½NW¼	400.00
34: W½W½	160.00
35: NW¼	160.00
T. 34 N., R. 37 E.	
18: SE¼SW¼	40.00
20: E½NW¼, W½NE¼	160.00
21: S½NE¼, SE¼	240.00
22: S½	320.00
23: SW¼SW¼	40.00
25: S½N½, S½	480.00
26: All	640.00
27: All	640.00
28: E½, E½NW¼, NE¼SW¼	440.00
30: E½NW¼	80.00
33: E½	320.00
34: All	640.00
35: All	640.00
T. 34 N., R. 38 E.	
28: SW¼SW¼	40.00
29: S½	320.00
30: Lots 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼	469.40
31: Lots 1, 2, 3, 4, E½, E½W½	650.60
32: All	640.00
33: N½NE¼, N½NW¼, SW¼NW¼, W½SW¼, SE¼SW¼, SE¼SE¼	360.00
34: S½	320.00
35: S½S½	160.00
T. 34 N., R. 39 E.	
31: Lots 10 and 11	75.94
T. 35 N., R. 33 E.	
1: Lots 1, 2, 3, 4, S½N½, S½	639.64
2: Lot 1, SE¼NE¼, E½SE¼	159.83
3: Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼	599.16
4: Lots 1, 2, SE¼NE¼	199.44
12: All	640.00
13: E½	320.00
24: NE¼, E½SE¼	240.00
T. 35 N., R. 34 E.	
3: SW¼NW¼, SW¼	200.00
4: Lots 1, 2, 3, 4, S½N½, S½	651.68
5: Lots 1, 2, 3, 4, S½N½, S½	647.08
6: Lots 5, 6, 7, NE¼SW¼	166.29
8: W½NE¼	80.00
9: E½, E½NW¼	400.00
10: NW¼NE¼, N½NW¼, SW¼NW¼	160.00
15: NW¼, N½SE¼, SW¼SE¼	400.00
19: Lots 1, 2, NE¼, E½NW¼	323.83
21: NE¼NE¼	40.00
22: SE¼NE¼, NE¼SE¼	80.00
23: SW¼NW¼, N½SW¼, SE¼SW¼, SW¼SE¼	200.00
24: SE¼NW¼, NE¼SW¼, NW¼SE¼	120.00
25: E½E½, W½SW¼	240.00
26: W½NE¼, SE¼NE¼, E½NW¼, SW¼NW¼, S½	560.00
27: S½NE¼, N½SE¼	160.00
32: E½	320.00
35: E½NE¼, SW¼NE¼, NE¼SE¼	160.00
T. 35 N., R. 35 E.	
30: Lots 2, 3, 4, SW¼NW¼, E½SW¼	238.56
31: Lots 1, 2, 4, NE¼, E½NW¼, E½SE¼, NW¼SE¼	478.61
T. 36 N., R. 32 E.	
1: Lots 1, 2, SW¼	256.43
2: Lots 1, 2, 3, 4, NE¼SW¼, SE¼	393.86
11: E½NE¼	80.00
12: E½, NW¼, NE¼SW¼, NW¼SW¼, SE¼SW¼	560.00
13: NE¼, NE¼SE¼	200.00
T. 36 N., R. 33 E.	
2: W½SW¼	80.00
3: Lots 1, 2, 3, 4, N½SW¼, SE¼	433.36
4: SW¼	160.00
5: Lot 2	48.43
6: SE¼SW¼, NE¼SE¼, S½SE¼	160.00
7: Lot 1, NE¼, NE¼NW¼, N½SE¼	316.79
8: SW¼	160.00
9: W½, SW¼SE¼	380.00
10: NE¼, E½W½, NE¼SE¼, W½SE¼	440.00
11: NE¼NW¼, W½NW¼, S½SE¼	200.00
12: SW¼SW¼	40.00
13: W½W½, SE¼NW¼	200.00
14: All	640.00
15: All	640.00
17: S½SW¼	80.00
18: Lot 2, SE¼SE¼	79.08
19: E½E½	160.00
20: W½SW¼	80.00
21: SW¼NE¼, NW¼NW¼, S½NW¼, E½SW¼, SE¼	400.00
22: W½E½, W½	480.00
23: NE¼	160.00
24: W½NW¼	80.00
26: S½	320.00
27: W½NE¼, SE¼	240.00
28: NW¼, S½	480.00
29: N½, NE¼SW¼, SE¼	520.00
32: E½NE¼, NW¼NE¼	120.00
33: NW¼	160.00
34: E½NE¼	80.00
35: N½NW¼, SW¼NW¼, NE¼SW¼	160.00
T. 36 N., R. 34 E.	
29: NW¼, SW¼, W½SE¼, SE¼SE¼	440.00
30: E½	320.00
31: Lots 1, 2, 3, 4, E½, E½W½	649.60
32: All	640.00
33: W½, W½SE¼	400.00
T. 37 N., R. 31 E.	
1: Lots 1, 2, 3, 4, S½N½	298.26
12: NE¼	160.00
T. 37 N., R. 32 E.	
3: Lot 4, SW¼NW¼, W½SW¼	154.50
4: Lots 1, 2, 3, 4, S½N½, S½	618.12
5: Lots 1, 2, 3, 4, S½N½, S½	618.46
6: Lots 1, 2, S½NE¼, SE¼	309.31
7: Lots 1, 2, 3, 4, NE¼, E½NW¼, E½SW¼, SE¼	632.96
8: All	640.00
9: All	640.00
10: W½NW¼, S½	400.00
13: E½SW¼, SE¼	240.00
14: N½, SW¼	480.00
15: All	640.00
17: E½, S½SW¼	400.00
18: S½NE¼, NE¼NW¼	120.00
20: E½, NW¼, NE¼SW¼	480.00
21: N½	320.00
22: SW¼, W½SE¼	240.00
23: NW¼	160.00
25: All	640.00
27: W½NE¼, SW¼, W½SE¼	320.00
28: NW¼, E½SE¼	240.00
29: N½NE¼, SE¼NE¼	120.00
33: NE¼, NE¼NW¼, N½SE¼, SE¼SE¼	320.00
34: All	640.00
35: W½W½	160.00
T. 37 N., R. 33 E.	
18: Lots 3 and 4	94.19
19: NE¼, NE¼NW¼	200.00
30: Lot 2	47.92
31: NE¼NW¼	40.00
32: E½SE¼	80.00
33: SW¼NW¼, SW¼, SW¼SE¼	240.00
	65,530.24

This designation also responds to section 2 of the Presidential Decision on the Alaska Natural gas Transportation System of September 22, 1977.

The official map showing the above described corridor is located in the official case file on file in the Bureau of

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Land Management Office, 222 North 32nd Street, Billings, Montana 59102.

The lands designated by this notice are subject to administration by the Secretary of the Interior or his delegate under applicable laws and regulations in aid of a granting program for rights-of-way. Rights-of-way for which an application is now pending or subsequent rights-of-way applied for on lands in the vicinity of the corridor may, to the extent practical, be granted within the confines of the corridor, as determined by the Secretary or his delegate. The existence of the designated corridor does not preclude the granting of separate rights-of-way outside the corridor boundaries if the Secretary or his delegate determines that confinement to the corridor is not appropriate.

Nothing in this notice is intended to exclude (totally eliminate) any "principal or major uses" of public lands as defined in Section 103 of the Federal Land Policy and Management Act of 1976, or remove the requirements or any applicable laws or regulations.

Kannon Richards,

Acting State Director.

[FR Doc 79-27842 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Grand Resource Area, Utah; Planning Revision

August 29, 1979.

Notice is hereby given that pursuant to Sec. 202(f) of the Federal Land Policy and Management Act of 1976, the Bureau of Land Management is starting the preplanning analysis for the Grand Resource Area.

The Grand Resource Area is located in Southeastern Utah and includes all of Grand County and the northern third of San Juan County, which entails over 1.5 million acres of public land.

The preplanning analysis is the first step in the Bureau's land use planning system and involves identification of problems and issues that need to be resolved through the planning process. Some of the problems and issues that have been identified to date include: minerals development versus recreation and wilderness values; forage allocation; livestock versus wildlife; designation of off-road vehicle areas; availability of public land for community expansion and locations for solid waste disposal.

The public is encouraged to present their concerns and expectations for the future management of these lands. Those interested should write or visit the Moab District Office of the Bureau of Land Management, P.O. Box 970, 125 West 2nd South, Moab, Utah 84532, by November 6, 1979.

S. Gene Day,

District Manager.

[FR Doc. 79-27936 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Right-of-Way Application

August 31,1979.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Southwest Gas Corporation filed an application for a right-of-way to construct approximately 3220 feet of 16 inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.
Sec. 24, S½S½SE¼;
T. 21 S., R. 61 E.
Sec. 19, SE¼SW¼SE¼SE¼.

The proposed pipeline will reinforce and supplement natural gas service for southern Nevada, particularly the Las Vegas area.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the Chief, Division of Technical Services, Bureau of Land Management, 300 Booth Street, Room 3008, Federal Building, Reno, NV 89509.

William J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 79-27922 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37978]

New Mexico; Right-of-Way Application

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 31 E.,
Sec. 24, SE¼SW¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.267 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27924 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38128]

New Mexico; Right-of-Way Application

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 8-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 23 E.,
Sec. 1, lot 7, S½SW¼ and SW¼SE¼;
Sec. 12, NW¼NW¼.
T. 21 S., R. 24 E.,
Sec. 5, N½SW¼;
Sec. 6, NW¼SE¼.

This pipeline will convey natural gas across 1.436 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27925 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38159, 38162, 38172, 38173 and 38175]

New Mexico; Rights-of-Way Applications

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 7 W.,
Sec. 1, SE¼SW¼;
Sec. 12, N½NW¼ and SW¼NW¼;
Sec. 13, N½NW¼;
Sec. 14, NW¼NE¼ and E½NW¼.
T. 28 N., R. 8 W.,
Sec. 17, S½NW¼.
T. 30 N., R. 6 W.,
Sec. 29, lots 7, 10 and 15.

These pipelines will convey natural gas across 1.630 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27926 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38167 and 38168]

New Mexico; Rights-of-Way Applications

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for two 4-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 7 W.,
Sec. 13, NW¼NW¼;
Sec. 14, NW¼NE¼.

These pipelines will convey natural gas across 0.141 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27927 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38149 and 38174]

New Mexico; Rights-of-Way Applications

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 8 W.,
Sec. 20, S½SE¼;
Sec. 31, E½SE¼.

These pipelines will convey natural gas across 0.216 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27928 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38129]

New Mexico; Right-of-way Application

August 28, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 6-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 24 S., R. 25 E.,
Sec. 25, NE¼NE¼, S½NE¼ and SE¼NW¼.
T. 24 S., R. 26 E.,
Sec. 19, SE¼SW¼ and W½SE¼;
Sec. 30, lot 1 and NE¼NW¼.

This pipeline will convey natural gas across 1.617 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27929 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37979]

New Mexico; Right-of-Way Application

August 28, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 26 N., R. 2 W.,
Sec. 3, SW¼SW¼.

This pipeline will convey natural gas across 0.036 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27930 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38219]

New Mexico; Right-of-Way Application

August 29, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering

Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 11 W.,
Sec. 11, NW¼NE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.194 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express

grazing capacity on Custodial and Fenced Federal range management areas will be based upon the biological use limit of palatable plants and the dietary preference of grazing animals.

The ES area covers the northern two-thirds of Owyhee Planning Unit. A revised land use plan (Management Framework Plan Step II or MFP II) with multiple use recommendations will be completed before the start of the ES. Proposed forage allocation levels, livestock management systems, range improvements, and land treatments will be established in the revised MFP II recommendations. The proposed alternatives for the grazing ES are based

informal open house format, with the following agenda:

1. Present Owyhee MFP II Recommendations.

2. Identify significant issues to be addressed in the proposed action and alternatives of the grazing ES.

Interested people are encouraged to attend one of the meetings to present their views and written comments on these issues.

Written comments may also be sent to BLM, 230 Collings Road, Boise, Idaho 83702 by November 1, 1979. Further information is available at the above address or contact Oscar Anderson, BLM Area Manager, at 208–384–1290 (FTS 554–1290).

possessory or use rights; and (4) Firefighting or medical personnel in cases of emergency.

This notice of closure will remain in effect until construction work is completed or until the public health and safety can be reasonably protected. Maps of the area hereinabove described are available at the Northeast Resource Area Office of the Canon City District of the Bureau of Land Management, located at 10200 West 44th Avenue, Wheatridge, Colorado.

Dale R. Andrus,

State Director.

[FR Doc. 79-27920 Filed 9-6-79; 8:45 am]

1869, Highway 187 N., Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27932 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68853]

Wyoming; Right-of-Way Application

August 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of

across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 93 W.,
Sec. 8, S½SW¼.
T. 17 N., R. 94 W.,
Sec. 4, S½NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼.
T. 18 N., R. 94 W.,
Sec. 32, W½SW¼.
T. 18 N., R. 95 W.,
Sec. 14, N½NE¼ and SE¼NE¼,
Sec. 24, N½NE¼ and SE¼NE¼.

The pipelines are proposed additions to an existing gathering system to points of connection with existing gathering lines in Tps. 17 and 18 N., Rgs. 93 and 94

the Moab District Office of the Bureau of Land Management, P.O. Box 970, 125

across 0.267 of a mile of public land in Eddy County, New Mexico.

the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has

Sec. 19, SE¼SW¼ and W½SE¼;
Sec. 30, lot 1 and NE¼NW¼.

the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering

Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 32 N., R. 11 W.,
Sec. 11, NW¼NE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.194 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P. O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27931 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Owyhee Livestock Grazing; Environmental Statement—Intent To Prepare and Scope of Issues

In accordance with the National Environmental Policy Act of 1969, the Boise, District, Bureau of Land Management, will prepare an environmental statement (ES) on allocating available range forage in the western portion of Owyhee County, Idaho, and on one allotment in eastern Oregon.

The purpose of this action is to analyze options and prepare an action plan to manage the range resource on public land to maintain and improve the quality of the vegetation, soils and water resources through:

1. The allocation of forage among competing grazing animals.
2. The management of livestock use by range improvements, land treatments, and intensive management systems.

The proposed action will establish the initial grazing capacity on 150 grazing allotments comrising 1,004,196 acres of public land. Management of the public land will include intensive management on 70 allotments (946,173 acres), Custodial management on 19 allotments (39,225 acres), and 61 allotments (18,798 acres) will be managed as Fenced Federal range.

The initial grazing capacity will be based upon a 50% use limit of all palatable plants and the dietary preference of grazing animals on intensive management areas. The initial grazing capacity on Custodial and Fenced Federal range management areas will be based upon the biological use limit of palatable plants and the dietary preference of grazing animals.

The ES area covers the northern two-thirds of Owyhee Planning Unit. A revised land use plan (Management Framework Plan Step II or MFP II) with multiple use recommendations will be completed before the start of the ES. Proposed forage allocation levels, livestock management systems, range improvements, and land treatments will be established in the revised MFP II recommendations. The proposed alternatives for the grazing ES are based upon the MFP II recommendations and alternatives.

Alternatives to the proposed action being considered are:

1. Implement intensive management on Intensive and Custodial management areas with stocking levels at the present grazing qualifications (does not include suspended non-use).
2. Implement intensive management on Intensive and Custodial management areas with stocking levels at the current active licensed use.
3. Continue the current level of livestock grazing without implementing intensive management.
4. Implement the proposed management with stocking levels at 50% below the proposed initial grazing capacity.
5. Implement the proposed management, with stocking levels based upon the biological use limit of palatable plants and the dietary preference of grazing animals on intensive management areas.
6. Exclude livestock grazing on all public lands. Public involvement has been received through meetings of a special ad hoc committee with broad-based multiple-use membership, through personal discussions with involved ranchers; and through local, state and federal agency contacts. Detailed information on contacts made is available in the District Office.

Meetings have been scheduled to provide for public review of the mutiple use recommendations for the Owyhee Planning Unit. The meetings have also been scheduled to define significant issues in preparing this livestock grazing environmental statement, thus eliminating from detailed study those issues not central to the scope of the statement.

The meetings will be held on September 24 and 25, from 1:00 p.m. to 8:00 p.m. in the BLM Boise District Conference Room at 230 Collings Road in Boise. The meetings will be in an informal open house format, with the following agenda:

1. Present Owyhee MFP II Recommendations.
2. Identify significant issues to be addressed in the proposed action and alternatives of the grazing ES.

Interested people are encouraged to attend one of the meetings to present their views and written comments on these issues.

Written comments may also be sent to BLM, 230 Collings Road, Boise, Idaho 83702 by November 1, 1979. Further information is available at the above address or contact Oscar Anderson, BLM Area Manager, at 208–384–1290 (FTS 554–1290).

James Gabettas,

Acting District Manager.

August 31, 1979.

[FR Doc. 79-27921 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[C-099597-RW]

Waterton Canyon, Colo.; Temporary Closure Order

Notice is hereby given that those public lands within the Waterton Canyon hereinafter legally described and situated near the construction zone for the Strontia Springs reservoir, dam, conduit, tunnel and facilities for the diversion and storage of water, are closed to all public use for an indefinite period of time.

This closure of public lands is for the purpose of providing for the protection of public health and safety during the construction period when hazardous conditions may exist as blasting and excavation work will be conducted on or adjacent to the following described public lands.

Sixth Principal Meridian, Colorado,

T. 7S., R. 69 W.,
Sec. 5: NE¼, S½;
Sec. 8: E½E½;
Sec. 17: E½E½
Sec. 20: N½NE¼, SE¼NW¼, SW¼SW¼, S½SE¼, N½SW¼.

This closure notice is in accordance with the provisions of Sections 302(b) and 303(a) of the Federal Land Policy and Mangement Act of 1976 (43 U.S.C. 1732; 1733) and 43 CFR 6010.4. Violations of this closure order may result in criminal penalties of up to $1,000 in fines and/or 1 year imprisonment for each violation.

Those exempted from this closure include (1) Federal, State and local agencies and their employees on official business; (2) Project contractors and their employees working in the area; (3) Individuals or companies that have legal

possessory or use rights; and (4) Firefighting or medical personnel in cases of emergency.

This notice of closure will remain in effect until construction work is completed or until the public health and safety can be reasonably protected. Maps of the area hereinabove described are available at the Northeast Resource Area Office of the Canon City District of the Bureau of Land Management, located at 10200 West 44th Avenue, Wheatridge, Colorado.

Dale R. Andrus,

State Director.

[FR Doc. 79-27920 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68913]

Wyoming; Right-of-Way Application

August 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to construct a 4" O.D. pipeline gathering system and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 112 W.,
Sec. 31, lots 10, 11, 12, 14 and 15.
T. 22 N., R. 113 W.,
Sec. 1, lots 1, 2, SW¼NE¼, SE¼NW¼ and SW¼;
Sec. 12, W½NE¼ and NE¼NW¼.

The propsoed pipeline will transport natural gas from the Blackjack #1 Well located in the SW¼ of section 1, and the Blackjack #3 Well located in the SW¼NE¼ of section 12, T. 22 N., R. 113 W., to a point of connection with an existing pipeline in lot 10, of section 31, T. 23 N., R. 112 W., all within Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27932 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68853]

Wyoming; Right-of-Way Application

August 29, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½-inch O.D. pipeline and to authorize an existing pipeline originally constructed under oil and gas lease rights for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 99 W.,
Sec. 14, N½S½; sec. 16, NE¼SE¼.

The proposed and existing pipelines will transport natural gas from the State No. 1–16 Well in the SE¼ of section 16 to a point of connection with an existing pipeline in the SW¼ of section 13, T. 19 N., R. 99 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27933 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68894]

Wyoming; Right-of-Way Application

August 29, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct four 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 93 W.,
Sec. 8, S½SW¼.
T. 17 N., R. 94 W.,
Sec. 4, S½NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼.
T. 18 N., R. 94 W.,
Sec. 32, W½SW¼.
T. 18 N., R. 95 W.,
Sec. 14, N½NE¼ and SE¼NE¼,
Sec. 24, N½NE¼ and SE¼NE¼.

The pipelines are proposed additions to an existing gathering system to points of connection with existing gathering lines in Tps. 17 and 18 N., Rgs. 93 and 94 W., Carbon and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27934 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68904]

Wyoming; Right-of-Way Application

August 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Company of Brighton, Colorado filed an application for a right-of-way to construct 6 inch and 10 inch pipelines and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 12 N., R. 95 W.,
Sec. 15, N½SW¼, SW¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 16, NW¼SW¼ and S½S½;
Sec. 17, NE¼SE¼;
Sec. 21, lot 8;
Sec. 22, lots 5 and 6.

The proposed pipelines will connect wells in Sweetwater County, Wyoming for the purpose of gathering and transporting natural gas to the Mountain Fuel Supply Company System.

The purpose of this notice is to inform the public that the Bureau will be

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proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should so so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P. O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27935 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Advanced Intensive Wilderness Inventory; Notice of Proposed Decision—Public Comment Period

Notice is hereby given that the Bureau of Land Management has completed intensive wilderness inventories on public lands in the following areas:

Oil and Gas Overthrust Area—Idaho Falls District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available for consideration in relation to oil and gas activities in the Overthrust Belt within the Idaho Falls District.

Following is the proposed decision:

Units 34–1 through 34–4 Islands, 1,135 total acres. 365 acres lacking characteristics. 770 acres with characteristics.
Unit 34–8 Game Creek, 4,792 total acres. Unit contains characteristics.
Unit 35–77 Henry's Lake, 350 total acres.* Unit contains characteristics.
Unit 36–15 Big Spring, 5,810 total acres. Unit contains characteristics.
Unit 36–18 Rattlesnake Point, 8,365 total acres. Unit contains characteristics.
Unit 37–77 Worm Creek, 40 total acres.* Unit contains characteristics.
Unit 37–88 Mt. Naomi, 240 total acres.* Unit contains characteristics.

A 90-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following open houses have been scheduled:

September 18, 1979, BLM District Office, Idaho Falls, 11:30 a.m.–8:30 p.m.
September 19, 1979, Teton County Courthouse, Driggs, Idaho, 11:30 a.m.– 8:30 p.m.

*Units less than 5,000 acres dependent upon contiguous RARE II areas to meet the size criteria.

The public comment period will conclude on December 7, 1979. Written comments should be directed to the Idaho State Office or the Idaho Falls District Office of the BLM.

Challis Planning Area—Salmon District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available when the grazing management program is implemented in the Challis area of the Salmon District.

Following is the proposed decision:

Unit 46–2 Garden Creek, 14,415 total acres. 600 acres lacking characteristics. 13,615 acres with characteristics.
Unit 46–3 Centennial, 8,014 total acres. Unit lacks characteristics.
Unit 46–7 Lone Pine Peaks, 26,840 acres. 2,200 acres lacking characteristics. 24,640 acres with characteristics.
Unit 46–10 Hole-in-the-Rock, 7,950 total acres. Unit lacks characteristics.
Unit 46–11 Corral-Horse Basin, 51,500 total acres. Unit contains characteristics.
Unit 46–13 Boulder Creek, 2,573 total acres.*
Unit 46–14 Jerry Peak, 48,000 total acres. Unit contains characteristics.
Unit 46–14a Jerry Peak West, 15,000 total acres. Unit contains characteristics.

A 90-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following public informational session has been scheduled: October 11, 1979, American Legion Hall, Challis, Idaho, 7:00 p.m.

The public comment period will conclude on December 7, 1979. Written comments should be directed to the Idaho State Office or the Salmon District Office of the BLM.

Owyhee Planning Area—Boise District

The purpose of conducting this intensive inventory in advance of the statewide intensive inventory is to have wilderness data available as input to the Bureau planning system reports and the draft grazing environmental statement in the Owyhee area of the Boise District.

Following is the proposed decision:

Unit 16–16 Windy Point, 11,289 total acres. Unit lacks characteristics.
Unit 16–25 Mud Spring, 6,996 total acres. Unit lacks characteristics.
Unit 16–26 Hinkle Gulch, 9,072 total acres. Unit contains characteristics.
Unit 16–28 Gertie Butte, 18,762 total acres. 7,742 acres lacking characteristics. 11,020 acres with characteristics.
Unit 16–31 Brown's Creek, 8,464 total acres. Unit lacks characteristics.
Unit 16–34 Boulder Creek, 20,253 total acres. 14,303 acres lacking characteristics. 5,950 acres with characteristics.
Unit 16–36 White Horse, 36,867 total acres. 13,148 acres lacking characteristics. 23,719 acres with characteristics.
Unit 16–38 Little Brown's Creek, 7,735 total acres. Unit lacks characteristics.
Unit 16–40 North Fork Owyhee River, 58,851 total acres. 1,700 acres lacking characteristics. 57,151 acres with characteristics.
Unit 16–41 Horsehead Springs, 6,211 total acres. Unit contains characteristics.
Unit 16–42 Squaw Creek Canyon, 18,297 total acres. 150 acres lacking characteristics. 18,147 acres with characteristics.
Unit 16–43 Smith Creek, 8,442 total acres. Unit lacks characteristics.
Unit 16–44 Deep Creek—Nickel Creek, 40,466 total acres. Unit contains characteristics.
Unit 16–45 Middle Fork Owyhee River, 15,663 total acres. Unit contains characteristics.
Unit 16–46 Field Creek, 8,330 total acres. Unit lacks characteristics.
Unit 16–47 West Fork Red Canyon, 15,970 total acres. Unit contains characteristics.
Unit 16–49a Deep Creek—Owyhee River, 137,320 total acres. 2,460 acres lacking characteristics. 134,860 acres with characteristics.
Unit 16–49b Lambert Table, 17,827 total acres. Unit contains characteristics.
Unit 16–49d Yatahoney Creek, 10,148 total acres. Unit contains characteristics.
Unit 16–51a Coyote Rim, 6,656 total acres. Unit lacks characteristics.
Unit 16–51b Pack Saddle, 12,825 total acres. Unit lacks characteristics.
Unit 16–52 Upper Owyhee River, 16,301 total acres. Unit contains characteristics.
Unit 16–61 Sinker Creek, 12,110 total acres. Unit contains characteristics.
Unit 16–64 Buckaroo Creek, 8,775 total acres. Unit lacks characteristics.
Unit 111–26 Blue Creek, 5,453 total acres. Unit lacks characteristics.

Note.—This unit is adjacent to the Owyhee Planning Area in the proposed Riddle BLM-State land exchange.

A 60-day public review of this proposed decision will begin September 7, 1979, during which time comments will be accepted. To provide an opportunity for public discussion and review of the proposed decision, the following open houses have been scheduled:

October 1, 1979, Catholic Church Parish Hall, Jordan Valley, OR, 1:00 p.m.–9:00 p.m.
October 2, 1979, Owyhee County Courthouse, Murphy, Idaho, 1:00 p.m.–9:00 p.m.
October 3, 1979, Nez Perce Room, Student Union Bldg., Boise State University, Boise, Idaho, 1:00 p.m.–9:00 p.m.

The public comment period will conclude on November 7, 1979. Written comments should be directed to the Idaho State Office or the District Office of the BLM, Boise.

For further information contact: Idaho State Office, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Dated: August 24, 1979.

Rex D. Colton,

Acting Idaho State Director, Bureau of Land Management.

[FR Doc. 79-27364 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; East Fork Blacktail Creek; Proposed Motorized Vehicle Travel Restrictions

August 29, 1979.

Notice is hereby given that public comments are being accepted for 30 days on proposed motorized vehicle restrictions in the East Fork Blacktail Creek area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. These restrictions do not apply to emergency law enforcement or other government vehicles used for emergency purposes, or vehicles authorized by permit or contract. Effective date will be 30 days from publication of this notice.

All motorized vehicle travel (including snowmobiles) will be affected by this proposal. No vehicles will be allowed off the main road which traverses Sections 27 and 34, T. 11 S., R. 5W. from May 16 through December 14 and absolutely no motorized vehicles will be allowed in the area from December 1 through May 15.

Currently motorized vehicles traveling throughout the East Fork Blacktail Creek area are reducing the fall-winter security cover for approximately 1,000 head of elk migrating through the area to the adjacent Blacktail Elk Winter Range. Approximately 17 percent of the crucial elk winter range is located within the proposed closure area and a substantial portion of public land serves as calving areas for this herd in late May and early June. Continued harrassment could eventually destroy this critical habitat area and totally destroy the hunting opportunities in one of the most important areas of elk habitat in southwertern Montana. It was concluded through updating the planning in the Dillon Resource Area in 1979 that these vehicular use restrictions are necessary to protect the wildlife resources and hunting opportunties.

The specific area affected by this proposal includes:

T. 11 S., R. 5 W., PPM
Section 13: S½, S½, N½
Section 22: S½S½, NE¼SE¼
Section 28: SE¼, W½NE¼
Section 32: SE¼, S½SW¼
Sections 23, 24, 25, 26, 27, 33, 34, 35

Additional information regarding these restrictions can be obtained at the Dillon Resource Area Office and the Butte District Office, Bureau of Land Management, Montana.

Kansen Richards,

Acting State Director.

[FR Doc. 79-27943 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-84

National Park Service

Kalaupapa National Historical Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public meeting of the Kalaupapa National Historical Park Advisory Commission will be held in Honolulu, Hawaii. The meeting will be on October 18, 1979, and will begin at 10:00 a.m. HST at the Kalihi-Palama Library, 1325 Kalihi St.

The purpose of the meeting is to discuss and evaluate management plans for Kalawao submitted by the State Department of Land and Natural Resources and the National Park Service and to formulate a draft recommendation.

The meeting is open to the public. Anyone may file, with the Commission, a written statement concerning matters to be discussed. A summary of the meeting will be available for public inspection four weeks after the meeting at the Hawaii State Office, National Park Service, 300 Ala Moana Blvd., Suite 6305, Honolulu, HI 96850.

Dated: August 29, 1979.

John H. Davis,

Acting Regional Director, Western Region.

[FR Doc. 79-27915 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Oil Shale Environmental Advisory Panel; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on September 25 and 26, 1979, at the Vernal Elk's Lodge, 35 North 300 West, Vernal, Utah. The meeting will begin at 1:30 p.m. on Tuesday, September 25, and conclude at 4:00 p.m., Wednesday, September 26.

The Panel was established to assist the Department of the Interior in the performance of its function in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The purpose of this meeting is to review a proposal for an air strip in the Piceance Basin, receive reports from Interior officials and from various workgroups of the Panel, to provide advice on Conditions of Approval on Tract C–a lessee's environmental monitoring plan, to be briefed on the Soil Conservation Service Plant Materials Center at Meeker, Colorado, and to consider any other matters which have come before the Panel.

The meeting will be open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the Panel or submit written statements. Requests should be made to the Panel Chairman, Mr Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 820–A, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234–3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

September 4, 1979.

[FR Doc. 79-27866 Filed 9-6-79; 8:45 am]

BILLING CODE 4310-10-M

Revocation of Secretary's Orders

This Notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1)(E). The Secretary of the Interior has revoked the following Secretary's Orders which were published in the Federal Register as noted below:

Order No.	Date	Title of order	Federal Register publication
2952	February 13, 1973	Issuance of Prospecting Permits for Coal	38 FR 4682, February 20, 1973.
2996	November 29, 1976	Authority Reserved to the Secretary of the Interior or His Delegate in the Trust Territory of the Pacific Islands.	41 FR 53856, December 9, 1976.
3030	December 4, 1978	Quitclaim and Release of Right, Title and Interest in Lands of the Trust Territory of the Pacific Islands.	43 FR 58123, December 12, 1978.

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*Units less than 5,000 acres dependent upon contiguous RARE II areas to meet the size criteria.

14,303 acres lacking characteristics. 5,950 acres with characteristics.

State Office, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Dillon Resource Area Office and the

The revocations were made by Department of the Interior Manual Release No. 2195 dated August 15, 1979. Additional information regarding the foregoing may be obtained from Ms. Vivian A. Keado, Chief, Division of Directives and Reports Management, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202–343–6191.

Dated: August 29, 1979.

William L. Kendig,

Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 79-27846 Filed 9-6-79; 8:45 am]
BILLING CODE 4310-10-M

Office of Federal Contract Compliance Programs

Goals and Timetables for Minority Participation in the Construction Industry; Proposed Notice

This Proposed Notice and Appendix would supersede Appendix B of the Notice issued on April 7, 1978, (43 FR 14899) and corrected on May 5, 1978, (43 FR 19473) and Appendix B–1 of the Notice issued on March 20, 1979, (44 FR 17116) which established goals under Executive Order 11246 for minorities working on construction projects located in certain areas. This Proposed Notice is issued pursuant to 41 CFR 60–4.6 and would establish goals and timetables under Executive Order 11246, as amended (30 FR 12319, 32 FR 14303 and 43 FR 46501), for minorities in the construction industry.

Department of Labor regulations (41 CFR 60–4.6) require the Director of the Office of Federal Contract Compliance Programs (OFCCP) to issue goals and timetables for minority and female utilization for Federal and federally assisted construction contractors and subcontractors. The regulations require that the goals be based on workforce, demographc or other relevant data.

The regulations also require that goals and timetables be published in the **Federal Register** as a notice of general information to the public but not for the public to comment. However, when 41 CFR Part 60–4 was promulgated (43 FR 14888) the preamble to the regulations stated that (*id.* at 14892):

> It is anticipated that within the very near future OFCCP will propose standards and goals for minority utilization pursuant to 41 CFR 60–4.6 * * *. Until those goals are published in final form the goals and timetables applicable under existing OFCCP requirements will continue to be effective.

Because these proposed goals are comprehensive and would for the first time cover the construction industry on a nation-wide basis, the Department of Labor is inviting comments, suggestions and recommendations from the public for a period of 60 days from publication or until Novembver 6, 1979. Comments should be addressed to Edward E. Mitchell, Director, Division of Program Policy, Room C–3324, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523–9426.

On April 7, 1978, a notice was published in the **Federal Register** (43 FR 14899) establishing goals and timetables under Executive Order 11246 for female utilization on construction projects. The goals for female utilization established in Appendix A of that notice would not be affected by this proposed notice. Appendix B of that notice adopted the goals for minority utilization existing on April 7, 1978 (i.e., the goals of the various Hometown Plans, Imposed Plans and Part II of the Federal EEO Bid Conditions still effective on April 7, 1978). The preamble to the regulations stated, however, that new standards and goals for minority utilization would be published "within the very near future" and that existing requirements were adopted on a temporary basis only until a uniform methodology for developing nationwide minority employment goals was established.

The Department of Labor is now proposing the new goals for minority utilization in the construction industry. Every effort has been made to construct goals on the basis of a rational, reliable, valid and uniform information base. These criteria are reflected most adequately in data compiled by the Bureau of the Census, U.S. Department of Commerce.

Because the Census Bureau information is collected decennially, these proposed goals are based on 1970 statistics. The advantages of the Census information, however, far outweigh the use of any available information which may have been collected more recently.

Additionally, it was determined that the geographical areas upon which the proposed goals are based must be accurate and reflect the criterion of "reasonable commuting distance" to the contractor's worksite. Consequently, two types of geographical areas have been utilized. First, goals are established for "Standard Metropolitan Statistical Areas" (SMSAs). These statistical areas (or geographical units) represent a reasoned judgment as to how metropolitan areas may be defined statistically in a uniform manner, using data items that are: (1) Widely recognized as indicative of metropolitan character (population, urban character, non-agricultural employment, population density, commuting ties) and (2) available from a body of Federal statistics which has been uniformly and simultaneously collected in all parts of the country, and processed and tabulated according to consistent standards. SMSAs are conceptually developed and defined by the Office of Management and Budget. Of particular relevance is the fact that the SMSAs are based on uniform and consistent data that identify commuting ties in certain areas. Thus, if a covered project is located within an SMSA, then it reasonably can be concluded that a reasonable commuting area exists within that SMSA and goals based on the SMSA are reasonable. Furthermore, the majority of the United States' population lives in the 660 counties contained in the SMSAs. (For a more complete discussion of the underlying concepts and derivations of SMSAs, see Standard Metropolitan Statistical Areas, Office of Management and Budget, 1975.)

A large number of construction projects, however, are located outside of SMSAs. The scope of the SMSA is the metropolitan area, the therefore not all counties are included within an SMSA. To cover those geographical areas not located within an SMSA, a second geographical area referred to as "Economic Areas" (EAs) has been utilized. EAs were conceptually developed and defined by the Bureau of Economic Analysis in the U.S. Department of Commerce. These EAs have been established as centers of commerce and generally cover areas which include the places of work and residence for most workers. There are 183 such areas, defined along county lines, covering the entire country. Counties were assigned to economic centers in accordance with commuting patterns. These commuting patterns were based primarily on data gathered by the Bureau of the Census. (For a full explanation of the derivation of EAs see, "The BEA Economic Areas: Structual Changes and Growth 1950–73," *Survey of Current Business,* November 11, 1975.)

The Department also examined the possibility of using other geographical divisions as goal setting areas. Principally, the Department examined the Federal Wage Survey Areas as a possible geographical base for setting goals. These are contiguous areas which

cover the entire country and are based upon the commuting patterns of Federal employees. However, construction trades are not part of the survey and the areas reflect the commuting patterns of Federal employees who usually work at fixed locations. The two geographical units selected (SMSAs and EAs) provide a basis for covering the entire country, and are units for which statistical information has been routinely, uniformly and reliably collected at the same time.

Based on these considerations the department proposes that the basic geographical unit for establishing goals will be the SMSA and that the geographical unit for those areas located outside of the SMSAs will be the Economic Area. The goal established for minority utilization for each of these geographical units will be the minority work force percentage for each such unit.

The latest available nationwide labor force data are contained in the 1970 Census of Population. To prepare the proposed goals, OFCCP requested the Bureau of Census to make a tabulation of the 1970 Census data that would provide counts of minority and other persons in the experienced civilian labor force.

A single minority goal is proposed for each SAMSA and EA without a timetable. Timetables for the achievement of goals will not be provided because it is assumed that after 10 years of Executive Order and other equal employment opportunity efforts to increase the minority participation in the workforce, these levels should be at least at the 1970 minority workforce figures. These minority utilization goals were calculated using the 1970 census tabulation mentioned above, and would be set at the 1970 minority representation in the experienced civilian labor force.

Separate goals are established for each of the 285 SMSAs and for each of the 183 EAs. When a covered construction contract is for a project located in an SMSA, the goals for that SMSA apply. When a covered construction contract is located in an area outside of an SMSA, the EA goals for that area apply.

The proposed minority (male and female) goals would apply to Federal or federally assisted construction contractors or subcontractors who have covered contracts. The proposed goals are expressed as a percentage of the total hours worked by such a covered contractor's or subcontractor's entire on-site construction workforce which is working on any construction site within a relevant area. The goal applies to each construction craft and trade in the contractor's entire workforce in the relevant area notwithstanding that some employees are working on the Federal or federally assisted construction project and some are working on non-federally involved projects.

The applicable goals for the contractor would be the goals for the geographical area where the contract is being performed, and all the work of a Federal or federally assisted construction contractor or subcontractor is covered regardless of whether the work is being performed on a covered contract. Therefore, a contractor with a covered contract in SMSA X would apply the goals for SMSA X for that contract but also would apply the goals for SMSA Y for its contracts being performed in SMSA Y even though the contracts in SMSA Y were neither Federal nor federally assisted.

The proposed goals for minority utilization are based upon both male and female minority representation in the workforce, and are predicated upon the proposition that had it not been for the long-standing exclusion of minorities from the skilled construction crafts,[1] minorities would be represented in these crafts at least to the extent of their representation in the total workforce in a given geographical area. The proposed goals are affirmative action goals and are not intended to preclude the OFCCP from requiring higher goals or quotas of individual contractors or groups of contractors in specific cases to remedy the effects of their past discriminatory practices. Similarly, Administrative Law Judges and courts deciding equal employment opportunity cases would not be bound to follow these affirmative action goals when additional relief is necessary to correct discriminatory practices.

Finally, this proposed notice and appendix would not affect contractors who are participating under Hometown Plans approved by OFCCP with respect to contracts being performed in the geographical area covered by the Hometown Plan.

Each contracting agency, each applicant, and each contractor would be required to include the appropriate proposed goal set forth below in all invitations for bids or other solicitations for Federal or federally assisted construction contracts in excess of $10,000.

Accordingly, the Department of Labor proposes to supersede Appendix B of the Notice issued on April 7, 1978, (43 FR 14899) and corrected on May 5, 1978, (43 FR 19473) and Appendix B–1 of the notice issued on March 20, 1979, (44 FR 17116) which established goals for minority utilization in the construction industry. A new Appendix B–79 is proposed to be issued as set forth below.

Dated: August 30, 1979.

Ray Marshall,

Secretary of Labor.

Donald Elisburg,

Assistant Secretary, Employment Standards.

Weldon J. Rougeau,

Director, Office of Federal Contract Compliance Programs.

Appendix B–79

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or federally assisted construction contracts and subcontracts in excess of $10,000 to be performed in the respective geographical areas. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract. A covered contractor or subcontractor shall apply the goals of the relevant area where the contract is being performed.

MAINE ECONOMIC AREA

001 Bangor, ME

	Proposed goal (percent)
Non-SMSA Counties	0.8
ME Aroostook	
ME Hancock	
ME Penobscot	
ME Piscataquis	
ME Waldo	
ME Washington	

002 Portland-Lewiston, MEQ03

SMSA	
4243 Lewiston-Auburn, ME	0.5
ME Androscoggin	
6403 Portland, ME	0.6
ME Cumberland	
ME Sagadahoc	
Non-SMSA counties	0.5
ME Franklin	
ME Kennebec	
ME Knox	
ME Lincoln	
ME Oxford	
ME Somerset	
ME York	

VERMONT ECONOMIC AREA

003 Burlington, VT

Non/SMSA counties	0.8
NH Coos	
NH Grafton	
NH Sullivan	
VT Addison	
VT Caledonia	
VT Chittenden	
VT Essex	
VT Franklin	
VT Grand Isle	
VT Lamoille	
VT Orange	
VT Orleans	
VT Rutland	
VT Washington	
VT Windsor	

MASSACHUSETTS ECONOMIC AREAS

004 Boston, MA

SMSA	
1123 Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	4.0

[1] See *United Steelworkers of America* v. *Weber,* —— *U.S.* ——, *47 USLW 4851, 4852 (June 27, 1979).*

Because these proposed goals are

statistically in a uniform manner, using

goals. These are contiguous areas which

site construction workforce which is working on any construction site within

[1] See *United Steelworkers of America* v. *Weber*, —— *U.S.* ——, *47 USLW 4851, 4852 (June 27, 1979).*

SMSA
1123 Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH 4.0

018 Philadelphia, PA
MA Essex
MA Middlesex
MA Norfolk
MA Plymouth
MA Suffolk
NH Rockingham
4763 Manchester-Nashua, NH 0.7
NH Hillsborough
5403 Fall River-New Bedford, MA 1.6
MA Bristol
9243 Worcester-Fitchburg-Leominster, MA 1.6
MA Worcester
Non-SMSA counties 3.6
MA Barnstable
MA Dukes
MA Nantucket
NH Belknap
NH Carroll
NH Merrimack
NH Strafford

RHODE ISLAND ECONOMIC AREA

005 Providence-Warwick-Pawtucket, RI

SMSA
6483 Providence-Warwick -Pawtucket, RI 3.0
RI Bristol
RI Kent
RI Providence
RI Washington
Non-SMSA counties 3.1
RI Newport

CONNECTICUT (Mass) ECONOMIC AREA

006 Hartford-New Haven-Springfield, CT–MA

SMSA
3283 Hartford-New Britain -Bristol, Ct 6.9
CT Hartford
CT Middlesex
CT Tolland
5483 New Haven-Waterbury -Meriden, CT 9.0
CT New Haven
5523 New London-Norwich, CT 4.5
CT New London
6323 Pittsfield, MA 1.6
MA Berkshire
8003 Springfield-Chicopee -Holyoke, MA–CT 4.8
MA Hampden
MA Hampshire
Non-SMSA counties 5.9
CT Litchfield
CT Windham
MA Franklin
NH Cheshire
VT Windham

NEW YORK ECONOMIC AREA

007 Albany-Schenectady-Troy, NY

SMSA
0160 Albany-Schenectady-Troy, NY 3.2
NY Albany
NY Montgomery
NY Rensselaer
NY Saratoga
NY Schenectady
Non-SMSA counties 2.6
NY Clinton
NY Columbia
NY Essex
NY Fulton
NY Greene
NY Hamilton
NY Schoharie
NY Warren
NY Washington
VT Bennington

008 Syracuse-Utica, NY

SMSA
8160 Syracuse, NY 3.8
NY Madison
NY Onondaga
NY Oswego
8680 Utica-Rome, NY 2.1
NY Herkimer
NY Oneida
Non-SMSA counties 2.5
NY Cayuga
NY Cortland
NY Franklin
NY Jefferson
NY Lewis
NY St. Lawrence

009 Rochester, NY

SSMA
6840 Rochester, NY 5.3
NY Livingston
NY Monroe
NY Ontario
NY Orleans
NY Wayne
Non-SMSA counties 5.9
NY Genesee
NY Seneca
NY Yates

010 Buffalo, NY

SMSA
1280 Buffalo, NY 7.7
NY Erie
NY Niagara
Non-SMSA counties 6.3
NY Allegany
NY Cattaraugus
NY Chautauqua
NY Wyoming
PA McKean
PA Potter

011 Binghamton-Elmira, NY

SMSA
0960 Binghamton, NYY–PA 1.1
NY Broome
NY Tioga
PA Susquehanna
2335 Elmira, NY 2.2
NY Chemung
Non-SMSA counties 1.2
NY Chenango
NY Delaware
NY Otsego
NY Schuyler
NY Steuben
NY Tompkins
PA Bradford
PA Tioga

012 New York, NY

SMSA
1163 Bridgeport-Stamford-Norwalk-Danbury, CT 10.2
CT Fairfield
3640 Jersey City, NJ 12.8
NJ Hudson
4410 Long Branch-Asbury Park, NJ 9.5
NJ Monmouth
5380 Nassau-Suffolk, NY 5.8
NY Nassau
NY Suffolk
5460 New Brunswick-Perth Amboy-Sayreville, NJ 5.8
NJ Middlesex
5600 New York, NY–NJ 22.6
NJ Bergen
NY Bronx
NY Kings
NY New York
NY Putnam
NY Queens
NY Richmond
NY Rockland
NY Westchester
5640 Newark, NJ 17.3
NJ Essex
NJ Morris
NJ Somerset
NJ Union
6040 Paterson-Clifton 12.9
NJ Passaic
NJ Passaic
6460 Poughkeepsie, NY 6.4
NY Dutchess
Non-SMSA counties 17.0
NJ Hunterdon
NJ Ocean
NJ Suessex
NY Orange
NY Sullivan
NY Ulster
PA Pike

PENNSYLVANIA ECONOMIC AREA

013 Scranton–Wilkes-Barre, PA

SMSA
5745 Northeast Pennsylvania 0.6
PA Lackawanna
PA Luzerne
PA Monroe
Non-SMSA counties 0.5
PA Columbia
PA Wayne
PA Wyoming

014 Williamsport, PA

SMSA
9140 Williamsport, PA 1.0
PA Lycoming
NON-SMSA counties 0.7
PA Cameron
PA Centre
PA Clearfield
PA Clinton
PA Elk
PA Jefferson
PA Montour
PA Northumberland
PA Snyder
PA Sullivan
PA Union

015 Erie, PA

SMSA
2360 Erie, PA 2.8
PA Erie
Non-SMSA counties 1.8
PA Clarion
PA Crawford
PA Forest
PA Venango
PA Warren

016 Pittsburgh, PA

SMSA
0280 Altoona, PA 1.0
PA Blair
3680 Johnstown, PA 1.3
PA Cambria
PA Somerset
6280 Pittsburgh, PA 6.3
PA Allegheny
PA Beaver
PA Washington
PA Westmoreland
Non-SMSA counties 4.6
MD Allegany
MD Garrett
PA Armstrong
PA Bedford
PA Butler
PA Fayette
PA Greene
PA Indiana
WV Mineral

017 Harrisburg-York-Lancaster, PA

SMSA
3240 Harrisburg, PA 6.2
PA Cumberland
PA Dauphin
PA Perry
4000 Lancaster, PA 2.0
PA Lancaster
9280 York, PA 2.2
PA Adams
PA York
Non-SMSA counties 3.1
PA Franklin
PA Fulton
PA Huntingdon
PA Juniata
PA Lebanon
PA Mifflin

018 Philadelphia, PA

SMSA
0240 Allentown-Bethlehem-Easton, PA–NJ 1.6
NJ Warren
PA Carbon
PA Lehigh
PA Northhampton
0560 Atlantic City, NJ 16.2
PNJ Atlantic
6160 Philadelphia, PA–NJ 17.3
NJ Burlington
NJ Camden
NJ Gloucester
PA Bucks
PA Chester
PA Delaware
PA Montgomery
PA Philadelphia
6680 Reading, PA 2.5
PA Berks
8480 Trenton, NJ 16.4
NJ Mercer
8760 Vineland-Millville-Bridgeton, NJ 16.0
NJ Cumberland
9160 Wilmington, DE–NJ–MD 12.3
DE New Castle
MD Cecil
NJ Salem
Non-SMSA counties 14.5
DE Kent
DE Sussex

018 Philadelphia, PA
NJ Cape May
PA Schuylkill

MARYLAND ECONOMIC AREA

019 Baltimore, MD

SMSA
0720 Baltimore, MD 23.0
MD Anne Arundel
MD Baltimore
MD Carroll
MD Harford
MD Howard
MD Baltimore City
Non-SMSA counties 23.6
MD Caroline
MD Dorchester
MD Kent
MD Queen Annes
MD Somerset
MD Talbot
MD Wicomico
MD Worcester
VA Accomack
VA Northampton

WASHINGTON, DC ECONOMIC AREA

020 Washington, DC

SMSA
8840 Washington, DC–MD–VA 25.0
DC District of Columbia
MD Charles
MD Montgomery
MD Prince Georges
VA Arlington
VA Fairfax
VA Loudoun
VA Prince William
VA Alexandria
VA Fairfax City
VA Falls Church
Non-SMSA counties 25.2
MD Calvert
MD Frederick
MD St. Marys
MD Washington
VA Clarke
VA Culpeper
VA Fauquier
VA Frederick
VA King George
VA Page
VA Rappahannock
VA Shenandoah
VA Spotsylvania
VA Stafford
VA Warren
VA Westmoreland
VA Fredericksburg
VA Winchester
WV Berkeley
WV Grant
WV Hampshire
WV Hardy
WV Jefferson
WV Morgan

VIRGINIA ECONOMIC AREA

021 Roanoke-Lynchburg, VA

SMSA
4640 Lynchburg, VA 19.3
VA Amherst
VA Appomattox
VA Campbell
VA Lynchburg
6800 Roanoke, VA 10.2
VA Botetourt
VA Craig
VA Roanoke
VA Roanoke City
VA Salem
Non-SMSA counties 12.0
VA Alleghany
VA Augusta
VA Bath
VA Bedford
VA Bland
VA Carroll
VA Floyd
VA Franklin
VA Giles
VA Grayson
VA Henry
VA Highland
VA Montgomery
VA Nelson
VA Patrick

VIRGINIA ECONOMIC AREA

021 Roanoke-Lynchburg, VA

VA Pittsylvania
VA Pulaski
VA Rockbridge
VA Rockingham
VA Wythe
VA Bedford City
VA Buena Vista
VA Clifton Forge
VA Covington
VA Danville
VA Galax
VA Harrisonburg
VA Lexington
VA Martinsville
VA Radford
VA Staunton
VA Waynesboro
WV Pendleton

022 Richmond, VA

SMSA
6140 Petersburg-Colonial Heights-Hopewell, VA 30.6
VA Dinwiddie
VA Prince George
VA Colonial Heights
VA Hopewell
VA Petersburg
6760 Richmond, VA 24.9
VA Charles City
VA Chesterfield
VA Goochland
VA Hanover
VA Henrico
VA New Kent
VA Powhatan
VA Richmond
Non-SMSA counties 27.9
VA Albemarle
VA Amelia
VA Brunswick
VA Buckingham
VA Caroline
VA Charlotte
VA Cumberland
VA Essex
VA Fluvanna
VA Greene
VA Greensville
VA Halifax
VA King and Queen
VA King William
VA Lancaster
VA Louisa
VA Lunenberg
VA Madison
VA Mecklenburg
VA Northumberland
VA Nottoway
VA Orange
VA Prince Edward
VA Richmond
VA Sussex
VA Charlottesville
VA Emporia
VA South Boston

023 Norfolk-Virginia Beach-Newport News, VA

SMSA
5680 Newport News-Hampton, VA 27.1
VA Gloucester
VA James City
VA York
VA Hampton
VA Newport News
VA Williamsburg
5720 Norfork-Virginia Beach-Portsmouth, VA–NC 26.6
NC Currituck
VA Chesapeake
VA Norfolk
VA Portsmouth
VA Suffolk
VA Virginia Beach
Non-SMSA counties 29.7
NC Bertie
NC Camden
NC Chowan
NC Gates
NC Hertford
NC Pasquotank
NC Perquimans
VA Isle of Wight
VA Mathews
VA Middlesex
VA Southampton
VA Surry
VA Franklin

NORTH CAROLINA ECONOMIC AREA

024 Rocky Mount-Wilson-Greenville, NC

Non-SMSA 31.7
NC Beaufort
NC Carteret
NC Craven
NC Dare
NC Edgecombe
NC Greene
NC Halifax
NC Hyde
NC Jones
NC Lenoir
NC Martin
NC Nash
NC Northampton
NC Pamlico
NC Pitt
NC Tyrrell
NC Washington
NC Wayne
NC Wilson

025 Wilmington, NC

SMSA
9200 Wilmington, NC 20.7
NC Brunswick
NC New Hanover
Non-SMSA counties 23.5
NC Columbus
NC Duplin
NC Onslow
NC Pender

026 Fayetteville, NC

SMSA
2560 Fayetteville, NC 26.2
NC Cumberland
Non-SMSA counties 33.5
NC Bladen
NC Hoke
NC Richmond
NC Robeson
NC Sampson
NC Scotland

027 Raleigh-Durham, NC

8640 Raleigh-Durham, NC 22.6
NC Durham
NC Orange
NC Wake
Non-SMSA counties 24.7
NC Chatham
NC Franklin
NC Granville
NC Harnett
NC Johnston
NC Lee
NC Person
NC Vance
NC Warren

028 Greensboro-Winston Salem-High Point, NC

SMSA
1300 Burlington, NC 16.2
NC Alamance
3120 Greensboro–Winston-Salem–High Point, NC 16.4
NC Davidson
NC Forsyth
NC Guilford
NC Randolph
NC Stokes
NC Yadkin
Non-SMSA counties 15.5
NC Alleghany
NC Ashe
NC Caswell
NC Davie
NC Montgomery
NC Moore
NC Rockingham
NC Surry
NC Watauga
NC Wilkes

029 Charlotte, NC

1520 Charlotte-Gastonia, NC 18.5
NC Gaston
NC Mecklenburg
NC Union
Non-SMSA counties 15.7
NC Alexander
NC Anson
NC Burke
NC Cabarrus
NC Caldwell
NC Catawba

9 UMI

SSMA
6840 Rochester, NY 5.3

014 Williamsport, PA

SMSA
9140 Williamsport, PA 1.0

Non-SMSA counties 14.5
DE Kent
DE Sussex

VA Highland
VA Montgomery
VA Nelson
VA Patrick

VA Southampton
VA Surry
VA Franklin

NC Burke
NC Cabarrus
NC Caldwell
NC Catawba

V 44/175

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

NC Cleveland
NC Iredell
NC Lincoln
NC Rowan
NC Rutherford
NC Stanly
SC Chester
SC Lancaster
SC York

030 Asheville, NC

SMSA
0480 Asheville, NC 8.5
NC Buncombe
NC Madison
Non-SMSA counties 6.3
NC Avery
NC Cherokee
NC Clay
NC Graham
NC Haywood
NC Henderson
NC Jackson
NC McDowell
NC Macon
NC Mitchell
NC Swain
NC Transylvania
NC Yancey

SOUTH CAROLINA ECONOMIC AREA

031 Greenville-Spartanburg, SC

SMSA
3160 Greenville-Spartanburg, SC 16.0
SC Greenville
SC Pickens
SC Spartanburg
Non-SMSA counties 17.8
SC Polk
SC Abbeville
SC Anderson
SC Cherokee
SC Greenwood
SC Laurens
SC Oconee
SC Union

032 Columbia, SC

SMSA
1760 Columbia, SC 23.4
SC Lexington
SC Richland
Non-SMSA counties 32.0
SC Calhoun
SC Clarendon
SC Fairfield
SC Kershaw
SC Lee
SC Newberry
SC Orangeburg
SC Saluda
SC Sumter

033 Florence, SC

Non-SMSA counties 33.0
SC Chesterfield
SC Darlington
SC Dillon
SC Florence
SC Georgetown
SC Horry
SC Marion
SC Marlboro
SC Williamsburg

034 Charleston-North Charleston, SC

SMSA
1440 Charleston-North Charleston, SC 30.0
SC Berkeley
SC Charleston
SC Dorchester
Non-SMSA counties 30.7
SC Colleton

GEORGIA ECONOMIC AREA

035 Augusta, GA

SMSA
0600 Augusta, GA–SC 27.2
GA Columbia
GA Richmond
SC Aiken
Non-SMSA counties 32.8
GA Burke
GA Emanuel
GA Glascock
GA Jefferson
GA Jenkins
GA Lincoln
GA McDuffie
GA Taliaferro
GA Warren
GA Wilkes
SC Allendale
SC Bamberg
SC Barnwell
SC Edgefield
SC McCormick

036 Atlanta, GA

SMSA
0520 Atlanta, GA 21.2
GA Butts
GA Cherokee
GA Clayton
GA Cobb
GA Dekalb
GA Douglas
GA Fayette
GA Forsyth
GA Fulton
GA Gwinett
GA Henry
GA Newton
GA Paulding
GA Rockdale
GA Walton
Non-SMSA counties 19.5
GA Banks
GA Barrow
GA Bartow
GA Carroll
GA Clarke
GA Coweta
GA Dawson
GA Elbert
GA Fannin
GA Floyd
GA Franklin
GA Gilmer
GA Gordon
GA Greene
GA Habersham
GA Hall
GA Haralson
GA Hart
GA Heard
GA Jackson
GA Jasper
GA Lamar
GA Lumpkin
GA Madison
GA Morgan
GA Oconee
GA Oglethorpe
GA Pickens
GA Pike
GA Polk
GA Rabun
GA Spalding
GA Stephens
GA Towns
GA Union
GA Upson
GA White

037 Columbus, GA

SMSA
1800 Columbus, GA–AL 29.6
AL Russell
GA Chattahoochee
GA Columbus
Non-SMSA counties 31.6
AL Chambers
AL Lee
GA Harris
GA Marion
GA Meriwether
GA Quitman
GA Schley
GA Stewart
GA Sumter
GA Talbot
GA Troup
GA Webster

038 Macon, GA

SMSA
4680 Macon, GA 27.5
GA Bibb
GA Houston
GA Jones
GA Twiggs

038 Macon, GA

Non-SMSA counties 31.7
GA Baldwin
GA Bleckley
GA Crawford
GA Crisp
GA Dodge
GA Dooly
GA Hancock
GA Johnson
GA Laurens
GA Macon
GA Monroe
GA Peach
GA Pulaski
GA Putnam
GA Taylor
GA Telfair
GA Treutlen
GA Washington
GA Wheeler
GA Wilcox
GA Wilkinson

039 Savannah, GA

SMSA
7520 Savannah, GA 30.6
GA Bryan
GA Chatham
GA Effingham
Non-SMSA counties 29.8
GA Appling
GA Atkinson
GA Bacon
GA Bulloch
GA Candler
GA Coffee
GA Evans
GA Jeff Davis
GA Liberty
GA Long
GA McIntosh
GA Montgomery
GA Screven
GA Tattnall
GA Toombs
GA Wayne
SC Beaufort
SC Hampton
SC Jasper

040 Albany, GA

SMSA
0120 Albany, GA 32.1
GA Dougherty
GA Lee
Non-SMSA counties 31.1
GA Baker
GA Ben Hill
GA Berrien
GA Brooks
GA Calhoun
GA Clay
GA Clinch
GA Colquitt
GA Cook
GA Decatur
GA Early
GA Echols
GA Grady
GA Irwin
GA Lanier
GA Lowndes
GA Miller
GA Mitchell
GA Randolph
GA Seminole
GA Terrell
GA Thomas
GA Tift
GA Turner
GA Worth

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

SMSA
2900 Gainesville, FL 20.6
FL Alachua
3600 Jacksonville, FL 21.8
FL Baker
FL Clay
FL Duval
FL Nassau
FL St. Johns
Non-SMSA counties 22.2
FL Bradford
FL Columbia

FLORIDA ECONOMIC AREA

041 Jacksonville, FL

FL Dixie
FL Gilchrist
FL Hamilton
FL LaFayette
FL Levy
FL Marion
FL Putnam
FL Suwannee
FL Union
GA Brantley
GA Camden
GA Charlton
GA Glynn
GA Pierce
GA Ware

042 Orlando-Melbourne-Daytona Beach, FL

SMSA
2020 Daytona Beach, FL 15.7
FL Volusia
4900 Melbourne-Titusville-Coca, FL 10.7
FL Brevard
5960 Orlando, FL 15.5
FL Orange
FL Osceola
FL Seminole
Non-SMSA counties 14.9
FL Flagler
FL Lake
FL Sumter

043 Miami-Fort Lauderdale, FL

SMSA
2680 Fort Lauderdale-Hollywood, FL 15.5
FL Broward
5000 Miami, FL 39.5
FL Dade
8960 West Palm Beach-Boca Raton, FL 22.4
FL Palm Beach
Non-SMSA counties 30.4
FL Glades
FL Hendry
FL Indian River
FL Martin
FL Monroe
FL Okeechobee
FL St. Lucie

044 Tampa-St. Petersburg, FL

SMSA
1140 Bradenton, FL 15.9
FL Manatee
2700 Fort Myers, FL 15.3
FL Lee
3960 Lakeland-Winter Haven, FL 18.0
FL Polk
7510 Sarasota, FL 10.5
FL Sarasota
8280 Tampa-St. Petersburg, FL 17.9
FL Hillsborough
FL Pasco
FL Pinellas
Non-SMSA counties 17.1
FL Charlotte
FL Citrus
FL Collier
FL Desoto
FL Hardee
FL Hernando
FL Highlands

045 Tallahassee, FL

SMSA
8240 Tallahassee, FL 24.3
FL Leon
FL Wakulla
Non-SMSA counties 29.5
FL Calhoun
FL Franklin
FL Gadsden
FL Jackson
FL Jefferson
FL Liberty
FL Madison
FL Taylor

046 Pensacola-Panama City, FL

SMSA
6015 Panama City, FL 14.1
FL Bay
6080 Pensacola, FL 18.3
FL Escambia
FL Santa Rosa
Non-SMSA counties 15.4
FL Gulf
FL Holmes

046 Pensacola-Panama City, FL

FL Okaloosa
FL Walton
FL Washington

ALABAMA ECONOMIC AREA

047 Mobile, AL

SMSA
5160 Mobile, AL 25.9
AL Baldwin
AL Mobile
6025 Pascagoula-Moss Point, MS 16.9
MS Jackson
Non-SMSA counties 26.4
AL Choctaw
AL Clarke
AL Conecuh
AL Escambia
AL Marengo
AL Monroe
AL Washington
AL Wilcox
MS George
MS Greene

048 Montgomery, AL

SMSA
5240 Montgomery, AL 29.9
AL Autauga
AL Elmore
AL Montgomery
Non-SMSA counties 29.9
AL Barbour
AL Bullock
AL Butler
AL Coffee
AL Coosa
AL Covington
AL Crenshaw
AL Dale
AL Dallas
AL Geneva
AL Henry
AL Houston
AL Lowndes
AL Macon
AL Perry
AL Pike
AL Tallapoosa

049 Birmingham, AL

SMSA
0450 Anniston, AL 14.3
AL Calhoun
1000 Birmingham, AL 24.9
AL Jefferson
AL St. Clair
AL Shelby
AL Walker
AL Etowah
8500 Tuscaloosa, AL 20.6
AL Tuscaloosa
Non-SMSA counties 20.7
AL Bibb
AL Blount
AL Cherokee
AL Chilton
AL Clay
AL Cleburne
AL Cullman
AL Fayette
AL Greene
AL Hale
AL Lamar
AL Marion
AL Pickens
AL Randolph
AL Sumter
AL Talladega
AL Winston

050 Huntsville-Florence, AL

SMSA
2650 Florence, AL 11.9
AL Colbert
AL Lauderdale
3440 Huntsville, AL 12.0
AL Limestone
AL Madison
AL Marshall
Non-SMSA counties 11.2
AL Franklin
AL Lawrence
AL Morgan
TN Lincoln

TENNESSEE ECONOMIC AREA

051 Chattanooga, TN

SMSA
1560 Chattanooga, TN–GA 12.5
GA Catoosa
GA Dade
GA Walker
TN Hamilton
TN Marion
TN Sequatchie
Non-SMSA counties 8.6
AL De Kalb
AL Jackson
GA Chattooga
GA Murray
GA Whitfield
TN Bledsoe
TN Bradley
TN Grundy
TN McMinn
TN Meigs
TN Monroe
TN Polk
TN Rhea

052 Johnson City-Kingsport-Bristol, TN–VA

SMSA
3680 Johnson City-Kingsport-Bristol, TN–VA 2.6
TN Carter
TN Hawkins
TN Sullivan
TN Unicoi
TN Washington
VA Scott
VA Washington
VA Bristol
Non-SMSA counties 3.2
TN Greene
TN Hancock
TN Johnson
VA Buchanan
VA Dickenson
VA Lee
VA Russell
VA Smyth
VA Tazewell
VA Wise
VA Norton
WV McDowell
WV Mercer

053 Knoxville, TN

SMSA
3840 Knoxville, TN 8.8
TN Anderson
TN Blount
TN Knox
TN Union
Non-SMSA counties 4.5
KY Bell
KY Harlan
KY Knox
KY Laurel
KY McCreary
KY Wayne
KY Whitley
TN Campbell
TN Claiborne
TN Cocke
TN Cumberland
TN Fentress
TN Grainger
TN Hamblen
TN Jefferson
TN Loudon
TN Morgan
TN Roane
TN Scott
TN Sevier

054 Nashville, Tn

SMSA
1660 Clarksville-Hopkinsville, TN–KY 18.2
KY Christian
TN Montgomery
5360 Nashville-Davidson, TN 15.8
TN Cheatham
TN Davidson
TN Dickson
TN Robertson
TN Rutherford
TN Sumner
TN Williamson
TN Wilson
Non-SMSA counties 12.0
KY Allen
KY Barren

S E 7 7 9 UMI

GA Emanuel
GA Glascock
GA Jefferson
GA Jenkins

GA Houston
GA Jones
GA Twiggs

Non-SMSA counties 22.2
FL Bradford
FL Columbia

Non-SMSA counties 15.4
FL Gulf
FL Holmes

AL Lawrence
AL Morgan
TN Lincoln

TN Wilson
Non-SMSA counties 12.0
KY Allen
KY Barren

054 Nashville, Tn

KY Butler
KY Clinton
KY Cumberland
KY Edmonson
KY Logan
KY Metcalfe
KY Monroe
KY Simpson
KY Todd
KY Trigg
KY Warren
TN Bedford
TN Cannon
TN Clay
TN Coffee
TN De Kalb
TN Franklin
TN Giles
TN Hickman
TN Houston
TN Humphreys
TN Jackson
TN Lawrence
TN Lewis
TN Macon
TN Marshall
TN Maury
TN Moore
TN Overton
TN Perry
TN Pickett
TN Putnam
TN Smith
TN Stewart
TN Trousdale
TN Van Buren
TN Warren
TN Wayne
TN White

055 Memphis, TN

SMSA
4920 Memphis, TN–AR–MS 32.3
AR Crittenden
MS De Soto
TN Shelby
TN Tipton
Non-SMSA counties 25.5
AR Clay
AR Craighead
AR Cross
AR Greene
AR Lawrence
AR Lee
AR Mississippi
AR Phillips
AR Poinsett
AR Randolph
AR St. Francis
MS Alcorn
MS Benton
MS Bolivar
MS Calhoun
MS Carroll
MS Chickasaw
MS Clay
MS Coahoma
MS Grenada
MS Itawamba
MS Lafayette
MS Lee
MS Leflore
MS Marshall
MS Monroe
MS Montgomery
MS Panola
MS Pontotoc
MS Prentiss
MS Quitman
MS Sunflower
MS Tallahatchie
MS Tate
MS Tippah
MS Tunica
MS Union
MS Washington
MS Webster
MS Yalobusha
MO Dunklin
MO New Madrid
NO Pemiscot
TN Benton
TN Carroll
TN Chester
TN Crockett
TN Decatur
TN Dyer

065 Memphis, TN

TN Fayette
TN Gibson
TN Hardeman
TN Hardin
TN Haydood
TN Henderson
TN Henry
TN Lake
TN Lauderdale
TN McNairy
TN Madison
TN Obion
TN Weakley

KENTUCKY ECONOMIC AREA

056 Paducah, KY

Non-SMSA counties 5.2
IL Hardin
IL Massac
IL Pope
KY Ballard
KY Caldwell
KY Calloway
KY Carlisle
KY Crittenden
KY Fulton
KY Graves
KY Hickman
KY Livingston
KY Lyon
KY McCracken
KY Marshall

057 Louisville, KY

SMSA
4520 Louisville, KY–IN 11.2
IN Clark
IN Floyd
KY Bullitt
KY Jefferson
KY Oldham
Non-SMSA counties 9.8
IN Crawford
IN Harrison
IN Jefferson
IN Orange
IN Scott
IN Washington
KY Breckinridge
KY Grayson
KY Hardin
KY Hart
KY Henry
KY Larue
KY Marion
KY Meade
KY Nelson
KY Shelby
KY Spencer
KY Trimble
KY Washington

58 Lexington, KY

SMSA
4280 Lexington-Fayette, KY 10.8
KY Bourbon
KY Clark
KY Fayette
KY Jessamine
KY Scott
KY Woodford
Non-SMSA counties 7.0
KY Adair
KY Anderson
KY Bath
KY Boyle
KY Breathitt
KY Casey
KY Clay
KY Estill
KY Franklin
KY Garrard
KY Green
KY Harrison
KY Jackson
KY Knott
KY Lee
KY Leslie
KY Letcher
KY Lincoln
KY Madison
KY Magoffin
KY Menifee
KY Mercer
KY Montgomery
KY Morgan

KY Nicholas
KY Owsley
KY Perry
KY Powell
KY Pulaski
KY Rockcastle
KY Russell
KY Taylor
KY Wolfe

WEST VIRGINIA ECONOMIC AREA

059 Huntington, WV

SMSA
3400 Huntington-Ashland, WV–KY–OH 2.9
KY Boyd
KY Greenup
OH Lawrence
WV Cabell
WV Wayne
Non-SMSA counties 2.5
KY Carter
KY Elliott
KY Floyd
KY Johnson
KY Lawrence
KY Martin
KY Pike
KY Rowan
OH Gallia
WV Lincoln
WV Logan
WV Mason
WV Mingo

060 Charleston

SMSA
1480 Charleston, WV 4.9
WV Kanawaha
WV Putnam
Non-SMSA counties 4.2
WV Boone
WV Braxton
WV Calhoun
WV Clay
WV Fayette
WV Gilmer
WV Greenbrier
WV Jackson
WV Monroe
WV Nicholas
WV Pocahontas
WV Raleigh
WV Roane
WV Summers
WV Webster
WV Wyoming

061 Morgantown-Fairmont, WV

Non-SMSA counties 2.1
WV Barbour
WV Doddridge
WV Harrison
WV Lewis
WV Marion
WV Monogalia
WV Preston
WV Randolph
WV Taylor
WV Tucker
WV Upshur

062 Parkersburg, WV

SMSA
6020 Parkersburg-Marietta, WV–OH 1.1
OH Washington
WV Wirt
WV Wood
Non-SMSA counties 1.2
WV Pleasants
WV Ritchie

063 Wheeling-Steubenville-Wierton, WV–OH

SMSA
8080 Steubenville-Wierton, OH–WV 4.3
OH Jefferson
WV Brooke
WV Hancock
9000 Wheeling, WV–OH 2.4
OH Belmont
WV Marshall
WV Ohio
Non-SMSA counties 3.0
OH Harrison
OH Monroe
WBV Tyler
WV Wetzel

OHIO ECONOMIC AREA

064 Youngstown-Warren, OH

SMSA
9320 Youngstown-Warren, OH 9.4
OH Mahoning
OH Trumbull
non-SMSA counties 6.7
OH Columbiana
PA Lawrence
PA Mercer

065 Cleveland, OH

SMSA
0080 Akron, OH 7.8
OH Portage
OH Summit
1320 Canton, OH 6.1
OH Carroll
OH Stark
1680 Cleveland, OH 16.1
OH Cuyahoga
OH Geauga
OH Lake
OH Medina
4440 Lorain-Elyria, OH 9.3
OH Lorain
4800 Mansfield, OH 6.3
OH Richland
Non-SMSA counties 11.3
OH Ashland
OH Ashtabula
OH Coshocton
OH Crawford
OH Erie
OH Holmes
OH Huron
OH Tuscarawas
OH Wayne

066 Columbus, OH

SMSA
1840 Columbus, OH 10.6
OH Delaware
OH Fairfield
OH Franklin
OH Madison
OH Pickaway
Non-SMSA Counties 7.3
OH Athens
OH Fayette
OH Guernsey
OH Hocking
OH Jackson
OH Knox
OH Licking
OH Marion
OH Meigs
OH Morgan
OH Morrow
OH Muskingum
OH Noble
OH Perry
OH Pike
OH Ross
OH Scioto
OH Union
OH Vinton

067 Cincinnati, OH

SMSA
1640 Cincinnati, OH–KY–IN 11.0
IN Dearborn
KY Boone
KY Campbell
KY Kenton
OH Clermont
OH Hamilton
OH Warren
3200 Hamilton-Middletown, OH 5.0
OH Butler
Non-SMSA counties 9.2
IN Franklin
IN Ohio
IN Ripley
IN Switzerland
KY Bracken
KY Carroll
KY Fleming
KY Gallatin
KY Brant
KY Lewis
KY Mason
KY Owen
KY Pendleton
KY Robertson
OH Adams
OH Brown

067 Cincinnati, OH

OH Clinton
OH Highland

068 Dayton, OH

SMSA
2000 Dayton, OH 11.5
OH Greene
OH Miami
OH Montgomery
OH Preble
7960 Springfield, OH 7.8
OH Champaign
OH Clark
Non-SMSA counties 9.9
OH Darke
OH Logan
OH Shelby

069 Lima, OH

SMSA
4320 Lima, OH 4.4
OH Allen
OH Auglaize
OH Putnam
OH Van Wert
Non-SMSA Counties 3.5
OH Hardin
OH Mercer

070 Toledo, OH

SMSA
8400 Toledo, OH–MI 8.8
MI Monroe
OH Fulton
OH Lucas
OH Ottawa
OH Wood
Non-SMSA Counties 7.3
MI Lenawee
OH Hancock
OH Henry
OH Sandusky
OH Seneca
OH Wyandot

MICHIGAN ECONOMIC AREA

071 Detroit, MI

SMSA
0440 Ann Arbor, MI 8.5
MI Washtenaw
2160 Detroit, MI 17.7
MI Lapeer
MI Livingston
MI Macomb
MI Oakland
MI St. Clair
MI Wayne
2640 Flint, MI 12.6
MI Genesee
MI Shiawassee
Non-SMSA counties 16.7
MI Sanilac

072 Saginaw, MI

SMSA
0800 Bay City, MI 2.2
MI Bay
6960 Saginaw, MI 14.3
MI Saginaw
Non-SMSA counties 5.2
MI Alcona
MI Alpena
MI Arenac
MI Cheboygan
MI Chippewa
MI Clare
MI Crawford
MI Gladwin
MI Gratiot
MI Huron
MI Iosco
MI Isabella
MI Luce
MI Mackinac
MI Midland
MI Montmorency
MI Ogemaw
MI Oscoda
MI Otsego
MI Presque Isle
MI Roscommon
MI Tuscola

073 Grand Rapids, MI

SMSA
3000 Grand Rapids, MI 5.2
MI Kent

073 Grand Rapids, MI

MI Ottawa
5320 Muskegon-Norton Shores-Muskegon Heights, MI 9.7
MI Muskegon
MI Oceana
Non-SMSA counties 4.9
MI Allegan
MI Antrim
MI Benzie
MI Charlevoix
MI Emmet
MI Grand Traverse
MI Kalkaska
MI Lake
MI Leelanau
MI Manistee
MI Mason
MI Mecosta
MI Missaukee
MI Montcalm
MI Newaygo
MI Osceola
MI Wexford

074 Lansing-Kalamazoo, MI

SMSA
0780 Battle Creek, MI 7.2
MI Barry
MI Calhoun
3520 Jackson, MI 5.1
MI Jackson
3720 Kalamazoo-Portage, MI 5.9
MI Kalamazoo
MI Van Buren
4040 Lansing-East Lansing, MI 5.5
MI Clinton
MI Eaton
MI Ingham
MI Ionia
Non-SMSA counties 5.5
MI Branch
MI Hillsdale

INDIANA ECONOMIC AREA

075 South Bend, IN

SMSA
7800 South Bend, IN 7.1
IN Marshall
IN St. Joseph
2330 Elkhart, IN 4.0
IN Elkhart
Non-SMSA counties 6.2
IN Fulton
IN Kosciusko
IN Lagrange
MI Berrien
MI Cass
MI St. Joseph

076 Fort Wayne, IN

Non-SMSA counties 4.4
IN Allen
IN Dekalb
IN Wells
IN Huntington
IN Noble
IN Steuben
IN Whitley
OH Defiance
OH Paulding
OH Williams

077 Kokomo-Marion, IN

SMSA
3850 Kokomo, IN 4.4
IN Howard
IN Tipton
Non-SMSA counties 3.7
IN Cass
IN Grant
IN Miami
IN Wabash

078 Anderson-Muhcie, IN

SMSA
0400 Anderson, IN 4.9
IN Madison
5280 Muncie, IN 5.3
IN Delaware
Non-SMSA counties 3.9
IN Blackford
IN Fayette
IN Henry
IN Jay
IN Randolph
IN Union
IN Wayne

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TN Carroll
TN Chester
TN Crockett
TN Decatur
TN Dyer
KY Magoffin
KY Menifee
KY Mercer
KY Montgomery
KY Morgan
Non-SMSA counties 3.0
OH Harrison
OH Monroe
WBV Tyler
WV Wetzel

KY Owen
KY Pendleton
KY Robertson
OH Adams
OH Brown

073 Grand Rapids, MI

SMSA
3000 Grand Rapids, MI 5.2
MI Kent

IN Henry
IN Jay
IN Randolph
IN Union
IN Wayne

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079 Indianapolis, IN

SMSA
1020 Bloomington, IN 3.1
IN Monroe
3480 Indianapolis, IN 12.5
IN Boone
IN Hamilton
IN Hendricks
IN Johnson
IN Marion
IN Morgan
IN Shelby
Non-SMSA counties 9.7
IN Bartholomew
IN Brown
IN Daviess
IN Decatur
IN Greene
IN Jackson
IN Jennings
IN Lawrence
IN Martin
IN Owen
IN Putnam
IN Rush

080 Evansville, IN

SMSA
2440 Evansville, IN–KY 4.8
IN Gibson
IN Posey
IN Vanderburgh
IN Warrick
KY Henderson
5990 Owensboro, KY 4.7
KY Daviess
Non-SMSA counties 3.5
IL Edwards
IL Gallatin
IL Hamilton
IL Lawrence
IL Saline
IL Wabash
IL White
IN Dubois
IN Knox
IN Perry
IN Pike
IN Spencer
KY Hancock
KY Hopkins
KY McLean
KY Muhlenberg
KY Ohio
KY Union
KY Webster

081 Terre Haute, IN

SMSA
8320 Terre Haute, IN 3.1
IN Clay
IN Sullivan
IN Vermillion
IN Vigo
Non-SMSA counties 2.5
IL Clark
IL Crawford
IL Parke

082 Lafayette, IN

SMSA
3920 Lafayette-West Lafayette, IN 2.7
IN Tippecanoe
Non-SMSA counties 1.5
IN Benton
IN Carroll
IN Clinton
IN Fountain
IN Montgomery
IN Warren
IN White

ILLINOIS ECONOMIC AREA

083 Chicago, IL

SMSA
1600 Chicago, IL 19.6
IL Cook
IL Du Page
IL Kane
IL Lake
IL McHenry
IL Will
2960 Gary-Hammond-East Chicago, IN 20.9
IN Lake
IN Porter
3740 Kankakee, IL 9.1
IL Kankakee
3800 Kenosha, WI 3.0
WI Kenosha
Non-SMSA counties 18.4
IL Bureau
IL De Kalb
IL Grundy
IL Iroquois
IL Kendall
IL La Salle
IL Livingston
IL Putnam
IL Jasper
IL Laporte
IN Newton
IN Pulaski
IN Starke

084 Champaign-Urbana, IL

SMSA
1400 Champaign-Urbana-Rantoul, IL 7.8
IL Champaign
Non-SMSA counties 4.8
IL Coles
IL Cumberland
IL Douglas
IL Edgar
IL Ford
IL Piatt
IL Vermilion

085 Springfield-Decatur, IL

SMSA
2040 Decatur, IL 7.6
IL Macon
7880 Springfield, IL 4.5
IL Menard
IL Sangamon
Non-SMSA counties 4.0
IL Cass
IL Christian
IL De Witt
IL Logan
IL Morgan
IL Moultrie
IL Scott
IL Shelby

086 Quincy, IL

Non-SMSA counties 3.1
IL Adams
IL Brown
IL Pike
MO Lewis
MO Marion
MO Pike
MO Ralls

087 Peoria, IL

SMSA
1040 Bloomington-Normal, IL 2.5
IL McLean
6120 Peoria, IL 4.4
IL Peoria
IL Tazewell
IL Woodford
Non-SMSA counties 3.3
IL Fulton
IL Knox
IL McDonough
IL Marshall
IL Mason
IL Schuyler
IL Stark
IL Warren

088 Rockford, IL

SMSA
6880 Rockford, IL 5.3
IL Boone
IL Winnegago
3620 Janesville-Beloit, WI 3.1
Rock Co.
Non-SMSA counties 4.6
IL Lee
IL Ogle
IL Stephenson

WISCONSIN ECONOMIC AREA

089 Milwaukee, WI

SMSA
5080 Milwaukee, WI 8.0
WI Milwaukee
WI Ozaukee
WI Washington
WI Waukesha
6600 Racine, WI 8.4
WI Racine
Non-SMSA counties 7.0
WI Dodge
WI Jefferson
WI Sheyboygan
WI Walworth

090 Madison, WI

SMSA
4720 Madison, WI 2.2
WI Dane
Non-SMSA counties 1.7
WI Adams
WI Columbia
WI Green
WI Iowa
WI Marquette
WI Richland
WI Sauk

091 La Crosse, WI

SMSA
3870 La Corsse, WI 0.9
Non-SMSA counties 0.6
MN Houston
MN Winona
WI Buffalo
WI Jackson
WI Juneau
WI Monroe
WI Trempealeau
WI Vernon

092 Eau Claire, WI

SMSA
2290 Eau Claire, WI 0.5
WI Chippewa
WI Eau Claire
Non-SMSA counties 0.6
WI Barron
WI Dunn
WI Pepin
WI Rusk
WI Sawyer
WI Washburn

093 Wausau, WI

Non-SMSA counties 0.6
WI Clark
WI Langlade
WI Lincoln
WI Marathon
WI Oneida
WI Portage
WI Price
WI Taylor
WI Vilas
WI Wood

094 Appleton-Green Bay-Oshkosh, WI

SMSA
0460 Appleton-Oshkosh, WI 0.9
WI Calumet
WI Outagamie
WI Winnebago
3080 Green Bay, WI 1.3
WI Brown
Non-SMSA counties 1.0
MI Alger
MI Baraga
MI Delta
MI Dickinson
MI Houghton
MI Iron
MI Keweenaw
MI Marguette
MI Menominee
MI Schoolcraft
WI Door
WI Florence
WI Fond Du Lac
WI Forest
WI Green Lake
WI Kewaunee
WI Manitowoc
WI Marinette
WI Menomiee
WI Oconto
WI Shawano
WI Waupaca
WI Waushara

095 Duluth, MN

SMSA
2240 Duluth-Superior, MN–WI 1.0
MN St. Louis
WI Douglas
Non-SMSA counties 1.2
MI Gogebic
MI Ontonagon
MN Carlton
MN Cook
MN Itasca
MN Koochiching
MN Lake
WI Ashland
WI Bayfield

MINNESOTA ECONOMIC AREA

096 Minneapolis-St. Paul, MN

SMSA
5120 Minneapolis-St. Paul, MN–WI 2.9
MN Anoka
MN Carver
MN Chisago
MN Dakota
MN Hennepin
MN Ramsey
MN Scott
MN Washington
MN Wnght
MN St. Croix
6980 St. Cloud, MN 0.5
MN Benton
MN Sherburne
MN Stearns
Non-SMSA 2.2
MN Aitkin
MN Big Stone
MN Blue Earth
MN Brown
MN Cass
MN Chippewa
MN Crow Wing
MN Douglas
MN Faribault
MN Goodhue
MN Grant
MN Isanti
MN Kanabec
MN Kandiyohi
MN Lac Qui Parle
MN Le Sueur
MN McLeod
MN Martin
MN Meeker
MN Mille Lacs
MN Morrison
MN Nicollet
MN Pine
MN Pope
MN Renville
MN Rice
MN Sibley
MN Stevens
MN Swift
MN Todd
MN Traverse
MN Wadena
MN Waseca
MN Watonwan
MN Yellow Medicine
WI Burnett
WI Pierce
WI Polk

097 Rochester, MN

SMSA
6820 Rochester, MN 1.4
MN Olmsted
Non-SMSA counties 0.9
MN Dodge
MN Fillmore
MN Freeborn
MN Mower
MN Steele
MN Wabasha

IOWA ECONOMIC AREA

098 Dubuque, IA

SMSA
220 Dubuque, IA 0.6
IA Dubuque
Non-SMSA counties 0.5
IL Jo Daviess
IA Allamakee
IA Clayton
IA Delaware
IA Jackson
IA Winneshiek
WI Crawford
WI Grant
WI Lafayette

099 Davenport-Rock Island-Moline, IA–IL

SMSA
1960 Davenport-Rock Island-Moline, IA–IL 4.6
IL Henry
IL Rock Island
IA Scott
Non-SMSA counties 3.4
IL Carroll
IL Hancock
IL Henderson
IL Mercer
IL Whiteside
IA Clinton
IA Des Moines
IA Henry
IA Lee
IA Louisa
IA Muscatine
MO Clark

100 Cedar Rapids, IA

SMSA
1360 Cedar Rapids, IA 1.7
IA Linn
Non-SMSA counties 1.5
IA Benton
IA Cedar
IA Iowa
IA Johnson
IA Jones
IA Washington

101 Waterloo, IA

SMSA
8920 Waterloo-Cedar Falls, IA 4.7
IA Black Hawk
Non-SMSA counties 2.0
IA Bremer
IA Buchanan
IA Butler
IA Cerro Gordo
IA Chickasaw
IA Fayette
IA Floyd
IA Franklin
IA Grundy
IA Hancock
IA Hardin
IA Howard
IA Mitchell
IA Winnegago
IA Worth

102 Fort Dodge, IA

Non-SMSA counties 0.4
IA Buena Vista
IA Calhoun
IA Carroll
IA Clay
IA Dickinson
IA Emmet
IA Greene
IA Hamilton
IA Humboldt
IA Kossuth
IA Palo Alto
IA Pocahontas
IA Sac
IA Webster
IA Wright

103 Sioux City, IA

SMSA
7720 Sioux City, IA–NE 1.9
IA Woodbury
NE Dakota
Non-SMSA counties 1.2
IA Cherokee
IA Crawford
IA Ida
IA Monona
IA O'Brian
IA Plymouth
IA Sioux
NE Antelope
NE Cedar
NE Cuming
NE Dixon
NE Knox
NE Madison
NE Pierce
NE Stanton
NE Thurston
NE Wayne
SD Bon Homme
SD Clay
SD Union
SD Yankton

104 Des Moines, IA

2120 Des Moines, IA 4.5
IA Polk
IA Warren
Non-SMSA counties 2.4
IA Adair
IA Appanoose
IA Boone
IA Clarke
IA Dallas
IA Davis
IA Decatur
IA Guthrie
IA Jasper
IA Jefferson
IA Keokuk
IA Lucas
IA Madison
IA Mahaska
IA Marion
IA Marshall
IA Monroe
IA Poweshiek
IA Ringgold
IA Story
IA Tama
IA Union
IA Van Buren
IA Wapello
IA Wayne

MISSOURI ECONOMIC AREA

105 Kansas City, MO

SMSA
3760 Kansas City, MO–KS 12.7
KS Johnson
KS Wyandotte
MO Cass
MO Clay
MO Jackson
MO Platte
MO Ray
4150 Lawrence, KS 7.2
KS Douglas
7000 St. Joseph, MO 3.2
MO Andrew
MO Buchanan
Non-SMSA counties 10.0
KS Anderson
KS Atchison
KS Brown
KS Donphan
KS Franklin
KS Leavenworth
KS Linn
KS Miami
MO Atchison
MO Bates
MO Benton
MO Caldwell
MO Carroll
MO Clinton
MO Daviess
MO Dekalb
MO Gentry
MO Grundy
MO Harrison
MO Henry
MO Holt
MO Johnson
MO Lafayette
MO Livingston
MO Mercer
MO Nodaway
MO Pettis
MO Saline
MO Worth

106 Columbia, MO

SMSA
1740 Columbia, MO 6.3
MO Boone
Non-SMSA counties 4.0
MO Adair
MO Audrain
MO Callaway
MO Camden
MO Chariton
MO Cole
MO Cooper
MO Howard
MO Knox
MO Linn
MO Macon
MO Miller
MO Moniteau

S
E
7
7
9
UMI

9 UMI

IN Lake
IN Porter
3740 Kankakee, IL 9.1
IL Kankakee
3600 Kenosha, WI 8.0

5080 Milwaukee, WI 6.0
WI Milwaukee
WI Ozaukee
WI Washington
WI Waukesha
6600 Racine, WI 8.4
WI Waushara

095 Duluth, MN

SMSA
2240 Duluth-Superior, MN-WI 1.0
MN St. Louis

SD Bon Homme
SD Clay
SD Union
SD Yankton

MO Knox
MO Linn
MO Macon
MO Miller
MO Moniteau

V 4 4 / 1 7 5

106 Columbia, MO

MO Monroe
MO Morgan
MO Osage
MO Putnam
MO Randolph
MO Schuyler
MO Scotland
MO Shelby
MO Sullivan

107 St. Louis, MO

SMSA
7040 St. Louis, MO-IL 14.7
IL Clinton
IL Madison
IL Monroe
IL St. Clair
MO Franklin
MO Jefferson
MO St. Charles
MO St. Louis
MO St. Louis Ind. City
Non-SMSA counties 11.4
IL Alexander
IL Bond
IL Calhoun
IL Clay
IL Effingham
IL Fayette
IL Franklin
IL Greene
IL Jackson
IL Jasper
IL Jefferson
IL Jersey
IL Johnson
IL Macoupin
IL Marion
IL Montgomery
IL Perry
IL Pulaski
IL Randolph
IL Richland
IL Union
IL Washington
IL Wayne
IL Williamson
MO Bollinger
MO Butler
MO Cape Girardeau
MO Carter
MO Crawford
MO Dent
MO Gasconade
MO Iron
MO Lincoln
MO Madison
MO Maries
MO Mississippi
MO Montgomery
MO Perry
MO Phelps
MO Reynolds
MO Ripley
MO St. Francois
MO Ste. Genevieve
MO Scott
MO Stoddard
MO Warren
MO Washington
MO Wayne

108 Springfield, MO

SMSA
7920 Springfield, MO 2.0
MO Christian
MO Greene
Non-SMSA counties 2.3
KS Allen
KS Bourbon
KS Cherokee
KS Crawford
KS Labette
KS Montgomery
KS Neosho
KS Wilson
KS Woodson
MO Barry
MO Barton
MO Cedar
MO Dade
MO Dallas
MO Douglas
MO Hickory
MO Howell
MO Jasper
MO Laclede
MO Lawrence
MO McDonald
MO Newton
MO Oregon
MO Ozark
MO Polk
MO Pulaski
MO St. Clair
MO Shannon
MO Stone
MO Taney
MO Texas
MO Vernon
MO Webster
MO Wright
OK Craig
OK Ottawa

ARKANSAS ECONOMIC AREAS

109 Fayetteville, AR

Non-SMSA counties 3.3
AR Baxter
AR Benton
AR Boone
AR Carroll
AR Madison
AR Marion
AR Newton
AR Searcy
AR Washington
OK Adair
OK Delaware

110 Fort Smith, AR

SMSA
2720 Fort Smith, AR-OK 5.6
AR Crawford
AR Sebastian
OK Le Flore
OK Sequoyah
Non-SMSA counties 6.6
AR Franklin
AR Logan
AR Polk
AR Scott
OK Choctaw
OK Haskell
OK Latimer
OK McCurtain
OK Pittsburg
OK Pushmataha

111 Little Rock-North Little Rock, AR

SMSA
4400 Little Rock-North Little Rock, AR 5.7
AR Pulaski
AR Saline
6240 Pine Bluff, AR 31.2
AR Jefferson
Non-SMSA counties 16.4
AR Arkansas
AR Ashley
AR Bradley
AR Calhoun
AR Chicot
AR Clark
AR Cleburne
AR Cleveland
AR Conway
AR Dallas
AR Desha
AR Drew
AR Faulkner
AR Fulton
AR Garland
AR Grant
AR Hot Spring
AR Independence
AR Izard
AR Jackson
AR Johnson
AR Lincoln
AR Lonoke
AR Monroe
AR Montgomery
AR Ouachita
AR Perry
AR Pope
AR Prairie
AR Sharp
AR Stone
AR Union
AR Van Buren
AR White
AR Woodruff
AR Yell

MISSISSIPPI ECONOMIC AREAS

112 Jackson, MS

SMSA
3560 Jackson, MS 30.3
MS Hinds
MS Rankin
Non-SMSA counties 32.0
MS Attala
MS Choctaw
MS Claiborne
MS Clarke
MS Copiah
MS Covington
MS Franklin
MS Holmes
MS Humphreys
MS Issequena
MS Jasper
MS Jefferson
MS Jefferson Davis
MS Jones
MS Kemper
MS Lauderdale
MS Lawrence
MS Leake
MS Lincoln
MS Lowndes
MS Madison
MS Neshoba
MS Newton
MS Noxubee
MS Oktibbeha
MS Scott
MS Sharkey
MS Simpson
MS Smith
MS Warren
MS Wayne
MS Winston
MS Yazoo

LOUISIANA ECONOMIC AREA

113 New Orleans, LA

SMSA
0920 Biloxi-Gulfport, MS 19.2
MS Hancock
MS Harrison
MS Stone
5560 New Orleans, LA 31.0
LA Jefferson
LA Orleans
LA St. Bernard
LA St. Tammany
Non-SMSA counties 27.7
LA Assumption
LA Lafourche
LA Plaquemines
LA St. Charles
LA St. James
LA St. John The Baptist
LA Tangipahoa
LA Terrebonne
LA Washington
MS Forrest
MS Lamar
MS Marion
MS Pearl River
MS Perry
MS Pike
MS Walthall

114 Baton Rouge, LA

SMSA
076 Baton Rouge, LA 26.1
LA Ascension
LA East Baton Rouge
LA Livingston
LA West Baton Rouge
Non-SMSA counties 30.4
LA Concordia
LA E. Feliciana
LA Iberville
LA Pointe Coupee
LA St. Helena
LA West Feliciana
MS Adams
MS Amite
MS Wilkinson

115 Lafayette, LA

SMSA
3880 Lafayette, LA 20.6
LA Lafayette
Non-SMSA counties 24.1
LA Acadia
LA Evangeline
LA Iberia

115 Lafayette, LA

LA St. Landry
LA St. Martin
LA St. Mary
LA Vermilion

16 Lake Charles, LA

SMSA
3960 Lake Charles, LA 19.3
LA Calcasieu
Non-SMSA counties 17.8
LA Allen
LA Beauregard
LA Cameron
LA Jefferson Davis
LA Vernon

117 Shreveport, LA

SMSA
0220 Alexandria, LA 25.7
LA Grant
LA Rapides
7680 Shreveport, LA 29.3
LA Bossier
LA Caddo
LA Webster
Non-SMSA counties 29.3
LA Avoyelles
LA Bienville
LA Claiborne
LA De Soto
LA Natchitoches
LA Red River
LA Sabine
LA Winn

118 Monroe, LA

SMSA
5200 Monroe, LA 22.8
LA Ouachita
Non-SMSA counties 27.9
LA Caldwell
LA Catahoula
LA East Carroll
LA Franklin
LA Jackson
LA La Salle
LA Lincoln
LA Madison
LA Morehouse
LA Richland
LA Tensas
LA Union
LA West Carroll

TEXAS ECONOMIC AREA

119 Texarkana, TX

SMSA
8360 Texarkana, TX-Texarkana, AR 19.7
AR Little River
AR Miller
TX Bowie
Non-SMSA counties 20.2
AR Columbia
AR Hempstead
AR Howard
AR Lafayette
AR Nevada
AR Pike
AR Sevier
AX Camp
AX Cass
AX Lamar
AX Morris
AX Red River
AX Titus

120 Tyler-Longview, TX

SMSA
4420 Longview, TX 22.8
TX Gregg
TX Harrison
8640 Tyler, TX 23.5
TX Smith
Non-SMSA counties 22.5
TX Anderson
TX Angelina
TX Cherokee
TX Henderson
TX Houston
TX Marion
TX Nacogdoches
TX Panola
TX Rusk
TX San Augustine
TX Shelby
TX Upshur
TX Wood

121 Beaumont-Port Arthur, TX

SMSA
0840 Beaumont-Port Arthur-Orange, TX 22.6
TX Hardine
TX Jefferson
TX Orange
Non-SMSA counties 22.6
TX Jasper
TX Newton
TX Sabine
TX Tyler

122 Houston, TX

SMSA
1260 Bryan-College Station, TX 23.7
TX Brazos
2920 Galveston-Texas City, TX 26.9
TX Galveston
3360 Houston, TX 27.3
TX Brazoria
TX Fort Bend
TX Harris
TX Liberty
TX Montgomery
TX Waller
Non-SMSA counties 27.4
TX Austin
TX Burleson
TX Calhoun
TX Chambers
TX Colorado
TX De Witt
TX Fayette
TX Goliad
TX Grimes
TX Jackson
TX Lavaca
TX Leon
TX Madison
TX Matagorda
TX Polk
TX Robertson
TX San Jacinto
TX Trinity
TX Victoria
TX Walker
TX Washington
TX Wharton

123 Austin, TX

SMSA
0640 Austin, TX 24.1
TX Hays
TX Travis
TX Williamson
Non-SEMA counties 24.2
TX Bastrop
TX Burnet
TX Blanco
TX Caldwell
TX Lee
TX Llano

124 Waco-Killeen-Temple, TX

SMSA
3810 Killeen-Temple, TX 16.4
TX Bell
TX Coryell
8800 Waco, TX 20.7
TX Mc Lennan
Non-SMSA Counties 18.6
TX Bosque
TX Falls
TX Freestone
TX Hamilton
TX Hill
TX Lampasas
TX Limestone
TX Milam
TX Mills

125 Dallas-Fort Worth, TX

SMSA
1920 Dallas-Fort Worth, TX 18.2
TX Collin
TX Dallas
TX Denton
TX Ellis
TX Hood
TX Johnson
TX Kaufman
TX Parker
TX Rockwall
TX Tarrant
TX Wise
7640 Sherman-Denison, TX 9.4
TX Grayson

125 Dallas-Fort Worth, TX

Non-SMSA counties 17.2
OK Bryan
TX Cooke
TX Delta
TX Erath
TX Fannin
TX Franklin
TX Hopkins
TX Hunt
TX Jack
TX Montague
TX Navarro
TX Palo Pinto
TX Rains
TX Somervell
TX Van Zandt

126 Wichita Falls, TX

SMSA
9080 Wichita Falls, TX 12.4
TX Clay
TX Wichita
Non-SMSA counties 11.0
TX Archer
TX Baylor
TX Cottle
TX Foard
TX Hardeman
TX Wilbarger
TX Young

127 Abilene, TX

SMSA
0040 Abilene, TX 11.6
TX Callahan
TX Jones
TX Taylor
Non-SMSA counties 10.9
TX Brown
TX Coleman
TX Comanche
TX Eastland
TX Fisher
TX Haskell
TX Kent
TX Knox
TX Mitchell
TX Nolan
TX Scurry
TX Shackleford
TX Stephens
TX Stonewall
TX Throckmorton

128 San Angelo, TX

SMSA
7200 San Angelo, TX 19.2
TX Tom Green
Non-SMSA counties 20.0
TX Coke
TX Concho
TX Crockett
TX Iron
TX Kimble
TX McCulloch
TX Mason
TX Menard
TX Reagan
TX Runnels
TX San Saba
TX Schleicher
TX Sterling
TX Sutton
TX Terrell

129 San Antonio, TX

SMSA
4080 Laredo, TX 87.3
TX Webb
7240 San Antonio, TX 47.6
TX Bexar
TX Comal
TX Guadalupe
Non-SMSA counties 49.4
TX Atascosa
TX Bandera
TX Dimmit
TX Edwards
TX Frio
TX Gillespie
TX Gonzales
TX Jim Hogg
TX Karnes
TX Kendall
TX Kerr
TX Kinney
TX La Salle
TX McMullen

S E 7 7 9 UMI

MO Dade
MO Dallas
MO Douglas
MO Hickory
MO Howell
MO Jasper
MO Laclede

AR Sharp
AR Stone
AR Union
AR Van Buren
AR White
AR Woodruff
AR Yell

SMSA
3880 Lafayette, LA 20.6
LA Lafayette
Non-SMSA counties 24.1
LA Acadia
LA Evangeline
LA Iberia

TX Nacogdoches
TX Panola
TX Rusk
TX San Augustine
TX Shelby
TX Upshur
TX Wood

TX Parker
TX Rockwall
TX Tarrant
TX Wise
7640 Sherman-Denison, TX 9.4
TX Grayson

TX Jim Hogg
TX Karnes
TX Kendall
TX Kerr
TX Kinney
TX La Salle
TX McMullen

129 San Antonio, TX

TX Maverick
TX Medina
TX Real
TX Uvalde
TX Val Verde
TX Wilson
TX Zapata
TX Zavala

130 Corpus Christi, TX

SMSA
1880 Corpus Christi, TX 41.7
TX Nueces
TX San Patricio
Non-SMSA counties 44.2
TX Aransas
TX Bee
TX Brooks
TX Duval
TX Jim Wells
TX Kenedy
TX Kleberg
TX Live Oak
TX Refugio

131 Brownsville-McAllen-Harlingen, TX

SMSA
1240 Brownsville-Harlingen-San Benito, TX 71.0
TX Cameron
4680 McAllen-Pharr-Edinburg, TX 72.8
TX Hidalgo
Non-SMSA counties 72.9
TX Starr
TX Willacy

132 Odessa-Midland, TX

SMSA
5040 Midland, TX 19.1
TX Midland
5800 Odessa, TX 15.1
TX Ector
Non-SMSA counties 18.9
TX Andrews
TX Crane
TX Glasscock
TX Howard
TX Loving
TX Martin
TX Pecos
TX Reeves
TX Upton
TX Ward
TX Winkler

133 El Paso, TX

SMSA
2320 El Paso, TX 57.8
TX El Paso
Non-SMSA counties 49.0
NM Chaves
NM Dona Ana
NM Eddy
NM Grant
NM Hidalgo
NM Luna
NM Otero
NM Sierra
EX Brewster
TX Culberson
TX Hudspeth
TX Jeff Davis
TX Presidio

134 Lubbock, TX

SMSA
4600 Lubbock, TX 19.6
TX Lubbock
Non-SMSA counties 19.5
NM Lea
NM Roosevelt
TX Bailey
TX Borden
TX Cochran
TX Crosby
TX Dawson
TX Dickens
TX Floyd
TX Gaines
TX Garza
TX Hale
TX Hockley
TX King
TX Lamb
TX Lynn
TX Motley
TX Terry
TX Yoakum

135 Amarillo, TX

SMSA
0320 Amarillo, TX 9.3
TX Potter
TX Randall
Non-SMSA counties 11.0
NM Curry
NM Harding
NM Quay
NM Union
OK Beaver
OK Cimarron
OK Texas
TX Armstrong
TX Briscoe
TX Carson
TX Castro
TX Childress
TX Collingsworth
TX Dallam
TX Deaf Smith
TX Donley
TX Gray
TX Hall
TX Hansford
TX Hartley
TX Hemphill
TX Hutchinson
TX Lipscomb
TX Moore
TX Ochiltree
TX Oldham
TX Parmer
TX Roberts
TX Sherman
TX Swisher
TX Wheeler

OKLAHOMA ECONOMIC AREA

136 Lawton, OK

SMSA
4200 Lawton, OK 14.8
OK Comanche
Non-SMSA counties 10.8
OK Cotton
OK Greer
OK Harmon
OK Jackson
OK Jefferson
OK Kiowa
OK Stephens
OK Tillman

137 Oklahoma City, OK

SMSA
5880 Oklahoma City, OK 10.2
OK Canadian
OK Cleveland
OK McClain
OK Oklahoma
OK Pottawatomie
Non-SMSA counties 9.0
OK Alfalfa
OK Atoka
OK Beckham
OK Blaine
OK Caddo
OK Carter
OK Coal
OK Custer
OK Dewey
OK Ellis
OK Garfield
OK Garvin
OK Grady
OK Grant
OK Harper
OK Hughes
OK Johnston
OK Kingfisher
OK Lincoln
OK Logan
OK Love
OK Major
OK Marshall
OK Murray
OK Okfuskee
OK Pontotoc
OK Roger Mills
OK Seminole
OK Washita
OK Woods
OK Woodward

138 Tulsa, OK

SMSA
8560 Tulsa, OK 10.2
OK Creek
OK Mayes
OK Osage
OK Rogers
OK Tulsa
OK Wagoner
Non-SMSA counties 10.0
OK Cherokee
OK Kay
OK Mc Intosh
OK Muskogee
OK Noble
OK Nowata
OK Okmulgee
OK Pawnee
OK Payne
OK Payne
OK Washington

KANSAS ECONOMIC AREA

139 Wichita, KS

SMSA
9040 Wichita, KS 7.9
KS Butler
KS Sedgwick
Non-SMSA counties 5.7
KS Barber
KS Barton
KS Chase
KS Chautauqua
KS Clark
KS Comanche
KS Cowley
KS Edwards
KS Elk
KS Finney
KS Ford
KS Grant
KS Gray
KS Greeley
KS Greenwood
KS Hamilton
KS Harper
KS Harvey
KS Haskell
KS Hodgeman
KS Kerny
KS Kingman
KS Kiowa
KS Lane
KS McPherson
KS Marion
KS Meade
KS Morton
KS Ness
KS Pawnee
KS Pratt
KS Reno
KS Rice
KS Rush
KS Scott
KS Seward
KS Stafford
KS Stanton
KS Stevens
KS Sumner
KS Wichita

140 Salina, KS

Non-SMSA counties 1.5
KS Cheyenne
KS Cloud
KS Decatur
KS Dickinson
KS Ellis
KS Ellsworth
KS Gove
KS Graham
KS Jewell
KS Lincoln
KS Logan
KS Mitchell
KS Norton
KS Osborne
KS Ottawa
KS Phillips
KS Rawlins
KS Republic
KS Rooks
KS Russell
KS Saline
KS Sheridan
KS Sherman
KS Smith
KS Thomas
KS Trego
KS Wallace

141 Topeka, KS

SMSA
8440 Topeka, KS 9.0
KS Jefferson
KS Osage
KS Shawnee
Non-SMSA counties 6.5
KS Clay
KS Coffey
KS Geary
KS Jackson
KS Lyon
KS Marshall
KS Morris
KS Nemaha
KS Pottawatomie
KS Riley
KS Wabaunsee
KS Washington

NEBRASKA ECONOMIC AREA

142 Lincoln, NE

SMSA
4360 Lincoln, NE 2.8
NE Lancaster
Non-SMSA counties 1.9
NE Butler
NE Fillmore
NE Gage
NE Jefferson
NE Johnson
NE Nemaha
NE Otoe
NE Pawnee
NE Polk
NE Richardson
NE Saline
NE Seward
NE Thayer
NE York

143 Omaha, NE

SMSA
5920 Omaha, NE-IA 7.6
IA Pottawattamie
NE Douglas
NE Sarpy
Non-SMSA counties 5.3
IA Adams
IA Audubon
IA Cass
IA Fremont
IA Harrison
IA Mills
IA Montgomery
IA Page
IA Shelby
IA Taylor
NE Burt
NE Cass
NE Colfax
NE Dodge
NE Platte
NE Saunders
NE Washington

144 Grand Island, NE

Non-SMSA counties 1.4
NE Adams
NE Arthur
NE Blaine
NE Boone
NE Boyd
NE Brown
NE Buffalo
NE Chase
NE Cherry
NE Clay
NE Custer
NE Dawson
NE Dundy
NE Franklin
NE Frontier
NE Furnas
NE Garfield
NE Gosper
NE Grant
NE Greeley
NE Hall
NE Hamilton
NE Harlan
NE Hayes
NE Hitchcock
NE Holt
NE Hooker
NE Howard

144 Grand Island, NE

NE Kearney
NE Keith
NE Keya Paha
NE Lincoln
NE Logan
NE Loup
NE McPherson
NE Merrick
NE Nance
NE Nuckolls
NE Perkins
NE Phelps
NE Red Willow
NE Rock
NE Sherman
NE Thomas
NE Valley
NE Webster
NE Wheeler

145 Scottsbluff, NE

Non-SMSA counties 5.3
NE Banner
NE Box Butte
NE Cheyenne
NE Dawes
NE Deuel
NE Garden
NE Kimball
NE Morrill
NE Scotts Bluff
NE Shendan
NE Sioux
NE Goshen

SOUTH DAKOTA ECONOMIC AREA

146 Rapid City, SD

SMSA
6660 Rapid City, SD 3.4
SD Pennington
SD Meade
Non-SMSA counties 7.9
SD Bennett
SD Buffalo
SD Butte
SD Campbell
SD Corson
SD Custer
SD Dewey (Armstrong)
SD Fall River
SD Haakon
SD Harding
SD Hughes
SD Hyde
SD Jackson
SD Jones
SD Lawrence
SD Lyman
SD Mellette
SD Perkins
SD Potter
SD Shannon (Washington)
SD Stanley
SD Sully
SD Todd
SD Tripp
SD Walworth
SD Washabaugh
SD Ziebach
WY Crook
WY Niobrara
WY Weston

147 Sioux Falls, SD

7760 Sioux Falls, SD 1.2
SD Minnehaha
Non-SMSA counties 0.8
IA Lyon
IA Osceola
MN Cottonwood
MN Jackson
MN Lincoln
MN Lyon
MN Murray
MN Nobles
MN Pipestone
MN Redwood
MN Rock
SD Aurora
SD Beadle
SD Brookings
SD Brule
SD Charles Mix
SD Davison
SD Douglas
SD Gregory

147 Sioux Falls, SD

SD Hand
SD Hanson
SD Hutchinson
SD Jerauld
SD Kingsbury
SD Lake
SD Lincoln
SD McCook
SD Miner
SD Moody
SD Sanborn
SD Turner

148 Aberdeen, SD

Non-SMSA counties 1.3
SD Brown
SD Clark
SD Codington
SD Day
SD Deuel
SD Edmunds
SD Faulk
SD Grant
SD Hamlin
SD McPherson
SD Marshall
SD Roberts
SD Spink

NORTH DAKOTA ECONOMIC AREA

149 Fargo-Moorhead, ND-MN

Non-SMSA counties 0.7
MN Becker
MN Clay
MN Cass
MN Wilkin
ND Barnes
ND Dickey
ND Eddy
ND Foster
ND Griggs
ND LaMoure
ND Logan
ND McIntosh
ND Ransom
ND Richland
ND Sargent
ND Steele
ND Stutsman
ND Traill

150 Grand Forks, ND

SMSA
2985 Grand Forks, ND-MN 1.2
MN Polk
ND Grand Forks
Non-SMSA counties 2.0
MN Bletrami
MN Clearwater
MN Hubbard
MN Kittson
MN Lake of the Woods
MN Mahnomen
MN Marshall
MN Norman
MN Pennington
MN Red Lake
MN Roseau
ND Benson
ND Cavalier
ND Nelson
ND Pembina
ND Ramsey
ND Towner
ND Walsh

151 Bismarck, ND

SMSA
1010 Bismarck, ND 6.4
ND Burleigh
ND Morton
Non-SMSA counties 1.3
ND Adams
ND Billings
ND Bowman
ND Dunn
ND Emmons
ND Golden Valley
ND Grant
ND Hettinger
ND Kidder
ND Mercer
ND Oliver
ND Shendan
ND Sioux
ND Slope
ND Stark
ND Wells

152 Minot, ND

Non-SMSA counties 4.4
MT Daniels
MT Richland
MT Roosevelt
MT Sheridan
ND Bottineau
ND Burke
ND Divide
ND McHenry
ND McKenzie
ND McLean
ND Mountrail
ND Pierce
ND Renville
ND Rolette

156 Cheyenne-Casper, WY

WY Johnson
WY Laramie
WY Natrona
WY Platte

157 Denver, CO

2080 Denver-Boulder, CO 13.8
CO Adams
CO Arapahoe
CO Boulder
CO Denver
CO Douglas
CO Gilpin
CO Jefferson
2670 Fort Collins, CO 6.9

NEW MEXICO ECONOMIC AREA

160 Albuquerque, NM

NM Rio Arriba
NM San Juan
NM San Miguel
NM Santa Fe
NM Socorro
NM Taos
NM Torrance

ARIZONA ECONOMIC AREA

161 Tucson, AZ

8520 Tucson, AZ 24.1
AZ Pima
Non-SMSA counties 27.0

UTAH ECONOMIC AREA

165 Salt Lake City-Ogden, UT

WY Sweetwater
WY Uinta

IDAHO ECONOMIC AREA

166 Pocatello-Idaho Falls, ID

Non-SMSA counties 4.0
ID Bannock
ID Bingham
ID Blaine
ID Bonneville
ID Butte
ID Camas

171 Seattle, WA

7600 Seattle-Everett, WA 7.2
WA King
WA Snohomish
6200 Tacoma, WA 6.2
WA Pierce
Non-SMSA counties 6.1
WA Clallam
WA Grays Harbor
WA Island
WA Jefferson
WA Kitsap
WA Lewis
WA Mason
WA Pacific

176 San Francisco-Oakland-San Jose, CA

CA Soland
Non-SMSA counties 23.2
CA Lake
CA Lake Mendocino
CA San Benito

177 Sacramento, CA

SMSA
6920 Sacramento, CA 16.1
CA Placer
CA Sacramento
CA Yolo
Non-SMSA counties 14.3
CA Butte

Non-SMSA counties 4.4
MT Daniels
MT Richland
MT Roosevelt
MT Sheridan
ND Bottineau
ND Burke
ND Divide
ND McHenry
ND McKenzie
ND McLean
ND Mountrail
ND Pierce
ND Renville
ND Rolette
ND Ward
ND Williams

MONTANA ECONOMIC AREA

153 Great Falls, MT

3040 Great Falls, MT 3.2
MT Cascade
Non-SMSA counties 4.1
MT Blaine
MT Broadwater
MT Chouteau
MT Fergus
MT Glacier
MT Hill
MT Jefferson
MT Judith Basin
MT Lewis and Clark
MT Liberty
MT Meagher
MT Petroleum
MT Phillips
MT Pondera
MT Teton
MT Toole
MT Valley
MT Wheatland

154 Missoula, MT

Non-SMSA counties 2.7
MT Beaverhead
MT Deer Lodge
MT Flathead
MT Granite
MT Lincoln
MT Madison
MT Mineral
MT Missoula
MT Powell
MT Ravalli
MT Sanders
MT Silver Bow

155 Billings, MT

0680 Billings, MT 3.3
MT Yellowstone
Non-SMSA counties 3.3
MT Big Horn
MT Carbon
MT Carter
MT Custer
MT Dawson
MT Fallon
MT Gallatin
MT Garfield
MT Golden Valley
MT Mc Cone
MT Musselshell
MT Park
MT Powder River
MT Prairie
MT Rosebud
MT Stillwater
MT Sweet Grass
MT Treasure
MT Wibaux
MT Ylwst N Pk & Part
WY Big Horn
WY Hot Springs
WY Park
WY Sheridan
WY Washakie

156 Cheyenne-Casper, WY

Non-SMSA counties 7.5
CO Jackson
WY Albany
WY Campbell
WY Carbon
WY Converse
WY Fremont
WY Johnson
WY Laramie
WY Natrona
WY Platte

157 Denver, CO

2080 Denver-Boulder, CO 13.8
CO Adams
CO Arapahoe
CO Boulder
CO Denver
CO Douglas
CO Gilpin
CO Jefferson
2670 Fort Collins, CO 6.9
CO Larimer
3060 Greeley, CO 13.1
CO Weld
Non-SMSA counties 12.8
CO Cheyenne
CO Clear Creek
CO Elbert
CO Grand
CO Kit Carson
CO Logan
CO Morgan
CO Park
CO Phillips
CO Sedgwick
CO Summit
CO Washington
CO Yuma

158 Colorado Springs-Pueblo, CO

1720 Colorado Springs, CO 10.9
CO El Paso
CO Teller
6560 Pueblo, CO 27.5
CO Pueblo
Non-SMSA counties 19.0
CO Alamosa
CO Baca
CO Bent
CO Chaffee
CO Conejos
CO Costilla
CO Crowley
CO Custer
CO Fremont
CO Huerfano
CO Kiowa
CO Lake
CO Las Animas
CO Lincoln
CO Mineral
CO Otero
CO Prowers
CO Rio Grande
CO Saguache

159 Grand Junction, CO

Non-SMSA counties 10.2
CO Archuleta
CO Delta
CO Dolores
CO Eagle
CO Garfield
CO Gunnison
CO Hinsdale
CO La Plata
CO Mesa
CO Moffat
CO Montezuma
CO Montrose
CO Ouray
CO Pitkin
CO Rio Blanco
CO Routt
CO San Juan
CO San Miguel
UT Grand
UT San Juan

NEW MEXICO ECONOMIC AREA

160 Albuquerque, NM

0200 Albuquerque, NM 38.3
NM Bernalillo
NM Sandoval
Non-SMSA counties 45.9
NM Catron
NM Colfax
NM De Baca
NM Guadalupe
NM Lincoln
NM Los Alamos
NM McKinley
NM Mora
NM Rio Arriba
NM San Juan
NM San Miguel
NM Santa Fe
NM Socorro
NM Taos
NM Torrance

ARIZONA ECONOMIC AREA

161 Tucson, AZ

8520 Tucson, AZ 24.1
AZ Pima
Non-SMSA counties 27.0
AZ Cochise
AZ Graham
AZ Greenlee
AZ Santa Cruz

162 Phoenix, AZ

6200 Phoenix, AZ 15.8
AZ Maricopa
Non-SMSA counties 19.6
AZ Apache
AZ Coconino
AZ Gila
AZ Mohave
AZ Navajo
AZ Pinal
AZ Yavapai
AZ Yuma

NEVADA ECONOMIC AREA

163 Las Vegas, NV

4120 Las Vegas, NV 13.9
NV Clark
Non-SMSA counties 12.6
NV Esmeralda
NV Lincoln
NV Nye
UT Beaver
UT Garfield
UT Iron
UT Kane
UT Washington

164 Reno, NV

6720 Reno, NV 8.2
NV Washoe
Non-SMSA counties 9.2
NV Churchill
NV Douglas
NV Elko
NV Eureka
NV Humboldt
NV Lander
NV Lyon
NV Mineral
NV Pershing
NV Storey
NV White Pine
NV Carson City

UTAH ECONOMIC AREA

165 Salt Lake City-Ogden, UT

6520 Provo-Orem, UT 2.4
UT Utah
7160 Salt Lake City-Ogden, UT 6.0
UT Davis
UT Salt Lake
UT Tooele
UT Weber
Non-SMSA counties 5.1
ID Bear Lake
ID Franklin
ID Oneida
UT Box Elder
UT Cache
UT Carbon
UT Daggett
UT Duchesne
UT Emery
UT Juab
UT Millard
UT Morgan
UT Piute
UT Rich
UT Sanpete
UT Sevier
UT Summit
UT Uintah
UT Wasatch
UT Wayne
WY Lincoln
WY Sublette

UTAH ECONOMIC AREA

165 Salt Lake City-Ogden, UT

WY Sweetwater
WY Uinta

IDAHO ECONOMIC AREA

166 Pocatello-Idaho Falls, ID

Non-SMSA counties 4.0
ID Bannock
ID Bingham
ID Blaine
ID Bonneville
ID Butte
ID Camas
ID Caribou
ID Cassia
ID Clark
ID Custer
ID Fremont
ID Gooding
ID Jefferson
ID Jerome
ID Lemhi
ID Lincoln
ID Madison
ID Minidoka
ID Power
ID Teton
ID Twin Falls
WY Teton

167 Boise City, ID

1080 Boise City, ID 2.3
ID Ada
Non-SMSA counties 4.4
ID Adams
ID Boise
ID Canyon
ID Elmore
ID Gem
ID Owhee
ID Payette
ID Valley
ID Washington
OR Harney
OR Malheur

WASHINGTON ECONOMIC AREA

168 Spokane, WA

7840 Spokane, WA 2.8
WA Spokane
Non-SMSA counties 3.0
ID Benewah
ID Bonner
ID Boundary
ID Clearwater
ID Idaho
ID Kootenai
ID Latah
ID Lewis
ID Nez Perce
ID Shoshone
WA Adams
WA Asotin
WA Columbia
WA Ferry
WA Garfield
WA Lincoln
WA Pend Oreille
WA Stevens
WA Whitman

169 Richland, WA

6740 Richland-Kennewick, WA 5.4
WA Benton
WA Franklin
Non-SMSA counties 3.6
OR Baker
OR Gilliam
OR Grant
OR Morrow
OR Umatilla
OR Union
OR Wallowa
OR Wheeler
WA Walla Walla

170 Yakima, WA

9260 Yakima, WA 9.7
WA Yakima
Non-SMSA counties 7.2
WA Chelan
WA Douglas
WA Grant
WA Kittitas
WA Okanogan

171 Seattle, WA

7600 Seattle-Everett, WA 7.2
WA King
WA Snohomish
8200 Tacoma, WA 5.2
WA Pierce
Non-SMSA counties 6.1
WA Clallam
WA Grays Harbor
WA Island
WA Jefferson
WA Kitsap
WA Lewis
WA Mason
WA Pacific
WA San Juan
WA Skagit
WA Thurston
WA Whatcom

OREGON ECONOMIC AREA

172 Portland, OR

SMSA
6440 Portland, OR-WA 4.5
OR Clackamas
OR Multnomah
OR Washington
WA Clark
7080 Salem, OR 2.9
OR Marion
OR Polk
Non-SMSA counties 3.8
OR Benton
OR Clatsop
OR Columbia
OR Crook
OR Deschutes
OR Hood River
OR Jefferson
OR Lincoln
OR Linn
OR Sherman
OR Tillamook
OR Wasco
OR Yamhill
WA Cowlitz
WA Klickitat
WA Skamania
WA Wahkiakum

173 Eugene, OR

SMSA
2400 Eugene-Springfield, OR 2.4
OR Lane
Non-SMSA counties 2.4
OR Coos
OR Curry
OR Douglas
OR Jackson
OR Josephine
OR Klamath
OR Lake

CALIFORNIA ECONOMIC AREA

174 Redding, CA

Non-SMSA counties 6.6
CA Lassen
CA Modoc
CA Plumas
CA Shasta
CA Siskiyou
CA Tehama

175 Eureka, CA

Non-SMSA counties 6.6
CA Del Norte
CA Humboldt
CA Trinity

176 San Francisco-Oakland-San Jose, CA

SMSA
7120 Salinas-Seaside-Monterey, CA 28.9
CA Monterey
7360 San Francisco-Oakland, CA 25.6
CA Alameda
CA Contra Costa
CA Marin
CA San Francisco
CA San Mateo
7400 San Jose, CA 19.6
CA Santa Clara
7485 Santa Cruz, CA 14.9
CA Santa Cruz
7500 Santa Rosa, CA 9.1
CA Sonoma
8720 Vallejo-Fairfield-Napa, CA 17.1
CA Napa
CA Soland
Non-SMSA counties 23.2
CA Lake
CA Lake Mendocino
CA San Benito

177 Sacramento, CA

SMSA
6920 Sacramento, CA 16.1
CA Placer
CA Sacramento
CA Yolo
Non-SMSA counties 14.3
CA Butte
CA Colusa
CA El Dorado
CA Glenn
CA Nevada
CA Sierra
CA Sutter
CA Yuba

178 Stockton-Modesto, CA

SMSA
5170 Modesto, CA 12.3
CA Stanislaus
8120 Stockton, CA 24.3
CA San Joaquin
Non-SMSA counties 19.8
CA Alpine
CA Amador
CA Calaveras
CA Mariposa
CA Merced
CA Tuolumne

179 Fresno-Bakersfield, CA

SMSA
0680 Bakersfield, CA 19.1
CA Kern
2840 Fresno, CA 26.1
CA Fresno
Non-SMSA Counties 23.6
CA Kings
CA Madera
CA Tulare

180 Los Angeles, CA

SMSA
0360 Anaheim-Santa Ana-Garden Grove, CA 11.9
CA Orange
4480 Los Angeles-Long Beach, CA 26.3
CA Los Angeles
6000 Oxnard-Simi Valley-Ventura, CA 21.5
CA Ventura
6780 Riverside-San Bernadino-Ontario, CA 19.0
CA Riverside
CA San Bernardino
7480 Santa Barbara-Santa Maria-Lompoc, CA 19.7
CA Santa Barbara
Non-SMSA counties 24.6
CA Inyo
CA Mono
CA San Luis Obispo

181 San Diego, CA

SMSA
7320 San Diego, CA 16.9
CA San Diego
Non-SMSA counties 18.2
CA Imperial

ALASKA ECONOMIC AREA

182 Anchorage, AK

SMSA
0380 Anchorage, AK 8.7
AK Anchorage Division
Non-SMSA counties 15.1
AK Aleutian Islands Division
AK Angoon Division
AK Barrow-North Slope Division
AK Bethel Division
AK Bristol Bay Borough
AK Bristol Bay Division
AK Cordova McCarthy Division
AK Fairbanks Division
AK Haines Division
AK Juneau Division
AK Kenai-Cook Inlet Division
AK Ketchikan Division
AK Kobuk Division
AK Kodiak Division
AK Kuskokwim Division
AK Matanuska-Susitna Division
AK Nome Division
AK Outer Ketchikan Division
AK Prince of Wales Division

ALASKA ECONOMIC AREA

182 Anchorage, AK

AK Seward Division
AK Sitka Division
AK Skagway-Yakutat Division
AK Southeast Fairbanks Division
AK Upper Yukon Division
AK Valdez-Cdtina-Whittier Division
AK Wade Hampton Division
AK Wrangell-Petersburg Division
AK Yukon-Koyukuk Division

HAWAII ECONOMIC AREA

183 Honolulu, HI

SMSA
3120 Honolulu, HI 69 1
HI Honolulu
Non-SMSA Counties 70 4
HI Hawaii
HI Kauai
HI Maui + Kalawao

[FR Doc. 79-27753 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-24-M]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, Bonanza, Utah 84008, has filed a petition to modify the application of 30 CFR 57.19-65 (hoisting procedures) to its Bonanza Operations located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits the lowering of conveyances by the use of the hoist brake alone, except during emergencies.

2. The petitioner is mining gilsonite from narrow, vertical to slightly inclined fractures. The shafts of the petitioner's mine follow the dip of the veins, which can change as the shaft deepens.

3. The petitioner requests permission to lower its miners down the shafts using brakes alone for the following reasons:

(a) The hoistman has a better feel for problems or obstructions in the shaft when lowering by brakes and thereby can react faster than if lowering is done under power.

(b) The shafts are relatively shallow; therefore, brakes are not used excessively to a point of becoming overheated or inoperative.

(c) The petitioner's hoists are not designed for powered lowering of the conveyance, except at full speed. Because of the way the shaft follows the vein, lowering miners at full speed is not safe.

4. For these reasons, the petitioner believes that lowering its miners by the use of brakes alone will enhance the safety of its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27965 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-25-M]

Demar Boren; Petition for Modification of Application of Mandatory Safety Standard

Demar Boren, 220 West Main, Vernal, Utah 84078, has filed a petition to modify the application of 30 CFR 57.19-65 (hoisting procedures) to its Little Emma No. 4 Mine located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits the lowering of conveyances by the use of the hoist brake alone, except during emergencies.

2. The petitioner is mining gilsonite from narrow, vertical to slightly inclined fractures. The shafts of the petitioner's mine follow the dip of the veins, which can change as the shaft deepens.

3. The petitioner requests permission to lower its miners down the shafts using brakes alone for the following reasons:

(a) The hoistman has a better feel for problems or obstructions in the shaft when lowering by brakes and thereby can react faster than if lowering is done under power.

(b) The shafts are relatively shallow; therefore, brakes are not used excessively to a point of becoming overheated or inoperative.

(c) The petitioner's hoists are not designed for powered lowering of the conveyance, except at full speed. Because of the way the shaft follows the vein, lowering miners at full speed is not safe.

4. For these reasons, the petitioner believes that lowering its miners by the use of brakes alone will enhance the safety of its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27964 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-121-C]

Ember Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Ember Coal Company, Route 2, box 317, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 1 Mine, located in Pikeville, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining coal seams ranging 44 to 54 inches in height. The coal seam has consistent ascending and descending grades, creating dips in the mine floor.

3. As a result of these dips, canopies create a hazard by tearing out roof bolts and crossbars supporting the roof.

4. In addition, in low seams heights, canopies do not allow the equipment operator proper visibility for safe operation of the equipment, thus endangering other miners in the area.

5. For these reasons, the petitioner believes that cabs or canopies in the heights encountered in its mine will result in a diminution of safety and therefore requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 9, 1979. Comments must be filed with the Office of Standards, Regulations and variances, Mine Safety and Health Administration, 4015 Wilson boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated August 29, 1979.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

[FR Doc. 79-27966 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-43-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs; Amendment of Prohibited Transaction Exemption 77-9

AGENCY: Department of Labor.

ACTION: Amendment of Prohibited Transaction Exemption 77-9

SUMMARY: This document amends Prohibited Transaction Exemption 77-9 to delay for six months the effective date of a condition of that exemption. Prohibited Transaction Exemption 77-9 is the class exemption relating to certain transactions commonly engaged in by employee benefit plans with insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters. The delay will affect participants, beneficiaries and fiduciaries of employee benefit plans, sponsors of such plans, insurance agents and brokers, pension consultants and insurance companies.

DATE: The amendment is retroactively effective as of January 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Room C-4508, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8620.

SUPPLEMENTARY INFORMATION: The Department of Labor (the Department) is hereby amending Prohibited Transaction Exemption 77-9, a class exemption which permits certain transactions that might otherwise be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and be subject to excise taxes imposed by the Internal Revenue Code 1954 (the Code) as amended by the Act. The exemption relates to various common transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters in connection with the sale to employee benefit plans of insurance and annuity contracts and securities issued by investment companies.

The exemption was granted June 24, 1977 (42 FR 32395).[1] On that same date, additional conditions were proposed to be added to exemption (42 FR 32399). The proposed additional conditions together with other proposed amendments (see 43 FR 18354, April 28, 1978), were the subject of a public hearing on July 20, 1978. The exemption, as amended, was filed with the **Federal Register** on December 29, 1978 and published on January 5, 1979 (44 FR 1479). Among other conditions, one of the conditions which had been proposed on June 24, 1977 was adopted, effective for transactions entered into after December 31, 1978. That condition requires that in order to take advantage of the exemption, and insurance agent or broker or pension consultant must, with respect to a transaction (occurring after December 31, 1978) involving the purchase with plan assets of an insurance or annuity contract or the receipt of a sales commission thereon, provide to an independent plan fiduciary, prior to execution of the transaction, a description of any charges, fees, discounts, penalties or adjustments which may be imposed under a recommended contract in connection with the purchase, holding, exchange, termination or sale of such contract.

The Department was requested to postpone the effective date of the condition, as it applies to insurance agents, brokers and pension consultants, until July 1, 1979. On June 5, 1979 the Department proposed an amendment to the exemption (44 FR 32310) which would delay for six months the effective date of the condition. In response to the proposed amendment, the Department received only two letters of comment from the public. Both commentators urged that the proposed amendment be adopted.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The exemption, as hereby amended, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transition is in fact a prohibited transaction.

(3) The amended class exemption is applicable to a particular transaction only if the transaction satisfied the conditions specified in the exemption.

(4) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of June 5, 1979, the Department makes the following determinations:

(i) The amendment to the class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

AMENDMENT

Section V(b)(1)(C) of Prohibited Transaction Exemption 77-9 is hereby amended by deleting the date "December 31, 1978" and substituting therefor "June 30, 1979," effective as of January 1, 1979.

Signed at Washington, D.C. this 28th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 79-27486 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-29-M

[1] While the exemption was originally adopted and amended jointly by the Department and the Internal Revenue Service, it is being amended now by the Department acting alone pursuant to authority granted by Reorganization Plan No. 4 of 1978 (43 FR 47713) effective December 31, 1978 (44 FR 1065).

Pension and Welfare Benefit Programs

[Application No. L-1360]

Proposed Exemption for Certain Transactions Involving the Iron Workers Local Union No. 8 Joint Apprenticeship and Advanced Journeyman Training Trust Fund

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed sale of real property by the Iron Workers Local Union No. 8 Joint Apprenticeship and Advanced Journeyman Training Trust Fund (the Plan) to the Iron Workers Local Union No. 8 (the Union). The proposed exemption, if granted, would affect the Union and participants and beneficiaries of the Plan.

DATES: Written comments must be received by the Department on or before

A concrete block building situated on the western half of the real property is

needed and consequently, Plan participants would have their training

pending exemption. Comments received will be available for public inspection with the application for exemption at

other persons participating in the proposed transaction.

156th Street, N.E. in Bellevue, Washington (the Property) from Promac

DATES: Written comments must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L-1360. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald D. Allen of the Department, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested on behalf of the Board of Trustees of the Plan pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a multiemployer welfare plan as defined in section 3(1) of the Act and was established to provide apprenticeship, employee, journeyman and instructor training for workers in the Iron Workers' trade and related occupations in accordance with section 302(c)(6) of the Labor-Management Relations Act of 1947, as amended. Pursuant to the terms of applicable collective bargaining agreements, approximately 111 employers contribute to the Plan based upon hours worked by employees represented by the Union. The Plan has approximately 1,059 participants. As of December 31, 1978, the Plan had net assets of $254,516.24.

2. The Plan presently owns approximately three acres of real property located at 12110 West Adler Lane, West Allis, Milwaukee County, Wisconsin. This real property is rectangular in shape and measures 260 feet by 485 feet (average depth). The Plan bought the real property in 1975 for $120,000 from an unrelated third party. A concrete block building situated on the western half of the real property is currently being used by the Plan as a training school.

The Plan proposes to sell the eastern half of the real property (the Property) to the Union. The Property being sold consists of approximately 1.44 acres which is rectangular in shape and measures 130 feet by 485 feet (average depth). The Plan has no present use or need for the Property. The Union proposes to construct an office building on the Property to be used as their principal headquarters.

3. The Board of Trustees for the Plan is comprised of four Employer and four Union appointed Trustees. The Employer Trustees are appointed by the Board of Directors of the Allied Construction Employers Association, Inc., the Employers' designated collective bargaining representative. The Union Trustees are appointed by the Union and are officers or members of the Union.

The Employer and Union Trustees are entitled to cast an equal number of aggregate votes on all Plan matters. With respect to the proposed sale of real property, the Union Trustees will remove themselves from all consideration by the Plan of any questions related to these transactions, including, specifically, whether or not the Plan should engage in the transaction. Additionally, the Union Trustee will not exercise any of the authority, control or responsibility which make them fiduciaries to cause the Plan to engage in this transaction. The Employer Trustees alone will consider and determine any and all questions related to this transaction.

4. An appraisal of the property was performed by James T. Barry, Jr., a member of the Society of Industrial Realtors and the American Society of Real Estate Counselors, on May 25, 1979. It is Mr. Barry's opinion that the fair market value of the property as of May 25, 1979 is $75,000.

The sales price of the Property will be its fair market value as of the date of the closing. This will be determined by updating the May 25, 1979 appraisal on the closing date. The sale will be for cash, to be paid in full at closing, with no installment payments or mortgage involved.

5. It is represented that the proposed transaction would satisfy the statutory provisions of section 408(a) of the Act because (1) the sale would be a one-time cash transaction; (2) the proposed transaction would allow the Plan and Union to locate their business offices in the same building and share services and facilities which are commonly needed and consequently, Plan participants would have their training and schooling conveniently located at the same location where they transact their Union business; and (3) the proposed sales price of the Property would be the greater of $75,000 or fair market value as established by an independent real estate appraiser.

Notice to Interested Parties

Within ten days after publication in the **Federal Register**, a copy of this notice of proposed exemption will be mailed by first class mail to the last known address of each participant and contributing Employer of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemptions to the address above, within the time period set forth above. All comments should be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the cash sale of real property located at 12110 West Adler Lane, West Allis, Milwaukee County, Wisconsin, by the Plan to the Union for its fair market value as of the closing date of the transaction, to be established by an independent real estate appraiser but not less than $75,000.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 30th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27866 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1446]

Proposed Exemption for Certain Transactions Involving the Leo J. Bolles, M.D., Inc. Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale by the Leo J. Bolles, M.D., Inc. Pension Plan (the Plan) of real property in Bellevue, Washington to Dr. Leo Bolles and his wife, Margaret Bolles (the Bolles) or to the Bolles and another partner. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Bolles, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1446. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Leo J. Bolles, M.D., Inc., P.S. (the Employer), the sponsor of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit pension plan with three participants. Total assets of the Plan as of June 30, 1978 were $364,952. The trustees of the Plan are the Bolles.

2. In December of 1975, the Plan purchased certain real property located on Bellevue-Redmond Road and East of 156th Street, N.E. in Bellevue, Washington (the Property) from Promac Properties, a Washington Limited Partnership. Promac Properties is not a party in interest with reference to the Plan. The property purchased consisted of 83,628 square feet. The total purchase price was $136,135. This represented a cost of $1.63 per square foot. At the same time, the Bolles purchased property adjacent to the property the Plan purchased from Promac Properties. The properties purchased by the Bolles and the Plan were adjacent to the property already owned by the Bolles and upon which the medical office of the Employer is located. The Property produces no income.

3. The trustees of the Plan are requesting an exemption to sell the Property to the Bolles, or the Bolles and another partner to allow the Plan to diversify its investments and to obtain more liquid assets for the Plan. The Property presently represents approximately 37% of the assets of the Plan.

4. The trustees propose to sell the Property for cash, without paying a real estate sales commission. It is proposed that the purchase price would be $343,000 which would equal $4.00 per square foot. Said sum was determined by an independent appraisal performed on June 18, 1979 by Conger, Schueler and McKnown, Inc. The proposed sale would produce a gain to the Plan of approximately $207,000 on an investment of $136,135 in a period of three and one-half years.

5. In summary, the applicant represents that the proposed sale will satisfy the criteria of section 408(a) of the Act as follows: (1) it will be a one-time transaction for cash; (2) it will allow the Plan to sell the Property for a substantial profit at a price determined by an independent appraisal; (3) it will allow the Plan to sell the Property without paying a real estate sales commission; (4) it will allow the Plan to liquidate a no-yield investment and (5) it will allow the Plan to diversify its investments.

Notice to Interested Persons

Notice of this request for an exemption shall be hand delivered to all interested persons within ten days after notice of the proposed exemption is published in the **Federal Register**. The notice shall contain a copy of the notice of the proposed exemption as published in the **Federal Register** and it shall inform the interested persons of their right to comment and their right to request a hearing within the period set forth in the notice of proposed exemption.

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General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for cash by the Plan of real property located on Bellevue-Redmond Road and East of 156th Street, N.E. in Bellevue, Washington for $343,000 to the Bolles or to the Bolles and a partner provided that this amount is not less than fair market value of the real property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27887 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1258]

Proposed Exemption for Certain Transactions Involving the DCA Food Industries Inc. Employees Retirement Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain past and proposed sales for cash by the DCA Food Industries Inc. Employees Retirement Plan (the Plan) of 5% cumulative preferred stock (Preferred Stock) of DCA Food Industries Inc. (the Employer) to the Employer. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 9, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Consititution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1258. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D,C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the Manufacturers Hanover Trust Company (the Trustee), the Trustee of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a unit benefit pension plan. As of July 1, 1977 there were 1,110 participants in the Plan including active participants, retirees, vested separated participants, and beneficiaries. As of March 31, 1978 the fair market value of the assets of the Plan was $8,508,410.

BEA Associates is the investment manager of the Plan and has the authority to direct the disposition of the assets of the Plan.

2. The Plan owns 11,048.8 shares of the Preferred Stock. There are 32,885.2 outstanding shares of the Preferred Stock. The Preferred Stock owned by the Plan was purchased during the period 1956 through 1966. 3,400 shares were purchased in December 1956 at $50 a share; 3,400 shares were purchased in November 1959 at $50 a share; 622 shares were purchased in February 1965 at $50 a share; and 5,626.8 shares were purchased in December 1966 at $41 a share, resulting in an average price per share of $46.119.

3. When purchased, the Preferred Stock was regarded as a desirable investment for the Plan. However, market conditions and investment yields changed substantially after the Preferred Stock was purchased. The Preferred Stock pays a dividend of only 5%. There is no public trading market for the Preferred Stock.

4. The Employer during the period July 1974 through April 1975 purchased 2,000 shares of the Preferred Stock from the Plan at $50 per share. Eight hundred of the 2,000 shares were purchased by the Employer after January 1, 1975.

5. The Trustee is requesting an exemption for the 1975, commission free, cash sale of 800 shares of the Preferred Stock by the Plan to the Employer and for the proposed commission free, cash sale of 11,048.8 shares of the Preferred Stock by the Plan to the Employer for a price of $50 per share.

6. An independent appraisal of the value of the Preferred Stock has been submitted by Merrill Lynch, Pierce, Fenner & Smith Inc. (Merrill Lynch). Merrill Lynch represents that the market value of the Preferred Stock is less than $50 per share presently and was less than $50 per share in 1975.

7. In summary, the applicant represents that the 1975 cash sale of 800 shares of the Preferred Stock by the Plan to the Employer and the proposed cash sales of the Preferred Stock of 11,048.8 shares satisfy the criteria of section 408(a) of the Act because it allowed and will allow the Plan to: (1) engage in transactions which were approved by an independent trustee; (2) liquidate a low yield investment for which no established trading market exists; (3) sell the Preferred Stock for cash without paying a sales commission; and (4) sell the Preferred Stock at a price in excess of its fair market value as determined by an independent appraisal.

Notice to Interested Persons

The interested parties to whom notice will be provided are as follows: active participants, retirees, vested separated participants, beneficiaries, and the following employee organizations of which participants in the Plan are members:

Jessup Office

United Steelworkers of America, Local 13128

Hillsdale Plant

Miscellaneous Warehousemen, Airline, Automotive Parts, Service, Tire & Rental, Chemical & Petroleum, Ice, Paper and Related Clerical and Production Employees Union, Local No. 781, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

New Orleans Plant

Brewery, Grain and Allied Workers Local Union No. 1158, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Independent

Buffalo Plant

Bakery & Confectionery Workers International Union of America AFL–CIO, Local No. 16

Within ten days after notice is published in the **Federal Register**, the notice to interested parties will be posted on bulletin boards which are regularly viewed by all Plan participants and mailed to each retiree, vested separated participant beneficiary and to each employee organization listed above. Each notice to interested parties will contain a copy of the notice of the pending exemption as published in the **Federal Register** and will inform the interested persons of their right to submit comments.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act, and sections 4975(c)(1)(E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the cash sale in 1975 of 800 shares of the Preferred Stock at $50 per share by the Plan to the Employer and (2) the proposed cash sales of 11,048.8 shares of the Preferred Stock for $50 per share by the Plan to the Employer.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete,

and that the application accurately describes all material terms of the

section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through

unrelated parties have been futile. Since the Property is situated near other

in the interests of the plan and of its

Signed at Washington, D.C., this 29th day

of the Act and from the taxes imposed

and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August 1979

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27888 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1024]

Proposed Exemption for Certain Transactions Involving the Times Herald Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Plan (the Plan) to the Times Herald Printing Company (the Employer), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1024. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green, of the Department of Labor, telephone (202) 523-8196. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendancy before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

On July 13, 1966, the Plan purchased a parcel of real property (the Property), located at 1207 Patterson Street, Dallas, Texas, from an unrelated party for $65,000. At present, the Property is being leased to Classified Parking System, Inc. of Dallas, Texas, an unrelated party, pursuant to a five year lease which expires on September 30, 1983, at a rental of $1400 per month. The Plan may terminate this lease upon ninety (90) days' written notice if the Plan sells the Property or elects to construct permanent masonry improvements on said premises.

2. An independent appraisal by Dunham & Associates Inc., an unrelated party, dated April 15, 1978, valued the Property at $280,000. The Employer wishes to acquire the Property, in order to construct a parking facility for its customers and employees, for the above appraised value of $280,000 in cash. No sales commission will be paid in connection with the proposed sale.

3. The Republic National Bank of Dallas is the trustee and investment adviser to the Plan. As of December 31, 1977, there were 518 participants in the Plan with assest valued at $10,307,874 and the proposed transaction represents less than 3% of the Plan assets.

4. The applicant believes that the sale of the Property by the Plan to the Employer would be beneficial because it will minimize the risk of the Property decreasing in value and the money received by the Plan could be invested in assets earning a greater return. All previous attempts to sell the Property to unrelated parties have been futile. Since the Property is situated near other real estate owned by the applicant, or affiliates of the applicant, the Employer considers itself the most likely purchaser of the Property.

5. In summary, the applicant represents that the proposed sale of the Property meets the statutory criteria for an exemption under section 408(a) of the Act because (1) it is a one time transaction for cash, (2) the selling price for the Property was determined by an independent appraiser, (3) the Plan will be able to dispose of low income-producing property, for a large gain, and reinvest in assets earning a greater return and (4) since all previous attempts to sell the Property to unrelated parties have been fruitless, the Employer is the most likely purchaser.

Notice to Interested Persons

Notice to all present participants shall be by posting at the usual places for such notices to employees and by first class mail to all other interested persons. Notice shall be given within five (5) working days of the day the notice of the pendency of such exemption is published in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiarties of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1, (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406 (a), 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan to the Employer for cash of real property situated at 1207 Patterson Street, Dallas, Texas, provided that the price is not less than the fair market value of the property at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-27889 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1466]

Proposed Exemption for Certain Transactions Involving Blue Chip Stamps Employees' Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain past extensions of credit to the Blue Chip Stamps Employees' Pension Plan (the Plan) by the Illinois National Bank and Trust Company (the Trustee), the Trustee of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Trustee, Blue Chip Stamps (the Employer) and other persons who participated in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1466. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The plan is a non-contributory defined benefit pension plan. As of December 31, 1978, the Plan had total assets of $3,547,575.49 and 330 plan participants.

2. During December, 1978, the Plan decided to purchase certain marketable securities. Since the Plan had limited cash balances, it became necessary to sell some assets of the Plan in order to raise sufficient cash to effect the purchase of the securities. To this end, the Plan in late December, 1978 placed an order to sell all of the shares of Scudder Managed Reserves, Inc. (Scudder Shares) held by the Plan. Due to administrative problems, the funds from this sale were not received by the Plan until February 15, 1979. As a result of the delay in the completion of the sale of the Scudder shares, the Plan was in an overdraft position with the Trustee on several dates. Thus, the Trustee had in effect made advances to the Plan as follows: $8,972.11 on December 27, 1978; $126,800.63 on January 3, 1979; $16,049.70 on January 8, 1979; $5,935.50 on January 9, 1979; and $4,591.15 on January 26, 1979. No interest was charged by the Trustee on said advances.

3. The applicant represents that the extension of credit by the Trustee to the Plan satisfied the criteria of section 408(a) of the Act because: (1) it allowed the Plan to borrow money on an interest free basis; (2) it allowed the Plan to meet its financial obligations and (3) it resulted in no financial gain to the Trustee.

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Notice to Interested Persons

Within ten days of the publication of the Notice of Pendency in the **Federal Register**, notice of this request will be posted at each worksite of the Employer and will be sent by mail to all non-working participants. The notice will include a copy of the Notice of Pendency along with a statement advising interested persons of their right to comment and request a hearing within the time period set forth in the notice proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the following interest free loans of money made by the Trustee to the Plan: $8,972.11 on December 27, 1978; $126,800.63 on January 3, 1979; $16,049.70 on January 8, 1979; $5,935.50 on January 9, 1979; and $4,591.15 on January 26, 1979.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–27890 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 79–48; Exemption Application No. D–974]

Exemption From the Prohibitions for Certain Transactions Involving John E. Mitchell Co. Employees Pension Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption allows purchase by the John E. Mitchell Company (JEMCO) of certain residual royalty rights from the John E. Mitchell Company Employees Pension Plan (the Plan).

FOR FURTHER INFORMATION CONTACT: Stephen Elkins of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C—4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 13, 1979 notice was published in the **Federal Register** (44 FR 40953) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for a transaction described in an application filed by JEMCO and by Mercantile National Bank. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the particpants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act, and section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to purchase by JEMCO of certain residual royalty rights from the Plan, as described in the application for exemption, if such purchase is for the fair market value of such rights, such value to be determined by the Plan fiduciary as of the date of the transaction, but in no event shall the sales price of such royalty rights be less than $46,212.20.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of August 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–27891 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

[TA–W–5659]

Algoma Preparation Plant, United Pocahontas Coal Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1979 in response to a worker petition received on August 8, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers cleaning metallurgical coal at the Algoma Preparation Plant of United Pocahontas Coal Company, Algoma, West Virginia.

The attorney for the petitioners requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 29th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79–27722 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5660]

Ansewn Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on June 26, 1979 which was filed on behalf of workers and former workers producing men's and women's shoes at the Ansewn Shoe Company, Bangor, Maine. It is concluded that all of the requirements have been met.

U.S. imports of nonrubber footwear increased absolutely and relative to domestic production in 1978 compared to 1977 and in the first quarter of 1979 compared to the first quarter of 1978.

A Department of Labor survey revealed that a major customer of Ansewn increased purchases of imported men's and women's shoes while decreasing purchases from Ansewn in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's shoes produced at the Ansewn Shoe Company, Bangor, Maine contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Ansewn Shoe Company, Bangor, Maine who became totally or partially separated from employment on or after January 12, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of August 1979.

James F. Taylor,

Director, Office of Foreign Economic Research.

[FR Doc. 79–27723 Filed 9–6–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5667]

Baker Marine Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 19, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing offshore self-elevating (jack-up) drilling rigs, gear units, and jacks at the Baker Marine

Corporation, Ingleside, Texas. The investigation revealed that the firm operates two plants, located in Ingleside and Corpus Christi, Texas. The terms "jacks" and "gears units" are used interchangeably to identify the mechanisms which raise and lower the main platform on a self-elevating off shore drilling rig. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

No offshore jack-up drilling rigs were imported into the United States during 1977, 1978, or the first six months of 1979. During this same period, the Baker Marine Corporation did not bid on domestic contracts against foreign manufacturers of offshore drilling rigs.

Layoffs which occurred at the Ingleside and Corpus Christi plants during June and July 1979 have resulted from normal down-time between projects and are expected to be of short duration. Between February and July 1979, the Baker Marine Corporation completed several projects at the Ingleside and Corpus Christi, Texas plants; the company expects to begin a number of new projects at these facilities within the next two months. Although the Baker Marine Corporation plans to import a small number of jack-up rigs from its licensee in Singapore, these rigs are not scheduled for delivery to the United States until later this year. If production and employment at the Ingeside and Corpus Christi plants do not increase in the near future as anticipated, workers at the Baker Marine Corporation may submit a new petition for trade adjustment assistance.

Conclusion

After careful review, I determine that all workers at the Baker Marine Corporation, Ingleside, Texas, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

Harry J. Gilman,

Supervisory International Economist. Office of Foreign Economic Research.

[FR Doc. 79-27724 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5749]

Bowling & Hildebrand Trucking Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 17, 1979 in response to a worker petition received on June 25, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers of Bowling and Hildebrand Trucking Company, Raleigh County, West Virginia, engaged in hauling coal. The investigation revealed that the location of the petitioners, for identification purposes, is Whitby, West Virginia.

Bowling and Hildebrand Trucking Company is engaged in providing the service of transporting coal by truck from a customer's mine to a tipple.

Thus, workers of Bowling and Hildebrand Trucking Company do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Bowling and Hildebrand Trucking Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Bowling and Hildebrand Trucking Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Bowling and Hildebrand Trucking Company are employed by that firm. All personnel actions and payroll transactions are controlled by Bowling and Hildebrand Trucking Company. All employee benefits are provided and maintained by Bowling and Hildebrand Trucking Company. Workers are not, at any time, under employment or supervision by customers of Bowling and Hildebrand Trucking Company. Thus, Bowling and Hildebrand Trucking Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Bowling and Hildebrand Trucking Company, Whitby, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27725 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5729]

Clairmont Preparation Plant, Royal Coal Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 15, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers cleaning metallurgical coal at the Clairmont Preparation Plant of Royal Company, Clairmont, West Virginia. It is concluded that all of the requirements have been met.

U.S. imports of metallurgical coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Therefore, imports of coke as well as imports of metallurgical coal should be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased from 1,311 thousand tons in 1976 to 1,829 thousand tons in 1977, and to 5,722 thousand tons in 1978. U.S. imports increased to 537 thousands tons in the first quarter of 1979 compared to 458 thousand tons in the first quarter of 1978.

Relative to domestic production, imports of coke increased from 2.2 percent in 1976 to 3.4 percent in 1977, and increased to 11.8 percent in 1978.

A Department survey established that one major customer increased imports of coke from 1977 to 1978, and in the first half of 1979 compared to the first half of 1978, while reducing purchases of metallurgical coal from the Royal Coal Company. Another major customer reduced purchases from Royal Coal Company during the same period as a result of declines in its own sales of metallurgical coal to domestic steel producers which had increased imports of coke. Collectively, these customers accounted for a substantial portion of the decline in the Royal Coal Company's sales during the January 1977—June 1979 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metallurgical coal produced at the Clairmont Preparation Plant of Royal Coal Company, Clairmont, West Virginia, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Clairmont Preparation Plant of Royal Coal Company, Clairmont, West Virginia, who became totally or partially separated from employment on or after March 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27726 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5706]

Federal Glass Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 5, 1979 which was filed by the American Flint Glass Workers Union on behalf of workers and former workers producing machine made tableware at Federal Glass Company, Columbus, Ohio. It is concluded that all of the requirements have been met.

Value of U.S. imports of machine made glassware increased both absolutely and relative to domestic shipments in 1978 from 1977.

A customer survey revealed customers who reduced purchases from the subject firm and increased purchases of imported machine made glassware in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the machine made tableware produced at Federal Glass Company, Columbus, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Federal Glass Company, Columbus, Ohio (including its 26 regional sales offices listed hereunder) who became totally or partially separated from employment on or after September 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

New York, N.Y., Chicago, Ill., St. Louis, Mo., Minneapolis, Minn., Baltimore, Md., Boston, Mass., Philadelphia, Pa., Pittsburgh, Pa., Cincinnati, Ohio, Cleveland, Ohio, Detroit, Mich., Syracuse, N.Y., Charlotte, N.C., New Orleans, La., Miami, Fla., Atlanta, Ga., Orlando, Fla., Memphis, Tenn., Dallas, Tex., Houston, Tex., Kansas City, Mo., Los Angeles, Calif., Phoenix, Ariz., San Francisco, Calif., Columbus, Ohio, Montvale, N.J.

Signed at Washington, D.C. this 29th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning

[FR Doc. 79-27727 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5504]

Georgia Pacific Corp., Woodland Division Pulp and Paper Mill; Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 7, 1979, applicable to all workers engaged in the production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine. The Notice of Certification was published in the **Federal Register** on August 14, 1979 (44 FR 47631-32).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that 52 layoffs occurred on December 22 and 23, 1979. These layoffs were not covered by the impact date of December 24, 1978.

The intent of the certification is to cover all workers who were affected by the decline in production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine, related to import competition. The certification, therefore, is revised providing a new impact date of December 15, 1978.

The revised certification applicable to TA-W-5504 is hereby issued as follows:

All workers engaged in the production of newsprint at the Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine, who became totally or partially separated from employment on or after December 15, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27728 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5684]

Hornell Garments, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 2, 1979 in response to a worker petition received on June 26, 1979 which was filed on behalf of workers and former workers producing ladies' coats and raincoats at Hornell Garments, Inc., Brooklyn, New York. The investigation

revealed that the firm only produces

sales or production and to the total or

production, or both, of such firm or

revealed that the firm only produces ladies' raincoats. It is concluded that all of the requirements have been met.

The ladies' raincoats produced by Hornell Garments are included in the import and production category Women's, Girls' and Infants' Raincoats. U.S. Imports in this category increased both absolutely and relative to domestic production in 1978 compared to 1977.

A survey of Hornell Garments' major manufacturers was conducted. The survey revealed that manufacturers, representing a significant portion of Hornell Garments' 1979 sales decline, decreased purchases from Hornell Garments and increased purchases of imported ladies' raincoats in the first half of 1979 compared to the same period in 1978.

A secondary survey was conducted for the major manufacturers who decreased purchases from Hornell Garments and experienced a decline in their sales of ladies' raincoats. The survey revealed that some customers decreased purchases of domestically produced women's coats and jackets (including raincoats) and increased purchases of imported women's coats and jackets (including raincoats) in 1978 compared to 1977, and in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' raincoats produced at Hornell Garments, Inc., Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hornell Garments, Inc., Brooklyn, New York who become totally or partially separated from employment on or after June 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27730 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown, below, not later than September 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Firestone Tire & Rubber Company (URW)	South Gate, Calif	8/27/79	8/21/79	TA-W-5,923	Bias-ply passenger tires and bias-ply truck tires.
Max Kirmayer & Sons, Inc. (company)	Brooklyn, N.Y	8/27/79	8/17/79	TA-W-5,924	Mens's trousers.
Longtable Enterprises, Inc. (company)	Greensburg, Pa	8/27/79	8/23/79	TA-W-5,925	Ladies' dresses and sportswear.
Outboard Marine Corp. Evinrude Motors (workers).	Milwaukee, Wis	8/27/79	8/16/79	TA-W-5,926	Outboard motors.
Patton Shirt Manufacturing Co., Inc. (ILGWU)	Patton, Pa	8/27/79	8/21/79	TA-W-5,927	Ladies' and men's shirts.
Premier Shoe Products (company)	Wilkes-Barre, Pa	8/27/79	8/21/79	TA-W-5,928	Shoe straps (womens).
SPN Sportswear Co., Inc. (company)	Mount Pleasant, Pa	8/27/79	8/23/79	TA-W-5,929	Ladies' dresses and sportswear.
The Lamson & Sessions Co. (IAM)	Birmingham, Ala	8/27/79	8/14/79	TA-W-5,930	Threaded screws and nuts.
Uniroyal, Inc. (Co. Attorney)	Dublin, Ga	8/27/79	8/22/79	TA-W-5,931	Shoes.
Wagner Industries, Inc. (IAM)	Reading, Mich	8/27/79	8/17/79	TA-W-5,932	Wire harnesses.

[FR Doc. 79-27728 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5835]

Pat-Jo Blouse Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 10, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Pat-Jo Blouse Company.

The petitioner, the International Ladies' Garment Workers' Union,

subsequently requested withdrawal of its petition. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-27731 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5713]

Philip Gurian Sons, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses, skirts, slacks, jeans, and blouses at the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's dresses, skirts, slacks, shorts, blouses, and shirts increased in 1978 from 1977 and decreased in the first quarter of 1979 compared to the first quarter of 1978.

Purchases of imported women's apparel by Philip Gurian increased in 1978 from 1977. A Department survey revealed that surveyed customers had reduced purchases from Philip Gurian and had increased purchases of imported women's apparel in 1978 from 1977 and in January-May 1979 compared to the corresponding period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, skirts, slacks, jeans, and blouses produced at the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania who became totally or partially separated from employment on or after August 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27732 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-32-M

[TA-W-5671]

Marlin Knit, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 25, 1979 which was filed on behalf of workers and former workers producting ladies' sweaters at Marlin Knit, Incorporated, Brooklyn, New York. It is concluded that all of the requirements have been met.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters increased in 1977 as compared to the average level of imports for the years 1974 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1974 through 1976.

The Office of Trade Adjustment assistance conducted a survey of manufacturers for which Marlin did contract work. Some manufacturers, which had utilized Marlin in 1977, placed no orders from Marlin in 1978 and increased their purchases of imported ladies' sweaters and their use of foreign contractors in 1978 compared to 1977.

A survey was also conducted of the customers of those manufacturers which experienced decreasing sales of ladies' sweaters from 1977 to 1978 and which decreased contract work with Marlin during that period. Customers of these manufacturers decreased purchases of ladies' sweaters from domestic sources and increased purchases of imported ladies' sweaters in 1978 compared to 1977. Workers of some of these manufacturers have been certified as eligible to apply for trade adjustment assistance benefits.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Marlin Knit, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Marlin Knit, Incorporated, Brooklyn, New York who became totally or partially separated for employment on or after June 16, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27733 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5654]

Midway Shake Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on June 14, 1979 which was filed on behalf of workers and former workers producing cedar shingles and shakes at Midway Shake

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Company, Tillamook, Oregon. It is concluded that all of the requirements have been met.

U.S. imports of red cedar shingles and shakes increased both absolutely and relative to domestic production during 1978 compared to 1977. Imports increased absolutely during the first quarter of 1979 compared to the first quarter of 1978.

Layoffs at Midway Shake Co. resulted from losses of sales to the firm's major customer, a broker of cedar shakes and shingles. A survey of the broker's customers was conducted by the Department. Survey results revealed that in 1978 customers reduced purchases from the broker while increasing purchases of imported cedar shakes and shingles. Survey results further revealed that the broker's customers increased purchases of imported shakes and shingles during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cedar shingles and shakes produced at Midway Shake Company, Tillamook, Oregon contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Midway Shake Company, Tillamook, Oregon who became totally or partially separated from employment on or after June 6, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27734 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5699]

Petrocelli Clothes, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's suits at Petrocelli Clothes, Incorporated, New York, New York. Moda Contracting Corporation and Emkay Trouser Shop, which are divisions of Petrocelli Clothes, are included in the scope of this investigation. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased in the first quarter of 1979 compared to the first quarter of 1978.

Customers which reduced purchases from Petrocelli Clothes, Incorporated were surveyed regarding their purchases of men's suits. A number of customers which reduced purchases from Petrocelli in the first six months of 1979 compared with the first six months of 1978 increased their purchases of imported men's suits in the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits produced at Petrocelli Clothes, Incorporated, New York, New York and its divisions, Moda Contracting Corporation and Emkay Trouser Shop, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Petrocelli Clothes, Incorporated, New York, New York and its divisions, Moda Contracting Corporation and Emkay Trouser Shop, who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27735 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5295]

Joseph J. Piertrafesa Co., Inc.; Affirmative Determination Regarding Application for Reconsideration

On July 31, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance for workers and former workers of Joseph J. Piertrafesa Company, Inc., Syracuse, New York. This determination was published in the **Federal Register** on July 6, 1979, (44 FR 39632).

The petitioning union claims that Joseph J. Piertrafesa Company's major manufacturer switched to a less expensive contractor in order to meet import price competition. The petitioning union also claims that retail customers of Joseph J. Piertrafesa also decreased their purchases because of import price competition.

Conclusion

After review of the application, I conclude that although a shift by Piertrafesa's customer to a domestic contractor producing less expensive suits provides no basis for certification. The claim of the petitioning union with respect to retail customers shifting to imported suits is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27736 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5674]

Shaw Manufacturing, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts and jackets at Shaw Manufacturing, Incorporated, Los Angeles, California. The investigation revealed that the plant also produced ladies' shirts. It is concluded that all of the requirements have been met.

Evidence developed during the course of the investigation revealed that workers at Shaw Manufacturing, Incorporated were engaged in employment related to the production of men's sport shirts and jackets and ladies' shirts. The workers were used interchangeably between product lines and were not separately identifiable by product line.

Sales and production of ladies' shirts increased at Shaw Manufacturing, from 1977 to 1978 and in the first half of 1979 compared to the same period of 1978.

Men's sport shirts constituted the majority of Shaw's contract work in 1977. All men's sport shirt production had ceased by the end of 1978.

U.S. imports of men's and boys' woven sport shirts increased both absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased absolutely from 1977 to 1978.

The major manufacturer for whom Shaw Manufacturing produced men's sport shirts substantially increased its imports of men's sport shirts and decreased its contract work with Shaw in 1978 compared to 1977 and in the first half of 1979 as compared to the same period in 1978. This manufacturer's imports of men's sport shirts became an increasing proportion of its total sales of men's shirts form 1977 to 1978 and during the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Shaw Manufacturing, Incorporated, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Shaw Manufacturing, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after June 21, 1978 and before July 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers of Shaw Manufacturing, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after July 31, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27737 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5675]

Songo Shoe Manufacturing Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979, in response to a worker petition received on June 25, 1979, which was filed on behalf of workers and former workers producing athletic footwear, and men's and women's dress and casual boots at the Portland, Maine plant of Songo Shoe Manufacturing Corporation. It is concluded that all of the requirements have been met.

U.S. imports of athletic footwear increased absolutely and relatively in 1977 compared to 1976.

U.S. imports of men's dress and casual footwear, except athletic, increased absolutely and relatively in 1977 compared to 1976 and increased relatively in 1978 compared to 1977.

U.S. imports of women's dress and casual footwear, except athletic, increased relatively in 1977 compared to 1976, increased absolutely and relatively in 1978 compared to 1977 and further increased in the first quarter of 1979 compared to the same period of 1978.

A survey of the customers of Songo Shoe revealed that customers increased purchases of imported athletic footwear and men's and women's dress and casual footwear and decreased purchases of these products from Songo Shoe Manufacturing Company in 1978 compared to 1977 and in the first half of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with athletic footwear and men's and women's dress and casual footwear produced at the Portland, Maine plant of Songo Shoe Manufacturing Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Portland, Maine plant of Songo Shoe Manufacturing Corporation who became totally or partially separated from employment on or after June 19, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27738 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5702]

Tenco Division, Coca Cola Bottling Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirement of section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers and former workers producing instant coffee at the Linden, New Jersey plant of the Tenco Division of the Coca Cola Bottling Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Processing of instant coffee at the Linden plant, measured in quantity, increased during the third and fourth quarters of 1978 compared to the previous quarters. Processing also increased during the first two quarters

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of 1979 compared to the first two quarters of 1978.

Layoffs at the Linden plant in 1979 are expected to be temporary. Declines in employment are attributable to declines in activity in the packaging department; the packaging department packages coffee processed at Linden, coffee processed and sold by other manufacturers, and imported coffee.

Conclusion

After careful review, I determine that all workers of the Linden, New Jersey plant of the Tenco Division of the Coca Cola Bottling Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27739 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5558]

Tygart Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 12, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers producing coal at the Tygart Coal Company in Greenbrier County, West Virginia. The investigation revealed that the mine primarily produces steam coal. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produces by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Tygart Coal Company produces both steam and metallurgical coal as a labor contractor for the mine's operator who holds the mining permit. The production of steam grade coal accounts for the majority of the mine's output. All of the coal is shipped to the operator's facilities where the coal is graded and from which the coal is shipped to the customers of the operator. The majority of the operator's total 1978 sales of coal were exported. The operator stated that most of their sales are of unwashed coal. Because of cost factors caused by regulations imposed by the Environmental Protection Agency, unwashed coal is difficult to sell domestically. Imports of coal, therefore, would not have adversely affected this portion of the operator's sales. The majority of the remaining output was steam coal which was sold to domestic utilities. The ratio of imports of bituminous (steam grade) coal to domestic production has consistently been less than 0.5 percent from 1974 through the first quarter of 1979. The U.S. has extremely large reserves of steam grade coal. U.S. exports of steam grade coal are several times greater than U.S. imports of steam grade coal.

Conclusion

After careful review, I determine that all workers of the Tygart Coal Company in Greenbrier County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27740 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5733]

Valli Fashions Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing ladies' coats at Valli Fashions Company, Inc., Hoboken, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased in 1978 compared to 1977.

Valli Fashions Company, Inc. produces ladies coats for one manufacturer. This manufacturer does not import ladies' coats and awards all production of ladies' coats to domestic contractors. Since this manufacturer decreased contracts with Valli Fashions during the period under investigation and the manufacturer's sales of ladies' coats decreased in the first half of 1979 compared to the first half of 1978, a secondary survey was conducted of customers who decreased purchases from this manufacturer. All of these customers increased purchases of imported ladies' coats in the first half of 1979 compared to the first half of 1978. As well as decreasing purchases from Valli Fashions' manufacturer, a significant number of these customers decreased purchases from other domestic sources in the first half of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Valli Fashions Company, Inc., Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valli Fashions Company, Inc., Hoboken, New Jersey engaged in employment related to the production of ladies' coats who became totally or partially separated from employment on or after June 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27741 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5798]

W. W. Williams Co. of Pennsylvania, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 30, 1979, in response to a worker petition received on July 23, 1979, which was filed on behalf of workers and former workers of W. W. Williams Company, Beckley, West Virginia, engaged in selling and repairing heavy equipment used in coal mining. The investigation revealed that the petitioners are employed by the W. W. Williams Company of Pennsylvania, Incorporated, a subsidiary of the W. W. Williams Company.

The W. W. Williams Company of Pennsylvania, Incorported is engaged in providing the service of repairing construction equipment used in the coal mining industry and selling parts for such equipment.

Thus, workers of the W. W. Williams Company of Pennsylvania, Incorporated do not produce an article within the meaning of section 222 (3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to the W. W. Williams Company of Pennsylvania, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. The W. W. Williams Company of Pennsylvania, Incorporated and its customers have no controlling interest in one another. The parent firm does not produce an article.

All workers at the Beckley, West Virginia facility of the W. W. Williams Company of Pennsylvania, Incorporated are employed by that firm. All personnel actions an payroll transactions are controlled by the W. W. Williams Company of Pennsylvania, Incorporated. All employee benefits are provided and maintained by the W. W. Williams Company of Pennsylvania, Incorporated. Workers are not, at any time, under employment or supervision by customers of the W. W. Williams Company of Pennsylvania, Incorporated. Thus, the W. W. Williams Company of Pennsylvania, Incorporated, and not any of its customers, must be considered to be the "workers' firm."

Conclusion

After careful review, I determine that all workers of the Beckley, West Virginia facility of the W. W. Williams Company of Pennsylvania, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27742 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5701]

Beach Queen Sportswear, Brooklyn, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing ladies' swimsuits at Beach Queen Sportswear, Brooklyn, New York. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey conducted by the Department revealed that customers surveyed who decreased purchases from Beach Queen Sportswear in 1978 and the first five months of 1979 relied principally upon other domestic suppliers to meet their requirements. Import purchases by surveyed customers amounted to an insignificant proportion of total purchases of ladies' swimsuits by those customers during 1977, 1978 and the first five months of 1979.

Conclusion

After careful review, I determine that all workers of Beach Queen Sportswear, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27969 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5557]

Certification Regarding Eligibility To Apply for Adjustment Assistance; Correction

In Federal Register Doc. 79-24742 appearing on page 47181 in the Federal Register of August 10, 1979, Son-Lite Division was misspelled and should read Sun-Lite Division.

Signed at Washington, D. C., this 31st day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-27977 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5454 and TA-W-5016]

Cobblers, Inc., Williamsport, Pa., Harrisburg, Pa., York, Pa., and Cobblers, Inc., Jersey Shore Division, Jersey Shore, Pa.; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 and Section 221(a) of the Trade Act of 1974, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 22, 1979, applicable to all workers at the Williamsport, Harrisburg and York, Pennsylvania, facilities of Cobblers, Inc., (TA-W-5454). The Notice of Certification was published in the Federal Register on June 29, 1979, (44 FR 38012).

In an earlier determination relating to Cobblers, Inc., the Department issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the Jersey Shore Division of Cobblers, Inc., Jersey Shore, Pennsylvania, (TA-W-5016). The Notice of Certification was published in the Federal Register on May 25, 1979, (44 FR 30490).

Subsequent to the publication of these notices, the Department, on its own motion, reopened the investigation into the petitions TA-W-5454 and TA-W-5016.

The initial investigation revealed that workers at the two production facilities

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of Cobblers in Williamsport and Jersey Shore manufactured the same articles (i.e., women's shoes, boots and sandals) and that the sales outlets in Williamsport, Harrisburg and York, Pennsylvania, retailed articles manufactured in both facilities. Upon further investigation, it was determined that a significant number of workers transferred without separation from the Jersey Shore production facility, before its closing, to the Williamsport production facility which subsequently closed. It is consistent with the purposes of the Act that these workers be covered since increased imports of articles like or directly competitive with the articles produced by the workers contributed importantly to their separation. Consequently, workers in all the facilities in Williamsport, Harrisburg, York and Jersey Shore are considered to be workers of a single firm.

Conclusion

Based on a review of the entire record and in accordance with the provisions of the Act, it is concluded that the Williamsport, Harrisburg, York and Jersey Shore, Pennsylvania facilities of Cobblers, Inc., constitute a single firm for purpose of Section 222 of the Trade Act of 1974 and 29 CFR 90.2

The revised certification applicable TA-W-5454 and TA-W-5016 is hereby issued as follows:

All workers of the Williamsport and Jersey Shore, Pennsylvania, production facilities of Cobblers, Inc., and all workers of the Williamsport, Harrisburg and York, Pennsylvania, retail outlets of Cobblers, Inc., who became totally or partially separated from employment on or after October 1, 1978, but before June 1, 1980, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-27971 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5273]

Figure Flattery, Inc., New York, N.Y.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 23, 1979 in response to a worker petition received on April 16, 1979 which was filed by the Intimate Apparel Workers' Union on behalf of workers and former workers producing men's briefs and supports at Figure Flattery, Incorporated, New York, New York. The investigation revealed that the plant produces primarily men's briefs. In the following determinations, without regard to whether any of the other criteria have been met for workers engaged in the cutting of men's briefs, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The New York, New York plant of Figure Flattery, Incorporated was engaged in all phases of production of men's briefs until production at the plant ceased in December 1978. All cutting for the company was transferred domestically and is now done at its El Paso, Texas plant. All sewing and finishing operations are now performed at company plants in Mexico.

For workers engaged in employment related to the production of men's briefs, all of the criteria have been met.

Imports of men's and boys' underwear, knit and Not-knit, increased absolutely and relative to domestic production in 1978 compared to 1977.

Production of men's briefs at the Mexico plant of Figure Flattery increased in the January through May period of 1979 compared to the same period of 1978. Production of men's briefs at the New York, New York plant of Figure Flattery ceased in December 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's briefs produced at Figure Flattery, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Figure Flattery, Incorporated, New York, New York, except those engaged in cutting operations who became totally or partially separated from employment on or after November 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27972 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5696]

Harry Fisher Corp., Philadelphia, Pa., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's topcoats and overcoats at Harry Fisher Corporation, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's and boys' outercoats and jackets declined in quantity in 1978 from 1977 and during January–June 1979 compared to January–June 1978.

Sales of Men's and boys' outercoats and raincoats by Harry Fisher Corporation increased in quantity and value in 1978 compared to 1977 and during January–June 1979 compared to January–June 1978.

Conclusion

After careful review, I determine that all workers of Harry Fisher Corporation, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27973 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5681]

Hialeah Fashions, Inc., Hialeah, Fla.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 29, 1979 in response to a worker petition received on June 15, 1979 which was filed on behalf of workers and former workers producing women's blouses, dresses, and sportswear at Hialeah Dress, Incorporated, Hialeah, Florida. The investigation revealed that the name of the company is Hialeah Fashions, Incorporated and that the company primarily produced women's blouses. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S. imports of women's, misses', and children's blouses and shirts increased absolutely from 1977 to 1978 and decreased during the first quarter of 1979 compared to the first quarter of 1978.

Hialeah Fashions did contract work for women's apparel manufacturers. A survey of customers of Hialeah (apparel manufacturers) revealed that Hialeah's major customer in 1977 discontinued all contract work with Hialeah during 1978. A survey of retail outlets who were customers of the manufacturer indicated that the retail outlets reduced purchases of women's apparel from the manufacturer during 1978 while increasing purchases of apparel from foreign sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's apparel produced at Hialeah Fashions, Incorporated, Hialeah, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Hialeah Fashions, Incorporated, Hialeah, Florida who became totally or partially separated from employment on or after June 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27974 Filed 9-6-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 18, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Signed at Washington, D.C. this 30th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Capricorn Ironworks, Inc. (I.U.W.S.W.A.)	Bronx, N.Y.	8/21/79	8/9/79	TA-W-5,933	Welding contractors for shipbuilding.
Commercial Carriers, Inc., Nashville Terminal (Teamsters).	Nashville, Tenn	8/27/79	8/21/79	TA-W-5,934	Transport of automobiles.
Congress Textile Printers, Inc. (ACTWU)	Hawthorne, N.J.	8/27/79	8/16/79	TA-W-5,935	Lacquer duco and flock paint for fabrics.
Dexter Buick GMC Truck Co., Inc. (workers)	Providence, R.I.	8/15/79	8/4/79	TA-W-5,936	Auto dealership.
Indian Creek Coal Co. D.B.A. M & B Coal Company (U.M.W.A.).	Welch, W. Va.	8/20/79	8/12/79	TA-W-5,937	Mining of coal.
Key Chrysler Plymouth (workers)	Madison, Tenn.	8/27/79	8/20/79	TA-W-5,938	Auto dealership.
Lexington Metal Products Company (workers)	Lexington, Tenn.	8/27/79	8/20/79	TA-W-5,939	Auto parts, Chrysler locks, AMC regulators, Chrysler seat recliners.
Philtron Corp. (workers)	Whitman, Mass.	8/27/79	8/15/79	TA-W-5,940	Light fixtures and wood products.
Robinson Phillips Coal Co., Ace Mine (UMWA).	Pineville, W. Va.	8/27/79	8/23/79	TA-W-5,941	Mining of coal.

Appendix—Continued

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Robinson Phillips Coal Co., Carol Mine (UMWA).	Pineville, W. Va	8/27/79	8/23/79	TA-W-5,942	Mining of coal.
Robinson Phillips Coal Co., Elk Lick Mine #64 (UMWA).	Pineville, W. Va	8/27/79	8/23/79	TA-W-5,943	Mining of coal.
Sarkes Tarzian, Inc., Tuner Div. (workers)	Bloomington, Ind	8/27/79	8/23/79	TA-W-5,944	TV tuners.
Simron Fuel Co., Twin Branch Mine (UMWA)	McDowell County, W. Va	8/27/79	8/23/79	TA-W-5,945	Mining of coal.
Simron Fuel Co., Lobo Mine #1 (UMWA)	McDowell County, W. Va	8/27/79	8/23/79	TA-W-5,946	Mining of coal.
Steven Ranson, Inc. (I.U.M.S.W.A.)	Newark, N.J	8/21/79	8/9/79	TA-W-5,947	Conversion, repair, overhaul and maintenance of marine vessels.
Winn Branch Coal Company (workers)	Winn Branch, Ky	8/21/79	8/13/79	TA-W-5,948	Mining of coal.
York Leather Fashion, Inc. (workers)	New York, N.Y	8/27/79	8/20/79	TA-W-5,949	Ladies' and men's garments.

[FR Doc. 79-27970 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5490]

National Tanning & Trading Corp., Peabody, Mass.; Revised Determination on Reconsideration

On August 20, 1979, the Department of Labor granted administrative reconsideration of the negative determination which it had made on July 26, 1979, (44 FR 45796) pursuant to Section 223 of the Trade Act of 1974 for all workers at the National Tanning and Trading Corporation, Peabody, Massachusetts, regarding eligibility to apply for worker adjustment assistance.

In its reconsideration, the Department reviewed its investigative file and considered written and oral information provided by National Tanning. The review revealed that although the supply of calfskins was tight, particularly in the first half of 1979, domestic skins were available, although their cost was significantly higher than in previous years. Two major customers of tanned and finished calfskin reported shifting to imported, tanned kidskins, a product directly competitive with calfskin. A third important customer reduced its purchases of calfskin from National in 1978 and in the first five months of 1979 compared to the same year earlier periods and increased imports of tanned calfskin. The tanning calfskin had accounted for some 25 percent of National Tanning's total shipments in 1977 and for a major portion of company profits. The switch by customers away from National Tanning's calfskin to imported kidskin had a significant impact on the company's profitability and sales.

U.S. imports of tanned and finished cattlehides increased absolutely and relative to domestic production in 1978 and the first quarter of 1979 compared to the same year earlier periods. Imports of tanned and finished calfskins increased absolutely and relatively in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the same period in 1978. Further, imports of goat and kid finished leather increased in 1978 over 1977 and in the first six months of 1979 compared to the same period in 1978.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

All workers of National Tanning and Trading Corporation, Peabody, Massachusetts, who became totally or partially separated from employment on or after March 21, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed in Washington, D.C., this 31st day of August 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-27975 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5773]

Paktron, Inc., Lynchburg, Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 25, 1979 in response to a worker petition received on July 12, 1979 which was filed on behalf of workers and former workers producing capacitors at the Lynchburg, Virginia plant of Paktron, Incorporated. The investigation revealed that the plant produces film capacitors. It is concluded that all of the requriements have been met.

U.S. imports of paper and film capacitors increased from 1976 to 1977, from 1977 to 1978, and during the first half of 1979 compared to the first half of 1978. The ratio of imports to domestic production has increased every year since 1975.

Company imports of the type of capacitor produced at the Lynchburg plant increased nearly 30 percent in the last half of 1978 compared to the last half of 1977 and then tripled in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with film capacitors produced at the Lynchburg, Virginia plant of Paktron, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lynchburg, Virginia plant of Paktron, Incorporated who became totally or partially separated from employment on or after June 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-27976 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-28-M

Secretary's Committee on Veterans' Affairs; Meeting

Announcement is made of the following Committee meeting:

Name: Department of Labor Secretary's Committee on Veterans' Affairs.
Date: September 24, 1979.
Place: Secretary's Conference Room, S2508 (South)
Time: 1330.
Proposed agenda: Introduction of members and guests. Reports on DOL activities for veterans. Open discussion.

Agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the Secretary's meeting.

Purpose of meeting: The Committee will receive reports on DOL's activities for veterans, and receive and respond to comments from guests.

Meeting of the Secretary's Committee on Veterans' Affairs is open to the public.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairperson may allow public presentation of oral statements at the meeting.

All communications regarding this Committee should be addressed to Dr. Dennis R. Wyant, Deputy Assistant Secretary for Veterans' Employment, Room 10008, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

Dennis R. Wyant,
Deputy Assistant Secretary for Veterans Employment, Vice Chairperson, Secretary's Committee on Veterans' Affairs.

August 29, 1979.

[FR Doc. 79-27968 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-23-M

Advisory Committee on Construction Safety and Health; Full Committee Meeting and Meeting of the Subgroup on Health Standards

Notice is hereby given that the Subgroup on Health Standards of the Advisory Committee on Construction Safety and Health will meet on September 24 and 25, 1979 in Room S4215, New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. The September meeting dates announced in the August 10, 1979 **Federal Register** (44 FR 47183) are hereby changed. The meeting is open to the public and will begin at 9:30 a.m.

The Subgroup will thoroughly review OSHA health standards as they relate to the construction industry and will subsequently submit a report to the Advisory Committee on Construction Safety and Health containing their findings and including their recommendations.

The meeting agenda includes a discussion of major issues for the Subgroup report and presentations on the types of health hazards in construction.

The full Advisory Committee on Construction Safety and Health will meet on September 26, 1979 in Room S4215, Department of Labor Building, Washington, D.C.

The meeting is open to the public and will begin at 9:00 a.m.

The meeting agenda includes a status report from the Subgroup on Health Standards as well as status reports on Standards dealing with tunnels and roll over protective structures. The Committee will be briefed on standards priorities, regulatory analysis, and complaint procedures, and will hear an update on recent activities of OSHA's Task Force on Construction.

The Advisory Committee on Construction Safety and Health was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs—OSHA, 3rd Street and Constitution Avenue, NW., Washington, D.C., Room N-3635, Telephone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 4th day of September 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-27979 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-26-M

Minimum Wage Study Commission Meeting

August 28, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following Commission meeting: Name: Minimum Wage Study Commission, Date: Sept. 11, 1979, Time: 10 a.m.—11th floor, Place: 1430 K St. NW, Washington, DC 20005.

Open admittance to the extent seating is available.

Original notification of this meeting appeared in the **Federal Register** July 25, 1979.

Proposed Agenda.—1. Research approach for MWSC study of selected FLSA exemptions including Handicapped; 2. Presentation of contracted research; 3. New Business.

Next meeting of the Commission will be held Tuesday, Oct. 9, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis McConnell, Executive Director, 1430 K St. NW, Washington, DC 20005. (202) 376-2450.

Louis McConnell,
Executive Director.

[FR Doc. 79-27903 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-74]

Intent To Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to the Licensing Management Corporation, New York, New York, of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,632,242 for "Apparatus for Making Diamonds", issued on January 4, 1972, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 C.F.R. § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 30 days of the date of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, DC., 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

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Dated: August 31, 1979.
S. Neil Hosenball,
General Counsel.
[FR Doc. 79-27882 Filed 9-6-79; 8:45 am]
BILLING CODE 7510-01-M

[Notice 79-75]

Intent To Grant Exclusive Patent Licenses

Notice is hereby given of intent to grant to Dr. John C. Evans, Jr. d.b.a. Energy Resources Group, Ltd., Ravenna, Ohio, revocable, exclusive licenses to practice the inventions described in (1) U.S. Patent No. 3,894,289 for "High Power Laser Apparatus and System", issued on July 8, 1975, (2) U.S. Patent No. 3,806,835 for "Rapidly Pulsed, High Intensity, Incoherent Light Source", issued on April 23, 1974, (3) U.S. Patent No. 4,082,569 for "Solar Cell Collector", issued on April 4, 1978, (4) U.S. Patent No. 4,122,214 for "Solar Cell Collector and Method for Producing Same", issued October 24, 1978, (5) U.S. Patent No. 4,084,985 for "Method for Producing Solar Energy Panels by Automation", issued April 18, 1978, (6) U.S. Patent No. 4,104,091 for "Application of Semiconductor Diffusants to Solar Cells by Screen Printing", issued August 1, 1978, (7) U.S. Patent No. 4,104,084 for "Solar Cells Having Integral Collector Grids", issued August 1, 1978, and (8) U.S. Patent No. 4,135,290 for "Method for Fabricating Solar Cells Having Integrated Collector Grids", issued January 23, 1979. All eight above patents were issued to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive licenses will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will grant the exclusive licenses unless, within 30 days of the date of this Notice, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive licenses; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive licenses.

Dated: August 31, 1979.
S. Neil Hosenball,
General Counsel.
[FR Doc. 79-27883 Filed 9-6-79; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for October 5. The meeting will be in Room 4200 of the Dirksen Senate Office Building, located at First Street, N.W., and Constitution Avenue, N.W., Washington, D.C., and will begin at 9:30 a.m.

The agenda for the meeting will include the following items:

1. Approval of the minutes of the August 6, 1979, Commission meeting.
2. Discussion of activities of the Commission's Research Committee.
3. Consideration of atmospheric deposition and acid precipitation, with presentations to be made by representatives of the Environmental Protection Agency, the Electric Power Research Institute, and the North Carolina State University.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 245-6355.

William H. Lewis, Jr.
Director.
[FR Doc. 79-27836 Filed 9-6-79; 8:45 am]
BILLING CODE 6820-98-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The seventeenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Royal Sonesta Hotel, New Orleans, Louisiana in the Belle Grove Room. The meeting will begin at 2:00 p.m. on Saturday, September 15 and conclude at 3:00 p.m. on Tuesday, September 18, 1979.

Agenda

Saturday, September 15

1. 2:00 P.M.—6:00 P.M.
Commission Discussion with the Executive Board and Members of the Interstate Conference of Employment Security Agencies (ICESA).
Break (6:00 P.M.)

Sunday, September 16

2. 10:00 A.M.—12:30 P.M.
Chairman Meeting with Staff Members. (Commissioners attendance *optional*)
Break (12:30 P.M.)

Monday, September 17

3. 9:30 A.M.—10:30 A.M.
Senator Russell Long (Louisiana) to speak to ICESA—Commission invited.
Note.—Senator Long invited by Chairman Cohen to speak to NCUC after ICESA speech.
4. 10:30 A.M.—5:30 P.M.
Commission Members Attending Various Meetings and Workshops of ICESA.
Adjourn (5:30 P.M.)

Tuesday, September 18

5. 8:30 A.M.—12:30 P.M.
Public Testimony
—Stewart Bailenson, Vice-President, James E. Frick, Inc. (8:30 A.M.)
—National Governor's Association (9:00 A.M.) Dave Arnold, Associate Director, NGA Employment and Vocational Training Program
—Don R. Bryant, Chairman, NGA Working Group on Unemployment Insurance and Deputy Director, Georgia Employment Security Agency
—U.S. Chamber of Commerce (10:00 A.M.) Stanley L. King, Assistant Vice President, American Telephone and Telegraph
—Michael Romig, Director of Human Resources and Employee Benefits, U.S. Chamber of Commerce
—Robert N. Skinner, Director, Indiana Employment Security Division (11:00 A.M.)
—Argyll Campbell, Director of Industrial Relations, Louisiana Assocation of Business and Industry (11:30 A.M.)
—Carl L. Brewster, Jr., Unemployment Insurance Director, Office of Employment Security of Louisiana (12:00 Noon)
Break (12:30 P.M.)
6. 1:45 P.M.—3:00 P.M.
Public Testimony
A Panel of employee representatives:
—Gordon Flory, Secretary Treasurer, Louisiana AFL-CIO
—Richard McHugh, Esquire, Representing the Arkansas AFL-CIO (1:45 P.M.)
Adjourn (3:00 P.M.)

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, (703) 235-2782.

Signed at Washington, D.C. this 30th day of August, 1979.

James M. Rosbrow,
Executive Director, National Commission on Unemployment Compensation.
[FR Doc. 79-27967 Filed 9-6-79; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on Acquisition and Maintenance of the Advisory Committee for Ocean Sciences.
Date and time: September 26, 1979, 8:30 A.M. to 5:00 P.M., September 27, 1979, 8:30 A.M. to 5:00 P.M.
Place: National Science Foundation, Washington, DC 20550, Room 642.
Type of meeting: Closed.
Contact person: MS. Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 632-4102.
Purpose of ad hoc subcommittee: To provide OFS expert advice concerning support of specific equipment items requested by major oceanographic institutions.
Agenda: Detailed review and evaluation of proposals for support of oceanographic equipment.
Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; institutional financial data; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,
Acting Committee Management Coordinator.
September 4, 1979.
[FR Doc. 79-27954 Filed 9-7-79; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.
Date and time: September 27-28, 1979, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 643, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7356.
Purpose of subcommittee: To provide the IDOE with additional expertise in the review and evaluation of large and intermediate-sized oceanographic research efforts.
Agenda: Final evaluation on proposals submitted to the IDOE Section.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,
Acting Committee Management Coordinator.
September 4, 1979.
[FR Doc. 79-27955 Filed 9-6-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education.
Date & time: September 27, 1979—9:00 a.m. to 5:00 p.m., September 28, 1979—9:00 a.m. to Noon.
Place: Room 651, National Science Foundation, 651 Wisconsin Avenue, N.W., Washington, D.C. 20550 Telephone (202) 282-7947.
Type of meeting: Open.
Contact person: Dr. Alphonse Buccino, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.
Summary minutes: May be obtained from the Contact Person, Dr. Alphonse Buccino, at the above address.
Purpose of committee: To provide advice on Science Education activities.
Agenda: General discussion of long-range planning and other Science Education issues.

Joyce F. Laplante,
Acting Committee Management Coordinator.
September 4, 1979.
[FR Doc. 79-27956 Filed 9-6-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences.
Date and Time: September 24, 1979; 9:00 a.m. to 5:00 p.m.
Place: The National Science Foundation, Room 642, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telehone (202) 632-4274.
Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,
Acting Committee Management Coordinator.
September 4, 1979.
[FR Doc. 79-27957 Filed 9-6-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on Ship Operations of the Advisory Committee for Ocean Sciences.
Date and time: September 25, 1979—9:00 A.M. to 5:00 P.M.
Place: National Science Foundation, Washington, D.C. 20550, Room 642.
Type of meeting: Closed.
Contact person: Ms Mary K. Johrde, Head, Office for Oceanographic Facilities and Support (OFS), National Science Foundation, Room 613, Washington, DC 20550, telephone (202) 632-4102.
Purpose of ad hoc subcommittee: To provide OFS expert advice concerning ship operations support requested by major oceanographic institutions.
Agenda: Detailed review and evaluation of proposals for support of oceanographic ships.
Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; institutional financial data; and personal

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information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27959 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Astronomy; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomy.

Date & time:
September 26—8 pm to 10 pm.
September 27—9 am to 5 pm.
September 28—9 am to 12 noon.

Place: Arecibo Observatory, Arecibo, Puerto Rico

Type of meeting: Partially Closed. September 27, 2:00–4:00 p.m.

Contact person: Dr. William E. Howard, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C.

Summary Minutes: May be obtained from the contact person at the above stated address.

Purpose of committee: To provide advice and recommendatiaons concerning research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.

Agenda:

September 26, 1979

I. Introductory Remarks
II. Minutes of Previous Meeting
III. Short Status Reports

September 27, 1979

A.M.—IV. Discussion of the Budget
V. Subcommittee Reports
P.M.—VI. Executive Session—Review of Proposals
VII. Discussion of Long Range Plans

September 28, 1979

VIII. NAIC Presentation
XI. Discussion of Problems in Astronomy
X. Critique of Meeting

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27961 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences; Subcommittee on Ocean Sciences Research; Meeting Amendment

The original notice of meeting for the above named committee appeared in Vol. 44, No. 166 of the **Federal Register**, page 49815 on Friday, August 24, 1979. Please substitute the following portion of that meeting:

Agenda: Review of proposals submitted for a research project on Low Energy Benthic Boundary Layer Experiment (LEBBLE).

Please note that this agenda is for the meeting of September 11 and 12, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27963 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Ocean Sciences; Subcommittee on Ocean Sciences Research; Meeting Amendment

The original notice of meeting for the above named committee appeared in Vol. 44, No. 166 of the **Federal Register**, pages 49815 and 49816 on Friday, August 24, 1979. Please substitute the following portion of that meeting:

Agenda: Review of proposals submitted for large-scale ocean research on the following topics: September 10–11: Pacific Equatorial Dynamics (PEQUOD). September 12: Seasonal Equatorial Atlantic Experiment (SEQUAL). September 13–14: Biology and Eastern Equatorial Dynamics (BEED).

Please note that this agenda is for the meeting of September 10 through 14, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27962 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Earth Sciences; Geology and Geochemistry Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences, Geology and Geochemistry Subcommittees.

Date and time: September 27–28, 1979; 9:00 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Rooms 321 and 338, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4274.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals assoicated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b[c], Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27960 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee of the Advisory Committee for Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education (subcommittee only).

Date & time: September 26, 1979—9:00 a.m. to 5:00 p.m.

Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20550, telephone (202) 282–7947.

Type of meeting: Open.

Contact person: Dr. Conrad Katzenmeyer, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550.

Summary minutes: May be obtained from the Contact Person, Dr. Conrad Katzenmeyer, at the above address.

Purpose of committee: To provide advice on Science Education activities.

Agenda: Evaluation of all Science Education programs.

Joyce F. Laplante,

Acting Committee Management Coordinator.

September 4, 1979.

[FR Doc. 79–27958 Filed 9–6–79; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–538]

Memphis State University; Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R–127, issued to the Memphis State University (the licensee), for operation of the AGN–201 nuclear reactor located on the licensee's campus in Memphis, Tennessee.

The amendment would authorize an increase in the reactor's licensed maximum power level from 100 milliwatts (thermal) to 20 watts (thermal) for continuous operation and would authorize intermittent operation at power levels up to 1000 watts (thermal), in accordance with the licensee's request dated March 23, 1979, as supplemented August 3, 1979.

Prior to issuance of the proposed licensee amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 9, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular recerence to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine withnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Memphis AGN–201); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the licensee's request dated March 23, 1979, as supplemented August 3, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland this 30th day of August 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79–27869 Filed 9–6–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Omaha Public Power District; Proposed Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–40, issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station, Unit No. 1 (the facility) located in Washington County, Nebraska.

In accordance with the licensee's application for amendment transmitted by letter dated July 17, 1979, the amendment would (1) authorize an increase in the current licensed power level from 1420 MWt to 1500 MWt, (2)

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authorize the use of fuel from Exxon Nuclear Company, Inc., for Cycle 6 operation, and (3) authorize the use of Exxon Nuclear Company, Inc. analytical methods.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulation.

By October 9, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Fort Calhoun); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Margaret R. A. Paradis, LeBoeuf, Lamb, Leiby and MacRae, 1757 N Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a) (i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for amendment transmitted by letter dated July 17, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska.

Dated at Bethesda, Maryland, this 30th day of August 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-27755 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

[NUREG 75/087]

Proposed Revision to the Standard Review Plan; Issuance and Availability

As part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission has issued a proposed Revision 2 to SRP Section 8.3.1, "A–C Power Systems (Onsite)." A value/impact statement has been prepared in support of the proposed changes.

Public comments on this revision to the SRP and the supporting value/impact statement are solicited. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

This proposed revision, the supporting value/impact statement, and all comments that have been received by October 29, 1979 will be considered by the Regulatory Requirements Review Committee (RRRC). A summary of the RRRC meeting at which these changes are considered, the committee recommendations, and all of the associated documents and comments considered by the committee will be made publicly available prior to a decision by the Director of the Office of Nuclear Reactor Regulation on whether to implement these changes.

Copies of this proposed revision to the SRP and the supporting value/impact statement are available for public inspection at the NRC Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies of this material or for placement on an automatic distribution list for single copies of future proposed revisions to the SRP should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Dated at Rockville, MD this 31st day of August 1979.

For the U.S. Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-27870 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

Sales Policy for Regulatory Guides

Since the Regulatory Guide Series was instituted in 1972, printing and distribution costs have greatly increased. In order to reduce the burden on the taxpayer, the Nuclear Regulatory Commission (NRC) has made arrangements with the U.S. Government Printing Office (GPO) to become a consigned sales agent for certain NRC publications. Effective October 1, 1979, regulatory guides are being included in this sales program and may be purchased on a subscription or individual copy basis. This program will ensure the continued use of regulatory guides in an efficient and cost-effective manner.

Draft guides will continue to be furnished at no cost to those on the current distribution list for the appropriate division. NRC licenses will receive, also at no cost, a single copy of pertinent draft and active regulatory guides as they are issued. Otherwise, active regulatory guides issued after September 30, 1979, will be sent only to those who have made arrangements for a paid subscription. Both draft and active guides will be available in the NRC Public Document Room at 1717 H Street NW., Washington, D.C., for inspection and copying for a fee.

In the past, the policy of minimizing the cost to the taxpayer has prevented NRC from furnishing multiple copies, either on a subscription basis or in response to requests for guides already issued. With the new sales arrangement, subscribers may purchase as many subscriptions for the future guides as they need. Requests for multiple copies of guides already issued will be filled at the current Government Printing Office price.

Information on the subscription service and current GPO prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 29th day of August 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standard Development.

[FR Doc. 79-27871 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

Financial Protection Requirements and Indemnity Agreements

On July 23, 1979, the Nuclear Regulatory Commission published in the **Federal Register** (44 FR 43128) a notice that pursuant to the Atomic Energy Act of 1954, as amended, the Commission was initiating the making of a determination as to whether or not the recent accident at Three Mile Island, Unit 2, (TMI–2) constitutes an extraordinary nuclear occurrence. The notice indicated the submittals of public comments, along with other information assembled by the Commission from its own and other sources will be considered by a panel composed of Commission principal staff.

This panel has now been formed with the Executive Director of Operations as Chairman. Members of the panel will be the Directors of the Office of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, Nuclear Regulatory Research, Inspection and Enforcement, and Standards Development, and the Executive Legal Director. In addition, the present deputy of each member of the panel will serve as an alternate in order that the panel may continue its work during the temporary absence of one or more members. The Director of the Office of Nuclear Material Safety and Safeguards will serve as Deputy Chairman of the panel. The members of the panel will draw upon the personnel resources of their staff to assist in the completion of their work.

The panel intends to complete its work and report to the Commission as soon as possible after the panel has had an opportunity to review any information relevent to its review presented in the report of the Presidential Commission investigating the TMI–2 accident. At the time it reports to the Commission it intends to publish its report in the **Federal Register** for public comment. The panel intends to review thoroughly all data provided by the public in the comment period that ended August 23. It also intends to review information provided by any other parties and to review and update as necessary the data and analyses provided by the numerous studies on offsite releases that it has identified as having been completed or underway.

Dated at Bethesda, Maryland this 30th day of August 1979.

For the Nuclear Regulatory Commission.

William J. Dircks,

Director of Nuclear Material Safety and Safeguards.

[FR Doc. 79-27880 Filed 9-6-79; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09–0245]

Crosspoint Investment Corp.; Application for a License To Operate as a Small Business Investment Co.

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (CFR 107.102(1979)), by Crosspoint Investment Corporation, 1015 Corporation Way, Palo Alto, California 94303, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 101 et seq).

Officers, Directors and Shareholders

Joe D. Giulie, Chairman of the Board of Directors, 25295 La Loma, Los Altos Hills, California 94022.

Max S. Simpson, President and Chief Executive Officer, 1177 California Avenue, San Francisco, California 94108. 5 percent.

F. Allan Anderson, Director 839 Marina Boulevard; San Francisco, California 94108. 5 percent.

Kenneth A. Eldred, Director, 1075 Westridge, Portola Valley, California 94025. 5 percent.

John B. Mumford, Secretary, Chief Financial Officer and Director, 109 Kathy Court, Los Gatos, California 95030.

Crosspoint Financial Corportation, 1015 Corporation Way; Palo Alto, California. 85 percent.

The Applicant will start operations with $160,000 initial private capital. Crosspoint Financial Corporation has arranged to purchase the Applicant's shares in three $160,000 increments over the 18-month period from July 1, 1979, to December 31, 1980. Messrs. Joe D. Giulie and John B. Mumford, 50 percent and 40 percent owners, respectively, of Crosspoint Financial Corporation, will agree to assume the subscription to purchase the balance of the shares subscribed to in the event Crosspoint Financial Corporation is either unwilling or unable to purchase such stock on a demand basis or within 18-months. Messrs. Max S. Simpson, F. Allan Anderson and Kenneth A. Eldred have agreed that upon 30-day written notice by the Applicant, or if no demand is made then on September 30, 1980, they shall honor their subscription to

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purchase the Applicant's shares for a total of $22,500. SBA will not provide leverage funds until the entire $502,500 of private capital has been paid in.

In order to meet the diverse requirements of prospective clients for financing and maintain sufficient flexibility, the Applicant will establish a broad financing policy. The Applicant will, as much as possible, emphasize equity investments in emerging businesses with particular attention to growth potentials.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing would be in the furtherance of the Act.

Notice is hereby given that any person may not later than September 21, 1979 submit written comments to the Acting Associate Administrator for Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Palo Alto, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: August 31, 1979.

Peter F. McNeish,

Acting Associate Administrator, Finance and Investment.

[FR Doc. 79-27835 Filed 9-6-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1644; Amdt. #1]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 33997) is amended by extending the filing date for physical damage until the close of business on October 2, 1979, and for economic injury until the close of business on May 2, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 20, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-27834 Filed 9-6-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 139 (Rev. 5)]

Regional Directors of Appeals; Authority of Delegation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The Regional Directors of Appeals are added to the Delegation Order in place of the Assistant Regional Commissioners (Examination) with authority to extend the correction period and the allowable distribution period relating to private foundation and employee plans matters.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Bruce J. Conyne, 1111 Constitution Avenue, N.W., Room 2324, Washington, DC 20224, Telephone No. 202-566-6131 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Bruce J. Conyne,

Chief, Programs and Procedures Branch, National Office Appeals Division.

Subject: Authority to Extend the Correction Period and the Allowable Distribution Period Relating to Private Foundation and Employee Plans Matters.

1. Pursuant to the provisions of 26 CFR 53 4941(e)-1(d), 26 CFR 53.4941(f)-1, 26 CFR 53.4942(a)-1(c), 26 CFR 53.4943-9(b)(2), 26 CFR 53.4943-11(b), 26 CFR 53.4944-5, 26 CFR 53.4945-1(e), IRC 4971(c)(3), IRC 4975(f)(6), and the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, there is hereby delegated to the District Director of Internal Revenue for each of the key districts for Employee Plans and Exempt Organizations matters and the Regional Director of Appeals for each of the regions the authority to:

(a) Extend the correction period for acts of self-dealing under IRC 4941, failures to distribute income under IRC 4942, excess business holdings under IRC 4943, investments which jeopardize charitable purpose under IRC 4944, and taxable expenditures under IRC 4945;

(b) Extend the allowable distribution period for failures to distribute income under IRC 4942; and

(c) Extend the correction period for failures to meet minimum funding standards under IRC 4971, and correction of prohibited transactions under IRC 4975.

2. The authority delegated herein may be redelegated, but not lower than to Group Managers of Employee Plans and Exempt Organization Groups in Key District Offices and to Chiefs and Associate Chiefs of Appeals Offices and Appeals Team Chiefs in Regional Offices. The authority of an Appeals Team Chief is limited to those cases assigned to the Appeals Team Chief.

3. This Order supersedes Delegation Order No. 139 (Rev. 4) issued July 2, 1978.

Issued: September 6, 1979.

William E. Williams,

Acting Commissioner.

[FR Doc. 79-27998 Filed 9-6-79; 8:45 am]

BILLING CODE 4830-01-M

Office of Revenue Sharing

State and Local Fiscal Assistance Act of 1972; 31 U.S.C.A. § 1221 et seq. (Amended 1976)

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Correction notice.

We set forth herewith a notice correcting Data Notice (FR Vol. 44, No. 168, page 50425, filed by the Office of Revenue Sharing) by changing the first sentence under paragraph entitled Supplementary Information to read as follows:

Section 102(b) of the State and Local Fiscal Assistance Act of 1972 as amended by section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period.

Dated: August 30, 1979.

Kent A. Peterson,

Acting Director, Office of Revenue Sharing.

[FR Doc. 79-27847 Filed 9-6-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Availability of Summary Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the Veterans Administration's Spinal Cord Injury Program has been completed.

Single copies of the Spinal Cord Injury evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: August 29, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

[FR Doc. 79-27851 Filed 9-6-79; 8:45 am]

BILLING CODE 8320-01-M

200-Bed Facility, Veterans Administration Medical Center, Vancouver, Wash.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement, 200-Bed Facility, Veterans Administration Medical Center, Vancouver, Washington" dated August 1979, has been prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969.

The preferred location of the 200-Bed Facility is at the present 48-acre Veterans Administration Medical Center, Vancouver, Washington. The new facility will have 200 beds replacing the outmoded existing 371-bed facility.

The Draft Statement (April 1979) discusses the environmental impact of the 200-bed facility as the preferred alternative as well as the "No Action" alternative. The Final Statement consists of comments received by the Veterans Administration during the 45-day public review period followed by appropriate responses. The Final Statement is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Questions or requests for single copies of the Final Environmental Impact Statement may be addressed to the above office.

Dated: August 31, 1979.

By direction of the Administrator,

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-27852 Filed 9-6-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 129]

Assignment of Hearings

August 30, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-146016F, Oliver Brown Trucking Co., Inc., transferred to Modified Procedure.

No. MC-115557 (Sub-No. 19F), Charles A. McCauley, transferred to Modified Procedure.

No. MC-142941 (Sub-No. 29F), Scarborough Truck Lines, Inc., now assigned for hearing on October 10, 1979 (1 day), at Chicago, IL in a hearing room to be later designated.

No. MC-145636F, Roger Stockwell d.b.a. Immediate Delivery Service Co., now assigned for hearing on September 11, 1979 (1 day), is cancelled and application dismissed.

No. MC-42261 (Sub-No. 140F), Langer Transport Corporation, now assigned for Prehearing Conference cancelled, transferred to Modified Procedure.

No. MC-110988 (Sub-No. 375F), Schneider Tank Lines, Inc., now assigned for hearing on September 18, 1979 at Washington, DC is postponed to October 23, 1979 with examination of documents on October 22, 1979 at 1 p.m. at the Offices of the Interstate Commerce Commission.

No. MC-F-13805, General Movers-Purchase-Fasgo Motor Express, Inc., Lyons Transportation Lines, Inc.-Control-General Movers, Inc., and MC-120879 (Sub-No. 4), General Movers, Inc., now being assigned for hearing on October 30, 1979 (2 days), at St. Louis, MO in a hearing room to be later designated.

No. MC-136511 (Sub-No. 28F), Virginia Appalachian Lumber Corp., now being assigned for hearing on October 25, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-112713 (Sub-No. 228F), Yellow Freight System, Inc., now being assigned for hearing on October 26, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-145153 (Sub-No. 2F), Doubledekker, Inc., now being assigned for hearing on October 29, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-95684 (Sub-No. 6F), Diamond Tours, Inc., now being assigned for hearing on October 30, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. I&S 9217, Increased Rates on Coal, Arco, TN, to Hartlee, GA., Sou. and CGA, transferred to Modified Procedure.

No. MC 110667 (Sub-No. 2F), G. B. "Boots" Smith, Inc., transferred to Modified Procedure.

No. MC 55896 (Sub-No. 104F), R-W Service System, Inc., transferred to Modified Procedure.

No. MC 119767 (Sub-No. 349F), Beaver Transport Company, now being assigned for hearing on October 9, 1979 (1 day), at Chicago, IL in a hearing room to be designated later.

No. MC 136774 (Sub-No. 12F), MC-MOR-HAN Trucking Co., Inc., now being assigned for hearing on December 4, 1979 (1 day), at Chicago, IL in a hearing room to be designated later.

No. MC 145574 (Sub-No. 1F), Russ's Motor Service, Inc., now being assigned for hearing on December 5, 1979 (3 days), at Chicago, IL in a hearing room to be designated later.

No. MC 140829 (Sub-No. 182F), Cargo Contract Carrier Corp., now being assigned for hearing on December 10, 1979 (2 days), at IL in a hearing room to be designated later.

No. MC 129615 (Sub-No. 4), American International Driveaway Extension-Hawaii, now being assigned for hearing on December 12, 1979 (3 days), at Chicago, IL in a hearing room to be designated later.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27885 Filed 9-6-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247 (k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform,

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(2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or dealy the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broading amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and it proposed contract carrier service will be consistent with the pubic interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 9, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 151

Decided: August 20, 1979

By the Commission, Review Board Number 2, Members Liberman, Boyle and Eaton.

MC 14252 (Sub-64F), filed May 10, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC. 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Galesburg, IL, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 32882 (Sub-112F), filed April 30, 1979. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Blvd., P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut cedar log homes*, knocked-down, and (2) *materials and accessories* used in the manufacture and erection of the commodities in (1) above, from points in Salt Lake County, UT, to points in the United States (except AK, HI, and UT). (Hearing site: Salt Lake City, UT, or Portland, OR.)

MC 37203 (Sub-12F), filed May 10, 1979. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, OK 74003. Representative: Thomas F. Sedberry, 801 Vaughn Bldg., Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, between points in OK, KS, and TX, on the one hand, and, on the other, points in CA, AZ, MS, AL, GA, FL, NC, SC, CT, and VA. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 60612 (Sub-21F), filed May 9, 1979. Applicant: TISCHLER EXPRESS, INC., 8408 Elliston Drive, Philadelphia, PA 19118. Representative: Ira G. Megdal, Esquire, 499 Cooper Landing Road, Cherry Hill, NJ 08002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture of foodstuffs (except commodities in bulk), between the facilities of American Home Foods, Division of American Home Products Corporation, at or near Milton, PA, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, RI, VA, and DC. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 71593 (Sub-39F), filed March 6, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1815 Front Street, Scotch Plains, NJ 07076. Representative: Peter Wolff, P.O. Box 116, Scranton, PA 18504. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry soup ingredients*, from the facilities of Nissin Foods (U.S.A.) Co., Inc., at or near Los Angeles, CA, to points in CT, FL, GA, IL, MD, MA, NJ, NY, PA, and VA. (Hearing site: New York, NY, or Washington, DC.)

MC 96992 (Sub-15F), filed May 8, 1979. Applicant: HIGHWAY PIPELINE TRUCKING COMPANY, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Suite 801 Vaughn Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equiped with mechanical refrigeration, between points in AL, AR, GA, IA, IL, IN, KS, KY, MA, ME, MN, MO, MS, NC, NE, NY, OH, PA, TN, TX, VA and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC or Chicago, IL.)

MC 103993 (Sub-963F), filed May 8, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *portable gasifiers*, between points in the United States (except AK and HI). (Hearing site: Sacramento, CA.)

MC 107012 (Sub-363F), filed May 8, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpeting* from the facilities of C. H. Masland and Sons, Inc., at or near Mobile, AL, to points in IA and MN. (Hearing site: Chicago, IL or Washington, DC.)

MC 107012 (Sub-364F), filed May 9, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bicycles, tricyles, unicycles, and exercise equipment*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, between the facilities of Schwinn Bicycle Company, at Bellwood, Chicago, and Elk Grove Village, IL, on the one hand, and, on the other, points in the United States (except AK, HI, and IL), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 107012 (Sub-372F), filed May 9, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors, door frames, windows, window frames, door and wall systems, and greenhouses*, and (2) *parts, accessories, and hardware* for the commodities in (1) above, from the facilities of Alenco, A Division of Redman Industries, Inc., at or near Bryan, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Washington, D.C.)

MC 108473 (Sub-45F), filed March 19, 1979 and previously published in the **Federal Register** on July 19, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between St. Albans, VT, and Champlain, NY: from St. Albans over U.S. Hwy 7 to Swanton, VT, then over VT Hwy 78 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction NY Hwy 9B, then over NY Hwy 9B to junction U.S. Hwy 11, then over U.S. Hwy 11 to Champlain, and return over the same route, (2) between Burlington, VT, and Plattsburgh, NY: from Burlington over U.S. Hwy 2 to junction VT Hwy 314, then over VT Hwy 314 to Lake Champlain, then over Lake Champlain by ferry to Cumberland Head, NY, then over NY Hwy 314 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Plattsburgh, and return over the same route, (3) between Burlington, VT, and Plattsburgh, NY, from Burlington over Lake Champlain by ferry, to Port Kent, NY; then over NY Hwy 373 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Plattsburgh, and return over the same route; (4) between Vergennes, VT, and Elizabethtown, NY: from Vergennes over VT Hwy 22A to junction VT Hwy 17, then over VT Hwy 17 to junction NY Hwy 8, then over NY Hwy 8 to junction NY Hwy 9N, then over NY Hwy 9N to Elizabethtown, and return over the same route, (5) between Middlebury, VT, and junction VT Hwy 125 and VT Hwy 17, over VT Hwy 125; (6) between junction NY Hwy 8 and NY Hwy 9N and Lake George, NY, over NY Hwy 9N; (7) between Rutland, VT, and Ticonderoga, NY: from Rutland over U.S. Hwy 4 to Whitehall, NY, then over NY Hwy 22 to Ticonderoga, and return over the same route; (8) between Whitehall and Glens Falls, NY: from Whitehall over U.S. Hwy 4 to Hudson Falls, NY, then over NY Hwy 254 to Glens Falls, and return over the same route; (9) between Rutland, VT, and Saratoga Springs, NY: from Rutland over U.S. Hwy 4 to junction VT Hwy 22A, then over VT Hwy 22A to junction NY Hwy 22A, then over NY Hwy 22A to junction NY Hwy 22, then over NY Hwy 22 to junction NY Hwy 29, then over NY Hwy 29 to Saratoga Springs, and return over the same route; (10) between Bennington, VT, and Round Lake, NY: from Bennington over VT Hwy 67A to junction VT Hwy 67, then over VT Hwy 67 to junction NY Hwy 67, then over NY Hwy 67 to Round Lake, and return over the same route; (11) between Bennington, VT, and Latham, NY: from Bennington over VT Hwy 9 to junction NY Hwy 7, then over NY Hwy 7 to Latham, NY, and return over the same route; (12) between Arlington, VT, and Saratoga Springs, NY: from Arlington over VT Hwy 313 to junction NY Hwy 313, then over NY Hwy 313 to junction NY Hwy 372, then over NY Hwy 372 to junction NY Hwy 29, then over NY Hwy 29 to Saratoga Springs, and return over the same route; (13) between junction NY Hwy 8 and NY Hwy 22, and Keeseville, NY, over NY Hwy 22; (14) serving in connection with routes (1) through (13) above, all intermediate points, and (15) serving points in VT and Clinton, Essex, Rensselaer, Saratoga, Warren, and Washington Counties, NY, as off-route

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points in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA.)

Notes.—(1) Applicant intends to tack this authority with existing regular and irregular-route authorities. (2) The purpose of this republication is to (a) show regular route operations in lieu of irregular, (b) show the off-route points in connection with carrier's regular-route operations, and (c) show applicant's intention to tack.

MC 108473 (Sub-46F), filed March 19, 1979, and previously published in the Federal Register on July 19, 1979. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, P.O. Box 238, 60 Adams Street, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, *over regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Binghamton, NY, and Baltimore, MD: from Binghamton over U.S. Hwy 11 to Kingston, PA, then over PA Hwy 309 to junction U.S. Hwy 209 near Tamaqua, PA, then over U.S. Hwy 209 to junction PA Hwy 61 at Pottsville, PA, then over PA Hwy 61 to junction U.S. Hwy 222 at Reading, PA, then over U.S. Hwy 222 to Lancaster, PA, then over U.S. Hwy 30 to York, PA, then over U.S. Hwy 83 to Baltimore, and return over the same route, (2) between Reading and Philadelphia, PA, over U.S. Hwy 422, (3) between Newburgh, NY, and Scranton, PA, over U.S. Hwy 84 (4) serving in connection with routes (1), (2), and (3) above, all intermediate points, and (5) serving points in Bradford, Lackawanna, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties, PA, as off-route points in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA.)

Notes.—(1) Applicant intends to tack this authority with existing regular and irregular route authorities. (2) The purpose of this republication is to (a) show regular route operations in lieu of irregular, (b) show the off-route points in connection with carrier's regular-route operations, and (c) show applicant's intention to tack.

MC 108962 (Sub-3F), filed May 9, 1979. Applicant: MIDWEST SPECIALIZED HAULERS, INC., P.O. Box 753, Dubuque, IA 52001. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by agricultural equipment dealers and industrial equipment dealers, (except commodities in bulk), from the facilities of Deere & Company, in Dubuque and Scott Counties, IA, to points in IL. (Hearing site: Chicago, IL.)

MC 110563 (Sub-278F), filed May 8, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in GA, IA, IL, IN, KS, MI, MN, MO, NE, NY, OH, PA, TX, VA, and WI, restricted to the transportation of traffic orignating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 112713 (Sub-270F), filed May 4, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving the facilities of Palo Verde Nuclear Generating Plant, at or near Arlington, AZ, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 113362 (Sub-352F), filed May 1, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Mildon D. Adams, 1105½ Eighth Avenue N.E., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Britt and Mason City, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA, or (b) Armour and Co., at or near Mason City, IA.

MC 114632 (Sub-217F), filed May 1, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in packages, from the facilities of Pennzoil Company, at Rouseville and Reno, PA, to points in IN, IL, IA, MI, MO, MN, NE, ND, SD, and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 116142 (Sub-29F), filed May 7, 1979. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, P.O. Box M–25, York, PA 17405. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, and *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, from the facilities of Miller Brewing Company, in Oswego and Onondaga Counties, NY, to points in PA and MD, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destintions. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 116273 (Sub-229F), filed May 4, 1979. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *spent or waste petroleum oil*, in bulk, in tank vehicles, from points in IN, IA, KY, MI, MN, MO, NE, OH, TN, and WI, to McCook, IL. (Hearing site: Chicago, IL.)

MC 116763 (Sub-518F), filed May 9, 1979, Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, and distributors of rubber products (except commodities in bulk, in tank vehicles), from Barberton, OH, to the facilities of Wagner Products Division, at or near Hustisford, WI, restricted to the transportation of traffic originating at the named origin and destined to the named facilities. (Hearing site: Milwaukee, WI.)

MC 123233 (Sub-90F), filed May 9, 1979. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada H1J 1C4. Representative: J. P. Vermette (same address as applicant). To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *gypsum products and roofing materials*, from the ports of entry on the international boundary line between the United States and Canada to points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 124692 (Sub-277F), filed May 4, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missouri, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *center pivot irrigation systems*, and (2) *parts and supplies* used in the manufacture and installation of the commodities in (1) above, from Denver and Aurora, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 125433 (Sub-254F), filed April 30, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *irrigation and sprinkling systems*, and (2) *parts and accessories* for the commodities in (1) above, from Tifton, GA, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 127042 (Sub-265F), filed May 9, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic bottles*, from Lenexa, KS, to points in IA and NE. (Hearing site: Kansas City, KS.)

MC 129712 (Sub-21F), filed May 8, 1979. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery products* (except frozen), from the facilities of Sunshine Biscuits, Inc., at or near Columbus, GA, to points in AR, and (2) *materials, equipment and supplies* used in the manufacture of bakery products, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Sunshine Biscuits, Inc. of Columbus, GA.

MC 135012 (Sub-4F), filed May 7, 1979. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road, NE, Grand Rapids, MI 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, MI 49503. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ethyl alcohol*, in bulk, in tank vehicles, from Tuscola, IL, to Ada, MI, under continuing contract(s) with Amway Corporation, of Ada, MI. (Hearing site: Lansing or Detroit, MI.)

Note.—Dual operations may be involved.

MC 135052 (Sub-19F), filed May 1, 1979. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products* (except commodities in bulk), from the plantsites of Inland Container Corporation, at or near Indianapolis and Crawfordsville, IN, to points in OH, MI, IL, IA, and KY, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 135152 (Sub-32F), filed May 4, 1979. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, P.O. Box 327, West Harrison, IN 45030. Representative: Jack B. Josselson, 700 Atlas Bank Bldg., Cincinnati, OH 45202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from the facilities of General Electric Company, at Louisville and Appliance Park, KY, to points in PA, NY, MI, and WV. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 136343 (Sub-163F), filed May 2, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, and *materials, equipment, and supplies* used in the manufacture of paper and paper products, (except commodities in bulk and those which because of size or weight require the use of special equipment), (1) between the facilities of Hammermill Paper Company, at or near Oswego, NY, on the one hand, and, on the other, New York, NY, points in Suffolk County, NY, and those in NJ, CT, MA, RI, ME, NH, VT, PA, OH, IN, MI, KY, TN, NC, SC, GA, FL, AL, MS, MD, VA, WV, DE, and DC, and (2) between the facilities of Hammermill Paper Company, at or near Erie, PA, on the one hand, and, on the other, points in NC, SC, TN, GA, AL, MS, and FL. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 138432 (Sub-14F), filed May 8, 1979. Applicant: GARLAND GEHRKE, R.R. #1, Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) such commodities as are dealt in by chain grocery and feed business houses, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. (Hearing site: Chicago, IL.)

MC 139432 (Sub-10F), filed May 7, 1979. Applicant: SUNRISE TRANSPORTATION, INC., 9850 East Highway 120, Manteca, CA 95336. Representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *granulated sugar*, in bulk, in tank or hopper-type vehicles, from the facilities of Amstar Corporation, Spreckels Sugar Division, at or near Mendota, CA, to the facilities of Amstar Corporation, Spreckels Sugar Division, at or near Searpa, AZ, under continuing contract(s) with Amstar Corporation, Spreckels Sugar Division, of San Francisco, CA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 139482 (Sub-125F), filed May 9, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E.

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Balenthin, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, (except commodities in bulk), from Manistee, MI, to points in IL, IN, IA, KY, MD, MN, MO, NJ, NY, NC, OH, PA, TN, VA, WI, and WV. (Hearing site: Chicago, IL.)

MC 140273 (Sub-19F), filed May 3, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer ingredients*, (1) from Minneapolis, MN, to points in WI, (2) from Gluek, MN, to points in ND, SD, and WI, and (3) from Rosemount, MN, to points in IA, NE, ND, SD, WI, and the Upper Peninsula of MI. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 143343 (Sub-2F), filed May 4, 1979. Applicant: BALLENTINE TRANSPORT, INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine, 2740 North 19th Street, Gering, NE 69341. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Brush, Co, to Oakland, San Francisco, Lodi, Fresno, Stockton, Bakersfield, and Los Angeles, CA, and Seattle and Tacoma, WA, under continuing contract(s) with Sigman Meat Company, of Brush, CO. (Hearing site: Omaha, NE, or Denver, CO.)

MC 143562 (Sub-3F), Filed May 4, 1979. Applicant: DONALD R. FORD, d.b.a. SERVICE TRANSPORT, P.O. Box 37, Burbank, WA 98323. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98004. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid blood*, in bulk, from points in ID, WA, MT, and OR, to Wallula, WA, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Spokane, WA, or Portland, OR.)

MC 143593 (Sub-2F), Filed May 9, 1979. Applicant: ROTA-CONE OILFIELD OPERATING CO., a corporation, 434 Palmer Drive, Muskogee, OK 74401. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Champion International Corporation, at or near Ft. Smith, AR, to points in KS, MO, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Champion International Corporation, of Hamilton, OH. (Hearing site: Ft. Smith, AR.)

MC 143812 (Sub-12F), Filed May 7, 1979. Applicant: MARTIN E. VAN DIEST, d.b.a. M. VAN DIEST COMPANY, 8087 Victoria Avenue, Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grape juice concentrate* and *grape brandy*, in bulk, from Fresno, CA, to Peoria, IL, Baltimore, MD, Detroit and Paw Paw, MI, Niagara Falls, NY, Cincinnati, Geneva, and Orrville, OH, Memphis, TN, Glendale, WI, and points in WA. (Hearing site: Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control with another regulated carrier must either file an application under 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 144293 (Sub-9F), Filed May 7, 1979. Applicant: GEORGE McFARLAND, d.b.a. McFARLAND TRUCK LINES, P.O. Box 21, Oakland, MN 56076. Representative: Duane McFarland, Box 1006, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209 and 766, (except hides and commodities in bulk), between the facilites used by Lauridsen Foods, Inc., at or near Britt, IA, and the facilities used by Armour & Co., at Mason City, IA, on the one hand, and, on the other, points in IL, IN, MN, ND, OH, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN, or Washington, DC.)

MC 144622 (Sub-71F), filed May 8, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72206. Representative: Theodore Polydoroff, 1307 Dolly Madison Blvd., Suite 301, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods* (except frozen), from the facilities of Joan of Arc, at or near (1) Hoopeston and Princeville, IL, (2) Belledeau and St. Francisville, LA, (3) Turkey, NC, and (4) Mayville, WI, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 145102 (Sub-30F), filed May 7, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen bakery products*, from the facilities of Dressel's Bakery, a Division of American Bakery, at Chicago, IL, to points in CA. (Hearing site: Chicago, IL, or Madison, WI.)

MC 145152 (Sub-80F), filed May 7, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, FL, GA, IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MS, MT, NC, ND, NE, NY, OH, PA, SC, SD, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic orginating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, Illinois.)

MC 145513 (Sub-5F), filed May 4, 1979. Applicant: SERVICE TRANSPORTATION, INC., 125 North 6th Street, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *apple juice, apple cider, and apple vinegar*, and (2) *materials and supplies* used in the production and distribution of the commodities in (1) above, between Fruitland, ID, on the one hand, and, on the other, points in AZ, CA, CO, MT, NV, OR, UT, WA, and WY, under continuing contract(s) with Keller-Lorenz Co., d/b/a Payette Vinegar & Cider Co., of Fruitland, ID. (Hearing site: Boise, ID.)

MC 146023 (Sub-2F), filed April 24, 1979. Applicant: BRIAN MISHOU, P.O. Box #1, Unity, ME 04988. Representative: Brian Mishou (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood fencing and lumber*, from Houlton and Unity, ME, to Blue Anchor, NJ, Canton and New London, CT, Latham, NY, Brattleboro and Burlington, VT, Cranston, RI, South Yarmouth, Foxboro, and South Weymouth, MA, and Derry, NH, under continuing contract(s) with Milmac, Inc., at Unity, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 146163 (Sub-2F), filed May 8, 1979. Applicant: E. FEDDELER & SONS, INC., 21827 Austin St., Lowell, IN 46356. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in IL, IN, KY, and OH. (Hearing site: Chicago, IL.)

MC 146293 (Sub-20F), filed May 7, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park, Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *heating and air conditioning units*, and (b) *component parts* for the commodities in (1)(a), from points in Davidson County, TN, to points in CA and AZ, and those in the United States in and east of U.S. Hwy 85, and (2) *equipment, materials, and supplies* used in the manufacture, sales, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 147072 (Sub-2F), filed May 7, 1979. Applicant: D & M TRUCKING, INC., 718 Colonial Circle, Jackson, MS 39211. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628; Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick*, from the facilities of Tri-State Brick & Tile Co., Inc., at or near Jackson, MS, to points in AL, AR, LA, and TN. (Hearing site: Jackson, MS, or Washington, DC.)

MC 147172F, filed May 7, 1979. Applicant: JARDINE TRANSPORT, LTD., Blackville, New Brunswick, Canada EOC 1CO. Representative: Francis P. Barrett, P.O. Box 238, 60 Adams Street, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber, fencing, and wood shingles*, between the ports of entry on the international boundary line between the United States and Canada located in ME, on the one hand, and, on the other, points in CT, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and DC. (Hearing site: Bangor or Portland, ME.)

MC 147173F, filed May 7, 1979. Applicant: C & T TRUCKING, INC., 1050 Brookside Drive, Richmond, CA 94806. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, VA 22201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel products* (except in bulk), from the facilities of Cascade Steel Rolling Mills, Inc., at McMinnville, OR, to points in Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, and Stanislaus Counties, CA, and (2) *scrap metals*, in the reverse direction, under continuing contract(s) in (1) and (2) above with Cascade Steel Rolling Mills, Inc., of Stockton, CA. (Hearing site: San Francisco or Oakland, CA.)

MC 147182 (Sub-1F), filed May 4, 1979. Applicant: GERLAND C. DOLAN, d.b.a. JAR EXPRESS, PA Rt. 66 South, Park Township Industrial District, P.O. Box 604, Leechburg, PA 15656. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *siding, roofing materials, gutters, and downspouts*, (2) *windows, doors, screens, kitchen cabinets, sink tops, bowls, counter tops, and household appliances*, and (3) *parts* for the commodities in (2) above, from the facilities of Jones and Brown, Inc., at Pittsburgh, PA, to points in WV and those in OH on and east of U.S. Hwy 23, under continuing contract(s) with Jones and Brown, Inc., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA.)

MC 147312F, filed May 9, 1979. Applicant: DALOR TRANSIT, INC., 7520 Ryan Road, Franklin, WI 53132. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of Campbell Soup Company at or near Chicago, IL, to those points in WI on and south of WI Hwy 64. (Hearing site: Chicago, IL.)

MC 147863F, filed April 5, 1979. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 6331 Melody Lane, #1720, Dallas, TX 75231. Representative: Mert Starnes, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at Waco, TX, to points in CT, DE, MD, MA, NJ, NY, PA, and RI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 147913F, filed March 12, 1979. Applicant: ACME TRANSFER & STORAGE CO., INC., 2500 N.E. Kennedy Street, Minneapolis, MN 55413. Representative: Ronald W. Cobert, Esquire, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Minneapolis, MN, on the one hand, and, on the other, points in MN. (Hearing site: Washington, DC or Minneapolis, MN.)

MC 148052F, filed March 2, 1979. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foods*, from the facilities of Chef Pierre, Inc., at or near (a) Traverse City, MI, and (b) Forest, MS, to points in AL, AZ, AR, CA, CO, FL, GA, ID, KS, LA, MO, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, and WY, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk),

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in the reverse direction restricted in (1) and (2) above to the transportation of traffic originating at the indicated origins and destined to the indicated destinations, and (3) *frozen foods*, and materials, equipment, and supplies used in the manufacture and distribution of frozen foods (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Chef Pierre, Inc., at or near Traverse City, MI, and the facilities of Chef Pierre, Inc., at or near Forest, MS, restricted in (3) above to the transportation of traffic originating at and destined to the named facilities. (Hearing site: Chicago, IL or Washington, DC.)

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Decided: August 17, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 114569 (Sub-299F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, from Tampa, FL, to points in MN, WI, IL, MI, KS, OH, PA, NY, NJ, DE, MD, VA, WV, NE, KY, TN, IA, MS, MO, and DC. (Hearing site: Tampa, FL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-300F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Kansas City, MO, to points in AL, DE, FL, GA, IA, IL, IN, KY, LA, MI, MN, MS, NC, NE, RI, SC, TN, and WI. (Hearing site: Kansas City, MO, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-301F), filed April 20, 1979. Applicant: SHAFFER TRUCKING, INC. P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture, distribution, and sale of foodstuffs (except commodities in bulk, in tank vehicles), from those points in the United States in and east of MN, IA, MO, OK, and TX, to Greenville, MS. (Hearing site: Houston, TX, or Washington, DC.)

Note.—Dual operations may be involved.

MC 117589 (Sub-60F), filed April 10, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible packinghouse products and pet food*, in vehicles equipped with mechanical refrigeration, from points in UT, to points in OR and WA. (Hearing site: Seattle, WA.)

MC 119789 (Sub-582F), filed April 20, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC. P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Auburndale, FL, to Macon, GA. (Hearing site: Macon, GA.)

MC 140829 (Sub-216F), filed April 9, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near (a) Denison and Fort Dodge, IA, (b) Emporia and Wichita, KS, (c) Luverne, MN, and (d) Dakota City and West Point, NE, to points in IA, IL, IN, KY, MN, MI, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-217F), filed April 6, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in MA and VT, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OH, OK, TX, and WI. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-226F), filed April 20, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near (a) Denison and Fort Dodge, IA, (b) Emporia and Wichita, KS, (c) Luverne, MN, and (d) Dakota City and West Point, NE, to points in IA, IL, IN, KY, MN, MI, MO, NE, ND, OH, SD, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-227F), filed April 20, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime*, in packages, from the facilities of Atlantes Industries, Inc., at or near Dallas, TX, to points in CO, IA, KS, KY, NY, OH, PA, and WI. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-242F), filed March 23, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *baked bread loaves*, from the facilities of Oroweat Foods Company at or near Dallas, TX, to points in KS, MO, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142848 (Sub-10F), filed April 20, 1979. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer* (a) from points in Posey County, IN, to points in IL, IN, and KY, and (2) from Henderson, KY, to points in IL and IN, restricted to the transportation of traffic having either (1) a prior movement by rail or water, or (2) originating at the named origins and destined to the indicated destinations. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 144688 (Sub-17F), filed April 17, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products* (except commodities in bulk), from the facilities of The Jim Dandy Company and Wells Division of The Jim Dandy Company, (a) at or near Birmingham and Decatur, AL, to points in AR, FL, GA, KY, LA, MS, NC, SC, TN, TX, VA, WV, MD, OK, OH, and MI, and (b) at or near Springfield, TN, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TX, VA, WV, MD, OK, OH, and MI; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (excerpt commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL, or Omaha, NE.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27985 Filed 9-6-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 30]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: August 23, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 75320 (Sub-162 (M1F)) (Notice of Filing of petition to modify certificate) filed December 6, 1978. Petitioner: CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, Post Office Box 22567, Jackson, MS 39205. Petitioner holds motor *common carrier* certificate in MC 75320 Sub-162 issued October 17, 1975. MC 75320 Sub-162 authorizes transportation, over regular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Dallas, TX, and Jackson, MS, over U.S. Hwy 80, serving Monroe, LA for purposes of joinder only, restricted against the transportation of traffic originating at, destined to, or interchanged with connecting carriers at Birmingham and Mobile, AL, Greenville, MS, Memphis, TN, and points within their commercial zones as defined by the Commission, and Atlanta, GA, and points within 15 miles thereof; and further restricted against the transportation of traffic originating at or destined to points in NC and SC; and (2) Between Monroe, LA, and junction U.S. Hwys 165 and 82, at or near Montrose, AR, over U.S. Hwy 165, as an alternate route for operating convenience only, serving no intermediate points, (a) restricted to the transportation of traffic originating at, destined to, or interchanged with connecting carriers at points in MS, and (b) restricted at Monroe, to service for purpose of joinder only. By the instant petition, petitioner seeks to remove in their entirety the restrictions contained in (1) and (2) above.

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Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities

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of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 144901 (Sub-1F), filed January 18, 1979. Applicant: INTERMODAL SYSTEMS, INC., 1850 North Southern Road, P.O. Box 4952, Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and agricultural commodities* as defined by Section 203(b)(6) of the Interstate Commerce Act (except commodities in bulk), when moving with foodstuffs in temperature controlled equipment in substituted TOFC service for a portion of the through motor carrier movement between points in AZ, CA, OR, IL, IN, IA, KS, MI, MN, MO, NE, WI and WA, restricted to shipments originating at or destined to points in AZ, CA, OR and WA. Note: Common control may be involved. (Hearing Site: Kansas City, MO.)

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Supplemental Notice

MC–F–13913F. Authority sought for the merger of the operating rights and properties of OKLAHOMA BORDER EXPRESS, INC., and M & M FREIGHT LINES, INC., both of 2050 Kings Road, Jacksonville, FL 32209, into RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, for ownership, management, and operation, and the acquisition by IU Transportation Services, Inc. and, in turn, by IU International Corporation, both of 1105 North Market Street, Wilmington, DE 19801, of control of the operating rights and properties through the mergers. Applicants' representatives: Roland Rice, Esq., 501 Perpetual Bldg., 1111 "E" Street N.W., Washington, D.C. 20004 and H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. The original notice in this proceeding was published at 44 FR 9866 and failed to include a complete description of the authority involved in the transaction. The omitted portions of authority are: From OBX, regular routes, *General commodities*, (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Webbers Falls, OK and Tulsa, OK serving no intermediate points; from Webbers Falls over U.S. Hwy 64 to junction Muskogee Turnpike and OK Hwy 51 to Tulsa, and return over the same route; (2) between Oklahoma City, OK and Altus, OK serving the intermediate points of Cache, Indiahoma, Snyder, Headrick, and Altus Air Force Base, OK; from Oklahoma City over H. E. Bailey Turnpike to Lawton, OK, then over U.S. Hwy 62 to Altus, and return over the same route.

Note.—By order served July 26, 1979, the Commission authorized and approved the above-referenced merger except as to the portions of authority described here. With respect to the authority described here, the Commission conditionally approved and authorized the transaction subject to the Commission's receipt of protests to this portion of the transaction within 30 days of this publication.

MC–F–13924F. Authority sought for purchase by GRAY MOVING & STORAGE, INC., 1290 So. Pearl Street, Denver, CO., 80210, of a portion of the operating rights of KINGS VAN & STORAGE, INC., 916–18 North Broadway, Oklahoma City, OK., and for acquisition by DAVID R. GRAY, VAYANN D. GRAY, both of 27826 Alabraska Ln., Evergreen, CO., 80439, and DAVID R. GRAY, II, 1290 So. Pearl St., Denver, CO., 80210, of control of such rights through the transaction. Applicants' representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Operating rights sought to be purchased: *Household goods* as defined by the Commission, as a *common carrier* by motor vehicle, over irregular routes, (A) Between points in OK, TX, KS, and IL, on the one hand, and, on the other, points in AL, AR, CO, GA, FL, IN, IA, KY, LA, the lower Peninsula of MI, MS, MO, NB, NM, NC, OH, SC, TN and WI, except between points in IL, on the one hand, and, on the other, points in CO. *Used household goods and used office fixtures*, (B) Between points in AR, on the one hand, and, on the other, points in VA, MD, NY, PA and the District of Columbia. Vendee is authorized to operate as a *common carrier* in all the States in the United States (except WA, OR, HI, AK). Application has been filed for temporary authority under section 210a(b).

Note.—MC–112070 (Sub-No. 19F) is a directly related matter.

MC–F–13975F. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Applicant's representative: Roland Rice, Esq., 501 Perpetual Bldg., 1111 E Street, N.W., Washington, DC 20004; H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. Authority sought for the purchase by Ryder Truck Lines, Inc., 2050 Kings Road, Jacksonville, FL 32209, of a portion of the operating rights of O. N. C. Freight Systems, P.O. Box 10060, Palo Alto, CA 94303, and for acquisition by I.U. Transportation Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I. U. International Corp., of the same address, of control of such rights through the transaction. Operating rights sought to be

transferred: *General commodities* (with the usual exceptions and except those moving in mechanically refrigerated equipment) as a common carrier over regular and irregular routes: Over a regular route between Portland, OR and San Francisco, CA, serving the intermediate point of Eureka, CA; and over a series of regular routes which, together, join Minneapolis/St. Paul, MN on the north and Wichita, KS on the south, through St. Joseph and Kansas City, MO; Chicago, IL on the east and Denver, CO on the west through Lincoln, Omaha, Grand Island and Scottsbluff, NB. Irregular routes are between Morrill, NB and points in NB; Maryville, MO and points in MO, IA, NB, and KS; St. Joseph, MO and points in IA, MO, and KS. The authority granted herein to the extent it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Vendee is authorized to operate pursuant to Certificate No. MC–2900 and Subs as a common carrier of general and specified commodities in the states of AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV and DC. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Washington, DC.)

Note.—MC–2900 (Sub-No. 389F) is a directly related matter.

MC–F–13978F. Applicants: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939 and THOMPSON TRUCKING, INC., P.O. Box 5411, Charlotte, NC 28225, corporations. Applicants' representative: Francis W. McInerny, Esq., 1000 16th St., N.W., No. 502, Washington, DC 20036. Authority sought under 49 U.S.C. 11343, 11344, by the former to purchase the operating rights of the latter as set forth in MC–121767, as follows: *Irregular route* authority by *common motor carrier*, transporting (1) *general commodities*, except those requiring special equipment between points and places in the counties of Halifax, Rockingham, Guilford, Alamance, Scotland, Davidson, Stanely, Rowan, Cabbarrus, Iredell, Mecklenburg, Alexander, Catawaba, Lincoln, Gaston, Caldwell, Cleveland, and Rutherford, NC, (2) *Yarn*, from points in Gaston County, NC to Winston Salem, Valdese and Mount Airy, NC, (3) *Waste Bagging*, from points in Gaston County, NC to Henderson, NC. Transferre is a common carrier by motor vehicle authorized to conduct operations pursuant to Certificate MC–64600 and sub numbers thereunder in the District of Columbia, and states of Maryland, North Carolina, South Carolina and Virginia. Application has been filed for temporary authority under Section 210a(b). Hearing site: Washington, DC or Charlotte, NC.

Note.—MC–64600, Sub–51F is a directly-related matter.

MC F–13987F. Authority sought for purchase by Monroe Contractors Equipment, Inc., William E. Muller, and Joseph W. Joslin, 1640 Penfield Rd., Rochester, NY 14625 of a portion of the operating rights of Wm. B. Duffy Carting Co., Inc. (Louis A. Ryen, trustee), 228 South Plymouth Avenue, Rochester, NY 14608. Applicant's representative: S. Michael Richards, 44 North Ave., PO Box 225, Webster, NY 14580. Operating rights sought to be purchased: *Such commodities which because of weight or size require the use of special equipment*, as a *common carrier*, over irregular routes, between Rochester, NY, on the one hand, and, on the other, points in OH, as described in Certificate No. MC–71337 (Sub-No. 5), issued July 21, 1967. Vendee is authorized to operate under temporary lease of a portion of Certificate No. MC–71337 as a common carrier between Rochester, NY, on the one hand, and, on the other, points in the states of PA, NJ, CT, MA, IN, IL, WI, VA, WV, KY, TN, NC, SC, FL, and GA. Vendee is also authorized to operate under temporary lease Certificate No. MC–133129 as a common carrier between points in Ontario County, NY, on the one hand, and, on the other, points in Monroe, Wayne and Yates Counties, NY, and between points in Monroe County, NY, on the one hand, and, on the other, points in Wayne and Yates Counties, NY. Vendee is affiliated with M.C.E. Transportation Co., Inc. authorized to operate under Permit No. MC–134653 (Sub-No. 2) generally in the states of NY, NJ, RI, CT, MA, VT, NH, and ME, therefore, dual operations may be involved. Vendee intends to tack the authority to be purchased and existing authority at Rochester, NY. A directly related gateway application is being simultaneously filed. Application has been made for temporary authority under Section 210a(b).

Note.—No. MC–144710 (Sub-No. 2F) is a directly related matter.

MC F 13996F. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207, of a portion of the operating rights of City Drayage, Inc., 1884 Davis Street, San Leandro, CA 94577, and for acquisition of control of such rights by George E. Powell, Jr., 10990 Roe Avenue, Shawnee Mission, KS 66207, through the purchase. Applicant's Attorneys: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603, John M. Records, 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207, and Gary W. Wigand, Suite 214, 13031 San Antonio Drive, Norwalk, CA 90650. Operating rights sought to be transferred are as a *common carrier*, by motor vehicle over *regular routes* transporting *general commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), between San Francisco, CA and Santa Rosa, CA, serving all intermediate points except San Rafael on the following route, and serving the off-route points in Sonoma and Napa counties, CA within 25 miles thereof: From San Francisco over U.S. Hwy 101 to Santa Rosa and return. Serving as off-route points in connection with carrier's regular route operations, those points in Placer County, CA within 25 miles of the junction of Interstate Hwy 80 and CA Hwy 99. Vendee is authorized to operate as a common carrier in AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MI, MS, MN, MO, NE, NV, NJ, NY, OH, PA, SC, TN, TX, UT, VA, WI, OK, ME, NH, RI, VT.

Note.—Common control may be involved. MC–112713 (Sub-No. 280F) is a directly related matter.

MC F–14001F. Applicants: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104, and INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021. Applicant's representatives: Edward J. Hegarty and Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104, and Milton W. Flack, Suite 300, 4311 Wilshire Blvd., Los Angeles, CA 90010. Authority sought for purchase by MILNE TRUCK LINES, INC., 500 West California Avenue, Salt Lake City, UT 84104, of a portion of the operating rights, as more specifically described in Certification of Registration No. MC–98890 (Sub-No. 3), of Interfreight Corporation, 2429 E. Washington Blvd., Los Angeles, CA 90021. Transferee's attorney: Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, California 94104. Transferor's Attorney: Milton W. Flack, Suite 300, 4311 Wilshire Boulevard, Los Angeles, CA 90010. Operating rights sought to be transferred: General commodities (with certain exceptions) as a common carrier over regular routes: (1) Between the San Francisco Territory, on the one hand; and the Los Angeles Basin Territory, on the other hand; (2) Between the San

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Francisco Territory, on the one hand, and the San Diego Territory, on the other hand; (3) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within 20 miles laterally of said highway; and (4) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway, on the one hand, and the Los Angeles Basin Territory and the San Diego Territory, on the other hand, via State Highway 99 and Interstate Highway 5 between Bakersfield and the Los Angeles Basin Territory and Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 1 between the Los Angeles Basin Territory and the San Diego Territory, with service to all intermediate points located on and along said highways and serving all points within twenty miles laterally of said highways mentioned. Operating rights sought to be retained: General commodities (with certain exceptions) as a common carrier. (1) To, and (2) between the Los Angeles Basin Territory, on the one hand, and the San Diego Territory, on the other hand, via Interstate Highways 5 and 15 (U.S. Highway 395) and State Highway 1, serving all intermediate points and places located within twenty miles laterally of the named highways. Milne Truck Lines, Inc. is authorized to operate as a common carrier in XX, CA, ID, NV, UT and WY. Application has been filed for temporary authority under section 210a(b) and for conversion to Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicants request that it be held at San Francisco and Los Angeles, CA.

Note.—No. MC–44605 (Sub-No. 55F) is a directly related matter.

MC F–14006F. Authority sought for the purchase by D. S. Woodberry Company, 440 Rutherford Avenue, Boston, Massachusetts 02129 of certain operating rights of B&T Transportation Company, 200 Frontage Road, Boston, Massachusetts 02118 and for acquisition by Thomas E. Brown, 440 Rutherford Avenue, Boston, Massachusetts 02129 of control of such rights through the purchase. Applicants' attorneys: James E. Mahoney, 148 State Street, Boston, Mass. 02109 and Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187. Operating rights sought to be transferred are contained in Certificate No. MC–30202 as follows: general commodities (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Holbrook, Massachusetts and points within 10 miles of Holbrook, on the one hand, and, on the other, points in Connecticut (except Danielson, New London, and Norwich, and those bounded by the Connecticut River, Interstate Highway 86, and Connecticut-Massachusetts State Line). Vendee is a common carrier in the states of MA, RI, and NH. Application has been filed for temporary authority under section 210a(b). (Hearing site: Boston, Mass. or Providence, RI.)

Note.—This application is directly related to a Gateway application simultaneously filed in Docket No. 2509 (Sub-No. 1F).

MC F–14022F. Authority sought for purchase by Reeves Transportation Co., Rt. 5, Dews Pond Rd., Calhoun, GA 30701, of a portion of the operating rights of Bray Lines Incorporated, P.O. Box 1191, Cushing, OK 74023, and for acquisition by Oliver W. Reeves, Rt. 4, Calhoun, GA 30701, and John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, of control of such rights through the purchase. Applicants' attorney: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. Operating rights sought to be purchased: (1) A portion of the operating rights described in MC–112822 (Sub-No. 148), described as follows: Irregular routes; *Carpet*, from Hillsboro, TX to points in AZ, CA, ID, IL, LA, MN, MS, MO, MT, NV, NM, ND, OK, OR, SD, UT, WA, WI and WY, with no transportation for compensation on return except as otherwise authorized. *Materials, supplies, and equipment used in the manufacture of carpet (except in bulk)*, from points in CA, GA, OK, SC and VA, to Hillsboro, TX, with no transportation for compensation on return except as otherwise authorized. (2) All operating rights described in MC–112822 (Sub-No. E206), described as follows: Irregular routes; *Carpet*, from Hillsboro, TX, to points in CO, KS, NE, IA, IN, MI, OH, KY, NC, VA, WV, PA, NY, MD, NJ, CT, MA, VT, NH, RI, DE and ME. (3) All operating rights described in MC–112822 (Sub-No. E86), described as follows: Irregular routes; *Carpet*, from Hillsboro, TX, to points in CT, DE, IN, KY, MD, MA, ME, MI, NH, NJ, NY, OH, PA, RI, TN, VT, VA, WV and DC. Transferee is authorized to operate as a motor *common carrier* in Docket No. MC–129537 and Subs thereto in the States of FL, GA, TX and AR. Transferee will tack the authority sought to be purchased at Hillsboro, TX, so as to be able to provide a through-service from Transferee's origin points in the State of GA to all of the destination points described in Items (1), (2) and (3) above. Approval of the proposed transaction will not result in dual operations or duplicating authority. The approval of the proposed transaction will result in splitting Transferor's operating authority, leaving with Transferor all of its operating authority as described in MC–112822 and Subs thereunder except for that authority described above. Application has not been filed for temporary authority under Section 210a(b). This application is not related to any pending or simultaneously filed applications.

MC F–14045F. Transferee: AJAX TRANSFER COMPANY, 550 E. 5th St. So., So. St. Paul, MN 55075. Transferor: CRX CORPORATION, 5016 7th Place, Winona, MN 55987. Representatives: Paul Nelson, 550 E. 5th St. So., So. St. Paul, MN 55075 and Donald L. Stern, 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Authority sought for purchase by Ajax Transfer Company of the operating rights of CRX Corporation. Operating rights sought to be transferred are set out in Docket No. MC–135003 (Sub-No. 1) authorizing transportation of frozen foods and poultry commodities from Faribault and St. Charles, MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Transferee is authorized to operate as a common carrier in the continental United States. No duplicate authority is sought. No application for temporary authority under Section 210a(b) has been filed. (Hearing site: St. Paul, MN.)

Note.—MC–138896 (Sub-No. 13F) is a directly related matter.

MC F–14091F. Authority sought by Red Star Express Lines of Auburn, Inc., 24–50 Wright Avenue, Auburn, NY 13021 for control of Tidewater Inland Express, Inc., 258 Rehoboth Boulevard, Milford, DE 19963 and for acquisition of control by John Bisgrove, Sr., 24–50 Wright Avenue, Auburn, NY 13021. Applicant's attorneys: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036 and Jack R. Turney, Jr., 2001 Massachusetts Avenue, N.W., Washington DC 20036. Operating rights sought to be controlled: A. *General commodities*, with exceptions, as a common carrier, over regular routes: (1) Between Wilmington, DE, and Harrisburg, PA: From Wilmington over DE Highway 48 to junction DE Highway 41, thence over DE Highway 41 to the DE–PA State line, thence over PA Highway 41 to junction U.S. Highway 30 at or near Gap, PA, thence over U.S. Highway 30 to Lancaster, PA, thence over PA Highway 72 to junction U.S.

Highway 230, thence over U.S. Highway 230 to Harrisburg, and return over the same route. (2) Between Wilmington, DE and Avondale, PA: From Wilmington over U.S. Highway 202 to junction U.S. Highway 1, thence over U.S. Highway 1 to Avondale, and return over the same route. (3) Between Wilmington, DE, and junction PA Highway 52 and U.S. Highway 1 (at or near Hamorton, PA): From Wilmington over DE Highway 52 to the DE–PA State line, thence over PA Highway 52 to junction U.S. Highway 1, and return over the same route. (4) Between Wilmington, DE, and New York, NY: From Wilmington over DE Highway 9 to junction U.S. Highway 40, thence over U.S. Highway 40 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 1 (near New Brunswick, NJ), thence over U.S. Highway 1 to New York, and return over the same route. Serving all points in Cumberland, York, Lancaster, Lebanon, and Dauphin Counties, PA, as intermediate or off-route points in connection with the operations authorized above, and serving Avondale, PA and junction PA Highway 52 and U.S. Highway 1 for purposes of joinder only. (5) Between Milford, DE and Philadelphia, PA, serving all intermediate points; and the off-route points in that part of DE south of a line beginning at the PA–MD State line and extending through Hockessin and Wilmington, DE, to the DE River, including points in Caroline, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester Counties, MD, and those in Cecil County, MD, south of U.S. Highway 40, including points on the indicated portions of the highways specified: From Milford over U.S. Highway 113 to junction U.S. Highway 13, thence over U.S. Highway 13 to Philadelphia, and return over the same route. (6) Between Baltimore, MD, and Milford, DE, serving all intermediate points (except that traffic from Baltimore and points on the said routes in MD west of the Susquehanna River and those west of the Chesapeake Bay is restricted to delivery at intermediate points on the authorized routes in MD and DE on the Delmarva Peninsula); and off-route points as specified next above: From Baltimore over U.S. Highway 40 to Glasgow, DE, thence over DE Highway 896 to junction U.S. Highway 13, thence over U.S. Highway 13 to junction U.S. Highway 113, thence over U.S. Highway 113 to Milford, and return over the same route. From Baltimore over MD Highway 2 to junction U.S. Highway 50, thence over U.S. Highway 50 to Sandy Point, MD, thence across the Chesapeake Bay to Matapeake, MD, thence over U.S. Highway 50 to junction MD Highway 404, thence over MD Highway 404 to junction MD Highway 313, thence north over MD Highway 313 (one mile) to junction MD Highway 317, thence over MD Highway 317 via Burrsville, MD, to the MD–DE State line, thence over DE Highway 14 to Milford, and return over the same route. (7) Between Syracuse, NY and Hanover, PA: From Syracuse over NY Highway 5 to Fayetteville, NY, thence over NY Highway 92 to junction U.S. Highway 20, thence over U.S. Highway 20 via Morrisville, NY to Bouckville, NY, thence over NY Highway 12B via Randallsville, NY, to junction NY Highway 12 (also from Morrisville over unnumbered highway via Eaton, NY, to Randallsville, thence over NY Highway 12B to junction NY Highway 12), thence over NY Highway 12 via Oxford, NY, to Binghamton, (also from Oxford over NY Highway 220 to junction NY Highway 7, thence over NY Highway 7 to Binghamton), thence over U.S. Highway 11 to Nicholson, PA, thence over PA Highway 92 (portion formerly shown as U.S. Highway 309), via Tunkhannock, PA, to West Pittston, PA, thence over U.S. Highway 11 to junction U.S. Highway 22, thence over U.S. Highway 22 to Harrisburg, PA, thence over Interstate Highway 83 (formerly U.S. Highway 111) to York, PA, thence over U.S. Highway 30 to junction PA Highway 116, thence over PA Highway 116 to Hanover, and return over the same route. (8) Between Endicott, NY, and Binghamton, NY: From Endicott over NY Highway 17C to Binghamton, and return over the same route. (9) Between Lancaster, PA, and Harrisburg, PA: From Lancaster over U.S. Highway 230 to Harrisburg, and return over the same route. (10) Between Lancaster, PA and York, PA: From Lancaster over U.S. Highway 30 to York, and return over the same route. Serving the intermediate points of Johnson City, Binghamton, Cazenovia, Nelson, Morrisville, Hamilton, Earlville, Sherburne, Norwich, Oxford, Greene, Afton, Bainbridge, and Guilford, NY, Danville, Bloomsburg, Berwick, Northumberland, Lancaster, Selinsgrove, Harrisgrove, Harrisburg, Camp Hill, Lemoyne, New Cumberland, Steelton, High Spire, Middletown, York, West York, North York, East York, Springrove, Columbia, Mount Joy, Hanover, Florin, Elizabethtown, and Rheems, PA; and the off-route points of Chenango Forks, Owego, Sanitaria Springs, Harpursville, Sidney, Tunnel, Johnson City, Endicott, Masonville, Bennetsville, NY, Lititz, Manheim, and Sunbury, PA, in connection with the four paragraphs next above. (11) Between Syracuse, NY, and Chenango Forks, NY, with no service to or from intermediate points nor to or from termini: From Syracuse over U.S. Highway 11 to Whitney Point, NY, thence over NY Highway 79 to Chenango Forks, NY, and return over the same route. (12) Between Tunkhannock, PA, and junction PA Highway 92 and U.S. Highway 11, with no service to or from intermediate points, nor to or from termini: From Tunkhannock over PA Highway 29 to Bowman Creek, PA, thence over U.S. Highway 309 to junction U.S. Highway 11, and return over the same route. (13) Between Manchester MD, and Reisterstown, MD, with no service to or from intermediate points, nor to or from termini: From Manchester over MD Highway 30 to Reisterstown, and return over the same route. (14) Between Williamsport, PA and New York, NY, serving all intermediate points in PA, the intermediate and off-route points of Bangor and Northampton, PA, Newark, Jersey City, Hoboken, Plainfield, Ridgefield, Summit and Morristown, NJ, points in Bergen, Hudson, Union and Essex Counties, NJ, and points in Passaic County, NJ, east of U.S. Highway 202, unrestricted; and the off-route points of Stroudsburg, PA, and Lyndhurst, NJ, restricted against the transportation of traffic originating at or destined to Stroudsburg and Lyndhurst: From Williamsport over U.S. Highway 220 to Halls, PA, thence over PA Highway 147 (formerly PA Highway 14) via Muncy, PA, to Sunbury, PA, (also from Muncy over PA Highway 405 to junction PA Highway 147 (formerly portion PA Highway 14) near Milton, PA, thence over PA Highway 147 to Sunbury), thence over PA Highway 61 (formerly U.S. Highway 122) to Hamburg, PA, thence over U.S. Highway 22 to Elizabeth, NJ, and thence over U.S. Highway 1 to New York, and return over the same route. (15) Between Sunbury, PA, and Lewistown, PA, serving all intermediate points: From Sunbury over bridge to junction U.S. Highway 11, thence over U.S. Highway 11 to Selinsgrove, PA, and thence over U.S. Highway 522 to Lewistown, and return over the same route. (16) Between Pottsville, PA, and Millersburg, PA, serving all intermediate points: From Pottsville over U.S. Highway 209 to Millersburg, and return over the same route. (17) Between Frackville, PA, and Hazleton, PA, serving all intermediate points: From Frackville over PA Highway 924 via Gilberton, PA, to Shenandoah, PA, thence over PA Highway 54 (formerly PA Highway 45) to Hometown, PA, thence over U.S. Highway 309 to Tamaqua, PA, thence

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return over U.S. Highway 309 to Hometown, and thence continuing over U.S. Highway 309 to Hazleton, and return over the same route. (18) Between Pottsville, PA, and Hazleton, PA, serving all intermediate points, and the off-route points of Weatherly and Freeland, PA: From Pottsville over U.S. Highway 209 to Mauch Chunk, PA, thence over PA Highway 29 to Hazleton, and return over the same route. (19) Between Berwick, PA, and Northumberland, PA, serving all intermediate points: From Berwick over U.S. Highway 11 to Northumberland, and return over the same route. (20) Between Cortland, NY, and Binghamton, NY, serving no intermediate points, but serving the off-route points of Homer and McGraw, NY: From Cortland over U.S. Highway 11 to Binghamton, and return over the same route. (21) Between York, PA, and Baltimore, MD, as an alternate route for operating convenience only in connection with carrier's regular route operations between Washington, DC, and Syracuse, NY, serving no intermdiate points: From York over Interstate Highway 83 (formerly U.S. Highway 111) to Baltimore, and return over the same route. (22) Between Harrisburg, PA, and Baltimore, MD, serving no intermediate points: From Harrisburg over Interstate Highway 83 (formerly U.S. Highway 111) to Lemoyne, PA, thence over U.S. Highway 15 to York Springs, PA, thence over PA Highway 94 to the PA–MD State line, thence over MD Highway 30 to Manchester, MD, thence over MD Highway 31 to Westminster, MD, and thence over U.S. Highway 140 to Baltimore, and return over the same route. (23) Between Nicholson, PA, and West Pittston, PA, with no service to or from intermediate points, nor to or from termini: From Nicholson over U.S. Highway 11 to West Pittston, and return over the same route. (24) Between Endicott, NY, and Binghamton, NY, serving no intermediate points: From Endicott over NY Highway 17C to junction NY Highway 26, thence over NY Highway 26 to junction NY Highway 17, and thence over NY Highway 17 to Binghamton, and return over the same route. (25) Between Lemoyne, PA, and Hershey, PA, serving no intermediate points. From Lemoyne over Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, PA thence over U.S. Highway 322, to junction U.S. Highway 422, thence over U.S. Highway 422 to Hershey, and return over the same route. (26) Between Baltimore, MD, and Alexandria, VA, serving all intermediate points, and off-route points in MD and VA within 5 miles of the District of Columbia, and points within 6 miles of Baltimore. From Baltimore over U.S. Highway 1 to Alexandria, and return over the same route. (27) Between Whitney Point, NY, and junction U.S. Highway 11 and NY Highway 12, north of Binghamton, NY, for operating convenience only, with no service to or from the termini or intermediate points. From Whitney Point over U.S. Highway 11 to junction NY Highway 12, and return over the same route. (28) Between Reading, PA, and Baltimore, MD, serving no intermediate points: From Reading over PA Highway 625 (formerly PA Highway 73) to junction PA Highway 23 to Lancaster, PA, thence over U.S. Highway 222 to Conowingo, MD, thence over U.S. Highway 1 to Baltimore, and return over the same route. (29) Between New York, NY, and Reading, PA, serving all intermediate points; the off-route points of Piermont, NY, New Brunswick, Bound Brook and South Bound Brook, NJ; points in the New York, NY commercial zone, as defined by the Commission in 1 M.C.C. 665; points in that part of Westchester County, NY, that lies north of the New York, NY commercial zone, supra, and on and west of a line extending from Long Island Sound along the NY–CT State line to junction NY Highway 120, thence along NY Highway 120 to junction NY Highway 100, and thence along NY Highway 100 to junction U.S. Highway 202, and on and south of U.S. Highway 202; and points in Bergen, and Passaic Counties, NJ, on and east of U.S. Highway 202; in Morris County, NJ, on and east of U.S. Highway 202 and on and north of NJ Highway 24; in Middlesex County, NJ, on and north of the Raritan River; and points in Union, Essex, and Hudson Counties, NJ: From NY over U.S. Highway 1 to Newark, NJ, thence over U.S. Highway 22 to junction NJ Highway 28 near Somerville, NJ, thence over NJ Highway 28 to junction unnumbered highway, thence over unnumbered highway via North Branch, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway via Whitehouse, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway via Lebanon, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction unnumbered highway thence over unnmumbered highway via Annandale, NJ, to junction U.S. Highway 22, thence over U.S. Highway 22 to junction Alternate U.S. Highway 22, thence over Alternate U.S. Highway 22 via Phillipsburg, NJ, and Easton, PA, to junction unnumbered highway, thence over unnumbered highway via Wilson, Butztown, and Bethlehem, PA, to Allentown, PA, thence over U.S. Highway 222 to Reading, and return over the same route. (30) Between Reading, PA, and Hanover, PA, serving all intermediate points, and off-route points which are located west of the Susquehanna River and within 5 miles north of that portion of the route (U.S. Highway 30 and PA Highway 116) specified immediately below which is located west of the Susquehanna River: From Reading over U.S. Highway 222 (formerly U.S. Highway 22) to junction unnumbered highway near Ephrata, PA, thence over unnumbered highway via Ephrata to junction U.S. Highway 222, thence over U.S. Highway 222 to Lancaster, PA, thence over U.S. Highway 30 to junction PA Highway 116, thence over PA Highway 116 to Hanover, and return over the same route. (31) Between Reading, PA, and Harrisburg, PA, serving all intermediate points; and off-route points located west of the Susquehanna River and within 5 miles of Harrisburg: From Reading over U.S. Highway 422 via Hershey, PA, to junction unnumbered highway, thence over unnumbered highway to Hummelstown, PA, thence over unnumbered highway to junction U.S. Highway 322, thence over U.S. Highway 322 to Harrisburg, and return over the same route. (32) Between Reading, PA, and Sunbury, PA, serving all intermediate points: From Reading over PA Highway 61 (formerly U.S. Highway 122) to Pottsville, PA, thence over U.S. Highway 209 to Mauch Chunk, PA, thence over PA Highway 93 (formerly PA Highway 29) to Hazleton, PA, thence over U.S. Highway 309 to junction PA Highway 54 (formerly PA Highway 45), thence over PA Highway 54 to Ashland, PA, thence over PA Highway 61 (formerly U.S. Highway 122) to Sunbury, PA, and return over the same route. (33) Between Tamaqua, PA, and Hometown, PA, serving all intermediate points: From Tamaqua over U.S. Highway 309 to Hometown, and return over the same route. (34) Between Pottsville, PA, and Millersburg, PA, serving all intermediate points: From Pottsville over U.S. Highway 209 to junction unnumbered highway, thence over unnumbered highway via Williamstown, PA, to junction U.S. Highway 209, thence over U.S. Highway 209 to Millersburg, and return over the same route. (35) Between Lancaster, PA, and Harrisburg, PA, serving all intermediate points: From Lancaster over U.S. Highway 230 to junction PA Highway 722, thence over PA Highway 722 via Landisville, and Salunga, PA, to junction U.S. Highway 230, thence over U.S. Highway 230 to Harrisburg, and return over the same route. (36) Between Reading, PA, and Phoenixville, PA, serving all intermediate points: From Reading over U.S. Highway 422 to Pottstown, PA, thence over PA Highway 100 to junction PA Highway 724 (formerly PA Highway 183), thence over PA Highway 724 to junction PA Highway 23, thence over PA Highway 23 to Phoenixville, and return over the same route. (37) Between Allentown, PA, and Mauch Chunk, PA, serving all intermediate points: From Allentown, PA over PA Highway 29 to Mauch Chunk, and return over the same route. (38) Between Sunbury, PA, and Harrisburg, PA, serving all intermediate points: From Sunbury over PA Highway 147 (formerly PA Highway 14) to junction U.S. Highway 322, thence over U.S. Highway 322 to Harrisburg, and return over the same route. (39) Between Ashland, PA, and Pottsville, PA, serving all intermediate points: From Ashland over PA Highway 61 (formerly U.S. Highway 122) to Pottsville, and return over the same route. (40) Between Easton, PA and Bangor, PA, serving all intermediate points: From Easton over PA Highway 248 (formerly PA Highway 45) to junction PA Highway 191, thence over PA Highway 191 to junction PA Highway 115, thence over PA Highway 115 to junction unnumbered highway (formerly portion PA Highway 115), thence over unnumbered highway to Windgap, PA, thence over unnumbered highway (formerly PA Highway 702) to Bangor, PA, and return over the same route. (41) Between Allentown, PA, and Souderton, PA, serving all intermediate points: From Allentown over U.S. Highway 309 to junction PA Highway 113, thence over PA Highway 113 to Souderton, and return over the same route. (42) Between Syracuse, NY, and Oswego, NY, serving all intermediate points and the off-route points of Geddes, De Witt, Salina, Pennellville, and Nedrow, NY: From Syracuse over NY Highway 57 to Oswego, and return over the same route. From Syracuse over NY Highway 48 to Oswego, and return over the same route. From Syracuse over NY Highway 370 to junction NY Highway 31, thence over NY Highway 31 to junction NY Highway 48, thence over NY Highway 48 to Oswego, and return over the same route. (43) Between Cortland, NY, and Elmira, NY, serving all intermediate points, and the off-route points of Etna, McLean, Peruville, Virgil, Elmira Airport, Freeville, Homer and McGraw, NY: From Cortland over NY Highway 13 to Elmira, and return over the same route. From Cortland over NY Highway 13 to junction NY Highway 14, thence over NY Highway 14 to Elmira, and return over the same route. (44) (a) Between Lancaster, PA, and New York, NY, in connection with carrier's regular-route operations, serving no intermediate points: From Lancaster over U.S. Highway 30 to Philadelphia, PA, thence over U.S. Highway 1 to New York, and return over the same route. (b) Between Sunbury, PA, and Harrisburg, PA, in connection with carrier's regular-route operations, serving no intermediate points: From Sunbury south over PA Highway 147 (formerly PA Highway 14) to first bridge, thence across the Susquehanna River to junction U.S. Highway 15, north of Shamokin Dam, PA, thence over U.S. Highway 15 to Wormleysburg, PA, thence across the Susquehanna River to Harrisburg, and return over the same route. (c) Between Harrisburg, PA, and York, PA, in connection with carrier's regular-route operations, serving no intermediate points: From Harrisburg across the Susquehanna River, thence over Interstate Highway 83 (formerly U.S. Highway 111) to junction unnumbered highway, thence over unnumbered highway via New Cumberland, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111) thence over Interstate Highway 83 to York, and return over the same route. B. *General commodities*, with exceptions, as a common carrier over irregular routes: (1) Between Wilmington, DE, on the one hand, and, on the other, Washington, DC, New York, NY, points in NJ, and those in DE and that part of PA east of U.S. Highway 220 (except Philadelphia, PA, and points between Philadelphia and Wilmington east of U.S. Highway 13). (2) Between points in that part of PA bounded by a line beginning at the NJ–PA State line at Portland, PA, thence extending along a straight line through Hazleton, PA, to the Susquehanna River at Sunbury, PA, thence along PA Highway 147 (formerly PA Highway 14) to junction U.S. Highway 322, thence along U.S. Highway 322 to Harrisburg, PA, thence along the Susquehanna River to its crossing of U.S. Highway 30, thence along U.S. Highway 30 to Lancaster, PA, thence along a straight line from Lancaster, to Phoenixville, PA, thence along a straight line through Lansdale, PA, to New Hope, PA, and thence north along the DE River to point of beginning. (3) Between points in Broome and Cortland Counties, NY. (4) Between points in Cortland County, NY, on the one hand, and, on the other, points in Cayuga, Chenango, Onondaga, Tioga, Tompkins, and Yates Counties, NY. (5) From points in Cortland County, NY, to points in Otsego County, NY, with no transportation for compensation on return except as otherwise authorized. (6) From points in Tompkins County, NY, to points in Broome County, NY, with no transportation for compensation on return except as otherwise authorized. (7) From points in Onondaga County, NY, to points in Cayuga County, NY, with no transportation for compensation on return except as otherwise authorized. C. *General commodities*, as a common carrier, over irregular routes: (1) Between Butler, NJ, and points in Essex, Passaic, Hudson, and Bergen Counties, NJ, on the one hand, and, on the other, New York, NY. D. As a common carrier, over irregular routes: (1) *Agricultural commodities*, from Hurlock and Federalsburg, MD, and points in Somerset and Wicomico Counties, MD, and Kent and Sussex Counties, DE, to Washington, DC, Baltimore, MD, Philadelphia, PA, Newark and Jersey City, NJ, and New York, NY, with no transportation for compensation on return except as otherwise authorized. (2) *Canned goods*, from points in DE (except Wilmington, DE), and that part of MD on and south of U.S. Highway 40 and east of the Chesapeake Bay, to Trenton and Camden, NJ, Baltimore, MD, Philadelphia, PA, Washington, DC, and points in the New York, NY, commercial zone as defined by the Commission, that part of Long Island, NY, on and west of NY Highway 110, and that part of NJ within 30 miles of Columbus Circle, New York, NY, with no transportation for compensation on return except as otherwise authorized. From Wilmington, DE, to Baltimore, MD, Philadelphia, PA, points in the New York, NY, commercial zone as defined by the Commission (except New York, NY), and those in Long Island, NY, on and west of NY Highway 110, with no transportation for compensation on return except as otherwise authorized. (3) *Nursery products*, from Milford, DE, to Little Silver and Red Bank, NJ, with no transportation for compensation on return except as otherwise authorized. (4) *Wearing apparel, wearing apparel materials*, and *tablecloths*, between Pottsville, PA, and points within 30 miles thereof, on the one hand, and, on the other, Baltimore, MD, and Washington, DC. Transferee is authorized to operate as a motor common carrier in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA and DC. Common control may be involved. Application has been made for temporary authority under 49 U.S.C. 11349. (Hearing site: Philadelphia, PA.)

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MC F–14104F. Authority sought for purchase by BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102 of a portion of the operating rights of East Nebraska Motor Freight, Inc., 409 Locust St., Chillicothe, MO 64601. Transferee's attorney: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Operating rights to be purchased: General commodities (except commodities in bulk, house trailers, mobile homes and prefabricated buildings by truckaway method), between points within a 20-mile radius of Lincoln, NE, and between points in said radial area on the one hand, and, on the other, all points in NE; and general commodities, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Omaha, NE and Utica, NE, serving the intermediate and off-route points of Lincoln, Milford, Beaver Crossing, and Goehner, NE, and from Omaha over the above-specified route to Lincoln, NE, thence over NE Highway 2 to Utica, and return over the same route, restricted against serving points in IA within the Omaha, NE commercial zone, as defined by the Commission. Transferee is a common carrier by motor vehicles authorized to conduct operations in CO, IA and NE. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Omaha, NE.)

MC–F 14105F. Authority sought to purchase by Chemical Transport, P.O. Box 2644, 1627 Third Street N.W., Great Falls MT 59403, of a portion of the operating rights of Rice Truck Lines, P.O. Box 2644, 1627 Third Street N.W., Great Falls MT 59403, and for J. Michael Rice, M. Kathleen Rice, Patrick W. Rice and Rosemary A. Waters of Great Falls MT, who control Transferee through ownership of all its outstanding capital stock, to acquire concurrent control of the operating rights through the purchase. Applicants' attorney: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Operating rights sought to be transferred: *Alcoholic beverages,* in bulk, in tank vehicles, from points in Jefferson and Nelson Counties KY, and Atchison County KS, to points in Lewis and Clark County MT; *chemicals* (except fertilizer), in bulk, from points in Missoula County MT, to points in MT, CO, WY, ID, OR and WA; *ores and ore concentrates,* in bulk, between points in MT, ID and WA; *distillers' dried grain* from the international boundary line between the United States and Canada at or near Oroville WA, to points in WA, ID, MT, OR, UT and CA; *methanol, glycol, and anti-freeze,* in bulk, from Missolula County MT, to points in ND; *such commodities as are manufactured or distributed by steel mills or metal fabricators; such commodities as are used or are dealt in by retail or wholesale hardware stores; scrap metals;* and *hides and pelts* (a) between the facilities of Pacific Hide & Fur Depot at or near Billings, Bozeman, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Miles City, Missoula, Lewistown, and Sidney MT; Kennewick, Spokane and Tacoma WA; Mills, Riverton, Worland and Gillette WY; Salmon, Nampa, Sand Point, Lewiston, and Twin Falls ID; and Portland OR; and (b) between the points named in (a) above on the one hand and, on the other, Wilton IA; Denver, Loveland, and Pueblo CO; Omaha and Norfolk NE; Minneapolis and St. Paul MN; Whitehall MI; Cambridge City and Gary IN; St. Louis MO; Laredo TX; and points in CA, IL, MT, OR, UT, WA and WY, under a continuing contract with Pacific Hide & Fur Depot; *refined uranium ore,* in containers, from the facilities of Western Nuclear, Inc. near Wellpinit WA to Metropolis IL and Gore OK. All authorities sought to be transferred are over irregular routes. Applicant has not filed for temporary authority under Section 210a(b). (Hearing site: Great Falls MT.)

MC–F 14108F. Applicant: LESLIE B. LAMPTON, 202 East Pearl Street, Jackson, MS 39201. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought for Leslie B. Lampton, 202 East Pearl Street, Jackson, Mississippi 39201, to control Lampton-Love, Inc. and Ergon Trucking, Inc. through stock ownership. Operating rights of Lampton-Love, Inc. sought to be controlled are issued in MC–145304, authorizing operations as a motor common carrier of *specified commodities,* in bulk, in tank vehicles, from named points in MS and Memphis, TN to points in AL, AR, FL, GA, LA, MO, TN and TX. The operating rights of Ergon Trucking, Inc. sought to be controlled are issued under MC–138956, authorizing operations as an irregular route motor common carrier of *specified commodities,* in bulk, in tank vehicles, to and from various points in the states of AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN and TX. No application for temporary authority under Section 11349 [formerly Section 210a(b)] has been filed.

MC F–MC–F 14116F. Authority sought for purchase by SIMANEK, INC., 2222 N. 11th St., Omaha, NE 68110 of a portion of the operating rights of East Nebraska Motor Freight, Inc., 409 Locust St., Chillicothe, MO 64601, and for acquisition by United Corp., 2222 N. 11th St., Omaha, NE 68110 of control of such rights through the transaction. Applicants' Representative: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Operating rights to be purchased: Commodities in bulk, between points within a 20-mile radius of Lincoln, NE, and between points in said radial area, on the one hand, and, on the other, all points in NE. Transferee is a common carrier by motor vehicles authorized to conduct operations in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, OK, SD, TX, WI and WY. Application has been filed for temporary authority under section 210a(b). (Hearing site: Omaha, NE.)

MC F–14109F. Applicant: HI-WAY LINES, INC., P.O. Box 308, Yreka, Calif. 96097. Applicant's representative: Michael J. O'Neill, P.O. Box 308, Yreka, Calif. 96097. Authority sought for control by Hi-Way Lines, Inc., Oregon and Payne Lane, Yreka, California 96097, of Creager Trucking Co., Inc., 4 N.E. Marine Dr., Portland, Oregon 97217 and for purchase of all of the issued and outstanding stock of Creager Trucking Co., Inc. and for control and acquisition of all of the operating rights of Creager Trucking Co., Inc. by Messrs Owen L. Stidham, Michael J. O'Neill, Donald L. Smith and E. C. Maroder all of Oregon and Payne Lane, Yreka, Calif. as persons in control of applicant. Operating rights sought to be controlled and acquired: *Irregular Routes: Flat glass products,* From Fresno, Fullerton, and Strathmore, CA., Tulsa, OK., and Wichita Falls, TX. to points in Grant, Benton, Chelan, and Yauma Counties, WA., and points in that part of WA. in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, with no transportation for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with F. L. Hartung Glass Company, Inc., of Seattle, WA. *Irregular Routes: Prepared frankfurters,* From Dallas, TX., to points in CA., OR., WA., and ID., with no transportatin for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Corny Dog Company, of Dallas, TX. *Irregular Routes: Flat glass products,* Between Seattle, WA., on the one hand, and, on the other, Eugene and Portland, OR. and points in CA. Restriction: The operations authorized herein are limited to the following conditions: Said operations are limited to a transportation service to be performed under a continuing contract, or contracts, with Northwestern Industries, Inc., of Seattle, WA. *Irregular Routes: Iron, steel,* and *aluminum* in bars, sheets, plates, and tubing, Between Los Angeles and Berkeley, CA., Portland, OR., and Kent, WA. *Lumber,* From points in that part of WA. on and east of U.S. Highway 97, to points in CA., with no transportation for compensation on return except as otherwise authorized. *Irregular Routes: Aluminum extrusions,* except those used in the manufacture of mobile homes, motor homes and campers, From points in Los Angeles and San Francisco Counties, CA., to Portland, OR., and Kent, WA. with no transporttation for compensation on return except as otherwise authorized. *MC–136208 (Sub-No. 8 TA) Service Authorized: Flat glass products,* over irregular routes, From the facilities of Guardian Industries Corp., at or near Kingsburg, CA. to points in ID., MT., NV., OR., UT., WA., and AZ. Persons in control of applicant are also in control of an affiliate, Stidham Trucking, Inc., a motor common carrier, operating pursuant to authority issued by the Commission in MC–139380. Operations are conducted within the states of OR., CA., and NV. Therefore, common control may be involved. Dual operations may be involved. Application for temporary authority has been filed under Sec. 210 a (b).

MC–F 14132F. Transferee: CENTURY-MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Transferor: WESTERN TRANSPORTATION CO., 1300 West 35th Street, Chicago, IL 60609. Transferee's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Transferor's representative: Carl Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC–52752, as follows: REGULAR ROUTES: *General commodities* (with the usual exceptions), between Iowa City, IA, and Cedar Rapids, IA, as follows: From Iowa City, IA, over U.S. Highway 218 to Cedar Rapids, IA, and return over the same route. Service is authorized to and from all intermediate points. Transferee is authorized to operate as a regular route common carrier between Chicago, IL and Milwaukee, WI, on the one hand, and, on the other, serving numerous intermediate points in MN and ND. Application is being filed for temporary authority under Sec. 210a(b). (Hearing site: Chicago, IL.)

MC F–14134F. Authority sought for purchase by MARX TRUCK LINE, INC., 220 Lewis Boulevard, Sioux City, IA 51101 of a portion of the common motor carrier operating rights of Transport Service, Inc., East Highway 18, Gregory, SD 57533. Representative: Robert L. Marx, 220 Lewis Blvd., Sioux City, Iowa 51101. Operating rights sought to be transferred are contained in MC–30224 Subs 15, 16, 21 and part of Sub 23, authorizing the transportation, over irregular routes, (1) Beer, from St. Louis, MO, Peoria, IL, Milwaukee and LaCrosse, WI to Chamberlain, SD; from Milwaukee and LaCrosse, WI, Peoria, IL, St. Louis, MO and New Ulm, MN to Yankton, SD; from Milwaukee, and LaCrosse, WI and Peoria, IL to Huron, SD; (2) Malt Beverages from Minneapolis and St. Paul, MN and Omaha, NE to Yankton, SD; (3) Empty containers on return. Transferee presently holds authority under its lead Docket MC–61401 and Subs thereunder to operate as a Contract Carrier in the States of IL, IN, IA, MN, NE, SD and WI, and as a Common Carrier under its lead Docket MC–118537 and Subs thereunder, in the States of IL, IA, MO, NE and WI. Dual operations have been approved. Application has been filed under Section 11349 by Transferee seeking Temporary Authority to operate the authority sought. The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act. Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made. Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits. The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC FC–78067 filed March 9, 1979. Transferee: PEPE'S EXPRESS, INC., 17 Michael Road, Hingham, MA 02043. Transferor: Belardino R. Pagnani and Clionidi Pagnani, doing business as Pepe's Express, 30 Salem St., Quincy, MA 02169. Representative: Joseph J. Sullivan, Jr., 17 Michael Road, Hingham, MA 02043. Authority sought for purchase by transferee of operating rights of transferor in Certificate of Registration MC–120212 Sub 1, issued January 22, 1964, authorizing the transportation of general commodities, between points in Massachusetts. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC FC–78080, filed March 21, 1979. Transferor: TRI–CITY CARTAGE, INC. 3032 Millers Lane, Louisville, Kentucky 40216. Transferee: KWESVA, Inc., 4000 Lambert Avenue, Louisville, Kentucky 40243. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, Kentucky 40602. Authority sought for the purchase by transferee of operating rights held by transferor in Certificate No. MC–144489, issued October 3, 1978, as follows: Glass containers, from Huntington, W. Va. to Louisville, Ky. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC FC–78087, filed: March 16, 1979. Transferee: Richard N. Phillips, d.b.a. P & P TRUCKING COMPANY, Route 1, Box 170, Watauga, TN 37694. Transferor: Street's Trucking Company, Inc., 1121 Bridwell Street, Kingsport, TN 37664. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority wought for the purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–129404, issued June 23, 1976, as follows: brick, concrete block, cinder blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes,

the operating rights through the purchase. Applicants' attorney: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Operating rights sought to be transferred: *Alcoholic beverages,* in bulk, in tank vehicles, from points in Jefferson and Nelson Counties KY, and Atchison County KS, to points in Lewis and Clark County MT; *chemicals* (except fertilizer), in bulk, from points in Missoula County MT, to points in MT, CO, WY, ID, OR and WA; *ores and ore concentrates,* in bulk, between points in MT, ID and WA; *distillers' dried grain* from the international boundary line

common carrier of *specified commodities,* in bulk, in tank vehicles, from named points in MS and Memphis, TN to points in AL, AR, FL, GA, LA, MO, TN and TX. The operating rights of Ergon Trucking, Inc. sought to be controlled are issued under MC–138956, authorizing operations as an irregular route motor common carrier of *specified commodities,* in bulk, in tank vehicles, to and from various points in the states of AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN and TX. No application for temporary authority under Section 11349 [formerly Section 210a(b)] has been filed.

Skamania Counties, with no transportation for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with F. L. Hartung Glass Company, Inc., of Seattle, WA. *Irregular Routes: Prepared frankfurters,* From Dallas, TX., to points in CA., OR., WA., and ID., with no transportatin for compensation on return except as otherwise authorized. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Corny Dog Company, of

Building, Minneapolis, MN 55402. Transferor's representative: Carl Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC–52752, as follows: REGULAR ROUTES: *General commodities* (with the usual exceptions), between Iowa City, IA, and Cedar Rapids, IA, as follows: From Iowa City, IA, over U.S. Highway 218 to Cedar Rapids, IA, and return over the same route. Service is authorized to and from all intermediate points. Transferee is authorized to operate as a regular route

approval of the application. Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made. Unless otherwise specified, the signed original and six copies of the protest shall be filed with

filed.

MC FC–78087, filed: March 16, 1979. Transferee: Richard N. Phillips, d.b.a. P & P TRUCKING COMPANY, Route 1, Box 170, Watauga, TN 37694. Transferor: Street's Trucking Company, Inc., 1121 Bridwell Street, Kingsport, TN 37664. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Authority wought for the purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC–129404, issued June 23, 1976, as follows: brick, concrete block, cinder blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes,

from Elizabethton, TN, to points in Alleghany, Bedford, Botetourt, Buchanan, Bland, Carroll, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Henry, Lee, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties, VA, points in Bell, Breathitt, Clay, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Magoffin, Martin, Owsley, Perry, Pike, Rockcastle, and Whitley Counties, KY, and points in Fayette, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, and Wyoming Counties, WV, with no transportation for compensation on return except as otherwise authorized. Between Elizabethton, TN, on the one hand, and, on the other, Richmond, VA. From Elizabethton, TN, to Louisville, KY, with no transportation for compensation on return except as otherwise authorized. From Elizabethton, TN, to points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Davidson, Davie, Forsythe, Guilford, Haywood, Henderson, Iredell, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Randolph, Rockingham, Rowan, Rutherford, Stokes, Surry, Transylvania, Watauga, Wilkes, Yadkin, and Yancey Counties, NC, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with General Shale Products Corporation, of Johnson City, TN. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under 49 USC 11349.

MC FC–78095 filed April 11, 1979. Transferee: FIVE STAR EXPRESS, INC., 935 Grattan St., Chicopee, MA 01020. Trnasferor: R. Lavoie Trucking Co., Same address. Representative: David Marshall, 101 State St., Springfield, MA 01103, and Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought for purchase by transferee of operating rights of transferor in Certificates No. MC 127870 and Subs 2 and 3, issued January 2, 1975, September 12, 1975, and March 11, 1976, authorizing (1) in No. MC 127870, rough lumber, between ports of entry on the United States-Canada Boundary line at or near Champlain and Ogdensburg, NY, and Norton Mills, Derby Line, and Richford, VT, on the one hand, and, on

transportation of traffic originating at points in ME, and dressed lumber, from ports of entry on the United States-Canada Boundary line located at or near Champlain and Ogdensburg, NY, and Norton Mills, Derby Line, and Richford, VT, to points in ME, NH, VT, MA, RI, CT, MD, NY, NJ, and PA, restricted to transportation in foreign commerce only: (2) in No. MC 127870 Sub 2, agricultural commodities, from points in that part of Franklin County, MA, on and west of the Connecticut River, to Albany and Ballston Spa, NY; fresh fruit, in containers, from points in Berkshire, Franklin, and Hampden Counties, MA, and Windham County, VT, to Hudson and Germantown, NY; and empty fruit containers, from Hudson and Germantown, NY, to points in the next above-specified origin territory; logs, from points in Berkshire and Franklin Counties, MA, to Battleboro, VT; and lumber, between points in VT and those in that part of NY on and east on a line beginning at Ogdensburg and extending through Schuyler Park and Port Jervis to the New York-New Jersey State line; between points in the above-described territory on the one hand, and, on the other, points in CT, MA, RI, and those in NJ within 15 miles of New York, NY; and (3) in No. MC 127870 Sub 3, building materials and electrical supplies, between points in MA, NH, VT, and NY, restricted against the transportation of traffic between Colrain, MA, and Buckland, MA. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC–FC–78123 filed May 1, 1979. Transferee: BOUMA CARTAGE CO., 146 Pleasant St., S. W., Grand Rapids, MI 49503. Transferor: Midwest Furniture Transport, Inc., 9442 Calumet Ave., Munster, IN 46321. Authority sought for purchase by transferee of a portion of the operating rights held by transferor in Certificate No. MC 10341 issued September 3, 1959, as follows: New furniture, and household goods, as defined by the Commission, between Chicago, IL, on the one hand, and, on the other, points in IN, and MI within 150 miles of Chicago; and household goods, as defined by the Commission, between South Haven, MI, on the one hand, and, on the other, points in IL and IN. Transferee holds authority from the Commission in Certificates of Registration No. MC 120456 Subs 1 and 2. An application for temporary lease has been filed. Representatives: Karl L. Gotting, 1200 Bank of Lansing Bldg.,

MC–FC–78133 filed May 3, 1979. Transferee: GERALD R. PRIEST and HELEN M. PRIEST, d.b.a. G & H TRANSFER, 29 North Webster, Red Cloud, NE 68970. Transferor: Doyt Tophap and Betty Topham, 51 Walnut, Red Cloud, NE 68970. Authority sought for purchase by transferee of operating rights held by transferor in Certificate of Registration No. MC–121809, issued August 28, 1978, authorizing transportation of commodities generally, except those requiring special equipment, other than refrigeration, in regular route operations: From Red Cloud, NE, to Hastings, NE, via US–281, serving Cowles, Blue Hill and Ayr, NE as intermediate points, and Guide Rock, NE as an off-route point. Transferee holds authority from the Commission in Certificate of Registration No. MC–120882 (Sub 2), issued November 15, 1978. An application for temporary lease authority has not been filed.

MC–FC–78213 filed July 5, 1979. Transferee: ELDON V. HAHN, doing business as HAHN TRUCKING, RFD, Tripp, SD 57376. Transferor: Arthur Stoebner, doing business as Arthur Stoebner Trucking, Tripp, SD 57376. Representative: James R. Haar, Box 368, Tripp, SD 57376. Authority sought for purchase by transferee of operating rights of transferor in Certificate No. MC–95620, issued May 16, 1949, authorizing the transportation of livestock, from Tripp, SD, and points within 12 miles of Tripp to Sioux City, IA; and livestock, and animal feeds, from Sioux City, IA, to Tripp, SD, and points within 12 miles of Tripp. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC–FC–78223 filed July 2, 1979. Transferee: LOCHNER MOVING, INC., 1610 5th St., NE, Rochester, MN 55901. Transferor: Frank H. Lochner, 807 8th Ave., SE, Austin, MN 55912. Representative: Larry L. Lochner, 1610 5th St., NE, Rochester, MN 55901. Authority sought for purchase by transferee of operating rights of transferor in Permit No. MC–128550 Sub 1, issued June 27, 1967, authorizing the transportation of such commodities as are dealt in by retail department stores, between the sites of retail stores and warehouses of Sears, Roebuck & Co., at Austin, MN, on the one hand, and, on the other, points in Chickasaw, Cerro Gordo, Floyd, Hancock, Howard, Mitchell, Winnebago, and Worth Counties, IA, under contract with Sears, Roebuck and Co., of Chicago, IL.

temporary lease authority has not be filed.

MC FC–78228 filed July 11, 1979. Transferee: BENTON–HECHT MOVING AND STORAGE, INC., 1035 East Walnut, P.O. Box 132, Columbia, MO 65205. Transferor: O'Brien Transfer, Inc., 309 W. Promenade St., Mexico, MO 65265. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 39392, issued July 20, 1967, authorizing operations as follows: Household goods, from Mexico, MO, and points within 35 miles thereof, to points in IL, IA, and KS; from points in IL, IA, and KS, to Mexico, MO, and points in MO within 75 miles thereof; printing paper, from Mexico, MO, to points in MO within 125 miles thereof; and household goods, as defined by the Commission, between Memphis, MO, on the one hand, and, on the other, points in IA and IL; and between Hannibal, MO, on the one hand, and, on the other, points in IL and IA. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC–FC–78233, filed July 23, 1979. Transferee: MAR PAT TRANSPORTATION CORP., 2445 Allen Avenue, Niagara Falls, New York 14303. Transferor: Buffalo Fuel Co., Inc., S–3030 Baker Road, Orchard Park, New York 14127. Representative: William J. Hirsch, 43 Court Street, Buffalo, New York 14202. Authority sought for purchase by transferee of operating rights granted to transferor in MC 144529F as follows: (1) *coke,* from points in Erie County, NY, to points in Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia, and (2) *scrap metal,* from points in Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia to points in Chautauqua, Erie, Monroe and Onondaga Counties, NY. Tranferee presently holds no authorities from this Commission. Applicant has filed for temporary authority under 49 U.S.C. 11349.

MC–FC–78237, filed July 19, 1979. Transferee: CLAY TRUCKING, INC., R.D. 1, Ephrata, PA 17522. Transferor: Brooke A. Kunkleman, d.b.a., KUNKLEMAN TRUCKING SERVICE, 310 Telford Avenue, West Lawn, PA 19609. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought for the purchase

No. MC–117693, issued February 20, 1959, as follows: *Brick,* (1) from Harrisburg, Ephrata and plantsite of Glen-Gery Shale Brick Corp. in Wyomissing, PA, to points in NY; (2) from Wyomissing, Harrisburg and Ephrata, PA to points in CT and MA; (B) Certificate No. MC–117693, Sub 2, issued August 19, 1964, as follows: *Brick,* from Harrisburg, Ephrata and plantsite of Glen-Gery Shale Brick Corp. in Wyomissing, PA, to points in DE and NJ; (C) Certificate No. MC–117693, Sub 3, issued September 9, 1971, as follows: *Brick,* from the plantsite of Webster Brick Co. at Somerset, VA, the plantsite of Washington Brick Co. at Muirkirk, MD, and the plantsite of West Bros. Brick Co. at Fairmont Heights, MD, to points in DE, NJ, NY and PA; (D) Permit No. MC–113097, issued August 21, 1964, as follows: *Chocolate novelties,* in cardboard boxes, from October 1 to April 30, both inclusive, of each year, from Reading, PA, to points in PA, CT, NJ, DE, NY, MD, and DC. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority.

MC–FC–78244, filed July 16, 1979. Transferee: CANUS TRUCKING, INC., 151 Fulton Avenue, White Plains, NY 10606. Transferor: JK Equipment Corp., 151 Fulton Avenue, White Plains, NY 10606. Representative: Larsh B. Mewhinney, Esq., Moore Berson Lifflander & Mewhinney 555 Madison Avenue, New York, NY 10022. Authority sought to transfer all operating rights of transferor in Permit MC–136321 issued September 26, 1974, as follows: *Building materials (except commodities in bulk),* from points of entry on the United States-Canada boundary line located in various states to named states, limited to service under contracts with Miller Supply Corp., White Plains, NY; Pan-American Building Material Corp., Philadelphia, PA; Prudential Supply Corp., East Dedham, MA; Guardian Purchasing Corp., White Plains, NY; and Metropolitan Wholesale Supply Corp., Chicago, IL; all restricted to traffic having a prior movement by motor carrier from points of origin in Quebec, Canada. Transferee holds no I.C.C. authority. Transferor and transferee are under common control with the named shippers. Application for temporary authority has not been filed.

MC–FC–78245 filed July 13, 1979. Applicant: X-TRAN CORPORATION, 74–08 Ditmars Boulevard, Jackson Heights, NY 11370. Transferor: CLIPPER TRANSPORT SYSTEMS, INC., 1

Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528, Attorney for Transferor. Thomas F. X. Foley, Esq., State Highway 34, Colts Neck, NJ 07722, Attorney for Transferee. Authority sought for approval to transfer operating authority held by transferor in Certificate No. MC 144647, issued November 27, 1978, authorizing operations as follows: Irregular routes: *General commodities,* except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, and commodities requiring special equipment, between New York, NY, on the one hand, and, on the other, points and places in Mercer, Monmouth, Ocean, Atlantic, Camden and Burlington Counties, and those in Middlesex and Somerset Counties, NJ, south of the Raritan River. *Petroleum and petroleum products,* in tank vehicles, from Carteret, NJ, to Port Jervis, NY, with no transportation for compensation on return. *General commodities,* except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, and commodities in bulk. Between points and places in Hudson and Essex Counties, NJ, on the one hand, and, on the other, points and places in Middlesex, Monmouth, Atlantic, and Ocean Counties, NJ. *General commodities,* except those of unusual value, Classes A and b explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. From New York, NY, to points in Cape May, Cumberland, Gloucester, and Salem Counties, NJ, with no transportation for compensation on return except as otherwise authorized. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC–FC–78248 filed July 26, 1979. Transferee: Philip Barbera, d.b.a. B & M Trucking Co., #327 Greenwich St., Reading, PA 19601. Transferor: Frank Mollica, d.b.a. B & M Trucking Co., 503 S. 16½ St. Reading, PA 19606. Authority sought for purchase by transferee of operating rights held by transferor in Permits No. MC 133027 Subs 2 and 4, issued September 10, 1969, and January 19, 1971, authorizing operations over irregular routes in the transporation of

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and Wilmington, DE, Baltimore, MD, New York, NY, points in Delaware, Onondoaga, and Ontario Counties, NY, points in Adams and Northumberland Counties, PA, and points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along Interstate Hwy 83 to junction Interstate Hwy 81, thence along Interstate Hwy 81 to the Pennsylvania-New York State line, under contract with Middlesex Container Co., Inc., of Milltown, NJ. Transferee holds no authority from this Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78255, filed July 31, 1979. Transferree: PAYNE, INC., P.O. Box 112, Brandy Station, VA 22714. Transferor: Lambert & Banks, Inc., (John G. Leake, Trustee in bankruptcy), P.O. Box 526, Harrisonburg, VA 22801. Representative: Daniel E. Payne, P.O Box 112, Brandy Station, VA 22714. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Permit MC-139273, issued February 4, 1976, as follows: *Hides*, from Harrisonburg, Stuarts Draft, and Warsaw, VA, to Boston, MA, Wilmington, DE, Newark, NJ, Harland, ME, Whitehorse Junction, VT, Philadelphia, PA, and New York, NY, and points in NH and CT; *scrap metal*, from Harrisonburg, Stuarts Draft, and Warsaw, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, SC, TN, VT, and WV; under continuing contract(s) with Joe E. Stump, of Waynesboro, VA. *Animal and poultry feed, barn snow and oyster shells*, from Baltimore, MD, to points in VA; *wheat, bran, and midds products*, from Washington, DC, to points in VA; *milk replacer*, from Lima, OH, to points in VA; *Vitamins and minerals* used in animal and poultry feed, from Chicago, IL, to points in VA; and *salt and salt products*, from Rittman, OH, and Watkins Glen, NY, to Fairfield, Staunton, Waynesboro, and Weyers Cave, VA, under continuing contract(s) with Augusta Cooperative Farm Bureau, Inc., of Staunton, VA. *Salt and salt products*, from the facilties of Watkins Salt Company, at Watkins Glen, NY, White Marsh, MD, Akron, OH, and Wilmington, NC, to points in VA and WV, restricted to the transportation of shipments which will be stored in transit at the warehouse facilities of Lambert & Banks, Inc., at Fisherville, VA, under continuing contract with Watkins Salt Company, or Watkins Glen, NY. *Lumber*, between points in VA, MD, NC, PA, and WV, restricted against the transportation of shipments originating at points in WV, under continuing contract(s) with National Lumber Company, Inc., of Augusta, GA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of *protests* to the granting of authorities must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy policy and Conservation Act of 1975.

MC 2509 (Sub-1F), filed May 4, 1979. Applicant: D. S. WOODBERRY COMPANY, 440 Rutherford Avenue, Boston, MA 02129. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting general commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points and places in MA, RI, and that part of New Hampshire on and South of a line beginning at Portsmouth, NH and extending along U.S. Highway 4 to Concord, NH, hence along U.S. Hwy. 202 to Hennicker, NH, and hence along a line from Hennicker, NH, through North Walpole, NH to the New Hampshire-Vermont State Line, on the one hand, and, on the other, points in CT except Danielson, New London, Norwich and those bounded by the Connecticut River, Interstate Hwy. 86 and the Connecticut-Massachusetts State Line.

Note.—This application is directly related to purchase application filed in Docket MC-F-14006F. The purpose of this application is to eliminate the gateways of Boston, MA, Holbrook, MA and points within 10 miles of Holbrook, MA.

MC 2900 (Sub-389F), filed: April 6, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: Roland Rice, Esq., 501 Perpetual Building, 1111 E Street, N.W., Washington, DC 20004. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting general commodities, with exceptions, (1) Between points in and west of Brown, Nemaha, Marshall, Washington, Republic, Cloud, Mitchell, Osborne, Ellis, Rush, Ness, Hodgeman, Ford, and Meade Counties, KS, on the one hand, and, on the other, Clarksville, IN, and points in Indiana on the following highways: (a) U.S. Hwy 20; (b) U.S. Hwy 40; (c) U.S. Hwy 50; (d) U.S. Hwy 52 between junction U.S. Hwy 41 and the Indiana-Ohio State line; (e) U.S. Hwy 41 between Vincennes and the Indiana-Illinois State line; (f) U.S. Hwy 24 between junction Indiana Hwy 25 and the Indiana-Ohio State line; (g) U.S. Hwy 31 between Indianapolis and junction U.S. Hwy 31E; (h) U.S. Hwy 31E between junction U.S. Hwy 31 and the Indiana-Kentucky State line; (i) U.S. Hwy 31W between junction U.S. Hwy 31 and the Indiana-Kentucky State line; (j) U.S. Hwy 150 between junction U.S. Hwy 50 and the Indiana-Kentucky State line; (k) U.S. Hwy 35 between junction U.S. Hwy 40 and the Indiana-Ohio State line; (l) Indiana Hwy 28 between junction U.S. Hwy 41 and junction Indiana Hwy 25; (m) Indiana Hwy 25 between junction Indiana Hwy 28 and U.S. Hwy 24; (n) Indiana Hwy 67 between Indianapolis and junction Indiana Hwy 32; (o) Indiana Hwy 32 between junction Indiana Hwy 67 and the Indiana-Ohio State line; Gateway eliminated, Points in IL on and north of U.S. Hwy 40, (2) Between points in NB on the one hand, and, on the other hand, Clarksville, IN, and points in Indiana on the highways set forth in (1) above; Gateway eliminated, Points in IL on and north of U.S. Hwy 40 and south of the northern boundaries of Henderson, Warren, Knox, Stark, Marshall, Putnam, Woodford, Livingston and Kankakee Counties, IL. (3) Between Clarksville, IN, and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other hand, (a) points in Atchison, Holt, Andrew, Nodaway, Gentry, and Worth Counties, MO, and (b) points in and south of Woodbury, Monona, Shelby, Cass, Adams, Union, and Ringgold Counties, IA. Gateway eliminated: Points in Champaign, Vermilion, Douglas, Edgar, Coles, Cumberland, Fayette, Effingham and Clark Counties, IL on and north of U.S. Hwy 40. (4) Between Clarksville, IN, and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other, Marysville, MO. Gateway eliminated: Points in IL on and north of U.S. Hwy 40. (5) Between Clarksville, IN and points in Indiana on the highways set forth in (1) above, on the one hand, and, on the other, Clearmont, MO and St. Joseph, MO. Gateway eliminated: St. Louis, MO.

Note.—The purpose of this application is to authorize the joinder of irregular route general commodity operating authority of O.N.C. Freight Systems with irregular route rights presently held by Ryder Truck Lines, Inc., and to eliminate the gateways specified above. This matter is directly related to MC-F-13975F, published in a previous section of this **Federal Register** issue.

MC 35334 (Sub-79). COOPER-JARRETT INC., extension. Agency: Interstate Commerce Commission. Action: Republication of "extension" application. Summary: This notice informs the public of a pending application for the extension of motor carrier operating rights and invites comments pursuant to a Commission decision in docket No. MC-F-12598. Comments due: Written protests may be submitted to the Commission (at the address below) within 30 days of the date of this publication. Cooper-Jarrett Inc. (C-J) may file verified statements in support of the extension application within 60 days of the date of this publication. Protestants (if any) may file verified statements in opposition to the application within 90 days of the publication date. C-J's rebuttal (if any) is due 110 days from the publication date. Addresses: All written comments should: (1) bear the docket number MC-35334 (Sub-No. 79), (2) refer to this FR notice, and (3) be sent to the following address: Interstate Commerce Commission, Office of Proceedings, Section of Operating Rights, Washington, D.C. 20423. Effective date: The extension application will not become effective until after Commission consideration of the application and any comments filed pursuant to this FR notice. For further information contact: Michael Erenberg, 202-275-7245. Supplementary information: In docket No. MC-35334 (Sub-79), *Cooper-Jarrett Inc., extension*, Cooper-Jarrett Inc. (C-J) filed an application to extend its motor common carrier operating-rights as follows: *Regular routes: General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, Cincinnati, OH, serving Cincinnati, OH, for the purpose of joinder only, and serving no intermediate points, (1) from Memphis, TN, over Interstate Hwy 40 to Nashville, TN, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to its junction with Interstate Hwy 75, and then over Interstate Hwy 75 to Cincinnati, OH, and return over same route; and (2) from Memphis, TN, over US Hwy 51 to its junction with US Hwy 45 located at or near Mayfield, KY, then over US Hwy 45 to Paducah, KY, then over US Hwy 62 to junction with Interstate Hwy 65 located at or near Elizabethtown, KY, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 71 to junction with Interstate Hwy 75, then over Interstate Hwy 75 to Cincinnati, OH, and return over same route.

In an initial decision served August 2, 1978, in a related proceeding (No. MC-F-12598, *Cooper-Jarrett Inc.—Purchase—Tri-City Express Inc.*), an Administrative Law Judge dismissed C-J's extension application as moot. However, the Commission (Division 2) reversed the Judge's action on this point in a later decision in No. MC-F-12598 (served April 2, 1979) and ordered that C-J's extension application be considered on its merits. *See* Division 2's decision at pp. 3 and 5.

Further, the Division ordered that C-J's extension application be set for modified procedure and that notice of the extension application be republished in the **Federal Register**. Accordingly, notice of C-J's extension application is now being republished.

Any person interested in or prejudiced by C-J's extension application in No. MC-35334 (Sub-No. 79) may file with the Commission an original and 6 copies of the types of pleadings described in the next paragraph. These persons (protestants) must also file a copy of their pleadings upon applicant C-J and its representative at the following addresses:

Applicant: Cooper-Jarrett Inc., 23 South Essex Ave., Orange, NJ 07051.
Applicant's representative: Irving Klein, 371 Seventh Ave., (Southgate Tower), New York, NY 10001.

Protestants (if any) may submit protests to C-J's extension application within 30 days of the date of this publication. *C-J* may file with the Commission an original and 6 copies of any verified statements in support of its extension application within 60 days of this publication date (with appropriate service of a copy on protestants). *Protestants* may file verified statements in opposition to the application within 90 days of this publication date. *C-J's* rebuttal (if any) will be due 110 days from this publication date. All pleadings shall conform with the requirements of the Commission's *Rules of Practice* (49 CFR Part 1100).

Commission action on C-J's extension application in No. MC-35334 (Sub-No. 79) will follow consideration of the application and any pleadings filed pursuant to this notice.

MC 44605 (Sub-55F), filed April 30, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Applicant's Representative: Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Authority sought to operate as a common carrier by motor vehicle, over regular routes, transporting: General commodities (except those of unusual

value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between San Francisco, CA and Los Angeles, CA, serving all intermediate points: (A) From San Francisco over U.S. Hwy. 101 to Los Angeles, and return over the same route. (B) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate Hwy. 580 to junction Interstate Hwy. 5, then over Interstate Hwy. 5, to Los Angeles, and return over the same route. (C) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate 580 to junction CA Hwy. 108, then over CA Hwy. 120 to junction Temporary Interstate Hwy. 5 and CA Hwy. 99, then over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to Los Angeles, and return over the same route. (D) From San Francisco over CA Hwy. 1 to junction U.S. Hwy. 101, then over U.S. Hwy. 101 to junction CA Hwy. 1, then over CA Hwy. 1 to Los Angeles, and return over the same route; (2) Between San Francisco, CA and San Diego, CA, serving all intermediate points: (A) From San Francisco over U.S. Hwy. 101 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (B) From San Francisco over Interstate Hwy. 80 to junction Interstate Hwy. 580, then over Interstate Hwy. 580 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (C) From San Francisco over U.S. Hwy. 101 to junction CA Hwy. 1, then over CA Hwy. 1 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route; (3) Between Sacramento, CA and Los Angeles, CA, serving all intermediate points and all off-route points within 20 miles of the following route: From Sacramento, CA over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to Los Angeles, and return over the same route; (4) Between Sacramento, CA and San Diego, CA, serving all intermediate points and all off-route points within 20 miles of the following routes: (A) From Sacramento, CA over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to junction Interstate Hwy. 10, then over Interstate Hwy. 10 to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to junction Temporary Interstate Hwy. 15, then over Temporary Interstate Hwy. 15 to junction Interstate Hwy. 15, then over Interstate Hwy. 15 to San Diego, and return over the same route. (B) From Sacramento over Temporary Interstate Hwy. 5 and CA Hwy. 99 to junction Interstate Hwy. 5 at Wheeler Ridge, then over Interstate Hwy. 5 to junction Interstate Hwy. 405, then over Interstate Hwy. 405 to junction CA Hwy. 19, then over CA Hwy. 19 to junction CA Hwy. 1, then over CA Hwy. 1 to junction Interstate Hwy. 5, then over Interstate Hwy. 5 to San Diego, and return over the same route. (Hearing Site: San Francisco and Los Angeles, CA)

Note.—The purpose of filing this application is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a finance proceeding docketed No. MC-F-14001F, published in a previous section of this FR Notice.

MC 64600 (Sub-51F), filed March 28, 1979. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: Francis W. McInerny, 1000 16th St., NW, Rm. 502, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular routes*, transporting (1) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points and places in the counties of Halifax, Rockingham, Guilford, Alamance, Scotland, Davidson, Stanely, Rowan, Cabbarrus, Iredell, Mecklenburg, Alexander, Catawaba, Lincoln, Gaston, Caldwell, Cleveland, Rutherford, NC; (2) *Yarn*, from points in Gaston County, NC, to Winston Salem, Valdese and Mount Airy, NC; (3) *Waste Bagging*, from points in Gaston County, NC to Henderson, NC. (Hearing Site: Washington, DC or Charlotte, NC.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-F-13978F, published in a previous section of this FR issue.

MC 87379 (Sub-21F) (Correction), C. H. HOOKER TRUCKING CO., 1475 Roanoke Avenue, Uhrichsville, OH 44683. Representative: Boyd B. Ferris, 50 West Broad Street, Columbia, OH 43215, published in the Federal Register May 31, 1979, at page 31363. The following errors appeared in the publication: In one portion of the authority involving Houston, Mississippi, the abbreviation Maine has been included twice. The initial inclusion is incorrect, and should be the abbreviation for Michigan. The explanatory note should have read as follows:

Note.—The purpose of this application is to eliminate the *gateway* points in Tuscarawas County, OH. This matter is directly related to a finance proceeding docketed MC-F-13952.

MC 109397 (Sub-434F) (Correction), TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Anthony N. Jacobs, P.O. Box 113, Joplin, MO 64801, republished in the July 16, 1979, issue of the Federal Register, at page 41408. The following errors appeared in the republication: In Item 27, the state of Indiana is missing; in Item 34 Iowa appears as Louisiana with Louisiana shown twice; in Item 59 North Dakota is shown as North Carolina with North Carolina appearing twice.

Note.—This matter is directly related to MC-F-13956F.

MC 112070 (Sub-19F), filed April 8, 1979. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl Street, Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY, on the one hand, and, on the other, points in AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY. This matter is directly related to Docket No. MC-F-13924F, published in a previous section of this FR issue. (Hearing Site: Denver, CO).

Note.—The purpose of this application is to eliminate the gateway points in AL, AR, and Ft. Smith, AR, Denver, CO, GA, IL, IN, IA, KS, MA, MS, MO, NE, NM, NC, OH, OK, and Enid, OK, and 90 miles, Easton, PA and 15 miles, TN, TX, UT, and Box Elder and Weber Counties, UT, and WI.

MC 112304 (Sub-198F), filed May 2, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a motor common carrier, over irregular routes, in the transportation of: (1) *Commodities*, the transportation of which because of their size and weight, require the use of special equipment between points in TN, on the one hand, and, on the other, those in CT, IL, IN, KY, MA, MD, MI, NH, NJ, NY, OH, PA, RI, TX, VT, WV, WI, DC and those in VA north and west of a line beginning at the WV–VA State line and extending along U.S. Hwy 60 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the VA–DC boundary line (gateways to be eliminated in Grant or Gallatin Counties, KY). (2) *Commodities*, the transportation of which because of size or weight require special handling and the use of special equipment and/or self-propelled articles each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to self-propelled articles which are transported on trailers) from points in TN to points in CA, NV and UT. Restricted against the transportation to UT and NV of commodities which because of size or weight require special handling and the use of special equipment used in or in connection with the construction, maintenance, repair, operations, servicing or dismantling of pipelines (gateways to be eliminated in Grant or Gallatin Counties, KY). (3) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies, moving in connection therewith between points in TN, on the one hand, and, on the other, points in IN, KY, MI, NJ, NY, OH, PA, TX, VA, WV, WI and those in IL on and north of a line beginning at the IL–IN State line and extending along U.S. Hwy 36 to junction IL Hwy 125, then along IL Hwy 125 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IL–MO State Line (gateways to eliminated in Grant or Gallatin Counties, KY). (4) *Precast reinforced concrete tranching systems*, and *parts and accessories* of the described items which by reason of their size and weight require the use of special equipment from points in TN to points in the U.S. including AK but excluding HI (gateway to be eliminated in Gallatin County, KY). (5) *Wrecked or disabled motor vehicles* which because of their size and weight require the use of special equipment between points in TN, on the one hand, and, on the other, points in OH, WV, IN and KY within 150 miles of Cincinnati, OH, including Cincinnati, OH (gateways to be eliminated in Grant or Gallatin Counties, KY). (6) *Refractories* which because of their size and weight require the use of special equipment between points in TN, on the one hand, and, on the other, points in Audrain, Callaway and Montgomery Counties, MO (gateways to be eliminated in Grant or Gallatin Counties, KY). (7) *Refrigeration, air conditioning*, and *heating systems* and *parts and components thereof* which because of their size and weight require the use of special equipment from Beardstown and Danville, IL to points in TN (gateways to be eliminated in Grant or Gallatin Counties, KY).

Note.—This application is directly related to MC-F-14009F, published in the June 8, 1979, issue of the FR. The purpose of filing this application is to eliminate the gateways specified above.

MC 112713 (Sub-280F), filed April 20, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representatives: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. Authority sought to operate as a *common carrier*, by motor vehicle over regular routes transporting: *General commodities*, (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, commodities of unusual value and those requiring special equipment), between San Francisco, CA and Santa Rosa, CA, serving all intermediate points except San Rafael on the following route, and serving the off-route points in Sonoma and Napa counties, CA within 25 miles thereof: From San Francisco over U.S. Hwy 101 to Santa Rosa and return. Serving as off-route points in connection with carrier's regular route operations, those points in Placer County, CA within 25 miles of the junction of Interstate Hwy 80 and CA Hwy 99. (Hearing site: San Francisco, CA; Sacramento, CA.) The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity. It is directly related to Yellow Freight System, Inc.—Purchase (Portion)—City Drayage, No. MC-F—13996F.

Note.—Common Control may be involved.

MC 138896 (Sub-13F), filed June 3, 1979. Applicant: AJAX TRANSFER COMPANY, 550 E. 5th St. So., So. St. Paul, MN 55075. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, in the transportation of frozen foods and poultry commodities, from points in MN, to points in CT, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Gateways eliminated: Faribault and St. Charles, MN.

Note.—This application is directly related to a finance proceeding, docketed at No. MC-F-14045F, published in a previous section of this Federal Register issue. The purpose of filing this application is to eliminate the gateway as specified above.

MC 141775 (Sub-1F), filed May 30, 1979. Applicant: C AND W HORSE TRANSPORTATION, INC., 223 Pond Street, Franklin, MA 02038. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, other than ordinary horses, and, in the same vehicle therewith, mascots, personal effects of attendants, and supplies and equipment used in the care, maintenance and exhibition of such horses, between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, PA, MD, OH, KY, WV, VA, NC, and SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, LA, MI, MS, MO, TN, and TX. (Gateways eliminated: points in SC and KY).

Note.—This application is directly related to a transfer application filed under Section 10926 of the Interstate Commerce Act in Docket No. MC-FC-78187, published in the Federal Register issue of August 8, 1979. The purpose of this application is to eliminate the gateways as noted above.

MC 144710 (Sub-2F), filed April 9, 1979. Applicant: MONROE CONTRACTORS EQUIPMENT, INC., 1640 Penfield Rd., Rochester, NY 14625. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities which because of weight or size require the use of special equipment*, between Monroe, Ontario, Wayne, and Yates Counties, NY, on the one hand, and, on the other all points in OH.

Note.—The purpose of this application is to eliminate the gateway of Rochester, NY. This is a matter directly related to Section 5 finance proceeding in MC-F-13987F. (Hearing site: Syracuse, NY.)

MC 146193 (Sub-4F), filed April 20, 1979. Applicant: CAMPBELL GRAIN CORPORATION, Box 94, Humeston, IA 50123. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, over irregular routes, in the transportation of *liquid soil conditioners* from the facilities of Carpenter Sales, Inc., at or near Bonduant IA, to points in, AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, and WI, restricted to traffic originating at the named origin point and destined to the named destination points.

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Note.—The purpose of this application is to convert the authority sought to be purchased from contract carrier authority to common carrier authority. This matter is directly related to MC–FC 78155, published in the July 16, 1979, issue of the **Federal Register** issue.

MC 148084, filed July 17, 1979. Applicant: WESLEY A. BRYAN d.b.a., BRYAN MOVING & STORAGE, P.O. Box 95, Beltsville, MD 20705. Representative: PAUL F. SULLIVAN, 711 Washington Building, Washington, DC 20005. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting household goods, as defined by the Commission, between Washington, DC, on the one hand, and, on the other, points in CT and MA.

Note.—The above application seeks to remove a gateway (New York, N.Y., commercial zone) and is filed in conjunction with No. MC–FC–78231, published in a previous section of this **Federal Register** issue.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 29555 (Deviation No. 36), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 8, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Rockford, IL, over U.S. Hwy 51 to junction U.S. Hwy 30, then over U.S. Hwy 30 west to Cedar Rapids, IA, and (2) from Rockford, IL, over U.S. Hwy 51 to junction Interstate Hwy 80, then west over Interstate Hwy 80 to Des Moines, IA, then return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Rockford, IL, over U.S. Hwy 20 to Independence, IA, then over Iowa Hwy 150 to Cedar Rapids, IA, and (2) from Rockford, IL, over U.S. Hwy 20 to Waterloo, IA, then over U.S. Hwy 63 to junction U.S. 6, then over U.S. Hwy 6 to Des Moines, IA, and return over the same routes.

MC 29555 (Deviation No. 37), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 10, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: from Rockford, IL, over U.S. Hwy 51 to junction Interstate Hwy 55 near Bloomington, IL, then over Interstate Hwy 55 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Rockford, IL, over U.S. Hwy 20 to the Chicago city limits, then over Interstate Hwy 294 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction U.S. Hwy 52, then over U.S. Hwy 52 to LaFayette, IN, then over U.S. Hwy 231 to Crawfordville, IN, then over Indiana Hwy 47 to junction U.S. Hwy 41 then over U.S. Hwy to Vincennes, IN, then over U.S. Hwy 50 to St. Louis, MO, and return over the same route.

MC 55778 (Deviation No. 5), MOTORFRATE DISPATCH, INC., 16360 Broadway, Maple Heights, OH 44137, filed June 18, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation route as follows: From Cleveland, OH, over Interstate Hwy 71 south to junction Interstate Hwy 270 (Columbus, OH), then west over Interstate 270 to junction Interstate Hwy 70, then west over Interstate Hwy 70 to Indianapolis, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Cleveland, OH, over Ohio Hwy 254 to junction Ohio Hwy 57, then over Ohio Hwy 57 to Elyria, OH, then over Ohio Hwy 113 to Milan, OH then over U.S. Hwy 250 to Sandusky, OH, then over U.S. Hwy 6 to Bryan, OH, then over Ohio Hwy 34 to Edon, OH, then over Ohio Hwy 49 to junction U.S. Hwy 20, then over U.S. Hwy 20 to South Bend, IN, then over U.S. Hwy 31 to Indianapolis, IN, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Indiana Docket No. 11683–A, 1, filed May 23, 1979. Applicant: OVERLAND CONTRACT CARRIERS CORP., 521 South West St., Indianapolis, IN 46204. Representative: Robert L. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Property, between all points in the State of Indiana. Intrastate, interstate and foreign commerce authority sought. HEARING: Monday, October 22, 1979, 9:00 A.M. EST, Room 907, State Office Bldg. Requests for procedural information should be addressed to Public Service Commission of Indiana, Room 901 State Office Bldg., Indianapolis, IN 46204, and should not be directed to the Interstate Commerce Commission.

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG–20–79 (Special Certificate—used Household Goods), filed August 14, 1979. Applicant: WEATHERS BROTHERS TRANSFER CO., INC., 921 East Forsyth St., Jacksonville, FL 32202. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought: Between points in Baldwin, Barbour, Bullock, Butler, Choctaw, Clarke, Coffee, Conecuh, Covington, Crenshaw, Dale, Dallas, Escambia, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Mobile, Monroe, Montgomery, Perry, Pike, Russell, Sumter, Washington, and Wilcox Counties, AL, Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bullock, Calhoun, Camden, Candler, Charlton, Chatham, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Glynn, Grady, Houston, Irwin, Jeff Davis, Johnson, Lanier, Laurens, Lee, Liberty, Long, Lowndes, McIntosh, Macon, Marion, Miller, Mitchell, Montgomery, Muscogee, Peach, Pierce, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Turner, Twiggs, Ware, Wayne, Webster, Wheeler, Wilcox, and Worth Counties, GA, and the State of Florida, serving the U.S. Coast Guard, Aviation Training Center, Mobile, AL, Fort Rucker, Ozark, AL, The U.S. Coast Guard Air Station, Miami, FL, Marine Corps Reserve Training Center, Orlando, FL, U.S. Coast Guard Air Station, St. Petersburg, FL, Marine Corps Reserve Training Center, Tallahassee, FL, Eglin Air Force Base, Ft. Walton Beach, FL, Marine Corps Reserve Training Center, Tampa, FL, Homestead Air Force Base, Homestead, FL, U.S. Naval Air Station (Cecil Field) Jacksonville, FL, McCoy Air Force Base, Orlando, FL, U.S. Naval Air Station, Jacksonville, FL, MacDill Air Force Base, Tampa, FL, U.S. Naval Air Station, Pensacola, FL, Marine Corps Reserve Training Center, Miami, FL, U.S. Naval Auxiliary Air Station, Milton, FL, U.S. Naval Station, Key West, FL, U.S. Navy Fuel Depot, Jacksonville, FL, U.S. Naval Station, Mayport, FL, U.S. Naval Marine Corps Reserve Training Center, Riviera Beach, FL, U.S. Naval Training Center, Orlando, FL, U.S. Naval Ship Research & Development Laboratory, Panama City, FL, Patrick Air Force Base, Cocoa Beach, FL, Tyndall Air Force Base, Panama City, FL, U.S. Naval Ordnance Laboratory Test Facility, Ft. Lauderdale, FL, U.S. 7th Coast Guard District, Miami, FL, U.S. Marine Corps Supply Center, Albany, GA, U.S. Navy Submarine Base, Kings Bay, GA, Moody Air Force Base, Valdosta, GA, Turner Air Force Base, Albany, GA, U.S. Naval Air Station, Albany, GA, U.S. Naval Air Station, Glynco, GA.

HG–21–79 (Special Certificate—used Household Goods), filed August 21, 1979. Applicant: NORTH ALABAMA MOVING AND STORAGE, INC., 1018 Putnam Dr., Huntsville, AL 35805. Representative: Howard Martin (address same as applicant). Authority sought: Between Marshall, Giles, Lincoln, Franklin, Maury, Lewis, Lawrence, Wayne, and Hardin Counties, TN, and Madison, Limestone, Morgan, Marshall, Lawrence, Jackson, Franklin, Colbert, and Lauderdale Counties, AL, serving Redstone Arsenal, AL.

Transportation of "Waste" Products for Reuse or Recycling

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products*, Ex Parte No. MC–85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

P–8–79 (Special Certificate—Waste Products), filed August 20, 1979. Applicant: DON PAFFILE d/b/a PAFFILE TRUCK LINES, 5835 North and South Highway, Lewiston, ID 83501. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. Sponsors: Paper Fibres Corporation of Vashon, WA; Ideal Paper Stock Company of Seattle, WA; Yaste Transportation of Hoquiam, WA; Sutton Salvage of Lewiston, ID; Adams Dismantling, Inc., of Mattaws, WA; and Joseph Simon & Sons, Inc., of Tacoma, WA. Commodities: Waste products.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-27987 Filed 9-6-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also

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in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 989 (Sub-35TA), filed July 16, 1979. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) between Kansas City, MO and its commercial zone and Topeka, KS and its commercial zone, from Kansas City, MO over Interstate Hwy 70 to Topeka, KS and return over the same route, for 180 days, common carrier; 90-day ETA filed simultaneously. This application is to reduce the amount of circuitous mileage traveled to better conserve dwindling fuel supply without reducing the service. A grant would assist the applicant in making this operation more efficient and economical. Supporting shipper(s): No certificates of support filed with this application. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 2368 (Sub-96TA), filed June 8, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, same address as above. (1) Ethylene Glycol, in bulk, in tank vehicles, (2) Spent Glycol, in bulk, in tank vehicles (1) from Plaquemine and Taft, LA and Wilmington, NC to Moncure, NC (2) from Moncure, NC to Bayport and Houston, TX RESTRICTION: (1) Restricted on traffic at Wilmington, NC having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, 1411 Broadway, New York City, New York 10018. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 2368 (Sub-97TA), filed July 5, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 495, Richmond, VA 23204. *White Oil, in bulk, in tank vehicles,* from Martinsville, VA to Chattanooga, TN and Camden, SC and their commercial zones, for 180 days. Supporting shipper(s): E. I DuPont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 18088 (Sub-63TA), filed August 1, 1979. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. *Textiles and textile products, and machinery, machinery parts, equipment, materials and supplies used in or in connection with the operation of textile mills and warehouses,* except commodities the transportation of which because of size or weight require the use of special equipment for the transportation thereof, between Fountain Inn, SC, on the one hand, and on the other, points in LA, MS, NC, and SC. Restricted to traffic moving to and from the facilities of Schott International, Inc. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schott International, Inc. 1340 East Archwood, Akron, OH 44306. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 22278 (Sub-55TA), filed June 21, 1979. Applicant: TAKIN BROS. FREIGHT LINE, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between Chicago, IL, on the one hand, and, on the other, points in IN and Louisville, KY, serving Chicago, IL, as a point of joinder with carrier's presently authorized routes, for 180 days. Restricted against the transportation of traffic originating at or destined to Chicago, IL, and points in its commercial zone on the one hand, and, on the other, points in IN and Louisville, KY, and its commercial zone. Applicant intends to tack with authority in MC-22278 and MC-30311 and interline at Kansas City, MO; Omaha, NE; Chicago and Moline, IL; Des Moines, Waterloo, and Mason City, IA; Minneapolis and St. Paul, MN; LaCrosse, WI; Cleveland, OH; and New York, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 17 shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 22509 (Sub-20TA), filed June 29, 1979. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Ave., St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. *Insulation and insulation materials,* from the facilities of Owens-Corning Fiberglas Corporation at Kansas City, KS and Pauline, KS to points in IL, IA, MO and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43569. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 23618 (Sub-53TA), filed June 26, 1979. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, P.O. Box 2377, 2041 S. Treadway Blvd., Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125 Exchange Park, Dallas, TX 75245. *Building materials* between the facilities of Bird & Son, Inc. in Shreveport, LA to points in TX for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 23618 (Sub-55TA), filed May 8, 1979. Applicant: McALISTER TRUCKING COMPANY, d.b.a. MATCO, P.O. Box 2377, 2041 S. Treadaway Blvd., Abilene, TX 79604. Representative: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, TX 75245. *Machinery, materials, equipment, and supplies, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum,* between Miami, OK and Joplin, MO, for 180 days. Applicant intends to tack the authority sought herein with other authority held by applicant and authority sought to be purchased in MC-71125 (Sub No. 1), and intends to interline with other carriers at Joplin, MO. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 29079 (Sub-122TA), filed April 26, 1979. Applicant: BRADA-MILLER FREIGHT SYSTEM, INC., 1210 S. Union Street, Kokomo, IN 46901. Representative: Keith G. O'Brien, 1729 H Street, NW, Washington, DC 20006. *Sand and sand additives* (except commodities in bulk, in tank vehicles), from the facilities of Acme Resin Company at or near Oregon, IL, to

points in CT, KY (except Louisville), MA, MO, NH, NJ, NY (on and east of U.S. Hwy 62), PA (on and east of U.S. Hwy 219), RI, VA and WV (except points in Hancock, Marshall and Ohio Counties), WI, IA, points in the Lower Peninsula of MI and IN (except Kokomo and points within 50 miles thereof), for 180 days. Supporting shipper(s): CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204.

MC 31879 (Sub-36TA), filed July 5, 1979. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Ave., North Kansas City, MO 64116. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Personal care products, nutritional supplements and foods, and cleaning compounds,* between the facilities of the Shaklee Corp. located at or near Dallas, TX, on the one hand, and, on the other, points in KS, MO and NE, for 180 days. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 31879 (Sub-37TA), filed July 5, 1979. Applicant: EXHIBITORS FILM DELIVERY & SERVICE, INC., 101 West 10th Avenue, North Kansas City, Mo 64116. Applicant's Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Authority is sought to operate as a common carrier, by motor vehicle, in interstate and foreign commerce, over irregular routes transporting greeting cards and related products* between the facilities of American Greetings Corporation, located at or near Osceola, AR and Danville, KY, on the one hand, and, on the other, points in Missouri, Kansas, Nebraska, points in Boone and Carroll Counties, AR; Lee County, IA; Weld, Adams, Denver, Jefferson, Douglas, El Paso, Freemont, Pueblo, Huerfano, Las Animas, Logan, Sedgwick, Phillips, Morgan, Washington, Yuma, Araphahoe, Elbert, Lincoln, Kit Carson, Cheyenne, Crawley, Kiowa, Otero, Bent, Prowers, and Baca Counties, CO; Laramie and Goshen Counties, WY; points in Illinois within the St. Louis, MO-East St. Louis, IL commercial zone as defined by the Commission, those in Cook, Kane, Dupage and Will Counties, IL, and those in that part of Illinois bounded on the west by the Mississippi River, and on the east, north and south by a line beginning at Chester, IL and extending along Illinois Highway 150 to Junction Illinois Highway 154, thence along Illinois Highway 154 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 15 thence west along Illinois Highway 15 to junction Illinois Highway 127 thence north along Illinois Highway 127 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 51, thence north along U.S. Highway 51 to Decatur, IL, thence west along U.S. Highway 36 to Springfield, IL, thence along combine U.S. Highways 36 and 54 to junction U.S. Highway 36, and thence along U.S. Highway 36 to the Mississippi River, including points on the indicated portions of the highways specified, and those points in that part of New Mexico in and on a line beginning at the northwest corner of Colfax County, NM, at the Colorado–New Mexico State line and extending along the western boundary of Colfax County to the western boundary of Mora County, thence along the western boundary of Mora County to the boundary of Santa Fe County, NM, thence in a northerly and westerly direction along the Santa Fe County boundary to the boundary of Los Alamos County, NM, thence in a northerly and westerly direction along the Los Alamos County boundary until that boundary meets the Santa Fe County boundary at the southern tip of Los Alamos County, thence along the Santa Fe County boundary in junction combined U.S. Highway 85 and Interstate Highway 25, thence along combined U.S. Highway 85 and Interstate Highway 25 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line, and thence along the New Mexico state line in a northerly and westerly direction to the point of beginning, restricted to the transportation of single pieces that do not exceed 100 pounds in weight, for 180 days. Supporting shipper(s): American Greetings Corporation, 10500 American Road, Cleveland, OH 44144. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 41849 (Sub-46TA), filed June 26, 1979. Applicant: KEIGHTLEY BROS., INC., 3675 Chouteau Ave., St. Louis, MO 63110. Representative: Patrick M. Browne, address same as applicant. (1) Foundry sand additives from St. Louis, MO to Camden and Pulaski, TN; (2) Bentonite from Aberdeen, MS to St. Louis and Washington, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. A. Bell Company, P.O. Box 324, St. Louis, MO 63166. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 42828 (Sub-16TA), filed July 30, 1979. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine Street, Barre, VT 05641. Representative: William L. Rossi, same address as applicant. *GRANITE (restricted to export shipments)* from Barre, VT to Portland, ME, Portsmouth, NH, Boston, MA, Philadelphia, PA, Baltimore, MD and Camden NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rock of Ages Corporation, Barre, VT 05641. Send protests to: Carol A. Perry, ICC, PO Box 548, Montpelier, VT 05602.

MC 43038 (Sub-482TA), filed July 26, 1979. Applicant: COMMERICAL CARRIERS, INC., 20300 Civic Center, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Motor Vehicles, except trailers, in secondary movement in truckaway service; between Birmingham, AL and points in FL. For 180 days. Supporting shipper(s): Chrysler Corporation, P.O. Box 1976, Detroit, MI and General Motors Corporation, 755 W. Big Beaver Road, Troy, MI 48084. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933. An underlying ETA seeks 90 days authority.

MC 44989 (Sub-7TA), filed July 16, 1979. Applicant: WILLIAMS TRUCK LINE, INC., P.O. Box 143, Audubon, IA 50025. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Meats, meat products, meat by-products and articles distributed by meat packinghouses and dairy products, as described in Sections A, B and C of Appendix I to the report in Description in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk)* from the facilities utilized by John Morrell & Co., at or near Estherville and Sioux City, IA; Sioux Falls, SD; and Worthington, MN to points in AZ and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 48948 (Sub-17TA), filed July 3, 1979. Applicant: THE HOCKING CARTAGE COMPANY, R.R. 2, Box 373, Logan, OH 43138. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Bulk soda ash,* between Sweetwater County, WY, to General Electric Company Glass Plants

at or near Jackson, MS; Lexington and Somerset, KY; Logan, Bucyrus, Cleveland and Niles, OH; and Bridgeville, PA, for 180 days. Supporting shipper(s): General Electric Co., 4504 Nela Park, Cleveland, OH 44112. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 48958 (Sub-190TA), filed July 5, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero, same address as applicant. *Common* carrier: *regular* routes: *General commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring the use of special equipment,* serving all points within 30 miles of San Fidel, NM, north of Interstate Hwy 40 (US Hwy 66), as off-route points in connection with carrier's existing regular-route operations, for 180 days. Applicant intends to tack, but not interline this authority. Supporting Shipper(s): Sohio Natural Resources Co., P.O. Box 25201, Albuquerque, NM 87125; Kerr-McGee Nuclear Corp., Kerr-McGee Center, Oklahoma City, OK 73125; Anaconda Co., Jack Pile Mine, Laguna, NM; Bokum Resources Corp., P.O. Box 1833, Santa Fe, NM 87501. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-191TA), filed July 25, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Common* carrier: *regular* routes: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment,* between El Paso, TX and Roswell, NM; from El Paso, TX, over combined U.S. Hwys 80, 85 and and 180 (also over Interstate Hwys 10 and 25) to Las Cruces, NM, then over combined U.S. Hwys 70 and 82 to junction U.S. Hwy 54, then over U.S. Hwy 54 to Tularosa, NM then over U.S. Hwy 70 to Roswell, NM and return over the same routes, serving all intermediate points for 180 days. Applicant intends to tack the authority sought and to interline with other carriers. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 28 supporting statements may be seen at the field office or Washington, D.C. headquarters. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 48958 (Sub-192TA), filed July 25, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero. *Common* carrier: *regular* routes: *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring the use of special equipment,* between El Paso, TX and Phoenix, AZ; from El Paso, TX over Interstate Hwy 10 to Phoenix, AZ and return over the same route, serving the intermediate points of Las Cruces, NM and Tucson, AZ for 180 days. Applicant intends to tack this authority and to interline with other carriers at Tucson, AZ. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 39 supporting statements may be seen at the field office or Washington, D.C. headquarters. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 55898 (Sub-60TA), filed July 10, 1979. Applicant: DECATO BROS., INC., Heater Rd., Lebanon, NH 03766. Representative: David M. Marshall, Marshall and Marshall, 101 State St.—Suite 304, Springfield, MA 01103. *Lumber, lumber products, and finished forest products,* from the facilities of MacMillan Bloedel Building Materials, located at or near Edenton, NC to points in VA, WV, OH, PA, MD, DE, DC, NJ, NY, CT, RI, MA, VT, NH, and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacMillan Bloedel Building Materials, 6540 Powers Ferry Rd., Atlanta, GA 30339. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 56388 (Sub-35TA), filed June 21, 1979. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Bethesda, MD 20014. *Granule dust filler,* in bulk, in pneumatic vehicles, from plantsite of G.A.F. Corp. at or near Blue Ridge Summit, PA to plantsite of Tomko Corp., Lime Kiln, MD, for 180 days. Supporting shipper(s): TAMKO CORP., Route 9, Box 248, Frederick, MD 21701. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 56679 (Sub-124TA), filed June 14, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Foodstuffs (except in bulk)* from Lake City, PA to Greenville, MI, Plover, WI, Syracuse, NY, Kansas City, KS, Burley, ID, Ontario, OR, Dallas, TX and Allentown, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm. 300, Atlanta, GA 30309.

MC 56679 (Sub-125TA), filed June 27, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Such merchandise as is dealt in or used by wholesale, retail and chain grocery and food business houses and equipment, materials and supplies used in the conduct of such business* from the facilities of the Kroger Co., at or near Columbus and Cincinnati, OH to Dallas and Houston, TX, Memphis, TN and Roanoke, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 56679 (Sub-126TA), filed June 29, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Avenue, SW., Atlanta, GA 30310. Representative: Leonard S. Cassell, (same as applicant). *General commodities, usual exceptions* (a) between New Bern, NC and Norfolk, VA, from New Bern, NC over U.S. Hwy 17 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Norfolk and return over the same route, serving all intermediate points, (b) between Sanford, NC and Norfolk, VA from Sanford, NC over U.S. Hwy 1 to Raleigh, NC, then over U.S. Hwy 64 to junction Interstate Hwy 94 to Roanoke Rapids, NC, then over U.S. Hwy 158 to junction U.S. Hwy 258, then over U.S. Hwy 258 to junction U.S. Hwy 58, then over U.S. Hwy 58 to Norfolk and return over the same route, serving all intermediate points, (c) between Roanoke Rapids, NC and Norfolk, Hampton and Newport News, VA, from Roanoke Rapids, NC over Interstate Hwy 95 to Emporia, VA then over U.S. Hwy 58 to Norfolk, VA then over Interstate Hwy 64 to Newport News, VA and return over the same route serving all intermediate points and points in the commercial zone of authorized points for 180 days. Supporting shipper(s): No shipper support. Based on Gateway Elimination on traffic presently being handled through circuitous routing. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309. An underlying ETA seeks 90 days authority.

Note.—Applicant proposes to interline at Norfolk, VA and proposes to Tack the authority sought here with its existing operating authority.

MC 56679 (Sub-130TA), filed July 5, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Lawn care equipment and materials, supplies and equipment used in the manufacture, distribution and sale of lawn care equipment* from New Holstein, WI to Williamsburg, KY and Orangeburg, SC, (2) between McRae, GA, Swainsboro, GA, Williamsburg, KY, Orangeburg, SC and Pickens, SC, and (3) from points in OH to Williamsburg, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roper Lawn Products, 12052 Middleground Rd., Savannah, GA 31406. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Rm 300, Atlanta, GA 30309.

MC 57239 (Sub-46TA), filed May 22, 1979. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Common carrier: over regular route: General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Indianapolis, IN and Evansville, IN: From Indianapolis over IN Hwy 67 to Junction IN Hwy 57, then over IN Hwy 57 to Junction U.S. Hwy 41, then over U.S. Hwy 41 to Evansville, and return over the same route, serving no intermediate points. Supporting shipper(s): (29). Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

Note.—Applicant intends to serve the commercial zone of Evansville, IN and will tack the requested authority with existing authority in MC–57239 at Indianapolis and Evansville, IN to perform through, direct, single-line authority and points in the United States for 180 days.

MC 59909 (Sub-14TA), filed July 5, 1979. Applicant: JACOBS TRANSFER, INC., 2300 Beaver Rd., Landover, MD 20785. Representative: Francis W. McInerny, 1000 Sixteenth Street, NW., Washington, DC 20036. *Manufactured tobacco products and related materials and supplies* between Arlington, VA, on the one hand, and on the other, points in MD and DE east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brown & Williamson Tobacco Corp., 1600 West Hill St., Louisville, KY 40201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 64499 (Sub-4TA), filed June 28, 1979. Applicant: AMERICAN PACIFIC STAGE COMPANY, 620 Vance Pl., Suite B, Santa Ana, CA 92701. Representative: Murchison & Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Common:* Regular: *Passengers and their baggage, and baggage of passengers, in the same vehicle with passengers or in separate vehicles,* between points in California within 20 miles of applicant's present routes as off-route thereto, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are 9 supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321 (P.O. Box 1551), Los Angeles, CA 90053.

MC 69938 (Sub-2TA), filed June 28, 1979. Applicant: B.V. & G. TRANSPORT COMPANY, 1557 State St., Granite City, IL 62040. Representative: Carl Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Railway car and locomotive wheels,* from Keokuk, IA to Bensenville, IL and St. Louis, MO and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel Co., 200 W. Monroe St., Chicago, IL 60606. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 73688 (Sub-97TA), filed June 22, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, P.O. box 7195, 1500 Orenda Avenue, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. *Roofing and roofing materials,* from the plantsite of Tarco, Inc. located at North Little Rock, AR to points in AL, FL, GA, IL, IN, KY, LA, MD, MO, MN, NC, OH, OK, SC, TN, TX and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tarco, Inc., P.O. Box 3330, North Little Rock, AR 72117. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 81908 (Sub-11TA), filed July 16, 1979. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 W. Fifth Avenue, Columbia, OH 43212. *Foodstuffs, and materials, equipment and supplies used in the manufacturing and packaging of foodstuffs, except commodities in bulk,* between the facilities of Heinz USA at or near Holland, MI, Fremont and Toledo, OH, and Pittsburgh, PA on the one hand, and, on the other, points in IN, KY, MI, OH, WV and points in PA on and west of U.S. Highway 219 for 180 days. Restricted to traffic originating at or destined to the named facilities. Supporting shipper(s): Heinz USA Div. of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106. Any underlying ETA seeks 90 days authority.

Note.—This application may overlap some existing one-way authority of the applicant which overlap would be feasible to extract from this request. In any event, applicant seeks no duplicating authority.

MC 82808 (Sub-20TA), filed July 6, 1979. Applicant: C. L. HUNT, d.b.a. HUNT & SONS, Box 433, Warrensburg, MO 64093. Representative: C. L. Hunt as above. *Plasticware, styrocups and food containers,* between Higginsville, MO, and points in, IN, MN, SD, CO, TX and LA, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson Industries Company, 313 East 15th, Higginsville, MO 64037. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 922 Walnut Street, Kansas City, MO 64106.

MC 83539 (Sub-528TA), filed June 13, 1979. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227. Representative: Thomas E. James, Attorney at Law (same as applicant). *Lumber, lumber products, forest products, wood products and millwork,* from all points of entry on the International Boundary Line between the United States and Canada to points in the United States, restricted to traffic originating at the facilities of P. H. Barnett Lumber Company (Alberta) Ltd. and moving in foreign commerce, for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): P. H. Barnett Lumber (Alberta) Ltd., 165 Ryan St., Winnipeg, Man. R3R ON9. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 88368 (Sub-38TA), filed July 31, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Ave., Grandview, MO 64030. Representative: C. Max Stewart (same as above). *Upholstered furniture,* from LaCrosse (Rush County) KS, to points in CO, ID, IA, MN, MT, NE, ND, OR, SD, UT, WA and WY, for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): LaCrosse Furniture Co., P.O. Box 99, LaCrosse, KS 67548. Send protests to: Vernon V. Coble, D/S, ICC, Room 600 Federal

Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 99848 (Sub-2TA), filed June 27, 1979. Applicant: J. F. LUX TRANS. CO., INC., 232 Ash Street, Reading, MA 01867. Representative: Joseph T. Banbrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Common carrier:* irregular routes: *general commodities* (except Classes A and B explosives, commodities in bulk, those of unusual value, and household goods as defined by the Commission. Between points in MA, Hillsboro, Merrimack, Rockingham, and Stafford Counties, NH and points in RI for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Maynard Plastics Co., Inc., Salem, MA 01970, N.E. Resins & Pigments Corp., Woburn, MA 01801, North Central Warehouse Inc., Reading, MA. Webster Ind. Pkg. Division of Chelsea Ind., Salem, MA 01970. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 99919 (Sub-5TA), filed July 5, 1979. Applicant: FREMONT EXPRESS, INC., 620 East Factory, Fremont, Nebraska 68025. Representative: Scott T. Robertson, 521 South 14th Street, Suite 500, Lincoln, Nebraska 68501. *Vermiculite, vermiculite products, perlite, perlite products, and insulation materials* from the facilities of W. R. Grace & Co. at or near Omaha, NE to points in IA, KS, MN, MO and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., Construction Products Division, 62 Whittemore, Cambridge, MA 02140. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 103498 (Sub-66TA), filed June 26, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Roofing and building materials, (except commodities in bulk)* from the facilities of Bird & Son, Inc., at Shreveport, LA, to points to TX for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Martha A. Powell, Trans. Asst., ICC, Room 9A27.

MC 104149 (Sub-208TA), filed July 3, 1979. Applicant: OSBORNE TRUCK LINES, INC., P.O. Box 10727, Birmingham, AL 35203. Representative: Maurice F. Bishop, 601–09 Frank Nelson Building, Birmingham, AL 35203. *Iron or steel and iron or steel articles,* having a prior or subsequent movement by rail or water; between Alabama State Docks at or near Decatur, AL, on the one hand, and, on the other, points in AL. For 180 days. Supporting shipper(s): Fayco, Inc., Box 25, Fayette, AL 35555. Send protests to: Mabel E. Holston, T/A, Room 1616–2121 Building, ICC, Birmingham, AL 35203

MC 103798 (Sub-45TA), filed June 29, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Meat and packing house products from the facilities of Wilson Foods, Inc., at Albert Lea, MN to points in MT and WY, for 180 days. Supporting shipper(s): Wilson Foods, Inc., 4545 North Lincoln Boulevard, Oklahoma, City, OK 73105. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105269 (Sub-78TA), filed June 22, 1979. Applicant: Graff Trucking Company, Inc., 2110 Lake Street, P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *General Commodities* including plastic Automotive trim and assemblies from Evart, MI to Chicago, IL, Kenosha, WI, and Milwaukee, WI. Restricted to traffic originating at Evart Products Company at Evart, MI and destined to named points. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evart Products Company, 601 West 7th Street, Evart, MI 49631. Send protests to: C. R. Flemming D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 106149 (Sub-3TA), filed July 9, 1979. Applicant: AMERICAN HOLIDAY VAN LINES, INC., 2323 Chipman Street, N.E., Knoxville, TN 37902. Representative: Robert H. Watson, Jr. and Stanley G. Emert, Jr., 703 Gay Street, South, Knoxville, TN 37902. *Household goods, as defined by the Commission,* between points in AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Services Administration, Washington, DC 20406; Millers, Inc., 600 Henley Street, Knoxville, TN 37902. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106398 (Sub-922TA) filed June 29, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Hardboard,* from Deposit, NY, to points and places in KY, NY, PA, VA, & WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Celotex Corporation, Division of Jim Walter Corporation, 1500 N. Dale Mabry, Tampa, FL 33607. Send protests to: Connie Stanley, ICC, rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-928TA) filed July 2, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Concrete products and materials, equipment and supplies used in the manufacture and installation of concrete products,* from the facilities of Price Brothers Company located in Dayton, OH, to points in CT, DE, IL, IN, KY, MD, MA, NJ, NY, PA, TN, VA, & WV, restricted to traffic originating at above named facility, for 180 days. Supporting shipper(s): Price Brothers Company, 367 West Second Street, Dayton, OH 45401. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-929TA), filed July 3, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Steel joists, steel bridging, channel iron, angles, flat bars, round rods, square bars and metal decking,* from the facilities of Vulcraft Division Nucor Corporation, Florence, SC, to points, places and construction sites in FL, GA, NC, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, TN and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vulcraft Division Nucor Corporation, P.O. Box F2, Florence, SC 29502. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-930TA), filed July 9, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Concrete products and components,* from Binghamton, NY to PA and return, from Rochester, NY, to OH & MI and return, from Syracuse, NY, to OH, PA, and MI and return, from Albany, NY, to CT, NH, VT, and MI and return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Concrete Pipe & Products Corp., P.O. Box 1018, Binghamton, NY 13902. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-931TA), filed July 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull

(same address as applicant). *Lumber and lumber mill products,* from Lake City, Perry, and Longwood, FL, to all points in GA, MS, NC, SC, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Wood Products, Inc., P.O. Box 1147, Longwood, FL 32750. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-932TA), filed July 16, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Plastic pipe and fittings, glue, raw material and machinery used in the production of plastic pipe and fittings,* from the facilities of Robintech, Inc., in Magnolia, AR, to all states in the United States, (except HI and AK), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robintech, Inc., P.O. Box 460, Magnolia, AR 71753. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-933TA), filed July 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Mixed loads of building materials, (i.e., shingles, siding, bricks, lumber, etc.),* from the facilities of Bow House, Inc., Bolton, MA, to states East of the Mississippi River and to include TX, for 180 days. Supporting shipper(s): Bow House, Inc., Randall Road, Bolton, MA 01740. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-934TA), filed July 18, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Trucks,* in secondary shipment, from the facilities of Haig Manufacturing, Inc., Elkhart County, IN, to IL, OH, MI, PA, WI, & NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Haig Manufacturing, Inc., P.O. Box 666, Elkhart, IN 46515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-935TA), filed July 18, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Iron and steel articles,* from the facilities of Interlake, Inc., located at Newport, KY, to all points in the state of IA, restricted to traffic originating at the facilities of Interlake, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interlake, Inc., 9th and Lowell St., Newport, KY 41072. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-936TA), filed July 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Brass, bronze, copper sheet, rod and wire products,* from Bridgeport and Seymore, CT, to all points in the United States, (except AK and HI), for 180 days. Supporting shipper(s): Bridgeport Brass Company, 30 Grand Street, Bridgeport, CT 06602. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-937TA), filed July 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Irvin Tull (same address as applicant). *Iron and steel articles,* from the facilities of U.S. Steel Corp., located at or near Cleveland, Lorain, Youngstown, OH and Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irvin, Johnstown, McKeesport, McKees Rocks, Pittsburgh, & Vandergrift, PA, to the states of AR, GA, IL, IN, KY, MI, MO, NC, SC, OH (on and South of Route 70), TN, VA, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U. S. Steel Corporation, Room 568–600 Grant Street, Pittsburgh, PA 15230. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-51TA), filed May 25, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: C. T. Harris, P.O. Box 999, Wilson, NC 27893. *Copper rods* from Abingdon, VA to Eden and Tarboro, NC and to Watkinsville, GA, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Anaconda Industries, Wire & Cable Division, P.O. Box 4485, Eden, NC 27288. Send protests to: Terrell Price, D/S, ICC, Rm CC–516, 800 Briar Creek Road, Charlotte, NC 28205.

MC 107478 (Sub-52TA), filed July 10, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: C. T. Harris, P.O. Box 999, Wilson NC 27893. *Iron and steel articles* from Atlanta and Marietta, GA to points in AL, AR, CO, DE, DC, FL, IL, IN, IA, KS, KY, LA, MD, MI, MO, MS, NE, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacesetter Steel Service, Inc., P.O. Box 6865, Marietta, GA 30065. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 108119 (Sub-171TA), filed June 25, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Machinery, air heating and cooling equipment, bearings and components, and parts, materials, and supplies used in the manufacture or installation thereof* between Oklahoma City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. Supporting shippers(s): LSB Industries, 518 North Indiana, Oklahoma City, OK 73106. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108119 (Sub-178TA), filed July 24, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles* from the facilities of Bull Moose Tube Company at Gerald, MO to all points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Bull Moose Tube Company, P.O. Box 214, Gerald, MO 63037. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 108589 (Sub-17TA), filed July 5, 1979. Applicant: EAGLE EXPRESS COMPANY, P.O. Box 680, Lexington, KY 20423. Representative: Michael Spurlock, L.P.A., 275 E. State Street, Columbus, OH 43215. General Commodities (with usual exceptions), between Knoxville, TN and Morristown, TN, restricted to shipments from or to the plantsite of Lear Siegler, Inc., at or near Morristown, TN, as an off-route point in connection with applicant's existing regular route authority; from Knoxville, TN, over U.S. Hwy. 11E to Morristown, TN and return over the same route. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): James Babb, Lear Siegler, Inc., 325 Industrial Rd., Morristown, TN 37814. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 108859 (Sub-70TA), filed July 11, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, 2866 Gross Avenue, Green Bay, WI 54303. Grey iron and ductile castings, agricultural implements, materials, equipment and supplies for manufacture

or distribution of above, between the facilities of Beatrice Food Co., Brillion Iron Works Division, at or near Brillion, WI, on the one hand and on the other, points in IL (on and north of U.S. Hwy 36) IN, MI (Lower Peninsula) and OH (see map attached). For 180 days. Supporting shipper(s): Beatrice Foods Co., Brillion Iron Works Division, 200 Park Avenue, Brillion, WI 54110. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-71TA), filed July 12, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Paper and paper products, and equipment and supplies* used in the distribution or manufacture of paper and paper products, between the facilities of American Can Company, Green Bay, WI, on the one hand, and, on the other, points in IL (on and north of US Hwy 36) IN, MI and OH. For 180 days. Supporting shipper(s): American Can Company, P.O. Box 702 Neenah, WI 54956. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-72TA), filed July 16, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Pulpboard, scrap paper, paper and paper products, and materials, equipment & supplies* used in the manufacture and distribution of pulpboard and paper and paper products. Between the facilities of Menominee Paper Co., Division of Bell fibre Products Corp., at Menominee, MI, on the one hand, and, on the other, points in IL (on and north of U.S. Hwy 36), IN, MI (lower Peninsula), OH and WI (on and east of U.S. Highway 51). For 180 days. Supporting shipper(s): Menominee Paper Co., Division of Bell Fibre Products Corp, 3102 S. Boots St., Marion, IN. 46952; Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-73TA), filed July 16, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. *Lawn, Garden and snow removal equipment, and materials, equipment and supplies* used in the manufacture and distribution thereof; between the facilities of Gilson Brothers Company, at or near Plymouth, Sheboygan Count, WI, on the one hand, and, on the other, points in IL (on and north of U.S. Hwy 36), IN, MI and OH; and between the warehouse facilities of Gilson Brothers, Company, at or near New Holstein and Ostburg, WI, on the one hand, and on the other, points in IL (on and north of U.S. Hwy 36, IN, MI and OH. For 180 days. Supporting shipper(s): Gilson Brothers Company, P.O. Box 152, Plymout, WI 53073. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 108859 (Sub-74TA), filed July 18, 1979. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, P.O. Box 717, Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. Paper and paper products and materials, equipment and supplies used in the manufacture or distribution of paper and paper products; between Fond du Lac, Green Bay, Marinette and Oconto Falls, WI, on the one hand, and on the other, points in IL (on and north of U.S. Hwy 30), IN, MI and OH. For 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 109448 (Sub-26TA), filed June 29, 1979. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44035. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Central heating and air conditioning units and component parts*, from Nashville, TN, to points in the States of KY, IL, IN, OH, MI, WV, PA, NY, VA and MD for 180 days. Supporting shipper(s): Heil-Quaker Corp., 1714 Heil-Quaker Blvd., La Vergne, TN 37086. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 109449 (Sub-41TA), filed June 28, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *Foodstuffs* from the plantsites and facilities utilized by Land O'Lakes, Inc. in Hudson, IA and points in MN and WI to points in IN, MI and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O'Lakes, Inc., 614 McKinley Place, Northeast, Minneapolis, MN 55413. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109449 (Sub-42TA), filed June 28, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th Street, Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). (1) *Seat cabs, canopy type*, from Rochester, MN to points in IL, IA and Coldwater, OH; and (2) *Aluminum, iron and steel articles* from Chicago and its commercial zone to Rochester, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. F. Business Incorporated, Crenlow Division, 1600 4th Avenue, Northwest Rochester, MN 55901. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 109689 (Sub-354TA), filed May 22, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg. Suite 400, Salt Lake City, UT 84101. *Fish meal, bagged or bulk*, from OR and WA to CO, ID, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur Ellis Co., 220 West 21st Street, Ogden, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109689 (Sub-355TA), filed June 25, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg. Suite 400, Salt Lake City, UT 84101. *Fish oils and solubles*, in bulk, from Seattle, WA to Colorado Springs, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur-Ellis Company, 200 West 21st Street—P.O. Box 332, Ogden, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109689 (Sub-356TA), filed June 25, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Sand, in bulk*, from Longview, WA, to Little Mountain, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Zirconium, Inc., P.O. Box 3208, Ogden, UT 84409. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 109818 (Sub-60TA), filed July 18, 1979. Applicant: WENGER TRUCK LINE, INC., 3909 West Rusholme, P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Schulyer, NE to points in IA, IL, IN, KY, MI, WI, and FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., P.O. Box 544, Schulyer, NE 68661. Send protests to: Herbert W. Allen D/S, ICC, 518 Federal Bldg., Des Moines, IA 50309.

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MC 110988 (Sub-393TA), filed July 3, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Spent liquid aluminum sulphate and spent phosphoric acid* from Lawrenceburg, Memphis and Union City, TN; Cleveland, MS: Blytheville, AR; and Grand Rapids and Muskegon, MI to facilities of Hydrite Chemical Corp. and Wayne Chemical Corp. at Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hydrite Chemical Corp., Wayne Chemical Corp., 1273 W. Bruce St., Milwaukee, WI 53204. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 110988 (Sub-395TA), filed May 30, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Liquid chemicals*, in bulk, from facilities of Nalco Chemical Co. at or near Garyville, LA to points in AR, CA, GA, IL, IN, MI, NY, OH, TN and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111548 (Sub-20TA), filed June 26, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28537. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. & 13th St., NW., Washington, DC 20004. *Foodstuffs (except in bulk and frozen)* from the facilities of A. E. Staley Mfg. Co. in Chicago, IL commercial zone to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. E. Staley Consumer Products Division, 2222 Kensington Ct., Oak Brook, IL 60521. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 111729 (Sub-759TA), filed July 16, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). *Business papers, records, and audit and accounting media of all kinds*, between Blytheville, AR, on the one hand, and, on the other, Butler, Caruthersville, Chaffee, Charleston, Doniphan, Hayti, Ironton, Jackson, Kennett, Kirksville, Malden, New Madrid, Piedmont, Portageville, Potosi, Sikeston and Steele, MO, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arkansas-Missouri Power Company, 405 West Park St., Blytheville, AR 72315. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 111729 (Sub-760TA), filed July 17, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). *Ophthalmic goods, lenses, frames, cases, instruments, replacement parts, replacement tools, prescriptions and documents*, from Nashville, TN, to Florence, AL; for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cumberland Optical Co., Inc., 806 Olympic Street, Nashville, TN 37203. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112049 (Sub-21TA), filed July 5, 1979. Applicant: McBride's Express, Inc., East Route 316, Mattoon, IL 61938. Representative: Guy H. Boles, 433 Thatcher Avenue, St. Louis, MO 63147. *General commodities*, with usual exceptions, between Clinton and Lincoln, IL, on the one hand, and on the other, St. Louis, MO, serving all intermediate points over the routes specified: (1) From St. Louis, MO over Interstate Hwy 55 to the junction of IL Hwy 54 at or near Springfield, IL, then over IL Hwy 54 to Clinton, IL and return over same route, serving intermediate points of Bissell, Barclay, Buffalo Hart, Cornland, Chestnut, Lake Fork and Mt. Pulaski, (2) From St. Louis, MO over Interstate Hwy 55 to Lincoln, IL and return over same route, serving intermediate points of Middletown, Broadwell, Elkhart, Fancy Prairie, Williamsville, Sherman, and Spaulding; (3) From St. Louis, MO over Interstate Hwy 55 to junction of IL Hwy 16, then over IL Hwy 16 to the junction of US Hwy 51, then over US Hwy 51 to Clinton, IL and return over the same route, serving the intermediate points of Ospur, Maroa, and Emery; (4) From St. Louis, MO over Interstate Highway 55 of the junction of IL Hwy 48, then over IL Hwy 48 to the junction of IL Hwy 121 at/ near Decatur, IL, then over IL Hwy 121 to Lincoln, IL, and return over same route, serving intermediate points of Warrensburg, Latham and Mt. Pulaski, and points in their respective commercial zones for 180 days. Supporting shipper(s): 50 supporting shippers. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 112588 (Sub-33TA), filed June 22, 1979. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Rd., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Steel pipe*, from McKeesport, PA and Lorain and Youngstown, OH, and pts, in their respective commercial zones, to Indianapolis, IN and pts. in its commercial zone, and pts. in Boone County, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reel Pipe & Valve Co., 914 North Senate Ave., P.O. Box 517, Indianapolis, IN 46206. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112989 (Sub-106TA), filed July 18, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405, 503–747–1283. Building materials from the facilities of J & P Petroleum Products, Inc. located at Dallas, Texas to points in California, for 180 days. Supporting shipper(s): J & P Petroleum Products, Inc., 2715 S. Westmoreland Road, Dallas, Texas. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 112989 (Sub-107TA), filed July 20, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Lumber, lumber mill products, millwork and wood products* from points in Oregon, Washington, Idaho, and California to points in Nebraska, Iowa, Kansas, Missouri, Illinois, Indiana, Ohio, Pennsylvania, Kentucky, Michigan, Minnesota, Wisconsin, Texas, and Oklahoma. Restricted to traffic moving for the account of Slaughter Brothers, Inc. for 180 days. Supporting shipper(s): Slaughter Brothers Inc., Raymond L. Sanford, General Traffic Manager, 11050 Piano Road, Dallas, Texas. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill, Portland, Oregon 97204.

MC 113388 (Sub-126TA), filed July 3, 1979. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Representative: Charles Ephraim, 1250 Connecticut Ave., NW., Suite 600, Washington, DC 20036.

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Foodstuffs from Philadelphia, PA, Boston, MA and New York, NY and points within their commercial zones to points in CT, DE, DC, FL, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI and VA, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Frank Addeo, Traffic Manager, The Tupman Thurlow Co., Inc., 420 Lexington Ave., New York, NY 10017. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 113678 (Sub-827TA), filed July 10, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO. Representative: Roger L. Shaner (same address as above). *Lighting fixtures and/or parts thereof,* from facilities of Lithonia Lighting, Div. of National Service Industries, Inc. near Cochran & Conyers, GA to all points in ID, OR, WA, NV, UT, WY, CA, CO, MT, AZ, and NM, for 180 days. An identical ETA seeks 90 days authority. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, 1400 Lester Road, Conyers, GA 30207. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-828TA), filed July 10, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs* (except commodities in bulk), from Phoenix, AZ and points in its commercial zone to all points in CA, for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): 8 Supporting shippers listed. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-829TA), filed July 13, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce, CO 80022. Representative: Roger M. Shaner (same address as above). *Frozen culture concentrates, except in bulk,* from Des Moines, IA to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Micro Life Technics, Inc., 3309–104th Street, Urbandale, IA 50332. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113828 (Sub-270TA), filed June 27, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Urea,* in bulk, in tank vehicles, from Wilmington, NC to points in NC, having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. Grace & Co., P.O.B. 368, Wilmington, NC 28402. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 113828 (Sub-271TA), filed May 21, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Natural latex* from Savannah, GA to Haynesville, LA for 180 days. Supporting shipper(s): Firestone Natural Rubber & Latex Co., P.O. Box 1223, Savannah, GA 31402. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 113908 (Sub-473TA), filed July 9, 1979. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as above). *Fruit juice, and concentrated thereof, in bulk,* from Geneva, OH to Anaheim, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Coca-Cola Company, Foods Division, P.O. Box 2079, Houston, TX 77001. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-474TA), filed July 26, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *(1) Alcoholic liquors, in bulk,* from ports of entry on the International Boundary line between the U.S. and Mexico located in TX, NM and AR, to points in the U.S.; and *(2) Alcoholic liquors and alcohol and wines, in bulk,* from points in IN, KY, TN and PA, to points in CA; and *(3) Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, wine products, brandies, fruit juice and concentrates thereof, in bulk,* from points in CA, to points in IL, IN, KY, MI, MO, NJ, NY, PA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 15 supporting shippers' statements may be viewed in Washington, DC and Kansas City, MO offices. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-475TA), filed July 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Vegetable oils and lard, in bulk,* from Marks, MS; Chattanooga, TN; Stuttgart, AR; Macon, GA; Champaign, IL; and Memphis, TN and their respective commercial zones, to North Birmingham, AL, and its respective commercial zone, for 180 days. Supporting shipper: Sunnyland Refining Company, a Subsidiary of Kane-Miller Corp., 3330 Tenth Ave., North Birmingham, AL 35234. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-476TA), filed July 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Corn syrups and blends thereof, in bulk,* from Keokuk, IA, and the commercial zone thereof, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper: H. J. Heinz Company, 601 Main St., Keokuk, IA 52631. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-477TA), filed August 1, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead, as above. *Alcohol, neutral spirits, distilled spirits, in bond; denatured and industrial alcohol, in bulk,* from Jacksonville, FL and Williamsburg, VA, to points in the U.S., in and east of ND, SD, NE, KS, OK, TX and CA, CO, WA, for 180 days. Supporting shipper: Chemical Interchange Co., 11 South Meramec Ave., Suite 1104, St. Louis, MO 63105. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 114408 (Sub-10TA), filed March 26, 1979. Applicant: TRI-AREA TRUCKING CO., 320 West Edgerton St., Bryan, OH 43506. Representative: Robert W. Gardier, Jr., 100 E. Broad St., Columbus, OH 43215. *Contract carrier;* irregular routes; *scrap metals,* between Bryan, Cleveland, and Defiance, OH, on the one hand, and, on the other, points in IL, IN, MI, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Isaac Corporation, 715 East Perry St., Bryan, OH 43506. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 114569 (Sub-331TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Plastic sheets on tubes* from Stratford, CT and points in NY to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Americo, Inc., P.O. Box 13344, Memphis, TN 38113. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114569 (Sub-332TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Bone meal in sacks,* from Reading, PA to Muskogee, OK and Pittsburg, KS, for 180 days. Supporting shipper: The Pillsbury Company, Agri Products Div., 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114569 (Sub-333TA), filed July 2, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kensington, PA 17072. Representative: N. L. Cummins, same as applicant. *Fresh meat* from Emporia, KS and Dakota City, NE to Erie and King of Prussia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: North American Provision Co., 400 W. Higgins Road, Suite 202, Park Ridge, IL 60068. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 115268 (Sub-13TA), filed July 2, 1979. Applicant: DAYTON TRANSPORT CORPORATION, P.O. Box 338, Dayton, Virginia 22821. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. *Cement, in bags and in bulk,* from the facilities of Lone Star Cement Inc., located in Botetourt County, Va. to points in NC and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lone Star Cement, Inc., Norfolk, Virginia. Send protests to: Charles F. Myers, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, Va. 23240.

MC 115669 (Sub-191TA), filed June 19, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes, same address as applicant. (1) *Salt and salt products, and (2) materials and supplies used in agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, when shipped in mixed loads with commodities named in (1) above,* between the facilities of American Salt Company, at or near Lyons, KS, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WI, and WY, for 180 days. Supporting shipper: American Salt Company, 3142 Broadway, Kansas City, Mo 64111. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 116319 (Sub-12TA), filed May 31, 1979. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Darrington, WA 98241. Representative: George R. Labissoniere, 1100 Norton Bldg., Seattle, WA 98104. *Pozzolan (fly ash) in bulk,* from Centralia, WA to the U.S./Canada International Port of Entry at or near Lynden, Blaine, Sumas or Oroville, WA, restricted to foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pozzolanic Northwest, Inc., 2448 76th S.E., Mercer Island, WA 98040. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 116519 (Sub-65TA), filed July 5, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 733 Investment Building, 1511 K Street N.W., Washington, D.C. 20005. *Snowmobiles,* from ports of entry on the United States-Canada international boundary line located in MI and NY to Toledo, OH. Restrictions: (1) The authority granted herein is restricted to traffic moving in foreign commerce. (2) The authority granted herein is restricted to traffic originating at the facilities of Bombardier, LTD., at or near Valcourt Quebec, Canada. For 180 days. Supporting shipper: Bombardier Corp. Box 6106 Duluth, MN 55806. Send protests to: C. R. Flemmings, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 116519 (Sub-66TA), filed June 20, 1979. Applicant: FREDERICK TRANSPORT LIMITED, RR #6 Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 1511 K Street, NW. Suite 733, Investment Building, Washington, D.C. 20005. *Cement pipe,* containing asbestos, from ports of entry on the international boundary line between the United States and Canada located in MI and NY to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI and DC. Restriction: The service authorized herein is restricted to traffic moving in foreign commerce originating at the facilities of Johns Manville Canada, Inc. at Toronto, Ontario, Canada. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Johns Manville Canada, Inc., 295 The West Mall, Etobiocoke, Ontario, Canada M9C 4Z7. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 116859 (Sub-22TA), filed July 10, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, Esq., Fulbright & Jaworski, 1150 Connecticut Avenue, NW, Suite 400, Washington, D.C. 20036. *Printed matter,* from Tallahassee, FL to Bridgeport, CT, and Hartford, CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Globe Communications Corp., P.O. Box 51, Rouses Point, NY 12979. Send protests to: Irwin Rosen, Transportation Specialist, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 116949 (Sub-17TA), filed June 28, 1979. Applicant: BURNS TRUCKING, INC., Rural Route 1, Box 304, South Sioux City, Nebraska 69886. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, Iowa 51104. Contract carrier: irregular routes. (1) *Iron and Steel Articles* from the commercial zones of Chicago, IL; Cleveland, OH; and Detroit, MI. (2) *Axles* from Montgomery, AL and Kenton, OH. (3) *Flooring* from Ridgefield, WA to the facilities of CMI Load King, at Elk Point, SD for 180 days. Restricted to a service performed under a continuing contract(s) with CMI Load King, Elk Point, SD. An underlying ETA seeks 90 days authority. Supporting shipper: Paul E. Mazik, Jr., Materials Manager, CMI Load King, Elk Point, SD 57025. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117068 (Sub-117TA), filed July 20, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig, same address as applicant. *Compressors and compressor parts* from Wilson, NC to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Joy Manufacturing Company, Oliver Bldg., Pittsburgh, PA 15222. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 117068 (Sub-118TA), filed July 24, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., North Highway 63, P.O. Box 6418, Rochester, MN 55901. Representative: Allen I. Koenig (same address as applicant). *(1) Self-propelled compaction equipment, maintenance equipment and sweepers* between New Ulm, MN and points in the U.S. (except AK and HI) including ports of entry on the U.S.-Ontario border; and *(2) Parts, attachments and accessories used in the manufacture of (1) above* between New Ulm and Minneapolis, MN and ports of entry on the U.S.-Ontario border, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper: Ray Go Inc., 9401 85th Avenue North, Minneapolis, MN 55445. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 117119 (Sub-752TA), filed June 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Underlying ETA seeks corresponding authority for 90 days. *Mattress and mattress supplies* from Portland, OR to the facilities of Sleep-N-Aire Mattress Co. at Boise, ID for 180 days. Supporting shipper: Sleep-N-Aire Mattress Co., P.O. Box 7063, Boise, ID 83707. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-753TA), filed June 19, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Imported frozen boneless beef* (except commodities in bulk) from the facilities of New Orleans Cold Storage & Warehouse Co., Ltd., at New Orleans, LA to points in CO and OH for 180 days. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., Nashville Avenue Wharf, New Orleans, LA 70115. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-754TA), filed July 3, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Fungicides* (except in bulk) (1) from Charlotte and Gastonia, NC to Phoenix, AZ; Caldwell and Twin Falls, ID; Cisco, IL; Carmel, Logansport, and Westfield, IN; Wichita, KS; Minneapolis, MN; Great Falls and Sidney, MT; Minot, ND; Fostoria and S. Charleston, OH; Pendleton, OR; Palouse, WA and (2) from Marsing, ID to Des Moines, IA and Lubbock, TX, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Gustafson, Inc., 6350 LBJ Freeway, Suite 180, Dallas, TX 75240. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-756TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Fresh meat* in boxes, in vehicles equipped with mechanical refrigeration, from the facilities of Peppertree Beef Co. at Denver, CO to points in CT, MA, MD, NJ, NY, PA, RI and VA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Peppertree Beef Company, P.O. Box 16331, Stockyards Station, Denver, CO 80216. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-757TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Heating and air conditioning units and related parts and accessories* (except commodities which because of size or weight require the use of special equipment) from the facilities of Rheem Manufacturing Co. at or near Milledgeville, GA to points in AZ, CA, CO, ID, NV, OR, UT and WA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper: Rheem Manufacturing Co., Air Conditioning Division, 5600 Old Greenwood Road, Fort Smith, AR 72903. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-758TA), filed July 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Dennis D. Shaw, same as applicant. *Heating and air conditioning units and related parts and accessories* (except commodities which because of size or weight require the use of special equipment) from the facilities of Rheem Manufacturing Co. at or near Fort Smith, AR to points in GA, IL, IN, IA, MD, MI MN, NE, NJ. NY, NC, OH, PA, SC, VA, WI and DC for 180 days. Supporting shipper: Rheem Manufacturing Co., 5600 Old Greenwood Road, Ft. Smith, AR 72906. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-759TA), filed July 9, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Frozen foods* (1) from Noblesville, IN to Carthage, MO and (2) from Carthage, MO to points in AZ, CA, NV, and NM, restricted to traffic originating at the facilities of Fred's Frozen Foods, Inc. for 180 days. Supporting shipper: Fred's Frozen Foods, Inc., Subsidiary of Central Soya Co., Inc., 1300 Fort Wayne National Bank Building, Fort Wayne, IN 46802. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-760TA), filed July 9, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Lighting fixtures* and/or *parts* thereof from the facilities of Lithonia Lighting, Div. of National Service Industries, Inc. at or near Cochran and Conyers, GA to points in ID, OR, WA, NV, UT, WY, CA, CO and MT for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Lithonia Lighting, Div. of National Service Industries, Inc., P.O. Box H, Conyers, GA 30207. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-761TA), filed July 11, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Chilled fruit juice*, in cartons from Anaheim, CA to Seattle, Kent, Bellevue, Tacoma, and Auburn, WA and Portland, Clackamas, Medford, Salem, and Milwaukie, OR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): The Coca-Cola Co., Foods Division, P.O. Box 3368, Anaheim, CA 92803. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-762TA), filed July 13, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. Alcoholic beverages and distilled spirits (except in bulk) from points in IL, IN, KY, MI, and OH to the facilities of Idaho State Liquor Dispensary at Boise, ID for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Idaho State Liquor Dispensary, P.O. Box 59, Boise, ID 83701. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-763TA), filed July 23, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, same address as applicant. *Such merchandise* as is dealt in by retail discount department or variety stores (except commodities in bulk), from points in AL, AZ, CA, CT, DE, DC, FL, GA, LA, MD, MA, MS, NM, NH, NJ, NY, NC, PA, RI, SC, TX, VA and WV to points in AL, AR (except Bentonville and Searcy), IL, KS, KY, LA, MS, MO, OK, TN, and TX, restricted to traffic destined to the facilities of Wal-Mart Stores, Inc. in the named

destination states, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117568 (Sub-20TA), filed July 18, 1979. Applicant: WADE TRUCK LINES, INC., P.O. Box 156, Verona, MO 65769. Representative: Charles J. Fain, 333 Madison, Jefferson City, MO 65101. *Sand, gravel, rock, and asphalt in bulk in dump truck vehicles*, McDonald, Barry, Stone and Taney Counties, MO; and Benton, Washington, Madison, Marion, Baxter, Carroll, and Boone Counties, AR. For 180 days. Supporting shipper: Hamilton-Patten Construction Co., P.O. Box 310, Mount Vernon, MO 65712. Send protests to: John V. Barry, ICC, Room 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 118089 (Sub-36TA), filed July 13, 1979. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. (1) *Animal feed, feed ingredients, additives and supplements (except communities in bulk)*, and (2) *materials and supplies used in the manufacture sale and distribution of the commodities named in (1) above*, from the facilities of Kal Kan Foods, at or near Los Angeles, Vernon, Cerritos, Irvine, and Terminal Island, CA, to points in OR, WA, TX, AZ, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, CA 90058. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118159 (Sub-340TA), filed June 15, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Frozen boneless beef*, in boxes, from Miami and Tampa, FL, to Erie, Philadelphia, and Pittsburgh, PA, Cleveland, OH, Canajoharie, NY, Fremont, MI, St. Louis, Kansas City, and Springfield, MO, Kansas City, KS, Bowling Green, KY, Johnson City, TN, Bristol and Abingdon, VA, Forestville, MD, and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gurrentz International, 2020 Ardmore Boulevard, Pittsburgh, PA 15221. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 11859 (Sub-341TA), filed June 18, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Such commodities as are dealt in by home improvement stores*, between the facilities of Kinkead Industries Incorporated, at or near Pittsburg, KS, on the one hand, and, on the other, points in the United States (except Ak and HI), for 180 days. Supporting shipper: Kinkead Industries, Incorporated, 2801 Finley Road, Downers Grove, IL 60515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-342TA), filed June 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Corrugated boxes*, from Fort Worth, TX, to Broken Arrow, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Green Bay Packaging Corportation, P.O. Box 1107, Green Bay, WI 54305. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, Ok 73102.

MC 118159 (Sub-344TA), filed July 16, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Bakery racks*, from Broken Arrow, OK, to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sooner Fabricating & Sales Company, 509–E North Redbud, Broken Arrow, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 11159 (Sub-345TA), filed July 16, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Tampa, FL, to points in AR, CT, IA, IL, LA, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, TN, TX, VA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: M and N Meat Company, 201 Penn Center Blvd., Pittsburgh, PA 15235. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-346TA), filed July 23, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort lauderdale, FL 33308. *Paper products*, from Holyoke, MA, to Charlotte, NC and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Pad & Paper Company, 75 Appleton St., Holyoke, MA 01040. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-347TA), filed July 23, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Such commodities as are dealt in or used by manufacturers and distributors of lawn and garden supplies*, from the facilities of Stim-U-Plant at Norcross, GA, and Dallas, TX, to points in TX, OK, AR, LA, MO, KS, NM, & CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Stim-U-Plant, 2986 Pacific Drive, Norcross, GA 30071. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118159 (Sub-348TA), filed July 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neal A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Adhesives, adhesive cement, fabricated and shaped metal articles, building materials, and polyurethane and plastic articles* (except in bulk), between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS, on the one hand, and, on the other, points in LA, NC, OK, & SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kinkead Industries, Inc., 2801 Finley Road, Downers Grove, IL 60515. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118178 (Sub-27TA), filed July 27, 1979. Applicant: BILL MEEKER, 1632 No. Mosley, Wichita, KS 67214. Representative: Bill Meeker (same as above). *Malt beverages and empty containers* between Milwaukee, WI and Wichita, KS, for 180 days, common, irregular; 90-day ETA filed simultaneously; permanent anticipated. Supporting shipper: S & M Sales, Inc., 3434 West Harry, Wichita, KS 67213.

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Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118838 (Sub-59TA), filed June 4, 1979. Applicant: GABOR TRUCKING, INC., Rural Route #4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles,* from the facilities of United States Steel Corporation at or near Cleveland, Lorain and McDonald, OH, to WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Steel Corporation, 600 Grant Street, Room 568, Pittsburgh, PA 15320. Send protests to: Harold E. Farsdale, DS, ICC, Room 268 Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 118838 (Sub-60TA), filed July 20, 1979. Applicant: GABOR TRUCKING, INC., Rural Route 4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles,* from Warren, OH to points in ND, NE and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Republic Steel Corporation, P.O. Box 6778, Cleveland, OH 44101. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 118959 (Sub-234TA), filed July 6, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Paper* and *paper products* from Chicago, IL and points in its commercial zone, to points in the states of MO, MN, KS, IA, and IN, for 180 days. Supporting shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-235TA), filed July 6, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Paper* and *paper products* between Marinette, Oconto Falls, Fond du Lac, and Green Bay, WI, on the one hand, and, on the other, points in the states of IL, MN, MO, MI, IN, IA, OH, and KS, for 180 days. Supporting shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118989 (Sub-223TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Plastic containers* from Elyria, OH to Elizabethton, TN and from Ft. Recovery, OH to Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: M. Jacob & Sons, 10101 Lyndon Ave., Detroit, MI 48238. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118989 (Sub-224TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Plastic articles,* NOI other than expanded, from American Can Co., Shelbyville, TN to Chicago, IL and its commercial zone, Cincinnati, OH, Iowa City, IA and Saginaw, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118989 (Sub-225TA), filed July 3, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). *Containers and container ends, accessories and materials and supplies used in connection with the manufacture and distribution of containers* (except commodities in bulk) from Pevely, MO to points in U.S. in the east of ND, SD, KS, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Can Co., 915 Harger Rd., Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 119349 (Sub-22TA), filed July 12, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001, *Foodstuffs* from Long Island City, NY to points in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ronzoni Macaroni, 50–02 Northern Blvd., Long Island City, NY 11101. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119349 (Sub-23TA), filed July 12, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Motor oil,* in containers, from Kenner, LA to Miami, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Flamingo Oil Company, 205 N.E. 179th St., Miami, FL 33162. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119399 (Sub-103TA), filed July 6, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same as above). *Malt Beverages in containers,* from Evansville, IN, to points in AR, OK, and Joplin, Lamar, Rolla, Springfield, West Plains in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: G. Heileman Brewery, 925 South 3rd Street, LaCrosse, WI 54601. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 119599 (Sub-7TA), filed July 9, 1979. Applicant: HARSHMAN-INDUSTRIAL CARTAGE CO., INC., 1617 Warren Ave., Niles, OH 44446. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Building materials, gypsum and gypsum products,* from the facilities of United States Gypsum Company loacted in Martin County, IN, on the one hand, and, on the other, points in the states of IL, MI, OH, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Company, 101 South Wacker Dr., Chicago, IL 60606. Send protests to: D/S, ICC, 101 N. 7th Street, Philadelphia, PA 19106.

MC 119789 (Sub-617TA), filed July 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Meat, meat products, and meat by-products* from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS to points in the states of AZ, CA, and NV, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119789 (Sub-618TA), filed July 5, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Hand Cleaner, in containers, in mechanically refrigerated equipment,* from Dallas, TX to points in the US (except AK and HI) for 180 days. Underlying ETA for 90 days filed. Supporting shipper: Texas Novachem Corporation, 11055 Dennis Road, Dallas, TX 75029. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 119789 (Sub-619TA), filed July 6, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Foodstuffs* from Winchester, VA to points in CA, for 180 days. Supporting shipper: Rich Products Corporation, P.O. Box 245, Buffalo, NY 14240. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-205TA), filed July 17, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1394, Lufkin, TX 75901. Representative: CLAYTE BINION, 1108 Continental Life Bldg., Ft. Worth, TX 76102. *Lumber, lumber mill products, forest products, wood products, and sawmill products* from points in AZ, CO and NM to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, NV, ND, OK, SD, TX, UT, WI, and WY, for 180 days. Supporting shipper(s): Southwestern Sales, Inc., P.O. Box 25783, Albuquerque, NM 87125. Sagebrush Sales Co., P.O. Box 25606, Albuquerque, NM 87125. Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036. Navajo Forest Prod. Ind., P.O. Box 1280, Navajo, NM 87328. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-206TA), filed January 17, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Petroleum, petroleum products,* vehicle body sealer and/or sound deadener compounds (except in bulk, in tank vehicles), and filters from points in Warren County, MS, to points in AR, CA, LA, TX and WI. Restricted to shipments originating at the facilities of Quaker State Oil Refining Corporation located in Warren County, MS for 180 days. Supporting shipper: Quaker State Oil refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: John F. Mensing, 515 Rusk Ave. #8610, Houston, TX 77002.

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MC 135989 (Sub-9TA), filed August 3, 1979. Applicant: COAST EXPRESS, INC., P.O. Box 1215, Wittier, CA 90609. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, CO 80209. *Contract:* Irregular: *(1) Cosmetics and toilet preparations, and (2) Materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above,* between New York, NY; Milville, NJ; Baltimore, MD; Marion, IN; and Flat River, MO, on the one hand, and, on the other, Clearfield, UT and Los Angeles, CA, for 180 days. Restricted to the transportation of traffic originating at and destined to the facilities of Max Factor & Co. at the named points pursuant to a continuing contract with Max Factor & Co. Supporting shipper(s): Max Factor & Co., 1655 North McFadden Place, Hollywood, CA 90028. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 136899 (Sub-43TA), filed July 13, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Sugar,* in bags, from Chaska, Crookston, East Grand Forks, Minneapolis, Moorhead, and St. Paul, MN and Drayton, ND to points in IA, KS, MO & NE, for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): American Crystal Sugar Co., 101 N. 3rd St., Moorhead, MN 56560. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room. 619, Milwaukee, WI 53202.

MC 136899 (Sub-44TA), filed July 30, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper, paper products, and plastic articles* (except commodities in bulk, in tank vehicles) from facilities of Brown Co. at or near Kalamazoo, MI and Eau Claire and Ladysmith, WI to points in IA, KS, MN, MO & NE, for 180 days. Supporting shipper(s): Brown Co., 243 E. Patterson St. Kalamazoo, MI 49007. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room. 619, Milwaukee, EI 53202.

MC 138299 (Sub-14TA), filed June 8, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. Contract carrier; irregular routes; *Fibreboard building board* from St. Helens, OR to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659. Sent protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 138299 (Sub-15TA), filed May 23, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 90609. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. Contract carrier; Irregular routes: *Fiberglass bathtubs and shower stalls; cultured marble lavatories, bathtubs, and wall surrounds; and chinaware toilets and lavatories,* from Orange County, CA to points in the United States on and West of U.S Hwy 85 (except AK, HI, CA, Denver, CO, and Albuquerque, NM), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kimstock, Inc., 2200 So. Yale St., Santa Ana, CA 92704. Send protests to: N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 138308 (Sub-84TA), filed July 5, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Meats, meat products, meat by-products and articles distributed by packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) and (2) *foodstuffs* when moving in mixed loads with articles listed in (1) above, (a) from the facilities of Oscar Mayer & Co., Inc. at Goodlettsville, TN to points in FL; and, (b) from the facilities of Oscar Mayer & Co., Inc. at Beardstown, IL, to Goodlettsville, TN; Montgomery, AL and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Alan Tarrant, D/S, ICC, Room 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138328 (Sub-96TA), filed July 12, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: J. F. Crosby (same address as applicant). *Cookies* from the facilities of Grandma's Foods, Inc. at Beaverton, OR to Santa Cruz, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grandma's Foods, Inc., 6220 S.W. 112th Avenue, Beaverton, OR 97005. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138328 (Sub-97TA), filed July 13, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, I–80 and Highway 50, Omaha, NE 68137. Representative: J. F. Crosby (same address as applicant). *Charcoal,*

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charcoal briquettes, fireplace logs, charcoal lighter fluid and hickory chips from the facilities of The Kingsford Company at Burnside, KY to points in IL, IN, IA, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138388 (Sub-7TA), filed July 24, 1979. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Animal feeds and feed ingredients in bulk and in bags* between Abbottsford, WI and New Holstein, WI on the one hand, and, on the other, points in IA, IL, IN, MI, MN, OH, & PA (except no transportation to be performed on shipments originating in the State of MN to Abbottsford, WI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johnson-Hubbard Co., Inc. & Wiscon Milling Co., 1st St., Abbotsford, WI 54405 and Milk Specialties Co., Milwaukee Drive, New Holstein, WI 53061. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138438 (Sub-62TA), filed June 29, 1979. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania, Hagerstown, MD 21740. *Brick and clay products* from points in Stark and Tuscarawas counties, OH to points in DE, NJ, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): O. W. Ketchum, Inc., 121 N. 18th St., Phila., PA 19103. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138469 (Sub-157TA), filed June 22, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix 1 to the report in Description in Motor Carrier Certificate, 61, MCC 209 and 766,* (except hides and commodities in bulk), from the facilities of Wilson Food Corporation at or near Albert Lea, MN, to points in MT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Food Corporation, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-158TA), filed July 3, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73147. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Corn and corn products,* (except in bulk, in tank vehicles), including, but not limited to, hominy feed, corn meal, flour, hominy flakes, corn flakes, brewers flakes, brewers grits and bakers flakes, from the facilities of Illinois Cereal Mills, Inc., at or near Paris, IL, to points in CA and CO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Illinois Cereal Mills, Inc., 616 S. Jefferson St., Paris, IL 61944. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-159TA), filed July 5, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packing houses,* as described in sections A and C of Appendix 1 to the report in descriptions of motor carrier certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation located at Albert Lea, MN and Cedar Rapids, IA, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 N. Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-160TA), filed July 16, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200; Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packing houses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Omaha, NE, to points in TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138609 (Sub-5TA), filed July 3, 1979. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT COMPANY, 1506 Gillionville Road, P.O. Box 1171, Albany, GA 31702. Representative: Robert L. Arnold (same as applicant). *Iron and steel,* from Sheffield, AL and Chattanooga, TN, to Richland, Sylvester, Ellaville, Moultrie, Waycross, Millen, and Eatonton, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 6 supporting shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138609 (Sub-6TA), filed July 23, 1979. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT COMPANY, P.O. Box 1171, 1506 Gillionville Street, Albany, GA 31702. Representative: C. E. Walker, P.O. Box 1085, No. 8 11th Street, Columbia, GA 31902. *Malt beverages, in barrels, kegs, bottles and/or cans, truckload, and related advertising materials, outbound, and return loads of supplies for producing, packaging and shipping* between the plant of Miller Brewing Company, located in Dougherty County, at or near Albany, GA, on the one hand, and on the other all points in AL, FL, GA, KY, LA, MS, and TN for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 Highland Boulevard, Milwaukee, WI 53208. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139858 (Sub-33TA), filed July 10, 1979. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Ave., Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H St., NW., Washington, D.C. 20006. Contract carrier, irregular routes: *General commodities* (except those of unusual value, commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment) from or to the facilities of American Standard Inc. and its subsidiaries in the states of AZ, AR, CA, CO, CT, GA, IL, IN, IA, KS, KY, IA, MD, MI, MO, NJ, NV, NY, NC, OH, PA, TX, and WA, under continuing contract(s) with American Standard Inc., for 180 days. Restricted to transportation services to be performed under continuing contract(s) with American Standard Inc. and its subsidiaries, New Brunswick, New Jersey. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Standard Inc., P.O. Box 2003, New Brunswick, NJ 08903. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 140349 (Sub-1TA), filed July 6, 1979. Applicant: COPE-BESTWAY EXPRESS INC., 2024 Harvey Road, Grand Island, NY 14072. Representative: D. Thomas Cope (Same address as above). Contract Carrier—Irregular Routes. *Abrasive Grains,* (1) from Niagara Falls, NY to all points in CT, IL, MA, MI, NH, NJ, OH, PA, RI, WI and (2) *Supplies, materials and equipment used in the manufacture of abrasive grains,* from all points in destination states (1) above to Niagara Falls, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) General Abrasive, Div. of Dresser Ind., 2000 College Avenue, Niagara Falls, NY 14305. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 140389 (Sub-71TA), filed July 5, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902, Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Automotive parts and accessories; equipment, materials and supplies used in the manufacture thereof,* between the facilities of Maremont Corp., at or near Loudon, Ripley, Pulaski and Nashville, TN; Atlanta, GA; Chicago, IL; Chickasha, OK, and Saco, ME, on the one hand, and, on the other, points in the United States (except points in AK and HI). For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maremont Corp., 1283 Murfreesboro Road, Nashville, TN 37217. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-72TA), filed July 9, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902, Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *(1) Frozen and canned foodstuffs and (2) materials, supplies and equipment used in the manufacture and distribution of foodstuffs,* between the facilities of Douglas Foods, Inc., at or near Douglas, GA, on the one hand, and on the other, points in AL, CO, FL, ID, IN, KY, LA, MS, NC, OH, OR, SC, TN, UT, and WA, for 180 days. Supporting shipper(s) Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140549 (Sub-19TA), filed June 27, 1979. Applicant: FRITZ TRUCKING, INC., East Highway 7, Clara City, MN 56222. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Lumber* from Osage and Hullett, WY and Willmar, MN to points in IA, MN, MT, NE, ND, and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Timber Wholesalers, Clara City, MN 56222. Send protests to: D/S, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 140608 (Sub-2TA), filed July 24, 1979. Applicant: BENTLEY W. WARREN, d.b.a. BENTLEY WARREN TRUCKING, Fernald Street, West Gloucester, MA 01930. Representative: Ignatius C. Goode, 132 Harris Road, Nashua, NH 03060. *Scrap metal, in bulk, in dump trailers,* from points in ME, MA, NY, RI, and VT to Portsmouth, NH; from points in NH to Portsmouth, NH restricted to traffic to be interchanged with water carriers when moving in interstate or foreign commerce. For 180 days. Supporting shipper(s): Tewksbury Auto Parts Inc., 860 East St., Tewksbury, MA 01876; Madbury Metals Inc., 860 East St., Tewksbury, MA 01876; Portsmouth International Corp., Knox Marsh Road, Madbury, NH. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 140829 (Sub-302TA), filed August 1, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *Commodities as dealt in by wholesale and retail grocery and chain stores, plastic articles, chemicals and compressed gas in cylinders* from the facilities of Dry Storage Corporation in Chicago, IL to points in CO, IA, KS, MA, MO, NE, NJ, NY and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 W. 43rd Street, Chicago, IL 60609. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-303TA), filed August 8, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as applicant. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certficates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Supreme Beef Processors, Inc. in Dallas and Fort Worth, TX to points in CO, IL, IN, IA, MI, MO and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Supreme Beef Processors, 5219 Second Avenue, Dallas, TX. 75210. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140889 (Sub-6TA), filed July 30, 1979. Applicant: FIVE STAR TRUCKING, INC., 1638 West Pioneer Way, El Cajon, CA 92022. Representative: Mr. Jonn Gramc, Five Star Trucking, Inc., "Same Address As Applicant". *Contract:* irregular: *Electric motors, welding equipment and welding materials and supplies used in the manufacture of welding equipment,* from Cleveland, OH to points in IL, IN, MI, PA, and WI under a continuing contract or contracts with The Lincoln Electric Company of Cleveland, OH, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Lincoln Electric Company, 22801 St. Clair Avenue, Cleveland, OH 44117. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141859 (Sub-2TA), filed July 20, 1979. Applicant: K. B. COMPANY, INC., P.O. Box 931, Winston-Salem, NC 27102. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Chain saws, chain saw parts and accessories, and gasoline powered cutting, boring, and blowing tools* from the facilities of Stihl, Inc. located at Virginia Beach, VA to Chehalis, WA; Albuquerque, NM; and Chico, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stihl Northwest, PO Box 999, Chehalis WA 98532, Sandia Power Equipment, Inc., 6102 D. Kircher Blvd. NE, Albuquerque, NM; Midway Distributing Co., Inc., 2863 Midway, Chico, CA 95926. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 141889 (Sub-6TA), filed August 13, 1979. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. *(1) Materials, equipment and supplies used or useful in the manufacture, sale or distribution of pre-built fireplaces,* from Wisconsin Rapids and Stevens Point, WI to Perris, CA and *(2) Pre-built fireplaces and materials, equipment and supplies used or useful in the manufacture, sale or distribution of pre-built fireplaces and*

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accessories and parts thereto, from Stevens Point and Wisconsin Rapids, WI to CA, OR, WA, and UT, for 180 days. Supporting shipper(s): Preway, Inc., 1430 2nd Street North, Wisconsin Rapids, WI 54494. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 142059 (Sub-92TA), filed June 21, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Aluminum strips and plate* from N. Lima and E. Palestine, OH to Spindale, NC for 180 days. Supporting shipper(s): L. W. Nash, Co., P.O. Box 151, E. Palestine, OH 44413. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142269 (Sub-9TA), filed August 3, 1979. Applicant: EAGLE HAWK CORP., d.b.a. ALL IOWA LTL PERISHABLE SERVICE, Box 155, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center Des Moines, IA 50309. *Meat, meat products, meat byproducts, and articles distributed by meat packing-houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Geo. A. Hormel & Co. at Huron and Sioux Falls, SD, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 142359 (Sub-8TA), filed July 13, 1979. Applicant: PORT EAST TRANSFER, INC., 1404 S. Clinton St., Baltimore, MD 21224. Representative: Ray Turchi, same as above. *General commodities,* (Except Classes A & B explosives, commodities in bulk, household goods as defined by the Commission and commodities which because of size or weight require special equipment) in intermodal containers or trailers between Baltimore, MD and points in its commercial zone, on the one hand, and, on the other, Norfolk, VA and points in its commercial zone. Restricted to traffic having an immediately prior or subsequent movement by rail or water. For 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Stuart H. Sampson, Operations Mgr., United States Lines, Inc., P.O. Box 1775, Baltimore, MD 21203. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 142429 (Sub-2TA), filed July 27, 1979. Applicant: HORACE G. STROUD, d.b.a. STROUD TRUCK SERVICE, 11030 Weaver Street, So. El Monte, CA 91733. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract:* irregular: *Cheese, in mechanically refrigertated equipment,* from points in MN and WI to points in CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Daisy Provisions Co., 2442 E. 27th Street, Los Angeles, CA 90058. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 142449 (Sub-5TA), filed June 12, 1979. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *General commodities,* (1) between points in IN on and north of U.S. Hwy 40, except Indianapolis, and rail ramps and facilities of shippers and freight forwarders at Elkhart, IN, restricted to shipments having a prior or subsequent movement by rail, and (2) between points in In on and north of U.S. Hwy 40, except Indianapolis, and facilities of shippers and freight forwarders in the Chicago, IL Commercial Zone, as defined by the Commission, restricted to shipments having a prior or subsequent movement by rail, for 180 days. Supporting shipper: 11 shippers. Send protest to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142508 (Sub-106TA), filed August 10, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen food* from Saugatuck and Holland, MI to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Lloyd J. Harriss Pie Co., 350 Culver St., Saugatuck, MI 49453. Send Protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-107TA), filed August 10, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Canned goods and bakery goods* from the facilities of Mountain Pass Canning Company in Anthony, TX to points in the United States (except AK and HI) for 180 days. Supporting shipper(s): Mountain Pass Canning Company, Inc., P.O. Box 220, Anthony, TX 88021. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142519 (Sub-6TA), filed July 23, 1979. Applicant: DELIVERY SERVICE CORPORATION, 500 Wyoming Avenue, Suite 218, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract Carrier;* irregular Routes: *paper and paper products* from the facilities of International Paper Company at or near Howell, MI to points in the United States except AK, MI, and HI, and *materials, equipment and supplies* utilized in the manufacture thereof, from points in the United States except AK, MI and HI, to the facilities of International Paper Company at or near Howell. For 180 days. Supporting shipper(s): International Paper Company, 220 East 42nd Street, New York, NY 10017. Send protests to: C. R. Flemming, D/S; I.C.C., 225 Federal Building, MI 48933. An underlying ETA seeks 90 days authority.

MC 142559 (Sub-112TA), filed June 25, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. *Foodstuffs and equipment, materials, and supplies utilized by manufacturers and distributors of foodstuffs* (except commodities in bulk) between Douglas, GA, on the one hand, and, on the other points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Foods, Inc., P.O. Box 71, Johnson City, NY 13790. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm 620, Phila., PA 19106.

MC 142559 (Sub-113TA), filed July 9, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. *Paper, paper products and woodpulp* between points in the United States (except AK and HI) for 180 days. Restricted to traffic moving from or to the facilities of Scott Paper Co. Supporting shipper: Scott Paper Co., Scott Plaza I, Philadelphia, PA 19113. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142619 (Sub-3TA), filed August 6, 1979. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomingdale IL 60108. Representative: Edward J. Kiley, Suite 501, 1730 M Street, NW., Washington, D.C. 20036. *Contract carrier;* irregular routes: *Steel tubing and aluminum tubing, and materials, supplies, and equipment used in the manufacture, sale or distribution of steel tubing and aluminum tubing* from the plantsite and warehouse facility of Pacific Tube Company, located at/near Los Angeles, CA to the facility of Tubesales at/near Carol Stream, IL, for the account of Tubesales. An underlying ETA was submitted seeking 90 days authority. Supporting shipper: Tubesales, Carol Stream, IL. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142669 (Sub-11TA), filed July 17, 1979. Applicant: GENE WALTERS and CLARK WURTELE, d.b.a. M & M TRUCKING, 115 East Brewster Street, Harvey, ND 58341. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Bentonite,* in hopper bottom trailers, from Belle Fourche, SD to points in ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Peavey Company, 730 Second Avenue South, Minneapolis, MN 55402. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, 657 2nd Avenue North, Fargo, ND 58102.

MC 143058 (Sub-10TA), filed August 9, 1979. Applicant: TRANS WEST CARRIERS, INC., 14416 Slover Avenue, Fontana, CA 92355. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Contract:* Irregular: *Insulation materials,* from the facilities of Johns-Manville Sales Corporation at or near Willows and Corona, CA to all points in the States of WA, OR, ID, UT, NV, AZ, NM, MT, WY and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo, CA 94403. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143059 (Sub-102TA), filed July 12, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. *Lumber, lumber mill products, forest products, wood products, and sawmill products* from points in AZ, CO and NM, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, NV, ND, OK, SD, TX, UT, WI, and WY for 180 days. Supporting shipper(s): (4) supporting shippers: Southwestern Sales, Inc., Albuquerque, NM, Sagebrush Sales Co., Albuquerque, NM; Navajo Forest Prod., Ind., Navajo, NM; Kaibab Industries, Inc., Phoenix, AZ. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-103TA), filed July 31, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40202. (1) *Non-ferrous metals (except in bulk),* from the facilities of ASARCO Incorporated, and Federated Metals Corp., a subsidiary of ASARCO Inc., located at or near Amarillo, Corpus Christi, and Houston, TX; Omaha, NE; Glover, MO; Sand Spring, OK; Whiting, IN; Newark and Trenton, NJ; San Francisco, CA; Hillsboro, IL, and Columbus, OH, to: points in the US (except AK and HI). (2) *Materials, equipment, and supplies (except in bulk) used in the manufacture and distribution of non-ferrous metals,* from points in the US to the above-named facilities. Restricted to the transportation of shipments originating at or destined to the above-named facilities. For 180 days. Supporting shipper(s): S. O. Holdman, ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, MO. 63101. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY. 40202

MC 143218 (Sub-6TA), filed July 23, 1979. Applicant: DONALD SANTISI TRUCKING CO., 1024 N. Main St., Niles, OH 44446. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Contract; irregular: Electric transformers & transformer parts, materials, equipment and supplies used in the production, distribution, or sale of electric transformers (except commodities in bulk),* (a) from Warren, OH to the facilities of Balteau Standard, Inc., at or near White City, OR, and (b) from the facilities of Balteau Standard, Inc., at or near White City, OR to points in WA, CA, NV, ID, MT, WY, UT, AZ, CO, and NM for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): Balteau Standard, Inc., 8001 Table Rock Rd., White City, OR 97501. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143289 (Sub-9TA), filed August 8, 1979. Applicant: FEDERATED TRANSPORT SYSTEMS, 800 South McGarry Street, Los Angeles, CA 90021. Representative: Lucy Kennard Bell, Daniel M. Shapiro Law Offices, 9701 Wilshire Blvd., Suite 829, Beverly Hills, CA 90212. *Contract:* Irregular: *(1) Piece goods, lace fabrics, synthetic lace, finished synthetic knit fabrics, finished synthetic piece goods, hooks and eyes on cloth tape and elastic webbing,* from Burlington, Charlotte and Greensboro, NC; Newark and Secaucus, NJ; New York, NY; Philadelphia, PA; and Providence, RI to Van Nuys, CA; and *(2) Clothing, noi,* from Sylmar, CA to Charlotte, NC; Newark and Secaucus, NJ; and New York, NY, under a continuing contract or contracts with The Olga Company located in Van Nuys, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Olga Company, 7900 Haskell Avenue, Van Nuys, CA 91409. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143328 (Sub-21TA), filed August 9, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, Fulbright & Jaworski, Suite 400, 1150 Connecticut Ave. NW., Washington, DC 20036. *Commodities as are dealt in by wholesale or retail grocery and food business houses* from the facilities of Hershey Foods Corporation at Oakdale, CA to points in AZ and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Foods Corporation, 19 East Chocolate Ave., Hershey, PA 17033. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143499 (Sub-7TA), filed July 23, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 50 South Main St., Pearl River, NY 10965. Representative: Roy A. Jacobs, Esq., Alfano & Alfano, Esqs., 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier,* irregular routes: *Tetrabromobisphenol (except in bulk)* from El Dorado, AR to Toms River, NJ, under a continuing contract(s) with Ciba-Geigy Corporation; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ciba-Geigy Corporation, Ardsley, NY 10502. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 143739 (Sub-26TA), filed June 28, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Meat, meat products, meat by-products, and articles distributed by meat packing houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 799,* from the facilities of Sioux-Preme Packing Company located at or near Sioux Center, IA, to points in CA, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sioux-Preme Packing Company, Assistant Sales and Traffic, Highway 75 South, Sioux Center, IA 51250. Send protests to: District Supervisor, ICC, 414 Federal Building

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and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-27TA), filed August 3, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same as applicant. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C 209 and 766,* from Austin, MN and Ft. Dodge, IA to points in AZ, CA and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., and U.S. Court House, 110 South 4th St., Minneapolis, MN 55401.

MC 143739 (Sub-28TA), filed August 3, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). *Frozen potato products,* from Grand Forks, ND to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, SD, TN and WI, for 180 days. Supporting shipper(s): International Co-op, P.O. Box 1378, Grand Forks, ND 58201. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg. & U.S. Court House, 110 So. 4th St., Minneapolis, MN 55401.

MC 143978 (Sub-5TA), filed May 24, 1979. Applicant: EMERSON DELIVERY, INC., P.O. Box 652, Cedar Rapids, IA 52406. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Printed matter* between the facilities of Stamats Publishing Co. at Cedar Rapids, IA, on the one hand, and, on the other, points in IL, KS, MN, NE, WI and points in the Kansas City, MO commercial zones, under continuing contract(s) with Stamats Publishing Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stamats Publishing Company, 427 Sixth Ave., S.E., Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144069 (Sub-12TA), filed July 26, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same as above). *Iron, steel, and aluminum articles* between the facilities of Consolidated Systems, Inc. and its Southeastern Coated Products Division at or near Columbia, SC, on the one hand, and on the other, the Ports at Charleston and North Charleston, SC and GA, FL, AL, TN, KY, OH, PA, WV, VA, DC, MD and NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Systems, Inc., Southeastern Coated Products Division, PO Box 1756, Columbia, SC 29202. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 144188 (Sub-10TA), filed May 17, 1979. Applicant: P. L. Lawton, P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, 410 N. Third St., P.O. Box 1146, Harrisburg, PA 17108. *Fiberboard, paper, paperboard, plastic containers, and plastic wax,* from the facilities of Bercon Packaging, Inc., at Berwick, PA to El Paso, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bercon Packaging, Inc., 1800 N. Market St., Berwick, PA 18603. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144186 (Sub-11TA), filed July 12, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 N. 3rd St., Harrisburg, PA 17108. *Such merchandise* as is dealt in by retail, wholesale, chain grocery and food business houses, and foodstuff ingredients (except commodities in bulk and frozen foods); and packing materials, display racks, machinery, advertising materials, displays, dispensing equipment, premiums, and office equipment and supplies, between the facilities of Old London Foods Division of Borden Foods, Borden, Inc. at New York, NY, on the one hand, and, on the other, points in the United States in and east of ND, SD, NB, KS, OK and TX, (except from New York, NY, to points in CT, DE, FL, GA, IL, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV and DC presently authorized) restricted to traffic originating at the indicated origins and destined to the indicated destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Old London Foods Division, Borden Food, Borden, Inc., 228 Raseley St., Berwick, PA 18603. Send protests to: I.C.C., Fed. Bank Bldg., 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 144189 (Sub-3TA), filed July 25, 1979. Applicant: CORPORATE TRANSPORT INC., 107 7th North Street, Liverpool, NY 13088. Representative: Alfano & Alfano, 550 Mamaroneck Avenue, Harrison NY 10528. Contract carrier—irregular routes. *Such commodities as are dealt in by a manufacturer of paper and paper products, except in bulk,* from the facilities of Mead Packaging at Chicago, IL to points in NJ, NY and PA. Restricted to a transportation service to be performed under a continuing contract(s) with Mead Packaging, for 180 days. Supporting shipper(s): Mead Packaging, P.O. Box 4417, Atlanta, GA 30302. Send protests to: Anne C. Siler, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 144209 (Sub-8TA), filed June 6, 1979. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, Nebraska 68127. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, Nebraska 68106. *Carpets, floor coverings and rugs* from points in GA and NC and Chicago, IL to Council Bluffs, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Michael's Carpets, 3211 Nebraska Avenue, Council Bluffs, IA 51501, Mike Hughes, President. Send protests to: Carroll Russell, D/S, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 144368 (Sub-3TA), filed June 11, 1979. Applicant: Genpat, Inc., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* irregular routes: *Steel sheeting and coils,* from the facilities of Armco Steel Corp. at Zanesville and Middletown, OH and the facilities of Allegheny Ludlum Steel Corp., Leechburg, PA to Chicago, IL and points in its commercial zone for the account of Tempel Steel Company for 180 days. Supporting shipper(s): Tempel Steel Company, 5990 West Touhy Avenue, Niles, IL 60648. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144408 (Sub-3TA), filed July 9, 1979. Applicant: DICK HUIZENGA, d.b.a., DICK HUIZENGA TRUCKING, 2882 Pomona Blvd., Pomona, CA 91766. Representative: Dick Huizenga (same address as applicant). *Contract:* irregular: *Burnt sewer sludge,* from Palo Alto, CA to Hayden, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): World Resources Company, 1600 Anderson Road, McLean, VA 22101. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144578 (Sub-4TA), filed July 9, 1979. Applicant: LIME, INC., 3969 Wyoming Avenue, Dearborn, MI 48126. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Quicklime,* in bulk, from Marble City, Oklahoma to points in Wisconsin and those in IN and IL in the Chicago, IL Commercial Zone and Marion and Butler Counties, OH. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Clair Lime Company, P.O. Box 849, Oklahoma City, OK 73101. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 144609 (Sub-9TA), filed July 24, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a., DOMINGUES BROS. PRODUCE CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Attorney, 801 Vaughn Building, Austin, TX 78701. *Batteries,* From San Antonio, TX to Anaheim, and Santa Fe Springs, CA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Standard Industries, P.O. Box 27500, San Antonio, TX 78227. Send protests to: Opal M. Jones, Trans. Consumer Specialist, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 144779 (Sub-4TA), filed July 18, 1979. Applicant: AHA, INC., Box 513, Panguitch, UT 84759. Representative: Glen M. Hatch, 80 West Broadway, Suite #300, Salt Lake City, UT 84101. *Lumber* from Fredonia, AZ, to points in NM, TX, and CA; and from Panguitch, UT, to points in NM and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaibab Lumber Company, Fredonia, AZ 86022. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144858 (Sub-16TA), filed July 16, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representing: Soott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Photographic equipment, materials and supplies* and *materials and supplies* used in the manufacture and sale thereof, between points in MA on the one hand, and, on the other, points in CA, FL, GA, IL, IN, KS, MI, NC, OH, TX and WI, restricted to traffic originating at or destined to the facilities used by Polaroid Corporation, for 180 days. Supporting shipper(s): Polaroid Corporation, 140 Kendrick St., Needham Heights, MA 02194. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144888 (Sub-11TA), filed July 30, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. Contract; irregular. *Commodities as are dealt in or used by wholesale and retail distributors of chemicals except commodities in bulk.* To and from points and places in CT, DE, FL, GA, ME, MD, NJ, NY, PA and VA on the one hand, and, on the other, points and places in AL, VA, FL, GA, MD, MI, NC, OH, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moreland McKesson Chemical Company, Drawer 2169, Spartansburg, SC 29304. Send protests to: Irwin Rosen, T/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144909 (Sub-4TA), filed July 20, 1979. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Attorney at Law, Suite 733, Investment Building, Washington, DC 20005. *Printed matter and microfilm, used in and useful for the preparation of telephone directories,* between the facilities of Datacomp Corporation, at Boston, Massachusetts, on the one hand, and, on the other, the facilities of Datacomp Corporation at New Haven, Connecticut, the facilities of Southern New England Telephone and Telegraph Company at or near New Haven and Norwich, Connecticut, and the facilities of Microform Data Systems, at or near Hamden, Connecticut. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Datacomp Corporation, 35 Wm. T. Morrissey Blvd., Boston, MA 03125. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 144969 (Sub-11TA), filed July 16, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Acids, chemicals, and chemical compounds,* in packages, and *materials, equipment and supplies used in the application of commodities named above* (except in bulk), From Waterloo, NY to points in the US (except AK and HI). (2) *Acids, chemicals and plastics,* synthetic, liquid, in packages; *plastic and rubber articles or materials,* expanded and other than expanded, and *materials, equipment and supplies* used in the application of commodities named above (except in bulk), from Canton, MA to points in the US (except AK and HI). (3) *Materials, equipment and supplies* (except in bulk), used in the manufacture, production and distribution of the commodities in (1) and (2) above, from points in the US (except AK and HI) to origins in (1) and (2) above, for 180 days. Supporting shipper(s): W. R. Grace & Co., 55 Hauden Avenue, Lexington, MA 02173. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144978 (Sub-6TA), Filed August 2, 1979. Applicant: MIDWESTERN PLASTICS AND CHEMICALS, INC., 1025 Avenue M, Grand Prairie, TX 75050. Representative: William P. Jackson, Jr., P.O. Box 1240, 3426 N. Washington Blvd., Arlington, VA 22210. Contract carrier, irregular routes, *Such commodities as are dealt in or used by a manufacturer or distributor of plastic articles,* except in bulk, (1) from the facilities of Roper Plastics, Inc., at or near Grand Prairie, TX to points in CA, LA, AR, OK, and the facilities of Roper Plastics, Inc., located at or near Forest Park, GA; Jerseyville, IL; and Watertown, MA; (2) from Bound Brook, NJ, and the facilities of Roper Plastics, Inc., at or near Forest Park, GA; Jerseyville, IL; Norwalk, CA; and Watertown, MA; to the facilities of Roper Plastics, Inc., at or near Grand Prairie, TX for 180 days. Supporting shipper(s): Roper Plastics, Inc., 1011 Avenue M, Grand Prairie, TX 75050. Send protests to: Opal M. Jones, TCS, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor St., Ft. Worth, TX 76102.

MC 145108 (Sub-6TA), Filed July 30, 1979. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn NY 11220. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Contract carrier,* irregular routes, *drugs, medicines, toilet preparations and cosmetics (except in bulk),* from Huntsville, AL, to Houston, TX, restricted to transportation service performed under a continuing contract(s) with Chesebrough Pond's Inc.; for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Chesebrough Pond's, Inc., John St., Clinton, CT 06413. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145199 (Sub-3TA), Filed April 5, 1979. Applicant: WESTERFIELD TRUCK LEASING, INC., RR 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1100 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract carrier: over irregular routes: (1) Merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith (2) equipment, materials and supplies used in the conduct of such business* (except commodities in bulk) *in refrigerated vehicles,* between the facilities of the Kroger Co. at Indianapolis, IN: St. Louis, MO: Cincinnati and Columbus, OH: on the one hand, and, on the other, Little Rock, AR: Atlanta, GA: Peoria, IL: Ft. Wayne and Indianapolis, IN: Louisville.

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KY: Detroit and Grand Rapids, MI: St. Louis, MO: Cincinnati, Cleveland and Columbus, OH: Pittsburg, PA: Memphis and Nashville, TN: Dallas and Houston, TX: Roanoke, VA and Charleston, WV, for 180 days. Supporting shipper: Kroger Co., 1014 Vine Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Transportation assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 145268 (Sub-5TA), Filed May 29, 1979. Applicant: KENNETH B. HOLM AND GLENN STEED, d.b.a. H & S Enterprises, P.O. Box 26302, Salt Lake City, UT 84125. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier:* irregular routes: floor tile and adhesives from CA to the facilities of J B Tile Co. at South Salt Lake, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J B Tile Co., P.O. Box 15217, Salt Lake City, UT 84115. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138

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MC 119632 (Sub-100TA), filed May 12, 1979. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as above). *Foodstuffs, canned or preserved* (except frozen or in bulk), from Lyndonville, NY to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lyndonville Canning Co., Inc., 151 West Ave., Lyndonville, NY. Send protests to: Carol Rosen, TA, ICC, Federal Bldg., 600 Arch Street, Rm 3238, Philadelphia, PA 19106.

MC 134592 (Sub-25TA), filed July 5, 1979. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Foodstuffs vis.: Spaghetti, macaroni, or noodles and cheese, with sauce, in combined packages; Spaghetti sauce mix, dry; Sauce mix, dry; Pizza pie mix; Soup ingredients (soup mix); Popcorn, not popped; Popcorn confectionery from the facilities of American Home Foods, Division of American Home Products Corp. at Vacaville, CA, to Medford, Roseburg, Eugene, Salem, Clackamas, Milwaukee and Portland, OR, Bellevue, Bremerton, Kent, Seattle, Spokane and Yakima, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 135082 (Sub-89TA), filed July 5, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE, P.O. Box 26748, Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). *Lumber, lumber products, and millwork,* from AZ, CO, and NM, to AL, FL, GA, IL, IN, KY, MI, MS, NC, OH, SC, IN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ponderosa Products, P.O. Box 25506, Albuquerque, NM 87125; Navajo Forest Products, P.O. Box 1280, Albuquerque, NM 87328; Sagebrush Sales Company, 6300 State Road 47, Albuquerque, NM. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 135762 (Sub-4TA), filed July 12, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Ft. Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. Contract carrier, irregular routes. (1) *Aluminum and wood folding furniture and aluminum institution furniture,* from the facilities of Tucker Duck and Rubber Company at Ft. Smith, AR to points in the United States, except AK and HI; and (2) *materials, supplies and equipment* (except in bulk) used in the fabrication and manufacture of the articles named in (1) above, from points in the United States, except AK and HI to the facilities of Tucker Duck and Rubber Company at Ft. Smith, AR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Tucker Duck and Rubber Company, P.O. Box 4167, Ft. Smith, AR 72914. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136012 (Sub-5TA), filed June 25, 1979. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Drive, Cincinnati, OH 45246. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. *Liquid chemicals, in bulk, in tank vehicles,* from Cincinnati, OH, and its commercial zone, to points in IN and KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are three (3) shippers in support of this application of which can be examined in the Washington, D.C. Headquarters, ICC or at the field office named below. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136343 (Sub-170TA), filed June 28, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Printed matter* (except commodities in bulk) from Dresden, TN to Boston, MA; New York and Buffalo, NY; Camden, Saddle Brook, and Moonachie, NJ; Chicago, IL, Columbus, OH; Detroit, MI; McKees Rocks, PA and Washington, DC and points in their commercial zones, for 180 days. Supporting shipper: Berkley Jove Publishing Group, 200 Madison Ave., New York, NY 10016. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136553 (Sub-80TA), filed April 6, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th St., Bubuque, IA 52001. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Fertilizer* in bulk, (1) from Depue, IL to IA, MN and WI, (2) from Ft. Madison, IA to IL and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627; Chevron Chemical Company, Box 288, Fort Madison, IA 52627. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136782 (Sub-22TA), filed June 25, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *General commodities (except those of unusual value, Classes A and B Explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading),* between points in Butler County, and Pittsburgh, PA on the one hand, and, on the other, points in NY, NJ, CT, MA, RI, MD and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: None. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138313 (Sub-57TA), filed July 11, 1979. Applicant: BUILDERS TRANSPORT, INC., 409—14th Street SW, Great Falls, MT 59404. Representative: MISS IRENE WARR, 430 Judge Bldg., Salt Lake City, UT 84111. *Sulfur, fertilizer and soil conditioners* from the facilities of Montana Sulphur and Chemical Company at or near Billings, MT to OR, WA, ID and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montana Sulphur and Chemical Company, P.O. Box 31118, Billings, MT 59107 North Pacific Trading Company, P.O. Box 3915, Portland, OR 97208. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138762 (Sub-44TA), filed July 18, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW, Washington, DC 20006. *Choline chloride trimethylamines, in bulk, in tank vehicles,* from ports of entry on the U.S.-Canada International Boundary line located in MI to points in NC, SC, GA, AL, LA, MD and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chinook Chemicals Limited, Box 160, Sombra, ON, Canada NOP 2HO. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 138882 (Sub-282TA), filed July 9, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Equipment, materials, and supplies used in the manufacture, sales and distribution of plastic pipe (except commodities in bulk).* From points in the U.S. (except AK and HI) to points in Geneva County, AL. For 180 days. Supporting shipper: Samson Plastic Conduit and Pipe Corp., P.O. Box 325, Samson, AL 36477. Send protests to: Mabel E. Holston, T/A, Room 1616—2121 Building, ICC, Birmingham, AL 35203.

MC 138882 (Sub-283TA), filed July 10, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Foodstuffs, materials, equipment, and supplies used in the manufacture, sale and distribution of foodstuffs,* (except commodities) between the facilities of Douglas Foods, Inc. located at Douglas, GA, on the one hand, and on the other, points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 139482 (Sub-141TA), filed July 13, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Articles dealt in by retail and wholesale department merchandise houses and specialty shops,* from New York, NY, and points in its commercial zone to Dallas, TX, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Neiman-Marcus, Director of Financial Planning and Systems Design, Dallas, TX, 75204. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-142TA), filed July 16, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. (1) *Frozen and canned foodstuffs* and (2) *materials, supplies and equipment used in the manufacture and distribution of foodstuffs* between facilities of Douglas Foods, Inc. at Douglas, GA on the one hand, and, on the other, points in the U.S. (except AK & HI) restricted to transportation of traffic originating at or destined to the facilities of Douglas Foods, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Judy Olson, TA, ICC, 414 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, MN 55401.

MC 141443 (Sub-28TA), filed July 20, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: William Cruikshank (same address as applicant). *Canned goods and pet food,* from points in CA, to points in AR, CO, KS, LA, MO, OK (except Oklahoma City), OR, TX, & WA, for 180 days. Supporting shipper(s): Star-Kist Foods, Inc., 582 Tuna Street, Terminal Island, CA 90731. Tillie Lewis Foods, P.O. Drawer J, Stockton, CA 95201. Sun Harbor Industries, P.O. Box 2311, San Diego, CA 92112. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141252 (Sub-10TA), filed July 20, 1979. Applicant: Pan Western Corporation, 4105 Las Lomas, Las Vegas, NV 89102. Representative: Richard Truman (same as applicant). *Roofing material,* from San Diego, Orange, Los Angeles, Riverside, and San Bernardino Counties, CA, and Maricopa County, AZ to Clark County, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six shippers which can be examined at the office listed below and Headquarters. Send protests to: DS, W. J. Huetig ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 141742 (Sub-6TA), filed July 20, 1979. Applicant: FLOWERT TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Walter H. Walker III, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Gypsum wallboard and materials and supplies* used in the installation of gypsum wallboard, from Sigurd, UT to points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: UWS Materials & Supply Co., Inc., 2001 Broadway, Vallejo, CA 94590. Send protests to: DS, W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 142062 (Sub-31TA), filed April 4, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier: irregular routes: Such commodities as are manufactured or distributed by a manufacturer of aluminum and aluminum products,* from the facilities of Reynolds Metals Company at or near Louisville, KY to Birmingham, AL, for 180 days. Under contract with Reynolds Metals Company at Louisville, KY. Supporting shipper: Reynolds Metals Company, P.O. Box 32920, Louisville, KY 40232. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142663 (Sub-3TA), filed July 13, 1979. Applicant: SPRINGBROOK TRANSPORT, INC., P.O. Box 422, Springfield, PA 19064. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract; irregular: Stone and stone products, in dump trucks* from Robeson Township, Berks County, PA to Kearny, NJ, under contract with LCM Corp. of Roseland, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: L.C.M. Corp., 21 Pier Lane, Roseland, NJ 07068. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142672 (Sub-25TA), filed July 19, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Fruitcakes and candy* from Bogart, GA to points in the United States (except AK, CA and HI), for 180 days. Supporting shipper: J. T. B. Associates, P.O. Box 216, Douglassville, PA 19518. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 142703 (Sub-19TA), filed August 1, 1979. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 W. Third St., P.O. Box 14072,

Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *General commodities*, except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment, between points in Louisville, Kentucky, and its commercial zone, on the one hand, and, on the other, points in KY. Restricted to transportation of shipments having a prior or subsequent rail or water movement, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dow Corning Corp., 3901 S. Saginaw Rd., Midland, MI 48640. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St, Rm 620, Phila., PA 19106.

MC 143503 (Sub-25TA), filed July 9, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O., 1540, Edmond, OK 73034. *Such commodities as are dealt in by retail department stores*, from the facilities of J. C. Penney Company in Washington, DC; MD, and VA to points in DC; MD; VA, in and north of Gloucester, King and Queen, King William, North Hampton, Accomack, Hanover, Louisa, Albermarle, and Rockingham Counties; Franklin, Adams, York, and Lancaster Counties, PA; and Morgan, Berkeley, and Jefferson Counties, WV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: J. C. Penney Company, Suite 100, 4660 Kenmore Avenue, Alexandria, VA 22304. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143713 (Sub-12TA), filed June 11, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION, RFD 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NB 68106. *Knocked-down steel buildings and parts thereof:* from Terre Haute, IN to points in IL, IA, NB, KS, MO, KY, OH, SD, ND, MN and WI for 180 days. Supporting shipper: National Steel Products Co., P.O. Box 40490, Houston, TX 77040. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143772 (Sub-2TA), filed June 22, 1979. Applicant: H & W TRUCKING CO., INC., Box 38, Ona, WV 25545. Representative: John M. Freidman, 2930 Putnam Ave., Hurricane, WV 25526. *(1) Lumber, (2) Electrical mining equip., (3) Mine roof bolts and plates, (4) Sewage treatment plant and custom fabricated steel*, (1) above from pts. in ID, KY, MT, NM, NC, and VA to Milton WV; commodities named in (2) above between Huntington WV on the one hand, and on the other, pts. in that part of VA on and West of US Hwy 15; pts. in PA on and West of US Hwy 219; and pts. in KY; commodities named in (3) above from Bellaire, OH, to pts. in KY on and East of Interstate Highway 75; pts. in WV on and South of Interstate Highway 70; those in VA on and South of Interstate Highway 64 and on West and North of Interstate Highway 81 and then in PA on and South of Interstate Highway 70 and West of US Highway 19, and commodities named in (4) above from Hungtington, WV to pts. in OH, KY, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper:

T. E. Clagg Building Supply, 1010 S. Main St., Milton, WV 25541; Harvey Hubbell Inc., Ensign Electric Div., 914 Adams Ave., Huntington, WV; Steel Products & Mfg. Co., Virginia Ave. & 16th St. W., Huntington, WV; Phillips Stamping Co., Inc., 18th St., Bellaire, OH 43906.

Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 143903 (Sub-4TA), filed June 12, 1979. Applicant: O'NEILL BROS TRANSFER & STORAGE CO., 706 S.W. Commercial Street, Peoria, IL 61602. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier:* irregular routes: *Sporting goods, toys, athletic footwear, sports apparel and other related recreational items*, for the account of Brown's Sporting Goods for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Brown's Sporting Goods, 413 S.W. Adams, Peoria, IL 61602. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

144122 (Sub-56TA), filed July 27, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. (1) *Such commodities as are dealt in by retail and chain grocery, hardware, and drug stores*, in containers, and (2) *materials, supplies, and equipment* used in the manufacture, sale and distribution of the commodities named in (1) above, (except commodities in bulk) between the facilities used by American Home Products Corp., at Chamblee, GA; Bedford Park, IL; Cranford, NJ; Canton, OH and Dallas, TX, restricted to freight originating at or destined to the facilities utilized by American Home Products Corp., for 180 days. Supporting shipper(s): Boyle Midway, Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144303 (Sub-9TA), filed July 25, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Same as applicant. Contract carrier—irregular routes: *electrical distribution transformers and parts thereof and materials, equipment and supplies used in their manufacture* from the facilities of RTE Corporation at or near Waukesha, WI to points in the US in and east of MN, IA, MO, AR, and LA under contract with RTE Corporation, 1900 East North St., Waukesha, WI for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): RTE Corporation, 1900 East North St., Waukesha, WI 53186. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 144442 (Sub-5TA), filed July 16, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. *Contract carrier:* irregular routes: *General commodities* (except those of unusual value) restricted against the transportation of commodities in bulk. Class A and B explosives, household goods, livestock and commodities requiring special handling and special equipment, from points in MA to points in FL and GA restricted to the transportation of traffic originating at the facilitites of New England Shipping Association Co-operative, or at the facilities of its members originating at the named origins and destined to the named destinations for 180 days. Supporting shipper(s): New England Shipping Association Cooperative, 1029 Pearl St., Brockton, MA 02401. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 144672 (Sub-15TA), filed July 9, 1979. Applicant: VICTORY EXPRESS, INC., P.O. Box 26189, Trotwood, OH 45426. Representative: Richard H. Schaefer (same address as applicant). *Such commodities as are dealt in or used by manufacturers and converters of paper, paper products, pulp and plastic products (except in bulk)*, from Kalamazoo, MI; Berlin and Gorham, NH to points in the United States (except AK and HI) for 180 days. Restricted to traffic originating at the facilities of Brown Company. Supporting shipper(s): Brown Company, 243 E. Paterson St., Kalamazoo, MI 49007. Send protests to:

I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144682 (Sub-25TA), filed July 13, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. *Animal feed, feed ingredients, supplements, additives, and materials used in the manufacture and distribution of animal feed* (except commodities in bulk), from the facilities of Kal Kan Foods, Inc., at or near Vernon, Irvine, and Cerritos, CA to points in AZ, NM, OR, OH, WA, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144682 (Sub-26TA), filed July 12, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Suite 1125 Exchange Park, Dallas, TX 75245. *Meat, meat by-products, and articles distributed by meat packinghouses* as described in Sections A & C to Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk) frozen or unfrozen, from New York, NY; Philadelphia, PA; Charleston, SC; Miami, FL; Tampa, FL; Omaha, NE; New Orleans, LA; Houston, TX; Chicago, IL; Dubuque, Davenport, Cedar Rapids, and Sioux City, IA; Sioux Falls, SD; Worthington, MN; Green Bay, WI; Kansas City and Wichita, KS; Oklahoma City, OK; Boise, ID; Denver, Greeley, Colorado Springs, and Pueblo, CO; Amarillo, TX; Springfield, MO; Seattle, Tacoma, and Walla Walla, WA; Eureka, Sacramento, San Francisco, Stockton, and Los Angeles, CA; to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Local & Western Shippers of Texas, Inc., Suite 2131, Republic Nat'l Bank Tower, Dallas, TX 75201. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145052 (Sub-1TA), filed May 7, 1979. Applicant: HAROLD E. FELGAR, 1315 East 7th Street, Rm. 312, Los Angeles, CA 90012. Representative: Timothy P. Johnson, 18952 MacArthur Blvd., Suite 300, Irvine, CA 92715. *Contract:* Irregular: *Canned foods; packaged foods; vitamins; health foods; food supplements; yogurt; and cheese* from St. Augustine, Florida, Los Angeles, California, and San Francisco, California, for 180 days. Supporting shipper(s): Irwin Carasso, 315 Industrial Drive, St. Augustine, FL 32084. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 145152 (Sub-99TA), filed June 29, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Kent L. Tharel, P.O. Box 334, Fayetteville, AR 72701. *Paint, aluminum paste and asphalt*, in containers; *paint equipment and accessories; clay* in bags or containers (except commodities in bulk) from the facilities of or used by American Paint Company, Inc. at or near Southaven, MS to points in IL, IN, IA, MN, NE, KS, KY, MO, NY, PA, SC and NJ; and from Sylacauga, AL; Cartersville and McIntyre, GA; and Melrose Park, IL to the facilities of or used by American Paint Company, Inc. at or near Southaven, MS for 180 days. Underlying ETA South corresponding authority for 90 days. Supporting shipper(s): American Paint Company, Inc., P.O. Box 434, Southaven, MS 38671. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145252 (Sub-7TA), filed July 11, 1979. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, Virginia 22485. Representative: Chester A. Zyblut, 1030 15th Street, N.W., Suite 366, Washington, D.C. 20005. *Fresh and Frozen Meat and packing house products* from the facilities of John Morrell & Co., near Sioux City, IA; Sioux Falls, SD; and Esterville, IA to points in AL, CT, DE, FL, GA, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., Chicago, Illinois. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 145782 (Sub-3TA), filed July 2, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE OF TEXAS, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture, furnishings, and accessories*, from the facilities of Freed Furniture Company at Dallas, TX to points in OK, AR, and LA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Freed Furniture Company, 4355 LBJ Freeway, Dallas, TX. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146643 (Sub-4TA), filed July 2, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* irregular routes: *Plastic articles and materials* (except commodities in bulk) and equipment and supplies used in the manufacture and distribution of plastic articles, from Frankfort, IL to IN, KS, OH, MI, MN, MO, ND, NE, and SD for 180 days for the account of Mobil Chemical Co. Supporting shipper(s): Mobil Chemical Co., Macedon, NY 14502. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-5TA), filed July 10, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes; *Plastic and plastic articles* (except in bulk) from South Chicago Heights, IL to points in the lower peninsula of MI and KS and MO for 180 days, for the account of Portion Packaging Inc. Supporting shipper(s): Portion Packaging, Inc., 3345 Butler Avenue, South Chicago Heights, IL 60411. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-6TA), filed July 10, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes: *Plastic articles and materials (except commodities in bulk) and equipment and supplies used in the manufacture and distribution of plastic articles* from Frankfort, IL to IN, KS, OH, MI, MN, MO, ND, NE, and SD, for 180 days. Supporting shipper(s): Mobil Chemical Co., Plastics Div., Macedon, NY 14502. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-7TA), filed July 13, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, 3202 South State Street, South Chicago Heights, IL 60411. Representative: Marc J. Blumenthal, 39 South LaSalle Street, Chicago, IL 60603. *Contract Carrier:* Irregular routes: *Iron and steel articles*, from the facilities of Ball Metal and Decorating Service, Division of Ball Corporation at Chicago, IL to Plymouth, IN, Sturgis, MI and Piqua, OH for 180 days. Supporting shipper(s): Ball Corporation, 345 South High Street, Muncie, IN 47302. Send protests to:

Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146643 (Sub-8TA), filed July 9, 1979. Applicant: DAVID CREECH TRANSPORTATION SYSTEMS, INC., 3202 South State Street, South Chicago Heights, IL 60411. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier:* Irregular routes: (1) *Electric storage batteries* from Chicago Heights, IL to points in PA, MD, OH, MI, KY, IN, IL, MN, IA, MO, TN, MS, LA, FL, GA, TX, AL, VA, DC, WI, and NY and (2) *rubber or plastic battery containers and covers,* from Milwaukee, WI; Owensboro, KY; and Indianapolis, IN to Chicago Heights, IL and (3) *Scrap batteries,* from points in PA, MD, OH, MI, KY, IN, IL, MN, IA, MO, TN, MS, LA, FL, GA, TX, AL, VA, DC, WI, and NY to Leeds, AL and Chicago Heights, IL, for 180 days. Supporting shipper(s): Pace Battery Co., 12th St. and McKinley St., Chicago Heights, IL 60411. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 147663 (Sub-1TA), filed July 11, 1979. Applicant: WITTE BEVERAGE CO., 1180 Creek Drive, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Bentonite (clay)* from Belle Fourche, SD and Upton, WY and points in their commercial zones to Forreston, IL and Burlington and Little Chute, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vet-Way Feeds, Box 654, Forreston, IL 61030; Midland Cooperatives, Inc., P.O. Box 228, Bohm Drive, Little Chute, WI 54140; Burlington Consumers Co-op, 100 North Dodge Street, Burlington, WI 53105. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 147673 (Sub-2TA), filed June 28, 1979. Applicant: ALBERT F. McCLAIN, d.b.a. McCLAIN TRUCKING COMPANY, 305 North 12th Street, Mayfield, KY 42066. Representative: Louis J. Amato, P.O. Box 3, Bowling Green, KY 42101. Contract carrier; irregular routes: *clay,* in bags and in bulk, from points in Graves County, KY, Panola County, MS, and Henry and Weakly Counties, TN, to points in KY, TN, OH, PA, MS, AL, LA, MO, IL, IN, WV, NY, NJ, CT, MA, MD, MI, WS, CA, CO, and FL, under a continuing contract with Kentucky-Tennessee Clay Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kentucky-Tennessee Clay Company, P.O. Box 449, Mayfield, KY 42066. Send protests to: Floyd A. Johnson, DS, ICC, 100 North Main Bldg-Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 147933 TA, filed July 10, 1979. Applicant: JOHN H. BRYANT d.b.a. J. B. TRANSPORTATION, 211 Lea Court, San Pablo, CA 94806. Representative: Richard E. Macey, 1122 North El Dorado Street, Stockton, CA 95202. *Contract carrier,* irregular routes: (1) *Lubricating oil* in bulk in insulated tank trailers, between Rodeo, CA and Portland, OR; between Rodeo, CA and Salt Lake City, UT; between Richmond, CA and Portland, OR; between Richmond, CA and Salt Lake City, UT; and between Los Angeles, CA and Salt Lake City, UT; (2) *Paraffin waxes* in bulk in insulated tank trailers, between Rodeo, CA and Portland, OR, and between Rodeo, CA and Tacoma, WA, for 180 days. Supporting shipper(s): Union Oil Company of California, 461 S. Boylston St., Los Angeles, CA 90017. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 148083 (Sub-1TA), filed August 2, 1979. Applicant: ROBERT W. SELLARS d.b.a. SELLARS TRANSPORT SERVICE, 1620 Parnell Drive, Eugene, OR 97404. Representative: Robert W. Sellars, 1620 Parnell Drive, Eugene, OR 97404. 503–689–2835. 1. Lumber and sub components for mobile homes and buildings from Washington, Oregon, and Idaho to California, Nevada, and Arizona; 2. Ground minerals in sacks, chemicals in barrels and sacks from Los Angeles, Barstow, Bishop, Dunn, Lompoc, Lucerne Valley, Victorville, and Bay Area, California; Basalt, Cypress Mines, and Colada, Nevada to Washington, Oregon, and Idaho for 180 days. Supporting shipper(s): Continental Minerals Corporation, 1700 East Desert Inn Road, Suite 205, Winchester Plaza, Las Vegas, Nevada 89109 (702–737–0588), Lynn Forest Products, P.O. Box 717, Corona, CA 91720. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–27988 Filed 9–6–79; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Applications; Notice

Correction

In FR Doc. 79–25920, published at page 49324, on Wednesday, August 22, 1979, on page 49348, in the third column preceding the third paragraph "MC 2229 . . .", insert the following two lines:

NOTICE NO. 146

August 13, 1979.

BILLING CODE 1505–01–M

[Volume No. 26]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Correction

In FR Doc. 79–24379, published at page 46555, on Wednesday, August 8, 1979, on page 46570, in the second column, the last paragraph of the column beginning "Authority . . ." should be corrected to read "MC–FC–78184, Authority. . .".

BILLING CODE 1505–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 175
Friday, September 7, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

[M–240, Amdt. 4; Aug. 31, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 31, 1979, meeting agenda.

TIME AND DATE: 9 a.m., August 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 31290, Establishment of Interim Standard Industry Fare Level (Memo 9096).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 1a was added to the August 31, 1979, agenda because it must be acted on expeditiously if it is to serve its intended purpose to permit unanticipated increases in fuel costs to be recovered by carriers during the month of September. Since it is based in part on data which became available only within the last several days, it was not possible to get it to the Board seven days prior to the meeting. Therefore, agency business requires the addition of Item 1a to the agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S–1739 Filed 9–5–79; 3:00 pm]

BILLING CODE 6320–01–M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, September 10, 1979; 10:30 a.m. to 12:30 p.m.; 2:00 to 5:00 p.m.

PLACE: Sheraton Houston, Houston, Texas.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (10:30 a.m. to 12:30 p.m.)

I. Approval of agenda.
II. Approval of minutes of last meeting.
III. Staff Director's Report:
A. Status of funds.
B. Personnel report.
C. Office Directors' reports.
D.. Correspondence:
1. Response from SBA on set aside provision, Pub. L. 95–507.
2. Response from Assistant Attorney General Drew Days on Ku Klux Klan activity.
3. Response from Department of Justice re Kentucky State Police.
E. Approval of Commission Calendar for FY 1980.
F. Review of memorandum re Request for Clarification of Commission Jurisdiction over the Administration of Justice.
IV. Report on Civil Rights Developments in the Southern Region.
V. State Advisory Committee Re-charter:
A. New Jersey.
VI. Action re Nebraska Advisory Committee Report on Affirmative Action in Omaha.
VII. Action re Midwest Advisory Committee Report on Redlining in the Insurance Industry.
VIII. Action re Connecticut Advisory Committee Report on Battered Women in Hartford.
IX. Review of SAC Chairperson's Conference Agenda.
X. Action re HEW Title IX Policy Interpretation on Athletics.

MATTERS TO BE CONSIDERED: (2:00 p.m. to 5:00 p.m.)

XI. Review of Annual Report Outline.
XII. Proposal for Ethnic Consultation.
XIII. Memorandum on Title VII and the Handicapped.
XIV. Review of National Immigration Report.

PERSON TO CONTACT FOR FURTHER INFORMATION: Loretta Ward, Press and Communications Division, (202) 254–6697.

[S–1732–79 Filed 9–5–79; 11:21 am]

BILLING CODE 6335–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 11, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination by the Commission of the FY 80 First Quarter Budget Programs and Priorities.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1733–79 Filed 9–5–79; 11:21 am]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., September 14, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1734–79 Filed 9–5–79; 11:21 am]

BILLING CODE 6351–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, September 4, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), and concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Memorandum and resolution proposing adoption of amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks."

Resolution expressing the Board's regret at the death of Robert P. Rogers, Director, Division of Management Systems and Financial Statistics, and appreciation of Mr. Rogers' many years of service to the Corporation.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 4, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson
Executive Secretary
[S-1737-79 Filed 9-5-79; 3:09 pm]
BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, September 4, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition of the following matters to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Case No. 44,022-L (Reserve for Losses and Allotments for Insurance Expenses—81 Open Liquidation Cases).

Memorandum from the Controller proposing the selection of a consulting firm to assist the Corporation in acquiring additional space in which to house its Washington, D.C. offices.

The Board further determined, by the same majority vote, that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)), and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 4, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1738-79 Filed 9-5-79; 3:09 pm]
BILLING CODE 6714-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., September 14, 1979.
PLACE: 2025 M Street NW., Washington, D.C., 4th Floor Conference Room.
STATUS: Open.

Note.—As a result of Pub. L. 95-630, which restructured the agency from management by a single administrator to management by a three-member board, the agency is now subject to the open meeting provisions of the Government in the Sunshine Act. This is the first meeting of the newly constituted National Credit Union Administration Board.

MATTERS TO BE CONSIDERED:

1. Interim Sunshine Act Policy Statement.
2. Rules of Board Procedure.
3. Delegations of Authority.
4. Consideration of any applications for charters, amendments to charters, mergers and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, acting Secretary of the Board, telephone (202) 254-9800.

[S-1740-79 Filed 9-5-79; 3:49 pm]
BILLING CODE 7535-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 51398, published August 31, 1979.
STATUS: Closed meeting.
PLACE: Room 825, 500 North Capitol Street, Washington, D.C.
DATE PREVIOUSLY ANNOUNCED: Wednesday, August 29, 1979.
CHANGES IN THE MEETING: Additional items.

The following additional item will be considered at a closed meeting scheduled for Wednesday, September 5, 1979, following the 2:30 p.m. open meeting: Settlement of injunctive actions.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling or meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

September 4, 1979.
[S-1735-79 Filed 9-5-79; 11:21 am]
BILLING CODE: 8010-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 10, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, September 12, 1979, at 10:00 a.m., immediately followed by a closed meeting. A closed meeting will be held on Thursday, September 13, 1979, at 9:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c), (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 12, 1979, will be:

1. Consideration of an application by William H. Gregory, III to lift the bar imposed by Commission Order of July 15, 1971, suspending him from association with any broker-dealer in a supervisory or managerial capacity. For further information, please contact Michael F. Perlis at (202) 272-2933.
2. Consideration of whether to affirm action taken by the duty officer, authorizing the Office of the General Counsel to file a brief, *amicus curiae*, before the Merit Systems Protection Board in the matter of *Wells* v. *Califano*, supporting the position of the Office of Personnel Management ("OPM") that the Civil Service Reform Act of 1978 contemplates that an agency can remove employees for unacceptable performance on the basis of interim procedures pending the establishment of a final performance appraisal system by the agency, and that the interim regulations of OPM setting forth procedures to that effect are valid and should be sustained. For further information, please contact Carol K. Scott at (202) 272-2474 or Don Langevoort at (202) 272-2438.
3. Consideration of whether to send a letter to the Office of Management and Budget commenting on legislation proposed by the General Service Administration which would subject the tapes, transcripts or minutes of agency meetings, which agencies must maintain of their closed meetings under the Government in the Sunshine Act, to the records retention law. For further information, please contact John Sweeney at (202) 272-2454.
4. Consideration of an application by The Youngstown Research and Development Company, pursuant to Section 12(h) of the Securities Exchange Act of 1934, for an exemption from the registration requirements of Section 12(g) of that Act. For further information, please contact Michael J. Connell at (202) 272-2579.
5. Consideration of whether to grant the application of Lester Osterman, Lester Osterman Productions, Inc. and Richard Horner for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272-2644.
6. Consideration of whether to issue a release adopting Rule 17j-1 under the Investment Company Act of 1940 which would prohibit fraud or manipulation by persons affiliated with investment companies or their investment advisers or principal underwriters in connection with such persons' trading in securities held or to be acquired by the investment company, and would specifically require the adoption of codes of ethics by investment companies and their advisers and underwriters. For further information, please contact Robert B. Shapiro at (202) 272-2057.

The subject matter of the closed meeting scheduled for Wednesday, September 12, 1979, immediately following the 10:00 a.m. open, will be:

Formal orders of investigation and access to investigative files by Federal, State, or Self-Regulatory Authorities.
Settlement of administrative proceeding of an enforcement nature.
Litigation matter.
Institution of injunctive action.
Freedom of Information Act appeal.
Chapter X proceeding.
Consideration of amicus participation.
Regulatory matter bearing enforcement implications.
Chapter XI proceeding.
Settlement of injunctive action.

The subject matter of the closed meeting scheduled for Thursday, September 13, 1979, at 9:00 a.m., will be:

Legislative and regulatory matters bearing enforcement implications.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Beverly Rubman at (202) 272-2092.

September 4, 1979.
[S-1736-79 Filed 9-5-79; 11:21 am]
BILLING CODE 8010-01-M

10

[Meeting No. 1226]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 2:00 p.m., Tuesday, September 11, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.
STATUS: Open.
MATTERS FOR ACTION:

Old Business

1. Rehabilitation of Oconee No. 2 Hydro Plant.

New Business

Personnel Actions

1. Appointment of Donald W. Earl as Project Manager, Office of the General Manager, Knoxville, Tennessee.
2. Change of Status for Larry H. Edwards from Chief, Cost Planning and Control Staff, to Assistant to the Manager, Office of Engineering Design and Construction, Knoxville, Tennessee.
3. Change of Status for Billy J. Bond for Assistant General Manager to Acting Manager of Community Development, Knoxville, Tennessee.

Consulting and Personal Services Contracts

1. Renewal of consulting contract with Jones and Stokes Associates, Inc., Sacramento, California, for advice and assistance in connection with environmental assessment and monitoring programs, requested by the Office of Natural Resources.
2. Personal services contract with Robert R. Nathan Associates, Inc., Washington, D.C., for advice and assistance in connection with administrative proceedings before the Interstate Commerce Commission, requested by the Office of the General Counsel.

Purchase Awards

1. Rejection of bids received in response to Invitation No. 824989 for reactor safety relief valve discharge line quenchers for Hartsville and Phipps Bend Nuclear Plants.
2. Req. No. 825333—Scrubber fans and bypass fans for Johnsonville magnesium oxide flue gas desulfurization system, Johnsonville Steam Plant.
3. Req. 50—Coal for Widows Creek Steam Plant.
4. Conversion of long-term fixed commitment enrichment contracts with U.S. Department of Energy to adjustable fixed-commitment contracts.

Project Authorization

1. No. 3467—Installation of automatic condenser tube cleaning system on Cumberland Steam Plant Units 1 and 2.

Power Items

1. Letter agreement with Tennessee Valley Public Power Association for expansion of their electric power distribution research, development, and demonstration efforts.
2. Funding authority under Contract TV-37304A with American Nuclear Corporation for equipment and mine development for the proposed Peach Mining Project in Wyoming.

Real Property Transaction

1. Agreement with Stewart County, Tennessee, relating to conveyance of county-owned roads within Land Between The Lakes.

Unclassified

1. Rule and regulation reaffirming sale and distribution of power within the boundary prescribed by Section 15d(a) of the TVA Act.
2. Approval of the Third National Bank, Nashville, Tennessee, and the First American National Bank, Nashville, Tennessee, as additional trustees to manage portions of TVA Retirement System Fund assets; consideration of amendments to the System's Rules and Regulations to permit trustees to be residents of any state (Rule now requires trustees to be residents of either New York or Illinois); and acceptance of TVA contribution rate to the Retirement System for fiscal year 1980.
3. Supplement to contract with Environmental Research and Technology, Inc., concerning sulfur oxide pollution study.
4. Settlement of litigation brought by Ambrose Branch Coal Company, Inc., against TVA as the result of a dispute concerning deliveries under coal contract.

Dated: September 4, 1979.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-1731-79 Filed 9-5-79; 8:59 am]
BILLING CODE 8120-01-M

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Reader Aids

Federal Register

Vol. 44, No. 175

Friday, September 7, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

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	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
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Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

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523-5230	U.S. Government Manual
523-3408	Automation
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523-3517	Privacy Act Compilation

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

FEDERAL COMMUNICATIONS COMMISSION

45951 8–6–79 / Personal attacks and applicability of the Fairness Doctrine to Section 315 "Uses"
45625 8–3–79 / Greenville, N.C.; changes in FM table of assignments
45626 8–3–79 / Palmyra, Mo.; changes in FM table of assignments
45395 8–2–79 / FM broadcast station in AVA, Ill.; table of assignments

FEDERAL HOME LOAN BANK BOARD

46444 8–8–79 / Loans on individual cooperative units

FEDERAL RESERVE SYSTEM

46438 8–8–79 / Truth in lending; official staff interpretations

SECURITIES AND EXCHANGE COMMISSION

46736 8–8–79 / Going private transactions by public companies or their affiliates
46447 8–8–79 / Suspension of duty to file reports upon termination of registration

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 17, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.
WHO: The Office of the Federal Register.
WHAT: Free public briefings (approximately 2½ hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Sept. 21; Oct. 5 and 19; Nov. 2 and 16; at 9 a.m. (identical sessions)
WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

LONG ISLAND, NEW YORK

WHEN: Oct. 10 at 2 p.m.
WHERE: Roosevelt Theatre, State University of New York at Farmingdale
SPONSOR: Long Island Library Resources Council, Inc.
RESERVATIONS AND PARKING: Call 516–286–0400.

PRINCIPLES OF REGULATIONS WRITING SEMINAR

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
The Principles of Regulations Writing Seminar covers the following concepts:
1. Drafting conventions, preferred usage, the rule of consistency.
2. How to arrange and organize your regulations.
3. What you can do to make regulations easier to read and easier to use.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the **Federal Register**.
WHEN: October 3, 1979
November 7, 1979
December 5, 1979
January 16, 1980
February 13, 1980
WHERE: Office of the Federal Register, 1100 L Street, N.W., Washington, D.C., Room 9407.
COST: $75 for each person.
HOW: Each person registers by sending a training authorization form 170 or the training authorization form your office uses to: Special Projects Unit, Office of the Federal Register, NARS, Washington, D.C. 20408.

After receipt of an applicant's training authorization form, Special Projects will mail the applicant a confirmation letter that serves as an admission ticket to the seminar. Tuition will not be charged for an applicant who cancels a confirmed reservation five (5) work days before the day of the seminar. Substitutions are permitted if the applicant's training officer approves.

FOR MORE INFORMATION: Phone Viola Wilson (202) 523–5240

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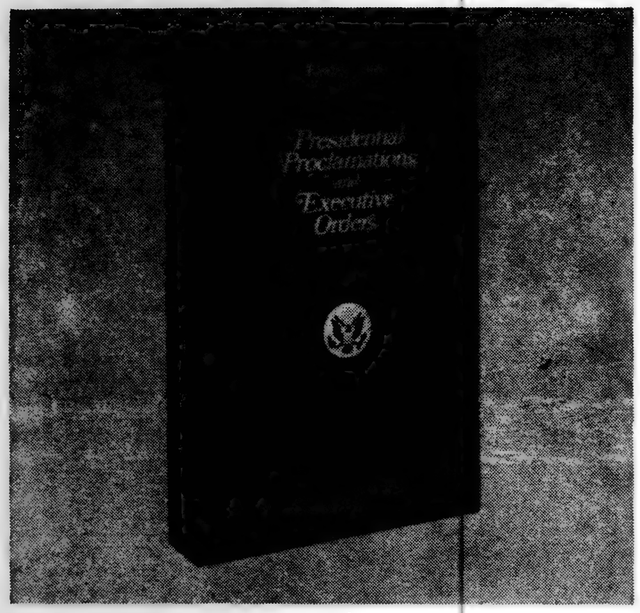
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9-7-79
Vol. 44—No. 175
BOOK 2:
PAGES
52527-52668

federal register

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federal register

Friday
September 7, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour, Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Mississippi.—MS79–1123.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:		
	AL79–1080	May 4, 1979
	AL79–1081	July 27, 1979
Delaware:		
	DE78–3080	Nov. 3, 1978
Florida:		
	FL79–1068	Apr. 13, 1979
Louisiana:		
	LA79–4069	July 20, 1979
Mississippi:		
	MS79–1119	Aug. 17, 1979
Texas:		
	TX79–4010	Jan 5, 1979
	TX79–4032; TX79–4033; TX79–4038; TX79–4048; TX79–4050	Mar. 16, 1979
	TX79–4037	June 1, 1979
	TX79–4045	June 22, 1979
	TX79–4034	July 13, 1979
	TX79–4036	Aug. 17, 1979
Virginia:		
	VA78–3061	Sept. 15, 1979

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois:		
	IL78–2127(IL79–2069); IL78–2138(IL79–2072); IL78–2041(IL79–2070)	Oct. 27, 1978
	IL78–2166(IL79–2071)	Dec. 8, 1978
Kansas:		
	MO78–4048(MO79–4080)	May 5, 1978
Missouri:		
	MO78–4048(MO79–4080)	May 5, 1978
	MO78–4098(MO79–4081)	Oct. 6, 1978
New Mexico:		
	NM79–4021(NM79–4079)	Jan. 5, 1979.
New York:		
	NY77–3120(NY79–3028)	Sept. 9, 1977.
North Carolina:		
	NC75–1078(NC79–1125)	Sept. 5, 1975.
South Carolina:		
	SC75–1029(SC79–1124)	Mar. 7, 1975
	SC75–1045(SC79–1124)	Apr. 11, 1975
Virgin Islands:		
	VI78–3010(VI79–3024); VI79–3011 (VI79–3023)	Mar. 24, 1978

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 31st day of August 1979.

Anthony J. Ponturiero,

Acting Assistant Administrator Wage and Hour Division.

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MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #AL79-1080-Mod # 2 (44 FR-26411-May 4, 1979) Calhoun, Etowah, Green, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa, and Walker Counties, Alabama					
Change: Ironworkers	10.75	.60	.815		.06
Decision # AL79-1114-Mod # 1 (44 FR 44407-July 27, 1979) Etowah County, Alabama					
Change: Carpenters:	9.60	.60	.45		
Carpenters Millwrights	10.10	.60	.45		

NEW DECISION

STATE: Mississippi
DECISION NO.: MS79-1123
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories.
*Counties: Adams, Amite, Franklin, Jefferson, Lawrence, Lincoln, Pike, Walthall, and Wilkinson.

COUNTIES: *See below
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	5.50				
Bricklayers	6.50				
Carpenters	5.17				
Cement Masons	5.37				
Drywall Hangers	5.50				
Electricians	5.14				
Ironworkers:					
Structural & Ornamental	4.50				
Reinforcing	4.82				
Laborers:					
Laborers	3.00				
Mason Tenders	3.31				
Mortar Mixers	3.56				
Pipelayers	3.50				
Painters, brush	4.26				
Plumbers & Pipefitters	6.95				
Roofers (shingles)	4.00				
Sheet Metal Workers	4.94				
Truck Drivers	3.25				
Welders - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.00				
Bulldozers	4.00				
Roller	3.75				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. DE78-3080 - MOD. #6 (42 FR 51567 - November 3, 1978) State of Delaware					
Change:					
LABORERS - BUILDING CONSTRUCTION:					
New Castle County:					
Group 1	8.80	.90	.80		
Group 2	9.05	.90	.80		
Group 3	9.30	.90	.80		
Group 4	10.05	.90	.80		
Group 5	9.40	.90	.80		
LABORERS - HEAVY CONSTRUCTION:					
New Castle County:					
General Laborers, Asphalt tamper, Asphalt Raker, Concrete Pitman, Landscapers, Planter, Puddler, Railroad Trackman, Rubber Magazine Tender, Seeder and Arboriate, and Signalmen	6.55	.90	.80		
Pipelayers	6.70	.90	.80		
Blasters, Caissons and Cofferdams (open air below 8 feet where excavations for circular caissons and cofferdams are 8 feet or more below level of natural grade adjacent to starting point), Diamond point drills, Form setters, Gunite nozzle operators, and wagon drills	6.85	.90	.80		

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL79-1068-Mod. #3 (44 FR 22309 - April 13,1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida					
Change:					
Bricklayers:					
Bricklayers	9.20	.50	.40		.04
Blocklayers	9.20	.50	.40		.04
Manhole bricklayers	9.20	.50	.40		.04
Plasterers	9.20	.50	.40		.04
Terrazzo workers	9.20	.50	.40		.04
Tile setters	9.20	.50	.40		.04
Cement masons	9.20	.50	.40		.04
Masonry cutting or grinding machine operator	9.45	.50	.40		.04
Carpenters:					
Carpenters	8.78	.50	.65		.07
Radial saw operators	8.78	.50	.65		.07
Soft floor layers	8.78	.50	.65		.07
Millwrights	10.82	.55	.70		.10
Painters:					
Brush	8.25	.40	.40		.06
Spray	8.75	.40	.40		.06
Paperhanging	8.75	.40	.40		.06
Sandblasting	8.75	.40	.40		.06
Sheet metal workers	11.29	.70	.48		.04

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA79-4069 - MOD. #2 (44 FR 42860 - July 20, 1979) Statewide, Louisiana					
CHANGE:					
Bricklayers & stonemasons:					
Zone 7	$10.00		.30		
Cement masons (Building Construction):					
Zone 9	8.75		.30		
Electricians:					
Zone 1:					
Electricians	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
Zone 6:					
Electricians	12.25	.85	3%		½%
Cable splicers	12.75	.85	3%		½%
Zone 8:					
Electricians	13.21		3%		½%
Cable splicers	13.46		3%		½%
Line Construction:					
Zone 2:					
Linemen, line equipment & truck ops.	13.76	5%	8%		3/10%
Cable splicers	14.01	5%	8%		3/10%
Zone 5:					
Linemen & equip. ops.	13.21		3%		½%
Cable splicers	13.46		3%		½%
Groundman	60%JR		3%		½%
Plasterers:					
Zone 5	9.78	.60	.35		.08
Zone 9	10.00		.30		
Plumbers & pipefitters:					
Zone 2	11.95	.78	.875		.07
OMIT:					
Line Construction:					
Zone 6					
Linemen & equip. oprs.	$11.55	.75	3%		½%
Cable splicers	12.05	.75	3%		½%
Groundman (1st 6 mos.)	3.00	.75	3%		½%
Groundman (2nd 6 mos.)	3.70	.75	3%		½%
Groundman (after 1 yr.)	3.93	.75	3%		½%
ADD:					
Line Construction:					
Zone 6:					
Linemen & equip. ops.	12.25	.85	3%		½%
Cable splicers	12.75	.85	3%		½%
Groundman	4.17	.85	3%		½%

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS79-1119-Mod # 1 (44 FR 48567-August 17,1979) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi					
Change:					
Terrazzo Workers	9.85	.40			.01
DECISION NO. TX79-4010 - MOD. #7 (44 FR 1681 - January 5, 1979) Wichita County, Texas					
CHANGE:					
Plumbers & pipefitters:					
Zone 1	$11.05	.45	.75		.05
Zone 2	11.55	.45	.75		.05
DECISION NO. TX79-4032 - MOD. #2 (44 FR 16325 - March 16, 1979) Harrison County, Texas					
CHANGE:					
Electricians:					
Electricians	10.60	.60	3%		½%
Cable splicers	10.95	.60	3%		½%
DECISION NO. TX79-4033 - MOD. #5 (44 FR 16326 - March 16 1979) Jefferson & Orange Cos., Texas					
CHANGE:					
Plumbers	13.32	.34			.03

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4034 -					
MOD. #2					
(44 FR 41061 - July 13, 1979)					
Bowie County, Texas					
CHANGE:					
Plumbers & pipefitters	$12.72	.60	.70		.05
DECISION NO. TX79-4036 -					
MOD. #1					
(44 FR - August 17, 1979)					
Galveston & Harris Cos., Texas					
CHANGE:					
Plasterers	12.40	.87	.40		.02
Roofers:					
Composition	10.48	.42	.45	.35	.06
Slate & tile	11.23	.42	.45	.35	.06
Kettlemen	9.74	.42	.45	.35	.06
DECISION NO. TX79-4037 -					
MOD. #2					
(44 FR 31856 - June 1, 1979)					
Lubbock County, Texas					
CHANGE:					
Bricklayers & stonemasons	10.52		.30		.03

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4038 -					
MOD. #6					
(44 FR 16328 - March 16, 1979)					
Travis County, Texas					
CHANGE:					
Electricians & cable splicers	$11.80	.60	8%		.8%
Marble, tile & terrazzo workers	9.15	.60			.05
Painters:					
Group 1	9.65				
Group 2	9.99				
Group 3	10.15				
DECISION NO. TX79-4045 -					
MOD. #2					
(44 FR 36694 - June 22, 1979)					
El Paso County, Texas					
CHANGE:					
Electricians:					
Electricians	10.15	.45	3%		1/10
Cable splicers	10.40	.45	3%		1/10
Line Construction:					
Lineman-Technicians; Equipment op.	10.15	.45	3%		1/10%
Cable splicers	10.40	.45	3%		1/10%
Groundman	75%JR	.45	3%		1/10%
OMIT:					
Line Construction:					
Groundman (less than 6 months)	50%JR	.45	3%		1/10%

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4048 -					
MOD. #5					
(44 FR 16330 - March 16, 1979)					
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Limpscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Plumbers & pipefitters:					
Zone 1	$10.37	.45	.65		1.06
Zone 2	10.62	.45	.65		1.06
Zone 3	10.87	.45	.65		1.06
DECISION NO. TX79-4050 -					
MOD. #5					
(44 FR 16334 - March 16, 1979)					
Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE:					
Building Construction:					
Electricians - Zone 2	11.80	.60	8%		.8%
Glaziers	7.40				
Decision NO. 78-VA-3061-Mod. #2					
(43 FR 41366-September 15,1978)					
Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William and Rappahannock Counties, Virginia					
CHANGE:					
ELECTRICIANS (ALBEMARLE, FAUQUIER & LOUDOUN CTYS)	$12.20	.70	3%+.80		.13
ELECTRICIANS (ALL OTHER COUNTIES)	6.61				

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Bond, Calhoun Clinton, Greene, Jersey, Monroe, Montgomery, Randolph & Washington

DECISION NUMBER: IL79-2069

DATE: Date of Publication

Supersedes Decision No. IL78-2127, dated October 27, 1978 in 43 FR 50319

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Montgomery County					
Bricklayers, Stonemasons, Cement Masons, Plasterers, Marble-Tile-Terrazzo Workers, Pointers-Caulkers-Cleaners					
Hillsboro & East Thereof	11.10	.70	.75	1.00	
Remainder of County	12.43	.70	.75		.10
Washington County					
South of Hoyleton Road					
Bricklayers, Stonemasons, Cement Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	10.80	.65	.45		
Bond & Clinton Cos., & Remainder of Washington County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Cleaners-Caulkers	10.70	.35	.50		
Calhoun & Jersey Counties					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers	12.43	.70	.75		.01
Greene County					
Bricklayers, Stonemasons, Plasterers, Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulker	11.50	.50	.52		.02
Randolph County					
Bricklayers, Stonemasons, Terrazzo Workers, Tile Setters	10.80	.65	.45		

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PAGE 2

DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (Cont'd)					
Monroe County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	$12.45	.70	.75		.10
CARPENTERS:					
Monroe, Randolph, Clinton & Washington Counties					
Carpenters, Soft Floor Layers	12.685	.60	1.00		
Montgomery County					
Waggoner, Standard City & North Thereof					
Carpenters, Soft Floor Layers	11.95	.55	.55		.06
Millwrights & Piledrivermen	12.45	.55	.55		.06
Remainder of County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	12.685	.75	.90		
Greene County					
Whitehall & North Thereof					
Carpenters & Soft Floor Layers	10.90	.55	.25		.02
Millwrights	11.40	.55	.25		.02
Piledrivermen	11.15	.55	.25		.02
Bond, Calhoun & Jersey Cos., South of Apple Creek in Greene County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	12.685	.70	.90		
CEMENT MASONS:					
Randolph County					
Cement Masons & Plasterers	10.70				
Greene County					
Cement Masons	11.255	.50	.52		.02
Clinton County					
Carlyle & East Thereof					
Cement Masons	11.75				.01

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Calhoun, Jersey, Monroe, Bond & Remainder of Clinton County					
Cement Masons	$12.085	1.00	.69		
ELECTRICIANS:					
Portion East of Butler Grove, Grisham, Hillsboro & Raymond Twps. in Montgomery County	13.50	.50	3%+.40		.35%
N.W. Part of Montgomery Co.	13.17	.50	3%+.70		1/10%
Monroe County, Red Bud Twp. in Randolph Co., Western ½ of Bond County, Venedy Twp. in Washington Co., Remainder of Clinton & Montgomery	12.73	4%	3%+.65	6%	1%
Huey, Hoffman & Vicinity in Clinton County, Eastern ½ of Bond County & Remainder of Randolph & Washington Counties	12.85	.40	13%		1%
Calhoun, Jersey & Greene Counties	12.35	.50	3%+1.00	6%	3/10%
IRONWORKERS:					
Bond, Clinton, Calhoun, Jersey, Monroe, Washington & Randolph Cos., Litchfield, Hillsboro & South Thereof in Montgomery Co.	12.95	.55	1.05		
Greene Co; & Remainder of Montgomery County	12.25	.55	1.05		.08
LABORERS:					
Clinton County					
Trenton & Vicinity					
Common	11.50	.55	.60		.035
Brick & Plaster Mason Tenders	12.00	.55	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.75	.55	.60		.035
Dynamite Men	13.10	.55	.60		.035

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Carlyle & Vicinity					
Common	$11.40	.65	.60		.035
Brick & Plaster Mason Tenders	11.90	.65	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.65	.65	.60		.035
Dynamite Men	13.00	.65	.60		.035
New Baden & Vicinity					
Laborers	11.45	.65	.60		.035
Brick Mason Tenders & Mortar Mixers	11.95	.65	.60		.035
Cutting & Burning w/a Torch; Chain Saws	11.70	.65	.60		.035
Plaster Tenders	13.05	.65	.60		.035
Montgomery County:					
Hillsboro & Vicinity					
Common	11.10	.55	1.00		.035
Brick & Plaster Mason Tenders	11.60	.55	1.00		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.35	.55	1.00		.035
Dynamite Men	12.70	.55	1.00		.035
Litchfield & Vicinity					
Common	12.05		.60		.035
Brick & Plaster Mason Tenders	12.55		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.30		.60		.035
Dynamite Men	13.65		.60		.035
Monroe County					
Common	11.80	.55	.35		.035
Air Tool Opr., & Bottom Men on Sewer Trenches	12.30	.55	.35		.035
Mason & Plasterer Tenders	12.05	.55	.35		.035
Dynamite Men	13.40	.55	.35		.035

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Greene County					
Common	$12.05		.60		.035
Brick & Plaster Mason Tenders	12.05		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.55		.60		.035
Dynamite Men	13.65		.60		.035
Calhoun County					
Common	12.45		.20		.035
Brick & Plaster Mason Tenders	12.95		.20		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.70		.20		.035
Dynamite Men	14.05		.20		.035
Washington County					
Ashley & Vicinity					
Common	12.25		.40		.035
Brick & Plaster Mason Tenders	12.75		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.50		.40		.035
Dynamite Men	13.85		.40		.035
Vicinity of Nashville					
Common	12.15		.50		.035
Brick & Plaster Mason Tenders	12.65		.50		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.40		.50		.035
Dynamite Men	13.75		.50		.035
Vicinity of Okawville					
Common	12.05		.60		.035
Brick & Plaster Mason Tenders	12.55		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.30		.60		.035

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Vicinity of Okawville					
Dynamite Men	$13.65		.60		.035
Bond County:					
Vicinity of Greenville					
Common	12.35		.30		.035
Brick & Plaster Mason Tenders	12.85		.30		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.60		.30		.035
Dynamite Men	13.95		.30		.035
Vicinity of Sorento					
Common	12.40		.25		.035
Brick & Plaster Mason Tenders	12.90		.25		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.65		.25		.035
Dynamite Men	14.00		.25		.035
Pocohontas & Vicinity					
Common	12.25		.40		.035
Brick & Plaster Mason Tenders	12.75		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.50		.40		.035
Dynamite Men	13.85		.40		.035
Jersey County					
Common	12.40		.25		.035
Brick & Plaster Mason Tenders	12.90		.25		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	12.65		.25		.035
Dynamite Men	14.00		.25		.035

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Randolph County					
Chester & Vicinity					
Common	$11.00	.65	1.00		.035
Brick & Plaster Mason Tenders	11.25	.65	1.00		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.50	.65	1.00		.035
Dynamite Men	12.60	.65	1.00		.035
Sparta & Vicinity					
Common	11.50	.55	.60		.035
Brick & Plaster Mason Tenders	12.00	.55	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.75	.55	.60		.035
Dynamite Men	13.10	.55	.60		.035
LATHERS:					
Montgomery Co., & the Northern ½ of Greene Co.	13.15				
Bond & Washington Cos.	11.35				
Southern ½ of Greene Co. & Remainder of Counties	13.735			.65	.01
PAINTERS:					
Randolph County					
Commercial	9.00				
Industrial	10.90				
Remainder of Counties					
Commercial	11.93	.55	.35		
Industrial	12.18	.55	.35		
PLASTERERS:					
Bond, Washington, Calhoun, Clinton, Monroe & Jersey Cos.	13.815				

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DECISION NO. IL79-2069

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Randolph County	$14.25	.35	.55		.08
Hillsboro & North Thereof in Montgomery County	12.43	.35	.88		.07
Valmeyer & Vicinity in Monroe County; Bond, Greene, Jersey, Calhoun Counties; South & West of Route #127 in Montgomery Co.	14.50	.48	.96		.05
ROOFERS:					
Washington County	9.40	.60	.20		
Montgomery County	12.93	.70			
Remainder of Counties:					
Roofers	10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
SHEET METAL WORKERS:					
Calhoun County	10.78	.55	.55		.12
Remainder of Counties	11.83	.60	1.00	6%	.02
SPRINKLER FITTERS	13.08	.75	1.05		.08

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DECISION NO. IL79-2069 ILL-2-PEO-1-2

POWER EQUIPMENT OPEATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.62	.87	1.51		.05
GROUP II	10.69	.87	1.51		.05
GROUP III	10.04	.87	1.51		.05
GROUP IV	9.94	.87	1.51		.05
GROUP V	9.69	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.97	.87	1.51		.05
d.	12.29	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

Group I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Opers. Plant Opers., Ditching Machines or Backfillers (requiring oilers), Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more (where oiler or fireman is required), Hoists-2 drum or more (where oiler or firemen is not required) Hydraulic Backhoes, Ditching Machines or Backfiller (not required oilers) Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Boad Oprs., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cats, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Grader or Ribbon Machine, Longitudinal Floats, Boat Oprs., (under 25 ft., conveyors (1), Distribution Oprs., On Trucks, Siphones or Jets (1) Winch Heads or Apparatuses (1), Light Plant (1) Mixers (under 2 bags)

GROUP II Air Compressor (1), Water Pumps regardless of size (1) Welding Machines (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monigans, large cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

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DECISION NO. IL79-2069

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	20.00a		
GROUP II	11.20	.65	20.00a		
GROUP III	11.40	.65	20.00a		

TRUCK DRIVERS

GROUP I: - Drivers on 2 Axle Trucks hauling less than 9 tons, Air Compressor and Welding Machine including those pulled by separate units, Warehouseman, Greasers & Tiremen, Pick-Up Trucks when hauling materials, Tools, or men to and from and on the jobs site; Fork Lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 Axle Trucks hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winch Trucks, Hydrolifts Trucks, or similar equipment when used for transportation purposes, Fork Lifts over 6,000 lb. capacity; Winch Trucks; 4-Axle combination units; ticket writers

GROUP III: - 2,3 or 4 Axle Trucks, Hauling 16 tons or more, Drivers on Oil Distributors, Water Pulls, Mechanics & Working Foreman; 5-Axle or more combination units; Dispatcher

FOOTNOTES

a. Per Week Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5 (a) (1) (ii)).

STATE: Illinois COUNTI...
DECISION NUMBER: IL79-2070 DATE: ...
Supersedes Decision No. IL78-2041, dated October 27, 197...
FR 50323
DESCRIPTION OF WORK: Building Construction Projects, (exclud... ngle family homes & apartments up to and including 4 stories).

COUNTIES: Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette County	$12.63	.80	.96		.01
Clark, Douglas & Edgar Cos.	12.15	.50	1.20		.01
Remainder of Counties	11.30	.45	.60		.03
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Fayette County:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers-Caulkers-Cleaners-Marble-Tile-Terrazzo Workers	12.43	.70	.75		.10
Coles & Cumberland Cos:					
Arcola & South Thereof in Douglas County:					
Bricklayers & Stonemasons	12.45	.45	.50		.05
Edgar Co; & North of Arcola in Douglas County:					
Bricklayers & Stonemasons	12.45	.45	.50		.05
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointers-Caulker, Cleaners-Marble-Tile-Terrazzo Workers	10.95		.50		
CARPENTERS:					
Fayette, Clay, Richland & Wabash Cos; Southeastern Part of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.76	.65	.50		.03
Millwrights	11.11	.65	.50		.03
Crawford & Lawrence Cos; Eastern ½ of Jasper Co.:					
Carpenters & Soft Floor Layers	11.50	.70	.77		.02
Millwrights	12.10	.70	.77		.02
Piledrivermen	11.90	.70	.77		.02
Wayne Co.; Northeastern & Western ½ of ... Co.:					
Carpenters, ... men & Soft Floor Layers	1...	.45	.50		.02
Millwrights	1...	.45	.50		.02

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Coles, Clark, Cumberland, Edgar, Effingham Cos; Western ½ of Jasper Co., & Southern part of Douglas County:					
Carpenters & Soft Floor Layers	$13.075	.55	.30		.07
Millwrights & Piledrivermen	13.575	.45	.30		.07
Northern part of Douglas Co., including Tuscola & Newman:					
Carpenters & Soft Floor Layers	12.315	.45	1.10		.13
Millwrights & Piledrivermen	12.815	.45	1.10		.13
CEMENT MASONS & PLASTERERS:					
Northern Part of Fayette Co.:					
Cement Masons & Plasterers	11.70		.65		
Remainder of Fayette Co.:					
Cement Masons	11.75				.01
Clark, Edgar & Richland Cos.:					
Cement Masons & Plasterers	9.50			.50	.01
Crawford, Lawrence & Wabash Cos.:					
Cement Masons & Plasterers	11.05	.80	.80		
Clay, Edwards & Jasper Cos; & Remainder of Wayne Co:					
Cement Masons & Plasterers	11.45				
Coles, Cumberland & Effingham Cos; & Southern part of Douglas County:					
Cement Masons	12.01				
Plasterers	11.10				
Northern part of Douglas ... including Tuscola & Newman:					
Cement Masons	13.325	.45	.25		.025
Plasterers	12.515	.45			.025

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd)					
S.W. Corner of Wayne Co.:					
Cement Mason & Plasterers	$10.70				
ELECTRICIANS:					
Wabash County	13.45	.50	3%		4%
Coles & Cumberland Cos.; Southern ½ of Douglas Co.; Twps. of Bishop, Douglas, Lucas, Moccasin, St. Francis, Summit & Teutopols in Effingham County	13.50	.50	3%+.40		.35%
Edwards, Wayne & Clay Cos.; & Remainder of Effingham & Fayette Counties	12.85	.40	13%		1%
Northern ½ of Douglas Co., Twps. of Banner & Liberty in Effingham Co,; Twps. of Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson & Loudon in Fayette County	13.50	.50	3%+.40		.35%
Remainder of Counties	12.80	.50	3%+.70		.01
GLAZIERS:					
Coles & Douglas	11.34	.45	.50		
Clark & Edgar Counties	14.19				
Edwards, Lawrence, Wabash & Wayne Counties	10.905	.48	.50		.25
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	12.15	.65	1.00		.08
Avena & North thereof in Fayette County & Remainder of Effingham County	12.25	.55	1.05		.08
Fayette Co., (Southern ½ below Brownstown)	12.95	.55	1.05		
Clark, Jasper, Crawford Cos.; Northern ½ of Lawrence Co., North of Olney in Richland Co., Dexter & East thereof in Effingham Co.; Remainder of Clay County	11.30	.90	2.05		.15

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Coles & Cumberland Cos.:					
Unskilled	$11.15	.55	.40		.035
Semi-Skilled	11.35	.55	.40		.035
Skilled	11.55	.55	.40		.035
Clark, Douglas & Edgar Cos.:					
Unskilled	11.05	.45	.60		.035
Semi-Skilled	11.25	.45	.60		.035
Skilled	11.40	.45	.60		.035
Remainder of Counties	9.00	.50	.30		.035
LATHERS:					
Richland County	13.735			.65	.01
Fayette County	13.15				
Effingham County	11.00				
Coles, Crawford, Douglas & Edgar Counties	11.99	.45	.50		.01
PAINTERS:					
Fayette County:					
Commercial	11.93	.55	.35		
Industrial	12.18	.55	.35		
Edwards & Wayne Counties:					
Brush & Roller	8.45				
Clay County:					
Brush	8.50				
Roller	9.25				
Wabash County:					
Brush	9.25				
Roller	9.50				
Crawford, Jasper, Effingham, Lawrence & Richland Cos.:					
Commercial & Industrial	10.55	.55			
Remainder of Counties	12.32	.65	.40		.04
PLUMBERS & STEAMFITTERS:					
Clay & Fayette Counties	13.00	1.20	1.40		.15
Edwards, Wabash & Lawrence Counties	13.575	.50	.90		.06
Wayne County	13.50	.50	.75		.08
Clark, Crawford, Edgar & Richland Counties	13.85	.60	1.00		.10
Remainder of Counties	12.15	.35	1.15		.1

DECISION NO. IL79-2070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Fayette County:					
Roofers	$10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
Edwards & Wabash Counties:					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Richland & Wayne Counties	8.75	.60			
Clay, Effingham & Jasper Cos.:					
Roofers	12.08	.30	.30		.02
Coles, Cumberland & Douglas Cos.:					
Roofers	12.39	.70	.45		.03
Remainder of Counties	12.20	.50	.30		
SHEET METAL WORKERS:					
Crawford County	12.78	.40+a	.83		.07
Clark, Coles, Cumberland, Edgar & Douglas Counties	11.94	.60+a	.67		.16
Remainder of Counties	11.83	.60	1.00	6%	.02
SPRINKLER FITTERS	13.08	.75	1.05		.02
WELDER - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a. 3% of gross earning to SASMI

DECISION NO. IL79-2070

ILL-2-PEO-1-2

POWER EQUIPMENT OPERATORS: FAYETTE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.62	.87	1.51		.05
GROUP II	10.69	.87	1.51		.05
GROUP III	10.04	.87	1.51		.05
GROUP IV	9.94	.87	1.51		.05
GROUP V	9.69	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.92	.87	1.51		.05
c.	11.97	.87	1.51		.05
d.	12.29	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

Group I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Opers. Plant Opers., Ditching Machines or Backfillers (requiring oilers), Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more (where oiler or fireman is required), Hoists-2 drum or more (where oiler or firemen is not required) Hydraulic Backhoes, Ditching Machines or Backfiller (not required oilers) Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Boat Oprs., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cats, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Grader or Ribbon Machine, Longitudinal Floats, Boat Oprs., (under 25 ft., conveyors (1), Distribution Oprs., On Trucks, Siphones or Jets (1) Winch Heads or Apparatuses (1), Light Plant (1) Mixers (under 2 bags)

GROUP II Air Compressor (1), Water Pumps regardless of size (1) Welding Machines (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monigans, large cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL79-2070

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.20	.75	.75		.08
CLASS II	12.10	.75	.75		.08
CLASS III	11.90	.75	.75		.08
CLASS IV	8.00	.75	.75		.08

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournamixers, Two Drum Machine, One Drum Hoists with Tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Ross Carriers or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blade, Drilling Machines, incl. Well Testing, Caissons, Shaft or any similar type Drilling Machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Well Point System), Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe Attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air

DECISION NO. IL79-2070

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, Two to Four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop Curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for Hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman, Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck Hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Valve, Farm Tractor

PAGE 1

DECISION NO. IL79-2070

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.80	.65	20.00a		
GROUP II	11.20	.65	20.00a		
GROUP III	11.40	.65	20.00a		

TRUCK DRIVERS

GROUP I: - Drivers on 2 Axle Trucks hauling less than 9 tons, Air Compressor and Welding Machine including those pulled by separate units, Warehouseman, Greasers & Tiremen, Pick-Up Trucks when hauling materials, Tools, or men to and from and on the jobs site; Fork Lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 Axle Trucks hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winch Trucks, Hydrolifts Trucks, or similar equipment when used for transportation purposes, Fork Lifts over 6,000 lb. capacity; Winch Trucks; 4-Axle combination units; ticket writers

GROUP III: - 2,3 or 4 Axle Trucks, Hauling 16 tons or more, Drivers on Oil Distributors, Water Pulls, Mechanics & Working Foreman; 5-Axle or more combination units; Dispatcher

FOOTNOTES

a. Per Week Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR.5.5 (a) (1) (ii)).

SUPERSEDE DECISION

PAGE 2

STATE: Illinois COUNTY: Kankakee
DECISION NUMBER: IL79-2071 DATE: Date of Publication
Supersedes Decision No.: IL78-2166, December 9, 1978 in 43 FR 57
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.91	.99		.05
BOILERMAKERS	13.05	1.05+.40	1.00	5%	.03
BRICKLAYERS, STONEMASONS, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners	12.60	.80	.75		
CARPENTERS:					
Building					
Carpenters, Millwrights, Soft Floor Layers & Pile-drivermen	12.72	.65	.80		.01
Residential	70%JR				
CEMENT MASONS	12.60	.80	.75		
ELECTRICIANS:					
Building	13.80	.80	3%+.70		2/10%
Residential - up to 36 units 4 Floors or less	7.86	.80	3%+.60		2/10%
ELEVATOR CONSTRUCTORS:					
Constructors	12.20	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Area East of Cabery in Kankakee County	12.46	.60	.30		.01
Remainder of Kankakee Co.	11.89	.48	.89		.01
IRONWORKERS	12.50	.75	.75		.05
PAINTERS:					
Brush & Roller	10.85	.55	.50		
Spray	10.90	.45	.50		
PLASTERERS	11.50	.80	.75		
PLUMBERS & STEAMFITTERS	13.86	.50	1.00		.08
ROOFERS	13.45	.65			
SHEET METAL WOKERS	13.52	.80	.98		.09
SPRINKLER FITTERS	13.08	.75	1.05		.08
TRUCK DRIVERS					
2-3 Axle Trucks	11.275	29.00b	31.00b		
4 Axle Trucks	11.475	29.00b	31.00b		
5 Axle Trucks	11.675	29.00b	31.00b		
6 Axle Trucks	11.825	29.00b	31.00b		

DECISION NO. IL79-2071

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through G
b. Per week - Per Employee

PAGE

DECISION NO. IL79-2071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	$10.77	.65	.60		.035
Semi-Skilled	10.97	.65	.60		.035
Skilled	11.17	.65	.60		.035

UNSKILLED: Common Laborer, Carpenter Tenders; Tool Cribmen, Firemen or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Patchers; Landscapers, Unloading Explosives; Laying of Sod; Planting of Trees; Asphalt Plant Laborers; Wrecking Laborers; Writer of Scale Tickets; Fire Shop Laborers; Fireproofing Laborers; Janitors; Wrecking-Dismantling Buildings; Wallmen & Hosemovers; Driving of Stakes; Stringlines for all Machinery

SEMI-SKILLED: Handling of materials treated with Oil, Creosote, Asphalt or any foreign material, Track Laborers; Cement Handlers; Chloride Handlers; The unloading and Laborers w/steel workers 7 rebars; Concrete Workers (wet); Batch Dumpers; Mason & Plasterer Tenders & Material Wheelers Kettlemen & Tarmen; Tank Cleaners; Plastic Installers; Scaffold Workers; Motorized Buggies or Motorized Unit used for wet concrete or handling of building materials laborers w/dewatering systems; All Sewer Workers plus depth; Rod & Chainmen with Land Surveyors; Vibrator Operators; Mortar Mixer Operator; Cement Silica; Clay; Fly Ash; Lime & Pozzolan Handlers (bulk or bag); Cofferdam Workers plus depth; (on concrete paving) placing, Cutting & Trying or Reinforcing; Deck Hand; Finish Hand & Shore Laborers; Bankmen or Floating Plant; Asphalt Workers w/machine; Asphalt Raker; Grade Checker

SKILLED: Dynamite Man or Blasters; Caisson Workers plus depth; Gunnite; Nozzle Men Leadman on Sewer Work; Welder; Cutters; Burners; Torchmen; Chain Saw Operator; Jackhammer & Drill Operators; Layout Man; Steel Form Setters (street & highway); Air Tamping Hammerman; Signal Man on Crane, Concrete Saw Operator; Screenman on Asphalt Pavers; Laborers Tending Masons w/hot materials are used; Multiple Concrete Duct-Leadmen; Curb Asphalt Machine Operator; Ready-Mix Scaleman; Portable or Temporary Plant; Laborers Handling Masterplate or similar materials; Laser Beam Operator; Coring Machine Operator

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DECISION NO. IL79-2071

ILL-12-PEO-1

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$13.25	1.10	1.10	.60	.05
CLASS II	11.95	1.10	1.10	.60	.05
CLASS III	10.80	1.10	1.10	.60	.05
CLASS IV	9.55	1.10	1.10	.60	.05

CLASS I - Asphalt Plant, Asphalt Spreader, Auto-Grad, Batch Plant, Benoto (Requires two engineers), Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe Front End Loader Machine Compressor & Throttle Valve, Concrete Breaker (Truck Mounted), Conveyor, Concrete Paver, Concrete Placer, Concrete Tower, Cranes (all), Derricks (all), Grader, Elevating, Grouting Machines, Highlift Shovels or Front End Loader 2¼ yd. & over, Hoists, One, Two & Three Drum Hoists, Two Tugger One Floor, Hydraulic Boom Truck, Locomotives (all), Motor Patrol, Pile Drivers & Skid Rig, Post-Hole Digger, Pre-Stress Machine, Pump Cretes Dual Ram (requiring frequent lubrication & water), Pumpcretes, Squeeze Cretes - Screw type Pumps, Gypsum Bulker & Pump, Rock Drill (Self-Propelled), Rock Drill (truck mounted), Scoops - Tractor Drawn, Slip Form Paver, Straddle Buggies, Tournapull, Tractor with Boom & Side Boom, Trenching Machines

CLASS II - Boilers, Bulldozers, Broom all Power Propelled, Concrete Mixer (2 bag & over), Conveyor Portable, Forklift Truck, Greaser Engineer, Highlift Shovels or Front End Loaders under 2¼ yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (All), Steam Generators, Stone Crushers, Tractors, (All), Winch Trucks with "A" Frame

CLASS III - Air Compressor - Small 125 & under (1 to 5 not exceed a total of 300 ft.), Air Compressor - large over 125, Combination - Small Equipment Opr., Generators under & over 50 KW, Heaters, Mechanical Pumps over 3" (1 to 3 not to exceed a total of 300 ft.), Pumps, Well Points, Welding Machine (2 through 5), Winches, 4 Small Electric Drill Winches

CLASS IV - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

STATE: Illinois

COUNTIES: [illegible], DeKalb, [illegible], McHenry & Will

DECISION NUMBER: IL79-2072

DATE: Date of Publication

Supersedes Decision No. IL78-2138, dated October 27, 1978 at 43 FR 50328

DESCRIPTION OF WORK: Heavy and Highway Construction Projects

ILL-HH-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
DuPage & Lake Cos.	$12.70	1.08	1.02		.08
Will County	11.43	.70	.85		
Remainder of Counties	11.74	.75	1.00		
CEMENT MASONS:					
Boone County	11.78	.55	1.00		
DuPage County	10.90	.68	.70		.06
Kane, Kendall, McHenry & DeKalb Cos.	13.20	.90	.86		
Lake County	11.75	.85	1.05		
Will County	11.02	.65	1.28		.05
ELECTRICIANS:					
Boone & DeKalb Counties	12.96	.50	3%+.80		1%
DuPage County	14.20	5%	9%	8%	4%
Kendall County; (Townships of Aurora, Sugar Grove, Big Rock, Kaneville, Blackberry, Batavia, Geneva and the City of St. Charles in Kane County; Sandwich Township in DeKalb County)	14.67	6%	11%		4%
McHenry County; Kane Co.; (that portion North of St. Charles, Geneva & Blackberry Townships) excluding St. Charles School for Boys; Townships of Hamshire, Rutland, Dundee, Burlington, Plato, Elgin, Virgin & Compton	14.75	5%	13%		5/10%
Lake County	13.5[illegible]	.65	3%+1.00		1/4%
Will County	15.11	.88	3%+.70		2/10%
IRONWORKERS:					
Boone County; DeKalb Co., (excluding S.E. 2/3, including Sycamore & DeKalb) & the N.W. half of McHenry County	12.50	.75	.375		

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DECISION NO. IL79-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Kane County; DeKalb County (S.E. 2/3, including Sycamore & DeKalb), DuPage County, (excluding Argonne & Vicinity) the Northern half of Kendall Co.; & the S.E. ¼ of McHenry County	$13.65	.75	.525		.08
Lake County; Hebron & Woodstock & E. thereof in McHenry County	13.65	1.24	1.20		.10
Will County; Argonne & Vicinity in DuPage County; & Southern half of Kendall County	12.00	2.65	.525		.02
LABORERS:					
DeKalb County:					
Common, Landscaping & Carpenter Tenders	10.75	.60	.55		.035
Mortar Mixers, Mason & Plasterer Tenders, Vibrator Operator	10.95	.60	.55		.035
Bottom Sewer Workers, Jackhammer Operator, Cofferdam, Caisson Workers, Gunnite Nozzleman	11.05	.60	.55		.035
LINEMEN:					
Boone, DeKalb, DuPage, Kane, Kendall, Lake & McHenry Cos.					
Linemen, Crane Operator (15 ton or over); Digger Operator	12.83	.45	3%		4%
Equipment Operator	10.92	.45	3%		4%
Truck Driver	8.70	.45	3%		4%
Groundman	8.41	.45	3%		4%
Will County:					
Linemen & Equipment Operators	12.47	.50	3%+.50		2/10%
Cable Splicers	13.83	.50	3%+.50		2/10%

DECISION NO. IL79-2072

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Kane, Kendall, DeKalb, DuPage & McHenry Cos.:					
Brush and Spray	$ 9.34	.60	.70		.06
Lake County:					
Brush	10.85	.575	.65		.013
Boone County:					
Brush & Roller	10.95	.55			
Open Structural & Sandblasting	11.20	.55			
Spray	11.50	.55			
Will County:					
Brush	10.45	.76	.55		.04
Bridges with:					
Butt Plates & Handrails	10.45	.76	.55		.04
W/Superstructures	11.45	.76	.55		.04
WO/Superstructures	10.95	.76	.55		.04
TRUCK DRIVERS:					
Boone County:					
2-3 Axle Trucks	11.25	.55	1.00		
4 Axle Trucks	11.40	.55	1.00		
5 Axle Trucks	11.60	.55	1.00		
6 Axle Trucks	11.80	.55	1.00		
Remainder of Counties:					
2-3 Axle Trucks	11.45	29.00a	33.00a		
4 Axle Trucks	11.60	29.00a	33.00a		
5 Axle Trucks	11.80	29.00a	33.00a		
6 Axle Trucks	12.00	29.00a	33.00a		

FOOTNOTES:
a. Per Week Per Employee

DECISION NO. IL79-2072

ILL-3-LAB-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Boone, Kane, Kendall & McHenry					
CLASS 1					
Common Laborers, Asphalt Laborers, Asphalt Plant Laborers, Stripping Laborers, Concrete Saw, Self-Propelled Saw, Laser Beam	$ 9.20	.57	1.10		
CLASS 2					
Air Tampers & Vibrators	9.25	.57	1.10		
CLASS 3					
Mortar Concrete Mixers	9.30	.57	1.10		
CLASS 4					
Stringline & Form Setters, Torchman, Sheeting & Cribbing Men, Black Top Rackers, Lutmen, Machine Screwmen	9.35	.57	1.10		
CLASS 5					
Chain Saw Men, Jackhammermen, Drillmen, Concrete Breaker, Air Spade	9.45	.57	1.10		
CLASS 6					
Tunnel Men, Tile Layers & Bottom Men	9.55	.57	1.10		
CLASS 7					
Caisson Diggers, Dynamiters	9.70	.57	1.10		

DECISION NO. IL79-2072

ILL-9-LAB-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
DuPage & Will Counties					
CLASS 1					
Common Laborers, Plasterer Laborers, Pumps for De-Watering & other Unclassified Laborers	$10.10	.57	1.20		
CLASS 2					
Cement Gun Laborers	10.175	.57	1.20		
CLASS 3					
Scaffold Laborers & Chimney Laborers over 40'	10.20	.57	1.20		
CLASS 4					
Windlass & Cement Gun Nozzle Laborers - Gunnite	10.20	.57	1.20		
CLASS 5					
Stone Handlers & Derrickmen	10.30	.57	1.20		
CLASS 6					
Jackhammermen	10.325	.57	1.20		
CLASS 7					
Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	10.35	.57	1.20		
CLASS 8					
Firebrick & Boiler Setters' Laborers	10.42	.57	1.20		
CLASS 9					
Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	10.45	.57	1.20		
CLASS 10					
Boiler Setter Plastic Laborers	10.55	.57	1.20		
CLASS 11					
Jackhammer on Firebrick Only	10.655	.57	1.20		

DECISION NO. IL79-2072

ILL-49A-LAB-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: LAKE COUNTY					
SEWER & WATER MAIN EXTENSIONS					
CLASS 1					
General Laborers & Top Laborers & Flagmen	$ 8.55	.57	1.10		
CLASS 2					
Second Bottom Men	8.775	.57	1.10		
CLASS 3					
Well Point System-Jackhammer Men (Tampers & Vibrators) Bottom Men, Pipelayers on Drains & Pipelayer Men; All Tunnel Work	8.90	.57	1.10		
STREET PAVING & GRADE SEPARATION					
CLASS 1					
General, Asphalt & Asphalt Plant Laborers; Flagmen	8.55	.57	1.10		
CLASS 2					
Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmen, Mitre B Spreaders	8.825	.57	1.10		
CLASS 3					
Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw	8.90	.57	1.10		

DECISION NO. IL79-2072 ILL-10-PEO-2-3

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.90	1.10	1.10	.60	.05
CLASS II	12.35	1.10	1.10	.60	.05
CLASS III	11.60	1.10	1.10	.60	.05
CLASS IV	10.50	1.10	1.10	.60	.05
CLASS V	9.50	1.10	1.10	.60	.05

CLASS I Apshalt Plant, Asphalt Heater & Planer Combination, Asphalt Spreader, Autograde, Belt Loader, Caisson Rigs, Central Redimix Plant, Concrete Breaker (truck mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Placer, Concrete Tube Float, Cranes, All Attachments, Cranes, Linden, Peco & Machines of a like nature, Derricks, Traveling, Dredges, Euclid Loader, Elevating Type, Gradall, & Machines of a like nature, Derricks, All, Derrick Boats, Derricks, Travelling, Dredges, Euclid Loader, Elevating Type, Gradall, and machines of a like nature, Grader, Elevating Hoists, 1,2 & 3 drum. Locomotives, all, Mucking Machine, 1 cu. yd. & over, Mucking Machine, under 1 cu. yd., Piledrivers & Skid Rig, Pre-Stress Machine, Pump Cretes Dual Ram (requiring frequent lubrication & water), Rock Drill Crane type, Slip Form Paver, Straddle Buggies, Tractor w/Boom, Tractaire w/ Attachments, Trenching Machine, Underground Boring &/or Mining Machine under 5 ft., Wheel Exactor Widener (Apsco)

CLASS II Mechanic-Welder, Batch Plant, Bituminous Mixer, Bulldozer Combination Backhoe Front End Loader Machine, Concrete Breaker or Hydro-Hammer, Concrete Grinding Machine, Concrete Mixer or Paver 7S Series to & including 27 cu. ft., Concrete Spreader, Concrete Curing Machine, Burlap Machine, Belting Machine & Sealing Machine, Finishing Machine, Concrete Grader, Motor Patrol, Auto Patrol, Form Grader, Pull Grader, Subgrader, Highlift Shovels or Front End Loader, Hydraulic Boom Trucks (All Attachments), Locomotives, Dinky, Pump Cretes; Squeeze Cretes; Screw Type Pumps Gypsum Bulker & Pump, Rock Drill (Self-Propelled), Roto-Tiller, Seaman, Etc. Self-Propelled Scoops; Tractor Drawn, Self-Propelled Compactor, Spreader, Chipstone, Etc., Scraper, Tank Car Heater, Tractor, Push, Pulling Sheeps Foot, Disc., Compactor, Etc. Tug Boats

DECISION NO. IL79-2072

POWER EQUIPMENT OPERATORS: (Cont'd)

CLASS III Boilers, Boiler & Throttle Valve, Brooms, All Power Propelled, Cement Supply Tender, Compressor & Throttle Valve, Concrete Mixer (2 Bags & over) Conveyor, Portable, Fireman on Boiler, Forklift Trucks, Greaser Engineer, Grouting Machine Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger, Single Drum, Jeep Diggers, Pipe Power Saw, Concrete, Power-Driven, Pug Mills, Rollers, All, Steam Generators, Stone Crushers, Stump Machine, Winch Trucks with "A" Frame, Work Boats, Tamper, Form Motor Driven

CLASS IV Air Compressors, All, Generators, Heaters, Mechanical, Light Plants, All (1 through 5), Pumps, All, Pumps Well Points, Tractaire, Welding Machines (2 through 6)

CLASS V Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri & Kansas COUNTIES: Cass, Clay, Jackson, Platte & Ray Missouri; Johnson & Wyandotte, Kansas

DECISION NO.: MO79-4080 DATE: Date of Publication

Supersedes Decision No. MO78-4048 dated May 5, 1978 in 43 FR 19555

DESCRIPTION OF WORK: Residential projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.67	.60	1.55		.05
BOILERMAKERS	12.00	1.15	1.00		.03
BRICKLAYERS & STONEMASONS	11.025	.80	.35	1.00	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	10.50	.50	.30		.05
CEMENT MASONS	11.675	.65	.50		
ELECTRICIANS (Up to and including 3 stories);					
ZONE 1 - Johnson County, Kansas (that portion of Johnson Co., west of Aubry, Oxford & Shawnee Townships)	9.30	.45	3%+.20		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Cos. Missouri; & Wyandotte Co. Kansas; & remainder of Johnson Co., Kansas	9.96	.54	3%+.51	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1					
Area bounded on the North by State Hwy. 92 in Platte & Clay Cos.; east by a straight line from intersection of State Hwys. 92 & 33 in Clay Co., intersection of U.S. Hwy 24 & State Hwy. 7 in Jackson Co.; south on State Hwy 7 to Pleasant Hill; south from Pleasant Hill due west to the Missouri-Kansas line; not including Pleasant Hill & Blue Springs	13.72	.54	3%+.51	.95	.12

DECISION NO. MO79-4080 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS CONTD:					
ZONE 2					
Remainder of Cass, Clay, Jackson & Platte Cos., Missouri:					
Electricians (electrical labor contract of 2000 man-hours & over)	13.72	.54	3%+.51	.95	.12
Electricians (electrical labor contracts does not exceed 2000 man-hours)	12.72	.54	3%+.51	.95	.12
ZONE 3					
Ray County, Missouri:					
Electricians (electrical labor contract of 2000 man-hours & over)	13.72	.54	3%+.51	.95	.12
Electricians (electrical labor contracts does not exceed 2000 man-hours)	12.12	.54	3%+.51	.95	.12
ELEVATOR CONSTRUCTORS	12.71	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.72	.61	.89	18.7%	.04
IRONWORKERS	11.60	.75	1.40	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson & Platte Cos., Missouri; Johnson & Wyandotte Cos., Kansas					
GROUP I	9.65	.45	.40	.50	.10
GROUP II	9.80	.45	.40	.50	.10
GROUP III	9.95	.45	.40	.50	.10
Zone 2 - Ray Co., Missouri					
GROUP I	9.35	45	40	50	10
GROUP II	9.50	45	.40	50	10
GROUP III	9.65	.45	.40	.50	.10

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LABORERS CLASSIFICATION DEFINITIONS

GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator; jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man
GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender; Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONTD):					
Site preparation & grading ZONE 3 - Johnson & Wyandotte Cos., Kansas; Site preparation, incidental paving & utilities Clay, Jackson, Platte & Ray Cos., Missouri					
GROUP I	9.65	.60	.60	.75	.10
GROUP II	9.80	.60	.60	.75	.10
GROUP III	9.95	.60	.60	.75	.10
GROUP IV	10.15	.60	.60	.75	.10
GROUP V	10.45	.60	.60	.75	.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Carpenter tenders; salamander tenders; dump man flagman; loading trucks under bins, hoppers and conveyors, track men and all other general laborers
GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgia buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drain ~~pipe, conduit pipe,~~ tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter tenders; puddlers (paving only)

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used
GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders tenders and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels
GROUP V - Manhole builder (brick or block); dynamite and powder man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
MARBLE AND TILE SETTERS	12.65	5%	4.25%		
MARBLE AND TILE SETTERS' HELPERS	10.85				
PAINTERS:					
Brush, tapers and roller	11.03	.55	.70		.08
Spray	12.03	.55	.70		.08
PLASTERERS	13.10				
PIPEFITTERS	12.89	.67	1.50		.10
PLUMBERS	13.82	.97	1.15		.17
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	12.20	.75	1.00	.75	.10
GROUP II	11.85	.75	1.00	.75	.10
GROUP III	9.45	.75	1.00	.75	.10
GROUP IV	9.95	.75	1.00	.75	.10
GROUP V	10.20	.75	1.00	.75	.10
GROUP VI	12.45	.75	1.00	.75	.10
GROUP VII	12.70	.75	1.00	.75	.10
GROUP VIII	12.10	.75	1.00	.75	.10
GROUP IX	13.20	.75	1.00	.75	.10
GROUP X	12.70	.75	1.00	.75	.10
GROUP XI					
(a)	11.95	.75	1.00	.75	.10
(b)	11.70	.75	1.00	.75	.10
(c)	9.70	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 1
GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe, all types; barber-greene loader (similar type); blade-power, all types; boats-power; boilers (2); boring machines (all types); cableways; cherry pickers (all types); chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders - all types; mechanic and welder; mucking machine; orange peels; pumps - material all types; push cats; scoops all types; self-propelled rotary drill; shovel, power side boom; skimmer scoop; testhole machine; throttle man
GROUP II - Boilers (1); brooms - power operated (all types); chip spreader (front man); clef plant operator; compressors (1) 150' or over; concrete saws, self-propelled ; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser hoist, hoist, endless chain - power operated; hopper - power operated; hydra hammer (all types); lad-a-vator - similar type; rollers - all types; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 105 ft. or over not more than 20' apart; compressors-tandem (any sizes); compressors single, truck mounted; elevator; finishing machine
GROUP III - Oiler
GROUP IV - Fork lift-masonry; oiler drivers - all types
GROUP V - Tractors (except when hauling material) less than 50 h.p.; "A" frame trucks; form lift-all types & sizes (except masonry); mixers (with side loaders); pumps (with well points) dewatering systems, test or pressure pumps
GROUP VI - Clamshells, 80 ft. of boom or over (including jib); crane or rigs 80 ft. of boom or over (including jib); draglines 80 ft. of boom or over (including jib); piledrivers, 80 ft of boom or over (including jib)
GROUP VII - Crane or rigs, over 200 ft. of boom
GROUP VIII - Hoists each additional drum over 1 drum
GROUP IX - Master mechanic
GROUP X - Crane - tower or climbing
GROUP XI - Ready mixed concrete plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS CONTD)					
Site preparation & grading Johnson & Wyandotte Cos., Kansas; Site preparation, Incidental paving & utilities, Clay, Jackson, Platte & Ray Cos., Missouri Zone 2					
GROUP I	11.90	.75	1.00	.75	.10
GROUP II	11.65	.75	1.00	.75	.10
GROUP III	10.95	.75	1.00	.75	.10
GROUP IV	9.45	.75	1.00	.75	.10
GROUP V	9.95	.75	1.00	.75	.10
GROUP VI	12.15	.75	1.00	.75	.10
GROUP VII	11.90	.75	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS
GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders, maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2
GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; ship spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; [illegible] tooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator

CLASSIFICATION DEFINITIONS CONTD:

POWER EQUIPMENT OPERATORS
GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman; rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; roller opr., other than dredge; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1
GROUP IV - Mechanic's helpers; oilers
GROUP V - Oiler driver, all types
GROUP VI - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over
GROUP VII - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, flat, slate & tile; damproofers & waterproofers	11.60	.75	.75		.14
SHEET METAL WORKERS	12.83	.75	1.10		.08
SOFT FLOOR LAYERS	9.81	.50	.85	1.00	1%
SPRINKLER FITTERS	13.28	.75			
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction: Zone 1					
GROUP I	10.975	.75	1.00		
GROUP II	11.05	.75	1.00		
GROUP III	11.175	.75	1.00		
GROUP IV	11.075	.75	1.00		
GROUP V	11.275	.75	1.00		
GROUP VI	11.175	.75	1.00		
GROUP VII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1

GROUP I - Flat beds; pick-ups; dump trucks, under 10 yds.

GROUP II - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

GROUP III - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)

GROUP IV - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers

GROUP V - Mechanics

GROUP VI - Transit mix, 5 yds. and over

GROUP VII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (CONTD)					
Site preparation & grading Johnson and Wyandotte Cos., Kansas; Site preparation, Incidental paving & Utilities, Clay, Jackson, Platte & Ray Cos., Missouri					
Zone 2					
GROUP I	9.99	.75	1.25	.75	
GROUP II	10.19	.75	1.25	.75	
GROUP III	10.50	.75	1.25	.75	
GROUP IV	10.65	.75	1.25	.75	
GROUP V	9.765	.75	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS-Zone 2
GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
GROUP II - Material trucks; tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half tracks; speedace; euclids and other similar excavating equipment
GROUP III - A-frame, lowboy, and boom truck driver
GROUP IV - Mechanics and welders
GROUP V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

Note: Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (21 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTIES: Jasper, McDonald and Newton
DECISION.: MO79-4081 DATE: Date of Publication
Supersedes Decision No. MO78-4098 dated October 6, 1978 in 43 FR 46464
DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.97	.50	1.00		.04
BOILERMAKERS	12.00	1.15	1.00		.02
BRICKLAYERS & STONEMASONS	10.85		.40		
CARPENTERS:					
Carpenters	9.72	.50	.30		
Millwrights & piledrivermen	9.97	.50	.30		
CEMENT MASONS	7.40				
ELECTRICIANS:					
Electricians	10.54	.65	3%+.75	5%	.01
Cable splicers	10.89	.65	3%+.75	5%	.01
ELEVATOR CONSTRUCTORS:					
Elevator constructors	12.71	.745	.56	3%+a	.025
Helpers	70%JR	.745	.56	3%+a	.025
Helpers probationary	50%JR				
GLAZIERS	8.05			.25	
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
Group 1	7.40	.60	.50		.10
Group 2	7.65	.60	.50		.10
Group 3	7.70	.60	.50		.10

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - General laborers, carpenter tenders, trackmen, wreckers handling and carrying of reinforced steel

Group 2 - Pipelayers, (conduit pipe, sewer tile, drain tile, duct line w. mains), air tool operators, pier hole diggers (over 10'), vibrators, jackhammer, chipping hammer operator (air or electric), asphalt rakers, mastic kettlemen, sandblasting, gunnite nozzlemen, cutting torch & welders, barco, jackson or similar tamp operators, powderman

Group 3 - Plasterers and mason tenders

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	10.50				
LINE CONSTRUCTION:					
Linemen	12.67	.45	3%+.15		½%
Linemen operators	12.07	.45	3%+.15		½%
Groundman	8.10	.45	3%+.15		½%
Groundman, 1st 6 mos.	6.15	.45	3%+.15		½%
Groundman, powderman	8.78	.45	3%+.15		½%
PAINTERS:					
Brush, roller, tapers, floor tile & carpet layers, paperhangers	9.87		.45		
Spray	10.245		.45		
PLASTERERS	7.30				
PLUMBERS	11.115	.90	.85		.08
POWER EQUIPMENT OPERATORS:					
Group 1	10.48	.50	.75		
Group 2	10.00	.50	.75		
Group 3	9.40	.50	.75		
Group 4	8.80	.50	.75		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane; dragline; derrick; drum or tower hoist (2-drum); power shovel or back hoe (on tracks); piledriver; power blade, motor patrol; mechanic; hydraulic, self-propelled crane; stringer or cherry picker crane

Group 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1 drum); loader (track or rubber tire); tractor, pusher, roller (asphalt); tractor or back hoe (on rubber tires); tractor (compaction roller or pull blade track)

Group 3 - Fork lift; roller; industrial tractor; tractor (compaction roller or pull blade-rubber tire); distributor (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over); small machine (operator)

Group 4 - Oiler, oiler-driver

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	9.75	.82	.55		.04
STEAMFITTERS	11.48	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DIRVERS:					
Pickup or station wagon	7.15	.25			
Dump and under 5 tons, flat-bed, warehousemen	7.25	.25			
Transit mix	7.48	.25			
Tandem dump over 5 tons, winch, semi-trailer, lowboy, euclids or other similar equipment	7.52	.25			

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as vacation Pay Credit. Also 7 Paid Holidays.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii))."

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO.: NM79-4079 DATE: Date of Publication
Supersedeas Decision No. NM79-4021 dated January 5, 1979 in 44 FR 1652
DESCRIPTION OF WORK: BUILDING AND HEAVY PROJECTS (also including RESIDENTIAL PROJECT in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Cos.)	12.81	.50	1.37a		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Cos.	10.00	.65	.55		.07
BOILERMAKERS	10.90	1.175	1.00	.75	.03
BRICKLAYERS-STONEMASONS:					
Zone I-A	10.91	.77	.50		.10
Zone I-B	12.16	.77	.50		.10
Zone I-C	13.16	.77	.50		.10
Zone II	11.01	.77	.50		.10
Zone III	12.01	.77	.50		.10
Zone IV	11.11	.67	.40		.10
Zone V	12.11	.67	.40		.10
Zone VI	10.41	.67	.40		.10
Zone VII	11.11	.67	.40		.10
Zone VIII	11.84	.77	.30		.10
Zone IX	10.59	.77	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	7.50	1.00	1.15	.65	.20
Zone I-B	8.75	1.00	1.15	.65	.20
Zone I-C	9.50	1.00	1.15	.65	.20
General Building, Heavy & Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	11.05	1.10	1.15		.20
Zone 2-B	12.55	1.10	1.15		.20
Zone 2-C	13.30	1.10	1.15		.20

CARPENTERS' ZONE DEFINITIONS

CARPENTER (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing poing
ZONE II - General Building & Heavy Construction & Residential Construction (Dwelling houses & apartments over two stories in height:
Zone 2-A - 0 - 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

CARPENTERS - San Juan County Only					
Zone I	11.05	1.10	1.15		.20
Zone II	13.05	1.10	1.15		.20
Zone III	13.30	1.10	1.15		.20

SAN JUAN COUNTY ZONE DEFINITIONS FOR CRAFTS

ZONE I - Within 15 road miles of the City of Farmington
ZONE II - More than 15 miles, but less than 35 miles from Farmington
ZONE III - 35 miles or more from the City of Farmington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASON:					
Area I	9.47	.77	.60		.20
Area II:					
Zone 1	9.47	.77	.60		.20
Zone 2	9.47	.77	.60		.20
Zone 3	10.97	.77	.60		.20
Cement masons (Residential)	6.00	.77	.60		.20
Cement masons (Heavy)	9.47	.77	.60		.20
CEMENT MASONS:					
Composition & Machine Oprs.					
Area I	9.72	.77	.60		.20
Area II:					
Zone 1	9.72	.77	.60		.20
Zone 2	10.97	.77	.60		.20
Zone 3	11.22	.77	.60		.20

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone I					
1-A	12.15	.60	3%+.70		½%
1-B	13.00	.60	3%+.70		½%
1-C	13.73	.60	3%+.70		½%
1-D	14.58	.60	3%+.70		½%
Zone II	13.73	.60	3%+.70		½%
Zone III					
3-A	9.60	.30	3%		1/10%
3-B	11.05	.30	3%		1/10%
Zone IV					
4-A	11.75	.60	3%		.01
4-B	12.10	.60	3%		.01
4-C	12.25	.60	3%		.01
4-D	12.50	.60	3		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	13.37	.60	3%+.70		½%
1-B	14.22	.60	3%+.70		½%
1-C	14.95	.60	3%+.70		½%
1-D	15.80	.60	3%+.70		½%
Zone II	14.95	.60	3%+.70		½%
Zone III					
3-A	9.85	.30	3%		1/10%
3-B	11.30	.30	3%		1/10%
Zone IV					
4-A	12.10	.60	3%		.01
4-B	12.45	.60	3%		.01
4-C	12.60	.60	3%		.01
4-D	12.85	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties
Area 1-A - From nearest basing point cities, towns and mileage fr main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
[illegible] - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distan from the main post office in that town will be zoned out of Santa Fe.

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending up to 30 miles from Area 1-A

Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 -12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Cos.:					
Elevator constructors	11.50	.545	.35	3%+b+c	.02
Elevator constructors helpers	70%JR	.545	.35	3%+b+c	.02
Elevator constructors, prob.	50%JR				
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otera and Sierra Cos.:					
Elevator constructors	8.68	.895	.69	4%+b+c	.035
Elevator constructors helper	70%JR	.895	.69	4%+b+c	.035
Elevator constructors, prob.	50%JR				
GLAZIERS	9.79	.70	.30		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I	11.50	.65	1.25		.18
ZONE II					
Area 1	11.50	.65	1.25		.18
Area 2	12.75	.65	1.25		.18
Area 3	13.50	.65	1.25		.18
Area 4	13.75	.65	1.25		.18
ZONE III	10.55	.55	1.40		.15
ZONE IV	11.55	.55	1.40		.15

IRONWORKERS ZONE DEFINITIONS

ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties
ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within Area 1, 2, 3, and 4 shall revert to the $15.00 oer day subsistence rate.
ZONE III - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS: BUILDING					
Group I	7.36	.63	.77		.10
Group II	7.66	.63	.77		.10
Group III	7.66	.63	.77		.10
Group IV	7.96	.63	.77		.10
Group V	8.11	.63	.77		.10

BUILDING LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers (pot men), window washers, wagon, core and diamond drillers tenders; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)

ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	7.36	.63	.77		.10
Group 2	7.66	.63	.77		.10
Group 3	7.76	.63	.77		.10
Group 4	7.96	.63	.77		.10
Group 5	8.11	.63	.77		.10
ZONE II					
Group 1	7.86	.63	.77		.10
Group 2	8.16	.63	.77		.10
Group 3	8.26	.63	.77		.10
Group 4	8.46	.63	.77		.10
Group 5	8.61	.63	.77		.10
ZONE III					
Group 1	8.36	.63	.77		.10
Group 2	8.66	.63	.77		.10
Group 3	8.76	.63	.77		.10
Group 4	8.96	.63	.77		.10
Group 5	9.11	.63	.77		.10

LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK) CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS RESIDENTIAL CONSTRUCTION					
Group I	5.02	.63	.77		.10
Group II	5.32	.63	.77		.10
Group III	5.42	.63	.77		.10
Group IV	5.62	.63	.77		.10

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers, tender outside
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Zone I	11.29	.77			.06
Zone II	12.21	.77			.01
Zone III	8.98	.77			.01

LATHERS ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEAD BURNERS					
Zone I	12.95	.68	1.42		.16
Zone II	13.45	.68	1.42		.16
Zone III	14.70	.68	1.42		.16
Zone IV	13.58	.68	1.42		.16

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
Zone I - Shall include a distance of seven road miles inclusive beyond the city or town limits
Zone II - Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of area I.
Zone III- Shall apply to all areas not within 1 or 2, or not within the specific areas.
Zone IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

COMMERCIAL LINE WORK CONTD:

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMMERCIAL LINE WORK					
ZONE I					
Linemen - technicians	12.15	.60	3%+.70		4%
Cable splicers	13.37	.60	3%+.70		4%
Equipment Operator (includes helicopter op.)	11.54	.60	3%+.70		4%
Equipment Operator (includes Helicopter mechanic)	10.57	.60	3%+.70		4%
Powderman	10.57	.60	3%+.70		4%
Groundman & Jackhammer Oprs.	8.63	.60	3%+.70		4%
ZONE II					
Linemen - technicians	13.00	.60	3%+.70		4%
Cable splicers	14.22	.60	3%+.70		4%
Equipment Opr. (includes helicopter op.)	12.39	.60	3%+.70		4%
Equipment Opr. (includes Helicopter mechanic)	11.42	.60	3%+.70		4%
Powderman	11.42	.60	3%+.70		4%
Groundman & Jackhammer Oprs.	9.48	.60	3%+.70		4%
ZONE III					
Linemen - technicians	13.73	.60	3%+.70		4%
Cable splicers	14.95	.60	3%+.70		4%
Equipment Opr. (includes helicopter op.)	13.73	.60	3%+.70		4%
Equipment Opr. (includes helicopter mechanic)	12.15	.60	3%+.70		4%
Powderman	12.15	.60	3%+.70		4%
Groundman & Jackhammer Oprs.	10.21	.60	3%+.70		4%
ZONE IV					
Linemen - technicians	14.58	.60	3%+.70		4%
Cable splicers	15.80	.60	3%+.70		4%
Equipment Opr. (includes helicopter op.)	13.97	.60	3%+.70		4%
Equipment Opr. (includes helicopter mechanic)	13.00	.60	3%+.70		4%
Powderman	13.30	.60	3%+.70		4%
Groundman & Jackhammer Oprs.	11.06	.60	3%+.70		4%

Las Alamos County - Use ZONE III rates.

COMMERCIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	9.60	.30	3%		½%
Cable splicers	9.85	.30	3%		½%
Equipment opr. (includes helicopter opr.)	9.12	.30	3%		½%
Equipment opr. (includes helicopter mechanic)	8.40	.30	3%		½%
Powderman	8.40	.30	3%		½%
Groundman & Jackhammer Oprs.	6.82	.30	3%		½%
ZONE II					
Linemen - technicians	11.05	.30	3%		½%
Cable splicers	11.30	.30	3%		½%
Equipment Opr. (includes helicopter opr.)	10.50	.30	3%		½%
Equipment Opr. (includes helicopter mechanic)	9.67	.30	3%		½%
Powderman	9.67	.30	3%		½%
Groundman & Jackhammer Oprs.	7.85	.30	3%		½%

COMMERCIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

COMMERCIAL LINE WORK CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE A					
Linemen - technician	11.35	.60	3%		½%
Cable splicers	11.70	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	10.78	.60	3%		½%
Equipment Opr. (includes helicopter mechanic)	9.93	.60	3%		½%
Powderman	9.93	.60	3%		½%
Groundman & Jackhammer Oprs	8.06	.60	3%		½%
ZONE B					
Linemen - technician	11.70	.60	3%		½%
Cable splicers	12.05	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.13	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	10.28	.60	3%		½%
Powderman	10.28	.60	3%		½%
Groundman & Jackhammer Oprs.	8.41	.60	3%		½%
ZONE C					
Linemen - technician	11.85	.60	3%		½%
Cable splicers	12.20	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.28	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	10.43	.60	3%		½%
Powderman	10.43	.60	3%		½%
Groundman & Jackhammer Oprs.	8.56	.60	3%		½%
ZONE D					
Linemen - technician	12.10	.60	3%		½%
Cable splicers	12.45	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.53	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	11.68	.60	3%		½%
Powderman	11.60	.60	3%		½%
[illegible] & Jackhammer Oprs.	8.81	.60	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS	9.50	.77			
MARBLE, TILE & TERRAZZO FINISHERS	7.85	.77			
MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	11.80	1.10	1.15		.20
Zone 2	13.30	1.10	1.15		.20
Zone 3	14.05	1.10	1.15		.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

PAINTRES: ZONE I					
Class 1-A	9.47	.70	.40		.05
Class 1-B	9.97	.70	.40		.05
Class 1-C	9.72	.70	.40		.05
Class 1-D	10.05	.70	.40		.05
Class 1-E	9.80	.70	.40		.05
ZONE II:					
Class 2-A	8.60	.70	.40		.05
Class 2-B	8.82	.70	.40		.05
Class 2-C	9.25	.70	.40		.05
Class 2-D	8.70	.70	.40		.05
Class 2-E	9.35	.70	.40		.05
Class 2-F	8.60	.70	.40		.05
Class 2-G	9.10	.70	.40		.05
ZONE II (RESIDENTIAL)					
Brush & rollers	8.60	.70	.40		.05
Spray & sandblast	9.25	.70	.40		.05
Paperhangers	8.82	.70	.40		.05
Vinyl hangers	8.70	.70	.40		.05
ZONE III					
Class 3-A	8.23	.68			.02
Class 3-B	8.65	.68			.02
Class 3-C	8.375	.68			.02
Class 3-D	9.08	.68			.02

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PAINTERS' CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE IV					
Class 4-A	7.12	.35	.20		.05
Class 4-B	7.62	.35	.20		.05
Class 4-C	7.37	.35	.20		.05
Class 4-D	7.22	.35	.20		.05
Class 4-E	7.70	.35	.20		.05
Class 4-F	7.45	.35	.20		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Hidalgo, Curry, Lea and Eddy Counties, New Mexico.
Class A - Painters, roller and hand textures
Class B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
Class C - Paperhanger
Class D - Drywall finisher; ames tool operator
Class E - Hand finisher machine texture

ZONE II - Colfax, Hardin, Los Alamos, Mora, Sandoval, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
Class A - Painters and roller
Class B - Paperhangers
Class C - Spray, sandblast, steel, special coating applicator
Class D - Vinyl hangers
Class E - Drywall finisher tool and machine texture
Class F - Hand texture
Class G - Hand finisher

ZONE III - Luna, Otero and Dona Ana Counties
Class A - Brush, paperhangers
Class B - Spray, sandblasting, swing stage, stripping machine
Class C - Ames tool and steel brush after erection
Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

ZONE IV - Residential Construction in Santa Fe, Sandoval, Rio Arriba & Taos Counties
Class A - Brush and roller
Class B - Spray, parking lot stripping
Class C - Paperhangers
Class D - Vinyl hangers
Class E - Drywall finishers - ames tool op., machine texture
Class F - Drywall finishers - hand finisher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Statewide, except Otero, Grant, Sierra, Dona Ana, & Hidalgo Counties	10.66	.77	.60		.06
Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties	8.48	.77	.25		.01
PLUMBERS-PIPEFITTERS:					
Area I	12.45	.68	1.42		.16
Area II	12.95	.68	1.42		.16
Area III	14.20	.68	1.42		.16
Specific area	13.08	.68	1.42		.16
Residential	7.75	.68	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties

POWER EQUIPMENT OPERATORS AREA DEFINITIONS:
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 - 35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
AREA I (RESIDENTIAL & BUILDING CONSTRUCTION)					
ZONE I					
Group 1	8.68	.70	.60		.15
Group 2	9.57	.70	.60		.15
Group 3	9.65	.70	.60		.15
Group 4	9.71	.70	.60		.15
Group 5	9.77	.70	.60		.15
Group 6	9.87	.70	.60		.15
Group 7	9.97	.70	.60		.15
Group 8	10.70	.70	.60		.15
ZONE II					
Group 1	10.43	.70	.60		.15
Group 2	11.32	.70	.60		.15
Group 3	11.40	.70	.60		.15
Group 4	11.46	.70	.60		.15
Group 5	11.52	.70	.60		.15
Group 6	11.62	.70	.60		.15
Group 7	11.72	.70	.60		.15
Group 8	12.45	.70	.60		.15
ZONE III					
Group 1	10.68	.70	.60		.15
Group 2	11.57	.70	.60		.15
Group 3	11.65	.70	.60		.15
Group 4	11.71	.70	.60		.15
Group 5	11.77	.70	.60		.15
Group 6	11.87	.70	.60		.15
Group 7	11.97	.70	.60		.15
Group 8	12.70	.70	.60		.15
AREA II (RESIDENTIAL & GENERAL BUILDING CONSTRUCTION)					
Group 1	8.68	.70	.60		.15
Group 2	9.57	.70	.60		.15
Group 3	9.65	.70	.60		.15
Group 4	9.71	.70	.60		.15
Group 5	9.77	.70	.60		.15
Group 6	9.87	.70	.60		.15
Group 7	9.97	.70	.60		.15
Group 8	10.70	.70	.60		.15

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)

AREA I - Statewide, except San Juan County
Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton & Las Cruces
Zone I - 0 - 50 miles
Zone II - Over 50 miles
AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION (AREA I):					
GROUP I					
Zone 1	8.63	.75	.60		.15
Zone 2	9.88	.75	.60		.15
GROUP II					
Zone 1	9.47	.75	.60		.15
Zone 2	10.72	.75	.60		.15
GROUP III					
Zone 1	9.55	.75	.60		.15
Zone 2	10.80	.75	.60		.15
GROUP IV					
Zone 1	9.61	.75	.60		.15
Zone 2	10.86	.75	.60		.15
GROUP V					
Zone 1	9.67	.75	.60		.15
Zone 2	10.92	.75	.60		.15
GROUP VI					
Zone 1	9.77	.75	.60		.15
Zone 2	11.02	.75	.60		.15
GROUP VII					
Zone 1	9.87	.75	.60		.15
Zone 2	11.12	.75	.60		.15
GROUP VIII					
Zone 1	10.55	.75	.60		.15
Zone 2	11.80	.75	.60		.15
(HEAVY CONSTRUCTION) POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION (AREA II)					
GROUP I					
Zone 1	8.63	.75	.60		.15
Zone 2	9.88	.75	.60		.15
Zone 3	10.13	.75	.60		.15
GROUP II					
Zone 1	9.47	.75	.60		.15
Zone 2	10.72	.75	.60		.15
Zone 3	10.97	.75	.60		.15
GROUP III					
Zone 1	9.55	.75	.60		.15
Zone 2	10.80	.75	.60		.15
Zone 3	11.05	.75	.60		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION AREA II CONTD:					
GROUP IV					
Zone 1	9.61	.75	.60		.15
Zone 2	10.86	.75	.60		.15
Zone 3	11.11	.75	.60		.15
GROUP V					
Zone 1	9.67	.75	.60		.15
Zone 2	10.92	.75	.60		.15
Zone 3	11.17	.75	.60		.15
GROUP VI					
Zone 1	9.77	.75	.60		.15
Zone 2	11.02	.75	.60		.15
Zone 3	11.27	.75	.60		.15
GROUP VII					
Zone 1	9.87	.75	.60		.15
Zone 2	11.12	.75	.60		.15
Zone 3	11.37	.75	.60		.15
GROUP VIII					
Zone 1	10.55	.75	.60		.15
Zone 2	11.80	.75	.60		.15
Zone 3	12.05	.75	.60		.15

POWER EQUIPMENT OPERATORS AREA DEFINITIONS
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	8.68	.75	.60		.15
Group 2	9.57	.75	.60		.15
Group 3	9.65	.75	.60		.15
Group 4	9.71	.75	.60		.15
Group 5	9.77	.75	.60		.15
Group 6	9.87	.75	.60		.15
Group 7	9.97	.75	.60		.15
Group 8	10.70	.75	.60		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK CONTD:)					
ZONE II					
Group 1	10.43	.75	.60		.15
Group 2	11.32	.75	.60		.15
Group 3	11.40	.75	.60		.15
Group 4	11.46	.75	.60		.15
Group 5	11.52	.75	.60		.15
Group 6	11.62	.75	.60		.15
Group 7	11.72	.75	.60		.15
Group 8	12.45	.75	.60		.15
ZONE III					
Group 1	10.68	.75	.60		.15
Group 2	11.57	.75	.60		.15
Group 3	11.65	.75	.60		.15
Group 4	11.71	.75	.60		.15
Group 5	11.77	.75	.60		.15
Group 6	11.87	.75	.60		.15
Group 7	11.97	.75	.60		.15
Group 8	12.70	.75	.60		.15
AREA II (SITE PREPARATION & DIRT WORK)					
Group 1	8.68	.75	.60		.15
Group 2	9.57	.75	.60		.15
Group 3	9.65	.75	.60		.15
Group 4	9.71	.75	.60		.15
Group 5	9.77	.75	.60		.15
Group 6	9.87	.75	.60		.15
Group 7	9.97	.75	.60		.15
Group 8	10.70	.75	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helper; (mechanic, welder, grease truck)
GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loader; forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants
GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)
GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader
GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder
GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)
GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft.and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (BLDG. CONST)	9.10	.50			
ROOFERS (RESIDENTIAL CONST)	7.90	.50			
SHEET METAL WORKERS:					
Zone 1	10.87	.53	1.00		.12
Zone 2	9.62	3%+.51	.385		.04
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

SHEET METAL WORKERS ZONE DEFINITIONS

Zone 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.
Zone 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties
Zone 3 - Holloman Air Force Base, White Sands and McGregor Ranges
Zone 4 - Los Alamos County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.71	.75	1.05		.08
SOFT FLOOR LAYERS:					
Zone 1	9.50	.38	.10		.02
Zone 2	9.20	.70	.50		.04

SOFT FLOOR LAYERS' ZONE DEFINITIONS

Zone 1 - Dona Ana, Luna and Otero Counties
Zone 2 - Statewide (excluding Dona Ana, Lune and Otero Counties

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	10.35	.60	3%		4%
Zone 2	11.64	.60	3%		4%
Zone 3	14.23	.60	3%		4%
TECHNICIANS					
Zone 1	8.28	.60	3%		4%
Zone 2	9.57	.60	3%		4%
Zone 3	12.16	.60	3%		4%
SOUND INSTALLERS					
Zone 1	6.73	.60	3%		4%
Zone 2	8.02	.60	3%		4%
Zone 3	10.61	.60	3%		4%

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION.

BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, La Cruces, Las Vegas, Lordsburg, Los Alamos, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari

ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above.
ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points.
ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	7.51	.77	.77		
Group 2	7.63	.77	.77		
Group 3	7.71	.77	.77		
Group 4	7.83	.77	.77		
Group 5	7.88	.77	.77		
Group 6	7.98	.77	.77		
Group 7	8.08	.77	.77		
Group 8	8.22	.77	.77		
Group 9	8.37	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	8.76	.77	.77		
Group 2	8.88	.77	.77		
Group 3	8.96	.77	.77		
Group 4	9.08	.77	.77		
Group 5	9.13	.77	.77		
Group 6	9.23	.77	.77		
Group 7	9.33	.77	.77		
Group 8	9.47	.77	.77		
Group 9	9.62	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	9.26	.77	.77		
Group 2	9.38	.77	.77		
Group 3	9.46	.77	.77		
Group 4	9.58	.77	.77		
Group 5	9.63	.77	.77		
Group 6	9.73	.77	.77		
Group 7	9.83	.77	.77		
Group 8	9.97	.77	.77		
Group 9	10.12	.77	.77		

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RESIDENTIAL CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Group 1	7.21	.77	.77		
Group 2	7.33	.77	.77		
Group 3	7.41	.77	.77		
Group 4	7.53	.77	.77		
Group 5	7.58	.77	.77		
Group 6	7.68	.77	.77		
Group 7	7.78	.77	.77		
Group 8	7.92	.77	.77		
Group 9	8.07	.77	.77		
HEAVY CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	7.66	.77	.77		
Group 2	7.78	.77	.77		
Group 3	7.86	.77	.77		
Group 4	7.98	.77	.77		
Group 5	8.03	.77	.77		
Group 6	8.13	.77	.77		
Group 7	8.23	.77	.77		
Group 8	8.37	.77	.77		
Group 9	8.52	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	8.66	.77	.77		
Group 2	8.78	.77	.77		
Group 3	8.86	.77	.77		
Group 4	8.97	.77	.77		
Group 5	9.03	.77	.77		
Group 6	9.13	.77	.77		
Group 7	9.23	.77	.77		
Group 8	9.37	.77	.77		
Group 9	9.52	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	8.91	.77	.77		
Group 2	9.03	.77	.77		
Group 3	9.11	.77	.77		
Group 4	9.23	.77	.77		
Group 5	9.28	.77	.77		
Group 6	9.38	.77	.77		
Group 7	9.48	.77	.77		
Group 8	9.62	.77	.77		
Group 9	9.77	.77	.77		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or 4 up

GROUP II- Bus or taxi driver, dump or batch truck under 8 C.Y.W.L.C.: flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or van single axle); forklifts 5 ton and over MRC: field equipment servicemen

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.: head field equipment servicement

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Lowboy (heavy equipment double gooseneckl; heavy equipment mechanic; welder (body and fender men)

HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pickup 3/4 to and under, service station, lubrication, light tire repair or washer, swamper or riding helper, teamster 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck, under 8 C.Y.W.L.C. flatbed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, mechanic and welder helper, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., water,fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, yound buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C., field equipment servicemen

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C. head field equipment servicemen

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster, lowboy heavy equipment driver, water, fuel or oil truck 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems) light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

FOOTNOTES:
a - Includes $.07 contribution to the Occupational Health Fund
b - 1st 6 months - none; 6 months to 5 years, 6%; over 5 years, 8% of basic hourly rate.
c - Holidays A through G

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)."

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SUPERSEDA DECISION

STATE: NEW YORK COUNTY: ORANGE
DECISION NO.: NY79-3028 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY77-3120 dated September 9, 1977
42 FR 45064
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.77	.8617	1.7233		
BOILERMAKERS	13.19	5%	15%	7%	.02
BRICKLAYERS:					
All that portion bounded on the east by the Hudson River to Woodbury Twp. line south of Bear Mt., thence along this line to a point south of Lake Mombasha, thence due west to the Lehigh-Hudson River R.R. line, thence northerly along this R.R. line to Maybrook, then northerly along the Penn Central R.R. line to the Ulster County line and along this line easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines:					
Bricklayers, Cement Masons, Plasterers and Stonemasons:					
(Building)	9.95	1.10	1.10		
(Heavy and Highway)	10.20	1.10	1.10	a	
Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, southeast to the New York, New Haven and Hartford R.R. line to a point south of Wisner, thence east to the top of the Bellvale Mt. Range, thence southerly to the N[illegible]					

DECISION NO. NY79-3028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
State line, including the Towns of Warwick, New Milford & Bellvale:					
Bricklayers, Cement Masons, Plasterers and Stonemasons:					
(Building)	10.00	.83	1.53		
(Heavy and Highway)	10.25	.83	1.53	a	
CARPENTERS:					
Carpenters, Bridge, Dock and Wharf carpenters: Twps. of Tuxedo, Woodbury, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands	10.80	1.20	.60	1.45+b	.15
Carpenters, Piledrivermen and Dock Builders:					
Remainder of County	10.75	.75	1.05	.55	.05
ELECTRICIANS:					
Twps. of Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfield, Tuxedo Lake and Tuxedo:	10.50	8%	19%	10%	1%
Remainder of County:	11.45	7.4%	3%+1.00		½%
Remainder of County: For the repair, renovation, alteration and new installation of electrical systems in light commercial and industrial property, herein defined to include stores, gas stations, motels and hotels	6.35	.75	1%	.30	
ELEVATOR CONSTRUCTORS	11.32	.745	.35+e	b+d	.02
ELEVATOR CONSTRUCTORS	8.44	.745	.35+e	b+d	.02
ELEVATOR CONSTRUCTORS HELPERS (PROBATION)	5.66				

DECISION NO. NY79-3028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS MODERNIZATION	9.35	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTORS MODERNIZATION HELPERS	7.01	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTOR REPAIR	8.50	.495	.32+c	b+d	.02
ELEVATOR CONSTRUCTOR REPAIR HELPER	6.38	.495	.32+c	b+d	.02
GLAZIERS	12.85	.66	1.91	.67	.01
IRONWORKERS:					
Reinforcing, Ornamental, and Structural	10.75	1.78	2.98	1.60	
LABORERS: BUILDING					
Common Laborers, Mason Tenders, Mortar Mixers, Hod Carriers, Scaffold Builders, Concrete men, Vibrator men, poured gypsun, Roof work, wrecking Walking Power Buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)	9.60	1.05	1.05	e	
Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunnite, Sandblasting, Air Trac, Barmen, Chain Saw, Riding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk Behind Roller, Wagon Drill, All Fork Lifts	9.85	1.05	1.05		
Grade, Pipe, Concrete Clearing, Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Crawler Type HCM7, Drill Machines or [illegible], All wrecking work fifty feet or more above grade	10.25	1.05	1.05		

DECISION NO. NY79-3028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.57	1.05	.15	1.00	.01
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION:					
Linemen cable splicer	12.45	1.00	3%+.75	g	3½
helper & material man					
Groundman digging machine operator	11.205	1.00	3%+.75	g	3½
Groundman mobile equipment operator	9.96	1.00	3%+.75	g	3½
Groundman truck driver and mechanic	9.96	1.00	3%+.75	g	3½
Groundman dynamite man	11.205	1.00	3%+.75	g	3½
Cable splicer	13.695	1.00	3%+.75	g	3½
MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS:					
West Newburgh, Little Britain, Rock tavern, Lagrange, New Hampton, Ridgeburg & Johnson to County Line and all areas inclusive south thereof County lines:					
Marble setters, cutters	10.25	1.21	1.71	h	
Marble setters' helpers	8.50	1.05		1.15	
Terrazzo workers	11.18	1.21	1.50		
Terrazzo workers' helpers	9.48	1.21	1.50		
Terrazzo machine operator	7.68	.475	.475		
Tile setters	10.95	1.15	.75		
Tile setters' helpers	7.90	.50	1.27		
That area in Orange County following within a 50 mile radius from Columbus Circle, NYC. (Arced boundary line is just south of Newburgh; South of Maybrook; North of Goshen, South of Middletown; North of Johnson; North of Unionville					
Marble setter helpers	9.65	1.85		i	
Tile setter helper	9.05	1.85		i	
Terrazzo helper	9.65	1.85		i	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Commercial	9.10	10%	.50		
Spray and Sandblasting Steel, Smoke Stacks, Bridges, Power Plants, Radio Towers	10.10	10%	.50		
Epoxy and other toxic materials	10.10	10%	.50		
PLUMBERS AND STEAMFITTERS: Twps., Villages and Hamlets and/or portions thereof: Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park	9.74	2.03	1.56	1.17	.10
Remainder of County	11.75	1.10	1.90		.15
ROOFERS:					
Pitch, Pitch built up	11.70	1.00	1.95	j	.35
Asphalt Shingle	8.70	1.00	1.95	j	.35
Asbestos, Slate and Tile, Slab, and asphalt Builtup	11.20	1.00	1.95	j	.35
SHEET METAL WORKERS	10.97	1.645	1.82+47	1.04	.12
SOFT FLOOR LAYERS	11.15	1.40	1.78	.70+k	.02
SPRINKLER FITTERS	12.31	.75	1.05		.08
WELDERS - RECEIVE RATE PRESCRIBED FOR CRAFT PERFORMING OPERATION TO WHICH WELDING IS INCIDENTAL.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Armistice Day, Columbus Day and Election Day.

b. In the event of a death in the family of the member of the unit he shall be paid 3 days wages, family means husband, wife, mother, father, sister, brother or children. Wages are only paid on the condition that the member of the unit attends the funeral of the deceased.

c. Employee contributes $7.00 per day to Annuity Fund.

d. Employee contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

e. Election day shall be observed in accordance with New York State Law.

f. Holidays: A through F; Washington's Birthday; X-Mas Eve; and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

g. Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).

h. Holidays: New Year's Eve & X-Mas Eve.

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FOOTNOTES CONT'D):

i. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day, providing employee works any one of three days preceeding or following the holiday.

j. Two hours off with pay on General Election Day, provided the employee has received 4 hours pay that day.

k. Employees employed on the last legal working day before Christmas Day and New Year's Day, and who report to work on such days, shall receive 3 hours pay.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as porvided in the labor standards contract clauses (29 CFR,5.5 (a)(1)(ii))."

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY CONSTRUCTION LABORERS:					
GROUP I	9.70	1.05	1.05	a	
GROUP II	9.95	1.05	1.05	a	
GROUP III	10.40	1.05	1.05	a	

HEAVY AND HIGHWAY CONSTRUCTION

GROUP I
Laborers, pitman, chuck tender, dump men, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control

GROUP II
Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power buggy op., gunnite and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self-propelled power saw walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), sheeting and shoring laborers, bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent signal man

GROUP III
Concrete finisher on highways, form setter, granite stone layer, ingersoll rand heavy duty crawler - master type HOMZ or equivalent or any drill using a 4" or larger bit

FOOTNOTE:
a. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION:					
GROUP 1	15.63	12%+.40	10%	a	3%
GROUP 2	13.81	12%+.40	10%	a	3%
GROUP 3	12.93	12%+.40	10%	a	3%
GROUP 4	12.82	12%+.40	10%	a	3%
GROUP 5	12.59	12%+.40	10%	a	3%
GROUP 6	12.10	12%+.40	10%	a	3%
GROUP 7	11.81	12%+.40	10%	a	3%
GROUP 8	11.64	12%+.40	10%	a	3%
GROUP 9	11.59	12%+.40	10%	a	3%
GROUP 10	11.64	12%+.40	10%	a	3%
GROUP 11	11.42	12%+.40	10%	a	3%
GROUP 12	11.59	12%+.40	10%	a	3%
GROUP 13	10.78	12%+.40	10%	a	3%
GROUP 14	10.61	12%+.40	10%	a	3%
GROUP 15	10.27	12%+.40	10%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Autograde-combination subgrader, base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & similar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry; derricks- land or floating (building & heavy construction rate only), drill master, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, mesinous, Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 3
Pump, staging

GROUP 4
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, shipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; equipment); forklifts; front end loaders (2 yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's Ukes, pumpcrete machines, squeezecrete & concrete pumping; scrapers-Le-Tourneau, Dw's Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists

GROUP 6
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-backtop

GROUP 7
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde concrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet convey or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 [illegible] machines; ditching machine, small (Ditch witch or

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 7 (CONT'D)
similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plasterer pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman oulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

GROUP 8
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, mutiple (rectifier transformer type) - building & heavy construction rate only

GROUP 9
Brooms & sweepers; bulldozer, D5 and over; fireman, sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site)

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POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 10
Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only

GROUP 11
Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only

GROUP 12
Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8

GROUP 13
Compressor (single); heaters (Nelson or other type including propane, natural gas of flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 or less than 4 inch suction including submersible pumps); pumps, diesel engiher & Hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propape, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance)

GROUP 14
Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only, farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only);mulching equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only)

GROUP 15
Assistant engineer/oiler; mechanics helper; tire repair and maintenance

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
GROUP 1	$17.44	12%+.40	10%	a	3%
GROUP 2	15.63	12%+.40	10%	a	3%
GROUP 3	14.72	12%+.40	10%	a	3%
GROUP 4	13.98	12%+.40	10%	a	3%
GROUP 5	12.20	12%+.40	10%	a	3%
GROUP 6	11.81	12%+.40	10%	a	3%
GROUP 7	11.66	12%+.40	10%	a	3%
GROUP 8	11.29	12%+.40	10%	a	3%
GROUP 9	10.73	12%+.40	10%	a	3%

50¢ per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above groung level and less than 140 feet; 75¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or "Sheave Point" is 140 feet, or over above ground level.

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 work days preceeding the holiday and the first work day after the recognized holiday.

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POWER EQUIPMENT OPERATORS - STEEL ERECTION

GROUP 1
Helicopters pilot/engineer

GROUP 2
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer

GROUP 3
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground): derricks (land or floating, with booms including jib, less than 140 feet above the ground)

GROUP 4
Aerial platform used as hoist; a-frame; cherry pickers - 6 tons and under (over 6 tons - crane rate applies); fork lifts; hoists (all types except Chicago Boom type); jacks (screw air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms

GROUP 5
Compressors (2 or 3 in battery); generators; welding machines (gas Or electric convertors of any type 2 or 3 in battery multiple welders) welding system mutiple (rectifier transformer type)

GROUP 6
Maintenance engineer

GROUP 7
Fireman

GROUP 8
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single)

GROUP 9
Assistant engineer/oiler; straddle carrier

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Drivers on LeTourneau Tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Bean, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over	10.50	.95	1.05	a+b	
Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder and dynamite trucks	10.40	.95	1.05	a+b	
Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers	10.20	.95	1.05	a+b	
Ten wheelers, grease trucks and tiller men	10.10	.95	1.05	a+b	
Straight trucks	10.00	.95	1.05	a+b	
Pick-up trucks used for hauling material parts escort man over the road	10.00	.95	1.05	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTE:
a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day; Lincoln's Birthday; Election Day; Good Friday.

b. 3 day bereavement pay (spouse, mother, father, mother-in-law, father-in-law, grandmother, grandfather, sister, brother, children, grandchildren).

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: Statewide
DECISION NUMBER: NC79-1125 DATE: Date of Publication
Supersedes Decision No.: NC75-1078 dated September 5, 1975 in 40 FR-41367
DESCRIPTION OF WORK: Water Line and Sewer Line Construction; and Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	4.47				
Carpenters	5.16				
Cement masons	5.01				
Fence erector	4.04				
Ironworkers:					
Structural	4.81				
Laborers:					
Asphalt raker	3.95				
Laborers, unskilled	3.37				
Pipelayers	3.98				
Powderman	5.95				
Manhole Builders	4.00				
Millwrights	4.00				
Painters	5.50				
Piledrivers	6.29				
Plumbers & Pipefitters	5.25				
Truck Drivers	3.67				
POWER EQUIPMENT OPERATORS:					
Asphalt pavers	3.98				
Backhoes	4.99				
Boom operators	4.00				
Bulldozers	4.50				
Compactors	3.75				
Cranes	5.87				
Draglines	5.50				
Drills:					
Air	4.81				
Well	4.50				
Loaders	4.48				
Mechanics	5.16				
Motor graders	4.25				
Oilers	3.75				
Pump operators	3.75				
Rollers	3.25				
Scrapers - Pans	4.25				
Screeds	4.08				
Tractors	4.75				
Trenching machine	5.00				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

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SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: See below*
DECISION NUMBER: SC79-1124 DATE: Date of Publication
Supersedes Decision No.: SC75-1029 dated March 7, 1975 in 40 FR-10900 and Decision No. SC75-1045 dated April 11, 1975 in 40 FR-16636
DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Aiken, Allendale, Bamberg, Barnwell, Calhoun, Edgefield, and Orangeburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & heating mechanic	5.20				
Carpenters	5.18				
Carpet layers	5.00				
Concrete finisher	5.74				
Drywall finisher	6.37				
Drywall hanger	5.00				
Electricians	5.29				
Insulation Installer	3.95				
Laborers:					
Asphalt raker	4.50				
Laborers, unskilled	3.00				
Mason tenders	3.75				
Mortar mixers	3.75				
Pipelayers	6.00				
Painters, brush	5.13				
Plasterers	6.00				
Plumbers & steamfitters	6.47				
Roofers	4.00				
Sheet metal workers	4.69				
Soft floor layers	6.75				
Tile setters	6.00				
Truck drivers	3.00				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Air compressors	4.00				
Asphalt sweepers	4.50				
Backhoe	4.35				
Bulldozers	5.00				
Cranes, derricks, dragline	4.50				
Curbing machines	4.50				
Distributors	4.12				
Finishing machines	4.50				
Forklifts	4.50				
Front end loaders	4.28				
Mechanics	4.63				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd)					
Motor graders	$5.00				
Pans - scrapers	4.50				
Tractors	3.41				
Trenching machines	4.50				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

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STATE: VIRGIN ISLANDS COUNTY: ISLAND WIDE
DECISION NO.: VI79-3023 DATE: DATE OF PUBLICATION
Supersedes Decision No. 78-VI-3011 dated March 24, 1978 in 43 FR 12611
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & INSULATORS	5.76	.12		a+b	
CEMENT MASONS	4.86				
ELECTRICIANS	6.13	.12		a+b	
IRONWORKERS (REINFORCING)	4.84	.12		a+b	
LABORERS:					
Unskilled	4.20	.12		a+b	
Asphalt Rakers	4.34	i		f+g+h	
MILLWRIGHTS	6.30	c		d+e	
PAINTERS	4.88	.12		a+b	
PLUMBERS & PIPEFITTERS	6.13	.12		a+b	
POWER EQUIPMENT OPERATORS:					
Backhoe	5.65	.12		a+b	
Bulldozer	4.82				
Crane	6.79	.12		a+b	
Loader	3.85				
Roller	4.00				
Paving Machine	4.60				
SANDBLASTER	5.21	.12		a+b	
TRUCK DRIVERS	4.00				

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FOOTNOTES:

a. Paid Holidays include New Year's Day, Three Kings Day, Martin Luther King Day, Good Friday, Easter Monday, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day and Christmas "Second Day"

b. Vacation pay at the rate of 12 hours per month

c. $5.79 per week

d. 10 Paid Holidays

e. Vacation: 1 to 5 yrs. of service, 14 consecutive days at 80 hrs. pay; 5 to 10 years of service, 21 consecutive days at 120 hrs. pay; ten or more years of service, 28 consecutive days at 160 hrs. pay

f. 9 Paid Holidays

g. Vacation: One year of continus service - one week paid vacation, 2-4 yrs.-2wks., 5-9 yrs.-3wks and 10 or more years-4 wks.

h. Sick leave: Each employee with one or more years of service receives 8 days paid sick leave per year and with less than one year of service receives one day for every 40 days worked or 6 days

i. $7.50 per month

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SUPERSEDEAS [illegible]

STATE: VIRGIN ISLANDS COUNTY: ISLAND WIDE
DECISION NO.: VI79-3024 DATE: DATE OF PUBLICATION
Supersedes Decision No. VI78-3010 dated March 24, 1978 in 43 FR 12611
DESCRIPTION OF WORK: Building Construction Projects including Residential Construction Projects (single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	5.00				
CARPENTERS	4.51				
CEMENT MASONS	4.43				
ELECTRICIANS	4.62				
IRONWORKERS	4.50				
LABORERS:					
Unskilled	3.41				
Mason Tenders	3.51				
PAINTERS	3.50				
PLUMBERS AND PIPEFITTERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Compressor	4.00				
Crane	5.00				
TRUCK DRIVERS	5.00				

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federal register

Friday
September 7, 1979

Part III

Department of the Interior

Office of the Secretary

National Monuments, Preserves and Primitive Areas; Review for Class I Redesignation Recommendation

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Monuments, Preserves and Primitive Areas; Review for Class I Redesignation Recommendation

Introduction

The Clean Air Act, Part C, The Prevention of Significant Deterioration, Section 164(d), directs the Secretary of the Interior to "review all national monuments, primitive areas, and national preserves" and to "recommend any appropriate areas for redesignation as Class I where air quality related values are important attributes of the area." The Act requires the Secretary to report his recommendations, with supporting analysis, to the Congress and the affected States and Indian tribes, who are responsible for undertaking any redesignation. The Secretary assigned lead responsibility for the review of air quality related values to the Assistant Secretary for Fish and Wildlife and Parks. The Assistant Secretary established an Air Quality Task Force made up of representatives of the National Park Service, Bureau of Land Management, and the Office of the Solicitor to support the review effort. Notice of the areas under review, a description of the preliminary analysis procedure, and an invitation for public and State and tribal consultation and comment appeared in the **Federal Register** on April 10, 1978. The notice was sent to each State Clearinghouse, the Virgin Islands Clearinghouse, and the Navajo Nation, as part of the consultation process. Over 255 comments were received. These comments, in conjunction with the Task Force findings, were utilized by the Task Force in formulating a preliminary list of recommended areas, which is now being circulated for comment by the States, Indian tribes, and the public. Upon close of the 30 day comment period, the Secretary of the Interior will formulate his final recommendation utilizing both the recommendations of the Task Force and information provided during the comment period, and will submit his report to the affected States and Indian tribes, and to Congress. In order to recognize the key role of the States and Indian tribes in the redesignation process, any comments submitted by the States and Indian tribes will be given to Congress unabridged along with the final recommendation.

Action

The Air Quality Task Force has reviewed the 82 national monuments and 2 national preserves in the National Park System and the 11 primitive areas administered by the Bureau of Land Management and has identified those areas that possess air quality related values as important attributes and, in the opinion of the Task Force, should be considered for the special protection afforded by Class I status. They have forwarded this list to the Secretary of the Interior.

The States, Indian tribes, and the public are invited to review the Task Force report and to comment to the Secretary. The Secretary will then review the findings of the Task Force together with the comments, and he will recommend any appropriate areas for redesignation as Class I. These recommendations will be reported to Congress, the States, and Indian tribes. The States and Indian tribes are, at this time, solely responsible for carrying out the redesignation of these areas to Class I. In weighing the merits of redesignation, the States and Indian tribes are to consider the socioeconomic and development factors, in which they are expert, along with the Secretary's recommendations, which are based solely on the Department's knowledge of intrinsic natural resource values that could be adversely affected by changes in air quality.

Purpose

The purposes of this notice are to (1) inform the public of the Task Force findings, (2) describe the procedure that the Task Force used in reaching its findings, (3) request to public comments, (4) request information from the States on planned industrial development that may be affected by redesignation, particularly where a State or Indian governing body disagrees with the Task Force's recommendation; where there is agreement on a positive recommendation, supporting data is also solicited, and (5) report on consultation with the States and outline the procedures by which the States and Indian tribes can further consult with the Secretary of the Interior before he submits his recommendations to the Congress, the States, and the Indian tribes.

Task Force Findings

The Task Force concluded that 47 of the 95 areas studied possess air quality related values as important attributes and should be considered for Class I redesignation. Of the 42 areas over 5,000 acres in size, 38 were identified as possessing air quality related values as important attributes, as were 9 of the 53 areas under 5,000 acres in size.

Summary of Analysis Procedure

The original analysis procedure announced in the April 10, 1978 **Federal Register** involved a five-step process that was to be applied to each area in order to identify those areas which possess air quality related values as important attributes. The steps (1) evaluated the practicality of redesignating an area, (2) determined whether air quality related values were important attributes of the area, (3) assessed the effects Class I redesignation would have on planned major emitting facilities in the vicinity of the area, (4) considered whether it was in the public interest to redesignate an area, and (5) made final recommendations based on the preceding steps.

After beginning the analysis, the Task Force revised the procedures described above to recognize more fully the role assigned to the States and Indian tribes for balancing economic and development effects with the intrinsic resource characteristics in the redesignation process. The Clean Air Act (Section 164(b)) gives the States and, in some cases, Indian tribes, the principal role in redesignating areas from one class to another. In this process the States or Indian tribes will, for each area being considered, evaluate the social, energy, economic, health and environmental effects of redesignation.

Further, the Task Force determined, through consultation with the Environmental Protection Agency and with several of the States, that it was impractical, if not impossible, to identify all potential major emitting facilities within the vicinity of a study area. This prevented drawing any meaningful conclusion from the available information.

Finally, as reported below, States and public utilities pointed out the need or desirability to pursue further analysis prior to actual redesignation. Therefore the Task Force abandoned the original Steps Three and Four as determinative tests in the review procedure. In order to respond to the States' requests for information regarding the potential effects of redesignation on State growth and development, a technical report has been provided to aid the States, as they are responsible for addressing these concerns. In addition, data was analyzed on known proposed fossil fueled power plants; however, as it was not possible to obtain adequate information, the results were not used to shape the Task Force's conclusions. As required by the Clean Air Act, the Task Force's findings represent the conclusions drawn from the point of

view of the unique and nationally significant publicly owned natural and cultural resources. The technical analysis of potential effects on industrial growth is an attempt to represent typical effects only; though not required by the Act, it is included at the State's request, to aid them in performing their analysis of effects of redesignation upon industrial growth and development. The technical report is not intended for site-specific application, but is intended only to give the redesignating authorities some general planning information for their use.

In concluding whether or not a reviewed area possesses air quality related values as important attributes, the Task Force retained the definitions announced in the April 10, 1978 **Federal Register**. The definitions are:

> Air quality related values are all those values possessed by an area except those that are not affected by changes in air quality and include all those assets of an area whose vitality, significance, or integrity is dependent in some way upon the air environment. These values include visibility and those scenic, cultural, biological, and recreational resources of an area that are affected by air quality.
>
> Important attributes of an area are those values or assets that make an area significant as a national monument, preserve, or primitive area. They are the assets that are to be preserved if the area is to achieve the purposes for which it was set aside.

In identifying the resources of an area the Task Force reviewed information found in the area's enabling legislation and in management and planning documents, mainly the Statement for Management. After the resources of the area were identified, they were evaluated to determine if they possessed air quality related values as defined above.

The next step involved determining if the air quality related values identified are important attributes of the area. This process hinged on the definition of important attributes. Where values determined to be air quality related were expressly identified as part of the legislative purpose for which the area was set aside, this identification process became relatively clear-cut. Areas were also identified based on a finding that, while the value itself was not expressly named as a purpose for the area's establishment, the preservation of that value intertwines closely with the achievement of those purposes which were expressed.

In determining the importance of air quality related values, the Task Force did not consider the area's present air quality or the consequences of preventing further air quality deterioration. An area's size was not used as a controlling criterion for making the determinations. The size criterion of 5,000–6,000 acres used by Congress in its initial designation of Class I areas was useful as an initial guide in the review process, but it was abandoned as a determining factor, since an area's size is not necessarily related to the possession of unique resources which could be affected by air quality.

Conclusions

If an area possessed air quality related values as important attributes, the Task Force concluded that Class I redesignation should be considered. A list of the 95 study areas and the Task Force determinations appears in the appendix.

Regional Influences

During the review process, the Task Force collected and analyzed information on an area's regional influences, primarily fossil fueled generating facilities. This information indicates those areas whose air quality related values may be affected by regional influences. The Task Force believes that the States may wish to give special attention to the redesignation of these areas. The information may also suggest how redesignation of an area may affect the surrounding region.

The lack of comprehensive and reliable data on the development of planned or proposed major emitting facilities and the lack of monitoring data precluded a thorough analysis or evaluation of these effects on a site-specific basis. The Secretary would, however, appreciate receiving any additional site-specific information that States, Indian tribes, or the private sector might have relating to planned, proposed, or potential major sources which may be affected by Class I redesignation. The Technical Report has been prepared to provide information on the types of effects on major industrial development that may occur as a result of redesignation of areas to Class I. General conclusions of the analyses are as follows: (1) Residential, commercial, very small industrial sources and all existing industrial sources would not be affected by redesignation to Class I, as these types of facilities are not covered by the Prevention of Significant Deterioration (PSD) provisions of the Clean Air Act; (2) In no case would an industrial facility of the size and type discussed in the analyses be precluded from siting in the state; and (3) The siting distance for major emitting facilities to meet Class I PSD increment requirements is sensitive to variations in the size of the source, the level of control technology applied to the source, the stack height of the source, the prevailing local meteorological conditions, the presence or lack of intervening high terrain, the fuel mix at the source, and the type of industrial processes used at the source. The source may take advantage of those factors that would tend to mitigate any adverse effect on a proposed Class I area, such as application of additional controls, use of higher stacks, or siting to take advantage of intervening high terrain. Further site-specific assessment of these effects could be done at the States' request in support of actual redesignation of an area. The Task Force review sketches out some of the possible consequence of redesignation to provide a general understanding of the context in which the Secretary is to make his recommendations.

This assessment did not identify any area of critical or immediate concern, but it does represent the beginning of a continual oversight process. These oversight activities will include an expanded program of air quality monitoring and further research on the susceptibility of resources to air quality degradation. As increases in air pollution threaten air quality related values or as resources with particular sensitivity to air quality degradation are discovered, the oversight process will likely identify areas for which prompt redesignation to Class I is warranted. Congress and the States will be notified of these areas, and the Federal Land Manager will assist and promote redesignation on these areas on both the Federal and State level.

Response to Public Comment

The formal agency record consists of over 255 written comments, including 70 from State and local governments, 42 from businesses and corporations, 43 from organizations and associations, and 100 from individuals.

Comments were requested on:

1. The importance of air quality related values of the areas under review and
2. The appropriateness of Class I redesignation of the areas under review.

In addition to these topics, comments were received on:

3. The consequences that would follow redesignation of an area, and
4. The procedural method adopted for the review.

As an overall response to comments received, the Task Force notes several factors concerning this review

procedure and concerning redesignation in general.

This review will result in preliminary recommendations. The Task Force has identified areas which they conclude should be considered for the special protection provided by Class I status. After further consultation with the States and affected Indian tribes, the Secretary will make his recommendations and forward them to the States, the Indian tribes, and to the Congress for their consideration.

In its review, the Task Force concentrated on the importance of air quality related values in each area, as required by the Clean Air Act. The review was based on the expertise of the Department of the Interior staff and reflects their legislatively mandated responsibility to manage the resources of these areas for the public benefit.

Concerning redesignation in general, the Task Force notes that the States and Indian tribes have significant redesignation responsibilities. The Clean Air Act gave the States, and in some areas, the Indian tribes, the primary authority to redesignate an area. Before redesignating an area, the States and Indian tribes must consider all of the issues that surround redesignation. Specifically, Section 164(b) of the Clean Air Act requires that the States or sovereign Indian tribes hold public hearings and describe, analyze, and balance the health, environmental, economic, social, and energy effects of the proposed redesignation. Under the Clean Air Act, States and sovereign Indian tribes are given the sole responsibility for redesignation and for balancing the economic and environmental factors in the decision-making process for redesignation.

Finally, it is of paramount importance to note that, should an area be redesignated, the major result is to give the Federal Land Manager an active role in future decisions that may affect the air quality related values of the area. It is only if the area is Class I that the Federal Land Manager has the responsibility to review permits for new sources. If a source meets PSD increment requirements, the burden of proof of harm is on the Federal Land Manager. If the Federal Land Manager can convince the permitting authority that harm will occur even though the PSD increments are met, the permitting authority may deny the permit. However, a source that exceeds the PSD increments may still be allowed to site, if it can prove to the satisfaction of the Federal Land Manager and the permitting authority that no adverse effect on air quality related values will occur. Then, the Federal Land Manager will recommend to the permitting authority that the permit be granted. In this case, the burden of proof of no harm is on the source.

The Importance of Air Quality Related Values

A large proportion of the comments, particularly those from individual citizens and conservation groups, described values in the areas under study that they felt were both air quality related and important. The values described include a variety of resources, including visibility, flora, fauna, archeological and recreational resources. These comments were considered during the review procedure and, for the most part, are reflected in the Task Force's findings.

Some comments proposed that the air quality related values for each study area should be ranked with all the other important values that the area possesses. They suggested that this hierarchical approach was the appropriate procedure for assessing the significance of the air quality related values in the area. This suggested procedure was not followed by the Air Quality Task Force. Section 164(d) of the Clean Air Act directed the Federal Land Manager to recommend any appropriate area for redesignation in which air quality related values are important attributes to the area. The Task Force was concerned that the air quality related values of the areas met the criterion on "important" or required protection in order to achieve the purposes for which these areas were established. No attempt was made to rank the relative importance of air quality related values within one area or those in one area with those in another area; it was felt that such an apples-and-oranges comparison was not feasible and was not within the requirements of the Clean Air Act, which required identification of the existence of any important attribute. The test was to determine importance, not to provide a relative ranking of importance.

Other comments suggested that the definition of air quality related values given in the April 10, 1978 **Federal Register** notice was too vague to allow an accurate assessment of the importance of air quality related values in specific areas. This definition was intended to be inclusive and unqualified. The values affected by changes in air quality range so broadly that a definition which encompasses all these values may lack the specificity that some respondents sought. A specific description of each area's air quality related values, sufficient to indicate whether or not Class I status should be considered, is included in the supporting analysis, which will be sent to the Congress, the States, and affected sovereign Indian tribes.

The Act specifies that visibility is an air quality related value. The Task Force established four additional general categories—fauna, flora, cultural, and water resources—to facilitate a specific description of the air quality related values in each area. For each area, the values affected by changes in air quality were assigned to one of these categories and explicitly described.

The Appropriateness of Redesignation to Class I

A large proportion of the comments suggested that Class I redesignation was appropriate for many areas in order to protect air quality related values. Some noted that many study areas resemble national parks or wilderness areas, which Congress designated as mandatory Class I. They suggested that this similarity made these areas appropriate for redesignation to Class I. Others described the scarcity, sensitivity, or aesthetic qualities of the air quality related values in the study areas. They suggested that these properties made redesignation of these areas to Class I appropriate. These comments were very useful, and, in general, support and are reflected by the Task Force findings.

Some comments, particularly from environmental groups and individual citizens, suggested that all areas were appropriate for redesignation. The Task Force did not follow this suggestion. If Congress had been satisfied that all study areas were appropriate for Class I redesignation, they would not have directed the Federal Land Manager to perform the review. Furthermore, in the review the Task Force found that some areas lack air quality related values as "important attributes," and, therefore, cannot meet the guideline for recommendation for redesignation prescribed by Congress.

Other comments suggested that Class II designation sufficiently protected areas with air quality related values. They indicated that air quality deterioration up to the levels allowed by Class II increments had no demonstrated adverse effects on air quality related values.

The Task Force recognizes that, in many instances, the effects of air quality deterioration upon air quality related values remain unknown. For the present they assume that for certain critical resources, such as endangered or endemic species and other resources necessary to be preserved to protect

significant natural values, recommendations for Class I protection are appropriate. Class I status gives the Federal Land Manager an opportunity to assess these consequences before any damage can occur, as Class I status gives new source permit review authority to the Federal Land Manager.

Consequences of Redesignation

Many commenters experessed concern that redesignation would adversely affect the economies of the regions surrounding areas redesignated to Class I. They asserted that the Task Force's review did not adequately consider these effects. Some suggested that the Task Force perform a cost-benefit analysis to understand the consquences of redesignation. The Task Force did not attempt to assess the economic consequences, the "costs," of redesignation in its review since the Clean Air Act states that this analysis is to be done by the States and sovereign Indian tribes. The Task Force restricted the scope of its review in recognition of the significant role assigned to the States and Indian tribes in the redesignation process. The Clean Air Act gives the States and Indian tribes primary responsibility for redesignating an area, and they must fully assess the consequences of redesignation following specific procedural requirements detailed in Section 164(b). This section requires that "public hearings shall be conducted" and "a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation shall be prepared and made available for public inspection" prior to any State redesignation. Thus, if the Task Force conditioned their recommendations on their assessment of the consequences of redesignation, they would be assuming a function specifically assigned to the States and Indian tribes. It is noted that the Secretary of the Interior has a responsibility to protect the Federal lands under his management. Many of the areas for which this review is mandated were established under the authority of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), and they are managed according to the mandates of the Act of August 25, 1916 as amended (39 Stat. 535, 16 U.S.C. 1, 2–4), which requires that the area be managed "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations." The preservation of historic features within monuments is mandated under the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), Presidential Proclamation 11593. Thus, it was appropriate for the Task Force to limit review to those factors which are derived directly from the Federal Land Manager's legislative mandate.

Other comments suggested that, before recommending an area for redesignation, DOI should prepare an economic impact analysis in accordance with Executive Orders 11821, 11949 and OMB Circular A–107. The Task Force believes that the economic consequences of *recommending* an area for redesignation are either nonexistent or too speculative to warrant the formal analysis suggested; this analysis is more properly done by the redesignating authority at the time that the State or Indian Governing Body chooses to consider the redesignation recommendation.

Some comments suggested that the analysis should explicitly state a purpose for preserving the air quality in each area and describe how that purpose would be affected by specific increases in air pollution. The purpose of redesignating an area "Class I" is to protect any resources of an area that possess air quality related values as important attributes. The supporting analysis, in accordance with the Clean Air Act, describes each area's air quality related resources and determines whether they are important. In many instances the effect of specific increases in air pollution on these air quality related values remains unknown; however, the air quality related values themselves are identified as being important. Some general findings exist (see, for instance, "Susceptibility of Woody Plants to Sulfur Oxide and Photochemical Oxidents" by Donald D. Davis and Raymond G. Wilhour, EPA–600/3–76–102; "Effects of Sulfur Oxides in the Atmosphere on Vegetation" by the National Environmental Research Center, Office of Research Land Development, United States Environmental Protection Agency, Research Triangle Park, North Carolina, September 1973; or "Acceptable Limits for Air Pollution Doses and Vegetation Effects: Sulfur Dioxide" by Leon S. Dochinger and Thomas A. Seliga in *Journal of the Air Pollution Control Association*, vol. 25, no. 11, November 1975). Redesignating an area "Class I" provides the Federal Land Manager the opportunity to fully assess the effects of increased air pollution on specific resources in specific areas before any damage can occur; without Class I protection, damage can only be identified after it has already occurred.

Other comments suggested that recommendations be delayed because the consequences of redesignation cannot be assessed until visibility regulations are established. This was rejected as the regulations are not necessary to make recommendations.

Other comments stated that redesignation be delayed because EPA has yet to promulgate PSD regulations for pollutants other than total suspended particulates and sulfur dioxide. Thus, the full consequences of redesignating an area "Class I" remains unknown. The Task Force recognizes that uncertainties surround redesignation. However, in requiring this review, Congress imposed a one-year time frame. Moreover, the Department of Interior is not acting as the redesignating authority; it is analyzing areas specified by Congress and recommending for redesignation those areas that possess air quality related values as important attributes. These recommendations do not prevent the redesignating authorities from scheduling the redesignation process to take advantage of available, or soon-to-be-available, information.

Other comments expressed concern that Class I redesignation of an area would unreasonably restrict the allowable uses of the surrounding land. Respondents cited specific activities about which they were concerned. These included agriculture, coal mining, uranium mining, coal gasification and liquifaction, oil leasing, and general manufacturing. Utility companies were particularly concerned that Class I redesignation would limit the number of sites available for coal fired electrical generating plants.

The Task Force appreciates the concerns expressed by these respondents. The information they provided was not applied directly to the review procedure. However, the information did offer good background material for considering the effects redesignation will have on developments outside the studied area and for understanding which areas' air quality related values may be threatened by pending developments such that Class I redesignation is desirable.

Some of these respondents misinterpreted the consequences of redesignating an area to Class I. Some saw this as freezing all developments in the surrounding region. It should be noted that the Prevention of Significant Deterioration Provisions apply only to the specified 28 major stationary sources and to those major stationary sources with the potential to emit more than 250 tons per year. General areawide growth is not included in the

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permit review requirements. Some interpreted the Class I increments as absolute limitations imposed on allowable deterioration of air quality. In order to address such concerns, the Technical Report was prepared for circulation with the supporting information on air quality related values.

The Task Force emphasizes that the primary effect of redesignating Federal lands as Class I is to provide the Federal Land Manager with a determinative role in protecting an area's air quality related values from adverse impacts from major emitting facilities. The Class I increments provide a guideline for assessing these adverse impacts. All developments which will not cause or contribute to air quality concentrations in excess of the Class I increments are permitted unless the Federal Land Manager demonstrates to the permitting authority that those emissions will adversely impact air quality related values of a Class I area. Developments whose emissions will cause or contribute to concentrations in excess of the Class I increments are not allowed unless the owner or operator of that development can demonstrate that these emissions will not adversely impact air quality related values in the affected Class I area. In all instances increases are limited to Class I' increments (nearly equivalent to Class II, see table) except in the special instance of an SO_x variance. Thus, Class I redesignation of an area does not freeze all developments in the surrounding region; it only affects those major new developments which advesely affect the area's air quality related values. Nor do the Class I increments represent absolute limits on allowable air pollution increases; they provide a threshold which, when exceeded, requires a demonstration of no adverse effects on air quality related values.

Maximum Allowable Increase Per Class

[In micrograms per cubic meter]

	I	I'	II	III
Particulate matter:				
Annual geometric mean	5	19	19	37
Twenty-four-hour maximum	10	37	37	75
Sulfur dioxide:				
Annual arithmetic mean	2	20	20	40
Twenty-four-hour maximum	5	91	91	182
Three-hour maximum	25	325	512	700

Procedural Method

A number of comments were addressed at the size cut-off. They suggested that 10,000, not 5,000 acres, was appropriate. Section 164(a) authorizes a state to designate any area (except Indian reservations) as Class I. There appears to be no minimum acreage limitation imposed for lands to be redesignated Class I. Further, Section 164(d) requires the Federal Land Manager to review all national monuments, primitive areas, and national preserves and makes no mention of minimum size. Accordingly, the Air Quality Task Force considered the importance of air quality related values for all areas specified by Congress. The Congressionally established precedent of 5,000 or 6,000 acres (used for areas designated mandatory Class I) became a rough guideline for assessing the practicality of redesignation, but each area studied was assessed on its own merits without regard to size. The Task Force understands the limitations placed on national monuments, national parks, and primitive areas greater than 10,000 acreas as a prohibition against Class III designation.

Other comments suggested that we delay recommendations until baseline data that would indicate the existing air quality in the areas under study could be obtained. Some suggested that we monitor ambient air quality in these areas for at least a year before recommending areas for redesignation. We agree that documentation of existing air quality in these areas would be valuable for this review and will be valuable in the future. However, such information is unnecessary for the purposes of making recommendations, as the study focused attention on the air quality related values of each area. These values are values that are affected by changes in air quality; they are not the air quality itself. Also, Class I status sets increments for allowable pollution increases and does not establish fixed ambient air quality standards. Thus baseline data do not appear essential for assessing how these increments would be affected by general development or the operation of major emitting facilities. Finally, we see the States and Indian tribes playing a significant role in the redesignation process. Before they redesignate an area, they must thoroughly analyze the effects of redesignation. If they consider that baseline ambient air quality data are needed to adequately weigh the costs and benefits of redesignation, such data can be obtained at that time, and the timetable for redesignation can be expanded to allow such study. A few comments noted that some models used for assessing the impacts of pollution sources are subject to errors which exceed the size of Class I increments. They suggested that these inaccuracies made redesignation recommendations unworkable. The Task Force recognizes that models used for simulating the effects of air pollution emissions are only accurate within a certain range, and they await the development of more accurate models. However, they note that Congress has established the magnitude of the Class I increments with an understanding of limitations of the models. Nevertheless, infallible models are not needed to determine whether an area possesses air quality related values as important attributes.

Consultation With the States and Procedures for Further Consultation

The Clean Air Act, Section 164(d), requires the Federal Land Manager to consult with the appropriate States before making recommendations. Accordingly, a copy of the April 10, 1978 **Federal Register** notice was sent to each State A–95 Clearinghouse. The States and Indian tribes were invited to consult with departmental representatives and to provide written comments.

Areas under review are located in 28 States and the Virgin Islands, and the Task Force received comments from State Officials representing 17 States and the Virgin Islands. When requested to do so, departmental officials held meetings with State officials. The States made suggestions concerning specific areas or they generally addressed the review procedure. The results of these comments and meetings are responded to in the "Response to Public Comment" section of this **Federal Register** Notice.

Some comments also suggested that State and tribal consultation was inadequate. They stated that notifying the States and Indian tribes of the review through the A–95 Clearinghouse procedure did not constitute consultation. In order to offer additional opportunity for State and tribal consultation, the findings of the Task Force are being sent to each affected State and Indian tribe; each is invited to meet the Task Force representatives and to advise the Secretary of their interest. Those States and Indian tribes that wish to consult further with departmental representatives should contact Ms. Toni Ristau, Air Quality Planner, National Park Service, at (202) 343–4911. All the States and Indian tribes are invited to provide additional comments to the Secretary of the Interior by October 9, 1979. The Department is particularly interested in receiving specific data and analyses where a State or Indian Governing Body may disagree with a positive recommendation; supporting data and comments are also solicited. These comments should be addressed to Secretary of the Interior, Attn: National Park Service, Air and Water Resource Division (492), Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240.

Dated: July 16, 1979.

Robert L. Herbst,

Assistant Secretary For Fish and Wildlife and Parks.

Appendix.—*National Monuments and National Preserves Reviewed for Recommendation to Redesignate as Class I Under Clean Air Act Section 164(d)*

Area name [1]	State	Task force [2] identification	Acreage		Federal wilderness acres already designated class I	Establishing authority [3]
			Federal	Gross		
Russell Cave NM	AL	No	310.45	310.45		P.L. 59–209, Proc. 3513
Glacier Bay NM	AK	Yes	2,805,071.54	2,805,769.49		P.L. 59–209, Proc. 1733
Katmai NM	AK	Yes	2,792,131.73	2,792,150.74		P.L. 59–209, Proc. 1487
Canyon de Chelly NM	AZ	Yes	0	83,840.00		P.L. 71–667
Casa Grande NM	AZ	No	472.50	472.50		P.L. 59–209, Proc. 1470
Chiricahua NM	AZ	Yes	10,645.90	10,648.25	9,440	P.L. 59–209, Proc. 1682
Hohokam Pima NM	AZ	No	0	1,555.40		P.L. 92–525
Montezuma Castle NM	AZ	No	824.92	841.75		P.L. 59–209, Proc. 696
Navajo NM	AZ	No	360.00	360.00		P.L. 59–209, Proc. 873
Organ Pipe Cactus NM	AZ	Yes	329,199.10	330,688.96	312,600	P.L. 59–209, Proc. 2232
Pipe Spring NM	AZ	No	40.00	40.00		P.L. 59–209, Proc. 1663
Saguaro NM	AZ	Yes	79,863.46	83,576.07	71,400	P.L. 59–209, Proc. 2032
Sunset Crater NM	AZ	Yes	3,040.00	3,040.00		P.L. 59–209, Proc. 1911
Tonto NM	AZ	No	1,120.00	1,120.00		P.L. 59–209, Proc. 787
Tumacacori NM	AZ	No	10.15	10.15		P.L. 59–209, Proc. 821
Tuzigoot NM	AZ	No	57.78	57.78		P.L. 59–209, Proc. 2344
Walnut Canyon NM	AZ	No	2,011.62	2,249.46		P.L. 59–209, Proc. 1318
Wupatki NM	AZ	Yes	35,353.24	35,253.24		P.L. 59–209, Proc. 1721
Cabrillo NM	CA	No	143.94	143.94		P.L. 59–209, Proc. 1255
Channel Islands NM	CA	Yes	18,384.97	18,388.07		P.L. 59–209, Proc. 2281
Death Valley NM	CA, NV	Yes	2,048,948.10	2,067,795.06		P.L. 59–209, Proc. 2028
Devil's Postpile NM	CA	No	798.46	798.46		P.L. 59–209, Proc. 1166
Joshua Tree NM	CA	Yes	547,789.59	559,959.79	429,690	P.L. 59–209, Proc. 2193
Lava Beds NM	CA	Yes	46,821.33	46,821.33	28,460	P.L. 59–209, Proc. 1755
Muir Woods NM	CA	Yes	514.32	553.55		P.L. 59–209, Proc. 793
Pinnacles NM	CA	Yes	14,177.77	16,215.67	12,952	P.L. 59–209, Proc. 796
Black Canyon of the Gunnison NM	CO	Yes	13,363.14	13,672.13	11,180	P.L. 59–209, Proc. 2033
Colorado NM	CO	Yes	19,744.96	20,444.67		P.L. 59–209, Proc. 1185
Dinosaur NM	CO, UT	Yes	203,629.17	211,053.45		P.L. 59–209, Proc. 1313
Florissant Fossil Beds NM	CO	No	5,992.32	5,992.32		P.L. 91–60
Great Sand Dunes NM	CO	Yes	36,426.16	36,826.50	33,450	P.L. 59–209, Proc. 1994
Hovenweep NM	CO, UT	No	785.43	785.43		P.L. 59–209, Proc. 1654
Yucca House NM	CO	No	10.00	10.00		P.L. 59–209, Proc. 1549
Big Cypress N. Pres.	FL	Yes	52,379.70	570,000.00		P.L. 93–440
Biscayne NM	FL	Yes	95,070.84	103,701.23		P.L. 90–606
Castillo de San Marcos NM	FL	No	19.78	20.49		P.L. 59–209, Proc. 1713
Fort Jefferson NM	FL	Yes	47,125.00	47,125.00		P.L. 59–209, Proc. 2112
Fort Matanzas NM	FL	No	298.51	298.51		P.L. 59–209, Proc. 1713
Fort Frederica NM	GA	No	210.72	214.52		P.L. 74–617
Fort Pulaski NM	GA	No	5,365.13	5,615.50		P.L. 59–209, Proc. 1713
Ocmulgee NM	GA	No	683.48	683.48		P.L. 73–350
Craters of the Moon NM	ID	Yes	53,535.05	53,545.05	43,243	P.L. 59–209, Proc. 1694
Effigy Mounds NM	IA	No	1,474.63	1,474.63		P.L. 59–209, Proc. 2860
Saint Croix Island NM	ME	No	22.19	35.39		P.L. 81–87
Fort McHenry NM and Historic Shrine	MD	No	43.26	43.26		P.L. 74–669
Grand Portage NM	MN	No	709.97	709.97		P.L. 85–910
Pipestone NM	MN	No	281.78	281.78		P.L. 75–364
George Washington Carver NM	MO	No	210.00	210.00		P.L. 78–148
Custer Battlefield NM	MT	No	765.34	765.34		P.L. 79–332
Agate Fossil BEds NM	NE	No	2,736.73	3,054.43		P.L. 89–33
Homestead NM of America	NE	No	182.11	194.57		P.L. 74–480
Scotts Bluff NM	NE	Yes	2,708.80	2,967.97		P.L. 59–209, Proc. 1547
Lehman Caves NM	NV	No	640.00	640.00		P.L. 59–209, Proc. 1618
Aztec Ruins NM	NM	No	27.14	27.14		P.L. 59–209, Proc. 1650
Bandelier NM	NM	Yes	29,861.20	36,971.20	23,267	P.L. 59–209, Proc. 1332
Capulin Mountain NM	NM	Yes	775.38	775.38		P.L. 59–209, Proc. 1340
Chaco Canyon NM	NM	Yes	20,990.27	21,510.32		P.L. 59–209, Proc. 740
El Morro NM	NM	Yes	1,039.92	1,278.72		P.L. 59–209, Proc. 695
Fort Union NM	NM	No	720.60	720.60		P.L. 83–429
Gila Cliff Dwellings NM	NM	Yes	533.13	533.13		P.L. 59–209, Proc. 781
Gran Quivira NM	NM	No	610.94	610.94		P.L. 59–209, Proc. 882
Pecos NM	NM	No	341.30	364.80		P.L. 89–54
White Sands NM	NM	Yes	144,751.77	145,334.76		P.L. 59–209, Proc. 2025
Castle Clinton NM	NY	No	1.00	1.00		P.L. 79–721
Fort Stanwix NM	NY	No	15.52	15.52		P.L. 74–291
Statue of Liberty NM	NY, NJ	No	58.38	58.38		P.L. 59–209, Proc. 1713
Mound City Group NM	OH	No	67.50	67.50		P.L. 59–209, Proc. 1653
John Day Fossil Beds NM	OR	Yes	2,035.00	14,402.00		P.L. 93–486
Oregon Caves NM	OR	No	465.80	465.80		P.L. 59–209, Proc. 876
Congaree Swamp NM	SC	Yes	0	15,135.00		P.L. 94–545
Fort Sumter NM	SC	No	62.27	62.27		P.L. 80–504
Badlands NM	SD	Yes	152,289.56	242,302.33	64,250	P.L. 59–209, Proc. 2328
Jewel Cave NM	SD	No	1,274.56	1,274.56		P.L. 59–209, Proc. 799
Alibates Flint Quarries and Texas Panhandle Pueblo Culture NM	TX	No	92.56	92.56		P.L. 89–154
Big Thicket N. Pres.	TX	No	10,579.02	84,550.00		P.L. 93–439
Cedar Breaks NM	UT	Yes	6,154.60	6,154.60		P.L. 59–209, Proc. 2054
Natural Bridges NM	UT	Yes	7,779.14	7,779.14		P.L. 59–209, Proc. 804
Rainbow Bridge NM	UT	No	160.00	160.00		P.L. 59–209, Proc. 1043

Appendix.—*National Monuments and National Preserves Reviewed for Recommendation to Redesignate as Class I Under Clean Air Act Section 164(d)*—Continued

Area name [1]	State	Task force [2] identification	Acreage		Federal wilderness acres already designated class I	Establishing authority [3]
			Federal	Gross		
Timpanogos Cave NM	UT	No	250.00	250.00		P.L. 59-209, Proc. 1640
Booker T. Washington NM	VA	No	223.92	223.92		P.L. 84-464
George Washington Birthplace NM	VA	No	455.98	455.98		P.L. 71-34
Buck Island Reef NM	VI	Yes	880.00	880.00		P.L. 59-209, Proc. 3443
Devil's Tower NM	WY	Yes	1,346.91	1,346.91		P.L. 59-209, Proc. 658
Fossil Butte NM	WY	Yes	7,417.64	8,178.00		P.L. 92-537

[1] NM is abbreviated as NM and N. Pres. is abbreviated as N. Pres.
[2] Presidential Proclamation is abbreviated as Proc., Public Law is abbreviated as P.L.
[3] Yes: The resources of the area possess air quality related values that are important attributes and the area should be considered for the special protection afforded by Class I status.
No: A review of the area has not identified air quality related values of sufficient importance to require protection beyond that afforded the surrounding region in order to realize the purpose for which it was set aside.

Appendix.—*BLM Primitive Areas under Review for Recommendation to Redesignate Class I under Clean Air Act Section 164(d)*

Area name	State	Task Force [2] Identification	Acreage		Establishing Authority [1]
			Federal	Gross	
Aravaipa Canyon	AZ	No	5,107.00	5,107.00	34 Fed. Reg. 642
Paiute	AZ	Yes	35,092.00	35,092.00	40 Fed. Reg. 44166
Paria Canyon	AZ, UT	Yes	27,515.00	26,515.00	33 Fed. Reg. 158
Chemise Mountain	CA	Yes	3,941.00	3,941.00	40 Fed. Reg. 44341
Powderhorn	CO	Yes	40,400.00	40,400.00	38 Fed. Reg. 23427
Beartrap Canyon	MT	Yes	2,861.00	2,861.00	37 Fed. Reg. 18573
Centennial	MT	Yes	24,166.00	24,166.00	40 Fed. Reg. 32848
Humbug Spires	MT	Yes	7,041.00	7,041.00	37 Fed. Reg. 18573
Dark Canyon	UT	Yes	57,248.00	57,248.00	35 Fed. Reg. 14621
Grand Gulch	UT	Yes	24,080.00	24,080.00	35 Fed. Reg. 14859
Scab Creek	WY	Yes	6,680.00	6,680.00	40 Fed. Reg. 26721

[1] These lands were set aside for management as "primitive areas" pursuant to 43 CFR, Part 207. The significance of the designation arises out of 43 CFR, Subpart 6221, which provides for restricted use of lands within the designated primitive areas.
[2] Yes: The resources of the area possess air quality related values that are important attributes and the area should be considered for the special protection afforded by Class I status.
No: A review of the area has not identified air quality related values of sufficient importance to require protection beyond that afforded the surrounding region in order to realize the purpose for which it was set aside.

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Friday
September 7, 1979

Part IV

Environmental Protection Agency

Effluent Guidelines and Standards; Electroplating Point Source Category; Pretreatment Standards for Existing Sources

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 413

[FRL 1263-8]

Effluent Guidelines and Standards; Electroplating Point Source Category; Pretreatment Standards for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation limits the concentrations or mass and requires pretreatment of certain pollutants which may be introduced into publicly owned treatment works by operations in the Electroplating Point Source Category. The purpose is to limit those pollutants which interfere with, pass through, or are otherwise incompatible with the operation of such treatment works. The Clean Water Act requires these standards to be issued.

DATES: Effective date: The regulations shall become effective October 9, 1979.

Compliance date: The compliance date shall be October 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall, Effluent Guidelines Division, (WH-552) Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460. (202) 426-2576.

Organization of this Notice

I. Legal Authority.
II. Summary of Standards.
III. Overview.
IV. Technical Basis for Standards.
V. Upset and Net-Gross Provisions.
VI. Monitoring Requirements.
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VIII. Environmental Considerations.
IX. Availability of Documents.
X. Compliance Schedule.
XI. Small Business Administration Financial Assistance.
XII. Technical Summary and Basis for Regulation.
(1) General methodology.
(2) Summary of Technical Analysis.
(i) Subcategorization.
(ii) Origins and Characteristics of Waste Water Pollutants.
(iii) Treatment and Control Technology.
(iv) Cost Estimates for Control of Waste Water Pollutants.
(v) Energy Requirements and Nonwater Quality Environmental Impacts.
XIII. Summary of Public Participation.

SUPPLEMENTARY INFORMATION: On March 28, 1974, EPA promulgated a regulation adding Part 413 to Chapter 40 of the Code of Federal Regulations (39 FR 11510). That regulation (the "Phase I regulation") with subsequent amendments (the "Phase II regulation") (40 FR 18130, April 24, 1975) established effluent limitations guidelines for existing sources in five subcategories, and standards of performance and pretreatment standards for new sources in one subcategory. Revisions and additions setting forth effluent limitations guidelines based on "best available technology economically achievable" (BAT), pretreatment standards for new and existing sources, and standards of performance for new sources were also proposed for five subcategories (30 FR 11515, March 28, 1974 and 40 FR 18140, April 24, 1975). The history of rulemaking for the category by the Agency prior to December 1976 is described in greater detail in 41 FR 53018 (December 3, 1976).

On December 3, 1976, the Agency suspended the promulgated effluent limitations guidelines based on "best practicable control technology currently available" (BPT). The effluent limitations guidelines based on BAT, new source performance standards, and pretreatment standards for Subpart A of the Electroplating Point Source Category (41 FR 53018) were revoked. The Agency also withdrew its notices of proposed rulemaking for the category (41 FR 53070). The Agency took this action to reevaluate the appropriateness of the limitations and standards established earlier in light of new data and further analysis.

On July 12, 1977, the Agency issued interim final pretreatment standards which incorporated the additional study and analysis (42 FR 35834, July 12, 1977). However, these standards applied only to cyanide, hexavalent chromium, and pH and required plants discharging less than 152,000 liters (40,000 gallons) per day to comply only with amenable cyanide standards. On May 14, 1979 these standards were suspended (44 FR 15029). Therefore, as of this date no pretreatment standards are in effect for this industry.

On February 14, 1978 pretreatment standards were proposed that would require all plants to control hexavalent chromium, lead, cyanide and cadmium (43 FR 6560). In addition, plants discharging more than 38,000 liters (10,000 gallons) per day would be required to control discharges of additional metals. The Agency, after making certain changes in response to comments received, is promulgating this regulation in final form.

Pretreatment standards are being promulgated for process wastewater pollutants introduced into publicly owned treatment works (POTW) from existing sources which fall within the following subcategories of the Electroplating Point Source Category: Electroplating of Common Metals Subcategory (Subpart A); Electroplating of Precious Metals Subcategory (Subpart B); Anodizing Subcategory (Subpart D); Coatings Subcategory (Subpart E); Chemical Etching and Milling Subcategory (Subpart F); Electroless Plating (Subpart G) and Printed Circuit Boards (Subpart H). The content of the standards is discussed in detail below under Summary of Standards.

I. Legal Authority

This regulation is being promulgated pursuant to section 307(b) of the Clean Water Act, as amended, 33 U.S.C. § 1317(b) (the Act), which requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works. This regulation is also being promulgated in compliance with the Settlement Agreement in *Natural Resources Defense Council Inc. v. Train*, 8 ERC 2120 (D.D.C. 1976), as modified March 9, 1979.

II. Summary of Standards

This regulation establishes "categorical" pretreatment standards, containing specific numerical limitations based on an evaluation of available technologies in a particular industrial subcategory. The specific numerical limitations are arrived at separately for each subcategory, and are imposed on pollutants which may interfere with, pass through, or otherwise be incompatible with publicly owned treatment works (POTW). For plants with a daily flow of 38,000 liters (10,000 gallons) per day or more, the promulgated standards specifically limit indirect discharges of cyanide and the following metals: lead, cadmium, copper, nickel, chromium, zinc, and silver. Additionally, these regulations limit total metal discharge which is defined as the sum of the individual concentrations of copper, nickel, chrome and zinc. For plants with a daily process wastewater flow of less than 38,000 liters (10,000 gallons), these standards limit only lead, cadmium, and cyanide in order to limit the closure rate in the industry while contributing to significant environmental improvement.

The hexavalent chromium limitations which appeared in the proposed regulation have not been included in this final regulation. The Agency believes that hexavalent chromium limitations are probably unnecessary where total chromium limitations are established. Accordingly, plants discharging 10,000 gallons per day or more will be required to meet a total chromium limitation as originally proposed. The Agency also has eliminated the hexavalent chromium limitation for plants discharging less than 10,000 gallons per day. This was done in order to help reduce the cost of this regulation to the industry. The Agency believes that in most instances the environmental effect of eliminating this requirement will not be significant.

Alternative mass-based standards which are equivalent to the concentration-based standards are also set forth in this regulation. These optional standards may replace the concentration standards where mutually agreed to by the discharger and the publicly owned treatment works. The methodology which was used to develop these limitations is set forth in the Development Document.

Optional TSS limitations have been promulgated by the Agency to reduce self-monitoring costs. TSS and pH limitations replace the Cu, Ni, Cr, Zn, and total metal limitations. Indirect dischargers using this optional limitation are prohibited from using strong chelating agents, must reduce hexavalent chromium wastewaters, and are required to neutralize their wastewater streams with calcium oxide or calcium hydroxide.

The present regulation should be read in conjunction with the General Pretreatment Regulation, 40 CFR Part 403, 43 FR 27736 (June 26, 1978). That regulation governs abnormal discharges which interfere with publicly owned treatment works and establishes mechanisms and procedures for enforcing national categorical pretreatment standards for existing and new sources. The General Pretreatment Regulation prohibits discharges into a POTW with a pH lower than 5.0 and discharges of such volume or strength as to cause POTW interference. These provisions require indirect dischargers of less than 10,000 gallons per day to install pH control and to slowly bleed their toxic waste batch dumps into a POTW.

III. Overview

These pretreatment standards cover all firms performing operations in the Electroplating Point Source Category that introduce effluent into publicly owned treatment works. These operations include electroplating, anodizing, conversion coating, electroless plating, chemical etching and milling, and the manufacture of printed circuit boards. These standards cover both firms performing these processes as their primary line of business and so-called captive operations that perform these processes as part of the manufacture of a product. The plants covered by these regulations are found throughout the United States but are concentrated in heavily industrialized areas.

The printing and publishing industry (SIC 2700) and the iron and steel industry (SIC 3300) are excluded from this pretreatment regulation even though they perform similiar operations. Future electroplating point source category regulations are expected to cover electroplating operations in these industries as well.

The standards require limitations on the discharge of pollutants that are toxic to human beings as well as to aquatic organisms. These pollutants include cadmium, lead, chromium, copper, nickel, zinc, silver, and cyanide. The Agency has put a high priority on the reduction of these pollutants from the nation's waters, primarily because of their toxic nature.

These standards cover a large number of indirect discharges that account for a significant amount of the toxic substances under consideration entering the environment. Revised estimates by the Agency indicate that compliance with these standards could prevent up to 140 million pounds per year of toxic pollutants from entering the ambient waters or concentrating in the sludge from municipal treatment systems.

The Agency's estimate of the quantity of metal pollutants which would be prevented from being discharged into POTWs by this regulation has increased from 40,000,000 to 140,000,000 pounds per year. This revised estimate is based on projected mean concentrations of each pollutant removed as a result of compliance with the regulation. This estimate increased because of a substantial increase in calculated industrial process flow for the plants affected by this regulation and the use of mean instead of median raw waste pollutant values. The Agency's estimate of pollutants discharged to POTWs indicates that electroplating is a major contributor of these pollutants to POTWs.

However, this environmental improvement is not attained without a significant economic impact. Economic analyses by the Agency indicate that many firms whose primary business is metal finishing or printed circuit board manufacturing are vulnerable to adverse economic impact.

After considerable restudy and based on public comments, the Agency believes it has found methods of reducing the projected economic impact of these pretreatment standards without seriously compromising the environmental improvement that this regulation would accomplish. Most importantly, plants whose metal finishing process wastewater flow is less than 10,000 gallons per day must meet a less stringent level of control than do plants with greater flows. Because of their high toxicity, however, cadmium, lead, and cyanide are controlled for all flows. Reducing the requirements on these smaller facilities (or facilities with smaller flows) significantly reduces the projected economic impact of the standards while relaxing controls on less than three percent of the flow to publicly owned treatment works.

Nonetheless, the projected economic impacts of these standards are a major concern to the Agency. The potential adverse effects of this regulation can be substantially reduced through the use of Small Business Administration economic injury loans.

The Agency has been working with the Small Business Administration to insure that loans and other financial assistance programs will be available to eligible firms affected by these standards.

On December 27, 1977, the President signed the Clean Water Act, P.L. 95-217, 91 Stat. 1566, which made significant changes in the Federal water pollution control laws. Included in the amendments is a provision allowing, under certain conditions, a variance from categorical pretreatment standards based on pollutant removal by municipally owned treatment works. This amendment to Section 307(b) of the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, provides:

"If, in the case of any toxic pollutant under subsection (a) of this section introduced by a source into a publicly owned treatment works, the treatment by such works removes all or any part of such toxic pollutant and the discharge from such works does not violate that effluent limitation or standard which would be applicable to such toxic pollutant if it were discharged by such source other than through a publicly owned treatment works, and does not prevent sludge use or disposal by such works in accordance with section 405 of this Act, then the pretreatment requirements for the sources actually discharging such toxic pollutant into such publicly owned treatment works may be revised by the owner or operator of such works to reflect the removal of such toxic pollutant by such works."

The list of toxic pollutants specified under section 307(a) is a list of pollutants reprinted in the House of Representatives Committee Print No. 95-30, which includes all the pollutants controlled by present pretreatment regulations. Information on how removal allowance may be obtained can be found in the General Pretreatment

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Regulations, 40 CFR Part 403, 43 FR 22736 (June 26, 1978).

IV. Technical Basis for Standards

The technical analysis upon which this regulation is based includes an identification of the principal wastewater pollutants generated by this category, a consideration of the extent to which these pollutants pass through publicly owned treatment works or are incompatible with publicly owned treatment works, and a study of the various pretreatment technologies which are available for controlling the discharge of such pollutants. Information gathered in a technical study of direct and indirect dischargers for this category was the primary basis for assessing available pretreatment technologies. Data gathered earlier in support of the direct discharge limitations under sections 301 and 304 as well as data submitted by industry were used also. The data and the analysis used in developing these limitations are summarized in Section XII. The details of these studies are set forth in the "Development Document for Existing Source Pretreatment Standards for the Electroplating Point Source Category" (the Development Document).

V. Upset and Net-Gross Provisions

The Upset provision contained in this regulation was modeled after § 122.14(1) of the National Pollutant Discharge Elimination System (NPDES) regulations, 40 CFR Part 122. An explanation of § 122.14(1) is contained in the preamble to the NPDES regulations, 44 FR 32863 (June 7, 1979). The primary difference between the two regulations is that in the electroplating pretreatment regulation an Industrial User must submit notice of an upset to its POTW and Control Authority. In the NPDES regulation, a direct discharger notifies the Regional EPA Administrator or the Director of the State water pollution control agency of an upset.

The net-gross provision contained herein was modeled after § 122.16(e) and (f) of the NPDES regulations. An explanation of § 122.16(e) and (f) is contained in the preamble to the NPDES regulations, 44 FR 32865 (June 7, 1979). The primary difference between the two regulations is procedural: Industrial Users apply to EPA for net-gross credits within sixty days after the applicable categorical pretreatment standard is promulgated, whereas direct dischargers apply for credits at the time they apply for NPDES permits. For purposes of this provision, no net-gross credit shall be given for pollutants found in city water even if the water originates from the same source to which the User's POTW discharges.

VI. Monitoring Requirements

The Agency is specifying self-monitoring requirements as a part of the regulation for this category. The meaning of "average performance" is also detailed and provision is made for calculating performance requirements as a function of the number of samples taken during the sample period.

The self-monitoring frequently required for individual dischargers is a function of the plant's electroplating wastewater discharge. The minimum self-monitoring frequency requirement varies from once per month for plants discharging less than 38,000 liters (10,000 gallons) per day to three times per week for plants discharging more than 950,000 liters (250,000 gallons) per day. The minimum self-monitoring frequency requirements were set to minimize economic impacts while maximizing the control of discharges.

As a part of the Agency's approach to self-monitoring, the Agency is also defining average performance requirements. The Agency originally had proposed daily maximum limitations and 30 day average limitations. Comments from both dischargers and publicly owned treatment works operators indicated a great deal of uncertainty as to the application of the 30 day limitation and the associated self-monitoring cost. Since the self-monitoring requirements are now part of the regulation and do not require self-monitoring for 30 consecutive days, a great deal of attention was directed to defining "average limitations". The new mechanism for determining average limitations makes the average limitation a function of the number of samples included in the average. This approach is consistent with the statistical method used for determining the limitations and with the statistical principle that the fewer the number of measurements in a sample, the more variable will be the average of the measurements. Mathematically, the standard deviation of sample means is inversely proportional to the square root of the number of measurements in the sample. A table has been provided to allow the POTW and the discharger to calculate an appropriate average limitation for each pollutant for any number of individual self-monitoring samples.

Some commenters asked that average limitations be eliminated entirely. This alternative was rejected because it would lessen the extent of real control over the operation of the treatment systems. It is axiomatic that an average is more representative of the overall operation of any system than is a single measurement. Statistically, the more measurements in an average, the greater the "power" of statistical tests. From a regulatory standpoint it is desirable to develop measures of plant performance with the maximum power or statistical usefulness in drawing conclusions about the overall performance of the system.

Average limitations calculated through use of the table provided in the regulation are of equal stringency. Thus, a treatment system capable of meeting the average limitation for thirty samples should also meet a limitation calculated on the basis of six samples.

The method developed for calculating average limitations for numbers of samples can be used by the POTW, State, or municipality to develop local limitations. At a minimum, the local control authority must set average limitations based on the minimum number of self-monitoring samples required to be taken per month. In addition, the local authority and the discharger must calculate and apply average limitations based on the actual number of samples taken per month. If the discharger chooses to take more samples than the minimum number required, then he must report all samples and meet limitations based on the actual number of samples.

VII. Economic Impact Analysis

Executive Order 12044 requires EPA and other federal agencies to perform regulatory analyses of certain regulations, 43 FR 12661, March 23, 1978. EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annual compliance costs of $100 million or more, or meeting other specified criteria, 43 FR 29891, July 11, 1978. When these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives, such as: 1) alternative types of regulations; 2) alternative stringency levels; 3) alternative timing; and 4) alternative methods of ensuring compliance.

Section 6(b) (6) of Executive Order 12044 exempts from the requirements of the order regulations "that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines." The pretreatment standards for electroplaters are subject to a court ordered requirement of promulgation by May 15, 1977, *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976). Further delay in the promulgation of these standards would not be in the interest of the environment or the Nation, and would subject the Agency to a possible citation for contempt of court. Accordingly, the pretreatment standards for existing sources in the electroplating point source category are exempt from a formal Regulatory Analysis, as decided by the Director of the Office of Analysis and Evaluation. Nonetheless, this rulemaking satisfies most of the substantive requirements for a Regulatory Analysis. Although the Clean Water Act does not require consideration of alternative timing, or alternative methods of ensuring compliance, EPA has considered alternative stringency levels, and alternative types of regulations. Moreover, the Agency has performed a detailed analysis of the economic impacts of the regulation. A complete description of the analysis is set out in a report entitled "Economic Analysis of Pretreatment Standards for Existing Sources in the Electroplating Point Source Category" (August, 1979). This document is available on request from Ms. Sandra Jones, Office of Analysis and Evaluation (WH–586), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460.

(a) Background.—The primary financial data for this analysis were supplied by respondents to surveys of over 11,000 establishments identified as engaged in electroplating operations by Dun & Bradstreet lists, Underwriters Laboratories lists, or in the subscription list of a major trade journal. Over 2,100 responses to these surveys were coded for analysis by a computer program to determine the impacts of compliance with the regulations on the respondents' short-term viability and long-term profitability.

The computer program was used to compare the investment requirements for compliance, and associated annual costs, with balance sheet and income statement information to determine the projected financial status of the plants after all compliance requirements had been met. If the plant's estimated profitability, after compliance, was negative, or if the projected debt retirement burden, after investment, was too high to be paid out of the annual cash flow, the computer analysis indicated that the plant was a candidate for closure.

To guide the choice of parameters and assumptions for the economic analysis, the Agency and its contractors consulted with bankers, equipment suppliers, municipal government officials, economic development experts, municipal treatment works officials, professional groups, and electroplaters in three communities where pretreatment ordinances similar to EPA's proposed regulations were in effect. The communities were: Grand Rapids, Michigan; Muncie, Indiana; and Waterbury, Connecticut.

Although the data gathered in these three cities were not intended to verify the economic analysis of the national impacts of the pretreatment standards, they did indicate that the assumptions used in the analysis were substantially correct. A full description of the Agency's findings in the three cities is presented in a report entitled "Analysis of Economic Impacts of Pretreatment Ordinances on the Metalfinishing Industry in Three Communities" (October 21, 1977). This document is available on request from Ms. Sandra Jones, Office of Analysis and Evaluation (WH–586), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

(b) Coverage of the regulations.—These pretreatment standards for plants discharging to publicly owned treatment works (POTW) apply to three groups of electroplating operations: 1) Independent shops performing the metal finishing processes covered by the regulations as their primary line of business (job shops); 2) Independent manufacturers of printed circuit boards (printed board manufacturers); and 3) Captive establishments performing the regulated processes as part of the manufacture of some product by the same firm (captive shops). Summary statistics on the job shops, printed board manufacturers, and captive shops that discharge to publicly owned treatment works are presented in Table 1 below. For captive shops, which do not sell their services to other firms, the average value added by metal finishing is shown in place of sales.

Table 1.—*Summary Characteristics of the Three Industry Sectors (Indirect Dischargers)*

	Job shops	Printed board manufacturers	Captive shops
Number of Plants	2,734	327	4,722
Total Employment (1,000's)	62.8	20.6	2.930
Total Production Employment (1,000's)	46.8	11.9	67.0
Total Sales (million of dollars per year)	1,889	494	5,077
Total Process Water Flow (million gallons per day)	88.3	6.1	1,163

Table 1 shows the preponderance, among indirect dischargers, of production employment, value of metal finishing services, and process water flow, in the captive sector of the industry.

(c) Costs. The economic analysis considers two cost components. The first is the capital cost, or the amount of investment required for installation of pollution control equipment to comply with the regulations. Capital cost estimates are based on the total cost of equipment that the Agency estimates will enable a discharger to meet the pretreatment standards, including the planning required to design a treatment system, and the installation of the system itself. To the extent that there are other less expensive systems, not considered by the Agency, that will achieve the same treatment levels at less cost, the Agency's estimated capital costs are an overstatement of the capital outlays that dischargers in the industry will face. Capital costs shown here are based on extensive observation of equipment in place in the industry, and on manufacturers' quotations for design, supply and installation of treatment equipment.

The second relevant cost component is the total annual cost of compliance for each plant. The annual cost is the sum of all the outlays required in each year for operation and maintenance (O&M) of the pollution control system, sludge disposal, energy usage associated with the operation of the system, and principal and interest payments on the initial investment. The annual costs shown below are adjusted for the tax reductions associated with reduced profitability of the plant.

Table 2 presents the estimated total capital and annual costs of compliance with the regulations, for all indirect dischargers in each of the three sectors described above, and for all indirect dischargers in the electroplanting point source category. These costs represent the increments between reported levels of treatment in the industry and levels required by the pretreatment standards. In Table 2, and throughout this report, all costs are expressed in 1976 dollars.

Table 2.—*Estimated Capital and Annual Costs of Compliance*

[In thousands of dollars]

	Capital cost	Annual cost
Job Shops	$167,600	$62,500
Printed Board Manufacturers	18,500	6,800

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Table 2.—*Estimated Capital and Annual Costs of Compliance*—Continued

[In thousands of dollars]

	Capital cost	Annual cost
Captive Shops	1,134,400	424,600
Total All Regulated Facilities	1,340,500	493,900

As Table 2 demonstrates, a large proportion of the capital and annual cost of compliance is incurred in the captive sector of the industry. Captive shops are projected to spend more than five times the amounts required of all independent shops combined, for both the initial investment in equipment and the subsequent annual costs of compliance. This disparity reflects the much larger flows from production processes in captive plants, and the consequent higher average cost of installation of larger tanks and treatment facilities. The average estimated capital cost for captive shops is $240,000, and the average estimated capital cost for job shops is $87,400.

(d) Impacts on the Job Shop Sector. Independent metal finishing job shops may suffer significant adverse economic impacts as a result of the regulations. EPA estimates that 587 metal finishing job shops, employing 9,653 workers, may close as a result of the regulations. This represents 19.9 percent of the job shops in the industry (21.5 percent of the indirect dischargers), and 13.9 percent of the employment in the job shop sector (15.4 percent of employment in job shops that discharge to publicly owned treatment works).

Industry has criticized certain assumptions used in EPA's economic model, claiming that if more realistic assumptions were made, closure rates in the job shop subcategory would be between 30 percent and 60 percent or higher. These estimates were derived by selectively changing assumptions which industry argues minimize closures while ignoring others which maximize closures. Moreover, industry estimates do not consider the potential effect of SBA loans, which could reduce closures in the job shop subcategory to as low as 5.4 percent.

EPA's economic model, like all models, is a simplification of reality to allow an estimation of economic impacts. The 19.9 percent closure rate EPA estimates is an approximation, not a "worst case" outside limit. Nevertheless, due to the use of some very conservative assumptions and the enormous potential impact of SBA assistance, which EPA did not even consider in its model, there is no reason to conclude that real world closures will be as high as those predicted by industry.

Because of the wide variety of products plated, the proportion by which production in the industry might decline as a result of the regulation would have little meaning. The 587 plants that are projected possibilities for closure, however, represent $251 million in sales, 12.4 percent of estimated sales for all job shops (13.3 percent of the sales of indirect dischargers). The job shops projected to close account for only four percent of the profits before tax generated by indirect dischargers in the job shop sector, although profits in plants that do not close will also decline, in the short run, as a result of compliance with the regulations.

The average price of electroplating services from job shops is expected to rise by approximately 7.0 percent as a result of the regulations.

(e) Impacts on the printed board manufacturers.—The impacts of the regulations on the manufacturers of printed circuit boards are not expected to be as great as on the job shops. The Agency estimates that 10 manufacturers of printed circuit boards, employing 321 workers, may close. These plants are 2.5 percent of all printed circuit board manufacturers (3.1 percent of the printed circuit board indirect dischargers), and represent 1.3 percent of employment in this sector (1.6 percent of employment in printed board plants that discharge to publicly owned treatment works).

The price of printed circuit boards is expected to rise by approximately 1.7 percent as a result of the increase in production costs caused by the treatment requirements of the regulations.

(f) Impacts on captive shops.—Captive shops in the industry are not expected to suffer severe adverse impacts from the regulations. None of the plants where metal finishing operations occur is projected to close as a result of the regulation; however, captive plating lines in as many as 140 plants may be shut down, as the plants turn to job shops for their supply of plating services. These 140 plants employ approximately 2,610 metal finishing workers, or about 2.2 percent of the wet metal finishing employees in the captive sector (3.0 percent of employees in captive shops that are indirect dischargers).

The final cost of production of those products produced by firms with captive operations is expected to rise by one percent or less as a result of the regulations.

(g) Combined impacts of the regulations.—It is difficult to combine most of the impacts described above into a single set of statistics that would express the effects of the regulations on the electroplating point source category as a whole. Potential plant closures, for instance, are meaningful as a measure of impact only for independent job shops and printed board manufacturers. One parameter that can be used to judge the aggregate impacts of the regulation is the percentage employment loss for the industry as a whole. The total number of jobs that may be affected is 12,584. This represents 5.9 percent of the 214,000 estimated employees in the category. There are 94,000 total employees in the independent firms plus 120,000 metal finishing employees in the captive shops. Among indirect dischargers, the projected employment impact is 8.6 percent of 146,000 jobs.

(h) Limits of the analysis.—The discussion above has mentioned some of the limitations, such as the difficulty of estimation of production impacts, that are inherent in the economic analysis of the electroplating industry. Beyond these, there are two major drawbacks to the plant-level financial analysis performed by the Agency. They are in the estimation of employment and price effects.

The Agency's estimate of employment impact due to the regulation is based on the employment represented by the plants that are projected to close. Because the Agency's analysis concentrates on the ability of individual plants to bear the costs of compliance, it cannot compare market equilibrium price and production levels before and after compliance. Therefore, the Agency cannot predict the growth effects on plants that successfully comply with the pretreatment standards.

In the past, however, the demand for electroplating services has appeared to be extremely price inelastic, and growing, because of the small percentage of cost of production that electroplating represents for all of the products that require metal finishing, and because of the lack of alternatives to the metal finishing production step. This strong demand suggests that the customers of any plating shops that close are likely to turn to suviving metal finishers for their plating services, and that these finishers will increase production and employment in response to their new customers' requests. Any increase in employment due to this process will reduce the net employment loss in the industry below the gross projected employment losses described above.

Because electroplating represents only a small portion of the final product cost, the price increases described above are overstatements of the percentage increases in the prices of the finished goods. The cost of plating does not exceed 6 percent of the aggregate cost of production in any manufacturing sector. This means that an increase of 7.0 percent in plating costs, as projected above for job shops, translates into an increase of less than 0.5 percent in the prices of the products that job shops plate.

(i) SBA financial assistance.—All of the estimated impacts of the regulations on job shops and printed circuit board manufacturers can be dramatically reduced by federal financial assistance programs for small business. The plant closures projected in the economic analysis result from the unavailability of long-term financing and high commercial interest rates, which lead to annual carrying costs on loans which are larger than can be supported by the plants' annual cash flow. SBA Economic Injury Loans, for which almost all electroplating job shops qualify, are available at interest rates substantially below commercial rates, and for periods up to 30 years. Details of the SBA loan program are presented in Section XI of this document.

To test the effect of Economic Injury Loans, EPA reestimated the impacts of the regulations, assuming availability of 20-year loans (to correspond to the average lifetime of pollution abatement equipment), at an interest rate of 6.75 percent. This sole change in the assumptions of the analysis reduced the projected closures in the job shop sector from 19.9 to 5.4 percent of the firms, and projected employment loss from 13.9 to 6.7 percent of the jobs. In absolute terms, SBA loans could reduce the number of projected job shop closures from 587 to 148, and the estimated employment loss in the job shop sector from 9,653 to 4,670.

The economic impacts of these pretreatment standards clearly depend in large measure on the effective delivery of Economic Injury Loans to electroplaters. The Environmental Protection Agency has worked closely with the SBA to ensure that these loans are delivered expeditiously. Future efforts to facilitate the delivery of SBA loans will include the expansion of a current memorandum of understanding with SBA adding specific references to steps that will be taken to aid electroplaters. In addition, the Agency is examining private sources of expertise in SBA programs to develop a mechanism for dissemination of information about the Economic Injury Loan Program and to provide all assistance necessary to secure prompt delivery of investment capital to eligible electroplating firms.

VIII. Environmental Considerations

The Electroplating Point Source Category consists of an estimated 9400 firms discharging effluent from metal finishing processes either directly to the Nation's waters or indirectly through publicly owned treatment works (POTWs). Of these, an estimated 6600 discharge approximately one billion gallons a day of metal finishing process water to publicly owned treatment works and are covered by these pretreatment standards.

The pollutants discharged by these plants include the following substances toxic to human beings and aquatic organisms: cadmium, lead, chromium (both hexavalent and trivalent), copper, nickel, zinc, silver, and cyanide. These pollutants are only partially removed by municpal treatment systems and pass through to the Nation's waters in varying degrees. The fraction of the metals that does not pass through the municipal system concentrates in the municipal sludge where it hampers the use of the sludge as fertilizer and soil conditioner. These pollutants can also interfere with the efficient operation of the publicly owned treatment works.

The Nation's water quality will be improved by these standards. Cities that have promulgated and enforced similar regulations on metal finishers in the past report substantial reductions in toxic pollutants.

Environmental considerations are discussed in more detail in the section entitled Technical Summary and Basis for Regulations under subsection (2)(ii) of Section XII below entitled, "Origins and Characteristics of Wastewater Pollutants."

IX. Availability of Documents

The EPA technical and economic reports which support this regulation are available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460, at all EPA Regional Offices, and at State Water Pollution Control Offices.

Copies of the technical development document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, Virginia 22151.

X. Compliance Schedule

Section 307(b) of the Clean Water Act specifies "a time for compliance not to exceed three years from the date of promulgation" of the standard. Because of the high projected economic impact of these pretreatment standards, the Agency believes that the maximum compliance deadline as set forth in section 307(b) should apply. The time for compliance with these categorical pretreatment standards will thus be three years from the effective date of these regulations. States or local governments may wish to adopt the substantive pretreatment standards and make these standards part of the state laws or local ordinances.

XI. Small Business Administration Financial Assistance

The analysis of the economic impact of these pretreatment standards indicates that Small Business Administration (SBA) financial assistance could significantly reduce the adverse impact of these standards. EPA estimates that the projected closure rates for metal finishing job shops of 19.9 percent could possibly be reduced to 5.4 percent by the use of available SBA loan programs by firms that meet applicable criteria. This would prevent the closing of 439 firms and loss of 4,923 jobs. The Agency has been working with the Small Business Administration to insure that these benefits of fewer closures will be realized. The intent of this work has been to make sure that all firms that must comply with these pretreatment standards and that are eligible for SBA assistance will be helped without undue delay.

There are two SBA programs that may be important sources of funding for the Electroplating Point Source Category. They are the SBA's Economic Injury Loan Program and Pollution Control Financing Guarantees.

Section 8 of the Federal Water Pollution Control Act (FWPCA) authorizes the SBA, through its Economic Injury Loan Program, to make loans to assist any small business concern in effecting additions to or alterations in equipment, facilities, or methods of operation, in order to meet water pollution control requirements under the FWPCA if the concern is likely to suffer a substantial economic injury without such assistance. This program is open to firms of 250 or fewer employees and in some instances to firms employing up to 1000 employees. Thus, this program is open to essentially all independent job shops in the Electroplating Point Source Category. Loans can be made either directly by SBA or through a bank using an SBA guarantee of ninety percent of the loan. The interest on direct loans depends on the cost of money to the federal

government and is currently set at 7¾ percent. Loan repayment periods may extend up to thirty years depending on the ability of the firm to repay the loan and the useful life of the equipment. SBA loans made through banks are at somewhat higher interest rates and are currently at 11¼ percent.

Analyses by the Environmental Protection Agency indicate that many firms in the Electroplating Point Source Category would be eligible for direct and indirect SBA loans. For further details on the Federal loan program write or telephone any of the following individuals at EPA Headquarters or in the ten EPA Regional offices:

Coordinator—Mr. Sheldon Sacks, Environmental Protection Agency, Financial Assistance Coordinator, Office of Analysis & Evaluation (WH–586), 401 M Street SW., Washington, D.C. 20460, Telephone: (202) 755–3624.

Region I—Mr. Glenn John, Environmental Protection Agency, J. F. Kennedy Federal Office Building, Room 2203, Boston, Massachusetts 02203, Telephone: (617) 653–6570.

Region II—Mr. Gerald DeGaetano, Air & Environmental Applications Section, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007, Telephone: (212) 264–4711.

Region III—Mr. Chuck Sopp, Environmental Protection Agency, Curtis Building, 3EN40, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telchone: (215) 597–9433.

Region IV—Mr. John Hurlebaus, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone: (404) 881–4793.

Region V—Mr. Chester Marcyn, Contingency Plan Coordinator, Surveillance and Analysis Branch, Enforcement Division, Environmental Protection Agency, 536 South Clark Street, Chicago, Illinois 60605. AC-(213) 353–2316.

Region VI—Ms. Jan Horn, Attorney, Water Enforcement Division, Water Division, Environmental Protection Agency, 1st International Building, 1201 Elm Street, Dallas, Texas 75270, Telephone: (214) 767–2760.

Region VII—Mr. Donald Sandifer, Engineering Branch, Water Division, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, Telephone: (816) 374–2725.

Region VIII—Mr. Gerald Burke, Sanitary Engineer, Office of Grants, Water Division, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203, Telephone: (303) 837–3961.

Region IX—Ms. Linda Powell, Permits Branch, Enforcement Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94111, Telephone: (415) 556–3450.

Region X—Mr. Dan Bodien, Special Technical Advisor, Enforcement Division, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101, Telephone: (206) 442–1270.

Headquarters—Mr. Donnel Nantkes, Legal Counsel, Grants Contracts and General Administration Division, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: (202) 426–8830.

Interested persons may also contact the Assistant Regional Administrators for Finance and Investment in the Small Business Administration Regional offices for more details on Federal loan assistance programs. For further information, write or telephone any of the following individuals:

Region I—Mr. Russell Berry, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 60 Batterymarch, 10th Floor, Boston, Massachusetts 02203, Telephone: (617) 223–3891.

Region II—Mr. John Axiotakis, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 26 Federal Plaza, New York, New York 10007, Telephone: (212) 264–1452.

Region III—Mr. David Malone, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1 Bala Cynwyd Plaza, 231 St. Asapas Road, West Lobby, Suite 646, Bala Cynwyd, Pennsylvania 19004, Telephone: (215) 596–5962.

Region IV—Mr. Merritt Scoggins, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1401 Peachtree Street, N.E., Atlanta, Georgia 30309, Telephone: (404) 881–2009.

Region V—Mr. Larry Cherry, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 219 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353–4533.

Region VI—Mr. Donald Beaver, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1720 Regal Row, Suite 230, Dallas, Texas 75202, Telephone: (214) 749–1265.

Region VII—Mr. Richard Whitley, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 911 Walnut Street, 23rd Floor, Kansas City, Missouri 64106, Telephone: (816) 374–3927.

Region VIII—Mr. James Chuculate, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 1405 Curtis Street, Executive Tower Building—22nd Floor, Denver, Colorado 80202, Telephone: (303) 327–3988.

Region IX—Mr. Charles Hertzberg, Assistant Regional Administrator for Finance and Investment, Small Business Administration, 450 Golden Gate Avenue, San Francisco, California 94102, Telephone: (415) 556–7782.

Region X—Mr. Jack Welles, Regional Administrator for Finance and Investment, Small Business Administration, 710 2d Avenue, Dexter Horton Bldg.—5th floor, Seattle, Washington 98104, Telephone: (206) 399–5679.

In addition to the Economic Injury Loan Program, the Small Business Investment Act, as amended by Public Law 94–305, authorizes SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution facilities when the financing is provided through taxable and tax-exempt revenue or pollution control bonds. This program is open to all eligible small businesses including electroplating and metal finishing firms. Bond financing with SBA's guarantee of the payments makes available long term (20–25 years), low interest (usually 5 to 7 percent) financing to small businesses on the same basis as that available to larger national or international companies. For further details on this program write to the SBA, Pollution Control Financing Division, Office of Special Guarantees, 1815 North Lynn Street, Magazine Bldg., Rosslyn, Virginia 22209, (703) 235–2900.

XII. Technical Summary and Basis for Regulation

This section summarizes the basis for pretreatment standards for existing sources in the electroplating point source category.

(1) General methodology

The pretreatment standards were developed in the following manner: The point source category was first studied to determine whether separate standards were appropriate for different segments within the category. The raw waste characteristics for each such segment were then identified. This included an analysis of: the source, flow, and volume of water used in the process employed; the sources of waste and wastewaters; and the constituents of all wastewater. The compatibility of raw waste characteristics with municipal treatment works was then considered. Wastewater constituents suspected of passing through or interfering with publicly owned treatment works were identified.

The Agency identified the control and treatment technologies existing within each segment. This included identification of each distinct control and end-of-pipe treatment process which exists or is capable of being designed for each segment. It also included a determination of the effluent quality resulting from the application of each of the technologies in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants. The problems, limitations, and reliability of each treatment and control technology were identified. The Agency additionally studied the non-water quality environmental impacts, of such technologies upon other pollution problems, including air, solid waste, noise, and radiation. The energy requirements of each control and

treatment technology as well as the capital cost and the other annual costs to operate and maintain the installed technology, were determined.

The information, as outlined above, was then evaluated to determine the appropriate levels of technology. In identifying such technologies, the Agency considered various factors. These included the total cost of application of technology, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impacts (including energy requirements), and other factors.

The data upon which the above analysis is based included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of technical analysis

(i) Subcategorization. Previous regulations for the electroplating point source category subcategorized the industry on the basis of the processes employed. Electroplating was separated from electroplating-related metal finishing processes because electroplating always requires the action of an electrical current to deposit a metallic coating on the basis material. Electroplating-related metal finishing processes may not require a current and may or may not deposit a metallic coat on the basis material. The processes of anodizing, conversion coating, chemical etching and milling are different enough to warrant separate subcategories. Anodizing, usually performed on aluminum, converts the surface of the object to the metal oxide. Conversion coating refers principally to chromating and phosphating. Each of these processes chemically forms a thin protective coat on the treated object. An electrical current may or may not be applied. Chemical etching and milling involve the dissolution of the basis material.

In restudying the industry for the purpose of establishing pretreatment regulations, the Agency decided that printed circuit board manufacturing and electroless plating also warrant separate subcategorization because of the unique mixture of electrolytic and electroless plating operations found in these processes. Additionally, these processes produce pollutants which may render normal waste treatment techniques ineffective if proper safeguards are ignored. Finally, this subcategorization is consistent with the existing structure of the industry, each subcategory tending to be oriented toward individual processes or identifiable markets which do not overlap significantly.

Separate analyses were conducted for the common metals, precious metals, electroless, and printed circuit board subcategories. For the concentration-based limitations, no significant differences were found between these subcategories. Accordingly, the limitations for these subcategories are identical, with the exception of silver in the precious metals subcategory. Since differences in water use were found between several subcategories, the optional-mass based standards are different in several of these subcategories. The details of this analysis are given in the Development Document.

(ii) Origins and characteristics of waste water pollutants. Wastewater from this industry comes from pretreatment and post treatment operations as well as the actual metal finishing and electroplating steps. The known significant pollutants and pollutant properties from these operations include pH, total suspended solids, cyanide, chromium, copper, nickel, zinc, cadmium, lead, aluminum, and various precious metals and organic compounds. The present study indicates that many of these pollutants may occur together and that their individual concentrations may exceed 100 mg/l.

Wastewater results from the following operations in this industry: (1) rinsing to remove films of processing solution from the surface of work pieces at the site of each operation, (2) rinsing away spills, (3) washing the air that passes through ventilation ducts so as to remove spray from the air before it is exhausted, (4) dumping of spent solutions, (5) washing of equipment, and (6) discharging cooling water used in heat exchangers to cool solutions in metal finishing processes. Approximately 90 percent of the water consumed is in rinsing. That used as cooling water is usually recycled for rinsing. Plating solutions that are dumped should be slowly trickled into the rinse waters prior to treatment.

Many of the pollutants which are generated are toxic pollutants which have potential for environmental or POTW damage. Since none of the metals are destroyed when introduced into a POTW, they either pass through to the POTW effluent or concentrate in the POTW sludge. Cyanide also can pass through a POTW, and both cyanide and the metals can interfere with the POTW treatment processes. The problems associated with the toxic pollutants are as follows:

Inhibition of POTW Processes

All of the metals and cyanide are known to inhibit the operations of a POTW at sufficiently high concentrations. Threshold process influent concentrations for inhibition of activated sludge processes as given in the Federal Guidelines for State and Local Pretreatment Programs (EPA–430/9–76–017) are as follows:

Pollutant	Conc. (mg/l)
Cd	10–100
CN^-	0.1–5
Cr,VI	1–10
Cr,III	50
Cu	1
Ag	5
Pb	0–1
Ni	1–2.5
Zn	0.08–10

For anaerobic digestion and nitrification processes, the threshold inhibition concentrations differ. In the case of nitrification processes especially, the threshold numbers are usually lower.

Limitation of Sludge Use

Since the metals are not destroyed, that fraction which does not pass through the POTW is incorporated into sludge. Depending on sludge disposal methods, these metals could contaminate the air, the water, or in some cases enter the human food chain. In addition, sewage sludge is a valuable solid conditioner with about 30 percent currently being applied to land (about half of this amount to agricultural cropland, the remainder to golf courses, nurseries, home lawns and gardens, etc.). Land application is, in general, the least expensive and most environmentally beneficial use of sludges. Metal contamination of sludge can have various effects which limit the amount of sludge which can be applied to cropland. These effects are described below. Concentrations in sludge were taken from Appendix VII, page 7, of "Municipal Sludge Management: Environmental Factors" (EPA 430/9–77–004). Food and Drug Administration (FDA) recommendations for cadmium and lead are summarized in Appendix IX of the same reference. Unless noted otherwise, data on soil levels of these metals and discussion of adverse effects on crops are based on information contained in "Considerations Relating to Toxic substances in the Application of Municipal Sludge to Cropland and Pastureland" (EPA 560/8–76–004) and "Application of Sewage Sludge to Cropland: appraisal of Potential Hazards of the Heavy Metals to Plants and Animals" (EPA 430/9–76–013).

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Cadmium—A study of 189 sewage sludges showed that sewage sludge contains 3 to 3410 mg/kg (dry basis) of cadmium (mean = 110 mg/kg; median = 16 mg/kg). These concentrations, are significantly greater than those normally found in soil (0.01 to 7 mg/kg, with 0.06 mg/kg being the mean). Data show that cadmium can be incorporated into crops, including vegetables and grains, from contaminated soils. Although the crops themselves show no adverse effects from soils with levels up to 100 mg/kg cadmium, these contaminated crops could have a significant impact on human health.

Three federal agencies have already recognized the potential adverse human health effects posed by the use of sludge on cropland. The FDA recommends that sludges containing cadmium concentrations over 20 mg/kg should not be used on agricultural land. The Department of Agriculture (USDA) also recommends limitations on the total cadmium from sludge that may be applied to land. Under Section 4004 of Resource Conservation and Recovery Act (RCRA), the EPA will shortly promulgate limits on the amount of sludge that can be landspread, based on annual and cumulative cadmium application rates. Under Section 405 of the Clean Water Act, additional restrictions will be placed on sludge for home use, based on cadmium content. All these federal restrictions are designed to prevent excessive cadmium additions to the human diet.

Chromium—A study of 180 sewage sludges showed that sewage sludge contains 10 to 99,000 mg/kg (dry basis) of chromium (mean = 2620 mg/kg; median = 890 mg/kg). Most crops absorb relatively little chromium even when it is present in high levels in soils, but chromium in sludge has been shown to reduce crop yields in concentrations as low as 200 mg/kg.

Copper—A study of 205 sewage sludges showed copper levels of 84 to 10,400 mg/kg, with 1210 mg/kg as the mean value and 850 as the median value. These concentrations are significantly greater than those normally found in soil, which usually range from 18–80 mg/kg. Copper toxicity may develop in plants from application of sewage sludge contaminated with copper. Livestock have been poisoned by eating plants contaminated with copper.

Lead—A study of 189 sludges showed lead levels ranging from 13 to 19,700 mg/kg (dry basis) (mean=1360 mg/kg; median=500 mg/kg). Since the normal range of lead content in soil is from 2 to 200 mg/kg, application of contaminated sewage sludge to the soil will generally increase the soil's lead content.

Data indicate that the application to cropland of sludge containing excessive lead levels may increase the lead concentration in crops grown on acid soils. Generally, roots accumulate more lead than do plant tops. For above ground crops, significant impacts can occur when sludge is applied as a surface dressing while crops are growing. In light of the potential human health effects, the FDA has recommended that sludge containing more than 1000 mg/kg of lead should not be used on agricultural land for crops used directly in the food chain.

Nickel—A study of 165 sludges showed nickel concentrations ranging from 2 to 3520 mg/kg (dry basis), with a mean of 320 mg/kg and a median of 82 mg/kg. Nickel toxicity may develop in plants from application of sewage sludge on acid soils. Nickel reduces yields for a variety of crops including oats, mustard, turnips, and cabbage.

Zinc—Data from 208 sludges show a zinc range of 101 to 27,800 mg/kg (dry basis), with a mean of 2790 mg/kg and a median of 1740 mg/kg.

These concentrations are significantly greater than those normally found in soil, with observed values of 10 to 300 mg/kg, with 50 mg/kg being the mean. Therefore, application of sewage sludge to soil will generally increase the concentration of zinc in the soil. Zinc can be toxic to plants, depending upon soil pH. Lettuce, tomatoes, turnips, mustard, kale, and beets are especially sensitive to zinc contamination.

Examples of effects of pretreatment on sludge quality. Pretreatment programs have been effective in reducing metals concentrations in sludge. Three examples are cited below.

Buffalo, New York: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (projected)
Cd	100	50
Cr	2,540	1,040
Cu	1,570	330
Pb	1,800	605
Ni	315	115
Zn	2,275	364

Grand Rapids, Michigan: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (actual)
Cr	11,000	2,700
Cu	3,000	2,500
Ni	3,000	1,700
Zn	7,000	5,700

Muncie, Indiana: Sludge concentration (mg/kg—dry basis).

Pollutant	Before pretreatment (actual)	After pretreatment (actual)
	(1972)	(1978)
Cd	23	9.5
Cr	2,000	675
Ni	8,500	150
Zn	5,800	2,700
Pb	8,500	1,000
Cu	1,750	700

Pass Through and Effects on Receiving Water

None of the pollutants are completely removed from wastewater by average POTWs; part of the pollutant load passes through to the POTW effluent and subsequently contaminates the receiving water. Pass through data and some of the effects on receiving water are summarized below. Data on pass through were calculated (as 100 percent minus percent removal) from the removability data given on page 6–45 of "Federal Guidelines: State and Local Pretreatment Programs" (EPA 430/9–76–017b). POTW effluent data were taken from pages 6–39 to 6–41 of the same reference.

Cadmium—Data from 110 POTWs show that 75 percent of the primary plants, 57 percent of the trickling filter plants and 66 percent of the activated sludge plants allowed over 90 percent of the influent cadmium to pass through to the POTW effluent. Only 2 of the 110 POTWs allowed less than 20 percent pass through, and none allowed less than 10 percent pass through. Data from 145 POTWs show POTW effluent concentrations ranged from 0.001 to 1.97 mg/l (mean 0.028 mg/l, standard deviation 0.167).

The cadmium which passes through the POTW to the effluent is discharged to ambient surface water. Cadmium is toxic to aquatic organisms at levels typically observed in POTW effluents. For example, the Cadmium Ambient Water Quality Criteria Document (PB–292–423) cites:

- 96 hr. LC50 for chinook salmon is reported as 0.0018 mg/l,
- 96 hr. LC50 for rainbow trout is reported as 0.0013 mg/l, and
- 48 hr. LC50 for the invertebrate cladoceran is reported as 0.007 mg/l.

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water or irrigation water. For states with drinking water or irrigation water standards, the most common cadmium standard is 0.01 mg/l. Chronic ingestion of cadmium via drinking water and from use of contaminated irrigation water has been documented as the cause of itai-itai disease in humans.

Cadmium has no known biological benefits for humans and is capable of causing kidney damage when present in significant amounts; there is suggestive evidence that cadmium may be a carcinogen. For these reasons, it is prudent to restrict environmental sources of cadmium as much as possible.

Chromium—The amount of chromium which passes through to the POTW effluent depends on the type of treatment processes used by the POTW. Data from 138 POTWs show that 56 percent of the primary plants allowed more than 80 percent pass through to POTW effluent. More advanced treatment reduces pass through, with median pass through values for trickling filter and activated sludge treatments being about 60 percent. Data from 179 POTWs show POTW effluent concentrations ranging from 0.003 to 3.2 mg/l total chromium (mean = 0.197, standard deviation = 0.48), and from 0.002 to 0.1 mg/l hexavalent chromium (mean = 0.017, standard deviation = 0.020).

The chromium which passes through the POTW is discharged to ambient surface water. Chromium is toxic to aquatic organisms at levels observed in POTW effluents.

- trivalent chromium significantly impaired the reproduction of *Daphnia magna* at levels of 0.3 to 0.5 mg/l (J. Fish Res. Board Can., 29: 1691, 1972).
- hexavalent chromium retards growth of chinook salmon at 0.0002 mg/l (Hanford Bio. Am. Rep., 1957)

Hexavalent chromium is also corrosive, and a potent human skin sensitizer.

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water. Because hexavalent chromium can be reduced to trivalent chromium in the environment, and trivalent chromium can possibly be oxidized to hexavalent chromium by chlorine or other agents, the National Interim Primary Drinking Water Standards are based on total chromium, the limit being 0.05 mg/l.

Copper—In data from 156 POTWs, the median pass through was over 80 percent for primary plants and about 40–50 percent for trickling filter and activated sludge treatment plants. POTW effluent concentrations (based on data from 192 plants) ranged from 0.003 to 1.8 mg/l (mean = 0.126, standard deviation = 0.242).

The copper which passes through the POTW to the effluent is discharged to ambient surface water. Copper is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 48-hour LC50 for *Daphnia Magna* in soft water is 0.02 mg/l (J. Fish Res. Board Can., 29: 1972).
- 96-hour LC50 for the chinook salmon is 0.017 mg/l (Chapman, G. A., 1975. Toxicity of Copper, Cadmium, and Zinc to Pacific Northwest Salmonids. US EPA, Corvallis, OR).
- 96-hour TL50 for the fathead minnow is 0.023 mg/l (Water Pollut. Int. J. 10:453, 1966).

Lead—Data from 124 POTWs show median pass through values to be over 80 percent for primary plants. About half of the trickling filter and activated sludge plants allow over 60 percent pass through. Lead concentrations in POTW effluents (based on data from 157 POTWs) ranged from 0.003 to 1.8 mg/l (mean = 0.106, standard deviation = 0.222).

The lead which passes through the POTW to the effluent is discharged to ambient surface water. Lead is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 48-hour LC50 for *Daphnia magna* is 0.45 mg/l (J. Fish Res. Board Can., 29:1691).
- 48-hour LC50 for rainbow trout is 0.9 mg/l (Water Res. 2:723, 1968).

Besides providing an environment for aquatic organisms, surface water is often used as a source of drinking water. The National Interim Primary Drinking Water Regulation limit lead in drinking water to 0.05 mg/l.

The major risk of lead in drinking water is to small children, where the water is one of several sources which result in a well documented, serious problem of excess lead levels in the body. As a result of the narrow range between the lead exposure of the average American in everyday life and exposure which is considered excessive, (especially in children) it is imperative that lead in water be maintained within strict limits. The estimated maximum safe level of lead intake is 600 μg/day. Potential sources of exposure are diet, water, dust, air, etc. Levels of lead in many urban children indicate overexposure. High body levels of lead can result in serious consequences (chronic brain or kidney damage, or acute brain damage); therefore, lead in water should be limited to the lowest practicable level.

Nickel—Data from 109 POTWs indicate that nickel pass through was greater than 90 percent for 82 percent of the primary treatment plants. Median pass through for trickling filter and activated sludge plants was greater than 80 percent. Data from 149 POTWs show POTW effluent concentrations ranging from 0.003 to 40 mg/l (mean=0.411, standard deviation=3.279).

The nickel which passes through the POTW is discharged to ambient surface water. Nickel is toxic to aquatic organisms at levels typically observed in POTW effluents, for example:

- 50 percent reproductive impairment of *Daphnia magna* at 0.095 mg/l (J. Fish Res. Board Can., 29:1691, 1972).
- morphological abnormalities in developing eggs of *Limnaea palustris* at 0.230 mg/l (Bio. Bulletin 125:508, 1963).
- 50 percent growth inhibition of aquatic bacteria at 0.020 mg/l (Curr. Sci. 45:578–580, 1976).

Since surface water is often used as a drinking water source, nickel passed through a POTW becomes a possible drinking water contaminant.

Zinc—Data from 148 POTWs show the median pass through values to be 70–80 percent for primary plants, 50–60 percent for trickling filter plants, and 30–40 percent for activated sludge process plants. POTW effluent concentrations of zinc (based on data from 198 POTWs) ranged from 0.009 to 3.6 mg/l (mean=0.330, standard deviation=0.464).

The zinc which passes through the POTW to the effluent is discharged to ambient surface water. Zinc is toxic to aquatic organisms in concentrations typically observed in POTW effluents, for example:

- 96-hour LC50 for the cutthroat trout is 0.090 mg/l (Sport Fishing Abstract 13665, 1971).
- 96-hour LC50 for the chinook salmon is 0.103 508, 1963 mg/l (Chapman, G. A., 1975. Toxicity of Copper, Cadmium and Zinc to Pacific Northwest Salmonids. USEPA, Corvallis, Or).
- 48-hour LC50 for *Daphnia magna* is 0.100 mg/l (J. Fish Res. Board Can. 29:1691, 1972).

Cyanides—Cyanide may theoretically be destroyed in a POTW, but data indicate that much of it passes through to the POTW effluent. One primary plant showed 100 percent cyanide pass through, and the mean pass through for 14 biological plants was 71 percent. Data from 41 POTWs indicate the effluent concentrations range from 0.002 to 100 mg/l (mean = 2.518, standard deviation = 15.6). (If the plant with an effluent of 100 mg/l is removed from the data base as an outlier, the mean becomes 0.081 mg/l for 40 POTWs).

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The cyanide which passes through to the POTW effluent is discharged into ambient surface water. There is considerable evidence documenting cyanide toxicity to aquatic organisms at levels at or below those typically observed in POTW effluents.

Cyanides are more toxic to fish than to lower aquatic organisms such as midge larve, crustaceans, and mussels. Toxicity to fish is a function of chemical form and concentration, and is influenced by the rate of metabolism (temperature), the level of dissolved oxygen, and pH. In laboratory studies free cyanide concentrations ranging from 0.05 to 0.15 mg/l have been proven fatal to sensitive fish species including trout, bluegills, and fathead minnows (EPA 600/3–76–038). Long term sublethal concentrations of cyanide as low as 0.01 mg/l have been shown to affect the ability of fish to function normally, e.g. reproduce, grow, and move freely (G. Leduc, 1966, Ph.D Thesis, Oregon State Univ., Corvallis).

Cyanide may exist as free cyanide (CN anion), hydrogen cyanide (HCN), or as a complex with metals. In the absence of metals, free cyanide and hydrogen cyanide are in an equilibrium which is highly dependent upon pH. At pH values below 7.0, over 99 percent of the cyanide is present at HCN. At pH values of 8.0, 9.0, and 10.0 the HCN percentage decreases to 93.3 percent, 58 percent and 13 percent, respectively. Since HCN is the most toxic form of cyanide, it is clear that decreasing pH (increasing acidity) results in greater toxicity. Temperature increase also results in increased toxicity (2–3 fold over 10°C), as does reduction in dissolved oxygen content.

Cyanide forms complexes with metal ions present in wastewater. All these complexes exist in equilibrium with HCN. Therefore, the concentration of free cyanide present is dependent on the pH of the water and the relative strength of the metal-cyanide complex. The cyanide complexes of zinc, cadmium and copper may dissociate to release free cyanide. Also, where these complexes occur together, synergistic effects have been demonstrated. Zinc, copper, and cadmium cyanide are more toxic than an equal concentration of sodium cyanide.

Another problem associated with cyanide pass through is possible chlorination of cyanide to highly toxic cyanogen chloride, which is subsequently released to the environment. This chlorination reaction may occur as part of the POTW treatment, or subsequently as part of the disinfection treatment for surface drinking water preparation.

Data for Grand Rapids, Michigan, show a significant decline in cyanide concentrations downstream from the POTW after pretreatment regulations were enacted. Concentrations fell from 0.06 mg/l before to 0.01 mg/l after pretreatment was required.

Silver—Data from a recent EPA study of several POTWs show that silver treatability is quite variable, but that a significant portion of the influent silver (25 percent to 75 percent) is likely to pass through to the POTW effluent.

The Silver Ambient Water Quality Criteria Document (PB–292–441) provides the following information: The toxicity of silver to aquatic organisms has long been recognized. Dosages of 0.000001 to 0.5 mg/l of silver have been reported as sufficient to sterilize water. Various toxic effects on aquatic life have been reported. For example:

- 96-hr LC50 for rainbow trout has been reported as 6.5 μg/l to 28.8 μg/l.
- 96 hr LC50 for the water flea (*Daphnia Magna*) has been reported as 1.5 μg/l.
- Bioconcentration of silver up to 368 times has been reported.

(iii) Treatment and control technology.—The Agency has studied wastewater treatment and control technologies for this industry to determine the best practicable pretreatment technologies. This study showed that although there are differences between subcategories in the types and quantities of wastes generated, the same general treatment technologies are available to this entire industrial segement.

Electroplating wastes are typically treated by a number of sequential control techniques. General practice includes segregation and individual treatment of the wastes containing cyanide and chrome followed by the removal of metals by pH adjustment and clarification or filtration in a common treatment system. Therefore, the present pretreatment limitations for this category are based on the following control techniques: cyanide oxidation, chrome reduction, metal precipitation using pH adjustment and solids removal. For plants with process flows of less than 10,000 gallons per day, pretreatment limitations are based on removal of lead, cadmium, and cyanide only. The use of these technologies formed the basis of the pretreatment standards which are being established. However, this does not preclude the use of other wastewater treatment techniques which provide equivalent or better levels of treatment. These treatment technologies are discussed in detail in the development document.

Chrome reduction.—Reduction of hexavalent chrome to trivalent chrome is practiced widely and typically uses sulfur dioxide at a pH of approximately two.

Seventy-one plants sampled by the Agency had operating chrome reduction facilities. The number of data points from each plant varied from one to 133. The data from each plant were averaged into a single number so that all plants were considered equally. Approximately 60 percent of these plants already meet the limitations specified by the regulation.

Cyanide destruction.—Cyanide must be treated before treatment for metals removal may take place. If this is not done, soluble metal cyanide complexes will form rather than insoluble metal hydroxides.

Cyanide destruction is generally done in a two-stage oxidation treatment system using chlorine or hypochlorite. The first stage of the reaction oxidizes cyanide to cyanate, and the second oxidizes cyanate to nitrogen and carbon dioxide.

The cyanide limitation set by this regulation is based on two stage treatment and careful separation of iron, nickel, and certain other metal bearing wastes from cyanide waste treatment technologies. This latter segregation practice is standard good housekeeping procedure and is well established within the industry.

Seventy-one plants sampled during this study had cyanide oxidation facilities. The data from each plant were treated in the same manner as the data on chrome reduction. The limitations set by this regulation based on cyanide oxidation are currently achieved by approximately 60 percent of the plants sampled.

pH Adjustment.—All of the plants sampled in this study controlled pH. Typically, the pH is adjusted by adding an acid (such as hydrochloric or sulfuric) or a base (lime or caustic) to the waste stream in an agitated tank. Control of pH is achieved by adding sufficient amounts of acid or base to the waste to maintain the pH in the desired range.

Metals removal.—The adjustment of the pH of electroplating wastes to 8.0 or above causes the dissolved metals to form insoluble metal hydroxides. These compounds can be removed from the wastewater by solids separation techniques such as gravitational settling or filtration. Both methods are in general use within the industry and were used by plants sampled by the Agency. A detailed analysis of the performance of these techniques is given in the development document.

The limitations specified by this regulation are based on the Agency's assessment of the performance of the preceding technologies. This assessment includes an analysis of the variability which is inherent in the normal operation of these technologies and the procedures of laboratory analysis. The Agency estimates that consistent compliance with these limitations will require firms to achieve the following long-term averages:

Pollutant	Long-term average (mg/l)
CN_AT	0.15
Cu	1.4
Ni	1.4
Cr_AT	1.6
Zn	1.4
Pb	0.2
Cd	0.4
Ag	0.4
Total metals	4.2

Firms which operate close to or at the daily maximum or thirty day limitations would be expected to violate these limitations frequently.

Finally, the Agency carefully excluded data for plants which were diluting untreated or inadequately treated process waste water with nonprocess or sanitary waste. Dilution of this sort is counter to the intent of this regulation and must not be used as an aid in achieving these limitations.

(iv) Cost estimates for control of wastewater pollutants.

Cost information was obtained from industry, engineering firms, equipment suppliers, government sources, and available literature. Whenever possible the Agency used costs based on actual industrial installations or engineering estimates for projected facilities as supplied by contributing companies.

The cost information was used to estimate the cost of treatment plants for electroplating establishments of various sizes and compositions. Eighty-one model plants were used to characterize the treatment costs associated with this category. These models and a summary of the costing methodology are available for public inspection at the EPA Public Information Reference Unit, Room 2922, (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C. 20460.

(v) Energy requirements and nonwater quality environmental impacts.

The energy costs related to the implementation of these regulations are generally limited to the electricity required for liquid transfer pumps and agitator motors.

The major non-water quality consideration associated with these pretreatment standards is the generation of metal-bearing solid wastes which must be disposed of by the industrial user. The Agency realizes that the treatment technologies will result in solid wastes with relatively high concentrations of toxic metals. However, the quantity of wastes will be significantly lower than the quantity of municipal sludge which would be contaminated by the metals in the absence of regulation and should present a less environmentally burdensome disposal problem.

The Agency has estimated the 1976 cost for disposing of these solid wastes in an environmentally safe manner to be $0.12 per gallon. However, to allow for a margin of safety, the estimate has been raised to $0.25 per gallon. This cost has been included in the cost analysis for this regulation.

No significant increase in noise, radiation, air pollution, or thermal pollution will result from the implementation of these pretreatment standards.

XIII. Summary of Public Participation

Numerous agencies and groups have participated at various stages in the development of these pretreatment standards. The Agency solicited comments when proposed pretreatment standards were published on March 28, 1974 (Phase I) and on april 24, 1975 (Phase II). Many agencies and groups were also consulted in the course of developing the proposed regulations. Similar opportunities for public participation were also provided in the related development of Phase I and Phase II regulations based upon best practicable control technology currently available. Furthermore, a public hearing on pretreatment standards for the electroplating industry was held on June 10, 1974. On December 3, 1976, the agency announced that the regulations which had been previously proposed or promulgated would be reevaluated. Since that time the Agency has reconsidered the formulation of pretreatment standards and other regulations in light of all comments which have been received. The Agency has also continued to consult with and receive comments from interested agencies and groups. Furthermore, at the request of the National Association of Metal Finishers, the Agency has released split samples of process wastewater for duplicate analysis as well as additional data on the electroplating plants that were selected for sampling and study as a basis for reevaluating the regulations. Comments were sought after the promulgation of the interim final pretreatment regulations on July 12, 1977 and additional comments were requested in conjunction with the proposal of this regulation on February 14, 1978. A public hearing was held on June 22 and June 23, 1978.

The following are the principal agencies and groups consulted in the development of regulations: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and Territorial Pollution Control Agencies; (3) Department of Interior; (4) Department of Commerce; (5) Department of Defense; (6) Department of the Treasury; (7) Water Resources Council; (8) Council on Environmental Quality; (9) Office of Management and Budget; (10) Department of Housing & Urban Development; (11) Council on Wage & Price Stability; (12) Tennessee Valley Authority; (13) Water Resources Council; (14) U.S. Post Office; (15) Nuclear Regulatory Commission; (16) Energy Research and Development Administration; (17) National Association of Metal Finishers; (18) Metal Finishers Suppliers Association; (19) American Electroplating Society; (20) Institute of Printed Circuits; (21) Alberts Plating Works, Inc.; (22) American Hot Dip Galvanizers; (23) American Society of Mechanical Engineers; (24) Hudson River Sloop Restoration, Inc.; (25) The Conservation Foundation; (26) Environmental Defense Fund, Inc.; (27) Natural Resources Defense Council; (28) The American Society of Civil Engineers; (29) Water Pollution Control Federation; (30) National Wildlife Federation; (31) American Institute of Chemical Engineers; (32) New England Interstate Water Pollution Control Commission.

Comments on the proposed regulations which were published on February 14, 1978, were received from the following: City of Detroit; Metal Finishing Suppliers' Association; Enviro-Services; U.S. Brass; Andco; City of Rockford, Illinois; Keystone Steel and Wire; Ohio EPA; City of Richmond, Virginia; Lancy Engineers; Thomas J. Rouzie, NPDES Engineer; Olin Chemical Corporation; Bob Johns, Engineer; Western Electric; New York State—Environmental Conservation; Eastman Kodak; Iowa Department of Environmental Quality; Air Transport Association; Briggs and Stratton; Cutler Hammer; Howard K. Bell; Hampton Roads Sanitary District; General Electric; Dow Corning; Hayes International Corp.; Automated Medical Systems; Xerox; Nassau County, New York; Atlantic Richfield; FCM Division—Gulf Western Industries; City of Phoenix, Arizona; Ford Motor Company;

Grimes; U.S. Department of Interior; Wald Manufacture; Utica Tool; Phelps Dodge Refining Corp.; County of Monroe, New York; Pelton & Crane; Department of Public Works, San Francisco, California; Metro District Commission, Massachusetts; Industrial Management Council; Buffalo Sewer Authority; Deere & Co.; City of Los Angeles; City of Grand Rapids; National Association of Store Fixture Manufactures; International Paper Company; Environmental Services; City of Los Angeles; Foregger Air Products; Magnavox Corporation; City of San Diego, California; Graphic Communication Industries; Westvaco Corporation; City of Milwaukee, Wisconsin; E. I. DuPont; General Motors Corporation; American Electroplaters Society; U.S. Chamber of Commerce; Natural Resources Defense Council; Plumbing Manufacturers' Institute; State of Kentucky; Digital Equipment Corporation; Chrome-Rite Company; American Iron & Steel Inst.; Ford; Department of the Army; Guzman Assoc.; Reynolds; General Telephone; Department of Commerce; National Association of Metal Finishers; Oklahoma City; New York City; Apollo Metals; Institute for Interconnecting and Packaging Electronic Circuits.

The major issues raised by these commenters following the publication of the proposed regulations are as follows:

Comment: High closure rates render the regulation impractical and unachievable.

Response: Congress realized that some businesses would close as a result of the promulgation of technology-based standards. Congress determined that long term environmental benefits were more important than short term dislocations. The Administrator has considered the costs and benefits of this regulation, as evidenced by his exemption of small platers from some requirements.

Comment: Many commenters questioned the need for national electroplating standards, preferring local limitations, at least where the local treatment works is in compliance with its NPDES permit. These commenters argued that local authorities would be more responsive to local conditions, including water quality conditions, and that local controls would avoid redundant treatment by electroplaters and the publicly owned treatment works.

Response: EPA considered the issue of local versus national standards in promulgating the General Pretreatment Regulation, 40 CFR Part 403, 43 FR 27736 (June 26, 1978). The Agency pointed out in the preamble to those regulations that many pollutants released into the nation's navigable waters are a national problem because they are persistent in the environment, bioaccumulate, and enter food chains. Moreover, a number of the pollutants discharged by industrial users of publicly owned treatment works are substances for which there is evidence of carcinogenicity, mutagenicity, or teratogenicity. Others are known to have acute toxic effects on human or aquatic organisms. Congress recognized the national scope of this problem in enacting section 307 (b)(1) of the Clean Water Act, which requires EPA to set national pretreatment standards for pollutants which interfere with the treatment works, pass through, or are otherwise incompatible with the publicly owned treatment works.

Congress also recognized the strong local interest in pretreatment standards. In Section 510 of the Clean Water Act, Congress specifically allowed states and municipalities to set limits more stringent than federal standards. However, section 510 expressly forbids any State from adopting or enforcing a standard *less* stringent than a national standard.

To avoid redundant treatment, Congress provided that under certain circumstances a publicly owned treatment works can allow local dischargers a variance from national standards to account for removal achieved by the publicly owned treatment works. The conditions under which such a variance may be obtained are described in 40 CFR 403.7, 43 *FR* 27748 (June 26, 1978).

A publicly owned treatment works' ability to meet its NPDES permit is not a sufficient reason to modify categorical pretreatment standards. Publicly owned treatment works permit limitations usually require only secondary treatment of some conventional pollutants and do not usually contain limitations on toxic and other pollutants.

Nor are satisfactory local water quality conditions a sufficient reason to modify national standards. Since many toxic industrial pollutants do not degrade but concentrate in bottom sediments, they are not acknowledged in water quality measurements. Moreover, by virtue of their persistence and bioaccumulation, toxic pollutants can concentrate downstream of local water quality measuring stations.

Comment: The data base used to establish cyanide standards is inadequate or inappropriate. Specific situations included: (1) an electroplating waste treatment facility with over capacity at the time of sampling, (2) plants with integrated waste treatment systems, (3) plants generating a very low percentage of cyanide waste, (4) treatment processes and operating levels during sampling periods were not described, (5) the extreme range of CN,A and CN,T concentrations in treated effluents, and (6) the omission of consideration of cost of spill control.

Response: (1) The Agency, in developing this regulation, sampled operating plants with a total of several hundred days of testing. Plants with underutilized and overtaxed waste treatment facilities were included unless a specific malfunction was identified. Therefore, any effects of underutilization should have been taken into account by these statistical analyses. (2) Plants with integrated waste treatment systems and those generating only a small percentage of CN waste were eliminated from the data base. (3) An extensive range of the processes used was included in this sampling program. However, plants with a very low percentage of cyanide wastewater were not included in the analysis. (4) The treatment processes and operating levels during sampling are fully described in plant visit reports and are summarized in the detailed data base. Because of the volume of data, it was impossible to include all of it in the Development Document. However, this data is available for public review. (5) Free cyanide oxidation and precipitation of complexed cyanides is a very effective technology when operated correctly. The Agency's data base clearly illustrates this. Those plants that did not meet the limits were very similar (raw process wastewater, process operations, etc.) to those plants that did meet the limits. (6) The Agency did not consider spill controls because handling drippages and spills were assumed be a normal part of existing electroplating operations. Exceptional spills may be subject to the upset provisions described in this regulation or the General Pretreatment Regulations, 40 CFR 403.

Comment: Although data on 123 plants had been collected, not all were used in subsequent analyses.

Response: Screening criteria applied to the data from 123 plants determined that data from 67 plants were usable. The screening criteria were designed to eliminate plants which were improperly designed or clearly improperly operated. Such plants do not represent the performance of best practicable technology and should not be considered in setting pretreatment standards. Removal from the data base resulted from excessively high TSS values, out of tolerance pH or temperature differential in the clarifier, and low pollutant values in the raw waste load. Certain other plants have subsequently been eliminated as a result of information provided by participants.

Comment: EPA should examine separately the data for job shops because they cannot achieve CN,A limits.

Response: EPA believes there is no basis for subcategorizing on the basis of job shops versus captive shops. There tend to be proportionately fewer job shops in the data base than are found across the electroplating category because proportionally more job shops are indirect dischargers and hence are inclined not to have treatment facilities. It should also be noted that the Agency is only limiting CN,T, not CN,A, above the flow cutoff.

Comment: The 12 cents per gallon 1976 sludge disposal cost proposed by the Agency is too low. Moreover, costs have risen due to state requirements of sludge disposal since 1976 and will rise further due to the forthcoming Resource Conservation and Recovery Act (RCRA) requirements for sludge disposal.

Response: The sludge disposal cost proposed by the Agency of 12 cents per gallon was based on 1976 costs to haul and dispose of sludge. Sludge disposal practices in 1976 generally included disposal in secure industrial landfills or in municipal sanitary landfills.

According to the comments received, sludge disposal costs in 1979 typically ran between 25 cents and 50 cents per gallon and are expected to run even higher after RCRA requirements become effective. These comments are not relevant to the cost of sludge disposal in 1976, the year on which all other costs of complying with this regulation and the economic conditions of the platers are based.

The Agency believes the 12 cent per gallon estimate is an appropriate 1976 cost. However, to allow a generous margin of safety, that figure has been raised to 25 cents per gallon. The net effect of increased sludge hauling and disposal costs on job shop closures and unemployment was found to be marginal.

Comment: The costs of enforcement of the regulations were not included in the cost model.

Response: Enforcement costs are determined by the local jurisdiction and distributed among users by the local publicly owned treatment works. Such costs are not technology costs.

Comment: The cyanide limitation should be keyed to the water quality criterion for cyanide.

Response: The limitations set forth in this regulation are technology based and are not directly related to the toxicity of a pollutant. Water quality criteria, however, are based on toxicity considerations because they are the Agency's best assessment of the concentrations required for the protection and propagation of fish, shellfish and wildlife. Accordingly, technology-based limitations and water quality criteria are unrelated requirements and are used for different purposes.

Comment: The total metals limitation is overly strict for platers who plate numerous metals and is not necessary. Several commenters pointed out that the sum of the limitations for the individual metals exceeded the total metals limitations and, therefore, the total metals limitation was unduly strict.

Response: The commenters are correct in saying that the total metals limitation imposes a more stringent limitation on platers who plate numerous metals than would a regulation which specified only limitations on individual metals. This is recognized and was intended. The individual limitations would be unjustifiably lenient for plants plating three or more metals. For these plants, which tend to have lower individual concentrations of metals in treated effluent, the total metals limitation more accurately represents the level of treatment which can be attained by the model technology. Some commenters have assumed that all of the metals are being discharged at concentrations at or near their individual limitations; if this is true it is an indication that the treatment system is not operating properly. It must be emphasized that a well operated treatment system normally should have effluent concentrations much below the one day maximum values on which the regulation's limitations are based.

Comment: The reason why EPA chose a cut-off point of 38,000 liters (10,000 gallons) per day is unclear and the level at which the cut-off is set is not adequately justified.

Response: The Agency received a wide variety of comments regarding the setting of a cut-off level of 38,000 liters (10,000 gallons) per day. The regulation requires dischargers whose flow is below the cut-off to meet limitations on cyanide amenable to chlorination (CN,A), lead (Pb), and cadmium (Cd). Dischargers whose flow exceeds the cut-off are required to meet limits on total cyanide (CN,T), lead, cadmium, copper (Cu), nickel (Ni), zinc (Zn), total chromium (Cr), silver (Ag), and total regulated metals (TRM).

The Agency's intention in setting the cut-off limit was to reduce the economic impact of the regulation while maximizing the environmental benefit obtained. There is no quantitative method to determine an optimum cut-off figure, so the decision on the cut-off level rested on consideration of the relative economic and environmental impacts of the various levels. The level of 38,000 liters per day was chosen as a compromise. The levels considered were: no cutoff; 38,000; 61,000; 76,000; 114,000; and 152,000 liters per day. The numeric cut-offs correspond to 10,000; 16,000; 20,000; 30,000; and 40,000 gallons per day.

Because the major economic impact of the regulation is expected to fall on job shops, the analysis concentrated on the relative impact of the various levels on the job shop sector. Since the Agency was concerned primarily with the sensitivity of the economic and environmental impacts to the cut-off level, the analysis used a sample data base which was not corrected for exact correlation between the sample and the total population, but which was expected to properly reflect the relative magnitude of the effects of varying the cut-off level. The sample also was not adjusted for potential reductions of flow by dischargers to meet the various cut-off levels. Therefore, the estimates of economic impact are probably overstated and the estimates of environmental impact are probably understated. The indicators of impact chosen for comparison were closure rates and percent of untreated discharges. The balancing was intended to reduce the closure rates while minimizing the percentage of untreated discharge. The results of the analysis are presented in the table below.

Flow cut-off[1]	Closure rate[2]	Untreated flow[3]
None	25.8	0
10,000	20.5	3
16,000	19.2	6
20,000	18.3	6
30,000	17.5	13
40,000	17.5	20

[1] Gallons per day.
[2] Percent of job shops.
[3] Percent of job shop flow.

As the table illustrates, even the maximum flow cut-off considered (40,000 gallons per day) results in an estimated unadjusted closure rate of 17.5 percent. Setting the cut-off this high was unacceptable because a number of very large job shops could reduce flow to 40,000 gallons per day and thereby avoid the limitations on copper, nickel,

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chrome, zinc, and silver. The closure rate is relatively insensitive to the flow cut-off below the 40,000 gallon per day level. However, the percentage of untreated flow is sensitive to cut-off levels. For instance, between the 10,000 and 16,000 gallon per day levels the closure rate decreased by only 1.3 percent but the percentage of untreated flow doubled from 3 percent to 6 percent. Higher cut-off levels showed a continuation of the trend toward rapid increase in untreated flow and small decreases in closure rates.

Besides showing that increasing the cut-off limit above 10,000 gallons per day resulted in minimal decreases in the closure rate at the expense of large increases in untreated flow, the study showed that a significant reduction in the unadjusted closure rate estimate was obtainable by setting the cut-off level at 10,000 gallons per day. This reduced the unadjusted closure rate by over 5 percent while allowing only 3 percent of the discharge to go untreated. Based on the above analysis, the Agency decided that there was more benefit to setting a cut-off level at 10,000 gallons per day than at a higher level.

The Agency has distinguished between cyanide, lead, and cadmium and the other regulated metals. Lead and cadmium pose human health problems and cyanide is both extremely toxic to aquatic organisms and is discharged in large quantities. These three pollutants have a greater potential for causing damage than the others.

Some commenters said that since few platers will meet the cut-off criteria, the limit should be set at a higher level. The data available to the Agency show this to be an unfounded concern; approximately 40 percent of the job shop platers discharge less than 10,000 gallons per day. The Agency is concerned that the opposite may be true. In performing the analysis upon which the 10,000 gallon per day level was based, the Agency assumed that only plants which were presently discharging less than 10,000 gallons per day would qualify. In reality, many platers who are discharging more than 10,000 gallons per day can probably reduce their flow and come under the cut-off limit. As a result, the percentage of untreated flow may be significantly higher than that calculated. The Agency will continue to monitor the performance of the industry to determine whether the cut-off level should be adjusted in the future.

Alternative bases for setting cut-off levels were considered by the Agency but were rejected. In particular, the Agency considered setting the cut-off on the basis of the amount of chemicals used by the platers and on the total number of pounds of pollutants discharged. Both of these alternatives were rejected because they would be extremely difficult to monitor. Water usage is easily determinable and is believed to be as directly related to the impact of the discharge on the POTW as any other parameter considered.

Comment: Concentration-based standards penalize those facilities employing water conservation or reuse techniques. Other commenters believe that concentration-based standards do not penalize such facilities.

Response: The Agency recognizes that concentration-based standards do not encourage water conservation or reuse techniques. However, such standards do not necessarily penalize conservation. This regulation includes opitonal mass-based standards as well as concentration-based standards. These additional standards used the same data base and assumptions as did the concentration-based standards. The details of the development of these standards are given in the Development Document.

Comment: Platers may not know if strong chelating agents are present in their rinse waters and therefore would not know if they qualify for TSS monitoring. Two issues were most often raised: First, many chemical suppliers do not readily divulge the composition of their formulations; and, second, some of the strong chelating agents should be identified.

Response: The term "strong chelating agents" is defined as all compounds which, by virtue of their chemical structure and amount, form soluble metal complexes which are not removed by subsequent metals control techniques such as clarification or filtration. Most suppliers, if requested, will identify the existence of chemicals that may form strong metal complexes. However, if a plater cannot determine if strong chelates are absent from his processes, then the TSS monitoring surrogate cannot be used. Examples of strong chelating agents are cyanide, ammonia, EDTA, quadrol, HEDTA, NTA and DTPA (and other amino polycarboxylic acid-type chelates). Citric acid, tartaric acid, Rochelle salts, thiourea, and gluconic acid are weak chelating agents.

Comment: Since total suspended solids is a compatible pollutant and the basis for user charges in some municipalities, it is not a proper indicator pollutant.

Response: Total suspended solids are used as an indicator of the effectiveness of treatment to remove toxic metals. The optional alternative limitation on TSS was not developed to limit TSS *per se*. Consequently, a POTW will not be permitted to allow credits for TSS removal based on removal by the publicly owned treatment works.

Comment: The derivative of the alternate TSS limitations is indirect and unclear and does not ensure compliance with metals limitations. An alternative method was suggested based on conversion of allowable concentrations of metals to equivalent hydroxide concentrations.

Response: The Agency reviewed the methodology used to calculate the TSS monitoring limitations for the proposed regulation and designed a new methodology suggested by a commenter. One commenter proposed an approach to setting the limitations based on the use of metal hydroxide equivalents to calculate TSS as a function of the individual metals limitations. Theoretically, a metal concentration would be measured as TSS if all of the metal were in its metal hydroxide form. To obtain a value for the metal hydroxide concentration, each metal concentration is multiplied by the ratio of the atomic weights of the metal hydroxide to the metal. The commenter suggested that TSS can be calculated by converting each individual metal limitation to a hydroxide equivalent and summing the copper, nickle, chrome, and zinc equivalents. However, the resulting TSS value would overestimate an equivalent TSS value for total metals.

A modification of this approach was constructed by calculating a weighted hydroxide constant which is the ratio of the sum of the hydroxide equivalents of the long term average concentrations of the individual metals divided by the sum of the long term average concentrations of the metals. The weighted hydroxide constant is multiplied by the long term average of the total regulated metals (derived by a regression method) and by the variability factor for the total regulated metals. The resulting limitations are then adjusted upward to reflect the portion of other metals typically in raw waste, such as iron, tin, and aluminum.

Comment: The alternative TSS limits cannot be achieved with the technology specified.

Response: Six out of 21 of the plants in the Agency's data base meet the TSS daily maximum of 20 mg/1. Therefore, the TSS alternate limitation is achievable using existing clarifiers or other solids removal equipment.

Comment: Prohibition of dilution would be almost impossible to enforce and monitor.

Response: Section 403.12(b)(4) of the General Pretreatment Regulation

requires all users of publicly owned treatment works to report their average and maximum flows within 180 days after the promulgation of any categorical pretreatment standard. These data could indicate possible dilution by pointing out increases in water use. This does not guarantee, however, that dischargers will accurately report their water use. However, falsifying reports is a violation of Section 308 of the Clean Water Act and is punishable by civil and criminal penalties under Section 309 of the Act.

Comment: The effluent limitations exceed water quality standards and, therefore, implicity assume that dilution will prevent damage to the environment.

Response: The limitations set in this regulation are technology based standards. There is no direct relationship between technology based limits and water quality criteria. If compliance with these technology based standards does not allow the publicly owned treatment works to meet stringent water quality based limitations in its permit, then it may require more extensive pretreatment.

Comment: What is meant by "electroplating process water"?

Response: The term "process wastewater" is defined in 40 CFR 401.11(q). In general, electroplating process wastewater includes all waters used for rinsing, alkaline cleaning, acid pickling, and other metal finishing operations; it also includes waters which come about from spills, batch dumps, and scrubber blowdown. Cooling water which does not come in contact with the product or waste by-products is not included in electroplating process wastewater definition.

Comment: Data presented in Section XII do not support the need for regulating silver. Monetary considerations will limit the amount of silver discharged by electroplaters.

Response: Silver is acutely toxic to humans and aquatic life. Certain fish species are extremely sensitive to silver, as concentrations of less than 10 μg/l kill half the fish in four days. Only high concentrations of silver would interfere with POTW treatment processes. However, 25 to 75 percent of the silver introduced to a POTW is discharged, untreated, to surface waters. While it is probably true that the value of silver provides strong economic incentives for electroplaters to recover silver wastes, there are some operations which could discharge toxic levels of silver to a POTW and a significant number of platers do not remove silver from their effluent. The Agency prefers to rely on regulation to control the discharge of pollutants even though there may be economic incentives to voluntary control.

Comment: Cyanide is compatible with POTWs and therefore the limits should be higher. At 10 mg/l total cyanide, POTWs destroy cyanide to concentration levels which will not cause problems when discharged to streams. The commenters cite several examples of POTWs with high removal efficiencies (98 percent) for cyanide as justification for higher limits.

Response: While some cyanide is treated in a POTW with well acclimated organisms, the typical POTW shows significant pass through of cyanide. The Federal Guidelines for State and Local Pretreatment Programs (EPA–430/9–76–017) contains data on cyanide removability for 22 POTWs. Cyanide pass through for these plants ranged from 2 percent to 100 percent, with an average pass through of 69 percent. Data from an ongoing EPA study of POTWs (Contract EPA–68–01–3857) showed 55 percent pass through in one plant and 16 to 79 percent pass through of cyanide in another. Both of these plants are activated sludge plants currently meeting the secondary treatment criteria. These data all indicate that a significant portion of the cyanide is likely to pass through a typical POTW into receiving water, where it can cause environmental damage.

Comment: EPA's cited inhibition levels are too low and are unsupported by data.

Response: Data on inhibition levels were taken from Section E of "Federal Guidelines: State and Local Pretreatment Programs" (EPA–430/9–76–017), and the data references cited therein. The limits set in the electroplating pretreatment regulations, however, were not based on these inhibition levels but rather on best practicable treatment technology. All of the pollutants which are proposed for regulation are known to have the potential to interfere with POTW processes. Actual interference, however, is a function of the pollutant concentration and the characteristics of each POTW.

Comment: Each city has its own unique mix of industry. Non-electroplaters contribute a large amount, even more than 50 percent in some cases, of these pollutants in specific cities.

Response: Since not all electroplaters plate the same metals, not all electroplaters' wastes contain all the pollutants under consideration. Therefore, for any given city it is relatively easy to find one or more of these pollutants present which are mostly discharged by non-electroplaters. However, the national overview suggests that electroplaters are a large industrial source of these pollutants—the largest single controllable source in many cases. Electroplaters' average raw waste concentrations are far higher than residential background levels of these pollutants. Data show electroplaters, a single industry, to be contributing a large part of the pollution entering a number of POTWs. For Monroe County, NY, electroplaters contribute 31 percent of the total cyanide, 78 percent of the copper, 98 percent of the nickel, 66 percent of the zinc and 41 percent of the cadmium found in the POTW influent (comments from County of Monroe, NY, April 14, 1978). The data from the 1974 study of New York City by L. Klein, *et al.*, show electroplaters responsible for 43 percent of the chromium, 62 percent of the nickel, and 33 percent of the cadmium found in POTW influents. These data reinforce the necessity of regulating electroplaters.

Comment: EPA fails to distinguish between beneficial and toxic levels of metals and between the various forms in which a given metal can be present.

Response: While some of the metals are essential elements (e.g., zinc), they do not degrade in the human body but rather bioaccumulate. Continued accumulation to above-normal levels can be toxic. The toxicity of a metal is related to the form that it takes in the environment. While it is the metallic ion that has the actual toxic property, the different forms can be converted to each other in the environment.

Comment: Runoff is a major contributor to the pollutant load in POTWs. Since runoff is a major factor, the electroplating regulations will have little or no impact.

Response: EPA recognizes that in systems with combined storm and sanitary sewers, metals runoff loadings can be sizeable, although intermittent. For example, the 1974 study by L. Klein, *et al.* in New York City estimated that runoff contributions to POTWs were: copper=14 percent; chromium=9 percent; nickel=10 percent; zinc=31 percent; and cadmium=12 percent. The electroplaters' contribution to the POTW loads in the same study were: copper=12 percent; chromium=43 percent; nickel=62 percent; zinc=13 percent; and cadmium=33 percent. These data indicate that, except for copper and zinc, the electroplaters' contribution to the POTW was substantially higher than the contribution from runoff. Cities with

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separate storm and sanitary sewers would be expected to show far less contribution from runoff. In considering the impact of electroplaters versus the impact of runoff, EPA concludes that from a national standpoint there are cities where both can contribute significantly to a POTW. Electroplaters are the largest controllable source of the metals in many cases. Data cited in Section XII about sludge quality in Grand Rapids, Muncie, and Buffalo demonstrate that pretreatment regulations do have a favorable impact on sludge quality.

Comment: The electroplating industry contributes only 0.015 percent of the total cadmium flow to the environment and only 0.27 percent of the total cadmium flow to surface waters.

Response: EPA maintains that the figures cited above, which were taken from a report submitted with the comments, are too low. The numbers are based partly on estimates from "unpublished calculations" of the amount of cadmium discharged by electroplaters. In deriving the 0.27 percent figure, the commenter's estimate of 1.567 kkg/yr cadmium indirectly discharged to POTWs by electroplaters is far below any of the other estimates available to EPA. For example, calculations based on EPA's screening data (assuming 17 percent of the job shops and 30 percent of the captives have treatment in place and that treatment removes 90 percent of the cadmium in the raw waste) show 310 kkg/yr indirectly discharged to POTWs. Another study (EPA–600/5–77–002) estimated 514 kkg/yr, while a third study (cited in EPA–560/6–77–032) estimated 143 kkg/yr. The numbers cited in the comment underestimate the amount of cadmium discharged directly to receiving waters by electroplaters. In examining other figures in the report, the Agency concludes that the report's estimated contributions from non-electroplaters were too high, due to double counting of emissions and to assumptions which EPA disputes. Furthermore, the report's use of "total cadmium flow to the environment" as a basis for comparison is misleading. Not all of the cadmium discharged to the environment is likely to be as environmentally mobile as electroplaters' waste or have the same potential for causing environmental damage. In summary, EPA disagrees with the commenter's conclusions and also disagrees with the methodology used to reach those conclusions.

Comment: A paper given by EPA scientists at the 50th annual conference of the WPCF (October 1977) concludes that "health effects from cadmium in municipal sludge applied to agricultural land are not expected to be a problem." Why then is EPA persisting in raising the sludge issue?

Response: The same paper also states, "The conservative approach would be to stop application of cadmium to soil since a dependence [upon limits] on either the total or annual loading rate could be wrong. However, because of the immediacy of the issue, the realization that some of the questions will be answered in the near future, and that in the interim either approach would be acceptable, it would appear logical to apply limits on either or both." Calculations on which the conclusion quoted in the comment were based emphasized good management practices of not more than one kg/ha annual cadmium application and neutral pH. Even if these conditions are met, the paper goes on to say, "if a person eats a normal diet and uses municipal sludge to amend the soil where practically all of his food is grown, it would be prudent to assure that such sludge contains less than 60 ppm cadmium." At 40 percent POTW removal efficiency for cadmium and 1400 lbs of sludge generated per million gallons of wastewater, a POTW influent of only 25 μg/l is needed to cause a sludge concentration of about 60 ppm. At 60 percent POTW removal efficiency, the influent concentration necessary is about 17 μg/l. Electroplaters' raw wastes have been measured to be on the order of one thousand times higher in concentration than these numbers thus demonstrating that potential for sludge problems certainly exists in those areas where electroplaters are located.

Aside from human health considerations, there are strong policy and economic reasons for requiring pretreatment of cadmium. Sludge without cadmium is a valuable resource. Moreover, alternative sludge disposal methods, such as incineration and landfilling, are more expensive than land disposal and can cause environmental problems.

Comment: Higher limits of CN, A are possible without endangering sewer workers. Also, hexavalent chromium is reduced in municipal sewer lines and a total chromium limit is sufficient to protect against sludge discharges.

Response: Although limits on hexavalent chromium appeared in the proposed regulation, hexavalent chromium is not limited in this promulgated regulation. Indirect dischargers below the flow cutoff have no requirement to reduce hexavalent chromium, whereas indirect dischargers above the cutoff will generally need to reduce hexavalent chromium and to precipitate trivalent chromium to achieve the total chromium limitations. The decreased benefit to the environment of POTW operation due to the elimination of the hexavalent chromium limitations is not thought to be significant on a national scale.

The CN, A limitation for indirect dischargers with flows greater than 10,000 gallons per day has been omitted; now only CN, T is limited. Small indirect dischargers still have a CN, A limitation, although at a high level. This limitation is based on technological considerations.

Comment: A cost-benefit analysis should have been performed to show the environmental benefits to be derived from the promulgation of the regulations.

Response: The pollutants regulated are toxic materials determined to have a potential for passing through or interfering with a POTW. The standards are then based on the best practicable technology currently available. The Agency assessed the costs and economic impacts of the standards and estimated the expected pollutant removal from industrial wastewaters. However, a strict cost benefit analysis was not conducted and was discouraged by Congress during development of the Clean Water Act.

Comment: Flow changes cause large variations in clarifier performance.

Response: Within wide influent limits, properly designed and sized clarifiers produce a fairly constant effluent concentration of the treatable pollutant parameters, even though mass loadings may change. If influent flow fluctuations result from production changes, both concentration and mass based standards should be met.

Comment: EPA understated the costs by neglecting certain cost elements.

Response: The Agency used computerized cost estimation techniques to estimate treatment costs at individual facilities and for the electroplating point source category. The Agency used a base year of 1976 for cost estimates and believes that the cost model is accurate to within 20 percent for predicting industry-wide costs. Estimated costs for individual facilities may show wider variation due to special site conditions.

The cost input data comes from a number of sources including on-site surveys, waste treatment equipment manufacturers, and previous EPA projects. The model has been checked by comparing estimated capital and maintenance costs to actual costs.

One commenter stated that the cost estimates for investment, operation and maintenance, and energy were excessively low. As an example, the commenter estimates the capital cost of a continuous pH control system for a wastewater flow of two gallons per minute to be $21,390. The Agency's estimate for a batch system was $1,452 which includes a 94 gallon holding tank. The Agency believes its estimate is realistic for a batch pH control system that is part of a total treatment system.

Operation and maintenance costs for pH control were also questioned by this commenter. The Agency estimated annual O & M costs for a two gallon per minute system at $286 per year. Total operating costs for a treatment system including clarification are prorated to individual unit processes. For facilities with total daily flows of less than 2,000 gallons per day (2 gpm), the Agency believes the prorated O & M estimate for pH control to be accurate. Monitoring costs are computed separately based on flow of the process wastewater.

Power costs for the two gallon per minute pH control system were estimated to be $8 per year. The smaller pH control systems require minimal electrical power to provide one turnover per minute and thus the Agency believes this estimate to be reasonable.

Comment: The total cyanide limitation may not be achievable because ferrocyanides build up in plating solutions as a result of good dragout recovery. Ferrocyanides are not effectively treated by chlorine oxidation. Does EPA require that steel not come in contact with cyanide plating solutions?

Response: If the commenters have achieved good dragout recovery, they may want to consider the optional mass based limitations. Secondly, steps can be taken to reduce ferrous or iron contaminants in the plating solutions through better control of pre-plating rinsing, and substitution of nonferrous tanks and anode baskets. Thirdly, the specified model technolgy when correctly operated and maintained, reduces total cyanide to concentrations within the limits of this regulation. Following the oxidation of free cyanide, ferrocyanides are removed by clarification. This second step cannot be ignored when evaluating the effectiveness of the model technology.

Comment: The Agency's data base supporting the cyanide limitations is flawed by analytical uncertainties.

Response: The commenter requested reconsideration of the cyanide limitations for several reasons. First, some of the plants which submitted data to EPA do not use approved analytical testing methods for cyanide. In response to this comment EPA discarded the data submitted by those plants known to be using improper methods. Second, the commenter had an independent laboratory sample some of the same plants that EPA's contractor had sampled. The independent laboratory found concentrations of cyanide in the plant effluents which were significantly higher than those measured by EPA's contractor.

The commenter who provided the data from the independent laboratory pointed out that the EPA may have observed low CN concentrations because most of the plants sampled "may have been much more careful during the [EPA's] sampling than during the [independent laboratory's] sampling" because the EPA sampling may have found violations of the discharger's permit. If this is the case, then it is clearly not an adequate reason for invalidating the EPA data base. The agency expects waste treatment plants to be operated carefully whether an EPA monitor is present or not.

The commenter also felt that the alleged discrepancy may have arisen because the EPA contractor overestimated the capabilities of the laboratories they used. Assuming for argument's sake that the contractor's data was invalid, the Agency examined the impact of removing all of the contractor's data from the data base. The result was cyanide limits about twice as stringent as those originally calculated. This indicated that the EPA contractor tended to report higher cyanide values than other sources, including the companies themselves, the commenter's laboratory, and another EPA contractor whose qualifications were not challenged. Since the contractor's data were higher than the majority of the data but lower than the commenter's data, there appears to be no consistent bias toward either high or low in the contractor's data.

Third, the commenter questioned the validity of the data base because values appeared in it which were below the limits of accuracy of the methods employed. The Agency does not accept this as a valid criticism of the data base. The commenter is confusing inaccuracies in individual measurements with inaccuracies in statistical analysis of a number of measurements. The data base was used to determine the median concentration and variability characteristic of a large number of individual plants. Any individual measurement in the data is subject to a number of sources of error. However, when the data is aggregated, the effects of errors in individual measurements should cancel each other unless there is a consistent bias in all of the measurements. Some measurements are low, others are high. If the low values were eliminated from the data, there would be no counteraction to the high values. Therefore, it would be incorrect to remove low values from the data base.

The commenter does not allege any consistent bias in the data.

Finally the commenter performed a study of laboratories which had performed cyanide analysis during collection of the data base. The study showed that the laboratories had errors of up to 100 percent in analyzing known concentrations of cyanide. The result of the commenter's test tended to show that there was consistent bias in the values reported by the laboratories in favor of higher reported values. The average true total cyanide concentration in nine samples submitted to the laboratories was 0.487 mg/l; the average measured concentration was 0.557. The laboratories tended to report measured values of total cyanide 14 percent higher than the true values. The average true amenable cyanide concentration in nine samples was 0.0517. The average measured concentration was 0.073. The laboratories tended to report measured values of amenable cyanide 41 percent higher than the true values. Therefore, if the Agency accepted the commenter's data it would adjust the cyanide limitations downward. However, the commenters test was very limited in scope and probably not reliable as an indicator of true bias. The Agency's data base is composed of hundreds of measurements and therefore the effects of individual errors is more likely to be cancelled.

The fact that the laboratories surveyed by the commenter tended to report slightly higher values of cyanide than were actually present would be of concern had EPA not made provision for such variation in setting the limitations. Laboratories were found to report measured values as much as 100 percent different from the true values. However, the maximum daily cyanide limitations were set by determining the median performance of the plants studied and then setting maximum daily limitations 500 percent higher to account for variation in analysis, sampling, and plant performance. Thus provision has been made for analytical error in setting the limits. The 30 sample limitations were set 50 percent higher than the median performance level, because the average of 30 samples would tend to have a smaller variability due to the cancelling of individual errors as discussed above.

Comment: Indirect dischargers participating in the economic survey may have indicated that cadmium and zinc plating is conducted but ignored mentioning chromium plating or chromating if they were an integral part of zinc or cadmium plating. To the extent chromium plating and chromating were undercounted, treatment costs to reduce hexavalent chromium are ignored.

Reponse: Respondents to the economic survey indicated the specific processes employed in their facility. Chrome plating and chromating were among the choices available to the respondents. Also, cadmium and zinc plating frequently occurs without chromium plating or chromating. Therefore, the automatic inclusion of chromium plating and chromating automatically with cadmium or zinc plating is not warranted.

Comment: Will technology installed under this pretreatment regulation (BPT analog) be consistent with the future pretreatment regulation (BAT analog) to become effective no later than July 1984?

Response: The goal of the Agency in the development of BAT level pretreatment standards shall be end-of-pipe treatment technology compatible with the model technology of this regulation and in-process changes to recycle raw materials, reduce dragout, and reuse or reduce water flow.

Comment: Some of the plants in the Agency's data base (6050, 6051, 6053, 6079, 6081, 6087, 6358, 19050, 19051, 36540) should be omitted from the CN, A data base because the cyanide wastewaters were an insignificant portion of the total electroplating flow or the plating lines with cyanide had integrated treatment.

Response: The Agency agrees that integrated treatment systems should produce a higher effluent quality and cost more than the end-of-pipe cyanide oxidation systems costed as part of the model technology. Therefore, data from plants utilizing integrated treatment have been omitted from the data base. The Agency also omitted data from those plants where it was reasonable to presume that cyanide wastewaters were a small portion of the tota' raw waste load. Contrary to suggest.on, plant 6079 was kept in the data base because it does not use integrated treatment systems and because approximately 30 percent of the plant flow originates from cyanide plating

Comment: Do low pollutant concentrations in the effluents from treatment systems sampled by EPA result from the efficiency of the treatment process or dilution of process water?

Response: Effluent limitations were calculated from a data base screened by several criteria. One criterion for consideration was that the raw waste concentration of a metal pollutant must be at least 1.0 mg/l. Plants with a significant proportion of non-electroplating wastewaters also were excluded from the data base. If a facility had installed hexavalent chromium and cyanide treatment systems, and if the flows from these processes were significant, then the effluent concentrations to these systems were presumed to require treatment.

Comment: Several industry representatives advocated the application of technology to allow for the treatment of commingled waste from several operations. One commenter went on to state that combined treatment of wastewaters has been standard practice by municipalities and industry.

Response: The Agency in many cases supports the combined treatment of industrial wastewaters; often where the waste streams complement one another, there are economies of scale and improved operation. Cost estimates were based on separate treatment of process wastewaters. If treatment limitations cannot be met by commingled treatment, the separate treatment of wastes is required.

Comment: The 30-day limits should be eliminated because they were derived from statistical methods rather than from actual data, and because plants are expected to exhibit skewed variability, not normal variability as assumed by the Agency. A commenter cited hypothetical examples of plants which meet the daily limits while not meeting the 30-day limitations.

Response: The Agency has employed statistical methods to derive these limitations; however, the statistical methods were applied to actual data. The Agency agrees that the statistical distribution of pollutant concentrations in effluent wastewaters is skewed. The data indicate that the underlying statistical distribution of pollutant concentrations is log-normal, which is highly skewed when presented as arithmetic values but which can be normalized by conversion to logarithms. The statistical methods employed, including these based on the log-normal distribution, are consistent with the statistical characteristics that the data exhibit. The Agency has not assumed arithmetic normal variability in application of statistical methods.

It may be possible to construct hypothetical examples of effluent concentrations that conform to daily limitations but not average limitations as noted by the commenter. However, a plant with an appropriate and properly operated wastewater treatment system consistently will meet both daily and average standards. A plant that repeatedly violates either or both standards must be regarded at best as a marginal plant and, consequently, requires adjustments of the treatment or operating practices.

Comment: Plants that plate only one metal will be unable to meet the proposed limitations.

Response: The Agency's analysis, as reported in the development document for the proposed regulation, does predict that a plater of one metal on average will have a higher concentration of that metal than a plater of more than one metal. This does not demonstrate, however, that a single metal plater cannot meet the final regulation.

In particular, the Agency's regression model is based on an implicit assumption that the predicted pollutant discharge is a function of TSS in the effluent and the ratio of the given metal to total metals in the untreated wastewater. Accordingly, this analysis reflects the number of metals plated only indirectly through changes in the aforementioned ratio.

In response to the issue raised by this commenter, the Agency, in a separate analysis, has determined that EPA data base plants with large metal ratios meet the limitation with approximately the same frequency as do all plants in the data base. The Agency therefore believes that the commenter's assertion is not supported. However, this analysis should not be interpreted to mean that the regression model does not apply. Specifically the model, which is a function of only two variables, has been used to describe certain interactions among variables over a large range of circumstances. It is a representation of a norm which is an aggregate approximation in that the model does not fit any single case exactly. Single metal platers and those with excessively high metal rates are at the fringes of the region to which the model applies. In these circumstances there are other important factors, such as those cited below, which are not incorporated into the model directly. This consideration and other analyses described here indicate that the model's predictive power is less accurate for single metal platers. The Agency used the model by evaluating it at specific combinations of

the two independent variables resulting in appropriate standards for all platers.

From an engineering standpoint, the wastewater pH can be adjusted to optimize the treatment system reduction of a single metal. This approach can and should be used whenever there is a relatively large amount of one metal in the wastewater.

In developing this regulation the Agency also found that limitations for copper for the common metals plating subcategory were essentially the same as those independently derived for copper in the printed circuit board subcategory. Thus, for copper these two sets of limitations were combined into one set for both subcategories. The Agency found the same equivalence between common metals nickel and electroless nickel.

Finally, it should be mentioned that these limitations are less stringent than those originally proposed. The daily maximum standard for zinc, for instance, is 23 percent higher than that proposed.

Comment: The hexavalent chromium limitations proposed by the Agency are too stringent, are unnecessary, and are based on analytical procedures which are unreliable at the levels involved.

Response: These final regulations do not set limitations for hexavalent chromium. For the purposes of this regulation, hexavalent chromium limitations are probably unnecessary where total chromium limitations are established. Accordingly, plants discharging 10,000 gallons per day or more will be required to meet a total chromium limitation but not a hexavalent chromium limitation as originally proposed. The Agency also has eliminated the hexavalent chromium limitation for plants discharging less than 10,000 gallons per day. This was done in order to reduce the cost of this regulation to the industry. The Agency believes that in most instances the environmental effect of eliminating this requirement will be insignificant. However, local control authorities should be aware that some indirect dischargers, by reducing their flows (without reducing the quantities of pollutants), may be able to avoid meaningful regulation. In such instances, particularly for small or sensitive POTWs, local control authorities may want to establish hexavalent chromium limitations for plants discharging less than 10,000 gallons per day.

Comment: Companies conserving water should be given higher allowable concentration based limits.

Response: Use of mass-based limitations may have the effect of allowing water-conserving indirect dischargers to discharge higher concentrations of pollutions than allowed by the concentration based standards. However, if the resulting allowable concentrations should cause an adverse impact on the POTW, stricter standards may be imposed by the local control authority.

Comment: Many electroplaters have not yet begun to practice water conservation. Since water conservation can significantly reduce the cost of treatment, any analysis of economic impact which does not take this into account is invalid.

Response: An economic analysis which does not take into account possible treatment cost reductions achievable by water conservation is conservative. This is a BPT level pretreatment regulation which considers end-of-pipe treatment. BAT level pretreatment regulations, now underway, will address in-plant process changes. A plant by plant evaluation of the feasibility and current extent of water conservation is necessary for this analysis.

Comment: Should monitoring be flow or time proportional or are grab samples adequate?

Response: The monitoring may be by either composite or grab samples. The statistical analyses of the data used to determine variability of effluent concentrations were based largely on grab samples. Therefore, the extra variability of individual grab samples has been factored into the analysis. However, flow or time proportional compositing of samples gives a better indication of treatment plant performance and should be encouraged.

Comment: The pretreatment standards should not apply to combined waste streams. Captive electroplating facilities which combine wastewaters from other categorical processes should not be responsible for meeting the regulation; it is difficult to relate effluent quality from a combined treatment facility to the electroplating operations.

Response: As with other concentration-based standards, final pollutant limitations shall be based on that portion of the flow that is generated by the electroplating processes. The concentration-based limitations appearing in this regulation shall be applied to the flow originating from electroplating operations; therefore, the limitations will depend upon the proportional flow from other non-electroplating wastewater streams. For example, if electroplating process wastewater is diluted by an equal volume of once-through cooling water, then the electroplating limitations for this facility would be half of the value stated in the regulation.

Comment: Several commenters have requested clarification of the point at which monitoring should occur, or, alternatively, to which waste streams the limitations apply.

Response: The effluent limitations set out in this regulation apply to electroplating process waters only. As pointed out in the discussion of dilution, process wastewaters are limited to rinses, plating baths, and cleaning baths; they do not include non-contact cooling waters, sanitary wastes, or waters used in other plant operations. The Agency recognizes that in some cases the electroplating wastes are combined with other waste streams either before or after treatment. If monitoring is performed on the combined streams, then the concentration based limits required by this regulation must be adjusted to reflect the actual volume of the electroplating process waters. For example, if the monitoring location is such that the monitored stream is composed of one-half electroplating wastes and one-half other wastes, then the allowable concentration will be one-half the value required by the regulation. If the allowable concentration after adjustment for other waste streams is below the levels detectable, then a monitoring location upstream from the mixing point must be chosen. Since the mass based limitations are not a function of flow, there should be no adjustment of those limitations. Somewhat related to this question is the point at which the 38,000 liter per day flow is determined. The regulation is very clear that the 38,000 liter per day cutoff figure refers to "electroplating process wastewater."

Comment: Does the daily maximum concentration equal the maximum allowable instantaneous value attained at some time during the day?

Response: No, the Agency does not require continuous determination of pollutant concentrations throughout a day but is requiring that a sample be taken and that all the regulated pollutant concentrations in the sample be less than the daily maximum values.

Comment: The analytical method for total cyanide is inaccurate in the range of concentrations which platers will be required to meet. Furthermore, the development of the total cyanide limitations failed to adequately take into account the sources of variability in observed effluent concentrations of total cyanide.

Response: All scientific observations have some degree of uncertainty. The

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commenter states that the Agency has failed to discriminate between sources of uncertainty in the concentration of total cyanide due to analytical and sampling methods and within-day and day-to-day variations in effluent concentrations. The commenter misconstrues the objective of this regulatory activity. The objective of the Agency is to establish values of effluent concentration which can be met by a properly designed and operated treatment system. This was done by determining the median measured effluent concentration achieved by 71 plants. This analysis indicated that out of 580 measured concentrations of total cyanide, more than half were less then 0.15 mg/l. (See Development Document, Section XII.) This median value was adjusted to account for within-plant variability by deriving a daily maximum variability factor of 5.2 based on the actual performance of eleven (11) plants for which 199 observations were available.

No attempt was made to quantify the individual sources of variability; however, the Agency has determined the magnitude of the aggregate variability. The four sources of variability mentioned by the commenter are necessarily reflected in the measured values upon which the regulation is based. Although it might be of academic value to determine the magnitude of the individual sources of variability, such a determination is not necessary in setting effluent limitations.

Statements by the commenter seem to indicate the commenter's belief that the effluent limitations should be based on the "true" concentration of pollutants. The commenter argues that a discharger could be held in violation of the standards if, due to analytical inaccuracies, a measured concentration of the pollutant was higher than the standard even though the "true" concentration was below the regulated limit. The commenter ignores the fact that the data upon which the standards are based are, of necessity, measured values and therefore incorporate differences between the "true" values and the measured values.

Comment: Concentrated sludge from pretreatment will be more environmentally hazardous than dilute municipal sludge. EPA has not looked at this risk.

Response: The Clean Water Act clearly has adopted the strategy of concentrating pollutants to smaller volumes. The Agency recognizes that the sludges generated from this industry are generally hazardous and must be disposed of properly. However, the quantity of sludge generated by the industry is miniscule in comparison to the quantity of municipal sludge contaminated by toxic pollutants. If these toxic pollutants are removed from municipal sludge, the sludge can be used as a fertilizer.

Comment: The use of an indirect, rigorous, statistical derivation of these limitations based upon an estimated TSS level, a regression equation, and limited effluent data is a highly questionable approach.

Response: In these final limitations, the regression approach was employed only for the common metals within the common metals subcategory. The TSS value is not estimated in this approach; however, the value used is judged to be indicative of the performance of properly operating treatment systems. The approach used all the appropriate data available to the Agency. The Agency disagrees that the approach is highly questionable.

Comment: The data presented in the Development Document do not seem to support the conclusion that the same standards should apply to effluents with and without chelating agents. This aspect of the pretreatment analysis should be given further review.

Response: The Agency agrees that this question merits further review and that the data presented in the 1978 document do not strongly support the cited conclusion. The Agency, consequently, has reexamined the question and has taken a more appropriate approach. Specifically, the Agency derived limitations for electroless plating of nickel and copper in which chelating agents are widely used. When these results were compared to the corresponding limitations for the common metals subcategory, where chelates are not as commonly used, the concentration based limitations for the common metals subcategory were actually somewhat higher. The Agency, therefore, has made a conservative decision to apply the common metals Ni and Cu limitations to all three subcategories.

Comment: The long term average is calculated from all the data while the variability factor is calculated from a subset of the data. This is an inconsistent procedure.

Response: The long term average computations are based on all appropriate data and the variability factor computations are based on a subset of the data. Specifically, variability factors are derived from those plants for which there are at least ten observations available. The Agency rationale is as follows: In the derivations of the limitations, the estimated average for a given plant is equally likely to be above or below the unknown true value for that plant. This assertion follows from the lognormality assumption which has been demonstrated to be reasonable for this and other industries, and this assertion holds irrespective of the number of individual observations on which the average is based. The same assertion, however, does not apply in general to the estimate of a plant level variance, of which the variability factor is a function. For instance, for a given plant the estimate of the variance has two degrees of freedom when it is derived from three individual observations. A direct consequence of the lognormality assumption is that this estimate will fall below the true unknown value with probability 0.64 and above with probability 0.36. These probabilities, of course, approach 0.50 as the number of individual observations increases. Estimates with such properties would bias downward the estimate of the overall single variability factor to be applied across plants. Estimates of plant level variance based on a small number of observations were, therefore, excluded from the variability computations.

Comment: A plater of more than one metal could meet the limitation for each individual metal but not the limitation on total metals. Therefore, the limitation on total metals provides an advantage to a firm which plates a single metal and should be deleted.

Response: For the common metals subcategory, the number of metals plated is a factor in the derivation of the standards. The data base on which the regulation rests indicates that plants can meet both total and individual metals limitations. It could be argued perhaps that the total metals limitation is less stringent for a plant plating one metal than for a multimetal plant, but by the same token, the limitation on the single metal is more stringent for a plant plating that metal than for a multimetal plant. The Agency has determined that standards for individual and total metals are required and are equitable for plants plating one or more metals. Note that under the new limitations the ratio of total metals to the sum of the individual metals has increased over the ratio in the proposed regulations.

Comment: The Roberts-Jackson method for measuring cyanide amenable to chlorination is more accurate than the colorimetric methods used at present. The Agency should collect a new data base using the Roberts-Jackson method before promulgating a regulation.

Response: The Roberts-Jackson method of analysis for amenable cyanide may offer an improvement in accuracy over present methods as suggested by some commenters. Unfortunately, there are at present insufficient data on the performance of this method. Nonetheless, the Agency is continually studying alternative analytical methods. Whenever any method is demonstrated, with a sufficient data base, to provide superior results to an approved method at reasonable cost, its adoption will be considered.

Comment: The analytical methods for detection of certain regulated substances are too inaccurate at the concentrations specified in the regulation. It is claimed that a plater could have a true concentration of a pollutant that was within the regulation but be found to be out of compliance because of analytical error. Particular problems are cited for hexavalent chromium and for cyanides, especially cyanide amenable to chlorination.

Response: It is impossible to observe the true concentration of a pollutant in a practical situation; therefore, the regulation and its enforcement must be based on observed measurements rather than unobservable true values. The standards for concentration are based on methods which the Agency acknowledges to contain error. Nevertheless, the data base on which the regulation rests indicates that well-run plants can consistently achieve effluents for which the measured concentrations of all regulated pollutants, including cyanides and hexavalent chromium, are within the limits. In determining the compliance of an individual plant, the issue is not the exact value of the pollutant but that the true value be low enough that measured levels are within the daily and average limits. A plant which is out of compliance because of analytical error (a case which is not detectable in any practical situation) is at best a marginal plant and is not achieving the effluent quality of which the industry is capable.

Comment: The text is unclear as to whether the term "total precipitable metals in the raw waste load" includes iron and calcium, or whether these, like aluminum, were excluded in the regression analysis. In the event that these and other coagulant aids such as polyelectrolytes were not included in the regression analysis, one would expect the C99/average ratio and the variability factors to be understated.

Response: The "total precipitable metals in the raw waste load" includes Cr (total), zinc, copper, nickel, cadmium, lead, silver, tin, iron, and mercury. The variability factor is a function only of the variability of the effluent metal of interest.

Economics

Comments submitted to EPA on its economic analyis of the impacts of the proposed pretreatment standards fell into three general groups. They were: 1) comments on the data used in the analysis; 2) comments on the economic models used in the analysis; and 3) comments on the interpretation and use of the estimated economic impacts. Each of these three groups is addressed separately below.

I. Comments on the Data

EPA used two primary sources of data in its economic analysis. These were the responses to financial surveys mailed by the Agency to metal finishing operations, and technical data gathered independently by the Agency on plating processes, wastewater characteristics, and the costs and space requirements of pollution control equipment needed to meet the standards. Comments on the data concentrated on costs of compliance, space requirements, and the availability and sufficiency of pollution abatement equipment currently in place in the industry.

A. Costs of Compliance

Of the cost data the Agency used to estimate economic impacts, those to which comments were addressed were: 1) the capital cost of compliance; 2) the operating and maintenance (O&M) costs of compliance; 3) the cost of space for housing pollution abatement equipment; 4) the cost of disposal of sludges generated by water pollution control equipment; and 5) the cost of monitoring to demonstrate compliance.

1. Capital Costs.—Comments on EPA's estimated capital cost of compliance criticized the estimates for their failure to account satisfactorily for installation costs. The costs also were criticized for general understatement of actual costs.

EPA based its cost estimates for pollution control equipment on two sources: the costs reported by metal finishing firms for actual installed equipment that EPA observed and monitored during engineering plant visits, and the quotations of manufacturers of pollution control systems. In both cases, the reported costs reflected the full cost of purchase of the systems, from engineering design of the needs of the individual plants, through purchase and delivery of the equipment, to site preparation, installation, and plumbing modifications. The prices that resulted may seem low to commenters because the costs are reported in 1976 dollars, for consistency with the rest of the analysis.

2. Operation and Maintenance (O&M) Costs.—Several comments addressed EPA's estimation of O&M costs of compliance, either to claim that O&M costs were neglected by the Agency, or to assert that EPA's estimates of O&M costs were too low. Some commenters who felt that the estimates were too low said that depreciation and the cost of routine internal monitoring of equipment performance should have been included as part of O&M costs. Others thought that O&M costs, as a percentage of capital cost, were greater than the 12 percent estimated by the Agency. Some commenters referred to the Agency's Analysis of Economic Impacts of Pretreatment Ordinances on the Metal Finishing Industry in Three Communities, (the Three Cities Study) where O&M costs higher than 12 percent of capital cost were reported.

The Agency explicitly included O&M costs as part of the costs of compliance with the regulation. The cost figures used for estimation of the O&M costs follow common engineering rules for chemical costs and the operating cost of the equipment components. Depreciation was not counted as part of O&M costs, because depreciation was included separately in the analysis of annual costs. The Agency used a straight-line depreciation rule, over the life of the investment loan, to estimate annual depreciation. Depreciation was computed separately from O&M cost to allow flexibility in the decision rules assumed for depreciation.

The cost of monitoring by the plant to determine the treatment performance of equipment was also counted separately, as was the cost of monitoring for compliance reporting (see Section on "The cost of monitoring to demonstrate compliance" below). The Agency believes that the monitoring and reporting schedule required by this regulation will generate sufficient data for internal plant quality control needs. The use of 12 percent of capital cost, as an estimate of O&M costs for the purposes of economic analysis, is based on empirical analysis of the average O&M cost across technical plant models, as a proportion of the capital cost for a treatment system with several individual components. The methods the Agency used to estimate costs in its economic analysis are discussed below, under "Regression Equations for Cost."

The 12 percent of capital cost average is not comparable with the ratios in the Three Cities Study, for two reasons. First, the Agency does not know the

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years for which investment costs and O&M costs were reported in all cases. Therefore, it is not possible to compute deflated O&M costs as a percentage of capital costs. In one case, capital costs were quoted in 1970–1971 dollars, but O&M costs were given in 1977 dollars. Second, it is not possible to determine from the responses to questions about O&M in the Three Cities Study whether cost elements were included in O&M that were counted as separate items in the economic analysis. Depreciation is one such expense. Therefore, the Agency is not able to determine the utility of O&M estimates from the Three Cities Study.

3. Space Costs.—Some commenters said that the Agency had underestimated the cost of space for housing pollution control equipment. When space is used for productive or nonproductive purposes, the plant bears the overhead cost of the space, either in rent or in real estate taxes and the cost of not putting the space to other productive uses. Several commenters also claimed that the Agency had not taken into account the cost of external space required for construction of treatment facilities.

In its analysis of economic impacts, the Agency examined plant survey responses to determine, for each plant, whether internal space is available. If any space is available, then the plant already bears an overhead cost for space which is not a result of the requirements of the pretreatment standards. There may still be some economic cost to the use of such space for nonproductive purposes, rather than maintaining its availability for future additions to productive capacity. This cost cannot be estimated accurately by the Agency with the data now available. However, the economic cost will not be an immediate financial burden to the plant, and would not, if estimated, affect the Agency's estimates of potential closure rates, employment losses, or price increases. The question of space availability will be addressed below.

In the case of treatment systems requiring the use of external space, the Agency explicitly included the cost of purchase of land, even though the firm may own idle land already. This cost was computed by multiplying the space requirements of the treatment system by average land prices. Rural land was priced at $2,000 per acre, suburban land at $10,000 per acre, and urban land at $75,000 per acre. This cost is reported in EPA's Economic Analysis of the Proposed Pretreatment Standards (December, 1977), on page F–26.

4. The Cost of Monitoring to Demonstrate Compliance.—Some commenters thought that the Agency had neglected the cost of monitoring necessary for the demonstration of compliance with the pretreatment standards in its economic analysis. This is not the case. The Agency included the cost of sampling and analysis, at $80 per sample, according to a schedule that varies with the daily process wastewater flow of the plant. This monitoring schedule is the same as the schedule now required by the regulation, and the same sampling and analysis costs have been included in the economic analysis (see Economic Analysis of Proposed Pretreatment Standards for Existing Point Sources in the Electroplating Point Source Category (December, 1977), p. F–25).

6. Space Requirements.—Comments on the space requirements for pollution control equipment included claims that in many cases job shops do not have sufficient space available, at any cost, for pollution control equipment.

The Agency took the issue of space constraints into account by costing a diatomaceous filter, rather than a clarifier, for treatment of metals in those urban plants that reported little interior expansion space. This represents the least space-intensive system that is known to be able to achieve the standards at reasonable cost. Those plants that have absolutely no interior expansion space available for addition of pollution control equipment, and no access to adjacent land, may qualify for fundamentally different factor variances from the standards. Section 403.13 of EPA's General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR Part 403, 43 FR 27736 (June 26, 1978), provides for variances from categorical pretreatment standard requirements for plants that have different "Age, size, land availability, and configuration" characteristics from those considered by the Agency in the development of regulations.

7. Equipment in Place.—In its analysis of economic impacts, EPA applied compliance costs to each plant only for necessary equipment that had not already been installed at the plant. If a plant reported in a survey response that a specific treatment component was installed, the Agency assumed in its analysis that no further investment was necessary for the treatment that component was designed to achieve. Several commenters took issue with this assumption, on the ground that the Agency had no information about the treatment performance of the equipment, which was often installed to satisfy local ordinances, and that local ordinances are less stringent than EPA's standards.

Although local ordinances may lead to installation of equipment that is not sufficient to achieve compliance with EPA's standards, commenters did not supply examples of such local ordinances. Data available to the Agency indicate that frequently such local standards are compatible with, or more stringent than, EPA's standards. In cases where local treatment requirements are less stringent than EPA's, there may be instances in which a plant has installed equipment for treatment of its most concentrated wastes only. The requirments of some local standards are so weak that they do not force plants to install pollution abatement equipment at all. The existence of local standards that vary from EPA's standards does not necessarily imply that plants have installed insufficient equipment to achieve EPA's standards.

EPA examined the plant models for which the assumption of sufficient equipment in place was used. The ability of treatment equipment, if properly operated and maintained, to achieve EPA's standards is based on its design flow capacity and the chemistry of the waste streams it is designed to treat. In most cases the chemistry of the waste stream is unlikely to have changed since the treatment equipment was installed. Therefore, the prime measure of treatment equipment suitability is the design flow capacity of the system. EPA analyzed a sample of 205 plant models for potential economic impacts. Of these, ten simultaneously reported equipment in place with a design flow less than 90% of process wastewater flow, received credit for the equipment in place, and fell among the plants not projected to close. Of these ten plants, EPA estimates that two would close even if all reported equipment in place were useless. This would change EPA's estimates of plant closure by less than one percentage point.

Moreover, the Agency's survey did not request plants with diatomaceous filters installed to report the presence of those filters. Although some plants may have considered filters to be "advanced treatment," and reported it as such in their responses, these components were ignored in EPA's evaluation of equipment in place. Thus, the Agency included costs of compliance for some plants that will not actually incur these costs.

II. The Economic Analysis

EPA used two analytical computer models in its economic impact analyses for the regulation. The first of these models was designed to estimate the costs of compliance for plants subjected to economic and financial analysis. This enabled the Agency to study the economic impacts of the regulation on plants that did not supply sufficient technical information for a detailed engineering analysis of their costs of compliance. The second model the Agency used is an economic impact model designed to identify plants likely to have difficulty with compliance, and to project the financial situations of independent firms after installation of pollution control equipment.

The comments on EPA's economic analysis fell into two categories: 1) comments on the analytical techniques used in the models, and on the methods by which plant model results were projected to national estimates of economic impacts; and 2) comments on the behavioral and financial assumptions used in the analysis.

A. Analytical Techniques

Comments on the analysis addressed the validity of the methods used to assign compliance costs, the empirical verification of closure projections, the estimation of the number of metal finishing establishments, and the statistical techniques by which EPA projected economic impacts for its sample of plant models to estimates of impacts for the entire industry.

1. Regression equations for cost.—One commenter noted that the method of assigning costs to plant models, by regression on the costs and flows for plants in the technical data base, yielded costs that differed from manufacturers' quotations for the same equipment. The commenter felt that EPA's procedure led to a general understatement of cost in the economic analysis.

An examination of available suppliers' quotations for equipment cost shows that the regression results slightly understate suppliers' estimates of cost for plants with relatively lower flow, and slightly overstate suppliers' quotations for plants with larger flows. This comparison is indicative of some variation between EPA's capital cost estimates and actual costs, but is not sufficient to call the Agency's estimates into doubt. The equipment suppliers' quotations shown in EPA's economic analysis of the proposed pretreatment standards (p. G–5) were based on a small, unrepresentative sample of suppliers. Suppliers' quotations vary regionally, and by quality of equipment. The agency's technical analysis included equipment manufacturers' quotations as one element of cost, but did not rely entirely on them. Capital costs of compliance were calculated on the basis of individual plant needs, and then compared with actual costs experienced by electroplaters. The regression analysis used to derive cost estimates for economic analysis yielded the best functional fit of the relationship between system design flow and cost.

2. The closure model.—Two comments addressed the closure model. The first was that the analysis was not a mathematical economic model based on empirical evidence, but a string of associated assumptions about the behavior of electroplaters in response to the regulation. The second was that the model needed to be verified empirically before it could be used to support regulation.

Although the economic analysis model is not a set of linear equations, and is not an econometric model, it is nevertheless a mathematical model. The model expresses the financial decisions facing a firm as algebraic formulae, and compares the results with normative criteria for continued performance of each operation.

Although the model might be given apparent credibility by comparison of its projections with observed behavior of firms in the industry, such a comparison is not possible with data available to the Agency. Furthermore, such a comparison would be inconclusive. Because such a model is necessarily a simplification of the choices facing each firm, and of the rules by which the firm's decisions are made, it cannot capture the unique history and setting of each firm. There are a number of variables that cannot be captured adequately in summary survey responses for the purpose of projecting closure decisions. These include managerial expertise, the commitment of the owners to the firm, perceptions of the firm by its customers and bankers, local economic conditions, the degree of local enforcement, and the possible availability of less expensive second-hand equipment. The number of unquantifiable variables precludes straightforward prediction of the impacts of this regulation.

3. *Estimation of numbers of electroplating job shops.*—Some commenters felt that EPA had underestimated the number of electroplating shops in the United States, and had therefore underestimated the absolute magnitude of the costs and economic impacts of the pretreatment standards. Many of these commenters based their conclusions on estimates of the number of electroplating shops in individual states or regions of the nation, and derived estimates of the total number of metal finishers by extrapolation on the basis of population proportions.

The method of estimating total numbers of electroplating shops by estimating the number in a locality and extrapolating to the national level has two faults. First, the lists of local electroplaters may include misclassified firms, or firms that are no longer in business. This leads to overestimation of the number of local electroplating shops. Furthermore, there may be metal finishing firms that perform processes not covered by the regulations.

Even if estimates of the number of local electroplating shops covered by the regulation are accurate, however, it is difficult to use simple rules for estimating the number of shops in the nation as a whole from the number in a restricted area. The most common method is to use population estimates for the region under consideration, to determine the percentage of the national population that the region represents, and to assume that this percentage applies to the number of electroplating shops in the region as a percentage of the national number of shops. This method relies on a constant number of electroplaters per capita throughout the United States. However, the number of electroplaters per capita varies from state to state. The 1972 Census of Manufactures reports 742 electroplating shops in California (population 20 million), and only 494 in New York (population 18 million). The number of electroplaters per capita in California is 1/26,954, and the number of electroplating shops per capita in New York is 1/36,437. The per capita number of shops in California is 35 percent greater than the corresponding number for New York. The assumption of a constant proportionality between the number of metal finishing shops and population is invalid.

EPA's estimates of the number of electroplating job shops performing processes covered by the regulations are based on the pattern of responses to a survey mailed to a sample of over 2,000 plants listed as metal finishing job shops by Dun's Market Indicators (DMI). The DMI lists approximately 5,000 electroplating job shops, and this number coincides approximately with Census of Manufactures estimates. The pattern of the 444 responses to the survey indicates that roughly 60 percent of those listed perform processes covered by the regulations. The details of the process by which EPA arrived at these estimates are provided in Appendix A of EPA's Economic Analysis of Proposed Pretreatment Standards for Existing Sources in the

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Electroplating Point Source Category. This discussion shows that EPA's estimates of the number of electroplating shops are more likely to be accurate than estimates based on local observations.

4. Scaling Sample Results.—Comments on EPA's method of projecting plant model results for a sample of job shops to aggregated economic estimates of impact on the job shop sector of the industry addressed two issues. These were the adequacy of EPA's corrections for non-response bias in its survey results and the appropriateness of the parameters used by EPA to scale sample estimates to population projections.

EPA mailed a financial survey to a sample of job shops. When the responses to the survey were received, the Agency selected a sample of non-respondents to the mail survey, and performed an abbreviated telephone survey of this sample. Responses to both surveys were used for EPA's characterization of the job shop sector.

The comments on this procedure note that there were non-respondents to the telephone survey, who were therefore not included in EPA's data base. The comments suggested that these non-respondents would be smaller, less viable firms, with a higher propensity to fail than the firms that responded to the two surveys.

An associated question of bias was introduced by the fact that EPA performed a telephone survey of only the non-respondents to the mail survey. This group did not include those respondents to the mail survey whose responses were inadequate for the purposes of economic analysis. One commenter felt that the telephone survey sample should have been drawn from a pool that included inadequate mail responses, as well as non-responses to the mail survey.

The second issue addressed by the comments on EPA's scaling method was the examination of parameters for possible corrections of sample results. The Agency determined that no single operating or financial parameter was sufficiently correlated with projected plant closure to allow that use of the variable as a correction factor. The comments suggested that combinations of variables, rather than single parameters, might better be tested for correlation with projected closure. They also suggested that the lack of correlation between variables and projected closure was a result of the structure of the model rather than a reflection of conditions in the industry.

The question of non-response bias can easily be misunderstood. EPA did not use the characteristics of non-respondents and plants with inadequate responses to the mail survey as the basis for its estimates of closure impacts for the industry. The survey responses were designed to characterize the size, structure, and composition of the industry on which the impacts might operate. All of the mail survey respondents were adequate for this purpose, whether their responses were sufficient for closure analysis or not. Therefore, the sample chosen for the telephone survey was correct for characterization, in combination with all mail survey respondents, of the job shop sector of the electroplating industry. The telephone survey achieved a 92 percent response rate, which allowed, even if the non-respondents to the telephone survey were very different from the respondents, considerable accuracy in the estimation of flow, employment and sales distributions across all job shops.

Only if some of the parameters for which data was gathered in the surveys had shown correlations with projected closure would the question of bias in the survey instruments have become important for aggregate job shop closure estimates. In that case, small variations in the distributions of population parameters might influence the aggregate impact estimates. But a thorough statistical examination of the sample of plant models used for closure analysis showed no such correlation. The Agency had no choice, in this situation, but to conclude that the projected closure rate for job shops in the sample was the best choice of an estimated closure rate for the job shop sector as a whole.

The fact that none of the descriptive variables gathered for job shops, such as size, water use, and age, is correlated with projected closures of plants in the financial data base reflects the nature of the job shop sector, rather than the structure of the closure model. Examination of the survey responses shows particularly weak correlations between process wastewater flow, which largely determines cost, and the financial variables that influence a firm's ability to afford capital investment in treatment equipment. Because the sample of firms eligible for closure analysis was relatively small, no conclusive relationships between projected closure and combinations of operating parameters could be established.

B. Assumptions of the Economic Analysis

Four assumptions used in the economic analysis were addressed in the comments. They were: 1) the assumption of owner equity infusion to avert plant closure; 2) the assumption of full cost pass through in each plant, by which revenues were assumed to increase by the amount of treatment costs; 3) the interest rate used in the analysis; and 4) the assumption of the availability of commercial credit for firms with a projected coverage ratio, after compliance, of less than 1.5.

1. Owner equity infusion.—In the economic impact analysis, EPA assumed that plant owners, rather than allow the plating operation to fail, would temporarily reduce their own compensation from the plant, to a level of not less than $15,000 if necessary. The comments directed at this assumption challenged the idea that owners would settle for an annual compensation of $15,000 out of plant revenues. These commenters pointed out that in most cases this income would represent an undesirably low rate of return on the owners' investment, and criticized the choice of $15,000 as an arbitrary and unsupported level to which owners' compensation might be reduced.

One misunderstanding reflected by the comments is the notion that EPA was willing to assume a constant future annual income of as little as $15,000 for each owner in cases where this assumption was invoked. This is not the case. The economic analysis assumed that owners would forego some of their compensation, down to a minimum of $15,000 for one year only, if by so doing they might avoid closure of the job shop, and comply with the pretreatment standards. The owner equity infusion decision rule reflects the personal commitment that would lead a small businessman threatened with failure to accept a reduction in a salary for one year to save this business. Although EPA's selection of $15,000 as the floor amount beyond which salary reductions would not be accepted is not based on data regarding previous owner equity infusions, the $15,000 figure is reasonable. The U.S. Bureau of the Census reports that for 1976, the year in which all economic measurements in the model is taken, 50 percent of all American families lived on less than $15,000 per year ("Money Income of Families and Persons in the United States).

In EPA's closure analysis, the owner equity infusion assumption was invoked 15 times for a sample of 205 plant models. The average amount that these 15 plants needed out of owners' compensation to survive was $10,170. In only two cases did projected salaries for one year go below $16,000. If EPA had chosen $20,000 per year as the minimum salary floor, closures would have risen by only 1.9 percentage points.

2. Pricing assumptions.—EPA assumed in its economic analysis that each electroplating job shop would pass the cost of compliance on to its customers in the form of price increases. The price increases the Agency assumed were those necessary to raise annual revenue by an amount equal to the annual cost of compliance for each plant. This assumption attracted attention from a number of commenters. The comments were directed at both the magnitude of the average industry price increase that EPA's assumption implied and the associated variability in price increases among platers. Commenters believed that an industry-wide price increase would result in decreased demand for plating services, and consequent decline in industry revenues. Comments also challenged the assumption that some platers could raise prices by more than others, without consequent loss of market share to their competitors.

In its choice of assumptions about pricing behavior, EPA had to make two decisions. The first decision was whether to assume a uniform rate of price increase for all electroplating job shops. The second decision, regardless of the answer to the first, was the selection of a rule by which each plant's price increase should be determined.

A uniform price increase for all producers is a rule that might prevail in an industry like agriculture, characterized by many anonymous producers of undifferentiated goods whose differences in geographic location are small. Neither of these conditions holds in the case of electroplating job shops. The variety of customers and services alone suggests that uniform price increases would be the exception, rather than the norm, for electroplaters. Furthermore, the large size and weight of many of the products that are plated, combined with the small portion of total production costs represented by plating and finishing, suggests that transportation costs can be a large deterrent to competition between platers in widely scattered regions. The pattern of location of electroplaters, close to customers they serve, is a qualitative measure of the cost advantages of geographic proximity.

Since a uniform price increase is not a reasonable assumption, the second decision was on the amount of price increase that each plant could sustain without losing business, either to substitute processes or to its competitors.

The Agency chose to use the assumption that each job shop would increase prices by the amount necessary to increase its revenues by the same amount as its annual costs of compliance. The Agency does not expect that this simplifying assumption will be exactly reflected in the industry's response to the regulation. However, the cost pass through rule is a reasonable choice as a pricing assumption, for several reasons.

First, the assumption falls between two possible patterns of pricing behavior. In a market characterized by pure competition, with many producers of undifferentiated products, the price increase is likely to be uniform. In such a market the more efficient high volume producers would heavily influence the price of the product. For reasons discussed above, this is not a reasonable characterization of the electroplating industry.

In a highly differentiated market, where each producer enjoys partial or complete monopoly power, prices for each firm might be expected to rise until former levels of return on equity and profitability had been reached. Although comments submitted on the pretreatment standards reflected the dependence of some customers on a small number of specialized platers, this model of pricing behavior is not likely to hold uniformity. The pricing rule used in the Agency's analysis allows variable price increases, but does not allow for maintenance of profit rates or percentage returns on investment that prevailed before compliance with the regulation.

Second, the plants for which projected price increases are lowest are those with treatment equipment already in place. If the treatment equipment was installed, as some commenters suggested, to comply with state or municipal pretreatment standards, then these plants will be located in distinct geographical areas, separate from the plants with higher projected price increases. These geographic differences will reduce or eliminate market competition between plants with different increases in production costs.

Third, the projected plant closures are not likely to occur simultaneously. As some plants in each region and product market close, their customers will turn to the remaining job shops for some portion of the plating services that they received from the plants that closed. This process will increase the volume of plating services demanded of job shops that do not close, and make it easier for them to raise prices to the projected levels.

Finally, EPA's pricing assumption leads to an average price increase, weighted by sales, of 7.0 percent. This increase is not expected to lead to a reduction in

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systems in place and purchasing new rather than used equipment.

4. Credit availability.—EPA assumed in its analysis that sufficient investment credit for installation of treatment equipment would be available from commercial banks, if a simple financial test could be satisfied. The variable used for the test was projected coverage ratio, after investment, i.e., the ratio of cash flow to fixed payment obligations. If a plant's projected coverage ratio was 1.5 or greater, the Agency assumed in its analysis that a bank would make the necessary credit available.

Comments on this assumption pointed out that banks customarily consider a wide variety of financial and other variables in their loan decisions, and concluded that the coverage ratio test was excessively simplistic. The commenters argued that even if the coverage ratio were an appropriate single test, the level that plants would need to achieve in order to receive commercial credit would be higher than 1.5. Several commenters suggested that 2.0 would be a better level of projected coverage ratio to use for a test of credit availability.

EPA is aware that banks do not customarily employ one ratio as a test of the desirability of extending credit to loan applicants. Many of the considerations that banks employ, such as management experience and past credit performance, are difficult to quantify for modeling purposes. Many other data, such as historical financial performance of the applicant's firm, are not available for analysis. The nature of the data, the analytical requirements of the model, and the purpose of the economic study necessitate simplification in the estimation of conditions under which bank loans can be made available. Similar restrictions led to consideration of bank credit only, without regard for other external sources of capital.

Three standard financial measures used to evaluate the creditworthiness of a firm are the current ratio (current assets divided by current liabilities), the capitalization ratio (debt divided by total assets), and the profitability ratio (profit after taxes divided by sales). These ratios capture the financial status of the firm by taking into account the relative levels of liquidity, debt, assets, sales and profits. The coverage ratio, which includes the debt, profits, and cash flow of a firm, covers the most essential of these measures.

Most banks are reluctant to assign independent levels of acceptability to each of the important financial ratios. Instead, bankers are likely to apply their own experience, training and judgment to a simultaneous evaluation of all three ratios, accepting borderline levels for one if the other two seem sound. This practice is not susceptible to analysis by fixed logical decision rules. Therefore, EPA selected the coverage ratio as a proxy for the financial measures embodied in the other three. Examination of 29 plant models whose coverage ratios were close to 1.5 showed that the coverage ratio test led to the same conclusions about the number of closures as the independent use of the financial ratios mentioned above.

The assumption that plant owners would offer personal guarantees in order to receive credit for plants whose projected coverage ratios are 1.5, is based on the strength of commitment to their business that EPA imputed to job shop owners. A plant with a projected coverage ratio of 1.5 is by definition a plant that is projected to be profitable after compliance. The offer of a personal guarantee transfers some of the risk inherent in financial projections from the bank to the owner. The bank, as a lending institution, was assumed to be less willing to accept the added margin of risk than an owner whose knowledge of the firm is better, and whose continuation in business may depend on acceptance of the risk in order to secure a loan. The assumption of personal guarantees by owners is therefore reasonable, if the future operation of a profitable firm depends on it.

III. Use and Interpretation of the Economic Analysis

General comments on EPA's economic analysis fell into two groups: 1) Impacts that EPA did not consider, and 2) mitigating factors for the impacts.

A. Additional Impacts

Comments on impact measures that EPA did not estimate addressed two major areas: 1) Secondary impacts of the regulations on customers of electroplaters, and 2) impacts on industry structure.

1. Secondary Impacts.—The pretreatment standards could affect the economy at large, either through price increases as a direct result of increased costs of production, or through a temporary shortage of essential electroplating services, causing bottlenecks in the production of plated goods, additional price increases for the services of the remaining plants, and, possibly, plant closures in the industries that are customers of electroplaters. Comments on this issue said that EPA failed to consider secondary impacts in its assessment of economic impacts and claimed that the secondary impacts in some local markets could be very high.

A detailed estimate of secondary production, price, employment and closure impacts of the regulation would require extensive data on the markets in which electroplaters operate, including suppliers as well as customers, and a model of the behavior of those markets. A comprehensive analysis of the aggregate impacts on the economy would have to include a study of manufacturers of pollution abatement equipment, and data on the interactions of the customers and suppliers of electroplaters. Either analysis requires more data than the Agency currently possesses. Neither survey responses nor publicly available information are sufficient to allow thorough analysis of the markets for electroplating. Accordingly, the Agency has not performed a quantitative analysis of the secondary economic impacts of the regulation.

There is information available, however, to allow qualitative judgment of the nature and direction of the impacts of the regulation on the customers of electroplaters. Such impacts would be felt through the increased cost of plating services, or the temporary reduction in services available, or both.

EPA estimates the sales-weighted average price increase for electroplating services from job shops to be 7.0 percent. Census data for value added, compiled for aggregate production groups at the four digit SIC level, show that electroplating contributes a small percentage to the cost of production in each group. Electroplating represents less than two percent of the cost of production in most groups and does not exceed 6 percent of the cost of production for any. This means that a 7.0 percent increase in the cost of electroplating represents a price increase of less than 0.14 percent in the final cost of most electroplated goods, and a maximum price increase of 0.42 percent for the aggregated costs of production in any sector.

These price increases should be easily passed through to customers by the industries that employ the services of electroplaters. Because the industries where electroplating is performed contribute only a portion to the sum of goods and services in the entire economy, an average price increase of less than 0.14 percent for electroplated goods is likely to have negligible overall inflationary impacts.

The second way that the regulation can affect consumer industries is through the closure of some electroplating operations, and the consequent short-term reduction in the availability of electroplating. This may be a problem for some manufacturers, but it is not expected to last long.

The closure of some firms in the industry, and the consequent loss of some percentage of current production, may have several consequences. One national result may be an added inducement to new entrants into the industry, as the demand for electroplating services increases relative to the diminishing supply. Another result will be for plants in compliance with the pretreatment standards to attempt to expand their productive capacity. Another result will be that some manufacturing customers of electroplating job shops will open new captive plating lines, or rely more heavily on the services of existing lines. Even if none of these consequences were to result, data from the plants in EPA's closure sample indicate strongly that plants projected to survive are likely to have sufficient excess capacity already to cover the production lost because of plant closures. The best measure the Agency has of excess capacity is the degree to which those plants that are not projected to close have production lines that are idle through one or more daily work shifts. The Agency does not have data to estimate the excess capacity available within each distinct plating group, or to determine the degree to which periodic peaks in demand will cause difficulty, but the available measures of capacity indicate that production bottlenecks should not be excessive even in the short run.

2. Industry structure.—Some commenters noted that the regulations would result in changes in industry structure, with smaller plants disappearing from the industry and larger plants achieving dominance. Others felt that "small plants" would tend to proliferate.

The Agency believes that the structure of the metal finishing industry may change as a result of the regulation, but does not believe that the nature of the change can be determined from available data. Factors that might encourage a shift to larger independent plants and captive plants include the economies of scale that can be realized in wastewater treatment, and the increased minimum cost of entry to the industry, due to pollution control requirements. The effect of the minimization of treatment requirements for platers with small flow is likely to be the opposite, however, and this may create a balance between the tendencies toward smaller and larger plants. The result may be an increase in smaller plants, or an increase in larger, more efficient plants, or both, with a decrease in the percentage of medium sized plants. The disagreement of commenters on this issue reflects the indeterminancy of the result.

B. Mitigating Factors on Economic Analysis

Several factors not included in EPA's analysis may operate to reduce observed economic impacts of the regulation below EPA's estimates. Two of these were addressed by commenters. They were: 1) the effect of SBA loan programs on economic impacts; and 2) the effect of a three year compliance period for the regulation, as against the single year assumed by EPA in its analysis.

1. SBA loans.—As a supplement to its economic analysis, EPA studied the effect of credit that might be available under SBA's Economic Injury Loan Program on job shop closure estimates. With the assumption of 20-year loans at 6.75 percent interest, the Agency estimates that economic impacts can be significantly reduced. For example, projected job shop closure rates dropped from 19.9 percent to 5.4 percent under the assumption of SBA loans.

Several commenters doubted that Economic Injury Loans would be available to electroplaters. The reasons given in the comments for this skepticism were the amount of paperwork involved to obtain the loans, the lack of sufficient SBA funds, the ineligibility of most electroplaters for the loans, because of low profitability, and the general ignorance of and distrust in SBA programs among electroplaters. As empirical evidence of the problems with the Economic Injury Loan Program, commenters pointed out that only $4 million in loans had been issued for pollution control investments since 1973.

EPA is aware of the problems that electroplaters might encounter with SBA programs, and did not include any assumptions about SBA loans in the primary economic analysis. Because the programs exist and are well funded, the Agency feels that an understanding of the potential assistance that SBA can provide is an essential feature of interpretation of the economic effects of the regulation.

EPA estimates that the total amount required to achieve the reductions in impacts indicated by SBA loan analysis is approximately $65 million. Although this amount is not small, it is far less than $100 million that was appropriated for Economic Injury Loans in Fiscal Year 1979, out of which $4.5 million had been disbursed by July 1, 1979. The appropriate comparison is to the funds available, not the funds already disbursed.

In its analysis of the effects of SBA loans, EPA used the same credit criteria that it used for bank loans. Since Economic Injury Loan applications require two rejections of loan applications from commercial banks, it is likely that EPA substantially underestimated the number of firms that would qualify for Economic Injury Loans.

Problems with perceptions of SBA loan programs, and the reluctance of electroplaters to apply for SBA loans, are matters that require continued effort on the part of EPA and SBA. The two agencies continue to work closely toward improving the efficiency of Economic Injury Loan processing. In addition, EPA is investigating the possibility of engaging the services of private organizations to publicize the loans and expedite the paperwork. EPA's contacts with such intermediary firms have already been initiated, and will continue after promulgation of this regulation.

2. Compliance period.—EPA noted in its economic impact analysis that the study assumed a one-year compliance period for the regulations. Dischargers in the industry have three years to comply with the regulation. This discrepancy is likely to lead to a reduction of observed impacts below EPA's estimates. Comments on this issue said that, since the total amount of investment captial required for compliance would not change, the effect of spreading the investment over three years instead of one would be negligible.

EPA does not believe that significant reductions in estimated plant closures or price increases will necessarily result from the three year compliance period. However, the net effect of a longer compliance period will be to allow firms to schedule their investments efficiently and to allow their customers to adjust to new sources of supply in the event of plant closures. The magnitude of impacts projected by EPA might change only slightly, but the transition to full compliance can be effected in a more orderly fashion over three years than over one.

In consideration of the foregoing, 40 CFR Part 413 is revised to read as follows:

Dated: August 9, 1979.

Douglas M. Costle,

Administrator.

UMI

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

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Authority: Secs. 301, 304(g), 307(b) and (d), 308, 309, 402, 405, 501(a) of the Clean Water Act, as amended (33 U.S.C. §§ 1311, 1314(g), 1317(b) and (d), 1318, 1319, 1322, 1325, and 1341(a)).

General Provisions

§ 413.01 Applicability.

(a) This Part shall apply to any electroplating operations in which metal is electroplated on any basis material and to related metal finishing operations as set forth in the various subparts, whether such operations are conducted in conjunction with electroplating or conducted independently.

(b) Operations similar to electroplating which are specifically excepted from coverage of this Part include: (1) Electrowinning and electrorefining conducted as a part of nonferrous metal smelting and refining (40 CFR 421); (2) Metal surface preparation and conversion coating conducted as a part of coil coating (40 CFR 465); (3) Metal surface preparation and immersion plating or electroless plating conducted as a part of porcelain enameling (40 CFR 466); and (4) electrodeposition of active electrode materials, electroimpregnation, and electroforming conducted as a part of battery manufacturing (40 CFR 461).

(c) Metallic platemaking and gravure cylinder preparation conducted within printing and publishing facilities, and continuous strip electroplating conducted within iron and steel manufacturing facilities which introduce pollutants into a publicly owned treatment works are exempted from the pretreatment standards for existing sources set forth in this Part.

§ 413.02 General definitions.

In addition to the definitions set forth in 40 CFR 401 and the chemical analysis methods set forth in 40 CFR 136, both of which are incorporated herein by reference, the following definitions apply to this Part:

(a) The term "CN,A" shall mean cyanide amenable to chlorination as defined by 40 CFR 136.

(b) The term "CN,T" shall mean cyanide, total.

(c) The term "Cr,VI" shall mean hexavalent chromium.

(d) The term "electroplating process wastewater" shall mean process wastewater generated in operations which are subject to regulation under any of subparts A through H of this Part.

(e) The term "total metal" is defined as the sum of the concentration or mass of Copper (Cu), Nickel (Ni), Chromium (Cr) (total) and Zinc (Zn).

(f) The term "strong chelating agents" is defined as all compounds which, by virtue of their chemical structure and amount present, form soluble metal complexes which are not removed by subsequent metals control techniques such as pH adjustment followed by clarification or filtration.

(g) The term "control authority" is defined as the POTW if it has an approved pretreatment program; in the absence of such a program, the NPDES State if it has an approved pretreatment program or EPA if the State does not have an approved program.

§ 413.03 Monitoring requirements.

(a)(1) Each source subject to the pretreatment standards of this Part shall collect and analyze representative samples of electroplating process wastewater not less frequently than the following self-monitoring schedule:

Self-monitoring schedule

Flow (liters per day)	Frequency of monitoring	Number of analyses[1]
0–38,000	Once per month	6
38,000–190,000	Twice per month	12
190,000–380,000	Once per week	26
380,000–950,000	Twice per week	52
over 950,000	Three per week	78

[1] Per 6 month reporting period.

All process wastewaters regulated by Subparts A through H of this Part shall be added together when determining the frequency of self-monitoring.

(2) Each source subject to the pretreatment standards of this Part shall analyze the first representative sample of final effluent taken during each six months reporting period for all pollutants regulated by the appropriate subcategories. If regulated pollutants are found in concentrations less than 0.10 mg/l and the owner or operator attests that such pollutants are not a part of the raw materials or process, then analysis

of such regulated pollutants may be omitted during the remainder of the six month period.

(3) Each source shall retain the data collected during self-monitoring for three years and provide to the control authority as directed.

(4) Chemical analyses shall be performed in accordance with the methods and procedures specified in 40 CFR 136.

(b) For the purpose of enforcement of pretreatment standards, consecutive samples taken and analyzed shall be considered as being taken on consecutive days even though one or more non-sampling days intervene. In applying the pretreatment standards where more than one but less than 30 samples have been taken and analyzed during any month, the following formula shall be used to establish the standard for each pollutant which the average of the samples shall not exceed:

$$L_x = L_{30} + F/(L_1 - L_{30})$$

Where:

L_x = Standard not to be exceeded by the average of $\times$ consecutive samples.
L_1 = Maximum for any one day.
L_{30} = Standard not to be exceeded by the average of 30 consecutive days.
F = Multiplier for number of samples analyzed (from table below).

Table—Values of F

No. Samples.	F
1	1.00
2	0.597
3	0.430
4	0.335
5	0.266
6	0.223
7	0.186
8	0.167
9	0.141
10	0.127
11	0.114
12	0.109
13	0.089
14	0.077
15	0.064
16	0.058
17	0.052
18	0.045
19	0.039
20	0.033
21	0.030
22	0.026
23	0.023
24	0.020
25	0.016
26	0.013
27	0.010
28	0.007
29	0.003
30	0.000

§ 413.04 Upsets.

The following upset provisions shall apply to process wastewaters introduced into publicly owned treatment works from sources subject to limitations of Subparts A through H of this Part.

(a) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based pretreatment standards because of factors beyond the reasonable control of the Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with this standard if the requirements of paragraph (c) are met.

(c) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the User can identify the specific cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(3) The User has submitted the following information to its POTW and Control Authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(i) A description of the indirect discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times, and/or if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e) In the usual exercise of prosecutorial discretion, Agency enforcement personnel will ordinarily review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based pretreatment standards.

(f) The User shall control production and all discharges upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 413.05 Net/Gross.

Except as provided in paragraphs (a)–(c) of this section, the pretreatment standards shall not be adjusted for pollutants in the intake water.

(a) Any Industrial User wishing to obtain a credit for intake pollutants must apply for it within 60 days after the effective date of this standard. Application shall be made to the Enforcement Office of the EPA region where the User is located. Upon request of the Industrial User, this standard will be calculated on a "net" basis, i.e., adjusted to reflect credit for pollutants in the intake water, if the User demonstrates:

(1) its intake water is drawn from the same body of water into which the discharge from its publicly owned treatment works is made; and

(2) the pollutants present in the intake water will not be entirely removed by the treatment systems operated by the user; and

(3) the pollutants in the intake water do not vary chemically or biologically from the pollutants limited by this standard; and

(4) the User does not significantly increase concentrations of pollutants in the intake water, even if the total amount of pollutants remains the same.

(b) Standards adjusted under this paragraph shall be calculated on the basis of the amount of pollutants present after any treatment steps have been performed on the intake water by or for the discharger. Adjustments under this paragraph shall be given only to the extent that pollutants in the intake water which are limited by this standard are not removed by the treatment technology employed by the discharger.

(c) The EPA Regional Enforcement Office shall require the User to conduct additional monitoring (i.e., for flow and concentration of pollutants) as necessary to determine continued eligibility for and compliance with any adjustments. The User shall notify the Regional Enforcement Office if there are any significant changes in the quantity of the pollutants in the intake water or in the level of water treatment provided.

(d) The EPA Regional Enforcement Office shall consider all timely applications for credits for intake pollutants plus any additional evidence that may have been submitted in response to the EPA's request. The EPA Office shall then make a written determination of the applicable credit(s), if any; state the reasons for its determination; state what additional monitoring is necessary; and send a copy of the determination to the applicant and the applicant's Publicly Owned Treatment Works. The decision

of the Regional Enforcement Office shall be final.

Subpart A—Electroplating of Common Metals Subcategory

§ 413.10 Applicability: Description of the electroplating of common metals subcategory.

The provisions of this subpart apply to discharges of pollutants in process wastewaters resulting from the process in which a ferrous or nonferrous basis material is electroplated with copper, nickel, chromium, zinc, tin, lead, cadmium, iron, aluminum, or any combination thereof.

§ 413.11 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the electroplating process in which a metal is electrodeposited on a basis material and which is followed by a rinse; this includes the related operations of alkaline cleaning, acid pickle, stripping, and coloring when each operation is followed by a rinse.

§ 413.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
Cr,VI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
Cr,VI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.12 was suspended indefinitely.

§ 413.14 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the common metals subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the common metals subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitonng days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitonng days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may be applied in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitonng days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes, and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitonng days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart B—Electroplating of Precious Metals Subcategory

§ 413.20 Applicability: Description of the electroplating of precious metals subcategory.

The provisions of this subpart apply to indirect discharges of process wastewaters resulting from the process in which a ferrous or nonferrous basis material is plated with gold, silver, iridium, palladium, platinum, rhodium, ruthenium, or any combination of these.

§ 413.21 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the electroplating process in which a metal is electrodeposited on a basis material and which is followed by a rinse: this includes the related operations of alkaline cleaning, acid pickle, stripping, and coloring when each operation is followed by a rinse.

§ 413.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range of 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range of 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.22 was suspended indefinitely.

§ 413.24 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the electroplating of precious metals subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the electroplating of precious metals subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
Ag	1.2	0.5
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation): Maximum for any 1 day	Pretreatment standard (mg/sq m-operation): Average of daily values for 30 consecutive monitoring days shall not exceed—
Ag	47	20
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l): Maximum for any 1 day	Pretreatment standard (mg/l): Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.54
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0	

Subpart C—Electroplating of Specialty Metals Subcategory [Reserved]

Subpart D—Anodizing Subcategory

§ 413.40 Applicability: Description of the anodizing subcategory.

The provisions of this subpart apply to discharges of process wastewater resulting from the anodizing of ferrous or nonferrous materials.

§ 413.41 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the anodizing process in which a metal is cleaned, anodized, or colored when each such step is followed by a rinse.

§ 413.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, maunufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point source subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

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Note.—At 41 FR 53018, Dec. 3, 1976, § 413.42 was suspended indefinitely.

§ 413.44 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the anodizing subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the anodizing subcategory establish the concentration of polluants or polluant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	8
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatent works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart E—Coatings Subcategory

§ 413.50 Applicability: Description of the coatings subcategory.

The provisions of this subpart apply to discharges resulting from the chromating, phosphating or immersion plating on ferrous or nonferrous materials.

§ 413.51 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area processed expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the coating process in which a basis material surface is acted upon by a process solution and which is followed by a rinse; plus the related operations of alkaline cleaning, acid pickle, and sealing, when each operation is followed by a rinse.

§ 413.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establisb for the discharger effluent limitations in NDPES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available.

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	654	32.7
Phosphorus	654	32.7
TSS	1308	654
pH	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged.

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.52 was suspended indefinitely.

§ 413.54 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the coatings subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the coatings subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicy owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 liters (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	30	9
Cu	170	69
Ni	162	69
Cr	285	100
Zn	162	69
Pb	22	10
Cd	50	22
Total metals	410	198

(e) For wastewater sources regulated under paragraph (c) of this section the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using

calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart F—Chemical Etching and Milling Subcategory

§ 413.60 Applicability: Description of the chemical etching and milling subcategory.

The provisions of this subpart apply to discharges of process wastewaters resulting from the chemical milling or etching of ferrous or nonferrous materials.

§ 413.61 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area exposed to process chemicals expressed in square meters (square feet).

(b) The term "operation" shall mean any step in the chemical milling or etching processes in which metal is chemically or electrochemically removed from the work piece and which is followed by a rinse; this includes related metal cleaning operations which preceded chemical milling or etching, when each operation is followed by a rinse.

§ 413.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can effect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
Copper	160	80
Nickel	160	80
Cr, Total	160	80
CrVI	16	8
Zinc	160	80
CN, Total	160	80
CN, A	16	8
Fluoride	6400	3200
Cadmium	96	48
Lead	160	80
Iron	320	160
Tin	320	160
Phosphorus	320	160
TSS	6400	3200
pH	Within the range 6.0 to 9.5.	
	(English units) pounds per million square feet per operation	
Copper	32.7	16.4
Nickel	32.7	16.4
Cr, Total	32.7	16.4
CrVI	3.3	1.6
Zinc	32.7	16.4
CN, Total	32.7	16.4
CN, A	3.3	1.6
Fluoride	1308	654
Cadmium	19.2	9.6
Lead	32.7	16.4
Iron	65.4	32.7
Tin	65.4	32.7
Phosphorus	65.4	32.7
TSS	1308	654
ph	Within the range 6.0 to 9.5.	

(b) The post plating steps of chromating, phosphating and coloring, if followed by a rinse, may be included under the term "operation" for the purpose of calculating effluent discharges, providing such steps are an integral part of the plating line.

(c) Stripping, where followed by a rinse and conducted in conjunction with electroplating for the purpose of salvaging improperly plated parts, may be included under the term "operations" for the purpose of calculating effluent discharges.

(d) Electroless plating on non-metallic materials for the purpose of providing a conductive surface on the basis material, preceding the actual electroplating step, forming an integral step in the plating line and followed by a rinse may be included under the term "operation" for the purpose of calculating effluent discharges.

(e) For any point source subject to such effluent limitations with a total employment of less than 11 persons, with a discharge from the establishment of waste water generated from the metal finishing process of less than 7,800 liters per hour (2,061 gallons per hour) and with a production rate of less than 4.9 sq m per hour per employee (52.7 sq ft per hour per employee), the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged:

Effluent characteristic	Effluent limitations Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	(Metric units) milligrams per square meters per operation	
CN, A	16	8
CN, Total	160	80
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	
	(English units) pounds per million square feet per operation	
CN, A	3.3	1.6
CN, Total	32.7	16.4
Flow	Equalize	
pH	Within the range 6.0 to 9.0.	

(f) Pursuant to section 308 of the Act, a point sources subject to the provisions of this subpart shall maintain records of production expressed in sq m or sq ft as defined in § 413.11 for the purpose of determining compliance with the effluent limitations in § 413.12(a). For the purpose of complying with the requirements of this paragraph, a discharger may establish a correlation between area plated and another parameter, such as ampere-hours used in plating.

Note.—At 41 FR 53018, Dec. 3, 1976, § 413.62 was suspended indefinitely.

§ 413.64 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the chemical milling and etching subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the chemical milling and etching subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0.	

Subpart G—Electroless Plating Subcategory

§ 413.70 Applicability: Description of the electroless plating subcategory.

The provisions of this subpart apply to discharges resulting from the electroless plating of a metallic layer on a metallic or nonmetallic substrate.

§ 413.71 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area plated expressed in square meters (square feet).

(b) The term "electroless plating" shall mean the deposition of conductive material from an autocatalytic plating solution without application of electrical current.

(c) The term "operation" shall mean any step in the electroless plating process in which a metal is deposited on a basis material and which is followed by a rinse; this includes the related operations of alkaline cleaning, acid pickle, and stripping, when each operation is followed by a rinse.

§ 413.74 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the electroplating of electroless plating subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the electroless plating subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart.

After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	29	9
Cu	176	70
Ni	160	70
Cr	273	98
Zn	164	70
Pb	23	12
Cd	47	20
Total metals	410	195

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chromium wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0	

Subpart H—Printed Circuit Board Subcategory

§ 413.80 Applicability: Description of the printed circuit board subcategory.

The provisions of this subpart apply to the manufacture of printed circuit boards, including all manufacturing operations required or used to convert an insulating substrate to a finished printed circuit board. The provisions set forth in other subparts of this category are not applicable to the manufacture of printed circuit boards.

§ 413.81 Specialized definitions.

For the purpose of this subpart:

(a) The term "sq m" ("sq ft") shall mean the area of the printed circuit board immersed in an aqueous process bath.

(b) The term "operation" shall mean any step in the printed circuit board manufacturing process in which the board is immersed in an aqueous process bath which is followed by a rinse.

§ 413.84 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the printed circuit board subcategory, the provisions of Part 403 of this chapter shall apply. The following categorical pretreatment standards for an existing source within the printed circuit board subcategory establish the concentration of pollutants or pollutant properties of effluent which may be introduced into a publicly owned treatment works by a source subject to the provisions of this subpart. After October 12, 1982:

(a) No User introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(b) For a source discharging less than 38,000 liters (10,000 gal) per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,A	5.0	1.5
Pb	0.6	0.3
Cd	1.2	0.5

(c) For plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Cu	4.5	1.8
Ni	4.1	1.8
Cr	7.0	2.5
Zn	4.2	1.8
Pb	0.6	0.3
Cd	1.2	0.5
Total metals	10.5	5.0

(d) Alternatively, the following mass-based standards are equivalent to and may apply in place of those limitations specified under paragraph (c) of this section upon prior agreement between a source subject to these standards and the publicly owned treatment works receiving such regulated wastes:

Pollutant or pollutant property	Pretreatment standard (mg/sq m-operation) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	67	20
Cu	401	160
Ni	365	160
Cr	623	223
Zn	374	160
Pb	53	27
Cd	107	45
Total metals	935	445

(e) For wastewater sources regulated under paragraph (c) of this section, the following optional control program may be elected by the source introducing treated process wastewater into a publicly owned treatment works with the concurrence of the control authority. These optional pollutant parameters are not eligible for allowance for removal achieved by the publicly owned treatment works under 40 CFR 403.7. In the absence of strong chelating agents, after reduction of hexavalent chrom-

wastes and after neutralization using calcium oxide (or hydroxide) the following limitations shall apply:

Pollutant or pollutant property	Pretreatment standard (mg/l) Maximum for any 1 day	Average of daily values for 30 consecutive monitoring days shall not exceed—
CN,T	0.8	0.23
Pb	0.6	0.3
Cd	1.2	0.5
TSS	20.0	10.0
pH	Within the range 7.5 to 10.0	

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Part V

Department of Energy

Water Heaters; Final Rule Amending Test Procedures

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DEPARTMENT OF ENERGY

10 CFR Part 430

Energy Conservation Program for Consumer Products; Final Rulemaking Amending Test Procedures for Water Heaters

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy amends its test procedures for water heaters to specify a new measure of water heater capacity, first hour rating. These test procedures are a part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act, which requires that standard methods of testing be prescribed for covered products.

EFFECTIVE DATE: October 9, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. Background

Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163) established an energy conservation program for consumer products. As part of this program, section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing to determine estimated annual operating cost and at least one other useful measure of energy consumption be prescribed for certain products, including water heaters.

Test procedures for water heaters were proposed by notice issued April 21, 1977 (42 FR 21576, April 27, 1977). Final test procedures for water heaters were prescribed on September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the test procedures for water heaters by notice issued October 13, 1978 (43 FR 46986, October 19, 1978) in order to specify a new method of determining the measure of efficiency of water heaters.

When originally proposed on April 21, 1977, the test procedures for water heaters included the measures of hot water supply rating and recovery rate. Hot water supply rating was a measure of the maximum amount of hot water that a water heater could provide in one hour. Recovery rate was a measure of the rate at which a water heater could heat water. Both of these measures were included in the original proposed test procedures because they were likely to assist consumers in making purchasing decisions.

At the public hearing on the original proposed water heater test procedures, members of the water heater industry argued that, because of the way the term "basic model" was defined, the test procedures as proposed were unduly burdensome for the testing of electric water heaters with immersed heating elements. The proposed definition would have required the testing of a large number of models.

After reviewing those comments, a decision was made to revise the definition of a water heater basic model for the final test procedures to exclude immersed heating elements from consideration as a distinguishing feature of a basic model. This revision of the definition of a water heater basic model solved the burdensome issue but made the proposed method for the determination of hot water supply rating unworkable.

Since hot water supply rating was a useful measure of the capacity of a water heater, members of the water heater industry expressed concern over the possible loss of this measure. They commented that the hot water supply rating of an electric water heater with immersed heating elements could be predicted by calculation; however, they had no such calculation method to present at the time, nor did they submit any data from which a hot water supply rating calculation method might be developed.

While the development of a method for predicting the hot water supply rating of such a water heater was considered feasible, it was found that, lacking a proven hot water supply rating calculation method and test data from which to attempt to develop such a method, the proposed measure, hot water supply rating, had to be deleted from the final test procedures for water heaters. However, a statement was included in the notice of the final rule on test procedures to the effect that further investigations into methods for the calculation of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters would be made. It was further stated that the water heater industry and other interested parties were invited to participate in these investigations.

No comments on the original proposed test procedures for water heaters addressed the measure of recovery rate. This measure, sometimes referred to as "recovery capacity," accounted for the combined effect of a water heater's power input and recovery efficiency on the rate at which the water heater could heat water. In the proposed test procedures, recovery rate was to be determined independently of hot water supply rating and was intended to serve as a useful measure of the rate at which a water heater could recover from a large hot water draw.

Revising the definition of a water heater basic model also made the proposed method for the determination of recovery rate unworkable. Again, lacking a proven recovery rate calculation method and the test data from which to attempt to develop such a method, this proposed measure, like hot water supply rating, had to be deleted from the final test procedures.

The investigation into methods for the prediction of hot water supply rating and recovery rate for the determination of some other measure of hot water delivery performance for water heaters was concluded by DOE at about the same time that two events occurred which reaffirmed the need for such measures to be included in the test procedures for water heaters. The first of these events was the release of the Federal Trade Commission's (FTC) final staff report on FTC's proposed rule concerning disclosure of energy cost and consumption information in labeling and advertising of consumer products. This report was released on February 12, 1979. In it, FTC made the following statement in the section dealing with the determination of the capacity of consumer products covered by the proposed rule:

> "Historically, gas and oil water heater sales are based on recovery capacity, while electric water heater comparisons are based on storage capacity. Some participants [in the public hearing and written comments] argued that the traditional methods of comparing water heaters are unsatisfactory. A system that reflects the energy needed both to store and to replace consumed hot water is more informative than one that measures only storage or recovery. The Recommended Rule reservedly bases capacity on tank storage, in accordance with current DOE test procedures. If the Department of Energy prescribes methods of measuring first hour recovery rates or hot water supply ratings before the Commission issues the final labeling rule, staff recommends that the final rule reflect the DOE procedure for measuring capacity in effect at that time."

The second event was the series of six public meetings held on DOE's advanced notice of proposed rulemaking regarding energy efficiency standards for nine types of consumer products. These public meetings were held over

the period January 26 to February 8, 1979. Four of the participants in these public meetings, all representatives of the water heater industry, made statements to the effect that DOE should use first hour rating as the measure of the capacity of a water heater and issue minimum energy efficiency standards which are a function of this capacity measure. (As it is used here, first hour rating can be considered to be equivalent to hot water supply rating.) These commenters claimed that the establishment of an energy efficiency standard based on a fixed energy factor value for water heaters of a given energy source would impose a more stringent requirement on water heaters with large tank volumes than those with small tank volumes. Such an approach would discriminate against water heaters with large tank volumes. It was pointed out that water heaters with large tank volumes provide a utility which cannot always be matched by those with smaller tank volumes, particularly in the case of electric water heaters. Commenters argued that consumers need electric water heaters with large tank volumes to satisfy their hot water needs in order to take advantage of off-peak or time-of-day electric utility rates to reduce their water heating energy bill.

By notice issued May 3, 1979 (44 FR 27191, May 9, 1979), DOE, in an effort to develop a more useful measure of water heater capacity, proposed to amend the test procedures for water heaters to incorporate two new measures, recovery rate and first hour rating.

Recovery rate, as proposed, was the same as it appeared in the original proposed test procedures except that a new method of determining the power input of an electric water heater with immersed heating elements was specified. Also, as proposed, recovery rate was to be used in the determination of first hour rating.

First hour rating, as proposed, was a measure conceptually equivalent to hot water supply rating as it appeared in the original proposed test procedures for water heaters. This new name for the measure was deemed more descriptive since it both identified the time base of the measure, an hour, and by the use of the term "first," implied that the measure was only indicative of the performance of the water heater during its "first" hour of operation. While the consumer will not know the conditions for the determination of this measure, it is sufficient that the term will discourage the interpretation of the measure as a rate of hot water delivery performance which the water heater can maintain hour after hour. The proposed method for determining first hour rating differed from that originally proposed for determining hot water supply rating. Hot water supply rating was to be determined entirely by test. First hour rating, as proposed, was to be determined partially by test and partially by calculation. This new method for determining the measure was intended to reduce the test burden without sacrificing accuracy.

A public hearing on the proposed amendment was held on June 27, 1979.

B. Discussion of Comments

Three speakers, all representatives of the water heater industry, testified on the proposed amendment to the test procedures for water heaters at the public hearing. Six written comments concerning the proposed amendment had been received by July 18, 1979. Five of the written comments were submitted by representatives of the water heater industry. The sixth was submitted by a water heater retailer. Although some of these written comments were received after the close of the written comment period on July 9, 1979, all were considered in the development of this final rule.

The following is a discussion of the issues raised in the testimony presented at the public hearing and in the written comments submitted to the docket. The comments have been analyzed by topic, rather than source, since in many cases the same or similar comments were received from more than one source.

1. *First hour rating and the Federal Trade Commission's labeling rule.* All commenters expressed the concern that DOE was proposing to amend its test procedures for water heaters to specify a new measure of capacity, first hour rating, at a time when FTC was preparing to issue a final rule for the labeling of water heaters which would require the disclosure of a different measure of capacity, storage capacity. This concern prompted most of the comments submitted.

Several commenters addressed the need for using first hour rating as the measure of the capacity of a water heater. First hour rating was cited as a true measure of a water heater's ability to do work, i.e., deliver hot water on demand, and the measure which should serve as the basis for making meaningful comparisions between all types of water heaters. It was remarked that storage capacity, the only measure of the capacity of a water heater included in DOE's test procedures at the time, suffices only as a measure of a water heater's ability to store water. While commenters acknowledged that consumers would usually be able to make meaningful comparisons between water heaters of like energy source on the basis of storage capacity, they pointed out that meaningful comparisons could not be made between water heaters of different energy sources based on storage capacity alone. The basis for the commenters' remarks concerns the contribution of a water heater's recovery rate to its hot water delivery performance. Typically, for water heaters of like energy source and like storage capacity, recovery rate will not vary greatly. Therefore, the contribution of recovery rate to the hot water delivery performance of water heaters of like energy source may be accounted for implicitly in the approach taken to "size" a water heater to a given application. However, a different sizing approach would have to be used for each water heater energy source since the contribution of recovery rate to hot water delivery performance will usually vary greatly between water heaters of like storage capacity but different energy sources. Typically, an electric water heater has a much lower recovery rate than a gas water heater which, in turn, typically has a much lower recovery rate than an oil water heater. Thus for a given application, the sizing approach that is appropriate for gas water heaters may indicate that a unit with a storage capacity of 30 gallons would suffice while the sizing approach that is appropriate for electric water heaters may indicate that a unit with a storage capacity of 50 gallons would be required. To present a different sizing approach for each water heater energy source for the purpose of enabling consumers to make comparisons between water heaters of different energy sources would complicate the water heater labels and the consumer education process associated with the labeling program. Using first hour rating, valid comparisons may be made between water heaters of both like and unlike energy sources. Adopting first hour rating as the measure of the capacity of a water heater would avoid all of the difficulties described above.

Several comments were made to the effect that DOE should not amend the test procedures for water heaters to specify the new measure, first hour rating, if FTC, prior to issuing its final labeling rule, is not going to replace storage capacity with first hour rating as the measure of the capacity of a water heater. It was argued that such an amendment to the test procedures for water heaters would be pointless if FTC were not to require the disclosure of the

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new measure on the label for water heaters.

Also of concern was the prospect that FTC might proceed with issuing its final labeling rule utilizing storage capacity as the measure of the capacity of a water heater and then revise it at some future date in order to require the use of first hour rating in place of storage capacity. It was argued that such a switch in the labeling requirement would disrupt consumer education programs based on the original labels and confuse the consumer. During such a transition period consumers might attempt to make comparisons between water heaters when some might bear a label disclosing storage capacity while the labels on other water heaters might disclose first hour rating. Commenters also remarked that such a switch would impose additional costs associated with the printing of new labels for water heaters. These cost would have to be passed on to consumers.

Concern was also expressed over the possibility that FTC might delay the labeling rule for water heaters if DOE were to finalize its test for first hour rating as it was proposed. The water heater industry projected that a delay of the labeling rule for water heaters would severely complicate the consumer education process regarding the use of the consumer product labels.

FTC staff attended DOE's public hearing regarding its proposed amendment to the test procedures for water heaters. Additionally, FTC staff has been provided with copies of all submissions to the docket regarding this proposed rulemaking. DOE and FTC staff have discussed the issues raised in testimony at the public hearing and in submissions to the docket which concern the FTC labeling program. FTC staff has indicated that they continue to support their recommendation to the (Federal Trade) Commission that the final labeling rule for water heaters should reflect the DOE procedure for measuring water heater capacity in effect at the time that the labeling rule is issued. Following these discussions, DOE staff resolved to issue a final rule to amend its test procedures for water heaters in time to permit FTC to adopt first hour rating in place of storage capacity as the measure of the capacity of a water heater and issue its final labeling rule with no delay in schedule. The timing of today's issuance has been coordinated with FTC staff to assure avoidance of the potential problems discussed above.

2. *The burden of testing and methods for determining first hour rating.* All of the water heater manufacturers who submitted comments claimed that the proposed amendment would impose a substantial test burden on the water heater industry. The burden that was of concern was not the incremental additional test time and cost of determining first hour rating as part of a complete test of a water heater in accordance with the existing test procedures, but the burden of having to test a water heater solely to determine its first hour rating. In anticipation of FTC's labeling requirement, the water heater manufacturers claimed that they had already commenced, and to a large extent completed, testing water heaters in accordance with DOE's test procedures. This testing has been done in order to be able to supply FTC with the energy consumption and cost of operation figures which manufacturers expect FTC to require to be submitted 60 days after the issuance of its final labeling rule. DOE's proposed amendment would, if finalized, require that manufacturers perform the proposed first hour rating test on all of the models of water heaters for which the tests for energy consumption and cost of operation had been completed. The effort and expense of such further testing would impose a burden significantly greater than the burden that would have been sustained had the tests for first hour rating been performed at the same time as all other tests.

Comments were made that the timing of DOE's rule to amend the test procedures and FTC's rule to prescribe labels for water heaters would impose an unreasonable test burden. If DOE were to issue its final rule to amend the test procedures for water heaters as it was proposed and in time for FTC to revise its rule prescribing labels for water heaters, the water heater industry could have as little as 60 days in which to accomplish all testing in order to be able to present the test results to FTC on time.

While some manufacturers said that it would be possible for them to meet such a requirement should it be imposed, a trade association for members of the water heater industry expressed concern for other manufacturers, particularly those with limited test facilities or none at all. The trade association claimed that water heater manufacturers would need six months to conduct the tests once they were published.

It was further remarked that such a test requirement would not only impose significant test costs which would be passed on to consumers, but it would also divert manpower and resources from product development work on new energy efficient designs of water heaters. Several cost estimates were presented for such a retesting program. The trade association estimated the cost to be as high as $18,000 per company. One manufacturer estimated labor costs at $27,000 and an additional $19,000 expense to reclaim the test units for sale. Another manufacturer estimated his test cost at $12,000 and commented that his firm would have to build units expressly for test purposes since his firm manufacturs to order and not to stock. A third manufacturer estimated his additional test cost would be at least $10,000.

Concern was also expressed over the possibility that, in order to provide more time for completing required testing, FTC might delay the labeling rule for water heaters if DOE were to finalize its test for first hour rating as it was proposed. Commenters projected that a delay of the labeling rule for water heaters would severely complicate the consumer education process regarding the use of consumer product labels.

The manufacturers commented that none of these problems which they had identified concerning DOE's proposal for determining first hour rating by test would be encountered if DOE were to accept their recommendation that first hour rating be predicted by calculation. All of the water heater manufacturers who submitted comments supported this recommendation and offered first hour rating calculation formulas. The industry trade association did the same. All of the proposed formulas followed the same approach toward calculating first hour rating. However, there were some detail differences which would cause slight differences in the calculated values.

All but one water heater manufacturer offered data in support of their suggested first hour rating calculation formulas. The data submitted compared the results of determining first hour rating by test with the results of using the commenter's suggested calculation formula. The results showed general agreement between the results determined by calculation and those determined by test. In most cases the calculated value differed from the test value by less than three percent.

Several of the water heater manufacturers and the trade association acknowledged that there may be some designs of water heaters for which their suggested formula would yield overly conservative results, i.e., up to ten percent below the value that would be determined using the proposed first hour rating test. These would be the designs which do an extraordinary job of limiting mixing of hot and cold water in the tank during a water draw. To avoid underestimating the first hour rating of a water heater of such innovative design, it was suggested that water heater manufacturers be provided the option of conducting a test to determine the first hour rating of such a water heater.

DOE finds that data submitted by the water heater industry and data generated by the National Bureau of Standards substantiate that first hour rating can be calculated for water heaters of conventional design with a small sacrifice in accuracy over the proposed test method. DOE concurs with comments that a formula for calculating first hour rating may yield overly conservative results for water heaters of innovative design. DOE also finds that the test burden that would be imposed at this time on water heater manufacturers by the proposed rule outweighs the benefits of requiring first hour rating for water heaters to be determined exclusively by test when first hour rating can be calculated with only a slight sacrifice in accuracy in most cases. Further, DOE agrees that the alternative of FTC granting relief to water heater manufacturers by delaying the issuance of the final labeling rule for water heaters to allow sufficient time for testing water heaters to determine first hour rating could be accompanied by some confusion among consumers. In addition, the slight gain in the accuracy of the measure disclosed on the label that is determined by test rather than by calculation does not outweigh the adverse impact of denying useful information to consumers making water heater purchasing decisions for a period of time equal to any delay.

Based on these findings, DOE has modified the requirement of its proposed rule to allow first hour rating to be calculated or determined by test, at the manufacturer's option for the period of time beginning on the effective date of today's rule and ending on November 30, 1979. Beginning December 1, 1979, manufacturers will be required to determine first hour rating exclusively by test. The formula for calculating first hour rating prescribed by today's rule was developed with the intent that it would yield results which would be equal to or slightly less than the results which would be obtained by testing.

The primary intent of these provisions is to enable manufacturers to supply FTC with first hour ratings for all existing models of water heaters, either by testing or by calculation, within a 60 day period following September 20, 1979, the latest date that FTC currently projects for the issuance of its final labeling rule. However, by prescribing a formula for calculating first hour rating which yields a result which tends to be slightly lower than that which can be obtained by testing, DOE has provided an incentive for manufacturers to perform the first hour rating test if they have access to test facilities and if, in their own judgment, the benefit of a slightly higher first hour rating justifies the cost of testing.

It is also the intent of these provisions to insure that first hour rating for all new basic models of water heaters shall be determined exclusively by test since DOE does not find that the prescribed test is burdensome when it is conducted as part of a complete test of a water heater in accordance with the test procedures for water heaters.

Should it become clear at some time that the date by which FTC will require manufacturers to submit energy consumption and cost of operation figures, including first hour ratings, for water heaters will be later than November 30, 1979, DOE will consider extending this termination date of its option for allowing first hour rating to be calculated or determined by test.

3. *Determining First Hour Rating by Testing.*

a. *Full versus partial testing.* For determining the first hour rating of a water heater by testing, one commenter remarked that the proposed test method which required only one water draw was far better than the test method previously proposed for determining the conceptually equivalent measure, hot water supply rating, which allowed for more than one water draw. Another commenter remarked exactly the opposite. This dissenting commenter claimed that by providing for only one water draw to be made the proposed test method would discriminate against the best water heaters on the market, i.e., those with both high recovery efficiencies and power input to storage capacity ratios. The commenter remarked that such water heaters could recover from the initial water draw, i.e., achieve another thermostat cutout, within the one hour period that is the time base of the first hour rating measure. It was claimed that the test method for determining first hour rating previously proposed would, by allowing for additional water draws over the one hour period of the test, yield a better measure of first hour rating than the lower result that would be obtained with the proposed test method.

DOE has considered the commenter's recommendation that DOE adopt the previously proposed test method for determining hot water supply rating as the test method for determining first hour rating. DOE finds that while the results obtained using the commenter's recommended test method may differ from those obtained using the proposed method, this difference will be small in comparison to the magnitude of the results. Moreover, the proposed test method is a significantly less burdensome test than that recommended by the commenter. DOE rejects the commenter's recommendation on these grounds.

The same commenter who recommended that the previously proposed hot water supply rating test be used to determine first hour rating also offered an alternative to this recommendation. The suggested alternative was to modify the proposed approach for calculating the contribution of recovery rate to the first hour rating measure, i.e., the amount of water that a water heater can heat and make available over the one hour time base of the first hour rating measure. The commenter's position was that the time period for this calculation should be one hour minus the time duration from the start of the water draw to the time that the main burner or heating element begins operating rather than the time period of one hour minus the time duration of the water draw itself. The commenter remarked that the main burner of a gas water heater would ignite within fifty seconds to two minutes after the start of the water draw while the water draw itself will last several minutes longer. It was claimed that this shortcoming of DOE's proposed approach would result in an error of five gallons in the first hour rating of one of the commenter's water heaters. The trade association echoed this commenter's position that for determining first hour rating, the contribution of recovery rate should be calculated over the period of time of one hour minus the time duration of the water draw until the main burner or heating element begins operating.

Concerning the recommendation that, for the proposed test method, the contribution of recovery rate should be calculated over the period of time of one hour minus the time duration of the water draw until the main burner or heating element begins operating, DOE finds that this could lead to "double accounting" of hot water. For some water heaters, notably electric water heaters and gas water heaters with low power input to storage capacity ratios, operation of the heating elements or main burner during the water draw test has little effect on the amount of water withdrawn from the water heater. In other words, nearly the same amount of water could be withdrawn from the water heater during the test even if the

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heating elements or main burner was prevented from operating during the water draw. However, for other water heaters, notably oil water heaters and gas water heaters with high power input to storage capacity ratios, the effect of main burner operation has a significant effect on the amount of water that can be withdrawn. Therefore, some of the water heated by the operation of the main burner during the water draw test would be accounted for in the amount of water withdrawn from the water heater during the test. Adoption of the commenter's recommendation would allow full credit in the calculated recovery rate contribution term for all water that could be heated by the main burner over the period of the water draw. Thus, some amount of water could be accounted for twice, once in the water draw test and again in the calculated recovery rate contribution term, resulting in an inflated first hour rating for such water heaters. DOE rejects the commenters recommendation on this basis, but finds that the proposed method for the determination of first hour rating would discriminate against some water heaters by not fully accounting for the amount of water heated by the operation of the heating elements or main burner of a water heater during the water draw test. Therefore, DOE has modified its approach for the determination of first hour rating to insure that all water heaters are treated equally. By today's rule, section 3.7 of the test procedures for water heaters requires that the water draw test be conducted with all electrical power or fuel to the heating elements or main burner interrupted to prevent their operation. Section 3.7 further requires that the elapsed time from the start of the test until the first thermostat acts to operate the heating elements or main burner be recorded. The contribution of recovery rate to the first hour rating measure will be calculated over the period of time of one hour minus this elapsed time. Thus, the calculated recovery rate contribution term will account for all of the water that could be heated by a water heater over the one hour time base of the first hour rating measure while the results of the water draw test will account for only the contribution of a water heater's capability to deliver hot water from storage. Summing these two terms to yield first hour rating will account for all of the hot water that could possibly be delivered by a water heater over a one hour period.

b. *Water draw test temperature drop.* Two comments were made concerning the specification in the proposed water draw test of a 40°F outlet water temperature drop. Both commenters were concerned that the specified temperature drop was excessive and would lead to inflated values of first hour rating for water heaters which, in turn, could lead consumers to purchase water heaters of insufficient capacity to satisfy their needs. One commenter remarked that a 20°F temperature drop specification would be more appropriate for the water draw test in light of recommendations being made to consumers to lower their water heater thermostats to as low as 120°F. It was claimed that consumers who operate their water heaters at these recommended thermostat settings will run out of usable hot water well before incurring a 40°F outlet water temperature drop but in most cases not before incurring a 20°F outlet temperature drop.

The commenters are of the opinion that significantly different first hour rating water draw test results will be obtained if instead of specifying 40°F as the outlet water temperature drop, a smaller temperature drop is specified. DOE does not share this opinion. DOE finds that, for current water heater designs, an outlet water temperature drop specification of 40°F will yield water draw test results only slightly greater than those that would be obtained using a 20°F temperature drop specification. This is because current water heater designs inhibit dilution of the stored hot water with the incoming cold water when subjected to a water draw. Thus, when subjected to the water draw test, these designs of water heaters exhibit a relatively constant outlet water temperature or an outlet water temperature which falls off only very slowly until most of the hot water has been withdrawn at which time there is a rapid drop of more than 40°F.

While DOE does not agree with the commenters' contention, i.e., that the outlet water temperature drop specification of the first hour rating water draw test has a significant effect on the results of the test, DOE does find merit in the recommendation that 20°F be specified as the outlet water temperature drop for this test. Should a water heater manufacturer introduce a new design of water heater which does not inhibit dilution of the stored hot water with the incoming cold water when subjected to a water draw, conducting the water draw test using 20°F as the outlet water temperature drop specification will yield a more representative first hour rating than that which would have been determined had 40°F been used as the outlet water temperature drop specification. By today's rule, section 3.7 of the test procedures for water heaters specifies 20°F as the temperature drop for the first hour rating water draw test.

c. *Impact on water heater utility.* A commenter expressed concern that the proposed first hour rating water draw test would encourage manufacturers to produce water heaters which do not maintain a relatively constant outlet water temperature when subjected to a water draw. The commenter remarked that, through widely recognized industry standards, the water heater industry has encouraged water heater designs that can deliver the major portion of a water heater's storage capacity at a relatively constant outlet water temperature nearly equal to the initial outlet water temperature when subjected to a water draw. The commenter pointed out that the utility of such designs is that consumers can enjoy a relatively constant water temperature for personal applications, e.g., bathing and showering, without having to continually adjust the hot and cold water flow rates to account for fluctuations in the hot water supply temperature. The commenter remarked that DOE's proposed rule would adversely affect this utility. By not accounting for the energy associated with the water withdrawn from the water heater, the commenter pointed out that for a given water heater design more favorable results could be obtained with the proposed test if it were possible to modify the design of the water heater to cause the outlet water temperature to drop off more quickly during the course of the water draw. It was pointed out that, all other things being equal, the amount of water that could be withdrawn from a water heater which is capable of maintaining a relatively constant outlet water temperature will be less than the amount of water that could be withdrawn from a water heater which induces dilution of the stored hot water with the incoming cold water (i.e., in such a fashion that the outlet water temperature would fall gradually through the temperature drop specified for the proposed first hour rating water draw test). A greater total volume of water could be withdrawn from the water heater in the latter case because a significant amount of the incoming cold water would be withdrawn as a result of dilution. In the former case, very little cold water would be withdrawn in addition to the stored hot water withdrawn. Further, the greater the outlet water temperature drop specified, the greater the amount of cold water that could be withdrawn in the latter case, and the greater the disparity between the results of the first hour rating water draw tests for the two different water heater designs.

Changing the outlet water temperature drop specification for the first hour rating water draw test from 40°F to 20°F lessens the magnitude of the problem identified by the commenter but has not eliminated the source of the problem.

When referencing industry standards which encourage water heater designs which deliver hot water at a relatively constant temperature when subjected to a water draw, DOE assumes that the commenter was referring to, for gas water heaters, section 2.14 of the American National Standard for Gas Water Heaters, Volume I, designated ANSI Z21.10.1a–1978, and, for electric water heaters, section 4.4. of the American National Standard for Household Automatic Electric Storage-Type Water Heaters, designated ANSI C72.1–1972. DOE is not aware of the existence of a widely recognized standard which encourages this type of design for oil water heaters. However, since the first hour rating of a typical oil water heater is primarily a function of its high recovery rate rather than its small storage capacity, the effects of dilution during the first hour rating water draw test, if any, will have little effect on the first hour rating measure. DOE considered the approaches taken by these standards for possible application to the test method for determining first hour rating. DOE found that a test approach similar to the one taken by the ANSI Z21.10.1a–1978 standard for gas water heaters could be developed for the first hour rating water draw test which would neither encourage nor discourage water heater designs which induce dilution of stored hot water with incoming cold water when subjected to a water draw. The approach prescribed today considers the energy content of the water withdrawn from the water heater during the first hour rating water draw test. It adjusts, on an energy basis, the measured volume of water withdrawn to an equivalent, or adjusted, volume of water of equal energy content that would have been withdrawn from the water heater if the discharge water temperature had remained constant at its initial value. For water heater designs which inhibit dilution of the stored hot water with the incoming cold water during the first hour rating water draw test, this new approach will yield results nearly equal to the results that would have been obtained using the proposed test method. However, for water heater designs which permit such dilution, this new approach will yield results significantly lower than the results that the proposed test method would have yielded.

This new approach has been incorporated in the test procedures for water heaters by modifying section 3.7 to require that the outlet water temperature be recorded at 15 second intervals throughout the duration of the first hour rating water draw test and by modifying section 4.8 to multiply the actual volume of water withdrawn from the water heater during the first hour rating water draw test by the mean of the recorded values of outlet water temperature divided by the initial outlet water temperature. This approach accounts for the energy content of the water withdrawn from the water heater. The frequent outlet water temperature readings can be used to trace how the energy content of the water withdrawn from the water heater changes with time. Thus, the product of the mean of the recorded values of outlet water temperature and the actual volume of water withdrawn from the water heater during the test is proportional to the energy content of the water. Dividing this product by some reference temperature, in this case the initial outlet water temperature, yields the equivalent amount of water which, at that reference temperature, would have the same energy content.

These modifications to the proposed test method result in a negligible increase in the test burden associated with the proposed test method.

d. *Rate of hot water withdrawal.* Two commenters recommended using a three gallon per minute withdrawal rate for the water draw test. They contended that a three gallon per minute flow rate is more representative of typical hot water withdrawal rates encountered in the home. The point was made that industry standards specify a three gallon per minute flow rate for testing water heaters. To DOE's explanation that a five gallon per minute flow rate had been specified in the proposed test method in order to reveal whether or not the design of the water heater fostered dilution of the discharge water, one commenter remarked that DOE's proposed test method would, by use of the higher flow rate, exaggerate the effects of dilution.

DOE finds that it is not unusual for hot water to be withdrawn from a household water heater at rate on the order of five gallons per minute or more. Such a flow rate is typical of the hot water fill demands of clothes washers and dishwashers.

First hour rating is intended as a measure to be used to properly size a water heater to a particular application. The procedure for sizing the water heater involves making an estimate of a reasonable "worst case" hot water demand that would occur over a one hour period and selecting a water heater with a first hour rating of nearly equal magnitude.

DOE finds that the five gallon per minute (plus or minus 0.25 gallons per minute) flow rate specification that was proposed for the first hour rating water draw test is appropriate for the purposes of using first hour rating to properly size a water heater to a particular application. Therefore, no change has been made to this specification in today's final rule.

e. *Timing the water draw test.* A water heater manufacturer proposed that DOE allow the duration of the first hour rating water draw test to be calculated by dividing the volume of water withdrawn from the water heater during the water draw test by the product of the nominal water withdrawal rate of five gallons per minute and the conversion factor, sixty minutes per hour. The point was made that adoption of this suggestion would eliminate the requirement for timing the duration of the water draw test.

Changes to the test procedures made in response to comments discussed previously under "Impact on water heater utility" require the use of a clock during the first hour rating water draw test. DOE finds that nothing would be gained by adopting the commenter's suggestion. It has not been adopted.

f. *Using the results of the water draw test for more than one basic model.* One commenter remarked that there are various models of gas and oil water heaters which utilize essentially the same tank and water inlet (dip tube) design but differ in power input rating. The commenter recommended that, in cases such as this, the manufacturer should be allowed to conduct the water draw test on one model of water heater and then calculate the first hour rating for the other gas and oil water heaters which are of the same tank and water inlet design but have different power inputs. It was argued that DOE permits a similar scheme for determining the first hour rating of electric water heaters with immersed heating elements.

Because the water draw test was modified in response to comments previously discussed under "Full versus partial testing", the requirement to separately test basic models of water heaters which differ only by the power input has been eliminated.

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g. *Recovery rate calculation.* One commenter recommended that water heater manufacturers be permitted to use the nominal or design power input rating for the heating elements or main burner of a water heater for calculating its recovery rate in all cases, not just in the case of electric water heaters as proposed by DOE. The point was made that this would present the power input in nominal terms which the consumer has recognized through the years. By nominal or design power input rating, DOE assumes that the commenter intended for the rating which appears on the manufacturer's nameplate to be used. These ratings usually appear in rounded terms, e.g., 30,000 Btu per hour for a gas water heater.

DOE allows water heater manufacturers to use the design power ratings for the immersed heating elements they install in electric water heaters for calculating the recovery rate of an electric water heater because DOE has found that it would be unnecessarily burdensome to require testing of all models of electric water heaters to determine actual power input. However, since measurement of actual power input for gas and oil water heaters is already required by the test procedures for water heaters, DOE does not find that use of the measured value in the recovery rate calculation presents a problem. Finally, since recovery rate is also a function of the recovery efficiency of a water heater, and recovery efficiency is a measure determined by test and affected by the power input of the water heater tested, DOE finds that it is more accurate to use the actual power input and recovery efficiency of a water heater as determined by testing for calculating the recovery rate of the water heater. Therefore, DOE has not adopted the commenter's recommendation.

4. *Predicting first hour rating by calculation.* Five different formulas for predicting first hour rating by calculation were suggested by as many commenters. All of the proposed formulas shared the approach of summing two terms, the first term being some large percentage of the tank capacity and the second term being the product of the recovery rate of the water heater and some period of time. The first term was intended to predict the amount of hot water that could be withdrawn from storage on demand. The second term was intended to predict the amount of water that could be heated and made available by the water heater over the one hour period that is the time base of first hour rating.

DOE's proposed rule for the determination of first hour rating shared this approach but required that a water heater be tested to determine the amount of hot water that can actually be withdrawn from storage. The amount of water that can be heated and made available by a water heater, the second term of DOE's first hour rating quantity, was to be determined by taking the product of the recovery rate of the water heater and a period of time equal to one hour less the elapsed time of the water draw test.

For determining the first term of the first hour rating quantity, two of the suggested formulas multiply a water heater's actual storage capacity, determined in accordance with DOE's test procedures, by 0.90. The rationale offered for this recommendation was that a quantity of water equal to about 90 percent of the actual storage capacity of a water heater would closely approximate that amount which would be withdrawn from the water heater following DOE's proposed water draw test.

A third formula would determine the first term by multiplying a water heater's rated storage capacity by 0.95 and then multiplying the result by 0.90. By use of the term "rated storage capacity" DOE assumes that the commenter is referring to storage capacity as rated in accordance with section 2.26 of the American National Standard for Gas Water Heaters, Volume I, designated ANSI Z21.10.1–1975, or section 3.8 of the American National Standard for Household Automatic Electric Storage-Type Water Heaters, designated ANSI C72.1–1972.

DOE is not aware of the existence of a widely recognized standard specification for rating the storage capacity for an oil water heater; however, since the specifications for rating the storage capacities of gas and electric water heaters referenced above are identical, DOE has evaluated the suggested formula as if the rated storage capacity for an oil water heater were specified in an equivalent fashion. The referenced standards specify that the actual storage capacity of a water heater must be within plus or minus five percent of the rated storage capacity. By multiplying the rated storage capacity of a water heater by 0.95, as is done in the suggested formula, the minimum allowable actual storage capacity for a water heater of a given rated storage capacity would be used to calculate the first term of the first hour rating quantity. This "adjusted" rated storage capacity term would then be multiplied by 0.90 to account for amount of water which would be withdrawn from the water heater following DOE's proposed water draw test.

The fourth proposed formula would determine the first term of the first hour rating quantity in the same fashion as the third formula would for gas and oil water heaters but would use the value 0.90 in place of 0.95 for determining the adjusted rated storage capacity of an electric water heater. In this case, DOE assumes that the commenter intended to refer to storage capacity as rated in accordance with the method specified in section 25.1 of the American National Standard for Household Electric Storage-Tank Water Heaters, designated ANSI/UL 174–1977. This standard requires the actual storage capacity of an electric water heater to be not less than 90 percent of the rated storage capacity.

A fifth proposal for predicting the first term of the first hour rating quantity would require water heater manufacturers to calculate the minimum amount of water that could theoretically be withdrawn from a water heater to satisfy the water draw requirement of section 2.14 of the ANSI Z21.10.1–1975 standard for gas water heaters and section 4.4 of the ANSI C72.1–1972 standard for electric water heaters. In the case of gas water heaters, this minimum amount of water would be determined by multiplying the actual storage capacity of the water heater by 0.60. In the case of electric water heaters, this minimum amount of water would be determined by multiplying the actual storage capacity of the water heater by 0.80 for water heaters having an overall tank height greater than 36 inches, or by 0.70 for water heaters having an overall tank height less than or equal to 36 inches. No recommendation was made concerning how to calculate the first term of the first hour rating measure for oil water heaters.

In the case of the suggestion that water heater manufacturers use the hot water delivery requirements specified in industry standards to calculate the amount of water to use in place of the results of the water draw test for determining first hour rating, DOE finds that gross underestimates may result. DOE rejects this calculation method because it would yield unreasonably low results for some water heater designs based on the data considered under this rulemaking.

Concerning the suggested calculation methods which would use the adjusted rated storage capacity of a water heater instead of its actual storage capacity, DOE finds no merit in using the adjusted rated storage capacity of a water heater in a calculation for which the actual rated storage capacity of the water heater has already been determined by test. Further, adoption of this suggested calculation method would penalize water heater manufacturers who rate the storage capacity of their water heaters conservatively. DOE rejects the suggestion that the adjusted rated storage capacity of a water heater be used to calculate first hour rating for these reasons.

Common to all but one calculation method was the contention that the result of the first hour rating water draw test for a water heater would be nearly equal to ninety percent of the actual storage capacity or the adjusted rated storage capacity of the water heater. (The exception was the suggested calculation method, discussed above, that would use the hot water delivery requirements specified in industry standards.) DOE finds that the data submitted by the water heater industry and that generated by NBS substantiates the commenters' contention. For most water heaters the test data and the results of the suggested calculation method agree within plus or minus three percent. However, this data also reveals that this suggested calculation method may overestimate the results of the first hour rating water draw test for some water heaters by as much as six percent.

In keeping with DOE's position that the formula for predicting first hour rating to be included in the test procedures for water heaters should yield results which agree closely with the results that would be obtained through testing but which are unlikely to exceed such test results, DOE has adjusted the commenters' suggested formula for calculating the results of the first hour rating water draw test to yield results six percent lower. This was accomplished by revising the formula from 0.90 times the actual (or adjusted rated) storage capacity of a water heater in gallons, to 0.85 times the actual storage capacity of a water heater in gallons.

The comments which pertained to the proposed method for calculating the amount of water that could be heated and made available by a water heater over the one hour period that is the time base of the first hour rating measure, the second of the two terms of each suggested formula for predicting first hour rating by calculation, were addressed in the preceding section. The determinations made in response to these comments apply here as well.

As mentioned previously, DOE has followed the approach of the proposed test method for determining first hour rating for the purposes of developing a formula for calculating first hour rating. According to the proposed test method, the time duration for calculating the contribution of recovery rate to the first hour rating measure is one hour minus the time duration of the water draw. For the purposes of the formula for calculating first hour rating, this time period can be determined by dividing the predicted quantity of water withdrawn from the water heater during the water draw, i.e., 0.85 times the storage capacity of the water heater in gallons, by the product of the nominal water withdrawal rate of five gallons per minute and the conversion factor, sixty minutes per hour. Carrying out the mathematics, this will simplify to 0.0028 times the storage capacity. Therefore, the second term of the formula for predicting first hour rating by calculation becomes the product of the recovery rate of the water heater and the quantity, one minus the product of 0.0028 and the storage capacity of the water heater.

Section 4.8 of the test procedures for water heaters, prescribed today, presents the complete formula for calculating first hour rating.

5. *Miscellaneous.* After careful consideration of all of the comments, DOE has made some editorial and minor technical changes that were not discussed above and incorporated them in the final rule prescribed today.

C. *Regulatory Analysis Review.*

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030. From the regulatory analysis performed, it was determined that the proposal was significant in nature but did not have major impacts to manufacturers and consumers (imposing annual economic costs of $100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94–163, as amended by Pub. L. 95–619; Department of Energy Organization Act, Pub. L. 95–91.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective October 9, 1979.

Issued in Washington, D.C., August 30, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

1. Appendix E to Subpart B of Part 430 is amended by adding a new section 3.7 to read as follows:

3.7 *First hour rating water draw test.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the first hour rating water draw test immediately after a cutout by recording the hot water outlet water temperature, recording the time, and withdrawing water from the water heater through the hot water outlet at a rate of 5.0±0.25 gallons per minute. Interrupt electrical power to the heating elements or fuel to the main burner of the water heater to prevent their operation during this test. Collect all of the water withdrawn from the water heater during the test in a suitable container for the purpose of determining its weight at the conclusion of the test. Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Beginning 15 seconds after the start of the test and at every subsequent 15 second interval throughout the duration of the water draw, record the outlet water temperature. For the purposes of this test, the maximum recorded temperature shall be referred to as the initial outlet water temperature, T_o. Monitor the functioning of the water heater thermostats and record the time that a thermostat on the water heater acts to operate a heating element or the main burner. Continue the withdrawal of water until the outlet water temperature drops to a value 20°F below the initial water temperature, at which time terminate the withdrawal. Determine the weight of the water withdrawn, W, in pounds measured with an error no greater than 2 percent, or the volume of water withdrawn, G, in gallons measured with an error no greater than 2 percent. Determine the arithmetic mean of the outlet water temperature readings recorded, T_m, in °F. Determine the elapsed time of the test prior to a thermostat on the water heater acting to operate a heating element or the main burner, t_e, in hours measured with an error no greater than 2 percent. If a thermostat on the water heater does not act to operate a heating element or the main burner within one hour after the start of the test, the test is to be terminated and t_e expressed as one hour.

2. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.7 to read as follows:

4.7 *Recovery rate.*

4.7.1 *Recovery rate for gas and oil water heaters.* For a gas or oil water heater, calculate the recovery rate, R, expressed in gallons per hour and defined as:

$$R = \frac{P \times Er}{k \times \Delta T_5}$$

where—

k is as defined in section 4.1.1.

ΔT_5 is as defined in section 4.3.

E_r is as calculated in section 4.1.1.

P=power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour.

4.7.2 *Recovery rate for electric water heaters.* For an electric water heater,

calculate the recovery rate, R, expressed in gallons per hour and defined as:

$$R = \frac{P^* \times E_r \times 3{,}412\ \text{Btu/kWh}}{k \times \Delta T_5}$$

where—

k is as defined in section 4.1.1.

ΔT_5 is as defined in section 4.3.

E_r is as calculated in section 4.1.2 for electric water heaters with other than immersed heating elements, or section 4.1.3 for electric water heaters with immersed heating elements.

P^* = P, power input to the heating elements, expressed in kilowatts, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, with the following exception: For electric water heaters with dual immersed heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts.

3. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.8 to read as follows:

4.8 *First hour rating.*

4.8.1 *Method for determining first hour rating.* Except as provided in section 4.8.2, first hour rating shall be determined in accordance with section 4.8.3.

4.8.2 *Options for determining first hour rating.* Until December 1, 1979, first hour rating may be determined in accordance with either section 4.8.3 or section 4.8.4.

4.8.3 *First hour rating determined by testing.* Calculate the first hour rating, F, expressed in gallons and defined as:

$$F = \left(\frac{W}{d} \times \frac{T_m}{T_o}\right) + \left[R \times (1 - t_c)\right], \text{ or}$$

$$F = \left(G \times \frac{T_m}{T_o}\right) + \left[R \times (1 - t_c)\right]$$

where—

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

W = weight of the water withdrawn from the water heater during the first hour rating water draw test, determined in accordance with section 3.7, expressed in pounds.

d = 8.25 pounds per gallon, the nominal density of water.

G = volume of water withdrawn from the water heater during the first hour rating water draw test, determined in accordance with section 3.7, expressed gallons.

T_m = arithmetic mean of the outlet water temperature readings recorded during the first hour rating water draw test, determined in accordance with section 3.7, expressed in °F.

T_o = initial outlet water temperature recorded during the first hour rating water draw test, determined in accordance with section 3.7, expressed in °F.

t_c = elapsed time of the first hour rating water draw test prior to a thermostat on the water heater acting to operate a heating element or the main burner, determined in accordance with section 3.7, expressed in hours.

4.8.4 *First hour rating determined by calculation.* Calculate the first hour rating, F, expressed in gallons and defined as:

$$F = (0.85 \times V) + \left\{R \times \left[1\ \text{hour} - \left(0.0028 \frac{\text{hour}}{\text{gallon}} \times V\right)\right]\right\}$$

where—

V is as defined in section 4.1.1.

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

0.85 = the constant multiplier for calculating the results of the first hour rating water draw test.

0.0028 hour/gallon = the constant multiplier for calculating the duration of the water draw during the first hour rating water draw test, determined by dividing 0.85, as defined in this section, by the product of the hot water withdrawal rate during the first hour rating water draw test, five gallons per minute, and the conversion factor, 60 minutes per hour.

[FR Doc. 79-27906 Filed 9-6-79; 8:45 am]

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federal register

Friday
September 7, 1979

Part VI

Department of Energy

Office of Conservation and Solar Applications

Federal Price Support Program For Municipal Waste Reprocessing Demonstration Facilities

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DEPARTMENT OF ENERGY

Office of Conservation and Solar Applications

[10 CFR Part 486]

[Docket No. CAS-RM-79-111]

Federal Price Support Program for Municipal Waste Reprocessing Demonstration Facilities

AGENCY: Department of Energy.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Energy intends, by rulemaking, to promulgate regulations establishing policies and procedures necessary to implement a Federal price support program for revenue producing products of municipal waste reprocessing demonstration facilities. Price supports are one of several forms of Federal finanical assistance authorized by Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, in connection with the establishment of municipal waste reprocessing demonstration facilities producing synthetic fuel and recovering energy intensive products. This advance notice of proposed rulemaking is published to advise the public of tentative DOE thinking regarding the price support program and to invite public comment and participation in the development of proposed rules which DOE anticipates will be published in the **Federal Register** in December 1979.

DATES: Comments must be received on or before November 6, 1979, 4:30 p.m.

ADDRESSES: Written comments should be addressed to Joanne Bakos, Office of Conservation and Solar Applications, U.S. Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Donald K. Walter, Acting Branch Chief, Urban Waste and Municipal Systems Branch, Office of Conservation and Solar Applications, Room 2252C, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585 (202) 376-1965.

SUPPLEMENTARY INFORMATION:

I. Background

Section 401 of Title IV of the Department of Energy Act of 1978—Civilian Applications (Public Law 95-238), enacted on February 25, 1978, amended the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577) ("the Act"), by adding Section 20 which authorizes the development of a financial support program for the establishment of municipal waste reprocessing demonstration facilities. The Secretary of Energy is authorized in Section 20(b)(1) to provide Federal financial assistance to selected municipalities which will own or operate demonstration waste reprocessing facilities which produce fuel and recover energy intensive products from organic municipal waste in an environmentally acceptable manner. Federal financial assistance will be provided to the municipality by grants, contracts, price supports, cooperative agreements, or any combinations thereof. The regulations herein proposed to be developed are specific for price support of revenue producing products of municipal waste reprocessing demonstration facilities.

Municipalities receiving Federal financial assistance in the form of price supports will be required to report pertinent information concerning the waste reprocessing demonstration facility in accordance with guidelines currently being developed by DOE. A Notice of Inquiry inviting public participation in the development of proposed guidelines for monitoring and reporting on projects was published in the **Federal Register** on April 25, 1979 (44 FR 24298).

An Interagency Agreement dated May 7, 1976, and augmented by a Memorandum of Understanding (MOU) dated May 31, 1979, exists between DOE and the Environmental Protection Agency (EPA) with respect to coordination of efforts by the agencies in regard to the demonstration of reprocessing facilities involving energy recovery. The price support program will be implemented in accordance with the MOU, which provides that the EPA has lead responsibility for feasibility study and procurement planning, and that DOE has lead responsibility for design and construction support. In accordance with the Act, for energy projects of mutual interest, planning will be conducted jointly; DOE is responsible for energy related matters concerning the project including energy related economic and institutional aspects, and EPA is responsible for environmental and other economic and institutional aspects and for assurance that the projects are consistent with EPA guidelines and state or regional waste management plans. Further, in view of the Department of Commerce's (DOC) statutory responsibilities for the economic and marketing aspects of resource recovery, as set forth under Subtitle E of the Solid Waste Disposal Act (42 U.S.C. 3251 et. seq. consultation with DOC will be undertaken. DOE will seek EPA concurrence in the latter area and will consult with EPA to assure that the provisions of Section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) are applied.

An environmental assessment (EA) has been prepared for the Urban Wastes Technology Program pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U. S. C. 4321 *et seq.* Notice of Availability of that EA was published in the **Federal Register** on July 18, 1979 (44 FR 42110). The EA treated all aspects of the Urban Wastes Technology Program, including price supports. DOE's review of the EA determined that the Urban Wastes Technology Program would not be a major Federal action significantly affecting the quality of the human environment on a programmatic level. Therefore, no environmental impact statement (EIS) is required to support this action. However, review of the environmental aspects of site specific actions within the program will be conducted and determinations will be made regarding the need for site specific EA's or EIS's.

II. Proposed Regulations

The regulations to be developed by DOE will establish policy and set forth procedures whereby municipalities may submit applications for price support of end products of municipal waste reprocessing demonstration facilities. Such facilities may be established by a public or private entity under such terms and conditions as may be specified by the municipality which will receive price support payments.

The objectives of the program are to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of synthetic fuel and energy intensive products, and to gather information about the technological economic, environmental, and social costs, benefits and impacts of such demonstration facilities.

The Federal assistance will enable municipalities to prove the commercial and economic viability and environmental acceptability of recovery systems which recover the maximum amount of usable net energy from municpal waste. These wastes would otherwise be discarded and their available energy not realized. Concurrent with the production of fuel, the reprocessing facility might recover "energy intensive products" which, if produced from virgin material, would require a greater amount of energy to be expended, as well as other revenue producing byproducts. A successful demonstration program is likely to encourage municipalities and private entities to accelerate the commercialization of recovery technologies which conserve resources and reduce dependence upon fossil fuel and other non-renewable energy resources. Successful demonstration is further perceived as a method of encouraging the financial community to invest or make available to private and public entities sufficient capital to construct and operate reprocessing facilities without Federal assistance.

DOE believes the program, as developed with public assistance, should reflect the following policies:

1. Demonstration facilities selected for price support should utilize technologies which have potential for wide energy application. The type and capacities of selected projects should be determined in part by the stage of the particular technology's development, by actual or expected economies or diseconomies of scale, and by the total amount of funding available to DOE.

2. Price supports are intented to provide temporary subsidies to the economics of a project and should not be planned as a permanent subsidy to the project. Economic analysis should show that the subsidy is not required on a permanent basis under reasonable assumptions.

3. Responsibility for sound management and organization of supported projects should rest with municipalities and their participants. The Federal role should be a monitoring responsibility.

Section 20 authorizes the Secretary to promulgate regulations establishing price supports for revenue producing products of municipal waste reprocessing demonstration facilities. DOE expects to provide price support limited to synthetic fuel and/or energy intensive products, such as ferrous metals and aluminum, produced or recovered by demonstration facilities. "Municipal waste" is defined by the Act as including, but not necessarily limited to "municipal solid waste, sewage sludge, and other municipal organic waste." Section 20 defines the term "municipal," prescribing eligibility for receipt of Federal assistance, to include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

The Act expressly limits price support assistance to municipalities which either own or operate demonstration facilities, or both. The total Federal assistance available for any one facility under Section 20, whether by grant, contract, cooperative agreement, price support or any combinations thereof, may not exceed seventy-five percent (75%) of the cost of the facility. Additionally, not more than forty million dollars ($40,000,000) of Federal financial assistance may be used for the construction of any one facility. DOE solicits public comment and suggestion on the elements comprising the "cost" of facilities established under this program for the purpose of determining the seventy-five percent (75%) limitation.

DOE considered several options for the application of proposed price supports. These included, among others, support based upon the quantity of product, the quality of product, the unit price received for product, and full or partial purchase of product by the Federal Government. DOE is leaning toward proposal of a price guarantee, because, of all these possibilities, that option alone would provide incentive to all project participants, and promote the development of normal project/market relationships. The price guarantee could be based upon the price received for products which are sold. This mechanism would not guarantee the quantity or quality of products from the project, and, thus, leaves the risk of interruptions in waste supply and project operations with the municipality or operator. It would insulate the project from low prices due to slackening of market demand, or from buyer demands for discounts which might, for example, be predicated upon unexpected difficulty in the use of the project product, or from low energy costs in the locality.

Issues concerning the price support applications include:

—The extent of Federal involvement, if any, in the negotiation of prices by buyers other than the Federal Government to assure the prices received are fair in comparison to prices received for like products.

—With respect to a guarantee of a minimum sales price, the method of computation of the price upon which payments will be based as well as the frequency of payments and required documentation as proof of sale and possibly proof of use of the recovered product.

Federal financial support is intended to diminish what municipalities, industry and the financial community may perceive as a major risk associated with the establishment of reprocessing facilities, the uncertainty of consistent and sufficient revenue streams both from the tipping fee paid for disposing of waste at the facility and from the marketing of products generated from the waste. The support is further expected to assist in maintaining financial stability during the first three to five years of operation after which experience indicates that the facility may reasonably be expected to begin to generate a positive cash flow. For that reason, DOE expects that the proposed regulations may limit pirce support assistance to a maximum of five years. DOE thinks that, in the five year period, disposing of municipal waste at a reprocessing facility should become a more economical disposal method than alternatives.

In consonance with the DOE policy to encourage, rather than to pay for, the establishment of facilities, DOE is further considering the promulgation of regulations that would require municipalities establishing successful projects to return to DOE Federal support assistance from project revenues generated during the period of positive cash flow. Inherent in this policy is the assumption that a facility would generate profits sufficient to provide a reasonable rate of return on investment while at the same time enabling the municipality to return assistance monies.

A number of options are available for the acquisition of proposals, ranging from a highly detailed request for proposal aimed at a specific technology, to unsolicited proposals. A specific method for acquisition has not been selected, and public comment is specifically sought in this area. A relatively flexible system that will achieve maximum competition while at the same time encourage a broad range of existing and innovative technologies is preferred.

The regulations to be developed will identify the desirable types and capacities of facilities to be supported. Subsection 7(c)(1) of the Act envisions Federal support for the establishment of full-scale, commercial size facilities or other operations. The types and capacities of selected projects will be determined in part by the stage of development of the particular technology, actual or expected economies or diseconomies of scale, and the total amount of funding available to DOE.

Competitive evaluation of proposals will likely be based, among other considerations, on the following selection criteria: the probability of technical and economic success; net energy effectiveness; proposed institutional arrangement; potential environmental, and health and safety impacts; the proportion of risk sharing; and the extent to which the proposed

facility can be adapted by municipalities located in similar environmental surroundings. The public is invited to suggest other considerations, and to identify which of the above suggested criteria should receive emphasis during the evaluation process.

After consideration of the comments and other relevant information, a Notice of Proposed Rulemaking will be issued.

III. Comment Procedures

Interested parties are invited to submit written comments to the U.S. Department of Energy, ATTN: Joanne Bakos (See ADDRESSES). Comments should be identified on the document and envelopes submitted to DOE by November 6, 1979, in order to ensure consideration.

All information or data considered to be confidential by the sender must be clearly marked *"Confidential Treatment Requested"* and accompanied by a statement in support of the request for confidentiality. Only one copy of such data should be provided. In accordance with agency regulations, DOE reserves the right to determine the confidential status of information or data and to treat it according to its determination.

(Section 20 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, 42 U.S.C. 5920 (1978); Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.* (1977).)

Issued in Washington, D.C., August 29, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-27695 Filed 9-6-79; 8:45 am]

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federal register

Friday
September 7, 1979

Part VII

Civil Aeronautics Board

Essential Air Transportation and Service; and Delegation of Authority to the Director, Bureau of Consumer Affairs

CIVIL AERONAUTICS BOARD

14 CFR Part 398

[Regulation PS-87; Enactment of Part; Docket 34650]

Guidelines for Individual Determinations of Essential Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts guidelines for determining the essential air service of small communities under its Small Community Air Service Program. Under this program, the CAB is directed to determine what is essential air transportation for eligible points and to guarantee that this level of service is provided, with Federal subsidy where needed.

DATES: Effective: September 7, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5408.

SUPPLEMENTARY INFORMATION: On May 3, 1979, we issued PSDR-59 (44 FR 27438, May 10, 1979), in which we proposed to establish a new Part 398 *Guidelines for Individual Determinations of Essential Air Transportation.* We indicated that these guidelines, once adopted, would be used as a framework for our analysis of the essential air transportation needs of individual communities under the new section 419 program, "Small Community Air Service." As we explained in PSDR-59, section 419 requires us to make essential air service determinations within a prescribed period for each eligible point that is served by one or more certificated air carriers. By October 24, 1979, we must determine the essential air transportation level for approximately 555 eligible points. We requested that comments on the proposed guidelines be filed by June 25, 1979.

We have received numerous comments on our proposed guidelines from communities, States, certificated carriers, commuter airlines, associations, regional commissions, government agencies, and private parties.[1] These comments addressed virtually every aspect of our proposal, offering a wide variety of opinions and raising some issues that were not addressed in our original proposal.

To address all of the issues on which there were comments in an orderly manner, we will discuss them by category. We will first consider the issues related to the general overview of the section 419 program. Next, we will examine the specific guideline areas for points outside Alaska as we proposed in PSDR-59—hubs, airports, equipment, frequency of flights, capacity, time of flights, and number of stops—and then the guidelines for Alaska points. Finally, we will address the other issues such as cargo and hyphenated points discussed in the supplementary information of PSDR-59 and the new issues raised by the commenters.

One of the fundamental questions posed by several commenters is, "What is the definition of essential air transportation?" Essential air transportation is defined in section 419(f) of the Act as scheduled air transportation of persons to a point provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial.

Given this definition, several commenters argued that the Board should not be establishing "guidelines" as a form of policy statement but should be establishing "criteria" against which individual community data and circumstances could be examined and determinations of essential air service could be made. We believe this is primarily a semantic argument. In our discussion in PSDR-59 and our reexamination of our proposed guidelines in this document we indicate the factors to be considered and evaluated to determine the essential air transportation level, in terms of hubs that will be designated, the level and frequencies that will be required, and the number of stops that will be permitted. If, on the other hand, the dispute is not primarily semantic and these commenters believe that "criteria" or "guidelines" should be more specific, spelling out more precisely the level of service we will require under all different circumstances and how we will assess and weigh the various factors for each community, we do not agree. This approach would not lend itself to a careful examination of the individual needs and the unique circumstances of a community. For practical purposes, criteria that are too specific would come close to being the "national standards" that so many communities indicated we should not adopt.

Several commenters indicated that our general guidelines appear to be national standards and argued that we should not adopt such standards because each community has its own needs and these needs will not be considered with en masse determinations. Other parties indicated, however, that our proposed guidelines are generally reasonable and address the important factors that should be considered in essential air service determinations, and supported our approach as long as the guidelines are not inflexible standards. In practice, we intend to use our guidelines as a framework for individual determinations, not as an ironclad formula. We assure each community that its air service needs will be individually analyzed and considered when we make our determination, and when circumstances indicate that divergence from the guidelines is required, we intend to be flexible. As an indication of this flexibility, we would cite several recent interim determinations. For Presque Isle, Maine, our determination guarantees 80 seats each way and requires service with medium size CV-600 or FH-227 aircraft to Boston, overflying two closer hubs (Order 79-7-198, July 30, 1979). At North Bend/Coos Bay, Oregon, we required service to two hubs including direct service to Portland, although the Portland service could have been provided via connecting services at a closer hub, Eugene (Order 79-6-215, June 29, 1979). At Jamestown, North Dakota, we specified service to Minneapolis/St. Paul, overflying Fargo, a closer hub, because of the better connecting service available (Order 79-2-45, February 7, 1979). Although determinations for several communities may be adopted in the same order (we are considering issuing orders by States), each point will be analyzed and addressed separately.

One of the most important general issues discussed in the comments was the extent to which there should be government intervention in the national air transportation system under the section 419 program. It was noted that

[1] Although PSDR-59, which addresses the policy aspects of essential air service determinations, was issued in Docket 34650, some parties filed their views on PSDR-59 in Docket 35464, which concerns the proposed procedural rules, PDR-66, for making essential air service determinations. We have therefore considered all comments about our proposed guidelines filed in both Dockets 34650 and 35464. A list of those filing comments is provided in Appendix A.

Congress intended that convenient and comprehensive air service should be maintained at all eligible points and that the government should intervene to ensure this service when necessary. We agree with this position, and we will act to carry out these directives. But we must keep in mind the general principles underlying the entire Airline Deregulation Act. Congress clearly intended that wherever possible the air transportation system should rely on market forces rather than government regulation. The section 419 program addresses a major area of the air transportation system where Congress recognized a need for government involvement, at points that cannot rely on the marketplace to meet their needs, and directed the Board to ensure essential air transportation at these communities.

Several commenters indicated that the Board should guarantee each community its existing level and patterns of service, including service with jet aircraft where it is currently being provided. There is concern that service changes could cause serious economic problems for the communities. Further, many comments point out that although Congress specified a minimum level for essential air service it did not specify a limit on the level that the Board should guarantee. We are sympathetic to these concerns, but it is clear that Congress did not intend the air transportation system to be frozen in its current form. The main policy determination underlying the Airline Deregulation Act is that the public will benefit from allowing carriers to alter their operations in response to market demand. Section 419 was included as an exception to the rule in recognition that reliance on market forces may not always be practicable for smaller communities and to ensure that such communities retain essential air service. In line with this, essential air service does not mean all the air service a community wants. Instead, essential air service is the level of service that the government should guarantee to ensure a community that it will have access to its communities of interest and to the national air system. Secondly, as the statutory designation "Small Community Air Service" suggests, the intent of Congress in establishing this program was to ensure service at the small points that potentially may not be able to support service economically in a totally deregulated environment. Finally, regarding the absence of a statutory ceiling, we note that Congress was silent on this issue, apparently leaving this aspect to our judgment. Section 419 provides for the Board to develop a program for subsidized essential air service. A maximum capacity to be subsidized is an expectable element of such a program. To guarantee service above a certain level would undermine the overall intent of the Airline Deregulation Act by limiting the flexibility of the airline network to respond to consumer needs and, more importantly, would not result in responsive service by willing carriers. We believe that the marketplace will be able to function where there is demand for service above a threshold self-sufficiency level that meets essential air service needs and that for us to regulate air transportation above this level is unwarranted and potentially harmful.

However, some medium-sized communities such as Asheville, N.C., Lynchburg, Va., and Columbus, Ga. Doubt that their air transportation needs will be accommodated under this approach. Such communities are concerned about transitional problems and the inability of the marketplace to meet their short term needs because of the shortage of equipment and the suddenness of deregulation. They claim that Congress contemplated a gradual and phased transition and believe that a guarantee of only 120 seats will force them to cope with potentially severe service reductions immediately. One suggestion to overcome any transitional problem is to require essential air service at an initially high, but annually reduced, amount to allow aircraft and operators to become available to meet the demand for service.

Regarding the equipment shortage, experience so far indicates that commuter airlines have been able to obtain additional and larger aircraft to serve markets where certificated carriers have chosen to discontinue operations. We note that several of these carriers are purchasing larger aircraft in the 50-seat range to serve the denser, short-haul markets being left by certificated carriers. As more aircraft are produced—and we are encouraged by the high production schedules and the estimated increase in available aircraft over the next year—we expect any problems that might arise because of equipment shortages to decline.

Nevertheless, it is possible that during a transition period the marketplace may not be able to respond immediately to significant reductions of service at some points even though the point enplanes more than 40 passengers each day. We have been extremely concerned about such problems and have examined the possibility of establishing higher initial levels of essential air service when traffic warrants, with a preplanned phasing down of the level of service to a ceiling level based on self-sufficiency, in order to ease the transition. After much consideration, we have decided against such an approach. First, almost half of the nearly 300 points in the lower 48 states requiring a determination enplane 40 or fewer passengers per day and are already completely covered by our guidelines. Approximately 80 of the remaining points enplane more than 100 passengers per day, a level that should be sufficient to allow us to rely on the marketplace and which would require service well above any essential amount that could be guaranteed under any circumstances without interfering with the flexibility of the airline network and incurring disproportionately large economic costs. More indicative of the extent of the potential transitional problem for these larger communities, however, is the number of suspension notices we have received since passage of the Act that involve a major reduction in the available service at points enplaning more than our proposed ceiling of 40 passengers, where there is not substantial alternative capacity already available or where there is no carrier immediately available to commence replacement service. For the notices filed so far involving 133 points, only about five could possibly be regarded in this category.

Moreover, a phased transition would have several undesirable aspects. It would limit the flexibility of the airlines during the transition period and make it more difficult for carriers to respond to consumer needs. To require an incumbent carrier to continue service at one community during this period has the effect of denying that carrier's service to another community. Also, holding unwilling carriers at eligible points may be detrimental to the eligible point itself during its transitional period. A replacement carrier may find it difficult to establish itself at a point that is still being served by a better known, although unwilling, airline. Any overlap of the old and the new carriers' services may therefore be detrimental to the community's long-run interest in developing air service.

Commenters have also raised an issue related to the transition problem of whether a new carrier willing to replace the incumbent carrier's service at a point can be relied upon to provide continuous service at the higher levels required by the marketplace. If it is doubtful that the replacement carrier will provide the essential service, the Board can forbid suspension by the incumbent carrier. However, when the

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replacement carrier's reliability is established and it is able to provide the essential air service at the eligible point, it is best to allow the unwilling incumbent carrier to depart and thereby enable the new carrier to develop its operations without having to compete with a carrier desiring to operate elsewhere. As the incumbent carrier leaves, the new carrier can begin increasing its available capacity and moving to larger aircraft if the traffic levels and operating conditions at the point justify it. Therefore, we have decided that the potential benefits of a phased reduction in maximum guaranteed service do not justify our implementing such a plan for all essential air service determinations.

Nonetheless, we are acutely aware that during a transition period there may be individual cases where the marketplace may not be able to respond quickly to the reduction or elimination of significant levels of service by an incumbent carrier even though the point's traffic levels are substantially above the threshold level of self-sufficiency where the marketplace should normally be able to meet the point's needs. We expect that there will be relatively few cases of this type, but we recognize a responsibility to address these transition problems when they do occur. We note that prior to passage of the Airline Deregulation Act certificated carriers were able to reduce service in markets at their discretion as long as they were fulfilling their minimal certificate obligations. Under section 419, we now have a mechanism to consider the impact of such service reductions on the essential air service needs of communities and we are prepared, therefore, to examine these cases on an ad hoc basis, and when necessary, we will take steps to alleviate transitional problems.

More specifically, when an incumbent carrier proposes a substantial reduction or the elimination of service at a point where traffic levels are above our ceiling and a *significant portion* of the point's traffic would be temporarily totally unaccommodated by the alternative service that will be available, we will consider making a finding of a major transitional problem and issuing a transitional essential air service determination. This determination would establish a temporary higher level of essential air transportation than would be established under our guidelines, and we would require that that level of service be provided at the point. On the basis of this determination, we would be authorized to prohibit the incumbent carrier from terminating or reducing service until alternative replacement service is being provided that meets this higher essential air service level. We believe this approach will provide the necessary time to alleviate any short-term transitional problems and will protect the communities from the possibility of sudden and major disruptions in air service. Since the point should ultimately rely on the marketplace to meet its needs, however, and our concern here is to overcome short-term transitional problems, we will only guarantee this higher level of service for a temporary clearly limited period. During this time we will work together with the community, the incumbent carrier and the replacement carriers to effectuate a smooth and coordinated transfer of service. After this period, the point's essential service level will revert to the level determined to be essential under our guidelines, including the sixty-seat maximum level of guaranteed service.

The actual steps we will take and the level of service that we will define for transitional essential air service determinations will depend upon the individual circumstances of the case examined on an ad hoc basis. We may establish a planned, phased transfer of operations from one carrier to the other in designated stages. We are unable to outline in specific detail the types of actions that we may take in each case, since we do not know what cities may have to be addressed or what unique circumstances may be present. Our purpose here is to underscore our commitment to deal with these problems on an individual basis.

In dealing with this problem of transition, we have also considered the issue of how communities and the Board will receive sufficient advanced notification when a carrier plans to reduce service significantly at a point. We already receive notice when a certificated carrier plans to suspend all service at a point or the last nonstop or single-plane service in a market. In most cases, this requirement will provide us with the necessary notice of major eliminations of service. In those cases where the incumbent carrier could reduce service in a market without being required to file a notice, where the carrier would be reducing the number of frequencies in a market without eliminating the last nonstop or single-plane service, we expect that the community will have advance notification of the carrier's plans as a result of schedule changes published in the Official Airline Guide and filed with the Board. We have also advised all certificated carriers by letter that if they are proposing major reductions in service at a point that it is in their best interest and the public interest for them to apprise the community and the Board of their plans as soon as possible. If a community believes a carrier's proposed reduction in service would significantly affect its air service, it may petition us to prohibit the reduction and we will act on that request.

The issue of whether the Board can meet its statutory deadline to make 555 determinations by October 24, 1979, was also addressed. It was suggested that the Board ask Congress for an extension of the date until January 1980 in order to enable the Board to give adequate and proper consideration to this endeavor. We are not in favor of seeking an extension for this task, however. We believe it is very important that these determinations be made as soon as possible to establish a comprehensive essential air service program and to make known to the public and the operating carriers exactly what level of service we will ensure and be willing to subsidize, if necessary. We will make every effort to accomplish our task within the statutory deadline. We would point out, though, that our ability to meet this deadline depends heavily upon communities' providing us with timely responses to the questionnaire we distributed.

Several communities cited the importance of community input, both in determining essential air service and for the selection of a carrier to provide the service. We too recognize the important role of the communities and states in this regard. In developing this program, we have given serious consideration to comments from communities, both as presented at the regional meetings and in written pleadings. We are encouraged by the cooperation we have had and we hope and expect it will continue. Our questionnaire gives communities an opportunity to present factual data and information as well as their views and opinions on the specific essential air service requirements. Also, the appeal procedures that we are adopting simultaneously are designed with major emphasis on ensuring sufficient participation by the communities in our decisionmaking process.

Hubs

Under the proposed guidelines, we indicated that the policy of the Board would be to require service to only one hub as a general rule, but that under certain circumstances where there are commercial, geographic, and political ties in two directions and sufficient traffic to support service patterns to two hubs we would consider defining essential air transportation to two hubs. We also stated that in no case would we require essential air service to more than two hubs.

Numerous comments were received about the number of hubs to be designated. The overwhelming majority indicated opposition to the general one-hub limit, claiming that the intent in section 419 of the Act is to assure air transportation to meet the eligible point's needs for service to one or more communities of interest. Several commenters noted that service to two hubs is necessary where there are traffic flows in two directions, and with only a single connecting hub travelers would have to backhaul to their final destination. They contend that when there is sufficient traffic to warrant designating two hubs the Board should do so. One party opposed designating two hubs, noting that it would result in splitting the eligible point's traffic between the two hubs and would decrease the viability and the public benefit of the service. The U.S. Department of Transportation (DOT) favored our proposal of designating one hub generally and never more than two. On the issue of designating more than two hubs, a few commenters claimed that there is no statutory justification for limiting the number of hubs and that the Board should designate as many hubs as the point's traffic can support.

A substantial number of comments also addressed the issue of the size of hubs that the Board should designate. Several communities and States noted that only hubs being served by several carriers and having adequate connecting services to several major cities should be designated. They claim that service to small hubs does not generally meet the essential air service needs of communities and that the Board should not designate such hubs unless the Board has made an examination of available service patterns and determined that access to the national air transportation system would be guaranteed.

Finally, the commenters indicated concern about the criteria the Board would use in selecting hubs for essential air service. Many opposed the designation of the nearest hub, indicating that requiring essential air service in short-haul markets will result in inefficient and low-revenue service that is not conducive to developing the level of traffic or economically viable service. Other commenters argued that essential air transportation should be required to historic communities of interest, that the Board should consider designating more distant hubs where substantially better service is available, and that the Board should allow the community to select between hubs where traffic is evenly divided.

In designating a hub or hubs to be served, our objective is to ensure convenient and reasonable access for an eligible point to its major destinations, either with direct service or convenient connecting opportunities, and to the national air transportation system in general. We indicated in our proposed guidelines our belief that this could in most cases be accomplished by designating only one hub. Although we did recognize circumstances where two hubs would be required to meet this objective, the unequivocal language in our proposal indicating an inclination to only one hub apparently led communities and States to be concerned that we will *always* designate only one hub, and that that hub would always be the closest one, regardless of size and convenience. We want to assure the communities and States that this will not be the case. We will designate just one hub for some eligible points, but only if that hub satisfies the community's needs for convenient and adequate access to the national air system. In making this determination on whether a hub affords good access, we will consider such factors as the number of carriers serving the hub, the total level of operations available at the hub in terms of the number of departures and destinations of flights, and the historic traffic patterns. If a more distant or larger hub or a second hub is required to meet the point's essential service requirements, we will not hesitate to make such a designation. In deciding if a second hub is required, we will examine the traffic flows and location of primary destinations of the eligible point's traffic. If a substantial share of the traffic is in a market that cannot be served conveniently by connecting service through the one hub because of substantial backhaul or circuity for example, we will examine alternative hubs to be designated in addition to the primary hub.

We would cite our decisions on interim essential air service determinations at several points as evidence of our approach on the number and designation of hubs. For Jamestown, North Dakota, we required service to two hubs, one to the east and one to the west, because substantial shares of the traffic move in each direction. We also designated Minneapolis/St. Paul for the hub to the east, overflying Fargo because of that point's limited service opportunities and the significantly higher level of service at Minneapolis/St. Paul. Similarly, for Presque Isle, Maine, we required service to Boston based on historic service patterns and traffic flows, overflying Bangor and Portland. We will be examining these issues closely on an individual case basis. We have modified Sec. 398.2 on hubs in an effort to indicate a more flexible approach to designating hubs in line with our discussion here. Finally, we would point out that the hub or hubs that we designate is the destination or destinations that we would guarantee service to if we were required to seek a carrier to provide service at a point. In many cases, we suspect that carriers serving eligible points may choose to provide service to larger or more distant hubs, if traffic levels in the market can support such operations, providing direct flights between the eligible point and its primary destinations. Although we expect that such service would normally be equal to or above our essential air service requirements, we will examine the specific operations to ensure that they meet the essential air service needs of the community.

Specific Airports

In our proposal, we indicated that under certain circumstances we would occasionally specify that air service be provided to a particular airport at the eligible point. We indicated that we would not usually require service to a particular airport at the hub, however.

All of the comments on this point dealt with our hub airport policy. Most communities asserted that to guarantee access to the national transportation system we must designate service to the primary airports at hub cities to afford both connecting opportunities and convenience for travelers to the hub city. It was noted that on short-haul flights to the hub, if air service is provided to a satellite or secondary airport, the viability and utility of the service is diminished because of the competition of surface transportation as an alternative to air travel. One party claimed that even service to a particular portion of an airport, such as the main terminal, should be required in some cases to ensure passengers usable and convenient connecting opportunities. On the other hand, the DOT contends that we should not designate airports at multi-airport hubs.

The Board will look at any claimed need to specify an individual airport on a case-by-case basis. Where such a designation is necessary to ensure adequate access to the transportation system and convenient access to the hub city for local traffic, we will include this requirement in our determination.

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We do not expect to make such a determination in most cases, and we will not do so where service to any of the primary airports will provide reasonably convenient local and connecting service. For example, we did not require service to a specific airport in our interim determination of essential air transportation for Catskill/Sullivan County, New York, although the community indicated that it would prefer service to LaGuardia Airport at New York. We declined to do so because of the volume and variety of service available at each of the three major New York airports. See Order 79–7–75, dated July 12, 1979. Nevertheless, in cases where the community would prefer service at the hub through a particular airport, even though it is not required in the essential air service determination, we will in all cases give weight to carriers proposing service to that airport in selecting among proposals.

Equipment

We indicated in our proposal that it would not generally be our policy to require any specific size or type of aircraft for providing essential air transportation, except that all aircraft must be capable of accommodating passengers' baggage, meet the applicable safety standards of the Federal Aviation Administration, and, except for those aircraft operated in Alaska or at communities that have agreed to some other arrangement, must have two engines and a pilot and copilot. We also indicated a tentative decision not to require pressurized equipment as a general rule, although each community's needs would be examined and pressurized aircraft might be required in a few cases.

Most comments regarding our proposed equipment guidelines addressed three subjects: the two-engine and two-pilot requirement, pressurization, and the size of the aircraft. A majority of commenters on the equipment guidelines approved of a minimum requirement of two engines and two pilots, stating that single-engine aircraft do not generate public confidence and acceptance and that many companies will not allow business travel on aircraft with one pilot. Several other parties, including the Commuter Airline Association of America, opposed the requirement of two engines and two pilots, however, claiming that there is no demonstrable need for such requirements, that to require two pilots will unnecessarily increase the cost of the service, and that the Board should allow the community to take advantage of the lower operating costs of single-engine, one-pilot operations. The Commuter Airline Association of America also noted that existing air service at Santa Rosa, California, an eligible point, is being provided with one pilot, and that the Board has approved such service as meeting the community's essential air service requirements. (Order 79–6–130.) The State of Oregon, although it generally agrees with the two-engine, two-pilot requirement when the market can support it, pointed out that where the community's traffic level cannot economically justify larger aircraft that require two pilots (ten-passenger or larger aircraft), the community should have the option of using one-pilot service in order to give it the best chance of developing self-sustaining air service.

Several parties raised issues about safety, including a suggestion that the Board establish standards for operations and maintenance of aircraft. The DOT, however, rejected any implication in the Board's guidelines that two-engine aircraft and two pilots are necessary for safety reasons under all circumstances. It correctly noted that pursuant to section 419(c) of the Act, the Federal Aviation Administration has the responsibility over air safety related to carrier operations and was directed to establish safety standards for commuter airlines providing essential air transportation. It further indicated that this responsibility has been accomplished by Part 135 of the Federal Aviation Regulations, and that the Board has no independent authority to regulate air safety. The DOT did recognize that the Board should be concerned about maximizing the reliability of essential air service and for this reason does not object to the Board's proposed two-engine and two-pilot requirements.

We have decided to maintain the two-engine and two-pilot guideline as proposed. We fully recognize that the authority and responsibility for establishing safety standards for all air operations rests with the Federal Aviation Administration and we defer to that agency for all aircraft operational and maintenance requirements. See Sec. 398.4(b). Furthermore, our proposal in no way is intended to imply that operations with single-engine aircraft or by one pilot are unsafe. We do believe, though, that we have a responsibility to ensure a certain quality of service for essential air transportation and a certain reliability as noted by the DOT. We wish to make essential service attractive to passengers, and we believe that two-engine, two-pilot service is generally more acceptable to passengers than single-engine or single-pilot service. It is for this reason that we have chosen to require two engines and two pilots as a general rule. The responses we have received generally support this position. We recognize, however, that there may be some eligible communities that might prefer service with one pilot or single-engine aircraft for economic reasons or to receive more frequent service with smaller aircraft rather than less frequent service with larger two-engine aircraft. In fact, in some cases air service is currently being provided with single-engine aircraft or with only one pilot with the acceptance of the community. We are perfectly willing to accommodate the wishes of the community under these circumstances and we have allowed for such flexibility in Sec. 398.4(d). Our major purpose with this guideline is to assure communities that, at a minimum, essential air service will be provided with aircraft having two engines and two pilots unless the community is willing to relax this requirement.

Regarding the issue of pressurization, several commenters argued that pressurized aircraft are required for climatic reasons and for operations over mountainous terrain. Passenger comfort and medical problems were also offered as reasons for requiring pressurization. Another commentor suggested that all flights longer than 135 miles be with pressurized equipment. One community suggested that pressurization be required wherever a community can support service with larger pressurized aircraft, and yet another requested that at least a portion of each community's flights be with pressurized aircraft. A few commenters opposed requiring pressurization, one citing the adverse financial impact such a requirement would have on commuter carriers. Finally, although we specifically requested comments on this subject, the vast majority of pleadings do not address the issue.

Although we are receptive to service with pressurized aircraft, we cannot generally require it for most determinations of essential air transportation. To the extent that routings required by essential air service determinations may result in operations at high altitudes, the Federal Aviation Administration regulations for pressurization will be applicable. These regulations specify the time durations of flights at different altitudes that require pressurized aircraft, and these requirements should be sufficient. We do not find that any of the comments have presented any evidence that justifies our going beyond the basic

requirements contained in the Federal Aviation Administration's regulations. Moreover, a Board staff study, "Aircraft Pressurization and Commuter Airline Operations," June 1979 (in the docket of this proceeding), concluded with a recommendation that the Board not adopt standards for the use of pressurized aircraft that differ from those already in effect. It found that the reliability, in terms of completion factors, of commuter air carriers operating non-pressurized equipment is not substantially different from the completion factors of certificated carriers. It also found that in the short-haul, flat terrain markets, for which most replacement service will be sought, aircraft pressurization is not of significant value to passengers.

Climatic conditions that would support a requirement for pressurized aircraft are of two types: adverse weather and high temperatures. Pressurized aircraft do have an advantage in overcoming some adverse weather conditions such as turbulence. Over the short distances, however, that will normally be involved in essential air service operations, where there would be less chance of in-flight weather changes, such advantages do not seem to justify pressurization.

We are concerned about the high temperatures in some areas of the country and the possible need for air conditioning to ensure reasonable passenger comfort. The Yuma Ad Hoc Committee for Air Service cited the extremes of temperature in its pleading. We have decided not to require air conditioning as a general rule. We are confident that where air conditioning is important to passenger comfort and public acceptance of the air service, operators will respond to this need. Nonetheless, we will give great weight to any carrier proposing to provide essential air transportation with air conditioned aircraft at those communities wher there are high temperatures. And in some cases, we may be willing to require it.

Although most commenters did not discuss the size of aircraft that should be required, those that did generally addressed two issues: the relationship of the minimum size of aircraft to the size of the market and the quality of service. Views on the first issue ranged from requiring minimum size of 15-seat aircraft for all service to requiring jet aircraft if justified by the market. The main point of these arguments was that where there is sufficient traffic to support operations with larger aircraft, the Board should require service with such equipment. Views on the quality of service included concern that small aircraft do not provide adequate baggage capacity, that passenger facilities and comfort on small aircraft are unacceptable on longer flights, that the longer travel time on smaller aircraft affects the public acceptance of the service, and that operations with small aircraft are less reliable. Several commenters mentioned the current equipment shortages and contended that the Board should consider this issue when establishing its equipment guidelines.

We do not believe that we should specify the size of aircraft that should be operated. We consider that the overall capacity level required in the essential air service determinations will satisfy the regulatory need in this area and that the size of the aircraft used should be determined by the nature and size of the market, the logistical considerations regarding the service patterns, and the operating constraints of the individual carriers providing the service. Where larger aircraft can best accommodate the traffic, taking into account the length of the hop, the operational costs of the aircraft, and the levels and patterns of demand, we expect that carriers will choose to operate larger aircraft. Where there is adequate demand, operations with larger aircraft are generally more efficient. This belief is supported by the recent decisions of several commuter carriers that have been expanding their operations to purchase larger aircraft that are better suited for serving denser markets. We also note that we recently raised the limit on the size of aircraft that can be operated pursuant to the exemption authority of Part 298 to allow noncertificated operations with 60-seat aircraft. We believe this policy of permitting commuter carriers to operate larger aircraft which is an extension of the Act's 56-seat exemption provisions will result in higher level service that will enable them to meet the demand of the larger points that are eligible under the section 419 program.

With respect to adequate baggage capacity, we do not consider that a case has been made for specific guidelines. We are committed to ensuring that reasonably sufficient baggage capacity is available and will take whatever action is necessary on an individual basis.

It is true that in certain circumstances the operation of small aircraft might be less comfortable for travelers because of the smaller cabin or the absence of rest rooms, particularly on longer segments. We do not believe it is advisable to incorporate general guidelines to cover these situations, but we will give consideration to individual circumstances and where operational and passenger requirements indicate a definite need for larger aircraft we will take steps to meet these requirements. For example, by Order 79–7–198, regarding Presque Isle, Maine, having decided to designate Boston as the hub to be served, we required operations with at least CV–600 or FH–227 aircraft (40-seat aircraft) because of operational and passenger needs. We expect such cases, however, to be the exception rather than the rule.

Finally, one community raised the issue of accommodating handicapped persons. The rule adopted today does not include accessibility requirements for handicapped persons. However, we already have in progress another rulemaking proceeding on this subject. (Docket 34030; SPDR–70; 44 FR 32401; June 6, 1979.) Accessibility is a major issue in that proceeding, including the particular question of whether the applicability of some or all of the proposed requirements should depend on aircraft size.

Frequency of Flights

Except in Alaska, we suggested that generally it would be our policy to require at least two round-trip flights each day Sunday through Friday from the eligible point to the designated hub. Although the Act only requires service five days per week, it was our tentative judgment that weekend service, especially on Sundays, is necessary to meet a community's essential air service requirements.

There were relatively few comments on the subject of frequency. Only one commenter suggested an alternative to setting the minimum level at two round trips per day, contending that the minimum should be three round trips. Since our proposal seems acceptable to virtually all communities, we see no reason for changing our general minimum requirement of two round trips. The more widely addressed issue was the level of service over the weekend period. Several comments favored requiring two round trips seven days per week, especially where historic traffic and present need justify daily service. Other respondents indicated that the requirement of two round trips on Sunday and a lower level on Saturday is too rigid, suggesting instead that the requirement be one round trip on each day of the weekend or two round trips over the entire weekend period. Ozark contended that traffic on Sunday mornings is generally low and that the Board should not require two flights on Sunday since one of these would normally have to be a morning

flight due to carrier scheduling constraints. One commenter noted that some points such as vacation destinations might have different market characteristics such as high weekend traffic and low midweek demand, which would not be properly accommodated by the Board's guidelines regarding higher weekday and lower weekend service.

The comments have persuaded us that our policy regarding frequency of flights over the weekend period should be flexible, giving weight to the veiws of the community and adjusting our requirements accordingly. Therefore, we are rewording the guidelines to require as a general rule at least two round trips daily Monday through Friday and two round trips over the weekend period, as specified in individual cases after considering the views of the community. Where the traffic patterns indicate that service at a community would be better accommodated by designating a different five-day period for two round trips and the community requests such a determination, we will designate an alternative frequency requirement. In addition, where traffic levels are sufficient to warrant service daily, we will require service seven days per week.

In the preamble discussion of the proposed guidelines, we indicated that we would require enough flights to accommodate passengers at no greater than 65 percent average load factors, up to a maximum of 60 seats, based on the size of equipment and taking into account other markets at beyond or intermediate points that are being served on the flights. After considering the ramifications of this requirement, we are now concerned about whether an overall application of the 65 percent load factor requirement for all sizes of aircraft and operating patterns will consistently provide sufficient capacity. It appears, based on statistical analysis, that with smaller aircraft the potential for turning away prospective passengers is higher during peak travel periods because of the limited number of extra seats above 65 percent of the aircraft's capacity. We are also concerned about the average load factors that should be the basis of service requirements on multi-segment flights. For example, on an A–B–C–D routing where A, B, and C are eligible points and D is a common hub, if we were to base the required capacity (the product of the aircraft size multiplied by the number of flights operated) on a maximum of 65 percent load factor over the most crowded last segment C–D, the carrier might be forced to operate at extremely low load factors over the first and second sectors. On the other hand, if we were to base our requirement on an average 65 percent load factor over the entire three-sector routing, the load factor on the final sector could greatly exceed 65 percent and point C could be deprived of adequate available capacity to meet its essential air transportation needs.

We have directed our Office of Economic Analysis to undertake an examination of these situations and we propose to incorporate their findings in our analysis for determining the capacity required. This course of action does not mark a departure from our proposed position of guaranteeing capacity based on average load factors no greater than 65 percent. If nonstop, turn-around service with medium or large aircraft were being provided we would still base our frequency requirements on 65 percent load factors. Our position here is to ensure that access equivalent to that of 65 percent load factors in nonstop service with medium or large aircraft is being provided when essential air service is being offered with smaller aircraft or on multi-stop routings. In practice, we suspect that as a result of this examination we may have to require additional flights when smaller aircraft are utilized.

Maximum Available Capacity To Be Guaranteed

In our proposal, the major provision regarding capacity was that only under unusual circumstances will an eligible point's essential air service require more than 120 seats each day to be available in the market (60 seats from the eligible point to the hub and 60 seats from the hub to the eligible point).

There was substantial opposition to this guideline on several grounds. Opposing comments presented legal arguments that a ceiling does not meet the intent of the Act and that Congress indicated essential service should not be less than the existing level. Several communities suggested that the level should be set at the communities' actual needs; others contended that it should be set on projected traffic levels including a growth cushion. Some noted that historic traffic levels may have been depressed because of poor service or that traffic may have been low because people drove to other nearby communities for air service, and thus that the Board should guarantee more than 60 seats for a temporary period. It was alleged that setting a maximum capacity fails to consider the individual needs of communities. One commenter suggested that the ceiling is for the convenience of the Board and is a result of its unwillingness to look at the facts in each case. One State agency agreed that there should be a ceiling, but was not sure that 60 seats is appropriate. It was requested that the Board provide some evidence or basis for its proposed 60-seat ceiling. Several communities disagreed with the proposition that sufficient air service will be provided when a point enplanes more than 40 passengers, and one suggested that the 60-seat level does not allow for the maintenance or improvement of small community air service. Several communities commented that where service at several points is combined there should be a built-in expansion factor for the number of seats to accommodate the eligible point. One airline supported the Board's position, claiming that the limit is necessary and prevents small community considerations from spilling over into larger markets where Congress has mandated that the marketplace should prevail. The DOT supported our proposal stating that the 120 seat ceiling is consistent with the intent of Congress to guarantee essential air service needs rather than all the additional service a community may desire. It argued that a community should not be guaranteed additional seats unless it shows a compelling need because of a failure of the marketplace.

We have addressed above the argument about the intent of Congress regarding minimum and maximums and the level of service that we are directed by the statute to guarantee. As we indicated, we do not believe that the imposition of a ceiling goes against the spirit or intent of the legislation particularly if the level we choose as a ceiling is above the threshold of self-sufficiency at which the marketplace should be able to function on its own. The only remaining question is whether the 60-seat level of service is an appropriate ceiling or whether some other level should be used. Studies by the Board and the DOT on this issue indicate that self-sufficient operations would result at enplanement levels significantly below 40.[2] Since the threshold for certain markets might be higher than the normal levels because of unusual circumstances peculiar to the points or because of variances in operating costs of different air carriers, we have decided to set a higher level at 40 passenger enplanements. We are reasonably confident that except for unusual situations, our 40 passenger limit is above the threshold for self-sufficiency. We also note that except for requests for the Board to guarantee all the service a community could support, no one offered an alternative ceiling level. Consequently, we have decided to establish a maximum level that we will guarantee a community as the capacity required to accommodate 40 passengers per day inbound and 40 outbound which at our normal load factor level of 65 percent would require 60 seats. We have decided to define the level of service in terms of the number of passengers to be accommodated rather than seats because, as we discussed earlier under the section on frequencies, we may have to require more than 60 seats to accommodate 40 enplanements when smaller aircraft or multi-stop itineraries are operated. We have also determined (see p. 5) that in exceptional circumstances we will relax this upper limit to accommodate transition problems or special operating needs.

It was suggested that we should permit a replacement carrier to begin service and allow the incumbent carrier to depart even though there may be a temporary shortage of seats at the point. The argument for this is that the replacement carrier may need time to develop its operations and that the presence of the incumbent carrier may undermine this effort. We do not believe, however, that this should be a basis for allowing an incumbent carrier to exit or for relying on the replacement carrier when less capacity is available than required by our determination. We are obligated by the statute to ensure the level of service that we determine to be essential, and we will abide by that requirement.

[2] The Board study indicated that points enplaning 17–18 passengers a day could support service without subsidy, but concluded that a 25 enplanement standard represents a conservative threshold of entry for unsubsidized third level operations. "Service to Small Communities, A Staff Study of the Bureau of Operating Rights, Part III," Civil Aeronautics Board, March 1973, page 5. The DOT concluded that this level is too high and that points enplaning 6 passengers daily can support unsubsidized service. "Air Service to Small Communities, A Report by the Office of Transportation Regulatory Policy," U.S. Department of Transportation, March 1976, pages 37–40.

Time of Flights

We proposed that, to qualify as essential air service, flights must depart at reasonable times and that it would be our policy to consider the reasonableness of the time in view of the purpose for which the passengers are traveling. If travel were primarily to connect with other flights, flight times between the eligible point and the hub would be required to link with those flights. If travel were primarily local to and from the hub, there should be at least one flight in the morning and one in the late afternoon or evening.

Comments on the timing of flights included the following: the Board indicated "well-timed" but did not specify actual times; the Board should not specify times of flights in order to afford carriers adequate control over their operations; scheduling must meet carrier needs for adequate aircraft utilization as well as community needs; the Board must become involved with realistic scheduling; and prior Board approval should be required for changes in service patterns.

Here, too, we believe that there should be adequate flexibility in the guidelines. Timing and scheduling requirements that are too specific will hinder rather than assist the development of viable and responsive air transportation. Furthermore, requiring in the guidelines that service be provided during certain specified time periods of the day may not include appropriate times for all points. Connecting banks at various hubs are at different times of the day depending upon the specific carriers serving the hub city and their service patterns. Thus, imposing more specific timing requirements does not seem practical. On the other hand, we are not convinced that the broad requirement of a morning and a late afternoon/evening flight should be relaxed because it is too burdensome on the air carriers' ability to schedule their operations, as contended by one carrier. Based on the limited number of comments that requested changes in this guideline, we believe there is general agreement with our position. Therefore, we will make final our proposed guidelines in section 398.7.

Number of Stops Permitted

We proposed to allow a maximum of two stops on flights providing essential air service between the eligible point and a hub, unless otherwise agreed with the community. We also indicated that we would require one-stop or nonstop service in markets where it is necessary to render the service usable, for example in short-haul markets. Finally, we noted that we might require turnaround service in a market if it were necessary to ensure available capacity to meet the designated level of essential air transportation.

The California Department of Transportation suggested that a maximum of two stops should be permitted only on limited occasions, since service with that number of stops is not conducive to the public interest. One community contended that all essential air service should preferably be nonstop, and another suggested that the travel time for surface transportation should be compared to the time for air travel to determine the number of stops to be allowed. On the other hand, the State of Oregon suggested the number of stops should be flexible to permit the development of self-sufficient operations, and Piedmont Aviation proposed that the maximum number of stops be relaxed when larger aircraft, over 30 seats, are used. Finally, one commenter suggested that a two-stop maximum is all right for service primarily geared to local travel to the hub, but if the essential service to the designated hub is primarily for connecting purposes, then a one-stop maximum should be imposed.

As indicated by several respondents, the number of stops permitted on flights significantly affects the quality of service in the market and in turn the public acceptance and the viability of the operations. Our proposed guideline on stops was based on the belief that as a general rule no more than two stops should be permitted between the eligible point and the hub on flights providing essential air transportation. Where nonstop or a maximum of one-stop operations are required to ensure the quality and utility of the air service at a particular eligible point, we will not hesitate to require such service. In making this determination we will consider such factors as the distances between the eligible point and the hub and the time required to travel by alternative ground transportation. In short-haul markets nonstop service will be mandatory. In several instances such as our interim essential air service determination for Catskill/Sullivan County, New York, we required that the service to the hub be nonstop. See Order 79–7–75. In general, we believe our proposal is consistent with the comments we have received on this subject. We do not agree with Piedmont that the maximum number of stops should be relaxed when larger aircraft are operated. We anticipate that the distances between eligible points and the designated hub(s) will not be so great as to either warrant or justify the operation of more than two intermediate stops. On the other hand, we do not believe that a one-stop maximum guideline should be applied to service primarily for connecting traffic as suggested by one community, since this would unduly restrict the operating flexibility of the carrier, especially if the carrier wishes to combine service to several points over the same flight routing. Therefore, we will not modify our guidelines regarding the number of stops permitted.

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Guidelines for Points in Alaska

Section 419(f)(2) of the Act states that "with respect to air transportation to any point in Alaska, essential air transportation shall not be specified at a level of service less than that which existed for such point during calendar year 1976, or two round trips per week, whichever is greater, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected."

In PSDR-59, we noted that a number of eligible points are no longer receiving either the level of service they were receiving in 1976 or the two round trips per week, and that in these cases we would seek the concurrence of the Alaska Transportation Commission to set a determination in line with the needs of these communities. This might be less than the two round trips normally required, but it would ensure that the service being guaranteed legitimately warrants support by the Federal government. We also stated that as long as the essential air transportation level that we establish is qualitatively equal to or better than the 1976 service level, although perhaps comprised of operations with different size of equipment, number of stops or intermediate points served, the statutory mandate would be fulfilled.

On the specific service factors—hubs, equipment, frequencies, and stops—we proposed the following: essential air transportation would be service to an FAA hub (Anchorage, Fairbanks, or Juneau) or to a designated regional center that serves as a focal point for service in an area and affords direct access to one or more the the FAA hubs; no specific size of aircraft would be required for essential air service in Alaska since much of the existing service is provided by small aircraft and many of the eligible points are extremely small and generate low levels of traffic that could only justify service with small aircraft; a sufficient number of flights would be required to accommodate passengers and accompanying baggage up to 60 seats per day in each direction; and a maximum of two stops would be permitted between the eligible point and the regional center or the FAA hub, except under unusual circumstances where linear routing purposes, extremely low traffic levels, or long distances would justify additional stops. We also proposed to consider requiring a capability to handle cargo requirements and asked for comments on this subject.

Since issuing our proposal in May, we have received few written comments from Alaska representatives. However, our proposal was distributed before the regional meetings were held in Alaska in May and August, and many state and local officials addressed the issues and our tentative position at these meetings. We have transcripts from these meetings, and we have considered those views in establishing our final guidelines.

As noted in many of the presentations at the meetings in Alaska, the overall transportation needs of the state, the level of development and type of air transportation industry, and the logistical considerations in Alaska are substantially different from the rest of the country and require different essential air transportation findings. One of the major factors affecting air service in Alaska, particularly at the smaller communities, is the airport facilities. In many cases, airports consist of unpaved runways without any navigational equipment. During periods of bad weather, which are frequent, aircraft are unable to operate at these communities, and scheduled service becomes undependable because of frequent flight cancellations and delays. Consequently, the reliability of scheduled air service in Alaska is greatly reduced because of the absence of airports that can be served during adverse weather conditions. We are concerned about the importance of improved airport facilities to the development of air service in Alaska and to our statutory responsibility to ensure essential air transportation. Although we are not able to fund airport facilities under the essential air service program, where airport improvements are important to the availability and maintenance of essential air service, we are prepared to relate these needs to the Department of Transportation which has jurisdiction in this area and to urge that steps be taken to improve the airports.

Most representatives also noted the isolation of communities as a major factor to be considered in essential air service determinations. The State highway system and the availability of surface modes of transportation are extremely limited. Consequently, many communities rely almost exclusively on air transportation for all of their commercial and social ties with other communities. In many instances long distances separate the points. Even in the cases where the distances are short, often the terrain does not permit the operation of convenient and reliable surface transportation between communities.

As a result of these logistical circumstances and the relatively small populations of many Alaskan communities, a significant air taxi industry has developed in the state. The air taxis provide reliable on-demand service affording maximum flexibility in the timing of flights to meet individual's needs. This system of service being provided in response to a specific demand for transportation is very practical, especially in the low density traffic areas prevalent in Alaska. In fact, as a result of the reliability and widespread availability of this type of service as compared to the usually infrequent operation of scheduled services at smaller communities in Alaska, the air taxi carriers are handling a sizable portion of the traffic in Alaska. Furthermore, judging by their success, air taxis have demonstrated that they can operate at fares that attract passengers and yet achieve sufficient profits to remain viable. Consequently, several participants in our meetings indicated that this on-demand service meets the needs of the communities better than scheduled service and that we should consider relying on this service when making our determinations. For example, one spokesman suggested that if an air taxi will provide service for double the posted seat fare for two people at a point so that their individual cost is equivalent to the scheduled service fare then essential air service is being provided for that community. Another spokesman contended that a decision whether to rely on air taxis or scheduled service should be left to the community.

The vast majority of representatives also addressed the impact of weather conditions on the reliability and utility of air service. Adverse weather conditions frequently prohibit the operations of flights in Alaska. In addition, during certain parts of the year airport landing strips at many communities are not usable because of the affects of weather. Because of these conditions, scheduled flights are frequently disrupted, and the benefits of scheduled service is reduced. Although representatives indicated that there is very little that can be done to overcome the problems of weather, they claim that these circumstances must be taken into account if the essential air service program is to be effective and viable.

The importance of mail and cargo needs were cited almost unanimously by spokesmen at our meetings. Alaskan communities are heavily dependent on air transportation to provide this service. Frequent complaints were voiced about the irregularity of mail and cargo service, the backlog of mail at the hubs, and the problems with the current system of postal contracting. Under the Postal Service's current contracting policy, only certificated carriers and subcontract carriers are allowed to carry mail. Frequently communities do not receive mail for extended periods because the contracted carrier has not operated a flight to the point even though during this time other carriers not allowed to transport the mail, particularly air taxis, have been operating to the point. Often, items being sent by postal service that require prompt delivery, such as perishable foods, are unnecessarily delayed at a distribution point because of this system. We favor a policy of allowing any air carrier—certificated, commuter or air taxi—to contract for mail delivery, and we have indicated this position to the Postal Service. We feel that this approach would alleviate some of the delays in mail delivery and improve this important part of air service to the communities in Alaska. At the regional meetings in Alaska, it was suggested that both freight and mail service should be subsidized on the basis of the number of days served or the actual trips performed. One person requested that essential air service guarantee the carriage of mail, particularly during the fall and spring.

Several persons presented views on the size of aircraft that should be required. Some mentioned that jet operations would be necessary because of distances and operational needs. Others requested that there be some requirements concerning both equipment and pilots. One person claimed that twin-engine aircraft with two pilots is necessary for safe flying, but an operator contended that two-engine operations is not a safety factor. Finally, it was pointed out that many large cargo items cannot be transported by smaller aircraft.

Other subjects addressed in written comments were the designating of additional eligible points in Alaska, the variable demand for air service during each season, and the designation of other points as regional service centers. On the issue of designating eligible points, the Arctic Slope Regional Commission suggested that Nugsut, Atkasook and Pt. Lay be included as eligible points. At the present time, the list of eligible points that are covered by the section 419 program is limited to those points that were named on any carrier's section 401 certificate as of October 24, 1978. Points that were deleted from a section 401 certificate between July 1, 1968, and October 24, 1978, will be examined for the purpose of designating additional points under section 419(b) after January 1, 1980. In addition, after January 1, 1982, the Board may designate additional eligible points in Alaska under certain circumstances.

On the issue of seasonal service, there was support for establishing a two-tier determination of essential air service to certain points. One party noted that in many cases traffic levels increase substantially during the summer when travel and cargo deliveries are much easier and that a program that accounts for this would be beneficial.

We have decided to rely on a system of regional service centers in addition to the FAA hubs, as we proposed earlier. We believe that his system will best meet the needs of the Alaska communities for service to their major communities of interest and for access to the national air transportation system. Although we named certain points that we would probably designate as these regional centers—Aniak, Bethel, Cold Bay, Dillingham, Fort Yukon, Galena, Ketchikan, King Salmon, Kodiak, Kotzebue, McGrath, and Nome—we will not be limited to this list. We indicated that we could designate additional regional centers and we will do so if circumstances so require. Because of the status of these regional centers as separate eligible points as well as "feeder" centers for outlying points in their area, we will require that there adequate service between the regional service center and the FAA hub to handle both the regional center's essential air service needs and the traffic seeking access to the national air system from the other eligible points served through the regional center.

We have considered the various views about aircraft requirements and we have concluded that for practical reasons we should not impose any overall minimum size guideline for aircraft in Alaska. As attested to by most spokesmen in Alaska, small aircraft are operated at almost all communities in the state. In addition, operations with small aircraft, especially air taxis, provide useful and high-quality service and are reasonably reliable given the weather constraints. Under these circumstances, we believe service with small equipment may afford the best means of meeting the air service needs of many eligible points. However, if operational requirements, distances and durations of flights between the eligible point and its designated hub or regional center require the operation of larger aircraft to provide usable service, we will include such a requirement in our determinations. In fact, we anticipate that between some regional service centers and the FAA hubs we may have to require service with jet aircraft because of the distances and the level of traffic from the surrounding communities at the regional center. We note that in many of these cases service between the regional center and the FAA hubs was being provided in 1976 with larger equipment, and by the terms of the statute we are required to maintain this level unless the Alaska Transportation Commission agrees to a different level of service.

In general, we will require sufficient frequencies to accommodate both the number of passengers and accompanying baggage as well as normal cargo requirements of the communities. We recognize the critical importance of cargo air service for the communities in Alaska and will include cargo as a factor in determining the numbers of flights and capacity of service we will guarantee. We do not aniticipate specifying actual freight capacity or aircraft to be operated for cargo purposes. Instead, we would require frequencies based on the overall passenger and cargo needs of the point. In considering cargo, we recognize that in Alaska cargo is frequently transported in the passenger compartment of aircraft and that the carriage of large cargo items can preclude the accommodation of passengers on a particular flight or alternatively the carriage of passengers may result in delays in transporting cargo. Thus, it is difficult to establish required service levels based on the separate capacity needs for passengers and cargo. We will try to examine the combined need for passenger and cargo service in determining the level of service to be required, and we expect that with the level we set both transportation needs, passenger and cargo, will be afforded service that meets the communities essential air service needs.

Although the Act has established 1976 as a reference for the level of essential air service in Alaska, as a starting point in our analysis we will examine the 1978 and 1979 service and traffic levels. If higher service than the two round trips per week or the 1976 level is warranted on the basis of the 1978–1979 experience, we will make a determination based on these higher service requirements. On the other hand, if a lower level of service than the 1976 level is warranted, we will submit that level to the Alaska Transportation Commission. We will work with the Alaska Transportation Commission in

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determining the level of service that currently is needed to meet the essential air service needs of the communities and will establish these determinations with the concurrence of the Commission as provided for in the Act. We note that the statutory minimum for Alaska is two round trips per week as opposed to two round trips five days per week for the rest of the country. As with our determinations for points in other states, where traffic levels indicate a need for daily service or service at the two-round-trips per-day level, we will require such service.

We will allow variations in the number of flights depending on the size of aircraft operated and the number of intermediate stops or points beyond the eligible point that share available capacity on the flights with the eligible point. As for a maximum capacity we will guarantee, our rationale for imposing a ceiling in the rest of the country is that above the 60-seat level we are confident that the marketplace will satisfy the needs of the community for air service. Where we are confident that the marketplace in Alaska can respond to the needs of the community, we will take a similar approach. In general, we will guarantee service to accommodate up to 40 passengers and the community's cargo needs. We recognize though that the circumstances and the marketplace in Alaska are different than in the rest of the country, and therefore we will examine the individual situations to determine whether a level above this ceiling is required. As noted above, between the regional centers and the FAA hubs higher capacity levels may be required to handle both the regional point's traffic and the traffic from the outlying eligible points being served through the regional center.

Our essential air service determinations for most points will require scheduled service, and we anticipate relying on service by certificated carriers, commuter carriers operating under subcontract to the certificated carriers, and other commuter air carriers to meet this requirement. Even though our essential air service determination may only specify scheduled air service at these points, we fully expect that air taxi operators will be available and that they will play an important role in the overall air service of these communities. Alternatively, at a few points in Alaska we will consider relying solely on unscheduled service by air taxi operators for essential air transportation. We are convinced that at these points unscheduled on-demand service will provide better, more responsive service than scheduled service. The quality, reliability and public acceptance of air taxi operations in Alaska is high, and we are confident that where we rely on air taxis this type of service will meet the essential air service requirements of the community. At yet other points, we may require as our essential air service determination that both air taxi and scheduled service be available if it is felt that the on-demand service should be guaranteed as a supplement to the scheduled service.

Finally, we proposed a maximum of two stops between the eligible point and the regional point or the FAA hub. We also noted that in unusual circumstances we would permit additional stops. The purpose of this provision is to assure communities that under normal circumstances two stops at most will be permitted. In cases where the eligible point is located near the designated hub or service center, we will require nonstop or one-stop service to ensure that the quality of the service is acceptable and meets the transportation needs of the community.

Other Issues

In the May proposal we discussed several general issues—the eligibility of points, hyphenated points, cargo and the development of community information and responses—and indicated what our policy would be with respect to these items. Several comments addressed various aspects of our policy on these subjects.

Numerous communities indicated that cargo needs are a significant part of their air transportation requirements, citing the importance of air freight service for commercial and economic development and for the community to attract new industry as well as for the transporting of vital commodities such as hospital supplies. The Michigan Aeronautics Commission and the Michigan Department of Transportation, for example, argued that cargo should be included in essential air transportation determinations, especially in remote or isolated areas where access by ground transportation is not convenient and air transportation is required. It was noted that some communities experience periods in the winter when surface freight transportation cannot operate. It was suggested that we seek a statutory construction to include cargo in our determinations for points outside Alaska similar to the basis for the inclusion of cargo requirements for Alaskan points. One party proposed that cargo be covered in future legislation.

As we indicated before, given the statutory limitations and availability of surface transportation in most of the United States, it does not appear permissible or necessary for the board to consider air cargo in deciding what air transportation services we should subsidize. The situation in Alaska is substantially different. Some communities in Alaska rely exclusively on air transportation of freight, not just for limited periods during the winter, but throughout the year, because of the lack of roads. Furthermore, Congress recognized that the stage of development and needs for air transportation in Alaska are different from those in the rest of the country. This is evidenced not only in the different statutory definition of essential air service for Alaska and the provision for the Board to make exceptions for Alaska essential air service determinations when there is agreement with the Alaska Transportation Commission, but also in the testimony, hearings, and reports to Congress that preceded the Airline Deregulation Act. It is on this basis that we proposed to include consideration of cargo requirements for Alaska points. There is no similar basis for consideration of cargo needs for points outside Alaska. Furthermore, we would note that cargo service has never been required under the certificate authority of carriers at the eligible points, but has generally been available as part of the usual combination passenger/cargo service that carriers provide. We fully expect that carriers providing passenger service meeting essential air service requirements will likewise transport cargo in combination service to the extent they can. Thus, we will not incorporate guidelines for cargo other than for Alaska points.

On another issue, several communities indicated that the Board should initially subsidize higher levels of service to foster the development of traffic and the long-term viability of air service. This is basically the approach discussed in the Experimental Program section of our proposal. We will be examining later the legal possibility and economic feasibility of such a program. At this time, if such a program is undertaken, we expect that it will only be implemented at a very few communities on a trial basis.

Regarding the issue of eligibility, as we indicated in that section of our proposal, the Airline Deregulation Act explicitly sets forth the prerequisites for a point to be eligible under the section 419 program. Specifically, all points that were certificated as of October 24, 1978,

whether or not they were receiving certificated air service, are covered by the section 419 program. In addition, the Board is to develop criteria for designating additional eligible points, both in Alaska and Hawaii and also from the list of points decertificated between July 1, 1968, and October 24, 1978. There are no provisions in the Act for the Board to include any other points under the program. Several parties commented that it is unfortunate that the law does not make provisions for bringing new communities under the essential air service program, one noting that the eligibility of non-certificated points may have "fallen through the cracks" of PL 95–504, and another suggesting that the Board seek relief from the Act to designate new eligible points in the lower 48 States. We appreciate these views, and will take them under consideration. Our efforts here to develop our policy for determining the level of essential air service are not affected by any decision on the eligibility issue, however.

With respect to hyphenated points, we indicated that we would consider the views of a hyphenated community as to whether it requires service to its own airport to meet its essential air transportation needs. If traffic at a hyphenated community justifies service to both cities' airports and the primary airport in the area does not reasonably meet the essential air transportation of both cities, we might require service to both airports. We noted that the statutory minimum service level of section 419(f) could be fulfilled in these cases by the aggregate amount of service to both airports. In addition, we indicated that a community hyphenated between July 1, 1968, and October 24, 1978, could also seek to be designated as a separate eligible point under section 419(b) of the Act, on the grounds that a point that lost service at its airport as a result of being hyphenated with another point on a carrier's certificate after 1968 was in effect deleted from that certificate.

One commenter claimed that the exclusion of coverage for a hyphenated point is unjustified and that the Board should encourage service at secondary or satellite airports. Another party indicated that the Board's policy would be acceptable. The DOT suggested that hyphenated points should be dealt with as a single point, and that any consideration that would effectively alter hyphenation orders of the Board issued between July 1, 1968, and October 24, 1978, should be done within the context of eligibility determinations under section 419(b). The DOT believes that the Board should not require the division of essential service between hyphenated cities unless desired by the affected community.

We believe that the approach we have outlined will allow full consideration of hyphenated communities' views and air service needs. We also believe each community's circumstances should be examined on an individual basis and that our determination should reflect these circumstances. In conjunction with this, each hyphenated community was sent a separate questionnaire seeking its views and data on its air transportation needs. With this information, we hope to establish whether the essential air service requirements of both communities necessitate service to separate airports, or whether combined service to one airport is sufficient. For those points hyhenated prior to July 1, 1968, the statutory provisions preclude us from reviewing the hyphenated point for designation as a separate eligible point.

Two communities presented arguments on general issues related to certain groups of eligible points. The City of Stockton and the County of San Joaquin, California, claimed that the Board should establish separate guidelines for points that were previously served by more than one certificated carrier and, because of carrier suspensions, are now served by only one certificated carrier. Under section 419(a)(2)(B), the Board is required to determine what is essential air transportation for such points within six months of receiving notice that service to such points will be provided by not more than one certificated carrier. Stockton and San Joaquin alleged that because such points were historically receiving a higher level of service, the Board should guarantee a higher level of essential air transportation, including service to several hubs with jet aircraft. We find no basis for such a distinction and will not establish separate guidelines for points in this category. The statutory definition of essential air transportation applies equally to all points for which the Board must make determinations, and does not indicate that different points, other than Alaska points, should be considered under different criteria.

The Commonwealth of Puerto Rico and the City of Ponce made a similar argument for separate guidelines for points not on the mainland. They argued that because of the isolation and unique logistical relationship to the mainland, different air transportation needs exist requiring special consideration by the Board. They point out that there is a greater economic impact of air service and that direct air transportation to the mainland is vital. We will consider these views in addressing the essential air transportation requirements of the individual communities, but we do not believe there is any justification, legal or economic, for separating these points as a class and for committing the Board to a different policy framework regarding essential air transportation determinations. Such an approach would undermine one of the major objectives in establishing these guidelines: to establish a fair and consistent policy framework whereby we can examine each community individually.

In addition, there were a number of issues raised in the comments that we did not address in our proposed guidelines. For the most part, these issues are related more to the implementation of the section 419 guaranteed service and subsidy program than to the process of determining essential air transportation levels that we were proposing in PSDR–59 and PDR–66. We therefore do not believe these issues should be contained in guidelines for determinations for essential air service. However, since these issues are integrally related to the overall 419 program and there is significant concern on the part of communities and states about our policy on these matters, we would like to take this opportunity to indicate our position on these matters and how we propose to handle them.

A major concern of a number of communities and states is the issue of carrier fitness. It was noted that the Board has a statutory obligation to ensure safe and reliable air service under the essential air service program, and that to meet this mandate the Board must assess the reliability and responsibility of carriers that are providing essential air service. Specifically, they contend that the Board should examine the stability of air carriers, including their financial position, the availability of aircraft and the extent of fleet support facilities, their insurance coverage and their employee policies. It was also argued that the Board should select one carrier for meeting the essential air transportation needs of a community and charge that carrier with the responsibility for maintaining the service. One community suggested that rules on ethics and safety of carriers should be imposed. Another indicated that commuter air carrier standards are lower than those of certificated carriers and that the Board should take steps to meet its statutory

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obligation to see that no commuter is allowed to serve an eligible point unless it is fit.

We recognize our statutory obligations regarding fitness of air carriers, and since passage of the Airline Deregulation Act we have undertaken major efforts in this area. Early this year we set up task forces within the Board to examine fitness issues and to develop a comprehensive approach to meeting these requirements. On July 19, 1979, we adopted a notice of proposed rulemaking, EDR–385, 44 FR 44108, July 26, 1979, that proposes to establish a new Part 204 of the Board's Regulations setting forth, among other things, the data that commuter carriers serving an eligible point must file to enable us to determine their fitness. Because of the importance and concern about carrier fitness under the section 419 program, we will briefly highlight our tentative position and proposal.

One of the major aspects of carrier fitness is safety. Throughout the Airline Deregulation Act Congress unequivocally stressed the primary and overriding importance of air safety. As we indicated earlier, the responsibility for safety in air transportation resides with the Federal Aviation Administration. That agency is responsible for establishing operating and maintenance standards and monitoring the operations of air carriers to ensure compliance with such safety standards. We have at all times considered FAA evaluations of safety an important element of our fitness determinations and will continue to do so in the future. Furthermore, to enable the FAA to evaluate the airworthiness of carriers more effectively in the future and to satisfy ourselves that the FAA's determinations are made on the best evidence available, we have recently entered into an interagency agreement with the FAA that provides for the mutual exchange of information relating to the safety of a carrier. We believe this will enable both agencies to perform their duties more fully and insure a high standard of safety in air transportation.

Another aspect of essential air service fitness is service reliability. Under section 419, we have a statutory obligation to ensure the continuous availability of essential air service at each eligible point. In meeting this we must be satisfied that the carrier or carriers relied upon can in fact provide uninterrupted service. To help us to make us to make this determination, we have proposed in EDR–385 to require that an applicant that wishes to provide essential air transportation file (1) a description of its current fleet, including the average number of hours each type of aircraft is currently flown per day and an estimate of the impact the proposed essential air service would have on its utilization of its fleet, (2) a description of the back-up aircraft available to it, (3) a description of the fuel available to it to perform the proposed essential air service, (4) detailed schedules of the service to be provided, (5) its systemwide on-time and completion record for the preceding five years, (6) a traffic forecast and (7) a statement from the State public utilities commissions, if any, or other office handling consumer complaints in each State in which the carrier operates regarding its consumer complaints record for the preceding three years. In addition, to the extent necessary, we would reserve the right to require whatever additional information is required for us to make a determination on fitness. Thus, we are committed and prepared to examine carrier fitness issues in individual essential air service cases as requested in the comments to our proposed guidelines.

Another important issue raised in the comments is fares. It was suggested that we establish specific fare setting procedures and a mechanism for monitoring fares. Several comments noted that section 419 directs the Board to ensure essential air transportation ". . . at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly predjudicial . . .". On the issue of fares, the Commuter Airline Association of America alleged that carriers should have freedom to experiment with fares and also indicated that joint fares are important in providing access to the national air transportation system for small cities. The New Haven Parties, *et al*, alleged that the Board is effectively limiting essential air transportation to commuter carriers, and with service by those carriers the Board is guaranteeing that those communities left to essential air transportation will suffer unjust and unreasonable fares, citing the higher per mile charge of commuter carriers vis-a-vis certificated carriers. The Commuter Airlines Association of America countered this allegation indicating that commuter fares are comparable to local service carrier fares for similar stage lengths.[3]

[3] The DOT examined this issue of comparability of fares between certificated carriers and commuter carriers, concluding "that a careful analysis of available evidence indicates that commuters generally charge lower fares than regulated airlines in short-haul, less dense markets where commuters might be expected to have cost advantages." See "Air Service to Small Communities, A Report by the Office of Transportation Regulatory Policy," U.S. Department of Transportation, 1978, Exhibit 4.

We recognize our statutory requirement to ensure essential air service at reasonable rates. We do not believe it is advisable for us to establish universal procedures for setting rates to meet this requirement, however. In general, we prefer to allow carriers to establish rates on the basis of the circumstances related to the individual market they are serving. Commuter carriers are faced with the threat of immediate entry by new carriers, and also, since the distances involved with their service is relatively short, they must compete with alternative surface transportation. We believe these competitive forces should act to ensure just and reasonable fares. Therefore, we are not convinced that there is any danger that markets served on a monopoly basis by a commuter carrier will experience unjust fare levels that would justify economically regulating this facet of commercial air transportation. Should a community believe that it is being charged unjust or unreasonable fares, however, it may petition us for relief and we will examine such claims on an ad hoc basis and take whatever steps are necessary to ensure that the statutory directives are met.

Consumer protection issues were also addressed in several comments. Specifically, some communities argued that we should adopt regulations governing baggage liability, denied boarding compensation, smoking sections on aircraft, and minimal baggage handling requirements. It was noted that the integration of connecting service with the national transportation system is extremely important to the essential air service program and that the reservations, ticketing and baggage handling capabilities must permit smooth and convenient connections. We are aware of these factors and the impact of these passenger servicing arrangements on the quality of air service. We believe it is more appropriate, however, to consider them in a general consumer protection proposal rather than here, where we are primarily addressing the level of air service that we will guarantee. We have already extended baggage liability rules to all air taxis using aircraft with a passenger capacity of more than 30 (ER–1123, 44 FR 30080, May 24, 1979) and consumer protection rules to all commuter carriers regarding oversales (ER–1050, 43 FR 24277, June 4, 1978) and smoking (ER–1091, 44 FR 5071, January 25, 1979) for operations with 30-seat or larger aircraft. These rules do not address consumer issues as they relate to essential air transportation however, since we may be relying on operations of small aircraft to provide essential service at some points. Consequently, we will undertake a review of these consumer protection areas.

The availability of fuel, throughout the industry, but particularly for commuter operators, and its impact on continued operations to meet essential air service, is apparently a concern of several communities, and no doubt with the recent shortages, this concern may become more important. It was suggested that when an incumbent carrier suspends service at a point, it should be required to make its fuel available to the replacement carrier. Another suggestion was that we request the Department of Energy to make special fuel allocations for essential air service. The fuel situation is an extremely complex problem which involves varying logistical and legal considerations from one place and set of carriers to another. The transfer of fuel supplies from one carrier to a replacement carrier may not be feasible. For example, the incumbent carrier providing essential air services between A and B may be fueling its aircraft at a downline point C and the potential replacement carrier may not serve C. Or, the two carriers might be operating different types of aircraft requiring different fuel.

We have been in contact with the Department of Energy (DOE) and are now drafting a Memorandum of Understanding that will outline the procedures for co-ordinating the efforts of the two agencies to assure supplies of fuel for commuter carriers providing essential air service. Although not yet finaly adopted, the agreement probably will require the DOE to investigate reports of fuel unavailability for commuter carriers and to contact the carrier, the fixed base operator, and the fuel supplier to attempt to obtain additional fuel. The Board for its part will monitor the fuel availability situation and will advise the DOE if a carrier providing essential air service is having difficulty obtaining fuel. The Board may also, when advised by DOE that fuel cannot be obtained for a potential replacement carrier, notify the incumbent carrier that it may not have leave the market until its replacement has been able to make satisfactory fuel supply arrangements. We will continue to work with the Department of Energy to overcome any problems in this area.

Several comments addressed the subsidy program under section 419. One commenter proposed that the Board determine the anticipated subsidy level for essential air services at a point prior to the Board's examination of operating proposals and selection of an air carrier. Another noted that subsidy must include a fair return on investment. One commenter contended that the subsidy cutoff level should not be tied to the essential air service level that the Board will guarantee and that subsidy should decrease over time. The Act directs us to determine the level of essential air service and to guarantee that level with subsidy if necessary. Thus, by the terms of the Act, whatever level of service we require to meet a community's essential air service needs is potentially eligible for subsidy, although in most cases we expect operations above a certain level to be self-sufficient. In any event, our primary responsibility is to ensure the essential level of service. In those instances where a carrier found to be fit under our fitness criteria is prepared to meet this service requirement without government financial support, we will not be providing subsidy. Where carrier selection is required, we will assess the quality of the service proposed as well as the subsidy request in making our selection. We will be addressing the issues involved in the specific computation of subsidy in a later rule.

Since this rule is a statement of policy and must be in effect if the Board is to meet the statutory deadline imposed by section 419 of the Federal Aviation Act, we find the good cause exists for making this rule immediately effective.

Accordingly, the Civil Aeronautics Board adds a new Part 398, *Guidelines for Individual Determinations of Essential Air Transportation*, to Title 14 of the Code of Federal Regulations as set forth below:

PART 398—GUIDELINES FOR INDIVIDUAL DETERMINATIONS OF ESSENTIAL AIR TRANSPORTATION

Sec.

398.1 Purpose.
398.2 Number and designation of hubs.
398.3 Specific airports.
398.4 Equipment.
398.5 Frequency of flights.
398.6 Maximum available capacity to be guaranteed by the Board.
398.7 Time of flights.
398.8 Number of stops permitted.

Authority: Secs. 204, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 763, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

§ 398.1 Purpose.

The purpose of this part is to establish general guidelines for determination of essential air transportation for each eligible point under section 419 of the Act. Procedures for the determinations of the essential air service level for a point are in Part 325 of this Chapter.

§ 398.2 Number and designation of hubs.

(a) *What is a hub?* The Board considers a hub to be any point enplaning more than 0.05 percent of the total enplanements in the United States

(b) *How many hubs?* (1) The Board will require service to one or two hubs. The Board will require service to two hubs if an eligible point has close commercial, geographical, and political ties to both hubs and if there if sufficient traffic from the eligible point to support two round trips per day to both hubs. If traffic is not sufficient, the Board may require one round trip per day to both hubs if the community requests such service.

(2) In no event will essential air service be service to more than two hubs.

(c) *Which hub?* (1) In designating hubs, the board will weigh all of the following factors:

(i) The extent to which candidate hubs provide access to the national air transportation system;

(ii) The commercial, geographic, and political ties of candidate hubs to the eligible point;

(iii) The traffic levels to candidate hubs, as shown by traffic studies and origin and destination data;

(iv) Distance of hubs from the eligible point; and

(v) Size of candidate hubs. (Large size will be a positive factor, but mainly as substantiating the access and community ties factors.)

(2) For Alaska, rather than requiring service to a hub, the Board may only require that service from an eligible point be to a focal point for traffic in the area of the eligible point that has service to a larger hub.

§ 398.3 Specific airports.

(a) Essential air service may be specified as service to a particular airport at the eligible point. In the case of hyphenated points, essential air service will be specified as service to more than one airport only if clearly necessary and if the multiairport service is economically feasible and justified on the basis of traffic levels at these airports.

(b) Essential air service does not usually require service to a particular airport at a hub.

§ 398.4 Equipment.

It is not generally the policy of the Board to require any specific size or type of aircraft for providing essential air transportation except that—

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(a) All aircraft must be sufficient to accommodate passengers and accompanying baggage at the point;

(b) Larger aircraft may be required over long distances;

(c) All aircraft must meet the applicable safety standards of the Federal Aviation Administration;

(d) All aircraft, other than those serving points in Alaska or points that have agreed to some other arrangement, must have two engines and be operated with two pilots;

(e) Pressurized and air conditioned aircraft will be required when absolutely necessary to provide usable air service at the eligible points; and

(f) The aircraft must be conveniently accessible to passengers by stairs rather than over the wing.

§ 398.5 Frequency of flights.

(a) Except in Alaska, it is the policy of the Board to require at least two round-trip flights on each weekday and two round trips over the weekend from the eligible point to the designated hub, unless the point was receiving less than that in 1977 and cannot support such service at 60 to 65 percent average load factors.

(b) In Alaska, it is the policy of the Board to require either two round trips each week to each designated hub or focal point, or the level of service that existed for the point in 1976, whichever is greater, unless such service is clearly unnecessary and the Alaska Transportation Commission agrees that a different level of service would meet the needs of the community.

(c) An essential service level may be set at more than that stated in paragraphs (a) or (b) of this section if—

(1) Historic traffic data and studies of traffic generating potential of the point indicate that more frequent service is needed to accommodate passengers and accompanying baggage with the aircraft used at that point;

(2) More flights are needed because the capacity available to the eligible point is being shared with traffic destined for an intermediate stop or for a point beyond the eligible point;

(3) More flights are needed to accommodate passengers because smaller aircraft are being used at the point; or

(4) For Alaska, the Alaska Transportation Commission agrees that more frequent service is needed to accommodate cargo traffic with the aircraft used at the eligible point.

(d) For eligible points where traffic levels vary with the season, a two-tier level of essential air service will be established with required flight frequencies changing accordingly.

§ 398.6 Maximum available capacity to be Guaranteed by the Board.

(a) Only under unusual circumstances will an eligible point's essential air service level be fixed at a number of flights that will accommodate more than 80 passengers each day at the point (40 passengers from the eligible point and 40 passengers back to that point). Generally, 80 passengers can be accommodated by guaranteeing 120 available seats each day at the point (60 seats in each direction).

(b) The Board may guarantee an eligible point more than 120 seats each day if:

(1) The number of stops between or beyond the eligible point and the hub results in available aircraft capacity serving at the eligible point being shared with passengers at those intermediate stops or beyond points;

(2) The distance between the eligible point and the designated hub requires the use of large aircraft;

(3) The eligible point is extremely isolated;

(4) The eligible point has suffered an abrupt and significant reduction in its service that warrants a temporary increase in the maximum guaranteed capacity for that point; or

(5) Other unusual circumstances warrant guaranteeing the eligible point more than 120 seats each day.

(c) Eligible points receiving self-sufficient air service will, in the event of service reductions, generally not be guaranteed more than 75 percent of their present level of service to a maximum of 60 available seats each day in each direction (120 seats total).

§ 398.7 Time of flights.

To qualify as essential air service, flights must depart at reasonable times. It is the policy of the Board to consider the reasonableness of the time in view of the purpose for which the local passengers are traveling. If travel is primarily to connect with other flights, local flight-times should be designed to link with those flights. If travel is primarily local, there should be at least one flight in the morning and one in the late afternoon or evening.

§ 398.8 Number of stops permitted.

(a) A maximum of two stops is permitted in providing essential air service between the eligible point and a hub, unless otherwise agreed with the community.

(b) In Alaska, more than two stops may be permitted if required by low traffic levels at the eligible point or by the long distance between the eligible point and the hub.

(c) The Board may require one-stop or non-stop service when that is necessary to make the service usable.

(d) Where an eligible point normally is an intermediate stop that shares available capacity with another point, it is the policy of the Board to either require additional capacity (more flights or larger aircraft) between the hub and the eligible point or to specify some turnaround operations in that route segment.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

Airport Commission of Forsyth County
Appalachian Regional Commission
Arctic Slope Regional Corporation
Aspen Airways, Inc.
Board of County Commissioners Carteret County
California Department of Transportation
California Public Utilities Commission
Carlsbad, Clovis and Hobbs, New Mexico
Central Vermont Chamber of Commerce
Central Wisconsin Airport
City of Aberdeen, South Dakota
City and County of Alamosa, Colorado
City of Asheville, North Carolina
City of Baker, Oregon
City of Bimidji, Minnesota
City of Corvallis, Oregon
City of Douglas, Arizona
City of Eugene, Oregon
City of Fayetteville
Cities and Chambers of Commerce of Garden City, Dodge City, Great Bend, and Hays, Kansas
City of International Falls, Minnesota
City of Lyncburg, Virginia
City of McAlester, Oklahoma
City of Modesto, California
City of Redding, California
City of Redmond, Oregon
City of Santa Barbara, California
City of Stockton and the County of San Joaqiun, California
City of Thief River Falls, Minnesota
City of Worthington, Minnesota and the Municipal Airport Commission
Columbia Regional Airport
Columbus Airport Commission
Columbus Metropolitan Airport
Commonwealth of Massachusetts
Commonwealth of Puerto Rico and the City of Ponce
Commonwealth of Virginia
Commuter Airline Association of America, Inc.
Connecticut Department of Transportation
Corning and Cheming County Chamber of Commerce
County of Humboldt, California
Delta Air Lines
Duluth Airport Authority
Enid, Oklahoma
Florida Public Service Commission and the Florida Department of Transportation
Four Corners Regional Commission
Great Northern Airlines, Inc.
Green Hills Aviation, Ltd.
Hulman Field Airport Authority
Igor I. Sikorsky Memorial Airport
Illinois Department of Transportation

Indianapolis Airport Authority
Iowa Department of Transportation
Jackson County, Oregon
Kansas Department of Transportation
Kern County Department of Airports
L.A.B. Flying Service, Inc.
Lake Charles Municipal Airport
Michigan Aeronautics Commission and the Michigan Department of Transportation
Minnesota Department of Transportation and the Local Airline Service Action Committee
Mississippi Airport Managers Association and the Mississippi Aeronautics Commission
Monterey Peninsula Airport District
Mount Vernon Airport Authority
National Assoication of State Aviation Officials
New Hampshire Aeronautics Commission
New Haven Parties, the Peoria Parties, the Rockford Parties and the Midland Parties
New York Department of Transportation
North Slopes Borough
Ozark Air Lines
Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce
Piedmont Aviation, Inc.
Ponca City, Oklahoma
Port of Portland
Routt County Airports
San Luis Valley Council of Governments
South Dakota Airport Management Association
South Dakota Department of Transportation
State of Arizona
State of New Mexico Transportation Department
State of North Carolina
State of Oregon
State of Vermont
State of Wisconsin Department of Transportation
Texas Aeronautics Commission
U.S. Postal Service
U.S. Department of Transportation
University of Illinois at Urbana-Champaign
Utah Air Travel Commission
The Yuma Ad Hoc Committee for Air Service

CAB Regional Offices [4]

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4. Edward L. McCusker, Regional Director—OCCR, Civil Aeronautics Board, Dallas, Texas.*
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[4] Map filed as part of the original document.

* These are newly-established offices and the representatives may be contacted through OCCR Headquarters, in Washington. (202) 673–5191.

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14 CFR Part 325

[Regulation PR-213; Enactment of Part; Docket 35464]

Essential Air Service Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts procedures for evaluating the essential air transportation needs of small communities. This rule is being adopted at the Board's own initiative.

DATES:

Effective: September 7, 1979 except for sections 325.4, 325.7, and 325.10 which are subject to GAO clearance.

Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5408.

SUPPLEMENTARY INFORMATION:

Background

By PDR–66, 44 FR 27435, May 10, 1979, the Board proposed procedures governing the determination of essential air service levels under section 419 of the Act. This proposal followed a series of regional meetings, which were part of the Board's efforts to gain a large amount of advice from the public and affected communities.

Section 419, "Small Community Air Service," was added to the Federal Aviation Act by the Deregulation Act of 1978 (Pub. L. 95–504). It is intended to ensure that, as Board control over carriers' entry and exit is eased, small communities retain at least essential air service. Toward this end, the Board must determine what level of air service is the essential level for each community. The Board may make these determinations only for communities classified as "eligible points" by the Act. Eligible points are those listed on an air carrier's Section 401 certificate, those deleted from such a certificate between 1968 and 1978 that the Board designates as eligible, and other points in Alaska or Hawaii that the Board designates as eligible. Eligible points are entitled to an essential air service determination from the Board when they are served by one or no certificated air carriers. There are approximately 555 such points, and their essential service determinations must be issued by the Board before October 24, 1979.

The Board's proposal was intended to encourage maximum public participation. It was proposed that State and local participation be facilitated by mailing questionnaires to local officials. They would usually have 60 days to respond, and during that period any other person could submit information on a community's air service needs. The Bureau of Domestic Aviation would have delegated authority to issue initial determinations of a point's essential air service level. Comments were specifically requested on this proposed delegation of authority.

Thirty days after the initial determination was issued, any person would have the right to appeal. During this period the level of service set by the initial determination would be considered the essential level, although it would be subject to change if the Board found for the community on the appeal. The proposal envisioned an informal conference procedure as the method for pursuing the appeal.

After the determination became final, a community could still petition the Board to have it modified. The proposal also would allow the Board to periodically re-examine a community's air service needs and issue a new determination if it was justified. Finally the proposal established format and service requirements for documents and exempted communities from the requirement of filing environmental evaluations and energy information.

Essential Service Determination Process

Delegation of authority. The most frequent objections to the proposed procedural rule involved the delegating of authority for making the service determinations and the proposal for handling the appeals of that determination. Commenters were concerned about the staffing at each decisional level, the role of the Board, the timing, location, and form of the hearing on the appeal, and their level of service while the appeal was pending. The basis for most objections appears to be a belief that the entity that issues the service determination should not be the one processing the appeal. The primary role of the Bureau of Domestic Aviation (BDA) in both the determination of essential air service and in the appeal

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was labeled unfair, a conflict of interest, or a violation of due process by a number of commenters. They feared that the Office of Community and Congressional Relations (OCCR) and Board Members would not have a role commensurate with their knowledge of the communities' situation and the importance of these determinations.

Upon reflection, we agree that it would avoid a possible appearance of unfairness to have the appeals handled by an entity more broadly constituted than the one making the essential service determination. The concerns expressed about the role of OCCR and Board Members, however, do not appear to be justified. Although by OR-156, adopted simultaneously, we are delegating to the Director, BDA, the authority to make the determinations of a point's service needs, both OCCR and the Board have key roles in the appellate process. OCCR will have a representative on the three-member panel (discussed below) and the Board will make the final decision of the community's air service needs.

The delegated method will create a greater appearance of fairness since most of the parties at the appellate level will not have been intimately involved at the initial determination stage. It will also be administratively more efficient and will expedite the service determination process without depriving a community of the right to bring its case before the Board. The Board always has the final authority to determine a community's essential air service. OR-156 merely adds a new paragraph to § 385.13 that allows BDA to exercise this authority in the initial decisional phase. BDA will indeed be the one issuing the essential service determination, but the Board can always review this determination where it is appealed. This will allow the Board to concentrate on those items warranting its consideration. Regardless of who issues the essential service determination, therefore, a community will *always* have the right, under § 325.7, to have its air service needs considered by the full Board.

Processing of appeals. The staff's role in the appellate process will be to process the appeal and recommend a disposition based on their knowledge of the particular situation and their discussions with community representatives. The Board will be the ultimate arbiter of all appeals. Communities therefore need not fear that their air service needs will be finally decided at the staff level.

In order to avoid any appearance of unfairness in the appellate process, we are establishing a three-member staff panel, with only one member from BDA, to process the appeals and recommend a disposition to the Board. The BDA member will have some familiarity with the community's situation, while the other two members, one from the Office of General Counsel (OGC) and one from OCCR, will not have been intimately involved in the service determination, and will therefore take a fresh look at the issues. This three-member panel is the separate entity that several commenters sought.

Informal conference. After an appeal is filed, a conference with the community will usually be held. There were many suggestions on the form of this conference and on who should chair it. Some favored a formal hearing chaired by an Administrative Law Judge. Other suggestions were to have a semi-formal conference, a hearing before the Board, a shortened hearing, an arbitration hearing, a bargaining session, or any one of the above at the community's option. Among those who favored the informal conference procedure, the suggested chairmen were an Administrative Law Judge, an official from a regional office, an official of OCCR, or a Board member.

We have decided to retain the informal conference procedure with a senior official of OGC or OCCR acting as chairman in most cases. A Board Member could conduct some conferences. Additional Board staff, including BDA senior staff, might also be involved. The chairman of the conference will report to the three-member panel, who in turn will make a recommendation to the Board. Anyone may attend the conference, including employees of the carriers serving the point involved.

We are convinced that formal hearings are not best suited to essential air service determinations. Our experience in the communities for which we have already made interim service determinations has demonstated that an informal discussion between Board staff and community representatives can lead to a quick and satisfactory resolution of the issue at a minimum of expense to the community. An adversary adjudicative hearing is not appropriate here, as we are trying to work with the communities in ensuring them essential air service. Here, in contrast to some route cases, BDA is not an adversary party. A conference structure will allow Board officials to sit down with community representatives to explore and perhaps agree on a pattern of service. This is what Congress intended when it directed us to consider the views of the interested community. See 124 Cong. Rec. S. 5874 (daily ed. April 19, 1978) (remarks by Sen. Cannon). The conference will give members of the affected community, not versed in the technicalities of administrative law, the opportunity to present their views directly to the decision-makers.

The informal conference will have the virtues of simplicity and brevity. It will not be slowed by motions, depositions, prehearing conferences, swearing of witnesses, or rules of evidence as are formal hearings. A quick resolution may be crucial to communities in imminent danger of suffering reductions and to those whose service was suspended prior to passage of the Deregulation Act and are therefore already deprived of essential air service.

In most cases, communities will pursue their appeals by filing written submissions and attending informal conferences. In appropriate situations, the rule also allows oral arguments before the Board. Oral arguments will not be held in every case, but when several appellants raise similar issues in their pleadings, it may help resolve the problem if the views of these communities are presented to the Board. In those cases we will hold an oral argument, probably in Washington, D.C.

Service level pending appeals. Regardless of the procedure adopted, no appeal can be decided instantly. The question of what level of service will be guaranteed to a community while its appeal is pending therefore is a significant concern. Several communities commented on this issue. Some asked that a point's essential service determination be stayed pending the outcome of the appeal. Others sought to have their existing service maintained in order to avoid service disruptions while the appeal is pending.

The Board has decided to adopt § 325.7(e) (now § 325.7(g)) as proposed and have the determination become effective upon issuance, subject to whatever modification is required by the disposition of the appeal. Those who asked that the determination be stayed may not fully appreciate what such a scheme would mean. Currently, carriers may be able to reduce service to the statutory minimum level set by section 419(f) of the Act (two round trips five days per week or the level of service the eligible point received in 1977, whichever is less) without giving the Board or the affected community any notice at all. When a service determination takes effect, however, a carrier must give 90 days notice (30 days for commuters) before it can reduce service below the level set by the determination. The Board also has the authority to require the carrier to continue its service after the end of the notice period. To stay the effectiveness of the determination, however, would leave the community to petition the Board under § 419(a)(10) and the Board would not be obligated to guarantee more service than required by section 419(f). Thus, the service determination is not likely to provide a community with less protection from service reductions than section 419(f), and will often provide more. It is therefore in the interest of communities to have an essential air service determination take effect as soon as possible, for whatever additional protection it provides.

It is true that communities would usually be even more protected from service disruptions if the Board were to guarantee their existing level of service while their appeal is pending. It is doubtful, however, that we have the power to do so, or that such action would be consistent with the public interest and the underlying policy of deregulation. The current regulatory structure is intended to give carriers the freedom to respond to market forces. They should be able to shift their operations as long as essential service is maintained at the small communities. The only legal basis on which the Board could prevent a carrier from altering its service at a point while an appeal was pending would be to define the present level of service at that point as the essential level. This would place the Board in the contradictory position of defining the current level of service as essential when it had just issued a determination that another level of service was essential. While we are resolving this question by having the service determination take effect doing so does not create any presumption against the validity of a community's appeal.

Continuity of service pending appeal should not often be a problem. Carriers have usually been able to reduce service to the statutory minimum level of section 419(f) since the Deregulation Act was passed. There is no reason to believe that carriers that have not done so will use the occasion of the issuance of the essential service determination to institute large scale service reductions at the affected point. Should a carrier decide to do so, however, the community may still petition the Board to prevent it. The community will be able to learn of such service changes in advance either from a notice received under section 401(j) of the Act or from the schedule changes posted in the Official Airline Guide and filed with the Board. It is in the carrier's own interest to provide adequate notice of major cutbacks in service in order to maintain public goodwill. In a letter to the airline industry on May 8, 1979, we urged carriers to serve formal notice on the community and hold informal discussions with its leaders at least four months prior to service reductions. This will avoid confusion and ill feeling, and give the community time to implement alternative service.

In especially serious cases, as explained in PS-87, we may make a finding of a major transitional problem, and issue a transitional essential air service determination guaranteeing a higher level of service (not necessarily the existing level) for a temporary period. This could be done even if a community has not appealed. In most cases, if there appears to be a threat of a service loss at an appealing community, we will expedite its appeal.

Miscellaneous issues concerning the determination process. Various commenters made other suggestions about the essential air service determination process. The Texas Aeronautics Commission thought it best if we awaited a change in the community's service before issuing essential air service determinations for that point. Texas stated that the service determination will have no meaning to the community it affects unless it is made contemporaneously with the change in air service. Section 419, however, leaves no discretion on that point; it sets firm deadlines for essential service determinations. In any event, if upon receiving notice from a carrier of a service change a community desires another service determination, it can file an objection under 14 CFR § 323.9 to the carrier's notice and suggest a new level of essential air service. The community could also, under § 325.10 of the rule adopted here, petition for modification of the original essential air service level set by the Board.

Enid, Oklahoma asked us to obtain community input before issuing the service determinations. South Dakota and the Appalachian Regional Commission thought this should be done by a formal hearing or an informal conference. The Board has decided to rely on its questionnaire as its primary method of data gathering in the initial stage. (In response to NASAO's question on what was meant by the "data gathering process," we were referring to the questionnaire.) The questionnaire is not an "illusory consultation" as Lynchburg, Virginia suggested, but will be heavily relied upon by BDA. It and any other information supplied by the community will provide the data needed to make the service determinations, and can be supplemented by requesting additional information where necessary.

We find that it would not be worthwhile to hold conferences at the initial stage. Board resources would be better concentrated on appeals. Although an early conference might reduce the appeal workload, it would increase the time needed to make the service determinations. It will be more efficient to issue a determination and let the community inform us of a disagreement by filing an appeal. We expect that most determinations will not be controversial and there will be a need to hold conferences for relatively few communities.

Several commenters asked that the period for responding to the questionnaire be extended. Because of the statutory deadline, we are not able to grant this request. In response to the concern expressed, however, we will begin the response period at the date of receipt rather than at the date on the questionnaire as originally proposed. The Board will not ignore a response merely because it was filed late. California, however, has asked that we allow their response to be filed a month and a half late. Waiting that long to begin action will make it difficult for us to meet our statutory obligation. California's request is being dealt with in a separate document.

One commenter asked that a mayor be allowed to designate an agent to receive the questionnaire and other documents and that others have the opportunity to be placed on the mailing list. No change is needed to do that. Anyone can receive documents by writing to the CAB's Docket Section and asking to be placed on the service list for a particular docket number. A mayor can designate an agent by having that person's name placed on the docket's service list.

The Columbus, Georgia Airport Commission asked that service determinations be a two-step process, first designating the hub or hubs and then determining how many flights should be required. In fact, that is what occurs, but it is more convenitent to include all these determinations in one order. For the sake of convenience, more than one community may be included in one order. That will not mean that each factor of each community's service was not independently analyzed.

The New Mexico Department of Transportation suggested that the Board use a show-cause procedure for essential air service determinations. That procedure would present the same problem of delayed effectiveness that was discussed above. It may not provide the community with as much protection

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from service reductions as an essential service determination that is immediately effective. Aside from the timing of effectiveness, there is little difference between the procedure proposed by New Mexico and the one adotped here. Both are subject to objections and to revisions on appeal. The burden of proving that the determination made under delegated authority was wrong will be no heavier merely because the determination has been made temporarily effective.

Some commenters asked us to extend the period for filing appeals and to establish a fixed period for deciding them. We are adopting a 60-day period for filing appeals but, we cannot grant the latter request. The Small Community Program is new to the Board. We cannot be sure in advance how many appeals will be filed or how long each one will take. The informal conference procedure established by this rule should permit a quick resolution of appeals, but we are not prepared at this time to fix a deadline that may be impossible, in practice, to meet.

Periodic Reviews and Modifications

Although it did not evoke as great a response as the sections on the determination process, there were several comments on the proposal concerning periodic reviews and petitions for modification. Kern County, California stated that the 3-year interval for reviewing the service level set for unsubsidized points was too long, while several Kansas communities viewed the 1-year interval for subsidized points as not long enough, If the interval is too short to make a valid assessment, we will merely affirm our original determination and wait an additional period (ordinarily another year) before reviewing the point's service level again. Those who are concerned about the time between periodic reviews should be aware that § 325.10 permits any person to petition the Board for a modification of their designated service level at any time, so that a community can force an earlier review from the Board. In addition, BDA and OCCR are monitoring the service at eligible points and could initiate an earlier review if it were warranted. There is little practical difference between a petition for modification and a periodic review; one is initiated by the community and the other by the Board.

Several commenters asked us to outline the factors that will be considered during periodic reviews and evaluations of petitions for modification. Generally, we will consider the factors set forth in our essential air service guidelines (14 CFR Part 398), which are also being issued today. These include hub and equipment suitability, and whether the point has demonstrated the need for more available seating capacity. They will require the Board to study the community's patronage of the service and any demographic changes that have occurred since the original essential air service determination was issued. We will consider the availability of fuel and the adequacy of terminal or airfield facilities at the point to the extent that their condition would prevent implementation of the service level that we set. Also, a carrier's performance in providing the service will be considered relevant as explaining a lack of passenger patronage, but will not otherwise be our main focus in a review of an essential air service determination under this rule. We are aware that there have been instances where a replacement carrier has not provided the level of service expected of it. Communities that agree to the service level set by the Board but object to the service being provided by a particular carrier should so notify the Board. In such instances, we will re-evaluate (formally or informally) our reliance on the carrier to provide the essential air service.

The State of South Dakota read proposed § 325.9 (now § 325.10) as making it easier for a person to petition for a modification of an essential air service level than for the community involved. This is not the case. The use of the word person is not meant as a restrictive term. A community representative can seek a modification of that point's essential service level merely by filing a petition under § 325.10. Any member of the community, the carrier serving point, or anyone else who disagrees with the petition or does not believe it represents the interests of the community may file an answer under § 325.10(c).

Energy and Environmental Information

The U.S. Department of Transportation and the New Haven parties objected to proposed § 325.12 (now § 325.13), which exempted applicants and petitioners under this part from the requirement of filing energy and environmental information that is usually required by 14 CFR Parts 312 and 313. We are acutely aware of the energy and environmental problems that confront this nation. Nevertheless, it does not appear that the Small Community Program, with its emphasis on a relatively small number of short-haul flights by commuter aircraft, will have a significant impact on these problems. No one, however, is precluded from filing environmental or energy information with their appeal, petition, or answer, and the Board will request such information in cases where it appears to be needed. Energy concerns will probably be of greater importance when the Board is selecting carriers to provide the air service that it has determined to be essential. Therefore, we will require carriers to submit energy data with their fitness filings.

Summary of the Final Rule

Under the final rule, communities and members of the public have numerous opportunities to make their views known to the Board. Questionnaires have already been sent to all communities involved in our first set of essential air service determinations. Communities should respond within the designated time and serve their responses on those listed in § 325.4(a) and § 325.12. The Director, Bureau of Domestic Aviation will issue determinations of essential air service levels for each eligible point entitled to one under section 419 of the Act and § 325.5 of this rule. These determinations will be based on the guidelines contained in 14 CFR Part 398, which is also adopted today. If the community is not satisfied with the determination, it or any other person can file an appeal within 60 days. This appeal should show either how the determination does not conform to the Part 398 guidelines or what special circumstances of the community justify a deviation from the guidelines in its case. The Board will decide the appeal on the basis of the written submissions of the parties, the result of the informal conference or oral argument if one is held, and the recommendation of the three-member panel. While the appeal is pending, the Board will guarantee service at the point up to the level that the service determination set as essential.

After the essential air service level for a point is finally set, a community can petition to have that level changed. This petition for modification can be filed by any person at any time. A petition that demonstrates a need to re-examine a point's service level will start the determination process over again. Where additional State and community views are needed the Board may mail a questionnaire or otherwise seek the views of the affected community. This will be followed by the issuance of a new service determination under delegated authority to which an appeal could be filed. Regardless of whether a petition for modification is filed, the Board will periodically mail a modified questionnaire to eligible points that had previously received an essential service determination. Six months after completing the review of the essential air service needs of those points, an essential air service determination will be issued under delegated authority. This determination may be appealed and an informal conference might be held.

All responses, appeals, petitions, and answers filed under this rule must comply with the format requirements of § 325.11 and the service requirements of § 325.12. They need not contain environmental evaluations or energy information unless the Board specifies otherwise. For any questions that arise that are not covered by this rule, reference should be made to Subpart A of 14 CFR Part 302 for guidance.

This part requires communities to prepare and submit certain information to the Board in order to receive or modify an essential air service determination. The rules are being made effective immediately, as explained below, except for §§ 325.4, 325.7, and 325.10, which are being submitted to the General Accounting Office for review under the Federal Reports Act (44 U.S.C. 3512). The questionnaire provision of § 325.4 has already been approved by the GAO under numbers B–180226 (S. 79012 and S. 79013). Communities are not precluded from appealing or petitioning using the procedures in §§ 325.7 or 325.10. GAO, however, will conduct its review to ensure that a minimum burden is imposed upon communities and that the information required is not already available to the Board. We will publish a notice of GAO's decision as soon as it is received.

The Rule

Since this rule is procedural in nature and must be in effect if the Board is to meet the statutory deadline imposed by section 419 of the Federal Aviation Act, we find that good cause exists for making it immediately effective.

Accordingly, the Civil Aeronautics Board adds a new Part 325, *Essential Air Service Procedures*, to Title 14 of the Code of Federal Regulations as set forth below:

Part 325—Essential Air Service Procedures

Sec.

325.1 Purpose.
325.2 Applicability.
325.3 Definitions.
325.4 State and local participation.
325.5 Essential air service determinations.
325.6 Periodic reviews.
325.7 Appeal of the essential air service determination.
325.8 Informal conferences.
325.9 Oral arguments.
325.10 Modification of the designated level of essential air service.
325.11 Form of documents.
325.12 Service of documents.
325.13 Environmental evaluations and energy information not required.
325.14 Conformity with Subpart A of Part 302.

Authority: Secs. 204 and 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

§ 325.1 Purpose.

The purpose of this part is to establish procedures to be followed in determinations of essential air transportation levels for eligible points, and in the appeals and periodic reviews of these determinations, under section 419 of the Act.

§ 325.2 Applicability.

This part applies to essential air service determinations for points designated as eligible under section 419 of the Act. It applies to the gathering of data by the Board, and to the participation of State and local and other officials and other interested persons, in the determination process.

Note.—Guidelines for deciding essential air service levels are contained in Part 398 of this chapter.

§ 325.3 Definitions.

As used in this part, "eligible point" means—

(a) Any point in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate issued by the Board under section 401 of the Act, to provide air service on October 24, 1978, whether or not such service was actually provided;

(b) Any point in the United States and the several territories and possessions of the United States that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, inclusive, and that the Board designates as an eligible point under the Act; or

(c) Any other point in Alaska or Hawaii that the Board designates as an eligible point under the Act.

§ 325.4 State and local participation.

(a) The Board will send a questionnaire to each eligible point that is served by not more than one certificated air carrier, or is designated as an eligible point under section 419(b) of the Act, or for which the Board is reviewing its essential air service needs. The questionnaire will be addressed to:

(1) The chief executive of the principal city, or other unit of local government at the affected point, that is named or has been previously named in a qualifying section 401 certificate. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point;

(2) The individual or entity with direct supervision over and responsibility for the airport at the eligible point; and

(3) The State agency with jurisdiction over air transportation in the State containing the eligible point. If there is no such State agency, the questionnaire will be sent to the governor of that State.

(b) Within 60 days after receipt of the questionnaire, five copies of the response shall be filed in the Docket Section, unless the Board specifies another date. If no response is received within the period, essential air service for that eligible point may temporarily be set at the minimum level prescribed in section 419(f) of the Act.

(c) Any other interested person may, during the 60-day response period, submit information relevant to the essential air service level of that eligible point by filing in the Docket Section five copies of a document titled with the name of the point involved.

(d) As necessary, the Board may request additional information to supplement the questionnaire.

§ 325.5 Essential air service determinations.

(a) Not later than October 24, 1979, after reviewing all information submitted, the Board will issue determinations of the essential level of air service for eligible points that, on October 24, 1978, were served by not more than one direct air carrier holding a certificate under section 401 of the Act for scheduled service to the point.

(b) The Board will issue a determination of the essential level of air service for a point within 6 months after each of the following events:

(1) It receives notice that service to an eligible point will be reduced to only one carrier that holds a section 401 certificate;

(2) It designates that point as an eligible point under section 419(b) of the Act; or

(3) It conducts a review of essential air service of that point under § 325.6.

§ 325.6 Periodic reviews.

(a) The Board will start a periodic review of essential air service within 1 year of the date of the previous determination of essential air service for eligible points receiving subsidized service, within 2 years of the date of the previous determination for eligible points in Alaska, and within 3 years of the date of the previous determination

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for eligible points without subsidized air service.

(b) The review shall be conducted in accordance with the procedures in §§ 325.4, 325.5 and 325.7.

§ 325.7 Appeal of the essential air service determination.

(a) Any person objecting to an essential air service determination may within 60 days after its issuance file in the Board's Docket Section a document titled "Appeal of Essential Service Determination." The appeal shall:

(1) Contain specific objections to the essential air service determination, including support for all such objections;

(2) State how the essential air service determination departs from the guidelines in Part 398 of this chapter or what extraordinary factors justify deviating from those guidelines; and

(3) Describe the level of air service that the appellant believes is essential for that community.

(b) The Board shall appoint an appeal panel of three employees: one from the Bureau of Domestic Aviation, one from the Office of Community and Congressional Relations, and one from the Office of General Counsel.

(c) The three-member panel shall process the appeal and make a recommendation to the Board.

(d) An informal conference may be held, or more information may be requested, before the three-member panel makes its recommendation to the Board.

(e) The Board shall decide the appeal after receiving a recommendation from the three-member panel.

(f) If no appeal is filed within the 60-day period, an essential air service determination will become final, unless stayed by the Board.

(g) Pending the outcome of an appeal, the essential air service for the point involved shall be the level set by the determination issued under § 325.5.

§ 325.8 Informal conferences.

(a) If an appeal raises an issue that cannot be satisfactorily resolved on the basis of written submissions, the Board may order that an informal conference be held.

(b) The informal conference will be conducted by a Board Member or a senior Board employee designated by the Board.

(c) Any interested person may attend the informal conference.

§ 325.9 Oral arguments.

If some appeals raise issues common to several communities so that expression of diverse viewpoints on these issues would help the Board dispose of them, the Board may invite the parties to participate in an oral argument at its offices in Washington, D.C.

§ 325.10 Modification of the designated level of essential air service.

(a) Any person may file with the Board a petition titled "Petition for Modification of Essential Air Service Level," asking to modify the essential air service level at a point.

(b) The petition shall identify the point affected, and specifically state the reasons why the petitioner believes the designated essential level is inadequate. It should contain any facts and arguments that support its requests, and describe the level of essential air service that should be substituted.

(c) Any person may, within 30 days after the filing of a petition for modification, file an answer to that petition titled "Answer to Petition for Modification."

(d) After review, the Board may seek more information and the procedures of §§ 325.5 and 325.7 will be followed.

§ 325.11 Form of documents.

All documents filed under this part shall be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and on their front page state:

(a) The title of the document;

(b) The name of the affected community;

(c) The name, address, and telephone number of a person who can be contacted for further information concerning the subject of the document; and

(d) In the case of a responsive document, the docket number of the document to which it responds.

§ 325.12 Service of documents.

Any person, except one filing individually as a consumer, who files a document under this part, including responses to the questionnaire, shall serve that document upon those listed in § 325.4(a) of this part and upon the following:

(a) The governor of the State in which the eligible point is located;

(b) Each air carrier providing scheduled service to the affected eligible point;

(c) In the case of a responsive document, the one who filed the document to which it responds;

(d) The U.S. Department of Transportation, Office of Air Transportation—Office of the Secretary, Room 10304, 400 7th Street, N.W., Washington, D.C. 20590; and

(e) The U.S. Postal Service, Assistant General Counsel, Transportation Division, Law Department, Washington, D.C. 20260.

§ 325.13 Environmental evaluations and energy information not required.

Notwithstanding any provision of Part 312 or Part 313 of this chapter, a person filing a petition or appeal under this part is not required to file an environmental evaluation or energy information with the application.

§ 325.14 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27940 Filed 9-6-79; 8:45 am]

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14 CFR Part 385

[Regulation OR-157; Amendment No. 90, Enactment of Part]

Amendment of Delegation of Authority to the Director, Bureau of Consumer Protection

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 31, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its delegation of authority to clarify that the Director, Bureau of Consumer Protection may terminate investigations under Part 305 of the CAB's Procedural Regulations.

DATES: Effective: August 31, 1979. Adopted: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Craig Weller, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5939

SUPPLEMENTARY INFORMATION: Part 305 of the Board's Procedural Regulations, 14 CFR Part 305, provides for informal, nonpublic investigations to be conducted by the Bureau of Consumer Protection. Such investigations are initiated by an order of the Board, and we have delegated to the Director of the Bureau of Consumer Protection the authority to issue such orders. 14 CFR 385.22(b).

On completion of an investigation, the Director of the Bureau of Consumer Protection is either to close the investigation or to proceed with formal enforcement proceedings or other action (effectively closing the informal investigation), as the circumstances warrant. 14 CFR 305.11. Although the

Director's authority to close an investigation necessarily implies that he issue an order doing so, no specific delegation of authority to issue such an order has existed.

We are now correcting this oversight by amending § 385.22(b) to make clear that the Director of the Bureau of Consumer Protection may issue orders terminating investigations under Part 305. This parallels the Director's delegated authority to issue orders that initiate investigations.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

In § 385.22, paragraph (b) is amended so that it reads:

§ 385.22 Delegation to the Director, Bureau of Consumer Protection.

* * * * *

(b) Issue orders initiating and terminating informal nonpublic investigations under Part 305 of this chapter (Procedural Regulations).

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27941 Filed 9-6-79; 8:45 am]

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Federal Register

Monday
September 10, 1979

Highlights

ADDRESSES FOR DELIVERY OF COMMENTS

Some readers of the **FEDERAL REGISTER** have complained that it is difficult to hand deliver comments on agency rulemakings. Agencies always give a mailing address, but when that address is a post office box, it may take many phone calls to find out where to deliver comments. Consider saving the readers time by including this information in proposed rule documents. For example—

ADDRESSES: Comments may be mailed to Box 1, Washington, D.C. 00000, or delivered to Room 1, 1 First Street, Washington, D.C. between 8:45 am and 5:15 pm. Comments received may also be inspected at Room 1 between 8:45 am and 5:15 pm.

52741 **Energy** DOE prints notice of extension of time on subsequent arrangement between U.S. and Japan for the reprocessing of fuel; effective 9–25–79

52680 **Handicap** NASA provides regulations to eliminate discrimination in any program or activity receiving Federal financial assistance; effective 9–10–79; comments by 10–25–79

52696 **Income Tax** Treasury/IRS solicits views on proposed regulations defining "gross cash rentals" for electing to value certain farm real property; comments by 11–9–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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52692 **Banking** FDIC intends to amend regulations on the insured status of banks; comments by 11–9–79

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52678 **Aircraft** DOT/FAA gives final rule on miscellaneous amendments designed to provide safe and efficient use of navigable airspace and promote safe flight operations

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Presidential Documents

Title 3—

The President

Proclamation 4679 of September 6, 1979

National Grandparents Day

Correction

The file line for Proclamation 4679, appearing at page 52159 in the **Federal Register** issue of September 7, 1979, was incomplete. The correct file line is [FR Doc. 79-28208 Filed 9-6-79; 1:00 pm]

Billing code 1505-01-M

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Rules and Regulations

Federal Register
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Monday, September 10, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 651

Landrights, Water Rights, and Construction Permits for Projects Receiving Federal Financial Assistance

AGENCY: Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This rule sets forth the requirements relative to the acquisition of landrights, permits and clearances required by Federal, State and local statutes for Federal financial assistance under programs administered by SCS. The requirements are mandated by the programs set out in 7 CFR, Chapter VI, Subchapter A, Part 601. This rule will be SCS policy and procedures for acquiring the needed landrights, permits and clearances.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Lincoln F. Gallacher, Director, Administrative Services Division, Soil Conservation Service, Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, Telephone (202) 447–5111.

SUPPLEMENTAL INFORMATION: In the November 16, 1978, issue of the **Federal Register** (43 FR 53443), the Soil and Conservation Service published a notice of proposed rulemaking establishing policy for acquiring landrights and other rights needed for projects under programs administered by the Soil Conservation Service.

Interested persons were given until January 15, 1979, to submit written comments regarding the proposed rules. All comments received were carefully considered. Written comments received pursuant to this notice are available at the Administrative Services Division (Room 2202 Auditors Building), Soil Conservation Service, Department of Agriculture, Washington, D.C.

SUMMARY OF COMMENTS RECEIVED AND RESPONSES: 1. Comment: Subpart B, § 651.12(c)(4), is unclear on whether natural gas facilities are included in the term utilities.

Response: § 651.2 has been expanded to include a definition for public utilities.

2. Comment: § 651.14 should be revised to clarify how the relocation of railroads, highways, and public utilities should be carried out. For example, it might be interpreted by some as limiting the relocation of railroad rights-of-way.

Response: § 651.14(c)(1) requires that no impoundment structure be built that will result in flooding of a railroad that is to remain in use. The converse of the stated requirement is neither intended nor to be implied.

3. Comment: § 651.14(d) should add the term "natural gas facilities or buildings" and § 651.14(f) should add "natural gas facilities or property" and "natural gas company" after "utilities" and "utility company" respectively to remove all doubt that such property interests are to be protected from flood damage.

Response: The definition of public utilities in § 651.2 was added to clarify for the purposes of these rules that the term "public utilities" includes all such facilities.

4. Comment: § 651.21 appears to allow only fee simple title acquisitions. Provision should be made to allow less than fee simple title acquisitions when sufficient for the project.

Response: § 651.21 provides for Federal financial assistance for certain landrights acquired under PL 83–566, PL 91–343, and PL 91–566. These require the acquisition of fee simple interest for public developments. Projects requiring landrights for the sole purpose of flood prevention under PL 91–566 allow the use of easements and do not require fee title. § 651.21 has been expanded to permit Federal financial assistance up to an amount representing the minimum cost of easements needed for the sole purpose of flood prevention acquired under PL 91–566 but not PL 83–566 or PL 91–343. Other landrights interests are not eligible for Federal financial assistance and may be other than fee title.

5. Comment: There may be instances in which the policy requiring the acquisition of mineral rights and water rights would hinder the acquisition process. This complication of the land acquisition may jeopardize the entire project.

Response: The requirement regarding mineral rights is explained in § 651.14 (k). If it is determined that an outstanding prior right will interfere with the purposes of the project, it is only proper that such an interference be removed. If the property were used without removal of the outstanding right, a hazardous condition could be created or a subsequent legal action could be started by the holder of the outstanding right. This action could close the project.

A comment within the Soil Conservation Service suggested that § 651.22 be further amended to include donations as an item to which financial assistance may be applied. Because this will clarify what is intended to be covered and will not adversely affect applicants' benefits, the proposal has been adopted.

Accordingly 7 CFR, Chapter VI, Part 651 is published as a final new regulation.

R. M. Davis,
Administrator, Soil Conservation Service.
August 29, 1979.

PART 651—LANDRIGHTS, WATER RIGHTS, AND CONSTRUCTION PERMITS

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651.50 Responsibility for acquisition of landrights.

651.51 [Reserved].

Authority: 7 CFR 2.62.

Subpart A—General

§ 651.1 Purpose and scope.

(a) This part sets forth the requirements for Federal financial assistance to projects under programs administered by the Soil Conservation Service (SCS) for—

(1) Acquisition of landrights, including water rights and mineral or subsurface rights;

(2) Acquisition of installation permits;

(3) Acquisition of clearances required by Federal, State, and local statutes; and

(4) Implementation of Part 21 of this title as it relates to the acquisition of interests in real property.

(b) These regulations apply to measures installed under the following programs:

(1) Watershed Protection and Flood Prevention (WP&FP). See Part 622 of this chapter.

(2) Flood Prevention (FP). See Part 623 of this chapter.

(3) Resource Conservation and Development (RC&D).

(4) Conservation Operations (CO). See Part 610 of this chapter.

(5) Great Plains Conservation (GP). See Part 631 of this chapter.

(6) Emergency Watershed Protection (EWP). See Part 624 of this chapter.

(7) Specifically authorized projects.

(c) These regulations are to remain in force until they are superseded. Project measures in existing project agreements are not affected by these regulations.

§ 651.2 Definitions.

Acquiring agency. Any agency or organization that has or acquires an interest in real property to carry out a project with Federal financial assistance under programs administered by SCS. In watershed projects and resource conservation and development areas, the acquiring agency must be a sponsor of the project.

Donated landright. A donated landright is a conveyance of real property or an interest in real property in which the only consideration paid is a pro forma amount such as $1.00 customarily cited as the consideration for a landright's conveyance.

Easement. An interest in land that entitles the easement holder to a specific limited use or enjoyment.

Induced flooding. Flooding caused by installation of a project measure.

Landrights. Any interests acquired or permission obtained to use land, buildings, structures, or other improvements classified or referred to generally as real property or as land, easements, and rights-of-way.

Landrights agreement. A fund-obligating document that identifies the eligible landrights to be acquired and the amount of Federal financial assistance to be provided.

Land users. Those who individually or collectively use land as owners, lessees, occupiers, or by other arrangement that gives them conservation planning or implementation concern and responsibility for the land.

Mineral right. An interest in minerals, including the right to exploit or develop that interest.

Permit. A permission or license issued by a person in authority or proprietary control empowering the permittee to do some act(s) not forbidden by law but allowable only with that permission or license.

Project agreement. A written agreement between SCS and the sponsor(s) establishing detailed working arrangements for the installation of works of improvement or for other related purposes.

Project measures. An undertaking for watershed protection; flood prevention; the conservation, development, use, and disposal of water; the conservation and proper use of land; or a combination thereof. The undertaking may consist of land treatment, nonstructural or structural measures, or a combination thereof.

Public utilities. The facilities of an organization engaged in regularly supplying some commodity or service needed by the public, such as electricity, gas, steam, water, sewerage, transportation, or telephone or telegraph service.

Sponsor. An agency or organization with authority to provide local responsibility for a Federal financially assisted local project under a program administered by SCS.

State conservationist. The SCS line officer responsible for SCS activities within a particular State, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.

Term easement. An easement in effect for a specified period of time, such as a term of years or months, or for the life of either the grantor or grantee.

Water right. Any interest acquired in, priority established for, or permission obtained for the use of water.

Subpart B—Landrights Not Authorized for Federal Financial Assistance

§ 651.10 General.

This subpart prescribes the regulations for the acquisition of landrights when Federal financial assistance for landrights is not authorized.

§ 651.11 Designation of sponsor responsible for landrights.

One or more sponsors are to be responsible for acquiring landrights needed for project measures. The responsible sponsors are to be designated in the program agreement along with their authority and sources of funds to acquire landrights.

§ 651.12 Duration of landrights.

(a) The sponsor must acquire the necessary landrights before the project agreement can be signed.

(b) The rights must extend through a reasonable period for planning, installation, and—

(1) The evaluated life of the project measure;

(2) The evaluated life of project measures that are economically evaluated as a unit; or

(3) The useful life of project measures for land conservation or land use.

(c) Permits are sufficient for the following financially assisted project measures:

(1) Project measures that do not require operation and maintenance.

(2) Project measures that are to be operated and maintained by the landowner.

(3) One-time operations within a project measure such as a survey, investigation, or spoil spreading.

(4) Subordination of the rights of utilities within a project measure area.

(d) Term or perpetual easements are required for financially assisted project measures that require operation and maintenance by someone other than the landowner.

§ 651.13 Responsibilities of sponsors.

Sponsors are responsible for—

(a) Acquiring landrights, waterrights, and permits needed for the investigation and survey, installation, inspection, and operation and maintenance of project measures to be installed with Federal financial assistance in conformance with SCS policy set forth in this part;

(b) Acquiring the rights in accordance with Pub. L. 91-646 and the implementing regulations of the U.S. Department of Agriculture (USDA) (Part 21 of this title);

(c) Paying all costs associated with acquiring or failing to acquire landrights;

(d) Acquiring all landrights before entering into a project agreement to install the project measures;

(e) Submitting proposed landrights instruments for SCS approval;

(f) Submitting proposed special provisions before they are included in landrights instruments; and

(g) Providing certification of the legality and adequacy of the landrights acquired along with copies of the landrights instruments for SCS review.

§ 651.14 Responsibilities of SCS.

(a) The state conservationist is to determine for each project measure the minimum area for which landrights must be acquired. In making this determination, the state conservationist is to include all areas needed to comply with the criteria set forth below and such additional areas as, in his or her prudent judgment, are to be included because of present, proposed, or possible future land uses that will adversely affect the functioning of the project measure.

(1) *Dams.* The state conservationist is to ensure that the sponsor acquires landrights for the area of the structure, reservoir, and spillway; areas adversely affected by changed waterflow including but not limited to areas for spillway discharge; areas for environmental and protective features; and other areas needed for activities such as design, operation and maintenance, construction, spoil disposal, borrow, ingress and egress, and diversion of water. If the structure is designed with an emergency spillway, upstream landrights are required for the area below the higher elevation of either the crest of the primary emergency spillway or the maximum elevation of the water surface attained during passage of the 100-year, 24-hour hydrograph through the structure. If the dam is not designed with an emergency spillway, minimum upstream landrights, are to include all the area below the elevation of the top of the dam.

(2) *Channels.* The state conservationist is to ensure that the sponsor acquires landrights for—

(i) Areas within the channel's designed top width and the berm width necessary on each channel bank to insure stability of the channel, channel banks, and side slopes;

(ii) Areas needed for installation, inspection, design, operation and maintenance, ingress and egress, and disposal and diversion of water;

(iii) Areas needed for environmental protection features; and

(iv) Other areas adversely affected by changed streamflow characteristics or induced flooding.

(b) The state conservationist is to furnish the sponsor a landrights work map showing the specific areas on which landrights are to be obtained and the minimum interest that must be acquired in each area. The map is to show landmarks for location of area, acquisition elevations, flowage elevations, apparent tract ownerships, acreages and boundaries, location of the project measure, installations affected by construction such as roads, utility lines, pipelines, railroads, buildings, wells, springs, and bridges, all right-of-way boundaries, routes of ingress and egress where essential, and other similar features.

(c) Before installing any structure that would result in flooding of railroads, highways, public roads, dwellings, buildings, water sources, public utilities, burial sites, and historic sites or monuments, the state conservationist is to meet the following criteria:

(1) Railroads that are to remain in use may not be flooded.

(2) Highways and public roads may not be flooded below the elevation of the flowage line except under the following conditions:

(i) The highway or public road is closed for a brief period and there is an alternate all-weather route that can be used with a minimum of inconvenience.

(ii) A written right or permission to flood the highway or public road has been obtained from the State, county, or agency having jurisdiction over the highway or public road. The written right or permission may be an easement, court order, or, if those cannot legally be given, a permit. The written right or permission must be accompanied by a citation of the applicable State statute or a written opinion of the State attorney general stating that the State, county, or agency granting the permission has legal authority to allow the road to be closed by flooding.

(iii) Dwellings are accessible by an all-weather road that will not flood more frequently than it did under preconstruction conditions. If a road providing the only access to a dwelling is at a lower elevation than the flowage line, an historical record of preconstruction flooding is to be developed and documented in the landrights file.

(d) The state conservationist may not allow dwellings, including basements, or any other buildings that contain valuable property or that may be used as permanent or seasonal living quarters, to remain in the area requiring flowage rights unless they are floodproofed or otherwise protected from damage by the storm event used to establish the flowage right elevation. Before financial assistance is made available to a sponsor, the dwelling or building must be demolished, relocated, raised or protected by a floodwall, and it must be done so that there will be adequate drainage and no unreasonable ponding of water.

(1) If formally requested by the sponsor and approved by the state conservationist, other buildings such as barns and garages may remain in the flowage easement area. Generally, approval for flooding buildings of this type will not be granted if the building is used for the storage of feed, perishable items, supplies, equipment, or other items that would be substantially damaged by flooding. This also applies to any building used for other purposes if flooding would cause an interruption or delay of operations carried on in the building or cause a hazard that may result in injury, death, or damage to the building's contents.

(e) The state conservationist may not allow the flooding of water sources such as springs or wells until sponsors have complied with State laws, ordinances, and regulations relating to water sources.

(f) The state conservationist may not allow public utilities to be flooded unless the utility company has determined that the function of the facility will not be affected adversely and a subordination agreement has been obtained.

(g) The state conservationist may not allow burial sites such as cemeteries and private family plots to be flooded unless disinterment and reburial has been accomplished in accordance with State law.

(h) The state conservationist may not allow historical sites or monuments to be flooded until Part 656 of this title has been complied with.

(i) The state conservationist is to assist the sponsor in obtaining permission to survey for and/or recover archeological or historical resources in accordance with Part 656 of this title.

(j) The state conservationist is to identify apparent water rights needed and develop a procedure for the sponsor to document their compliance with State laws.

(k) The state conservationist is to advise the sponsor of the importance of mineral rights to the project measure and review the findings on outstanding mineral rights against design criteria for the measure.

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(l) Before landrights negotiations begin, the state conservationist is to review and approve all instruments to be used in acquiring landrights except for those used in condemnation proceedings.

(m) The state conservationist is to review all special provisions to be included in landrights instruments as a result of the negotiations for the landright.

(n) The state conservationist is to arrange for periodic inspections of the sponsor's records to see that relocation assistance, relocation assistance advisory services, and relocation payments are being provided and that the sponsor is complying with pledged assurances.

(o) The state conservationist is to determine the need for and provide technical assistance to the sponsors as available.

Subpart C—Landrights Authorized for Federal Financial Assistance

§ 651.20 General.

This subpart supplements and modifies Subpart B if a program agreement authorizes Federal financial assistance for landrights from SCS program funds.

§ 651.21 Responsibilities of sponsors.

(a) Fair market values for the landrights needed are to be established according to appraisals as provided by Part 21 of this title and agreed to by the sponsor and the state conservationist.

(b) Sponsors are to enter into landrights agreements with SCS.

(c) The sponsor must obtain the following:

(1) Evidence of title for all fee simple interests for which Federal financial assistance is authorized. After SCS approves the preliminary title evidence, the sponsor may proceed to acquire the property. Federal financial assistance for fee simple interests may not be provided until the property has been acquired and final title evidence has been approved.

(2) Perpetual easements as minimum landrights needed for the sole purpose of flood prevention for which Federal financial assistance is authorized. The amount of Federal financial assistance is limited to the minimum landrights cost for single-purpose flood prevention measures if something more than minimum landrights is obtained.

§ 651.22 Responsibilities of SCS.

(a) SCS is to prepare a landrights agreement documenting the eligible landrights and the level of Federal financial assistance. The agreement is to be consistent with arrangements in the program agreement.

(b) The amount of Federal financial assistance shown in the landrights agreement is to be applied as follows:

(1) For negotiated landrights the SCS share is to be computed on the price paid by the sponsor or the fair market value jointly determined by the sponsor and SCS, whichever is the lesser amount.

(2) For landrights acquired by condemnation, SCS provides financial assistance computed on the amount of damages awarded by the court. However, if SCS considers the court award excessive and the sponsor does not exercise an appeal that SCS considers necessary, the financial assistance is to be based on the fair market value determined by SCS.

(3) For landrights acquired by donation, SCS provides financial assistance in the form of credit based on the value of the property at the time of donation.

(4) For landrights costs included in a project agreement or its equivalent, SCS financial assistance is to be computed on the actual cost of the work incurred under the project agreement or its equivalent.

(c) SCS may provide financial assistance to perform joint appraisals in satisfying the requirements for appraisal and review before purchase under Part 21 of this title.

(d) SCS is to arrange for the legal review of title evidence provided by the sponsor.

(e) SCS is to identify project areas that require fee simple title ownership by the sponsor.

Subpart D—Conservation Operations

§ 651.30 Responsibility for acquisition of landrights.

Land users who receive technical assistance on conservation practices are respnsible for obtaining the landrights necessary to carry out the practice. Land users must indemnify and save the United States harmless from any infringements on the rights of others or from any failure to comply with applicable laws or regulations.

§ 651.31 [Reserved]

Subpart E—Emergency Watershed Protection

§ 651.40 Responsibility for acquisition of landrights.

Sponsors are responsible for the acquisition of landrights needed for emergency measures. The responsible sponsor is to be designated in the plan of work for the emergency measures. The pertinent procedures set forth in Subpart B apply to these measures.

§ 651.41 [Reserved]

Subpart F—Great Plains Conservation Program

§ 651.50 Responsibility for acquisition of landrights.

Responsibility for practices under the Great Plains Conservation Program in § 631.30 of this chapter.

§ 651.51 [Reserved]

[FR Doc. 79-27350 Filed 9-7-79; 8:45 am]
BILLING CODE 3410-16-M

Agricultural Marketing Service

7 CFR Part 948

Potatoes; Approval of Amendment No. 2 To Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment reduces the minimum size requirements for round varieties from 2⅛ inches to 2 inches in diameter and for all long varieties of U.S. No. 2 grade except Russet Burbank from 2 inches or 4 ounces to 1⅞ inches minimum diameter. This should allow additional shipments of potatoes, which are expected to average smaller this season because of a late crop caused by heavy rains in the production area.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas, (202) 447-5432.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under Marketing Agreement No. 97 and Order 948, both as amended, which regulate the handling of Irish potatoes grown in designated counties of Colorado in Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

At an open meeting of the Colorado Area No. 2 Committee held August 16, 1979, at Monte Vista, Colorado, the committee recommended reducing the minimum size requirements for round varieties of potatoes from 2⅛ inches to 2 inches in diameter and for all long varieties of U.S. No. 2 grade except Russet Burbank variety from 2 inches in diameter or 4 ounces in weight to 1⅞ inches in diameter. All the potatoes from the 1978 crop have been shipped to market, and shipments of the 1979 crop are expected to begin about September 1. The 1979-80 crop is late due to heavy rains, and growers fear an early frost that would result in smaller diameter potatoes. Reducing the size requirements will enable growers to market the usual proportion of their crop. The grade and size requirements of this amended regulation are the same as those proposed for 1979-80 to be effective November 1 for the new season. Since many shipments of potatoes will be made prior to the effective date of the new regulation, this amendment will ensure that all new crop potatoes meet the same requirements.

It is hereby found that this amendment will tend to effectuate the declared policy of the act. It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) this amendment must become effective immediately if producers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of potatoes grown in the production area.

Section 948.380 *Handling regulation* (43 FR 37982, 45979) is amended to read as follows:

§ 948.380 Handling regulation.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* For U.S. Commercial, or better grade, 2 inches minimum diameter or 4 ounces minimum weight; for U.S. No. 2 grade, 1⅞ inches minimum diameter.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

In accord with emergency procedures in Executive Order 12044 the emergency nature of this regulation warrants publication without opportunity for further public comment because marketing should begin about September 1. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Peter G. Chapogas, (202) 447-5432.

Dated September 4, 1979 to become effective September 10, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-28031 Filed 9-7-79; 8:45 am]
BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 346

Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC has amended Part 346 of its regulations to include deposits of nonresident foreign citizens as exempt under § 346.6 and to adopt an interpretation providing an alternate "initial deposit" for accounts at State branches of foreign banks which were established prior to September 17, 1978.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202-389-4433).

SUPPLEMENTARY INFORMATION: On June 28, 1979 FDIC's Board of Directors adopted final rules implementing the International Banking Act of 1978 (the "Act," 44 FR 40056). Since then the FDIC has received several comments on its rules. After consideration of these comments, the Board has determined two amendments to Part 346 are necessary.

First, the Board has decided to include a category for nonresident foreign citizens within the provisions of § 346.6 (which establishes the kinds of initial deposits of less than $100,000 noninsured State branches may accept). Under FDIC's proposed rules (44 FR 23869) noninsured State branches would have been able to accept, without limitation, initial deposits of less than $100,000 from such depositors. However, this exemption was withdrawn as a separate category when final regulations were adopted; instead, such deposits were included within the provisions of § 346.6(a)(5) (the *de minimis* exemption). Commenters on the final rule advise the FDIC that, as an average, 7 percent of many of the branches' deposits consist of deposits belonging to nonresident foreign citizens. If an exemption for such deposits is not adopted, State branches not otherwise subject to mandatory insurance would have to become insured. The Board believes this exemption is warranted because the Act allows both agencies and branches limited to the kinds of deposits allowed Edge corporations to accept these deposits without being insured. Further, the Act does not mandate insurance coverage for such deposits even if the branch were insured.

Second, the Board had determined it is necessary to adopt an interpretation allowing for an alternate "initial deposit" for existing deposits at branches established before September 17, 1978. Commenters have pointed out that in many cases records as to the initial deposit of long standing accounts may no longer exist; in other cases, a deposit's balance may presently exceed $100,000 although the initial deposit many years ago was less than $100,000. In the first situation, relief is essential; in the second situation, there is no overiding public policy reason to deem such accounts "retail". Thus, the Board adopts an interpretation allowing State branches established prior to September 17, 1978 to consider a depositor's initial deposit to be either the first deposit transaction (as set out in § 346.1(k)) or the balance to the credit of the depositor at the close of business on any day during August 1979.

Accordingly, pursuant to its authority under section 9 of the Federal Deposit Insurance Act and section 13 of the Act (12 U.S.C. 1819 and 3108), the Board amends Part 346 of FDIC's regulations as set out below:

1. Section 346.6(a) is amended by adding a new paragraph (a)(7) to read as follows:

§ 346.6 Exemptions from the insurance requirement.

* * *

* * * * * *

(7) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit.

* * * * * *

2. Part 346 is amended by adding a new § 346.101 to read as follows:

§ 346.101 Determination of the initial deposit by branches established prior to September 17, 1978.

For the purpose of determining whether a deposit was opened with an initial deposit of $100,000 or more, a State branch which was established prior to September 17, 1978 may consider, at its option, the initial deposit to be (a) the first deposit transaction between the depositor and the branch as set out in § 346.1(k) or (b) the balance of the depositor's account at the close of business on any day during August 1979. Deposit accounts held by the depositor

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in the same right and capacity may be added together to determine this balance.

By order of the Board of Directors. September 4, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-28063 Filed 9-7-79; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 18198, Amdt. 39-3559]

Airworthiness Directives; Agusta Model A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires repetitive inspections of the tail rotor gear box attachment provisions for defects and for proper installation, replacement of defective parts if necessary, and installation adjustments on Costruzioni Aeronautiche Giovanni Agusta Model A109A helicopters. The AD is needed to detect and correct conditions which could lead to the possible failure of the tail rotor mounting and consequent loss of control.

DATES: Effective October 10, 1979. Compliance schedule as prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy. A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30., or C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections of the tail rotor gear box attachment provisions for defects and for proper installation, replacement of defective parts if necessary, and installation adjustments on Costruzioni Aeronautiche Giovanni Agusta Model A109A helicopters, was published in the **Federal Register** at 43 FR 34786.

The proposal was prompted by an FAA determination that the tail rotor gear box attach sleeve P/N 109-0435-29-3, and shim, P/N 109-0372-18-5 are subject to cracking, fretting and wear. This could result in failure of the tail rotor gear box mounting, possible destruction of the tail rotor, and loss of control on Agusta Model A109A helicopters.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without substantive change. Clarifying language has been added concerning the FAA-approved equivalent to the manufacturer's service bulletin.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Costruzioni Aeronautiche Giovanni Agusta. Applies to Model A109A helicopters, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible tail rotor gear box mounting failure, within the next 50 hours time in service after the effective date of this AD, and, thereafter, at intervals not to exceed 100 hours time in service since the previous inspection, accomplish the following in accordance with Agusta Bollettino Tecnico No. 109-10, dated April 11, 1978 (hereinafter referred to as the Service Bulletin), or an FAA-approved equivalent:

(a) Inspect the tail rotor gear box attach nutplates for condition and security. Replace any defective nutplates that are found.

(b) Inspect the tail rotor gear box attach sleeve and shim, P/N 109-0435-29-3 and P/N 109-0372-18-5, respectively, for cracks, fretting, nicks, and wear.

(c) If a cracked sleeve or shim is found during the inspection required by paragraph (b) of this AD, replace the defective part with a serviceable part of the same part number or, in the case of sleeves, by P/N 109-0435-29-5.

(d) If a sleeve is found to have wear, fretting, or nicks, during the inspection required by paragraph (b) of this AD, and if—

(1) They are not more than 0.2 mm (0.008 in.) in depth, remove the defect; and

(2) If they are more than 0.2 mm (0.008 in.) in depth, replace the sleeve with a sleeve of the same part number or P/N 109-0435-29-5.

(e) If a shim is found to have wear, fretting, or nicks during the inspection required by paragraph (b) of this AD, replace the shim with a new part of the same number.

(f) Inspect and, as necessary, correct the alignment and coaxiality between the sleeve and helicopter tail boom, and the sleeve-to-shim flatness fit, in accordance with paragraph 6 of the Service Bulletin or an FAA-approved equivalent.

(g) For purposes of this AD, an FAA-approved equivalent must be approved by the Chief, Aircraft Certification Staff, AEU-100, Federal Aviation Administration, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective October 10, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action will be placed in the regulatory docket. A copy of it may be obtained by writing to C. Christie, Chief, Technical Analysis Branch, AWS-110, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Issued in Washington, D.C., on August 31, 1979.

Robert D. Blacker,

Acting Director, Office of Airworthiness.

[FR Doc. 79-28032 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-16-AD Amdt. 39-3556]

Airworthiness Directives; Boeing Model 720/720B Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment requires inspection of the Boeing Models 720/720B airplanes to detect cracks in the wing lower surface splice stringers. Cracked splice stringers could seriously reduce the structural capability of the wing lower surface, if they are not repaired.

DATES: Effective date September 18, 1979.

ADDRESSES: Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT: Mr. Harold N. Wantiez, P.E., Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

History

Inspections of Boeing 720 airplanes have revealed fatigue cracks in the wing lower surface splice stringers. The cracks initiate from fastener holes and have caused additional cracks to form in the wing skin. As of this date, no cracks have been found in 707 airplanes even though the structural configuration is similar to that of the 720. If cracks should go unrepaired, they could grow and seriously compromise the structural capability of the wing. This amendment is based on a Notice of Proposed Rulemaking (NPRM) (44 FR 36197, June 21, 1979). It was proposed that an Airworthiness Directive (AD) be issued which would require a repetitive inspection by eddy current on all Boeing 707/720 aircraft.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented, and the Air Transport Association of America (ATA) commented on behalf of the principal U.S. operators. The National Transportation Safety Board (NTSB) also commented.

Discussion of Comments

The commentators agree that an inspection of the 720 airplanes would be appropriate at intervals which were specified in the NPRM. Boeing and the ATA, however, disagree that a similar inspection is required on 707 airplanes in light of previous service history. Both Boeing and the ATA point out that there have been no cracks detected on 707 airplanes to date. They also state that the inspection of the splice stringers is included as part of the Supplemental Inspection Program developed by Boeing (Document D6-44860), and, if cracks should be found in 707 "lead the fleet" airplanes, action could then be taken to amend the AD to include 707s when they reach a threshold which had been determined by actual service history. In summary, the commentators concur with the provisions of the NPRM in regards to 720 airplanes but Boeing and the ATA believe a similar inspection of all 707 airplanes is not justified at this time. The NTSB indicated their support for the proposed rule as stipulated in the notice.

Conclusions

As Boeing and the ATA pointed out, there have been no cracks discovered on 707 airplanes to date, even though the structural configurations are similar. While it appears that cracks in 707 splice stringers may occur in the future, it is difficult analytically to predict what the actual threshold for crack formation will be. Such information will be provided by the supplemental inspection program and the AD will be amended to include the 707 fleet if necessary.

After a review of all comments the FAA finds the service history of the 707 lower wing splice stringers does not presently justify AD action. The rule will require inspection of the 720 fleet at this time and, if the future service history of the 707 should indicate a problem exists there also, the AD will then be amended to include those airplanes.

The Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended by adding the following new Airworthiness directive.

Boeing: Applies to all Boeing 720/720B airplanes.

A. Prior to the accumulation of 18,000 landings, or within the next 715 landings, unless accomplished within the last 715 landings, and at intervals thereafter not to exceed 1430 landings, perform a low frequency eddy current inspection of the wing lower skin splice stringers for cracks, in accordance with Boeing Service Bulletin 3226 Revision 2, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

B. If cracks are found, repair prior to further revenue flight in accordance with a method approved by the Chief, Engineering and Manufacturing Branch FAA Northwest Region.

C. For the purpose of complying with this AD and subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's time-in-service by the operator's fleet average from takeoff to landing for the airplane type.

D. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

E. Airplanes with cracked splice stringers may be flown in accordance with FAR 21.197 to a base where repairs can be performed.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85.)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington, on August 29, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-28035 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-55]

Alteration of Control Zone and Transition Area, Beaufort, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Subpart F, § 71.171, and Subpart G, § 71.181, of Part 71 of the Federal Aviation Regulations by altering the control zone and transition area at Beaufort, South Carolina. This action provides controlled airspace required to protect instrument flight operations at the Beaufort MCAS.

EFFECTIVE DATE: November 29, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Beaufort, South Carolina, Control Zone and Transition Area described in § 71.171 (44 FR 353) and § 71.181 (44 FR 442), an extension was designated on the Beaufort TACAN 037° radial and the 042° bearing from the Beaufort MCAS RBN (VHF). The off-airport VHF RBN has been replaced by an on-airport UHF RBN for which a new instrument approach procedure has been developed. The airport geographic

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position has changed as a result of a runway extension. It is necessary to redesignate the extension and correct the airport geographic position in order to provide controlled airspace to protect aircraft executing instrument approach procedures at the airport. Since this amendment is minor in nature and creates no burden on the public, notice and public procedures hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (44 FR 353) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t. November 29, 1979, as follows:

Beaufort, South Carolina

The present description is deleted and "* * * within a 5-mile radius of Beaufort MCAS (latitude 32°28'53" N., longitude 80°43'10" W.); within 3 miles each side of the 033° bearing from the Beaufort MCAS UHF RBN extending from the 5-mile radius zone to 8.5 miles northeast of the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily * * *" is substituted therefor.

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t. November 29, 1979, as follows:

Beaufort, South Carolina

The present description is deleted and "* * * that airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Beaufort MCAS (latitude 32°28'53" N., longitude 80°43'10" W.); within 5 miles each side of Beaufort MCAS TACAN 037° radial extending from the 8.5-mile radius area to 9 miles northeast of the TACAN * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 29, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-28039 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-56]

Revocation of Transition Area, Concord, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the Concord, North Carolina, 700-foot transition area as it is no longer required.

EFFECTIVE DATE: October 1, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The Concord, North Carolina, transition area, described in § 71.181 (44 FR 442), was designated to provide controlled airspace for instrument operations at the Propst Airport. The special instrument approach procedure to the airport was cancelled in February 1978 because the supporting facility, Charlotte VOR, could not provide required navigational tolerances. Therefore, it is necessary to revoke the transition area as it no longer serves a useful purpose. Since this amendment lessens the burden on the public, notice and public procedures hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., October 1, 1979, by deleting the Concord, North Carolina, transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 29, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-28038 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 19483; Amdt. No. 1146]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending §97.23 VOR-VOR/DME SIAPs identified as follows:

. . . Effective November 1, 1979

Indianapolis, IN—Indianapolis Terry, VOR Rwy 36, Amdt. 3

. . . Effective October 18, 1979

Kingman, AZ—Mohave County, VOR Rwy 21, Amdt. 5
Fort Smith, AR—Fort Smith Muni, VOR/DME Rwy 7, Amdt. 6
Jonesboro, AR—Jonesboro Muni, VOR Rwy 23, Amdt. 6
Tracy, CA—Tracy Mupi, VOR-A, Amdt. 2
Groton (New London), CT—Groton-New London, VOR Rwy 5, Amdt. 2
Sioux City, IA—Sioux City Muni, VOR/DME or TACAN Rwy 13, Amdt. 15
Sioux City, IA—Sioux City Muni, VOR Rwy 31 (TAC), Amdt. 23
Maryville, MO—Maryville Memorial, VOR/DME Rwy 36, Original
Montgomery, NY—Orange County, VOR-A, Original
New York, NY—John F. Kennedy International, VOR/DME or TACAN Rwy 22L, Amdt. 2
Quakertown, PA—Quakertown, VOR Rwy 11, Amdt. 3
Houston, TX—Houston Gulf, VOR/DME Rwy 31, Original
Houston, TX—Houston Gulf, VOR Rwy 13, Original
League City, TX—Houston Gulf, VOR Rwy 13, Amdt. 1, cancelled
League City, TX—Houston Gulf, VOR/DME Rwy 31, Amdt. 2, cancelled
New Braunfels, TX—New Braunfels Muni, VOR/DME-A, Amdt. 4
Port Lavaca, TX—Calhoun County, VOR/DME-A, Original
Port Lavaca, TX—Calhoun County, VOR/DME Rwy 23, Amdt. 2, cancelled
Rockport, TX—Arkansas County, VOR/DME-A, Amdt. 3
Weatherford, TX—Parker County, VOR Rwy 35, Original
Weatherford, TX—Parker County, VOR/DME Rwy 35, Original, cancelled
Mosinee, WI—Central Wisconsin, VOR-A, Amdt. 5
Reedsburg, WI—Reedsburg Muni, VOR-A, Amdt. 2

. . . Effective October 4, 1979

Oklahoma City, OK—Will Rogers World, VOR Rwy 12, Amdt. 17
Houston, TX—Clover Field, VOR/DME-A, Original

. . . Effective August 23, 1979

Middleton Island, AK—Middleton Island, VOR Rwy 1, Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

. . . Effective October 18, 1979

Fort Smith, AR—Fort Smith Muni, LOC BC Rwy 7, Amdt. 5
Corpus Christi, TX—Corpus Christi Intl, LOC BC Rwy 31, Amdt. 8
Dallas, TX—Dallas Love Field, LOC (BC) Rwy 13R, Amdt. 10, cancelled
Mosinee, WI—Central Wisconsin, LOC BC Rwy 26, Amdt. 6

. . . Effective October 4, 1979

Oklahoma City, OK—Will Rogers World, LOC BC Rwy 17L, Original
Oklahoma City, OK—Will Rogers World, LOC BC Rwy 35L, Amdt. 4

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

. . . Effective November 1, 1979

Decorah, IA—Decorah Muni, NDB Rwy 29, Amdt. 5
Omaha, NE—Millard, NDB Rwy 12, Amdt. 5
Marshfield, WI—Marshfield Muni, NDB Rwy 4, Amdt. 9
Marshfield, WI—Marshfield Muni, NDB Rwy 16, Amdt. 5

. . . Effective October 18, 1979

Fort Smith, AR—Fort Smith Muni, NDB Rwy 7, Amdt. 4
Tell City, IN—Perry County Muni, NDB Rwy 31, Amdt. 3
Charlevoix, MI—Charlevoix Muni, NDB Rwy 26, Amdt. 5
Quakertown, PA—Quakertown, NDB Rwy 29, Amdt. 8
Arlington, WA—Arlington, NDB-A, Amdt. 2

. . . Effective October 4, 1979

Raton, NM—Crews Field, NDB Rwy 2, Original
Oklahoma City, OK—Will Rogers World, NDB Rwy 17L, Original
Oklahoma City, OK—Will Rogers World, NDB Rwy 17R, Amdt. 18
Oklahoma City, OK—Will Rogers World, NDB Rwy 35L, Amdt. 7
Oklahoma City, OK—Will Rogers World, NDB Rwy 35R, Original

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

. . . Effective November 1, 1979

Harrisburg, PA—Capital City, ILS Rwy 8, Amdt. 4

. . . Effective October 18, 1979

Detroit, MI—Detroit City, ILS Rwy 15, Amdt. 1
Mosinee, WI—Central Wisconsin, ILS Rwy 8, Amdt. 6

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. . . *Effective October 4, 1979*

Oklahoma City, OK—Will Rogers World, ILS Rwy 17R, Amdt. 4
Oklahoma City, OK—Will Rogers World, ILS Rwy 35R, Original
Philadelphia, PA—North Philadelphia, ILS Rwy 24, Amdt. 8

5. By amending § 97.31 RADAR SIAPs identified as follows:

. . . *Effective October 18, 1979*

Fort Smith, AR—Fort Smith Muni, RADAR-1, Amdt. 3
Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, RADAR-1, Amdt. 4

. . . *Effective October 4, 1979*

Oklahoma City, OK—Will Rogers World, RADAR-1, Amdt. 17

6. By amending § 97.33 RNAV SIAPs identified as follows:

. . . *Effective November 1, 1979*

Indianapolis, IN—Indianapolis Terry, RNAV Rwy 16, Amdt. 1
Omaha, NE—Millard, RNAV Rwy 12, Amdt. 2

. . . *Effective October 18, 1979*

Sioux City, IA—Sioux City Muni, RNAV Rwy 17, Amdt. 1
Sioux City, IA—Sioux City Muni, RNAV Rwy 35, Amdt. 4
Hillsboro, WI—Kickapoo, RNAV Rwy 23, Amdt. 1

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Note.—The incorporation by reference in the preceding document was approved by the Director of the **Federal Register** on May 12, 1969.

Issued in Washington, D.C. on August 31, 1979.

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 79-28033 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1251

Nondiscrimination on Basis of Handicap

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule with comments requested.

SUMMARY: NASA establishes policies and regulations to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance whether by contract, grant or other arrangement. This regulation is required by Section 504 of the Rehabilitation Act of 1973.

EFFECTIVE DATE: September 10, 1979. Comments or suggestions must be submitted in writing no later than October 25, 1979.

ADDRESS: Richard N. Wolf, Office of General Counsel, Code GK-3, National Aeronautics and Space Administration, Washington, D.C. 20546

FOR FURTHER INFORMATION CONTACT: Richard N. Wolf, Office of General Counsel, Telephone (202) 755-3160, National Aeronautics and Space Administration, Washington, D.C. 20546.

SUPPLEMENTARY INFORMATION: Because the public had adequate opportunity to comment on the Dept. of Health, Education, and Welfare regulations upon which these regulations are based, NASA is publishing these regulations as a final rule. Written comments, however, are invited and should be sent to the address listed above on or before October 25, 1979.

This regulation has been reviewed and approved by HEW pursuant to E.O. 11914.

14 CFR Chapter V is amended by adding a new Part 1251, reading as follows:

PART 1251—NONDISCRIMINATION ON BASIS OF HANDICAP

Subpart 1251.1—General Provisions

Sec.
1251.100 Purpose.
1251.101 Application.
1251.102 Definitions.
1251.103 Discrimination prohibited.
1251.104 Assurances required.
1251.105 Remedial action, voluntary action, and self-evaluation.
1251.106 Designation of responsible employee and adoption of grievance procedures.
1251.107 Notice.
1251.108 Administrative requirements for small recipients.
1251.109 Effect of state or local law or other requirements and effect of employment opportunities.

Subpart 1251.2—Employment Practices

1251.200 Discrimination prohibited.
1251.201 Reasonable accommodation.
1251.202 Employment criteria.
1251.203 Preemployment inquiries.
1251.204–209 [Reserved]

Subpart 1251.3—Program accessibility

1251.300 Discrimination prohibited.
1251.301 Existing facilities.
1251.302 New construction.
1251.303–309 [Reserved]

Subpart 1251.4—Procedures

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 374 (29 U.S.C. 794, Executive Order 11914 (41 FR 17871, April 28, 1976)).

Subpart 1251.1—General Provisions

§ 1251.100 Purpose.

This part effectuates section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1251.101 Application.

This part applies to each recipient of Federal financial assistance from the National Aeronautics and Space Administration and to each program or activity that receives or benefits from such assistance.

§ 1251.102 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Director" means the Director of the Office of Equal Opportunity for NASA.

(d) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a NASA official or by a recipient as a condition to becoming a recipient.

(f) "Federal financial assistance" means any grant, loan, contract (other

than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) "Handicapped person." (1) "Handicapped persons" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. (2) As used in paragraph (h)(1) of this section, the phrase "physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(1) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(2) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(3) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in this paragraph but is treated by a recipient as having such an impairment.

(i) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(j) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (h) of this section.

§ 1251.103 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefits, or services, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped persons and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program receiving or benefiting from Federal financial assistance because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

(4) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(5) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(6) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(7) As used in this section, the aid, benefit, or service provided under a

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program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(8) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(c) Programs limited by Federal law. The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

§ 1251.104 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Director, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to NASA.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from NASA, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(3) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from NASA, the covenant shall also include a condition coupled with a right to be reserved by NASA to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on the property for the purposes for which the property was transferred, the Director may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 1251.105 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 of this part and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipient to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of section 504 of this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred, or (iii) with respect to handicapped persons presently in the program, but not receiving full benefits or equal and integrated treatment within the program.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part; or within one year of first becoming a recipient;

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years follow completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) a list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 1251.106 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 1251.107 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 1251.106(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipent may meet the requirement of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 1251.108 Administrative requirements for small recipients.

The Director may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 1251.106 and 1251.107, in whole or in part, when the Director finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 1251.189 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart 1251.2—Employment Practices

§ 1251.200 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient that receives assistance shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under the Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

(d) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 1251.201 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

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§ 1251.202 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports, to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 1251.203 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 1251.105(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 1251.105(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, provided, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided, that: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§ 1251.204–209 [Reserved]

Subpart 1251.3—Program Accessibility

§ 1251.300 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 1251.301 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment; reassignment of classes or other services to accessible buildings; assignment of aides to beneficiaries; home visits; delivery of health, welfare, or other social services at alternate accessible sites; alteration of existing facilities and construction of new facilities in conformance with the requirements of § 1251.302; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 1251.302 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction (ground breaking) was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc., (ANSIA117.1–1961 (R1971)),[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

§§ 1251.303–309 [Reserved]

Subpart 1251.4—Procedures

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 1250.106, 1250.108 and 1250.110 of this chapter.

Robert A. Frosch,

Administrator.

[FR Doc. 79–28010 Filed 9–7–79; 8:45 am]

BILLING CODE 7510–01–M

[1] Copies obtainable from American National Standards Institute, 1430 Broadway, New York, N Y 10018.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R–79–704]

Community Development Block Grants; Technical Amendments; Interim Rule

Correction

In FR Doc. 79–26953 appearing on page 50248 in the issue for Monday, August 27, 1979, in the first column of page 50251, seven lines from the bottom of paragraph (ii) of § 570.200(f)(2), change ". . . funds, and a special assessment, as . . ." to read ". . . funds, and a special assessment is levied for $80,000, the apportionment of the special assessment, as . . ."

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[FRL 1260–5]

Identification of Conventional Pollutants; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: In **Federal Register** document 79–23646, Monday, July 30, 1979, at 44 FR 44501, EPA published a final rule on the identification of conventional pollutants. On page 44503, Sec. 401.16, item 1 lists "biological oxygen demand (BOD)" as a conventional pollutant. That is an error. The correct listing on item 1 should read "*Biochemical* oxygen demand (BOD)," as was specified in the Agency's action of July 28, 1978 (43 FR 32857), and in the text of the July 30, 1979, notice.

DATE: This correction is effective retroactively to July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH–585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone 202/755–0100.

Dated: August 30, 1979.

Swep T. Davis,

Assistant Administrator for Office of Water and Waste Management.

[FR Doc. 79–28126 Filed 9–7–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5682

[NM–30563]

New Mexico; Partial Revocation of Executive Order No. 6276

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order will restore 200 acres of land to operation of the public land laws and to location for nonmetalliferous minerals.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202–343–8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6276 of September 8, 1933, which withdrew public lands in New Mexico to aid the State in making exchange selections as provided by the Act of June 15, 1926, 44 Stat. 746–748, is hereby revoked so far as it affects the following described lands:

New Mexico Principal Meridian

T. 23 S., R. 7 W.,
Sec. 25, SW¼NE¼ and S½NW¼;
Sec. 26, N½NW¼.

The area described contains 200 acres in Luna County.

2. At 10 a.m., on October 5, 1979, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on October 5, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the United States mining laws for metalliferous minerals. They will be open to location for nonmetalliferous minerals at 10 a.m., on October 5, 1979.

Inquiries concerning the lands should be addressed to the Chief, Division of

Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.
Guy R. Martin,
Assistant Secretary of the Interior.
August 30, 1979.
[FR Doc. 79-28008 Filed 9-7-79; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5680

[I-13259]

Idaho; Partial Revocation of Phosphate Reserve Nos. 2, 13, 19 and 31

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order partially revokes four Executive Orders which withdrew approximately 262,686 acres of land from all forms of disposition, except metalliferous minerals. This action will restore 2,971 acres of public land to operation of the public land laws, including location for nonmetalliferous minerals under the mining laws. 20,738 acres of privately owned lands in which phosphate was reserved to the United States will also be open to location for nonmetalliferous minerals under the mining laws. 238,977 acres of Forest Service lands will be open to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT:
Evelyn Tauber: 202-343-6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders of July 2, 1910, June 19, 1912, July 9, 1913, and October 9, 1917, creating Phosphate Reserve Nos. 2, 13, 19, and 31, are hereby revoked so far as they affect the following described lands:

Boise Meridian

Phosphate Reserve No. 2, Idaho No. 1, Approved 7/2/10

T. 1 N., R. 42 E.,
Secs. 1 to 3, inclusive;
Secs. 11 to 14, inclusive.
T. 2 N., R. 42 E.,
Sec. 26;
Sec. 27;
Secs. 34 and 35;
Sec. 36, W½NE¼, NW¼, S½.
T. 4 N., R. 42 E.,
Sec. 25;
Sec. 26.
T. 1 N., R. 43 E.,
Sec. 6, Lots 3, 4, 6, 7, SE¼NW¼, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 7;
Sec. 8, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 16, Lot 4, S½NW¼, SW¼, NW¼SE¼;
Secs. 17 to 21, inclusive;
Sec. 22, SW¼NE¼, NW¼, S½;
Sec. 23, NW¼SW¼, S½SW¼;
Sec. 25, NW¼SW¼, S½SW¼;
Sec. 26, NW¼NE¼, S½NE¼, W½, SE¼;
Secs. 27 to 30, inclusive;
Sec. 35;
Sec. 36, NW¼NE¼, S½NE¼, W½, SE¼.
T. 3 N., R. 43 E.,
Sec. 14;
Sec. 24.
T. 4 N., R. 43 E.,
Sec. 2, Lots 1, 2, S½NE¼, SE¼;
Sec. 8, E½;
Ses. 9 to 17, inclusive;
Sec. 20, NE¼;
Secs. 21 to 26, inclusive;
Sec. 27, N½;
Sec. 28, NE¼;
Sec. 31;
Sec. 36, NE¼.
T. 1 N., R. 44 E.,
Sec. 31, Lots 3, 4, E½SW¼
T. 2 N., R. 44 E.,
Sec. 3;
Sec. 4;
Sec. 10.
T. 3 N., R. 44 E.,
Secs. 1 to 4, inclusive;
Sec. 5, Lots 1, 2, 3, 4, S½N½;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, N½;
Sec. 29;
Sec. 30;
Sec. 32;
Sec. 33.
T. 4 N., R. 44 E.,
Secs. 18 to 21, inclusive;
Secs. 27 to 33, inclusive;
T. 1 N., R. 45 E.,
Secs. 1 to 3, inclusive;
Sec. 12;
Sec. 13.
T. 2 N., R. 45 E.,
Sec. 1;
Sec. 2;
Sec. 11;
Sec. 12.
T. 3 N., R. 45 E.,
Sec. 7;
Sec. 17;
Sec. 18, Lots 1 to 7, inclusive, NE¼, E½NW¼, SE¼SW¼, S½SE¼;
Sec. 20;
Sec. 21, Lots 1, 2, N½, SW¼, W½SE¼;
Sec. 25, Lots 3, 4, S½NW¼, S½;
Sec. 26;
Sec. 27;
Sec. 28, Lots 1, 2, 3, 4, S½N½;
Sec. 29, Lots 1, 2, S½NE¼;
Secs. 34 to 36, inclusive.
T. 2 N., R. 46 E.,
Secs. 5 to 8, inclusive.
T. 3 N., R. 46 E.,
Sec. 5, Lots 1, 2, 3, 4, 5, 6, SW¼NW¼, SE¼NW¼, SW¼;
Sec. 6;
Sec. 17;
Sec. 20;
Sec. 29;
Sec. 31;
Sec. 32.
T. 1 S., R. 44 E.,
Sec. 4, Lot 4, SW¼, SW¼SE¼;
Sec. 5;
Sec. 10, NW¼.
T. 1 S., R. 45 E.,
Sec. 19, Lots 6, 7, SE¼SW¼;
Sec. 29, SW¼, S½SE¼;
Sec. 30, Lots 1, 2, 3, 4, W½NE¼, SE¼NE¼, E½W½, SE¼;
Sec. 31;
Sec. 32;
Sec. 33, Lots 3, 4, SW¼NE¼, SE¼NW¼, W½NW¼, SW¼, W½SE¼;
Sec. 34, SW¼SW¼.

Phosphate Reserve No. 13, Idaho No. 3, Approved 6/19/12

T. 1 N., R. 41 E.,
Sec. 1;
Sec. 2;
Sec. 3, Lots 1, 2, S½NE¼, SE¼;
Sec. 11, N½, SE¼;
Sec. 12;
Sec. 13, N½, SE¼.
T. 2 N., R. 41 E.,
Sec. 24, NE¼, S½;
Sec. 25;
Sec. 26, NE¼, S½;
Sec. 34, E½;
Sec. 35;
Sec. 36.
T. 1 N., R. 42 E.,
Secs. 4 to 10, inclusive;
Secs. 15 to 18, inclusive;
Sec. 19, NE¼;
Sec. 20, N½, SE¼;
Secs. 21 to 26, inclusive;
Sec. 27, N½, SE¼;
Sec. 28, NE¼;
Sec. 35, NE¼;
Sec. 36, N½, SE¼.
T. 2 N., R. 42 E.,
Sec. 14, SW¼,
Sec. 15;
Sec. 17, S½;
Sec. 18, SE¼;
Secs. 19 to 22, inclusive;
Sec. 23, W½NE¼, W½, SW¼;
Sec. 25, W½NW¼, SW¼;
Secs. 28 to 33, inclusive.
T. 1 N., R. 43 E.,
Secs. 31 to 34, inclusive.
T. 1 S., R. 43 E.,
Secs. 1 to 4, inclusive;
Sec. 5, Lots 1, 2, 3, E½SE¼, SE¼SE¼;
Sec. 9, NE¼, N½NW¼, NE¼SE¼;
Secs. 10 to 14, inclusive;
Sec. 15, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 23, N½NE¼, SE¼, NE¼;
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 25, NE¼NE¼.
T. 1 S., R. 44 E.,
Secs. 6 to 9, inclusive;
Sec. 10, S½;
Sec. 11, SW¼SW¼;
Sec. 13, W½SW¼, SE¼SW¼;
Sec. 14, SW¼NE¼, W½, SE¼;
Secs. 15 to 23, inclusive;
Sec. 24, W½NE¼, SE¼NE¼, W½, SE¼;
Secs. 25 to 29, inclusive;
Sec. 30, Lots 1, 2, NE¼, N½SE¼, SE¼SE¼;
Sec. 32, NE¼, NE¼NW¼;
Sec. 33, N½, E½SW¼, SE¼;
Secs. 34 to 36, inclusive.

T. 2 S., R. 44 E.,
Sec. 1;
Sec. 2;
Sec. 3, Lots 1, 2, 3, 4, S½NE¼, S½NW¼, NE¼SW¼, SE¼;
Sec. 4, Lot 1;
Sec. 11, NE¼, N½NW¼, NE¼SE¼;
Sec. 12;
Sec. 13, N½NE¼, SE¼NE¼.
T. 2 S., R. 45 E.,
Sec. 2, SW¼SW¼;
Sec. 3, Lots 2, 3, 4, 6, 7, S½NW¼, SW¼, W½SE¼;
Secs. 4 to 10, Inclusive;
Sec. 11, NE¼SW¼NE¼, NW¼SW¼NE¼, S½SW¼NE¼, W½, SE¼;
Secs. 14 to 17, inclusive;
Sec. 18, Lots 1, 2, E½, E½NW¼, NE¼SW¼;
Sec. 20, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Secs. 21 to 23, inclusive;
Sec. 24, Lot 3, NW¼NE¼, SW¼NE¼, W½, SE¼;
Secs. 25 and 26;
Sec. 27, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 28, NE¼, NE¼NW¼;
Sec. 34, NE¼NE¼;
Sec. 35, N½, N½SE¼;
Sec. 36.
T. 3 S., R. 45 E.,
Sec. 1, Lots 1, 2, 3, SE¼NE¼.
T. 2 S., R. 46 E.,
Sec. 30, Lots 7, 8, W½NW¼, SE¼NW¼, SW¼;
Sec. 31, Lots 1, 2, 3, and 5, W½, W½SE¼, SE¼SE¼.
T. 3 S., R. 46 E.,
Sec. 6, Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼.

Phosphate Reserve No. 19, Idaho No. 4, Approved 7/19/13

T. 4 N., R. 42 E.,
Secs. 1 and 2;
Secs. 11 to 14, inclusive;
Secs. 23 and 24.
T. 5 N., R. 42 E.,
Secs. 25, 26, 35 and 36.
T. 3 N., R. 43 E.,
Secs. 1 to 4, inclusive;
Secs. 11 to 13, inclusive.
T. 4 N., R. 43 E.,
Sec. 2, Lots 3, 4, S½NW¼, SW¼;
Secs. 3 to 7, inclusive;
Sec. 8, W½;
Secs. 18 and 19;
Sec. 20, NW¼, S½
Sec. 27, S½;
Sec. 28, NW¼, S½
Secs. 29 and 30;
Secs. 32 to 35, inclusive;
Sec. 36, NW¼, S½.
T. 5 N., R. 43 E.,
Secs. 28 to 34, inclusive.
T. 2 N., R. 44 E.,
Secs. 1 and 2;
Secs. 11 to 13, inclusive.
T. 3 N., R. 44 E.,
Sec. 5, S½;
Secs. 6 to 9, inclusive;
Sec. 10, S½;
Sec. 11, S½;
Sec. 12, S½;
Secs. 13 to 28, inclusive;
Secs. 34 to 36, inclusive.
T. 2 N., R. 45 E.,
Secs. 3 to 10, inclusive;
Secs. 13 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 3 N., R. 45 E.,
Sec. 19;
Sec. 28, S½;
Sec. 29, Lots 3, 4, S½NW¼, S½;
Secs. 30 to 33, inclusive.
T. 1 N., R. 46 E.,
Secs. 5 to 8, inclusive;
Secs. 17, 18, and 20.
T. 2 N., R. 46 E.,
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 4 N., R. 46 E.,
Secs. 5, 8, 17, 19, and 20;
Secs. 29 to 32, inclusive.

Phosphate Reserve No. 31, Idaho No. 6, Approved 10/9/17

T. 14 N., R. 39 E.,
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 14 N., R. 40 E.,
T. 14 N., R. 41 E.,
T. 14 N., R. 42 E.,
Secs. 7 and 8;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 16 N., R. 43 E.,
Sec. 13, SE¼SE¼;
Sec. 24, E½NE¼.
T. 15 N., R. 44 E.,
Sec. 7, E½;
Sec. 8;
Sec. 17;
Sec. 18, E½;
Sec. 19, E½;
Sec. 20;
Sec. 29, N½N½;
Sec. 30, N½NE¼.
T. 16 N., R. 44 E.,
Sec. 18, SW¼,SW¼;
Sec. 19, Lots 3, 4, W½NW¼, E½SW¼, W½SE¼;
Sec. 29;
Sec. 30, Lot 1, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 31, N½.

The areas described aggregate 262,686.51 acres of private, Forest Service, and public lands in Bonneville, Teton, Madison, Clark and Fremont Counties, of which the following 20,737.89 acres are private lands:

T. 3 N., R. 45 E.,
Sec. 7;
Sec. 17;
Sec. 18, Lots 1, 2, 3, 4, NE¼, E½NW¼, S½SE¼;
Sec. 20, N½;
Sec. 21, N½.
T. 3 N., R. 46 E.,
Sec. 5, SW¼NW¼;
Sec. 20, portion of Lot 4, NW¼NW¼NW¼, S½SE¼NW¼NW¼, S½S½SE¼SW¼;
Sec. 29, portion of Lot 1, NE¼NE¼NW¼, N½NW¼NE¼NW¼, N½NE¼ NW¼NW¼.
T. 1 N., R. 41 E.,
Sec. 2;
Sec. 3, Lots 1, 2, S½NE¼, SE¼;
Sec. 11, N½, SE¼.
T. 2 N., R. 41 E.,
Sec. 24, NE¼, S½;
Sec. 25;
Sec. 26, NE¼, S½;
Sec. 34, E½;
Sec. 35, E½, N½NW¼, SW¼NW¼, SW¼;
Sec. 36.
T. 2 N., R. 42 E.,
Sec. 14, SW¼;
Sec. 15;
Sec. 17, S½;
Sec. 18, SE¼;
Secs. 19 to 22, Inclusive;
Sec. 23, W½NE¼, W½, SW¼;
Sec. 25, W½NW¼, SW¼;
Secs. 26 to 30, Inclusive.
T. 2 S., R. 45 E.,
Sec. 11, NE¼SW¼NE¼;
Sec. 24, Lot 3, NW¼NE¼, NE¼SE¼
T. 5 N., R. 42 E.,
Sec. 25, Lots 1, 4, 5, 6, 7, 8, 9, 10, 11, Tracts A and B, HES 119, HES 384;
Sec. 26;
Sec. 35, N½, SW¼, N½SE¼, N½S½SE¼;
Sec. 36.
T. 5 N., R. 43 E.,
Sec. 30, HES 119.
T. 4 N., R. 46 E.,
Sec. 5;
Sec. 8;
Sec. 17;
Sec. 19;
Sec. 20;
Sec. 29, Lots 1, 2, 3, 4, 5;
Sec. 30, Lots 1 to 8, Inclusive, SW¼NE¼, E½NW¼, E½SW¼, NW¼SE¼;
Sec. 31, Lots 1, 2.

The area described below contains 2,971.25 acres of public land:

T. 2 N., R. 41 E.,
Sec. 35, SE¼NW¼.
T. 5 N., R. 42 E.,
Sec. 25, Lots 1, 5;
Sec. 35, S½S½SE¼.
T. 3 N., R. 46 E.,
Sec. 5, Lots 1 to 6, Inclusive, SE¼NW¼, SW¼;
Sec. 8;
Sec. 17;
Sec. 20, Lots 1, 2, NW¼.
T. 4 N., R. 46 E.,
Sec. 29, Lot 6, S½NW¼, SW¼;
Sec. 30, Lot 9, SW¼SE¼;
Sec. 31, Lots 3, 4, 5, 6, 7, 8, 9, SW¼NE¼, E½NW¼, E½SW¼, W½SE¼;
Sec. 32.

The area described below contains 238,977.37 acres of Forest Service lands in the Caribou and Targhee National Forests:

T. 1 N., R. 41 E.,
Sec. 1;
Sec. 12;
Sec. 13, N½, SE¼.
T. 14 N., R. 41 E.
T. 1 N., R. 42 E.,
Secs. 1 to 18, Inclusive;
Sec. 19, NE¼;
Sec. 20, N½, SE¼;
Secs. 21 to 26, Inclusive;
Sec. 27, N½, SE¼;
Sec. 35, NE¼;
Sec. 36, N½, SE¼.
T. 2 N., R. 42 E.,
Secs. 31 to 36, Inclusive.

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T. 4 N., R. 42 E.,
Sec. 1;
Sec. 2;
Secs. 11 to 14, Inclusive;
Secs. 23 to 26, Inclusive.
T. 5 N., R. 42 E.,
Sec. 25, Lots 2, 3, W½NW¼.
T. 14 N., R. 42 E.
T. 1 N., R. 43 E.,
Sec. 6, Lots 3, 4, 6, 7, SE¼NW¼, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 7;
Sec. 8, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 16, Lot 4, S½NW¼, SW¼, NW¼SE¼;
Secs. 17 to 21, Inclusive;
Sec. 22, SW¼NE¼, NW¼, S½;
Sec. 23, NW¼SW¼, S½SW¼;
Sec. 25, NW¼SW¼, S½SW¼;
Sec. 26, NW¼NE¼, S½NW¼, W½, SE¼;
Secs. 27 to 30, Inclusive;
Sec. 35;
Sec. 36, NW¼NE¼, S½NE¼, W½, SE¼.
T. 3 N., R. 43 E.,
Secs. 1 to 4, Inclusive;
Secs. 11 to 14, Inclusive;
Sec. 24.
T. 4 N., R. 43 E.,
Secs. 2 to 36, Inclusive.
T. 5 N., R. 43 E.,
Secs. 28 and 29;
Sec. 30, Lots 1, 2, 6, 7, 8, 10, 11, 12, Portions of Lots 3, 4, 5, 9, E½;
Secs. 31 to 34, Inclusive.
T. 16 N., R. 43 E.,
Sec. 13, SE¼SE¼;
Sec. 24, E½NE¼.
T. 1 N., R. 44 E.,
Sec. 31, Lots 3, 4, E½SW¼.
T. 2 N., R. 44 E.,
Secs. 1 to 4, Inclusive;
Secs. 10 to 13, Inclusive.
T. 3 N., R. 44 E.,
Secs. 1 to 30, Inclusive;
Secs. 32 to 36, Inclusive.
T. 4 N., R. 44 E.,
Secs. 18 to 21, Inclusive;
Secs. 27 to 35, Inclusive.
T. 15 N., R. 44 E.,
Sec. 7, E½;
Sec. 8;
Sec. 17;
Sec. 18, E½;
Sec. 19, E½;
Sec. 20;
Sec. 29, N½N½;
Sec. 30, N½NE¼.
T. 16 N., R. 44 E.,
Sec. 18, SW¼SW¼;
Sec. 19, Lots 3, 4, W½NW¼, E½SW¼, W½SE¼;
Sec. 29;
Sec. 30, Lot 1, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 31, N½.
T. 1 N., R. 45 E.,
Secs. 1 to 3, Inclusive;
Sec. 12;
Sec. 13.
T. 2 N., R. 45 E.,
Secs. 1 to 29, Inclusive;
Secs. 33 to 36, Inclusive.
T. 3 N., R. 45 E.,
Sec. 18, Lots 5, 6, 7, SE¼SW¼;
Sec. 20, S½;
Sec. 21, S½;
Secs. 25 to 36, Inclusive.
T. 1 N., R. 46 E.,
Secs. 5 to 8, Inclusive;
Sec. 17;
Sec. 18;
Sec. 20.
T. 2 N., R. 46 E.,
Secs. 5 to 8, Inclusive;
Secs. 17 to 20, Inclusive;
Secs. 29 to 32, Inclusive.
T. 3 N., R. 46 E.,
Sec. 20, Lot 3, portion of Lot 4, N½SW¼, N½SW¼SW¼, N½SE¼SW¼SE¼, N½SE¼SW¼, N½S½SE¼SW¼;
Sec. 29, Lots 2, 3, 4, portion of Lot 1, S½NW¼NE¼NW¼, S½NE¼NW¼, NW¼NW¼NW¼, S½NW¼NW¼, S½NW¼, SW¼;
Sec. 31;
Sec. 32.
T. 1 S., R. 44 E.,
Sec. 4, Lot 4, SW¼, SW¼SE¼;
Sec. 5;
Secs. 6 to 9, Inclusive;
Sec. 10, NW¼, S½;
Sec. 11, SW¼SW¼;
Sec. 13, W½SW¼, SE¼SW¼;
Sec. 14, SW¼NE¼, W½, SE¼;
Secs. 15 to 23, Inclusive;
Sec. 30, Lots 1, 2, NE¼, N½SE¼, SE¼SE¼;
Sec. 32, NE¼, NE¼NW¼;
Sec. 33, N½, E½SW¼, SE¼;
Secs. 34 to 36, Inclusive.
T. 2 S., R. 44 E.,
Sec. 1;
Sec. 2;
Sec. 3, Lots 1, 2, 3, 4, S½NE¼, S½NW¼, NE¼SW¼, SE¼;
Sec. 4, NE¼, N½NW¼, NE¼SE¼;
Sec. 12;
Sec. 13, N½NE¼, SE¼NE¼.
T. 1 S., R. 45 E.,
Sec. 19, Lots 6, 7, SE¼SW¼;
Sec. 29, SW¼, S½SE¼;
Sec. 30, Lots 1, 2, 3, 4, W½NE¼, SE¼NE¼, E½W½, SE¼;
Sec. 31;
Sec. 32;
Sec. 33, Lots 3, 4, SW¼NE¼, SE¼NW¼, W½NW¼, SW¼, W½SE¼;
Sec. 34, SW¼SW¼.
T. 2 S., R. 45 E.,
Sec. 2, SW¼SW¼;
Sec. 3, Lots 2, 3, 4, 6, 7, S½NW¼, SW¼, W½SE¼;
Secs. 4 to 10, inclusive;
Sec. 11, NW¼SW¼NE¼, S½SW¼NE¼, W½, SE¼;
Secs. 14 to 17, inclusive;
Sec. 18, Lots 1, 2, E½, E½NW¼, NE¼SW¼;
Sec. 20, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Secs. 21 to 23, inclusive;
Sec. 24, SW¼NE¼, W½, NW¼SE¼, S½SE¼;
Secs. 25 and 26;
Sec. 27, N½, N½SW¼, SE¼SW¼, SE¼.
T. 3 S., R. 45 E.,
Sec. 1, Lots 1, 2, 3, SE¼NE¼.
T. 1 S., R. 43 E.,
Secs. 1 to 4, inclusive;
Sec. 5, Lots 1, 2, 3, E½SE¼, SE¼SE¼;
Sec. 9, NE¼, N½NW¼, NE¼SE¼;
Secs. 10 to 14, inclusive;
Sec. 15, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 23, N½NE¼, SE¼NE¼;
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 25, NE¼NE¼.
T. 2 S., R. 46 E.,
Sec. 30, Lots 7, 8, W½NW¼, SE¼NW¼, SW¼;
Sec. 31, Lots 1, 2, 3, 5, W½, W½SE¼, SE¼SE¼.
T. 3 S., R. 46 E.,
Sec. 6, Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼SW¼, SE¼.
T. 14 N., R. 39 E.,
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
T. 14 N., R. 40 E.

2. At 10 a.m. on October 5, 1979, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 5, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The public lands will be open to location for nonmetalliferous minerals at 10 a.m. on October 5, 1979. They have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws for metalliferous minerals.

4. The privately owned lands in which the United States owns the phosphate will be open to location for nonmetalliferous minerals at 10 a.m. on October 5, 1979. They have been open to location under the U.S. mining laws for metalliferous minerals.

5. At 10 a.m. on October 5, 1979, the national forest lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the public lands shall be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, 550 W. Fort Street, Boise, Idaho 83724.

Guy R. Martin,

Assistant Secretary of the Interior.

August 30, 1979.

[FR Doc. 79-28007 Filed 9-7-79; 8:45 am]

BILLING CODE 4310-84-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

[CSA Instruction 6143-4]

Emergency Energy Conservation Program; Energy Crisis Assistance Program

Correction

In FR Doc. 79-27464 appearing at page 51780 in the issue for Tuesday, September 4, 1979, on page 51783, in the second column, please delete the signature and title for H. E. Lofdahl. The correct signature for this document appears on page 51780 (W. W. Allison, *Deputy Director.*).

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Indiana and Michigan

AGENCY: Fish and Wildlife Service.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to public hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Indiana and Michigan.

DATES: Effective on September 10, 1979 for duration of seasons noted below for individual refuge areas.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate Refuge Manager at the address or telephone number listed below.

John Popowski, Area Manager, U.S. Fish and Wildlife Service, 1405 S. Harrison Rd., Room 202, East Lansing, Mich. 48823. Telephone (517) 372-1910 ex. 206.

Charles E. Scheffe, Refuge Manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, Indiana 47274. Telephone (812) 522-4352.

John R. Frye, Refuge Manager, Seney National Wildlife Refuge, Seney, MI 49883. Telephone (906) 586-9851.

Robert G. Johnson, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Route 1, Saginaw, Mich. 48601. Telephone (517) 777-5930.

SUPPLEMENTARY INFORMATION: Hunting on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations, upland game; for individual wildlife refuge areas.

Indiana

Muscatatuck National Wildlife Refuge

Muscatatuck National Wildlife Refuge will be open to hunting of two upland game species—rabbit and quail. Dates are: rabbit, November 9, 1979–January 31, 1980. Quail: November 9–December 25, 1979. Area of hunting is on the Muscatatuck National Wildlife Refuge, Indiana, only on refuge lands lying south of Myer Road, designated by signs as open to hunting. The area comprises 1,320 acres.

Michigan

Seney National Wildlife Refuge

Seney National Wildlife Refuge will be open to hunting of upland game species in accordance with all applicable State regulations subject to the following conditions: 1. Ruffed Grouse and Snowshoe Hare hunting is permitted only on 33,525 acres of the refuge designated as Area B from September 15 through November 12, 1979. 2. Snowshoe Hare may be taken from December 1, 1979 through February 29, 1980 on 85,200 acres designated as Area A and Area B. 3. All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, all-terrain vehicles and snowmobiles are not permitted on the refuge.

§ 32.32 Special regulations; big game; for individual refuge areas.

Michigan

Seney National Wildlife Refuge

Seney National Wildlife Refuge will be open to hunting of big game species in accordance with all applicable State regulations subject to the following conditions: 1. Bow and arrow hunting is permitted only on 33,525 acres of the refuge designated as Area B, from October 1 through November 12, 1979 and on the 85,200 acres of refuge designated as Area A and Area B, from December 1 through December 15, 1979. 2. Bear may be taken by archers only from October 1 through November 12, 1979 and by gun hunters only from November 15 through November 30, 1979. Bear may not be taken with the aid of dogs. 3. Camping is permitted only west of the Driggs River except in designated wilderness area during the gun season. A Camp Registration Permit, obtainable at refuge headquarters, is required. 4. All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, all-terrain vehicles and snowmobiles are not permitted on the refuge.

Shiawassee National Wildlife Refuge

Hunting of deer with bow and arrow is permitted on the entire refuge area from 6 a.m. to 7 p.m. EST each day from December 1, 1979 through December 31, 1979; with the exception of 1,500 acres known as the Johnson Tract, which will be closed to archery hunting from December 7, 1979 through December 16, 1979, only. Muzzle-loading firearm hunting for deer is permitted on the 1,500 acres known as the Johnson Tract from 6 a.m. to 7 p.m. each day from December 7, 1979 through December 16, 1979, only. Hunting shall be in accordance with all State regulations covering the hunting of deer, subject to the following conditions:

1. All bow and arrow hunters, and muzzle-loading firearm hunters, must possess a valid Federal permit. These permits must be carried by the hunter whenever on refuge lands.

2. Applications for Federal permits must be received at the refuge office on or before October 31, 1979.

3. All hunters must exhibit their hunting license, Federal permit, deer tag, game, and vehicle contents to Federal and State officers upon request.

4. Bow and arrow hunters, and muzzle-loading firearm hunters, are prohibited from constructing or using any permanent blind, platform or scaffold.

Dated: August 27, 1979.

Richard O. Winters,

Acting Area Manager.

[FR Doc. 79-28115 Filed 9-7-79; 8:45 am]

BILLING CODE 4310-55-M

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Proposed Rules

Federal Register
Vol. 44, No. 176
Monday, September 10, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 948]

Irish Potatoes Grown in Colorado—Area No. 2; Notice of Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Colorado—Area No. 2 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comment due October 10, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas, (202) 447–5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Monte Vista, Colorado, on August 16, 1979.

The grade, size, maturity, and inspection requirements recommended herein are similar to those issued during past seasons. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed in fresh market channels. They would also provide consumers with good quality potatoes consistent with the overall quality of the crop and standardize the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

Because heavier than normal rains have slowed potato development, the committee recommended that size requirements for round varieties be reduced from 2⅛ inches to 2 inches minimum diameter. Minimum size requirements for potatoes of the Russet Burbank variety remain unchanged at 1⅞ inches. Other long varieties must be a minimum of 1⅞ inches in diameter if U.S. No. 2 grade, and at least 2 inches in diameter or 4 ounces in weight if U.S. Commercial or better grade. However, all varieties for export would only be required to be at least 1½ inches in diameter. Size B may be handled if U.S. No. 1 grade. Maturity requirements during the months of September and October would be for U.S. No. 2 grade potatoes, "moderately skinned" and for all other grades "slightly skinned."

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity, and inspection requirements provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt since no purpose would be served by regulating such potatoes. Shipments for charity purposes also would be exempt. Also, potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While standard quality requirements are desired in foreign markets, smaller sizes are often more acceptable. Therefore, different requirements for export shipments are proposed.

To maximize the benefits of orderly marketing the proposed regulation should become effective on November 1, 1979, when the current regulations expire. Interested persons were given an opportunity to comment on the proposal at an open public meeting held August 16 where it was recommended by the committee. This proposal is similar to regulations in effect for the past season. It is therefore determined that the period allowed for comments will be sufficient under the circumstances and will tend to effectuate the declared purpose of the act.

7 CFR Part 948 would be amended by adding a new § 948.382 as follows:

§ 948.382 Handling regulation.

During the period November 1, 1979, through October 31, 1980, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Russet Burbank.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* U.S. Commercial, or better grade, 2 inches minimum diameter or 4 ounces minimum weight, or U.S. No. 2 grade 1⅞ inches minimum diameter.

(4) *All varieties.* Size B, if U.S. No. 1.

(5) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* During September and October minimum maturity requirements shall be:

(1) *For U.S. No. 2 grade* not more than "moderately skinned."

(2) *All other grades.* Not more than "slightly skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to § 948.40(d) that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. Commerical," "U.S. No. 2," "Size B," "sligthly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 2851.1540–2851.1566), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the periods November 1, 1979, through June 30, 1980, and September 1, 1980 through October 31, 1980 shall meet the minimum grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

This proposal has been reviewed under the USDA criteria implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Peter G. Chapogas (202) 447–5432.

Dated: September 5, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–28030 Filed 9–7–79; 8:45 am]
BILLING CODE 3410–02–M

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 301, 305, 306, 325, 330]

Payment of Insured Deposits; Reciverships and Liquidations; Clarification and Definition of Deposit Insurance Coverage; Proposed Deletion of Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed deletion of regulations.

SUMMARY: The FDIC proposes to eliminate four regulations—Part 301 (introductory), Part 305 (Payment of Insured Deposits), Part 306 (Receiverships and Liquidations), and Part 325 (Introductory). These regulations are basically informational in nature and contain little or no operative language. Their removal is being proposed merely as a "housecleaning" measure, in accordance with the FDIC's stated policy of simplifying its regulations and eliminating any unnecessary regulations. The FDIC also proposes to delete certain out-of-date provisions of its rules governing deposit insurance coverage (§§ 330.13 and 330.14).

DATE: Comments must be received by November 9, 1979.

ADDRESS: Interested persons may submit written data, views, or arguments regarding this proposal to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, (202) 389–4237.

SUPPLEMENTARY INFORMATION: As part of its program to eliminate unnecessary regulations, the FDIC proposes to delete four regulations that do little more than serve as a narrative description of certain FDIC procedures. The proposed action would not change these procedures, but would merely remove them from the body of FDIC regulations. The FDIC also proposes to delete two sections of its rules governing deposit insurance coverage that are out-of-date. The regulations proposed to be deleted are:

Part 301 (Introductory)

This reglation is merely a "roadmap" provision describing the general content of the FDIC's rules of procedure and practice. Basically it tracks some language in the Administrative Procedure Act, but has no operative language of its own.

Part 305 (Payment of Insured Deposits)

This regulation describes what the FDIC does when an insured bank closes and how insured deposits are paid. Much of the information contained in the regulation can also be found in the underlying statute (sections 11 and 12 of the Federal Deposit Insurance Act).

Part 306 (Receiverships and Liquidations)

Like Part 305, Part 306 contains little, if any, operative language and is basically informational. It describes in general terms the procedures followed by FDIC liquidators in liquidating assets acquired through loans, purchase and assumption transactions, and closed bank receiverships.

Information regarding FDIC receivership and liquidation procedures and operations and payment of insured deposits is contained in the FDIC Liquidators' Manual of Instructions. This manual is a public document.

Part 325 (Introductory)

Like Part 301, Part 325 is simply a "roadmap" provision describing the general scope of the FDIC's substantive regulations. It serves no particular purpose related to the FDIC's functions or operations.

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Sections 330.13 and 330.14 (Clarification and Definition of Deposit Insurance Coverage—Continuation of prior coverage; Notification of depositors)

When new Part 330 relating to deposit insurance coverage was adopted in 1967 §§ 330.13 and 330.14 were added to permit a transition period between the old and new rules (§ 330.13) and to ensure that all depositors were notified of the new rules (§ 330.14). These provisions have been out-of-date for some time now.

In consideration of the foregoing, the FDIC Board of Directors does hereby propose to delete Parts 301, 305, 306, and 325 and §§ 330.13 and 330.14 of Title 12 of the Code of Federal Regulations.

By order of the Board of Directors, September 4, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-28051 Filed 9-7-79; 8:45 am]

BILLING CODE 6714-01-M

[12 CFR Parts 307, 327]

Termination of Insured Status; Proposed Revision

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed amendments to regulations.

SUMMARY: The FDIC proposes to revise and simplify Part 307 of its regulations, which prescribes procedures to be followed by a bank whose insured status has terminated other than by action of the FDIC Board of Directors. Several provisions which have not been used since 1969 would be eliminated and certain provisions relating to assessments would be transferred to Part 327, which deals specifically with assessments. The remainder of Part 307 would be revised and simplified to reduce the reporting burden on insured banks whose deposits are assumed by other insured banks and to make the procedures more understandable. The simplified rules include a revised, easier-to-understand form of notice to be sent to depositors when an insured bank's deposits are assumed by another insured bank. As proposed, revised Part 307 would also provide for notice to depositors when an FDIC-insured mutual savings bank converts to a Federal charter.

DATE: Comments must be received by November 9, 1979.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding this proposal to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, FDIC, (202) 389-4237.

SUPPLEMENTARY INFORMATION: Part 307 of the FDIC's regulations (12 CFR Part 307) prescribes certain steps that must be taken and records that must be furnished to the FDIC by an insured nonmember bank that voluntarily terminates its insured status and goes into liquidation (§ 307.1), by a member bank of the Federal Reserve System that ceases to be a member bank, thereby terminating its insured status (§ 307.2), and by an insured bank whose deposits are assumed by another insured bank (§ 307.3).

Part 307 was originally adopted in 1950. However, between 1962 and 1969 there were only 7 banks that voluntarily liquidated and whose deposits were not assumed by another insured bank, and since 1969 there have been no instances in which §§ 307.1 or 307.2 have been used. Therefore, in accordance with the FDIC's stated policy of eliminating any unnecessary regulations, the FDIC proposes to delete §§ 307.1 and 307.2 from its regulations.

In addition, the FDIC proposes to simplify and update Part 307 by restructuring it according to whether or not the terminating bank's deposits are assumed by another insured bank. In nearly all cases, there is an assumption. Thus, the revised regulation, as proposed, would spell out the procedures to be followed in these cases. In all other cases (*i.e.*, when deposits are not assumed), the regulation would provide only that the appropriate FDIC Regional Director will approve, on an "as needed" basis, the procedures to be followed, including the notice to be given depositors.

The revised regulation would prescribe the form of notice that must be given to depositors when an insured bank's deposits are assumed by another insured bank. The notice has been redrafted from the form contained in present Part 307 to make it easier for depositors to understand and to provide more information about the status of their insured deposits. In addition, the proposal would simplify and consolidate the requirements regarding information that must be furnished to the FDIC when an insured bank's deposits are assumed by another insured bank. The number of separate submissions of information would be reduced from three to one. Finally, the revised regulation would make clear that notice to depositors need not be given for a "phantom" bank merger or for a purchase and assumption transaction involving only a portion of the bank's deposits where the bank continues in operation as an insured bank.

In addition, certain provisions of Part 307 relating to assessments paid by insured banks on their insured deposits would be transferred to Part 327 dealing specifically with that subject.

Finally, revised Part 307 would require notice to depositors when an FDIC-insured mutual savings bank converts, merges, or consolidates into an institution insured by the Federal Savings and Loan Insurance Corporation. This type of conversion is authorized by the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

Accordingly, the FDIC Board of Directors does hereby propose to amend Part 307 and Part 327 of Title 12 of the Code of Federal Regulations as set forth below.

By order of the Board of Directors, September 4, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

1. Revise 12 CFR Part 307 to read:

PART 307—TERMINATION OF INSURED STATUS

Sec.

307.1 Purpose, scope, and authority.
307.2 When deposit liabilities are assumed by another insured bank.
307.3 When deposit liabilities are not assumed by another insured bank or when a State-chartered FDIC-insured mutual savings bank becomes an institution insured by the FSLIC.
Appendix A—Notice to depositors of assumption of deposit liabilities by another insured bank.

§ 307.1 Purpose, scope, and authority.

(a) This Part describes the procedures to be followed by a bank whose insured status under the Federal Deposit Insurance Act has terminated other than by action of the FDIC Board of Directors.

(b) This Part is issued under the authority of sections 8 and 9 of the Federal Deposit Insurance Act. Section 8(a) governs voluntary termination of insured status by an insured nonmember bank. Section 8(o) governs termination of the insured status of a member bank that ceases to be a member of the Federal Reserve System. Section 8(q) governs termination of the insured status of an insured bank whose deposit liabilities are assumed by another insured bank.

(c) Termination of a bank's insured status by action of the FDIC Board of Directors is not covered by this Part, but is covered in Part 308 and in sections 8(a) and 8(p) of the Federal Deposit Insurance Act.

§ 307.2 When deposit liabilities are assumed by another insured bank.

(a) Whenever the deposit liabilities of an insured bank are assumed by another insured bank (whether by merger, consolidation, or other statutory assumption, or by contract), the assuming or resulting bank shall give notice of the assumption to each of the depositors of the bank whose deposits are assumed. The notice shall be given within 30 days after the assumption takes effect and shall be substantially in the form provided in Appendix A. The assuming or resulting bank shall mail the notice to each depositor at the depositor's last address of record as shown on the books of the bank whose deposits are assumed and shall publish the notice in at least two issues of a local newspaper of general circulation. However, no notice need be given for a "phantom" bank merger (*i.e.*, a merger or other transaction involving a newly chartered bank or corporation, the purpose of which is merely to effect a change in organizational structure and which, in and of itself, has no effect on competition) or for a purchase and assumption transaction involving only a portion of a bank's deposits where the bank continues in operation as an insured bank.

(b) Within 30 days after the assumption takes effect, the assuming or resulting bank shall certify to the FDIC (1) that it has agreed to assume the deposit liabilities of the bank whose deposits were assumed and (2) that notice was given as required in paragraph (a). The certification shall state the date the assumption took effect, the dates the notice was mailed and published, and the name of the newspaper in which it was published, and shall include a copy of the notice as mailed. This certification shall be considered satisfactory evidence of the assumption.

§ 307.3 When deposit liabilities are not assumed by another insured bank or when a State-chartered FDIC-insured mutual savings bank becomes an institution insured by the FSLIC.

Any insured bank whose insured status terminates, but whose deposit liabilities are not assumed by another insured bank, or any State-chartered insured mutual savings bank that converts, merges, or consolidates into an institution insured by the Federal Savings and Loan Insurance Corporation, shall give notice to each of its depositors of the date of termination of its insured status under the Federal Deposit Insurance Act. The notice to depositors shall be given in a form, in a manner, and at a time approved by the appropriate FDIC Regional Director. The FDIC may require the bank to take other steps that it considers necessary for the protection of depositors.

Appendix A (Notice to depositors of assumption of deposit liabilities by another insured bank)

(Date)

Notice to Depositors of the ———— (Name of bank):

Please be advised that the deposit liabilities shown on the books of the (Name of bank)————(City and town)————(State)————as of the close of business on ————, 19—— have been assumed by the undersigned bank, and insured bank under the Federal Deposit Insurance Act. Although the insured status of (Name of bank)———— will end on ————, 19—— in accordance with section 8(q) of the Federal Deposit Insurance Act, your insured deposits in that bank at the time of assumption will continue to be insured separately from any insured deposits you may have in the undersigned bank for an additional six months after the date of assumption stated above or, in the case of a time deposit, until the earliest maturity date after that six-month period. At that time, your deposits will be combined with any deposits you may have in the undersigned bank for purposes of determining deposit insurance coverage.[1]

(Name of assuming bank)————

(Address)————

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2. Amend 12 CFR Part 327 by revising § 327.3 to read:

§ 327.3 Payment of assessments by banks whose insured status has terminated.

(a) *Assumed deposits of terminating bank become deposits of assuming bank.* When the deposit liabilities of an insured bank are assumed by another insured bank the assumed deposits, for assessment purposes, shall be deposit liabilities of the assuming bank and shall cease to be deposit liabilities of the bank whose deposits are assumed from and after the effective date of the assumption.

(b) *Payment of assessments by bank whose deposits are assumed.* When the deposit liabilities of an insured bank are assumed by another insured bank, the insured bank whose deposits are assumed shall file a final certified statement, as provided for in § 304.3(u) and (v), and shall pay to the Corporation the normal assessment thereon. If the deposits of the terminating bank are assumed by a newly insured bank, the terminating bank is not required to file certified statements or pay any assessment upon the deposits so assumed after the semiannual period in which the assumption takes effect.

(c) *Payment of assessment by assuming bank on assumed deposits of terminating bank.* When the deposit liabilities of an insured bank are assumed by another insured bank and the assuming bank agrees to file the certified statement which the terminating bank is required to file, the filing of such certified statement and the payment of the assessment thereon by the assuming bank shall be deemed the acts of the terminating bank: *Provided,* That the requisite notice of assumption, as provided in Part 307 of this chapter, be given to the depositors of the terminating bank, and *Provided further,* That such certified statements shall be filed separately from that required to be filed by the assuming bank.

(d) *Resumption of insured status before insurance of deposits ceases.* If a bank whose insured status has been terminated under section 8(a) of the Federal Deposit Insurance Act makes application to the Corporation before the insurance of its deposits shall have ceased, to be permitted to continue or to resume its status as an insured bank, and if the Board of Directors grants the application, the bank will be deemed, for assessment purposes, to continue as an insured bank and must thereafter furnish certified statements and pay assessments as though its insured status had not been terminated. For the procedure to be followed in making such application, see § 303.7 of this chapter.

(e) *Payment of assessments by bank deposits are not assumed.* (1) When the deposit liabilities of an insured bank are not assumed by another insured bank, the terminating bank shall continue to file certified statements and pay assessments thereon for the period its deposits are insured, as provided by the Federal Deposit Insurance Act: *Provided,* That after the bank shall have paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the semiannual period in which its deposit liabilities are paid in full, and after it shall, under applicable law, have ceased to have authority to transact a banking business and to have

[1] The bank may include in this notice any additional information it desires.

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existence, except for the purpose of, and to the extent permitted by law for, winding up its affairs, it shall not be required to file further certified statements nor to pay further assessments.

(2) When the deposit liabilities of the bank have been paid in full, the bank shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment thereof. Where the bank has unclaimed deposits, the certification shall further state the amount of such unclaimed deposits and the disposition made of the funds to be held to meet such claims. For assessment purposes, the following will be considered as payment of such unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay such unclaimed and unpaid deposits to the public official authorized under the law to receive the same; or

(ii) If no provision is made by law for the transfer of funds to a public official, the transfer of cash funds or compensatory assets to an insured bank in an amount sufficient to pay the unclaimed and unpaid deposits in consideration of such insured bank assuming the payment therof: *Provided*, That, prior to such transfer, the terminating bank shall have given notice, as provided in this subparagraph, to the owners of the unclaimed deposits of the intended transfer and a reasonable time shall have elapsed after the giving of such notice to enable the depositors to obtain their deposits. Such notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise such depositors of the liquidation of the bank, shall request them to call for and accept payment of their deposits, and shall state the disposition to be made of their deposits upon their failure to promptly claim the same.

(iii) If such unclaimed and unpaid deposits are disposed of as provided in paragraph (e)(2)(i) of this section, a certified copy of the public official's receipt issued for such funds shall be furnished to the Corporation. If such unclaimed and unpaid deposits are disposed of as provided in subdivision (ii) of this subparagraph, an affidavit of the publication and of the mailing of the notice to depositors, together with a copy of such notice, and a certified copy of the contract of assumption shall be furnished to the Corporation.

(3) The terminating bank shall advise the Corporation of the date on which the authority or right of the bank to do a banking business shall have terminated and the method or means whereby such termination shall have been effected, that is, whether such termination has been effected by the surrender of its charter, by the cancellation of its authority or license to do a banking business by the supervisory authority, or otherwise.

[FR Doc. 79-28054 Filed 9-7-79; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Chapter 1]

Informal Airspace Meeting; Notice of Change in Meeting Place

AGENCY: Department of Transportation/FAA.

ACTION: Notice of change in meeting place, informal airspace meeting.

SUMMARY: The location of the informal airspace meeting in San Juan, Puerto Rico, for the purpose of discussing a plan by the FAA to establish a Group II Terminal Control Area (TCA) for the Puerto Rico International Airport has been changed from the Puerto Rico ports authority meeting area on pier no. 1 to:

DATE: October 9, 1979, 7 p.m. local time.

ADDRESS: Puerto Rico Ports International Airport Terminal Building Passenger Lounge, Gate 6 (next to Prinair ticket counter).

SUPPLEMENTARY INFORMATION: For further information, call: Mr. Clifford C. Monteau, FAA Southern Region, telephone: (A/C 404) 763-7866, or Mr. Jose L. Rodriguez, San Juan CERAP, telephone: (A/C 809) 791-4830.

Issued in Atlanta, Georgia, on August 29, 1979.

Richard M. Robinson,

Acting Chief, Air Traffic Division, Southern Region.

[FR Doc. 79-28036 Filed 9-7-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-54]

Proposed Designation of Transition Area; Hopkinsville, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Hopinsville, Kentucky, transition area and will lower the base of controlled airspace in the vicinity of the Hopkinsville-Christian County Airport from 1,200 to 700 feet AGL. Public use standard instrument approach procedures have been developed to the airport and additional controlled airspace is required to proctect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: October 16, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: John W. Schassar, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before October 16, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Hopkinsville, Kentucky, 700-foot Transition Area. This action will provide controlled airspace for protection for IFR operations at the Hopkinsville-Christian County Airport. Standard instrument approach procedures, NDB RWY 26 and SDF RWY 26 to the airport are proposed in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Hopkinsville, Kentucky

. . . within an 8-mile radius of the Hopkinsville-Christian County Airport (latitude 36°51'25"N, longitude 87°27'25"W).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implementated by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on August 29, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-28040 Filed 9-7-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 51]

[Docket No. R-79-709]

Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

AGENCY: Department of Housing and Urban Development.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: HUD proposes to add a new Subpart C to Part 51, Title 24 of the CFR, establishing Departmental standards, requirements and guidelines for locating HUD projects at acceptable distances from stationary hazardous operations which handle conventional fuels or chemicals of an explosive or flammable nature.

COMMENTS DUE: November 9, 1979. Interested persons may submit written data, opinions or comments to the Department. Comments received on or before November 9, 1979 will be considered prior to the publication of the proposed rule. Each submittal should include name and address of the commentator and the regulatory docket number.

ADDRESS: Statements should be submitted to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

FURTHER INFORMATION: For further information contact James L. Christopulos or Michael McGee, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone number 202-755-8910.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development has for some time been deeply concerned about proposals to locate HUD-supported projects in the vincinity of operations that handle large quantities of explosive or flammable materials. This was first brought to the attention of the Department in 1975, during the environmental review process, when one of the local Housing Authorities proposed construction of 1,250 units of public housing within 120 feet of a public utility facility containing forty 60,000 gallon tanks of liquid propane. An engineering analysis determined that an explosion of just one of the tanks would emit an explosive force capable of "wiping-out" 60 percent of the project. As a result the project was modified to take into account the potential hazard. An extensive research project then developed criteria for acceptable siting to be used by planners, designers and public officials. During the past 2 years Departmental staff and local officials have been using interim guidelines contained in the HUD publication dated December, 1975, PD&R-161 entitled "Safety Considerations in Siting Housing Projects" to identify potentially hazardous operations and to determine acceptable separation distances (ASD) for all HUD-supported projects, defined as any project application that requests or requires Department subsidy, grant assistance or mortgage insurance in the vicinity of such operations.

The only change between the guidelines in PD&R-161 and the proposed policy is that the protective standard for people in exposed areas from thermal radiation has been revised with the latest findings of research to identify potentially hazardous operations and to determine acceptable separation distances (ASD) for HUD-supported projects in the vicinity of such operations.

The proposed regulation will establish explosion and thermal radiation standards, which will be applied as a basis for determining the ASD if a HUD supported project is to be located near a potential hazard of an explosion or fire prone nature. This will assure that such a project is located outside the danger zone.

A Technical Handbook will provide the actual procedures to implement the regulation. The supplement will contain formulas, monographs, tables and other data which, in conjunction with the environmental standards, will be used to determine acceptable separation distances from such hazards.

Operations to be covered by the proposed regulation and the technical supplement include the manufacture, processing and storage of chemicals of an explosion prone or flammable nature and ordinary flammable fuels, e.g., kerosene, gasoline and naptha; liquid petroleum gases (LPG), e.g. liquid propane and liquid butane; and liquefied natural gas (LNG).

It has been determined that the proposed regulation may significantly affect the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) will be prepared for agency and public comment in accordance with the Council on Environmental Quality regulations and HUD's environmental policies. An economic analysis, however, is not considered necessary.

The regulation will establish explosion and fire (thermal radiation) standard for both buildings and people as follows.

1. *Environmental standard for explosion:* The proposed standards for explosion is 0.5 pounds per square inch (PSI) overpressure. It has been determined that 0.5 PSI is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure building can withstand that level of external exertion with no structural damage, and human beings would suffer only minor superficial injury.

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2. *Environmental standards for thermal radiation:* There will be two standards for thermal radiation.

Wooden buildings generally withstand a thermal radiation flux level of about 10,000 Btu/hr. ft.^{2} for a relatively long period of time (15–20 minutes) before igniting. Since the national average response time for fire fighting units in urbanized and suburban areas is approximately 5 to 8 minutes, 10,000 Btu/hr. ft.^{2} is considered an acceptable level of thermal radiation for buildings. Therefore, this is the proposed standard for calculating the acceptable separation distance for a proposed HUD building project from the site of a potential thermal radiation (fire) hazard.

It is generally accepted that the average person will respond and take shelter within a 15-second time period. However, since children and elderly or handicapped individuals could be affected, the Department is proposing a longer reaction time. People who are in an outdoor area and are exposed to a thermal radiation level of about 450 Btu/hr. ft.^{2} will suffer pain after about 2 minutes and get a burn comparable to a bad sunburn. Longer than 2 minutes of exposure to a radiation level of 450 Btu/hr. ft.^{2} causes blistering. Since it is assumed that an individual will take refuge or be assisted by other people to a safe area within the 2-minute time period, before skin blistering occurs, 450 Btu/hr. ft.^{2} is the thermal radiation level proposed as the standard for determining the acceptable separation distance for people in unsheltered locations. Therefore, exposed recreation areas such as playgrounds, parks, outside swimming pools, etc. must be placed at such a distance from a potential fire hazard so that the radiation flux level does not exceed 450 Btu/hr. ft.^{2} This includes open space ancillary to residential structures, such as yard areas and vehicle parking areas, unless such space is protected (shielded) from the potential source of thermal radiation by the structure being served or by other means.

These then are the proposed explosion and thermal radiation standards, which are to be used in determining the acceptable separation distance ASD for a HUD-supported project when it is to be located near a facility handling or storing materials which are of an explosion or fire prone nature.

It is realized that many conventional fuels and chemicals may also present a toxic vapor hazard in addition to the explosion and thermal radiation hazards. However, no attempt has been made to develop a protective standard for vapor hazards at this time, because of the many statistical parameters involved, including wind direction and velocity and their variability over any given time period.

Other hazards are of concern to the Department of Housing and Urban Development that are not addressed in this proposed regulation. The Department is currently assembling information on ways to effectively address the issues of suitable siting of HUD-supported projects near various sources of potential hazards. HUD will solicit public comments before promulgating any regulations on any additional hazards.

Authority: 42 U.S.C. 3535d.

Issued at Washington, D.C., August 29, 1979.

Jay Janis,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-28052 Filed 9-7-79; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[24 CFR Part 3280]

[R-79-672]

Revision of Mobile Home Construction and Safety Standards

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

ACTION: Notice—Extension of Comment Period

SUMMARY: This Notice extends the comment period for the Advance Notice of Proposed Rulemaking issued in the **Federal Register** (44 FR 32711) on June 7, 1979. The Advance Notice requested comment on areas of the Federal Mobile Home Construction and Safety Standards which are being considered for revision prior to publication of the proposed amendments to those standards. This extension of the comment period is being made in response to requests for additional time to review research documents and other data prior to submitting comments on this Notice. This extension will provide the public more time in which to consider their comments to the Department, assure fuller public participation, and provide the Department with more substantial commentary on which to base the proposed amendments to the Standards.

DATES: The comment period for the Advance Notice of Proposed Rulemaking issued by the Department at 44 FR 32711 on June 7, 1979, has been extended from August 6, 1979, November 6, 1979. Comments received after the extended date will be considered if time permits.

ADDRESSES: Comments should be sent to: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D. C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Director, Standards Division, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D. C. 20410 (202) 426–1872. This Notice is being issued pursuant to the provisions of section 604(d) of the National Mobile Home Safety Standards Act of 1974. (Secs. 604, 625 of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403 and 5424)).

Issued at Washington, D.C. September 4, 1979.

Richard C. D. Fleming,

General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-28041 Filed 9-7-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 20]

[LR-203-76, Part IV]

Definition of Gross Cash Rentals for Valuation of Certain Farm Real Property According to Actual Use

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations defining "gross cash rental" for purposes of electing to value certain farm real property according to its actual use under section 2032A(e)(7). Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations affect all estates for which elections are made to value certain farm real property according to its actual use.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 9, 1979. The regulations are proposed to be effective for estates of decedents dying after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LT–203–76, Part IV), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Estate Tax Regulations (26 CFR Part 20) under section 2032A. The amendments are proposed to conform the regulations to section 2003(a) of the Tax Reform Act of 1976 (90 Stat. 1856). They are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

The proposed regulations replace an earlier proposed amendment to the regulations which was published in the **Federal Register** for July 19, 1978 (43 FR 31036). A notice withdrawing the July 19, 1978, proposed regulation appears in the Proposed Rules section of this edition of the **Federal Register** (FR Doc. 79–28119).

Statutory Provisions

Section 2032A(e)(7) provides a special method for valuing real property used as a farm for farming purposes. This method requires the executor to locate actual tracts of comparable real property which are rented. The gross cash rental from the comparable real property, minus State and local real estate taxes, is then divided by the average annual effective interest rate charged by Federal land banks on new agricultural loans to farmers and ranchers. The estate tax value is the average of the resulting amount for the five most recent calendar years ending before the decedent's death. These proposed regulations provide a definition of gross cash rentals for use in valuing property under this method.

The proposed regulations define gross cash rentals as the return on property rented solely for cash. This definition replaces an earlier proposed definition of gross cash rentals contained in the July 19, 1978, proposed regulations. That definition permitted treatment of crop share rentals as cash rentals if no actual cash rentals of comparable real property in the locality exist. The new proposed regulations follow the language of the statute more closely and do not permit crop share rentals to be converted to cash rentals.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is H. B. Hartley of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

A new paragraph (b) to read as set forth below is added to the proposed § 20.2032A–4 published in the **Federal Register** on July 19, 1978 (43 FR 31039).

§ 20.2032A–4 Method of valuing farm real property.

* * * * *

(b) *Gross cash rental*—(1) *Generally.* Gross cash rental is the total amount of cash received for the use of actual tracts of comparable farm real property in the same locality as the property being specially valued during the period of 1 calendar year. This amount is not diminished by the amount of any expenses or liabilities associated with the farm operation or the lease. See, § 20.2032A–4(d) for a definition of comparable property and rules for property containing buildings or other improvements and farms including mutliple property types. Only rentals from tracts of comparable farm property which are rented solely for cash are acceptable for use in valuing real property under section 2032A(e)(7). The rentals considered must result from an arms'-length transaction as defined in this section. Additionally, rentals received under leases which provide for payment solely in cash are not acceptable as accurate measures of cash rental value if involvement by the lessor (or a member of the lessor's family who is other than a lessee) in the management or operation of the farm to an extent which amounts to material participation under the rules of section 2032A is contemplated or actually occurs. In general, therefore, rentals for any property which qualifies for special use valuation cannot be used to compute gross cash rentals under this section because the total amount received by the lessor does not reflect the true cash rental value of the real property.

(2) *Special rules*—(i) *Documentation required of executor.* The executor must identify to the Internal Revenue Service the actual comparable property and cash rentals from that property if the decedent's real property is valued under section 2032A(e)(7). If the executor cannot identify such property and rentals, the real property must be valued under the rules of section 2032A(e)(8) if special use valuation has been elected. See, however, § 20.2032A–8(d) for a special rule for estates electing section 2032A treatment on or before [the date which is 30 days after publication in the **Federal Register** of § 20.2032A–8 as a Treasury decision].

(ii) *Arms'-length transaction required.* Only those cash rentals which result from a lease entered into in an arms'-length transaction are acceptable under section 2032A(e)(7). For these purposes, lands leased from the Federal government, or any State or local government, which are leased for less than the amount that would be demanded by a private individual leasing for profit are not leased in an arms'-length transaction. Additionally, leases between family members (as defined in section 2032A(e)(2)) which do not provide a return on the property commensurate with that received under leases between unrelated parties in the locality are not acceptable under this section.

(iii) *In kind rents, statements of appraised rental value, and area averages.* Rents which are paid wholly or partly in kind (*e.g.*, crop shares) may not be used to determine the value of real property under section 2032A(e)(7). Likewise, appraisals or other statements regarding rental value as well as areawide averages of rentals (*e.g.*, those compiled by the U.S. Department of Agriculture) may not be used under section 2032A(e)(7) because they are not true measures of the actual cash rental value of comparable property in the same locality as the specially valued property.

(iv) *Period for which comparable real property must have been rented solely for cash.* Comparable real property rented solely for cash must be identified for each of the five calendar years preceding the year of the decedent's

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death if section 2032A(e)(7) is used to value the decedent's real property. The same tract of comparable property need not be used for each of these 5 years, however, provided an actual tract of property meeting the requirements of this section is identified for each year.

(v) *Leases under which rental of personal property is included.* No adjustment to the rents actually received by the lessor is made for the use of any farm equipment or other personal property the use of which is included under a lease for comparable real property unless the lease specifies the amount of the total rental attributable to the personal property.

* * * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-28118 Filed 9-5-79; 4:48 pm]

BILLING CODE 4830-01-M

[26 CFR Part 20]

[LR-203-76]

Material Participation Requirements for Valuation of Certain Farm and Closely Held Business Real Property and Method of Valuing Farm Real Property According to Actual Use; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a portion of the notice of proposed rulemaking relating to material participation requirements for valuation of certain farm and closely held business real property and method of valuing farm real property according to actual use that appeared in the Federal Register on July 19, 1978 (43 FR 31039). The portion being withdrawn, proposed regulation § 20.2032A-4 (b), relates to the definition of "gross cash rental" for valuing farm real property according to its actual use under section 2032A (e)(7). This portion of the notice is being withdrawn for further consideration of whether land leased for in kind rentals (e.g. crop share rentals) can be used to value farm real property under the method provided by section 2032A (e)(7).

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC: LR:T) (202-566-3287, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document withdraws a portion, proposed regulation § 20.2032A-4 (b), of the notice of proposed rulemaking that appeared in the **Federal Register** on July 19, 1978 (43 FR 31039). That notice proposed amendments to the regulations under section 2032A of the Internal Revenue Code of 1954. The proposed amendments being withdrawn would, in some cases, have permitted crop share rentals to be used for valuing farm real property according to its actual use under section 2032A (e)(7). The Service anticipates issuing a new notice of proposed rulemaking to reflect changes resulting from further consideration of the treatment of crop share rentals as cash rentals under section 2032A(e)(7).

Drafting Information

The principal author of this document is H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both on matters of substance and style.

Proposed regulation § 20.2032A-4 (b) relating to the method of valuing farm real property according to actual use that was published in the **Federal Register** (43 FR 31039) on July 19, 1978, is hereby withdrawn.

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 23, 1979.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

[FR Doc. 79-28119 Filed 9-5-79; 4:48 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR 872]

Abandoned Mine Reclamation Funds

AGENCY: Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Proposed amendment of final rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to amend portions of its final Abandoned Mine Lands Reclamation rules (43 FR 49932-49952, October 25, 1978), relating to Abandoned Mine Reclamation Funds, to allow the States and Indian tribes to enter into a cooperative agreement to prepare and submit first annual work plans for implementation of specific reclamation projects.

DATES: Comments must be received at the address below on or before October 8, 1979, by no later than 5 p.m.

ADDRESS: Written comments must be mailed or hand delivered to: Office of Surface Mining, Administrative Record—Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Charles L. Crawford, P.E., Chief, Division of State & Indian Reclamation Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20245, Telephone (202) 343-4061.

SUPPLEMENTARY INFORMATION: On October 25, 1978, the Secretary of the Interior promulgated Final Rules for the Abandoned Mine Land Reclamation Program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act).

Under section 405(a) of the Act, the Secretary was required to promulgate and publish in the **Federal Register**, procedures and requirements for preparation, submission and approval of State abandoned mine reclamation programs, consisting of a reclamation plan and an annual request for funding specific reclamation projects. The rules as promulgated provided that a State is eligible to submit a State reclamation plan if it has eligible lands and water as defined in 30 CFR 874.12, and the State is eligible for a State reclamation plan to be approved if it has an approved State regulatory program under section 503 of the Act.

Under the present rule, OSM has provided for advance funds to be available for preparation of State and Indian tribe plans (30 CFR 872.11(b)(5)(vi)). Funds are not presently available however, for developing a State's first annual work plan for implementation of specific reclamation projects. As a result, development of a State's first work plan cannot begin until after a State plan is approved. Since this provision will cause a delay in implementing a State's reclamation program, the amendment now being proposed will provide for the collection of data and budgetary information to assure prompt implementation. In the event the State fails to obtain approval of their permanent regulatory program, and a Federal Reclamation Program must be instituted, this proposed amendment also provides a means to implement Federal Reclamation Programs immediately.

A public hearing will not be held as the proposed change is minor. It will affect only those States and tribes participating in the AML program and would serve no benefit at this time. All projects developed must go through the public participation procedures established by 30 CFR 884.13(e) and the individual State reclamation plan prior to being funded.

The alternatives considered by OSM are:

1. Leave the Final Rules unchanged, which would delay implementation of the State's Reclamation Program until approval of each State reclamation plan; and

2. Amend the Final Rules, which will expedite the States' full participation in AML program and provide to OSM the necessary information for instituting a Federal reclamation program, should the State fail to fulfill requirements for State plan approval.

OSM has selected alternative two because it conforms with Congress' directive to expedite implementing the State and Indian Reclamation Program. The Department of the Interior has determined that this action will not have a significant effect on the human environment.

The Department of the Interior has determined that this document is not a significant rule and does not require a Regulatory Analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 3, 1978).

Amendment

PART 872—ABANDONED MINE RECLAMATION FUNDS

It is proposed to amend 30 CFR 872.11(b)(5)(vi) to read as follows:

§ 872.11 Abandoned Mine Reclamation Fund.

(b) * * *

(5) * * *

(vi) Cooperative projects to compile information required for preparation of State and Indian reclamation plans, as specified in § 884.13(f) of this part and the first annual work plan for implementation of specific reclamation projects as specified in § 886.14. This work shall be done only with those moneys allocated or available for allocation to a State or Indian tribe and at the request of the Governor of a State or the Indian tribe.

Dated: August 23, 1979.

Walter N. Heine,

Director.

Dated: August 28, 1979.

Joan M. Davenport,

Assistant Secretary—Energy & Minerals.

[FR Doc. 79-28002 Filed 9-7-79; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Reclamation

[43 CFR Part 429]

Procedure To Process and Recover; Value of Rights-of-Way and Administrative Costs

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rules.

SUMMARY: The Bureau of Reclamation has prepared proposed rules to provide a uniform policy for processing requests and recovering costs for the use of lands under Reclamation control.

DATES: Comments must be received by October 10, 1979.

ADDRESS: Comments should be submitted to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, attention, code 400.

FOR FURTHER INFORMATION CONTACT: Mr. L. David Williamson, Senior Staff Assistant, Land Resources Management, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, (202) 343-5204.

SUPPLEMENTAL INFORMATION: Audits by OMB and Department of the Interior internal auditors which pointed up inconsistencies in the Bureau of Reclamation's procedures for issuing land use documents and in the collecting of fees and recovering the values of the rights granted, instigated the issuing of these proposed rules.

These proposed rules will standardize the issuing of land used documents and the granting of rights-of-way across Bureau lands. They should also ensure that the administrative costs incurred by the Bureau in issuing or granting these documents and rights will be borne by the applicant. These regulations will also ensure that the Bureau will recover a fair market value of the rights in Bureau lands granted to non-Bureau users.

Primary authors of this document are Mr. Terence G. Cooper, Natural Resource Specialist, Washington, DC (202) 343-5204 and Mr. Jerry D. Alendal, Supervisory Realty Specialist, Sacramento, California (916) 484-4610.

An assessment of environmental and economic impacts prepared by and on file with the Bureau of Reclamation has determined that this document does not contain a major proposal requiring the preparation of an economic or environmental impact statement under Executive Order 12044, OMB Circular A-107, and Public Law 91-190.

Dated: September 4, 1979.

Daniel P. Beard,

Acting Assistant Secretary of the Interior.

It is proposed to amend Title 43 of the Code of Federal Regulations by adding a new Part 429 to read as follows:

PART 429—PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-WAY AND ADMINISTRATIVE COSTS

Sec.

429.1 Purpose.
429.2 Definitions.
429.3 Establishment of the value of rights-of-way.
429.4 Request by other governmental agencies for rights-of-way.
429.5 Request by other agencies for assistance.
429.6 Request by private parties for rights-of-way.
429.7 Conditions of and for rights-of-way
429.8 Reclamation land use stipulation.
429.9 Hold harmless clause.
429.10 Decisions and appeals.
429.11 Addresses.

Authority: 53 Stat. 119, Title 43 U.S.C. 387, and 65 Stat. 290, Subsection 31 U.S.C. 483.

§ 429.1 Purpose.

The purpose of this part is to set forth the procedures for the recovery of the value of rights-of-way and administrative costs of rights-of-way issued by the Commissioner of Reclamation. This subsection refers to costs incurred in aiding and assisting other agencies and parties in rights-of-way matters.

These regulations apply to interests on land granted by the Commissioner of Reclamation except those issued for replacement or relocation under section 14 of the Reclamation Project Act of August 4, 1939, 43 U.S.C. Subsection 389.

§ 429.2 Definitions.

As used in this part:

(a) "Commissioner" means the Commissioner of Reclamation or his designated representative.

(b) "Bureau" means the Bureau of Reclamation.

(c) "Regional Director" means any one of the seven representatives of the Commissioner designated to act for the Commissioner in specified rights-of-way actions. The Regional Directors may have further designated certain of their

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authorities for granting rights-of-way to the supervising heads of certain field offices.

(d) "Rights-of-way" means only those leases, licenses, permits, easements, or agreements issued or granted by the Regional Director under the authority granted to him. The term "rights-of-way" does not include the leasing of land in the custody or under the control of the Bureau for grazing, agriculture, recreation, or any other purpose where a greater return will be realized by the United States through a competitive bidding process.

(e) "Other agencies" means all Federal, State, and local governmental agencies not connected in any way with the Bureau of Reclamation, that request rights-of-way from the Bureau.

(f) "Rights-of-way assistance" means any assistance given upon request to another party. Such assistance includes but is not limited to work in the processing of environmental requirements, preparing, checking, and inspecting engineering data and standards.

(g) "Value of rights-of-way" means the value of the rights, privileges, and estates granted by the Bureau for the use of land under its custody and control.

(h) "Administrative costs" means all direct or indirect costs incurred by the Bureau in reviewing, issuing, and processing rights-of-way requests or assisting others in their right-of-way matters.

(i) "Grantor" means the agency controlling the Federal land and granting use of a portion, in this case the Bureau of Reclamation.

(j) "Grantee" means the agency, firm or individual to whom is granted the right to use Federal lands for rights-of-way or other purposes.

§ 429.3 Establishment of the value of rights-of-way.

The value of a right-of-way shall be determined by the Bureau. Where practical, the value of a right-of-way shall be established by a Bureau staff appraiser. The appraiser shall base the appraisal on the fair market value for the requested right or privilege. The value of a right-of-way shall not include any unauthorized use of the land under the custody and control of the Bureau by the applicant prior to his request for a right-of-way.

§ 429.4 Request by other governmental agencies for rights-of-way.

Rights-of-way requested by other agencies may be provided with no charge being made for the value of these rights-of-way when it is determined that the use of these rights-of-way will not interfere with present or future use of the land by the Bureau. Other agencies will be required to reimburse the Bureau for all administrative costs.

§ 429.5 Request by other governmental agencies for assistance.

The requesting agency shall be required to reimburse the Bureau for all administrative costs to the Bureau (§ 429.2(h)).

§ 429.6 Request by private parties for rights-of-way.

The applicant for a right-of-way over land or estate in land in the custody and control of the Bureau must make application to the Regional Director of the region in which the land is located or to the affected field office. The addresses for the seven Regional Directors are located in § 429.11. No right-of-way will be granted when it is determined that the proposed right-of-way will interfere with the purposes of Reclamation or Reclamation's ability to maintain its facilities.

(a) The application does not have to be in any particular form but must be in writing. The application must contain at least the following items:

(1) A detailed description of the proposed use of the Bureau land.

(2) A description of the Bureau lands on which the proposed use is desired.

(b) An initial fee of $100, as a filing fee, must accompany the initial application. No refund will be made for any deposit or cost after the right-of-way application has been received by the appropriate regional office of the Bureau.

(c) The applicant also must furnish, or agree to furnish, the following before the Bureau grants a right-of-way:

(1) A legal land description and/or a plat of the requested right-of-way. The description and plat should relate to the Bureau's land boundaries.

(2) Detailed construction details, construction specifications, engineering drawings, power flow diagrams, one-line diagram, and any other plans and specification which may be applicable.

(3) Statements, reports, or other documents prepared by the applicant which will be used by the Bureau of Reclamation to satisfy the requirements of the National Environmental Policy Act (42 U.S.C. 4321–4347).

(4) Proof of compliance with cultural resource policies prescribed in Executive Order 11593 and applicable historic preservation laws.

(d) The applicant shall agree to pay to the Bureau all additional administrative costs it incurs above the initial fee of $100 deposit required by § 429.6(a)(2). These charges must be paid prior to the issuance of the right-of-way.

§ 429.7 Conditions of and for the right-of-way.

(a) The right-of-way-granting document shall contain such special conditions or requirements as may be necessary to protect the interest of the United States.

(b) Rights-of-way shall be granted only to firms or individuals licensed to do business in the United States, corporations, governmental, quasi-governmental entities, or individuals.

(c) No right-of-way shall be granted any person or corporation while any debt is known to be due the United States.

(d) Any grant of a right-of-way for a term of 25 years or longer must have the consent of any involved water user organization.

(e) The Reclamation land-use stipulation appearing in § 429.8 shall be included in all permanent rights-of-way granted, excepting grants to other Federal agencies.

(f) Temporary right-of-way grants shall contain a termination clause in the event the applicant use becomes or may become an interference with the Bureau use of the land.

(g) Except for grants of right-of-way to Federal agencies, the grant shall contain a hold harmless clause found in § 429.9.

§ 429.8 Reclamation land use stipulation

The following shall be a part of every land use document issued by the Bureau of Reclamation:

There is reserved from the rights herein granted, the prior rights of the United States acting through the Bureau of Reclamation, Department of the Interior, to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for severance or other damage to Grantee's work; provided, however, that if such reserved rights are not exercised for works authorized by the Congress before the date of this grant, they will not be exercised unless Grantee or Grantee's successor in interest is compensated for resultant damage to works placed on said lands pursuant to the rights herein granted. Compensation shall be in the amount of the cost of reconstruction of Grantee's works to accommodate the exercise of the Government's reserved rights. As an alternative to such compensation, the United States at its option and at its own expense may reconstruct Grantee's works to effect such accommodations.

§ 429.9 Hold harmless clause.

The following clause shall be a part of every land use document issued by the Bureau of Reclamation:

The Grantee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Grantee's activities under this agreement.

§ 429.10 Decisions and appeals.

(a) The Regional Director, acting as designee of the Secretary, shall make the determinations required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision.

(b) Any party to a case adversely affected by a final decision of the Commissioner of the Bureau of Reclamation under this part shall have a right of appeal to the Director, Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures provided in Title 43, CFR Part 4, Subpart G.

§ 429.11 Addresses.

Bureau of Reclamation, Upper Missouri Region, P.O. Box 2553, Billings, MT 59103.
Bureau of Reclamation, Lower Missouri Region, P.O. Box 25247, Denver, CO 80225.
Bureau of Reclamation, Engineering and Research Center, Division of O&M Technical Services, P.O. Box 25007, Denver Federal Center, Denver, CO 80225.
Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.
Bureau of Reclamation, Southwest Region, Box H–4377, Amarillo, TX 79107.
Bureau of Reclamation, Pacific Northwest Region, P.O. Box 043, Boise, ID 83724.
Bureau of Reclamation, Mid-Pacific Region, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.
Bureau of Reclamation, Lower Colorado Region, P.O. Box 427, Boulder City, NE 89005.
Bureau of Reclamation, Upper Colorado Region, P.O. Box 11568, Salt Lake City, UT 84147.

[FR Doc. 79–28117 Filed 9–7–79; 8:45 am]

BILLING CODE 4310–09–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 271, 274, and 275]

[RM79–44, RM79–66, RM79–76]

High-Cost Natural Gas, Public Hearings on Proposals

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearings.

SUMMARY: The Federal Energy Regulatory Commission will convene several public hearings to enable the public to present views on three rulemakings: (1) Docket No. RM79–44, which defines the types of high-cost natural gas listed in sections 107(c)(2) through (5) of the Natural Gas Policy Act of 1978 (NGPA); (2) Docket No. RM79–76, which implements sections 107(b) and (c)(5) of the NGPA insofar as they relate to high-cost natural gas produced from tight formations; and (3) Docket No. RM79–66, which allows for the withdrawal of notices of determination filed by jurisdictional agencies pursuant to the NGPA.

DATES: RM79–44—September 25, 1979. RM79–66—September 25, 1979. RM79–76—September 24, 1979 (FERC Office) September 28, 1979 (Denver)

ADDRESSES: The public hearings for Docket Nos. RM79–44 and RM79–66 will be held in Hearing Room A, Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. The public hearing for Docket No. RM79–76 will be held at the above address as well as at the offices of the United States Geological Survey, Building 25, Room 1204, Denver Federal Center, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Philip Yates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8078.

Issued September 5, 1979.

The Federal Energy Regulatory Commission (Commission) will convene several public hearings to enable the public to present views on three rulemakings: (1) Docket No. RM79–44,[1] which defines the types of high-cost natural gas listed in sections 107(c)(2) through (5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*; (2) Docket No. RM79–76,[2] which implements sections 107(b) and (c)(5) of the NGPA insofar as they ralate to high-cost natural gas produced from tight formations; and (3) Docket No. RM79–66,[3] which allows for the withdrawal of notices of determination filed by jurisdictional agencies pursuant to the NGPA.

There will be two public hearings held for the tight formation rulemaking, Docket No. RM79–76. They will be held on September 24, 1979, in Hearing Room A, at 10:00 A.M., at the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C., and at 10:00 A.M. September 27, 1979, at the offices of the United States Geological Survey, Building 25, Room 1204, Denver Federal Center, Denver, Colorado.

There will be one public hearing in Washington, D.C. on the other two rulemakings. This public hearing will be held on September 25, 1979, at 10:00 A.M. at the Washington address set forth above; oral comments on Docket No. RM79–66 will be heard first, with the remainder of the day reserved for oral comments on Docket No. RM79–44.

Requests to participate in any of the hearings should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, no later than seven days prior to the hearing. Requests should indicate in which hearing the person wishes to participate, the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in each hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

[1] See Notice of Proposed Rulemaking, Docket No. RM79–44, issued June 13, 1979 (44 FR 34989; June 18, 1979).

[2] See Notice of Proposed Rulemaking, Docket No. RM79–76, issued August 29, 1979. (44 FR 52253; September 7, 1979).

[3] See Notice of Proposed Rulemaking, Docket No. RM79–66, issued August 13, 1979 (44 FR 48262; August 17, 1979).

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The hearings will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public files of the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28323 Filed 9-7-79; 11:26 am]

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Notices

Federal Register

Vol. 44, No. 176

Monday, September 10, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

VISTA Guidance Papers

AGENCY: Action.

ACTION: Notice of VISTA Guidance Papers.

SUMMARY: The following notice sets out the VISTA Guidance Papers which provide information to VISTA sponsors and include the VISTA Philosophy of Project Selection and Explanation of the Philosophy, Criteria for Selecting VISTA Sponsors, and Additional Project Selection Factors. Changes in the Guidance Papers are also described.

In accordance with the requirements of Executive Order 12044, Improving Government Regulations, a working group met on July 16, 1979, and determined that the changes made in the VISTA Guidance Papers are not significant and do not necessitate the issuance of any regulations. Therefore, in accordance with Section 420 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*), the VISTA Guidance Papers will be effective thirty (30) days from this date.

FOR FURTHER INFORMATION CONTACT: Angelo Traficanti, VISTA, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, 202-254-5195.

SUPPLEMENTARY INFORMATION:

The following textual changes are being made in the *VISTA Guidance Papers* in order to:

(1) State more clearly the VISTA mission, and

(2) Give more precise programmatic guidance to ACTION field staff, VISTA Volunteers and sponsors, and the general public at large.

The changes are as follows:

(1) Page 11, paragraph 1 presently reads:

"VISTA Volunteers can serve a unique role in the effort against poverty by working to empower groups of low-income citizens so they can influence the decisions that affect their lives."

This sentence will be changed to read:

"VISTA Volunteers can serve a unique role in the effort against poverty by working to assist groups of low-income citizens develop the confidence and skills necessary to influence the decisions that affect their lives."

(2) Page 13, paragraph 2 presently reads:

"The Volunteers' roles should be ones of support. Under no circumstances should the Volunteers be providing a direct service unless it can be demonstrated that the service roles are an integral part of an overall organizing strategy which will lead to the empowerment of low-income people."

This will be changed to read:

"The Volunteers' roles should be ones of support. Under no circumstances should the Volunteers be providing a direct service unless it can be demonstrated that the service roles are an integral part of an overall organizing strategy which will lead to a more self-reliant low-income community."

(3) 14, paragraph 2, last sentence presently reads:

"It is also based on the belief that the problems of poverty will be ameliorated when, and only when, the poor develop the capacity to help themselves."

This sentence will be changed to read:

"Also, it is based on the belief that the problems of proverty will be ameliorated when, and only when, the poor develop the capacity to help themselves."

(4) Page 20, paragraph 2 under *"Must Priority Preference Be Given to Citizen Participation and Advocacy Organizations?"* delete the last sentence that reads "Public agencies should be considered sponsors of the last resort." Presently the full paragraph reads as follows:

"Because VISTA is attempting to accomplish its legislative mandate through the support of citizen participation and advocacy organizations, priority preference must be given to projects in compliance with VISTA criteria which are sponsored by such organizations. The second priority should be given to service or public interest organizations that submit projects which support citizen participation organization building efforts. Public agencies should be considered sponsors of the last resort."

Reason for deletion: VISTA does not want to create the erroneous impression that public agencies are precluded from requesting resources of the VISTA program.

(5) Page 21, second paragraph add:

What Are Prohibited Activities For Volunteers And Sponsors?

(A) VISTA Volunteers are prohibited by law from participating in:

(1) partisan and non-partisan political activities, including voter registration activities;

(2) lobbying;

(3) labor and anti-labor related activities.

(B) VISTA sponsors are prohibited by law from:

(1) carrying out projects resulting in the identification of such projects with partisan and non-partisan political activities, including voter registration activities and providing voters with transportation to the polls.

(2) assigning Volunteers to activities which would result in the displacement of employed workers.

(6) Page 29, the paragraph titled *Resource Allocation* will be deleted. Presently the paragraph reads:

"The Resource Allocation plan to be implemented for FY 79 will be formulated at the point that the VISTA FY 79 budget is established."

Reason for deletion: the time has already passed for the formulation of the FY 79 budget.

(7) Page 34, second paragraph, the section titled *Implementation of New Criteria for Existing Sponsors* will be deleted. This text presently reads as follows:

(1) Notice.

(a) All existing sponsors will be notified of the new criteria as soon as they are published in the **Federal Register.** Sponsors will be told that their application for renewal will be reviewed in light of these new criteria, so that they may design their applications accordingly.

(b) All State Offices will review existing VISTA projects to determine whether they would be in compliance with new criteria if those criteria were applied to the project as currently constituted. Those that do not appear to comply will be notified of this fact with the reasons for non-complicance explained. Sponsors will be reminded that any new application for renewal must comply with the new criteria.

(2) Review of Continuation Applications.

(a) Sponsoring organizations whose Memoranda of Agreement are renewable after June 30, 1978, will be reviewed in light of new program criteria. If the application does not comply with the new criteria, the sponsor will be notified that ACTION intends to deny the application for renewal, and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with ACTION procedures. See 40 Fed. Reg. 23311, May 29, 1975.

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(b) Sponsoring organizations whose Memoranda of Agreement are renewable between April 1, 1978, and June 30, 1978.

(1) may be extended by State Directors for a reasonable amount of time (e.g., 3 months) to allow revision of the renewal proposal to conform with the new criteria, or

(2) may be renewed non-competitively if the State Program Director so desires, if the Regional Director concurs and if their proposal conforms to the new criteria, or

(3) may be extended or renewed for one year under the old criteria to allow orderly transition if:

(a) the State Program Director is satisfied with the program performance in the past year, and s/he believes the proposal conforms to the old criteria and the Regional Director concurs, and

(b) the extension or renewal is necessary to insure that the organization has the opportunity for orderly transition to continuance without VISTA Volunteers or to completion of the project, and

(c) the sponsoring organization is clearly informed in writing that under no circumstances can the VISTA project continue after that period without submission of a new proposal conforming to the new criteria that is chosen under the competitive procedures that have been outlined. Those applications submitted by sponsors under the extension referred to in (a) above will be reviewed according to the new criteria. If the application does not comply with the new criteria, the sponsor will be notified that ACTION intends to deny the application for renewal, and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with ACTION procedures. See 40 FR 23311, May 29, 1975.

(c) Technical assistance will be given by National, Regional and ACTION State staffs to sponsors who are denied renewal but have been granted an extension to enable the sponsors to make an orderly transition to a system of providing services which is not dependent on the use of VISTA Volunteers.

(d) By July 1, 1979, all VISTA projects will be in compliance with these criteria.

Reason for deletion: the time frames have elapsed for implementation of specific action stated in the text.

VISTA Guidance Papers

1. VISTA Philosophy of Project Selection
2. Explanation of VISTA Philosophy of Project Selection
3. Criteria for Selecting VISTA Sponsors
4. Additional Project Selection Factors
5. VISTA Program Implementation Procedures

VISTA Philosophy of Project Selection

VISTA Volunteers can serve a unique role in the effort against poverty by working to assist groups of low-income citizens develop the confidence and skills necessary to influence the decisions that affect their lives.

Low-income people should participate in making the decisions that determine the kinds of services offered in their neighborhoods; for example, the education received by their children, the location and kinds of health care facilities, the location of highways and other public improvement, the amount and form of assistance offered, the kind and location of housing developed as well as many other decisions that are too often made for the poor by the rest of us.

Successful citizen-participation organization will result in the increased access of low-income people to decision making through cooperative efforts with established public and private institutions, or through the creation of new mechanisms for the participation of low-income people in the decision making processes which affect their lives. The net result will be improved conditions for the poor through the more effective deployment of public and private resources designed to relieve poverty.

Technique to be Utilized

The best way to accomplish the central purpose of the VISTA program is to assure that VISTA projects have as their method of attacking poverty the organization of low-income people to bring long term benefits to themselves and their communities through their own collective efforts.

People must be organized into effective groups so they may increase the strength of their voice as they advocate for their interests.

Basic Test of Project Selection

The test, then, for selecting a project for placement of VISTA Volunteers, is whether that placement will lead to an increased voice for low-income people in the decision-making processes which affect their lives.

How projects do this will differ from project to project and from community to community as will the exact nature of the Volunteers' activities; however, with rare exceptions, the following elements should be present.

(1) The sponsoring agency should be grassroots (i.e., controlled and operated by those to be served). If it is not, the project should lead to the building or strengthening of a grassroots organization or advocacy system.

(2) The Volunteers' roles should be ones of support. Under no circumstances should the Volunteers be providing a direct service unless it can be demonstrated that the service roles are an integral part of an overall organizing strategy which will lead to a more self-reliant low-income community.

Other Elements in Project

Some additional elements that will enhance the probability of success of the VISTA program should be borne in mind:

(1) Low-income people can increase their impact by combining their efforts with others who have a common interest in specific objectives toward which a resultant coalition can strive.

(2) Projects which would benefit the poor only insofar as they are members of the general population or whose objectives would benefit low-income people only through a trickle down effect should not be approved.

(3) VISTA Volunteers' work should be so arranged that they have some direct and personal contact with members of the low-income population their project is designed to serve.

Explanation of VISTA Philosophy of Project Selection

The new direction of VISTA has as its purpose assisting the poor to break the bonds of dependency. It reflects a firm belief in the democratic principles upon which our system of government is based and the willingness of people to help each other and themselves. Also, it is based on the belief that the problems of poverty will be ameliorated when, and only when, the poor develop the capacity to help themselves.

The new direction of VISTA is simply a reaffirmation of the VISTA mission and the principles which led to its creation. The Handbook for VISTA Sponsors states that, "It is central to VISTA's mission that projects of Sponsoring Organizations utilizing VISTA Volunteers contribute to the creation of more self-reliant communities by developing in and among the poor the capability for leadership, problem-solving and active participation in the decision-making processes which affect their lives."

How VISTA Resources Will be Used

In determining how VISTA resources should be used, the following was taken into consideration:

(1) VISTA will always be limited by the availability of funds. The program is not designed to eradicate poverty but to strenghten and supplement on-going community efforts to do so.

(2) Most communities have access to resources (both human and financial) which could be applied towards alleviating the conditions of poverty.

(3) One of the Major problems faced by the poor is their lack of access to and information about available benefits, their rights and the mechanisms available to them through the democratic process to exercise their rights.

(4) Volunteers have the ability to develop and transfer information and skills to community leadership and residents in a manner which multiplies volunteer efforts through organization and, over time, obviates the need for a VISTA presence.

(5) In every community their exist people with leadership potential willing and able to work towards solutions to the problems which they and their neighbors are faced.

(6) Those in need of assistance must be involved in the decisions which determine the nature of the assistance which will be most effective.

Vista Will Support Citizen Participation Building Efforts and the Creation/Expansion of Advocacy Systems.

It has been decided that VISTA can achieve maximum impact by concentrating its resources in support of citizen participation organization building efforts and the creation/expansion of advocacy systems. In doing so, VISTA will be:

(1) supporting the efforts of those in need of assistance to involve themselves in the decision making processes which affect their lives by

(2) transferring information and skills to community residents in a manner which develops their leadership potential and

(3) multiplying their efforts to work through the democratic process to gain access to resources (both human and financial) available to their communities to meet their basic human needs and alleviate the conditions of poverty.

What is Citizen Participation Organization?

Citizen participation organization takes many forms. Included in our definition of the term is any group which has banded together in order to find and implement solutions to the problems with which its members are faced. Therefore, a group of farmers who have formed an agricultural cooperative is a citizen participation organization as is a community or neighborhood organization, an advocacy group of the consumers for whom advocacy is needed, a Parent Teachers Association, etc.

A citizen participation organization does not have to be comprised solely of the recipients of the benefits to accrue as a result of the organization having been formed. However, people who benefit directly must be prominently involved in the decision making processes which determine the organization's priorities and day to day activities.

What Does Support Citizen Participation Organization Building Efforts Mean?

Any project which directly contributes to the building or strengthening of a citizen participation organization supports that effort. Citizen participation organizations need many things in order to grow. They need members. They need money to support their operations. They need management skills. They need information about the resources available to accomplish their goals and objectives. They need legal assistance. Many need to be able to provide a direct service to their members. What an organization needs changes as the organization changes and as its leadership and membership grow and increase their skills.

The Role of the Volunteer

VISTA is and will become what Volunteers make it through their commitment and by their accomplishments. Under the new VISTA direction, it is expected that Volunteers will function as fundraisers, lawyers, neighborhood organizers, researchers, accountants * * * The list goes on forever.

It is the diversity of the VISTA resource—the Volunteer—that makes VISTA and other volunteer programs unique and valuable. Poor communities have always needed a myriad of skills to supplement their efforts. This has not changed nor is it likely to change. What has changed is that in deciding whether or not to approve a project, the ACTION staff must ask themselves whether or not it will lead to a greater voice for the poor in the decision making processes which affect their lives.

If, in the judgment of the appropriate ACTION personnel, activity does support such an effort and the project is among the best being considered, the project should be approved. If the project does not, it should be disapproved.

Sponsor Selection

May a Service or Public Interest Organization Sponsor a VISTA Project?

If a project sponsored by a service or public interest organization supports a citizen participation organization effort, it can and should be approved.

For example, the Legal Services Corporation is essentially a service organization; however, it is capable of providing a service to organizations as well as to individuals on a one-to-one basis. A legal services project requesting a VISTA lawyer to handle a caseload would not be in compliance with the new VISTA criteria. However, a legal services project requesting a VISTA lawyer to assist low-income groups to incorporate, to research a class action which would support the activities of a low-income organization, etc., would be in compliance.

May a Public Agency Sponsor a VISTA Project?

A public agency may sponsor a VISTA project assuming that the project is in compliance with VISTA criteria (i.e., leads to the increased voice of the poor in the decision making processes which affect their lives). However, under no circumstances can VISTA resources be used to perform a task which could be considered staff work. In other words, a VISTA Volunteer cannot be a librarian; however, a VISTA Volunteer could be used to mobilized resources to be used to create a library if the creation of that library would lead to greater community self-sufficiency.

Must Priority Preference be Given to Citizen Participation and Advocacy Organizations?

Because VISTA is attempting to accomplish its legislative mandate through the support of citizen participation and advocacy organizations, priority preference must be given to projects in compliance with VISTA criteria which are sponsored by such organization. The second priority should be given to service or public interest organizations that submit projects which support citizen participation organization building efforts.

Under no circumstances should a weak project with little chance of success be given preference because of the nature of the sponsoring organization. By the same token, no project should be rejected because it is risky if it has a reasonable chance of success. ACTION staff has the expertise necessary to assist grassroots sponsors develop quality projects. It can be said that priority preference has been given only when, to the extent possible, ACTION has attempted to assist grassroots organizations develop projects which we can reasonably expect to approve.

What are Prohibited Activities for Volunteers and Sponsors?

(A) VISTA Volunteers are prohibited by law from participating in:

(1) partisan and non-partisan political activities, including voter registration activities;

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(2) lobbying;
(3) labor and anti-labor related activities.

(b) VISTA sponsors are prohibited by law from:

(1) carrying out projects resulting in the indentification of such projects with partisan and non-partisan political activities, including voter registration activities and providing voters with transportation to the polls.

May Volunteers Perform a Direct Service?

A VISTA Volunteer can perform a direct service if the provision of that service is part of an overall organizing strategy *and* if it is clearly demonstrated that the service, once established, can be supported without VISTA resources or will not need to continue. Under no circumstances, however, can a Volunteer perform a direct service for the sake of service (i.e., the end goal is to provide a service).

For example, VISTA Headquarters approved a project which stated that the sponsoring organization wanted to organize a group of low-income women so that they could find solutions to the problems with which they were faced. They went on to state that the women were frightened and that the only way to bring them together was by providing a service. The service they wanted to provide—helping the women earn their high school equivalency diploma. The organization wanted Volunteers to tutor the women.

The materials to be used in the equivalency program would provide the women with information which directly affected their lives. The discussions would be geared around the problems with which the women were faced and how those problems could be solved. At the end of the year, the women tutored will be ready to take the high school equivalency examination *and* will have formed an organization in order to deal with neighborhood issues.

VISTA Headquarters disapproved a second project which requested Volunteers to tutor in a high school equivalency program. The sponsor stated that it needed to provide a service to the low-income residents of their community. The Board of Education had refused their request for a teacher; therefore, they turned to VISTA. Although the Volunteer tasks were similar—almost identical—to those to be performed for the first sponsor, this sponsor's goal—the reason the Volunteers were to perform the tasks—was radically different.

In the first project, the goal was to create an organization. The project's success or failure will be determined by whether or not an organization has been formed and the women tutored were working to identify and find solutions to neighborhood problems. If the project is successful, VISTA has helped to impact on a problem—a group of women who were frightened are organized to deal with neighborhood problems. If the organization is successful, VISTA has helped the women's community, albeit indirectly—neighborhood problems will be identified and solved.

In the second project, the goal was to decrease the number of people who did not have high school diplomas (i.e., to provide a service). There was no information to indicate that the number of high school dropouts was static; therefore, it must be assumed that each year more students dropped out of high school. There was no plan articulated to impact on the problem—decrease the high school dropout rate—nor was there any plan articulated to institutionalize the service to be provided either through the Board of Education or the community center thereby making it possible to deal with the condition (i.e., poor people without high school diplomas) over time without VISTA resources.

The success or failure of the second project, therefore, would be determined by whether or not a number of high school dropouts were tutored by VISTA Volunteers. There is every reason to believe that there will be an equal number of people in need of the service the following and subsequent years. There is every reason to expect that VISTA Volunteers will be needed to perform the service again and again and again.

VISTA through its presence has not helped to impact on the problem (the high school dropout rate) nor has it helped the community develop a permanent method for dealing with the condition (the number of poor people without high school diplomas) resulting from the problem.

Direct Service Makes an Important Contribution

VISTA believes that the provision of direct one-on-one service is important and vital. Poor people need help NOW and will suffer if that help is not provided. However, the provision of a direct service rarely leads to change and, in many instances, increases feelings of dependency and powerlessness.

If VISTA resources are used to increase a citizen participation organization's capability to find solutions to the problems of its membership, service will be provided and the poor people involved will develop a sense of their worth and their ability to find their own solutions. Their dependency will decrease, our resources can be withdrawn eventually without noticeable effects and our limited work years can be used to help more and more communities reach self-sufficiency.

Criteria For Selecting VISTA Sponsors

The criteria listed below are to be used by ACTION staff in the selection of VISTA sponsors. All of the elements stated must be found in the applicant sponsor's proposed project.

A VISTA sponsor will manage a project which is poverty oriented in scope and mission. Such a project must:

(1) Have as a method of attacking poverty and poverty related problems:

(a) the organization of low-income community residents to bring long term benefits to the community through their own collective efforts or the establishment of a grassroots advocacy system; or

(b) supporting the efforts of a low-income citizen participation or grassroots advocacy organization(s).

(2) Have as a long term effect:

(a) increasing access of poor people to decision making through cooperative efforts with existing public or private institutions; or

(b) the creation of new mechanisms, where none currently exist, for participation of poor people in the decision making processes which affect their lives.

(3) Show that the goals, objectives and Volunteer tasks are attainable within the time-frame during which the Volunteers will be working on the project and will produce a measurable result.

(4) Make reasonable efforts to recruit and involve low-income community residents in the sponsoring organization and develop their leadership skills.

(5) Provided frequent and effective supervision of the Volunteers and have the management capability to carry out the project.

(6) Identify resources needed and make them available for Volunteers to perform their tasks.

(7) Comply with ACTION legislation, policies and procedures established for the management of the VISTA program.

Additional Factors To Consider in Selecting Sponsors

These additional factors may be used in choosing between applicant sponsors who equally meet all the required sponsor selection criteria.

(1) How important is the proposed project to the target community? Who will benefit from the project?

(2) Does the project show evidence of skillful and careful planning to attain project goals?

(3) Did the sponsor answer preliminary inquiry questions with specificity or somewhat vaguely?

(4) Has the sponsor's leadership been tested in the community?

(5) What are the *strengths* of the people who *want* the project and of those who *oppose* the project?

(6) What are the *weaknesses* of the people who *want* the project and of those who *oppose* the project?

(7) Does the sponsor have good administrative systems?

(8) Sponsor's staff:

(a) Do they have experience in building an organization?

(b) Are they enthusiastic about the proposed VISTA project?

(c) What are the procedures for on-the-job training of the staff?

(d) What kind of supervision do staff members get?

(e) What are the procedures for staff accountability?

(9) Does the sponsor have the *ability* and a *plan* to develop leadership among members of the target community?

(10) Are a large number of people willing to get *involved* in the project? Are they willing to give money to support the project?

(11) Is an organization being built with the proposed project?

(12) How successful has the sponsor been in the past in winning and/or securing major changes or benefits for the target community?

(13) What is the future of the organization? Where does it want to be, for example, two years from now?

(14) How many Volunteers are being requested? Is proposal for one VISTA of such great worth to make development worthwhile?

VISTA Program Implementation Procedures

Project Approval Process

In order to assure all potential sponsors equal consideration, the VISTA project approval process for new projects will be changed. The procedures listed below are to be followed regardless of where project approval rests.

Until such time as new VISTA application forms are designed and approved by OMB, the Preliminary Inquiry form referred to below is ACTION Form (A–563) and Judgment Document is the ACTION Project Narrative (A–566).

As of this date:

(1) When a potential sponsor contacts an ACTION State Office to apply for VISTA resources:

(a) The State Office will send the sponsor a preliminary inquiry form and instruction booklet (to be developed).

(b) Those projects which appear to the State Director to be in compliance with VISTA guidelines on the basis of the preliminary inquiry should be sent a Judgment Document.

(c) Those projects which appear to the State Director to be out of compliance should be notified in writing that their project does not appear to be in compliance with VISTA guidelines and the specific guidelines with which the project does not comply should be identified.

(2) Returned judgment documents should be reviewed by the State Director as they are received and should be perfected by the potential sponsoring organization with the advice/assistance of the State Program Staff.

(a) Potential projects which appear to the State Director to be out of compliance with VISTA criteria should be disapproved and the sponsoring agency/organization should be notified as per #1(c) above.

(b) Potential projects that have been found to meet minimum VISTA criteria requirements should be scheduled for a second review to be held quarterly on the same day (to the extent practical) for all projects to be considered for placement of VISTAs in the coming quarter. This second review must be completed by the first day of the last month of the calendar quarter (i.e., June 1, September 1, December 1, March 1).

(3) Quarterly Programming Review—Decision Day. The decision as to which projects will be developed for placement of VISTAs in the coming quarter will be made at the second review of the "judgment documents" to be held by each state/district quarterly.

(a) Participating on Decision Day will be:

(1) The State Director and whoever s/he deems necessary from his/her staff.

(2) The Regional Director or his/her designee.

(b) The State Director will rank the judgment documents under consideration. Rank will be determined on the basis of how projects compare to each other as they are judged against both the VISTA criteria and the State programming strategy (e.g., rural/urban, human need sector, etc.).

(c) The State Director will decide which projects will be developed according to their rank and the number of training entries which can be placed during the coming quarter.

(d) If the Regional Director disagrees with the State Director's decision that a project is in compliance with VISTA policy, the Regional Director will attempt to resolve the issue with the State Director.

(e) If the disagreement cannot be resolved, the Regional Director will send a copy of the judgment document and his/her reasons for disagreeing with the State Director's decision to VISTA headquarters. Based upon the document, the Regional Director's written comments and discussions with the Regional and State Directors, the Director of VISTA will decide if the project is in compliance with VISTA criteria.

(f) If the Regional Director fails to notify the Director of VISTA of the disagreement within 15 working days of judgment day, the decision of the State Director will stand.

(4) List of all Projects Reviewed During Quarter. A list must be compiled by the State Office of all judgment documents reviewed during the quarter indicating whether the project was approved or disapproved. Specific reasons are to be given for the decisions made. A copy of this list is to be sent to VISTA headquarters no later than three weeks after project approval decisions have been made. A form to facilitate this process will be developed.

(5) A copy of each approved judgment document and all necessary additional documents (e.g., Memorandum of Understanding) are to be forwarded to the Regional Director to be reviewed for technical compliance (i.e., all necessary documentation is present and in good order, legal sufficiency).

(6) The Regional Office will forward the documents to VISTA headquarters at the point that the project documentation is complete and correct in the opinion of the Regional Director.

Change in Quarterly Review Schedule

If, in the opinion of the State and Regional Directors, work load considerations in a State or Region necessitate a project approval schedule other than that cited above, they may change it by submitting, in writing, an alternative schedule.

Project Criteria Waiver

A State Director may request a waiver of specific VISTA guidelines from the Director of VISTA through the Regional Director when, in his-her judgment, the special needs of a particular community or group (e.g., Indians, migrants, isolated rural communities) necessitate such a waiver. The request must be submitted in writing prior to the approval of any project. The request must include a description of the community or group, the special circumstances which make the waiver necessary, the guidelines which will be used in judging

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preliminaries submitted and the Regional Director's recommendation to the Director of VISTA. The Director of VISTA will respond to such requests to the State Director through the Regional Director within ten (10) working days of receipt. If the Director does not respond to such requests within ten (10) working days, the requests may be assumed to be approved.

Approval of Continuation Application

(1) When a project which was approved on the basis of the criteria is submitted for renewal for a second and third year, a State Director may approve the renewal application non-competitively (i.e., New Project Approval procedures 3(a) through 3(c) above need not be followed) if the State Program Director is satisfied with the project's performance during the past year and the Regional Director concurs.

(2) If the Regional Director disagrees with the State Director's decision to renew a project, the Regional Director will attempt to resolve the issue with the State Director.

(3) Repeat Project Approval Process 3(e).

(4) Repeat Project Approval Process 3(f).

(5) When a project is submitted for renewal for a fourth year, it must be judged competitively (i.e., see Project Approval Process for New Projects).

Dated: August 31, 1979.

Sam Brown,

Director.

[FR Doc. 79-28047 Filed 9-7-79; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

National Forest System Advisory Committee; Meeting

The National Forest System Advisory Committee will meet at Charles Lathrop Pack Forest of the College of Forest Resources, University of Washington, Eatonville, Washington, at 8:00 a.m., October 9–11, 1979.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. The portion of the meeting scheduled for October 9 will be devoted to a field trip on the Gifford Pinchot National Forest. On October 10 and 11, the Committee will discuss and develop Committee positions on harvest scheduling, energy production potential, and environmental impacts of energy development. Dr. M. Rupert Cutler, Assistant Secretary for Natural Resources and Environment, will chair the meeting.

The meeting will be open to the public. Persons who wish to attend should notify Thomas C. Nelson, Deputy Chief, National Forest System, USDA-Forest Service, P.O. Box 2417, Room 3021–S, Washington, D.C. 20013, telephone (202) 447–6341. Written statements may be filed with the Committee before or after the meeting.

Jerome A. Miles,

Deputy Chief.

[FR Doc. 79-28042 Filed 9-7-79; 8:45 am]

BILLING CODE 3410-11-M

Southwest Region Land and Resource Management Plan; Intent To Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement for the Southwestern Region Land and Resource Management Plan.

The Southwestern Region Land and Resource Management Plan will evaluate alternative allocations of output targets, funding levels, and management standards for the National Forests in Arizona, New Mexico, and some of the National Grasslands in Western Oklahoma, and Texas in accordance with Secretary's Regulations for Land and Resource Management Planning. Allocations will be based on the Southwestern Region's assigned portion of the selected National RPA Program, local issues and concerns, and the capability and efficiency of individual National Forests.

A series of scoping meetings and public meetings will be held to identify issues, management concerns, and development opportunities which will be addressed in the Plan and to discuss the criteria which will be used to choose an alternative plan.

Scoping meetings will be held with Federal, State, and local governmental agencies as follows:

Date, Place, and Purpose

September 18, 1979, Sweeney Conv. Center, Santa Fe, New Mexico, 1:30–3:30 p.m. Introduction to process and purpose.
September 19, 1979, State Offices, Santa Fe, N.M. (Federal Agencies) (State Agencies).
September 20, 1979, Desert Hills Motel, Phoenix, Arizona, 1:30–3:30 p.m. Introduction to process and purpose.
October 9, 1979, Sweeney Conv. Center, Santa Fe, New Mexico, 1:30–3:30 p.m. Identify issues, concerns, opportunities, critera.
October 11, 1979, Civic Plaza, Phoenix, Arizona, 1:30—3:30 p.m. Identify issues, concerns, opportunities, critera.

Public workshops will be held as follows:

Date, Place, and Purpose

October 16, 1979, Sheraton Old Town, Albuquerque, New Mexico, 7:00–9:00 p.m. Identify issues, concerns, opportunities, critera.
October 17, 1979, Howard Johnson Motel, Las Cruces, New Mexico, 7:00–9:00 p.m. Identify issues, concerns, opportunities, critera.
October 23, 1979, Desert Hills Motel, Phoenix, Arizona, 7:00–9:00 p.m. Identify issues, concerns, opportunities, critera.
October 24, 1979, Little America Mtr. Lodge, Flagstaff, Arizona, 7:00–9:00 p.m. Identify issues, concerns, opportunities, critera.
October 25, 1979, Marriott Hotel, Tucson, Arizona, 7:00–9:00 p.m. Identify issues, concerns, opportunities, critera.

The following time schedule will guide the planning process:

Time Period and Activity

Summer 1979: Identify preliminary issues, concerns, opportunities, and criteria.
Autumn 1979: Public input on issues, concerns, opportunities, and criteria. Analysis of present management situation.
Winter 1979–Spring 1980: Prepare Draft Environmental Statement—File June 1980.
Summer 1980: Public input on Draft Environmental Statement
Autumn 1980: Prepare Final Environmental Statement—File December 1980.

R. Max Peterson, Chief, Forest Service, is the responsible official for approval of the Plan. M. Jean Hassell, Regional Forester, Southwestern Region, is the responsible official for preparation of the Plan. James R. Crawford will be the team leader for the planning process and may be contacted for information and comments at 505–766–3630.

Written comments on issues, concerns, opportunities, and criteria must be received by December 14, 1979. The deadline for comments on the Draft Environmental Statement will be published when the Draft is filed. Comments should be sent to: M. Jean Hassell, Regional Forester, USDA—Forest Service, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.

Dated: September 4, 1979.

Philip L. Thornton,

Deputy Chief.

[FR Doc. 79-28029 Filed 9-7-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

August 31, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 6, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 33985, from U.S. Airways, Inc., P.O. Box 812, Willow Run Airport, Ypsilanti, Michigan 48197 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before October 1, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28058 Filed 9-7-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 32485]

Baltimore/Washington-St. Louis Route Proceeding; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 26, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, *on or before September 19, 1979*, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., September 5, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28060 Filed 9-7-79; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended August 31, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Aug. 29, 1979	36470	Sea Airmotive, Inc., c/o Thomas R. Howell, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Application of Sea Airmotive, Inc. pursuant to Section 401 of the Act requesting certification over those routes which now serves as an taxi and intrastate carrier, that is, authority to engage in scheduled air transportation of persons, property, and mail on a permissive basis as follows: A. Between Deadhorse, Nuiqsut and Barrow; B. Between Akiachak, Akiak, Bethel, Kwethluk, Napakiak or Napaskiak; C. Between the terminal points of Bethel and kwethluk with Akiachak, Akiak, Kwethluk, Napakiak, Napaskiak and Tuluksak authorized to be served as intermediate points; D. Between the terminal points of Bethel and Kasigluk, with Akolmiut, Kasigluk, Napakiak, Napaskiak and Nunapitchuk authorized to be served as intermediate points; E. Between the terminal points of Bethel and Tuntutuliak, with Eek, Napakiak, Napaskiak and Tuntutuliak authorized to be served as intermediate points; F. Between the terminal points of Bethel and Hooper Bay, with Akolmiut, Cape Ramanzof, Chevak, Hooper Bay, Kasigluk, Newtok, Nunapitchuk and Scammon Bay authorized to be served as intermediate points; G. Between the terminal points of Bethel and Toksook Bay, with Mekoryuk, Newtok, Toksook Bay and Tununak authorized to be served as intermediate points; H. Between the terminal points of Bethel and Kipnuk, with Chefornak, Kipnuk, Napaskiak and Tuntutuliak authorized to be served as intermediate points; I. Between the terminal points of Bethel and Kipnuk, with Kipnuk, Kongiganak, Kwigillingok, Napakiak, Napaskiak and Tuntutuliak authorized to be served as intermediate points; J. Between the terminal points of Bethel and Quinhagak, with Cape Newenham, Eek, Goodnews Bay, Napaskiak, Platinum and Quinhagak authorized to be served as intermediate points; K. Between Anchorage and Bethel; L. Between Anchorage and Bethel via the intermediate point Aniak; M. Between Anchorage, St. Mary's and Aniak; and N. Between Bethel, Kalskag, Aniak, Arwik, Grayling, Holy Cross and Shageluk. Conforming applications and answers are due September 25, 1979.
August 29, 1979	36485	Air Pacific Limited, c/o Thomas J. Whalen, 1001 Connecticut Avenue NW., Washington, D.C. 20036. Application of Air Pacific Limited pursuant to section 402 of the Act requesting renewal and reissuance of its Foreign Air Carrier Permit which currently authorizes it to engage in the foreign air transportation of persons, property and mail as follows: Between a point or points in the Dominion of Fiji, the intermediate points Funafuti, the Ellice Islands, and Tarawa, the Gilbert Islands; and the terminal point Majuro, the Marshall Islands, United States Trust Territory; Between a point or points in the Dominion of Fiji and the terminal point Pago Pago, American Samoa. Applicant requests in addition that its permit be amended to authorize it to engage in the foreign air transportation of persons, property and mail as follows: 1. Between a point or points in Fiji, the intermediate points Funafuti, Tuvalu, and Tarawa, Kribati, and the terminal point Majuro, the Marshall Islands, United States Trust Territory; 2. Between a point or points in Fiji; to Honolulu and beyond to Portland, Oregon; Seattle, Washington; Oakland, California; and Denver, Colorado and beyond to a point or points in Canada; 3. Between a point or points in Fiji; via intermediate points in South Pacific Commission to Guam and beyond to a point or points in Japan; 4. Between a point or points in Fiji; via intermediate points in South Pacific Commission and a point or points in Western Samoa, to Pago, Pago, American Samoa; and beyond via intermediate points in South Pacific Commission and a point or points in Western Samoa, to Tahiti. Points on any of the above routes may be omitted. Answers shall be filed September 26, 1979.
August 31, 1979	36507	Allegheny Airlines, Inc., Washington National Airport, Washington, D.C. 20001. Application of Allegheny Airlines, Inc. pursuant to section 401 of the Act and Part 201 of the Economic Regulations of the Board requesting amendment of its certificate of public convenience and necessity for Route 97–F so as to authorize it to engage in scheduled nonstop air transportation of persons, property and mail between Pittsburgh, Pennsylvania, and Toronto, Canada, by amending its certificate for Route 97–F to include a new segment as follows: "Between the terminal point Pittsburgh, Pennsylvania, and the terminal point Toronto, Canada." Answers may be filed by September 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28061 Filed 9-7-79; 8:45 am]

BILLING CODE 6320-01-M

V 44 / 176

[Order 79-8-184; Docket 31290]

Establishment of the Interim Standard Industry Fare Level; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August, 1979.

By Order 79-8-96, the Board established its interim Standard Industry Fare Level (SIFL) reflecting the Airline Deregulation Act of 1978 (ADA), Public Law 95-504. In summary, the ADA set deadlines and policies for deregulation of the economic aspects of interstate air transportaion, culminating, among other things, with the dissolution of the Board's discretion to prescribe fares in domestic and overseas markets. The Board must compute a "standard industry fare level" based upon the fare level in effect on July 1, 1977, and periodically update the SIFL by increasing or decreasing it by the percentage change in operating costs per available seat mile (ASM) for interstate once overseas transportation combined. Once computed, the SIFL becomes the benchmark for measuring the statutory zone of reasonableness. Effective July 1, the Board established its SIFL about 6.6 percent above the then current fare level.

It became clear thereafter that the 51 cents per gallon fuel cost projected for August 15, 1979 was understated. However, we rebuffed several attempts to increase the SIFL for a number of reasons. First, we believe, and continue to do so, that the SIFL is a short run projection which should not be subject to rolling changes because one or more of the input estimates is off the market. That is the nature of estimates; they will sometimes be too high and sometimes too low but, over the long run, tend to balance out. Second, the SIFL is a price leader which facilitates intra-industry price coordination and frequent changes should be avoided. Finally, we have believed that misestimates in the SIFL (in any direction) could be accommodated by carriers through the ample fare flexibility provided by the Deregulation Act and PS-80. We have not, therefore, wished to diverge from our announced intention of revising the SIFL as of October 1, for a two month period, based on the latest 4 months of reported fuel data. (Order 79-7-190).

However, July fuel costs are now available and indicate the largest increase in average price of fuel per gallon so far this year—up 6.51 cents per gallon over June to 59 cents. We can no longer assume that carrier fare flexibility can accommodate the under projection of fuel costs in the current SIFL (51 cents as of August 15). To the contrary, any further increase in fuel prices—and data reported to us suggests that there will be some—will make this a practical impossibility. Consequently, we believe a revised SIFL to reflect the rapid escalation of fuel prices is warranted immediately.[1] We take some comfort from the fact that the unheralded nature of this change in position will tend to discourage industry price coordination, and should avoid the necessity of an even larger increase in the SIFL which would otherwise occur on October 1.

Applying our methodology to calendar year 1978 financial data and July fuel costs, with fuel projected to October 1, 1979 at the rate of 4.36 cents per gallon increase each month, raises the SIFL about 9.5 percent over the level effective July 1, 1979. (See Appendix [2])

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 1002;

We set the Standard Industry Fare Level effective on September 1, 1979 as follows:

Terminal charge: $2173: Plus 0.1189/mile (0-500 miles); plus .0906/mile (501-1,500 miles); plus .0871/mile (over 1,500 miles.)

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member O'Melia who filed the attached concurring and dissenting statement.

[1] Trunk and local service carrier scheduled service fuel price.

	Price (cents)	Change from previous month (cents)
Month:		
April	46.19	4.65
May	49.70	3.51
June	52.49	2.77
July	59.00	6.51

Our latest methodology projects the average change in price over the last four months to the chosen future date, then adds the projected change to the current fuel price. In this case we projected an average increase of 4.36 cents per month for two and one-half months (to October 1), then added this 10.9 cent increase to the July price—projecting a 69.90 cent per gallon cost on October 1.

[2] Appendix filed as part of the original document.

O'Melia, Member, Concurring and Dissenting:

I agree with the Board's decision to adjust the standard industry fare level to reflect current industry fuel prices. However, as I have said before in my dissenting statements in Orders 79-8-20 and 79-7-190, I do not agree with the majority's recent reliance on the upward fare flexibility zone, provided by Congress in the Airline Deregulation Act, to cover industry cost increases that exceed the levels implicit in the current standard industry fare level. The recent amendments of the Act provide that the standard industry fare level shall be based on carrier costs, *without adjustment.* The Board's failure to take action in the face of experienced industry fuel costs far higher than the level forecast in the current standard industry fare level has clearly violated that provision of the new Act. As a result the carriers have been denied fare increases to which they are entitled under the specific terms of the Act

Richard J. O'Melia.

[FR Doc. 79-28050 Filed 9-7-79; 8:45 am]

BILLING CODE 6320-01-M

Frontier Arilines, et al.; Profit-Sharing Refunds

AGENCY: Civil Aeronautics Board

ACTION: Summary of Order 79-8-188 redetermining certain refunds for three carriers pursuant to the provisions of Class Rate III.

SUMMARY: The Board has adopted an order redetermining downward the profit-sharing refunds due from Frontier Airlines, Lake Central Airlines, and Mohawk Airlines for calendar years 1964 and 1965 pursuant to the provisions of Class Rate III, which was in effect at that time for the local service carriers. This redeterminination was necessitated by statutory provisions contained in the Airline Deregulation Act of 1978, which amended the Federal Aviation Act of 1958 in several significant areas, requiring the Board to ignore tax loss carrybacks from subsequent years in determining the profit-sharing refunds of carriers for 1964 and 1965. Since the profit-sharing refunds due from the three carriers were originally paid many years ago, the practical effect of this order is to return $1,154,149 to USAir (formerly Allegheny Airlines), as the successor to both Lake Central and Mohawk, and $873,266 to Frontier.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James M. Craun, Jr., Bureau of Domestic Aviation, Civil Aeronatutics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5368.

The complete text of Order 79-8-188 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons out side the metropolitan area may send a postcard request for Order 79-8-188 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 31, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28058 Filed 9-7-79; 8:45 am]

BILLING CODE 6320-01

COMMUNITY SERVICES ADMINISTRATION

Notice of Decision to Fund Seven Conduit Farmworker Community Food and Nutrition Programs (CFNP) Operating in Every State Except Hawaii and Alaska

AGENCY: Community Services Administration.

ACTION: Notice to all Board of Directors of CAA(s) and SEOO(s).

SUMMARY: The Community Services Administration is notifying all Boards of Directors of Community Action Agencies (CAAs) and State Economic Opportunity Offices (SEOOS), in accordance with section 222(a) of the Economic Opportunity Act of 1964, as amended, that a decision by the Director has been made to fund seven conduit farmworker Community Food and Nutrition Programs (CFNP) operating in every state except Hawaii and Alaska.

Grants are being awarded to the following organizations for operation in the following states: the Idaho Migrant Council (serving: Idaho, Oregon, Washington, Utah, Colorado, Montana and Wyoming); Minnesota Migrant Council (serving: Illinois, Indiana, Missouri, Michigan, Nebraska, Minnesota, Ohio, North Dakota, South Dakota, Wisconsin, Iowa and Kansas); Rural New York (serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York, Delaware and Pennsylvania); Campesinos Unidos (serving: California, Nevada and Arizona); Colonias Del Valle (serving: New Mexico, Oklahoma, Arkansas and Texas); Florida Farmworkers Council (serving: Florida); and, Migrant Seasonal Farmworkers Association, Inc. (serving: Alabama, Mississippi, Georgia, Louisiana, West Virginia, Tennessee, South Carolina, Maryland, Virginia and North Carolina). These organizations will engage in the following CFNP program categories: access, self-help projects, nutrition and consumer education, and crisis relief.

EFFECTIVE DATE: This notice becomes effective September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Eduardo Gutierrez, 202-254-6310.

(Sec. 602, 78 Stat. 5301; 42 U.S.C. 2942).

Robert Smith,

Assistant Director, Office of Community Action.

[FR Doc. 79-27892 Filed 9-7-79; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Merchant Marine and Fisheries Capital Construction Funds; Applicable Rates of Interest on Nonqualified Withdrawals

Under the authority in section 607(h)(4) of the Merchant Marine Act, 1936, (46 U.S.C. 1101), as amended by section 21 of the Merchant Marine Act of 1970 (84 Stat. 1031), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any non-qualified withdrawals from a capital construction fund established under section 607 of the Act shall be 9.03 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1979.

The determination of the applicable rate of interest with respect to non-qualified withdrawals was computed according to the joint regulations issued under the Act (46 CFR Part 391, § 391.7(e)(2)(ii)) by multiplying 8 percent by the ratio which (a) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (b) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined was computed to the nearest one-hundredth of 1 percent.

Dated: August 31, 1979.

Samuel B. Nemirow,

Assistant Secretary for Maritime Affairs.

Richard A. Frank,

Administrator, National Oceanic and Atmospheric Administration.

Daniel I. Halperin,

Acting Assistant Secretary of the Treasury.

[FR Doc. 79-28109 Filed 9-7-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Council has established a Surf Clam/Ocean Quahog Resources Subpanel which will meet to discuss the Surf Clam/Ocean Quahog Fishery Management Plan and regulations.

DATES: The meetings will start at 10 a.m., and adjourn approximately at 4 p.m., on the following dates: September 28, 1979; October 26, 1979; November 30, 1979; January 25, 1980, and February 29, 1980. The meetings are open to the public.

ADDRESS: The meetings will take place at the Sheraton Inn, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, telephone: (302) 674-2331.

Dated: September 4, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-28116 Filed 9-7-79; 8:45 am]

BILLING CODE 3510-22-M

Michigan Coastal Management Program; Approval of Amendment

Notice is hereby given that the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA) has approved an amendment to the Michigan Coastal Management Program to include:

1. A planning process for all energy facilities likely to be located in, or which may significantly affect, the coastal zone, including but not limited to, a

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process for anticipating and managing the impacts from such facilities.

2. A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.

3. A planning process for (a) assessing the effects of shoreline erosion (however caused), and (b) studying and evaluating ways to control or lessen the impact of such erosion.

Notice of intent to approve these amendments was published in the **Federal Register** on April 12, 1979, and interested parties had until May 12, 1979, to comment. A full text of the proposed amendments was distributed to all Federal agencies. Interested parties wishing to obtain copies of the amendment may request copies from: Peter McAvoy, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Mirco P. Snidero,

Acting Assistant Administrator for Administration.

August 30, 1979.

[FR Doc. 79-28005 Filed 9-7-79; 8:45am]

BILLING CODE 3510-08-M

Wisconsin Coastal Management Program; Approval of Amendment

Notice is hereby given that the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA) has approved an amendment to the Wisconsin Coastal Management Program to include:

1. A planning process for all energy facilities likely to be located in, or which may significantly affect, the coastal zone, including but not limited to, a process for anticipating and managing the impacts from such facilities.

2. A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value.

3. A planning process for (a) assessing the effects of shoreline erosion (however caused), and (b) studying and evaluating ways to control or lessen the impact of such erosion.

Notice of intent to approve amendments was published in the **Federal Register** on April 12, 1979, and interested parties had until May 12, 1979, to comment. A full text of the proposed amendments was distributed to all Federal agencies. Interested parties wishing to obtain copies of the amendment may request copies from: Peter McAvoy, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

M. P. Snidero,

Acting Assistant Administrator for Administration.

August 30, 1979.

[FR Doc. 79-28006 Filed 9-7-79; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Level for Certain Cotton Apparel Products from Malaysia

September 4, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint for men's and boys' woven cotton shirts in Category 340, produced or manufactured in Malaysia and exported to the United States during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Paragraph 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia provides for designated percentage increases for certain categories (swing) during the agreement year which began on January 1, 1979. Paragraph 8(A)(I) provides for the carryover of shortfalls in certain categories from the previous agreement year (carryover). At the request of the Government of Malaysia, the level for Category 340 is being increased for swing and carryover from 228,317 dozen to 269,414 dozen during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (44 FR 930), which established the levels of restraint applicable to certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton textile products in Category 340 in excess of the amended twelve-month level of restraint.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 4, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: On December 17, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Malaysia and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on September 4, 1979, the level of restraint established for Category 340 in the directive of December 27, 1978 to 269,414 dozen.[2]

The action taken with respect to the Government of Malaysia and with respect to imports of cotton textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-28102 Filed 9-7-79; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint, including their sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Announcing Additional Import Controls on Certain Cotton Textile Products From Thailand

September 4, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton dresses in Category 336 at 22,075 dozen and women's, girls' and infants' woven cotton blouses in Category 341 at 98,848 dozen, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand, the United States Government has decided to control imports of cotton textile products in Categories 336 and 341, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated (See 44 FR 932). The level of restraint for Category 341 includes 4,325 dozen in carryover from the previous agreement year and 5,330 dozen in carryforward.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the **Federal Register** (44 FR 932) a letter dated December 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In accordance with the terms of the bilateral agreement, as amended, the United States Government has decided also to control imports of cotton textile products in Categories 336 and 341 during that same period.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 336 and 341 in excess of the designated levels of restraint.

The levels of restraint for Categories 336 and 341 have not been adjusted to account for any imports after December 31, 1978. Imports of 15,173 dozen in Category 336 and 57,582 dozen in Category 341 during the period which began on January 1, 1979 and extended through June 30, 1979 are being charged. As the data become available, further charges will be made for Categories 336 and 341 to account for imports during the period which began on July 1, 1979 and extends through the effective date of this directive.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 4, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand.

Under the terms of the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 10, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 336 and 341, produced or manufactured in Thailand, in excess of the following levels of restraint:

Category	12-month level of restraint [1]
336	22,075 doz.
341	98,848 doz.

[1] The levels of restraint for Categories 336 and 341 have not been adjusted to reflect any imports after December 31, 1978. Imports during the period which began on January 1, 1979 and extended through June 30, 1979 were 15,173 dozen in Category 336 and 57,582 dozen in Category 341.

Cotton textile products in Categories 336 and 341 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Cotton textile products in Categories 336 and 341 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Thailand and with respect to imports of cotton textile products from Thailand has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

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U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-28101 Filed 9-7-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463 notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 21-25 October 1979 at the Carolina Town House, Columbia, South Carolina, and Ft. Jackson, South Carolina.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the services. The committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

SUNDAY, 21 OCTOBER 1979, CAROLINA TOWN HOUSE
- 10:00 a.m.-4:00 p.m.—Registration
- To be determined—Executive Committee Meeting
- 6:00 p.m.—Cocktail/Buffet—"No Host"

MONDAY, 22 OCTOBER 1979, CAROLINA TOWN HOUSE
- 8:00 a.m.-12:00 noon—Registration
- 9:00 a.m.-10:00 a.m.—Official Opening
- 10:30 a.m.-11:30 a.m.—OSD Briefing
- 12:00 noon-1:30 p.m.—Luncheon (By invitation only)
- 1:30 p.m.-3:30 p.m.—OSD/Department of Justice Briefings
- 4:00 p.m.-5:30 p.m.—Subcommittee Meetings
- 7:00 p.m.-10:30 p.m.—Official Department of Defense Formal Reception and Dinner (By invitation only)

TUESDAY, 23 OCTOBER 1979, CAROLINA TOWN HOUSE
- 9:00 a.m.-12:00 noon—OSD/Service Briefings
- 12:00 noon-1:30 p.m.—Luncheon—"No Host"
- 1:30 p.m.-6:00 p.m.—Subcommittee Meetings

WEDNESDAY, 24 OCTOBER 1979, FORT JACKSON, SOUTH CAROLINA
- 5:15 a.m.-5:30 p.m.—One day field trip to the integrated training facilities at Ft. Jackson, hosted by the U.S. Army

THURSDAY, 25 OCTOBER 1979, CAROLINA TOWN HOUSE
- 8:00 a.m.-9:30 a.m.—Executive Committee and Military Representatives to DACOWITS Meeting.
- 10:00 a.m.-12:00 noon—Briefing/General Business Session. Presentations by members of the public.
- 12.00 noon—Adjourn.

Members of the public will not be permitted to go on the field trip or attend the social functions.

The following rules and regulations will govern the participation by members of the public at this meeting:

(1) All business sessions, to include Executive committee sessions, will be open to the public.

(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the committee during the meeting.

(3) Persons desiring to make an oral presentation or submit a written statement to the committee must notify Captain Mary J. Mayer, USAF, DACOWITS, Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D322, the Pentagon, Washington, D.C. 20301, (202) 697-5655/5656 by 10 October 1979.

(4) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(5) Oral presentations by members of the public will be permitted only from 10:45 a.m. to 11:15 a.m. on Thursday, 25 October 1979 before the full committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 40 copies of the presentation/statement by 10 October 1979.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into the oral discussion conducted by the committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by members of the committee.

(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, the Executive committee sessions, or the final general session on Thursday, 25 October 1979.

Additional information regarding the committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), the Pentagon, Washington, D.C. 20301.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters, Department of Defense.

September 5, 1979.

[FR Doc. 79-28100 Filed 9-7-79; 8:45 am]

BILLING CODE 3810-70-M

Privacy Act of 1974; Amendment to System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: System of records amendment.

SUMMARY: The Office of the Secretary of Defense, Department of Defense proposes to amend a system of records in its inventory of records subject to the Privacy Act of 1974. The Act requires that any changes to records systems must be published as a public notice for public comment.

DATES: This system shall be amended as proposed on October 10, 1979, without further notice unless comments are received on or before October 10, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Office of the Secretary of Defense, Room 5C-315, Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) Systems of Records Notices as prescribed by the Privacy Act of 1974 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 77-28255 (42 FR 50731) September 28, 1977.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-34821 (43 FR 58405) December 14, 1978.
FR Doc. 78-35943 (43 FR 60331) December 27, 1978.
FR Doc. 79-8786 (44 FR 17780) March 23, 1979.
FR Doc. 79-11351 (44 FR 22143) April 13, 1979.
FR Doc. 79-15267 (44 FR 28706) May 16, 1979.
FR Doc. 79-17755 (44 FR 32724) June 7, 1979.
FR Doc. 79-20389 (44 FR 38967) July 3, 1979.
FR Doc. 79-22906 (44 FR 43505) July 25, 1979.

The proposed changes are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention

to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975. Following the identification code of the OSD record system and the specific changes made therein, the complete revised record system, as amended, is published in its entirety.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

August 31, 1979.

DWHS BF01

System name:

Travel Files (43 FR 42417, September 20, 1978).

Changes:

System location:

In line one, delete the word "Branch", and insert: "Division".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insert the following before the first sentence, which begins with the word "Determination . . .".

"Internal users, uses, and purposes:".

Insert the following heading and entry before the heading which reads: *"Policies and practices . . .".*

"External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

System manager(s) and address:

In line one, delete the word "Branch", and insert: "Division".

Notification procedure:

In line two, delete the word "Branch", and insert "Division".

Record access procedures:

IN paragraph one, line two, and in paragraph three, line one, delete the word "Branch", and insert: "Division".

DWHS BF01

SYSTEM NAME:

Travel Files.

SYSTEM LOCATION:

Directorate for Budget and Finance, Travel Division, Washington Headquarters Service (WHS), Department of Defense (DoD), Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned to the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff who perform travel, includes military, civilian and WOC/WAE consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains copy of travel orders, paid travel claims, airline schedule and copy of Government Transportation Requests (GTRs) issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 136(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Internal users, uses, and purposes:

Determination of the costs of trips performed by OSD and OJCS personnel.

Find out if travelers have filed their vouchers after completion of trips.

Determine indebtedness to the Government if per diem payments do not liquidate travel advances.

Individuals assigned to OSD/OJCS components authorized to research files to collect appropriate data to fulfill missions of component.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine

Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual.

SAFEGUARDS:

Building employs security guards. Records kept in unlocked file cabinets.

RETENTION AND DISPOSAL:

Records maiantained by fiscal year, current and previous fiscal year on hand, subsequently retired to Washington National Records Center.

Disposal in accordance with OSD Administrative Instruction No. 15.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Travel Division, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Chief, Travel Division, Director for Budget and Finance, Washington Headquarters Services, Department of Defense, Room 3B279, Pentagon, Washington, D.C. 20301, Telephone: 202-697-1269.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Chief, Travel Division, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Room 3B279, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of individual with notarized signature; current address and telephone number, and include fiscal year of travel.

Visits are limited to Travel Division, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

For personal visits the individuals should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that can be verified with his folder.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administration Instruction No. 81.

RECORDS SOURCE CATEGORIES:

Travel orders, travel vouchers, airline schedules, copy of GTRs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-28093 Filed 9-7-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

United States and Thailand; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Thailand, and as authorized by the Taiwan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangements to be carried out under the above mentioned

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agreement involves approval of contractural arrangements under which DOE will consent to the assignment of portions of an uranium enrichment services contract held by Thailand involving approximately 165,000 separate work units, of which approximately 45,000 separative work units will be assigned to Kuosheng Unit 2 on Taiwan and approximately 120,000 separative work units will be assigned to a U.S. utility.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 5, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-28146 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Cincinnati Gas & Electric Co.; Petitions for Temporary Public Interest Exemptions

Decision and Order Granting Exemptions Pursuant To Section 311 of the Powerplant And Industrial Fuel Use Act of 1978; ERA Docket Nos. 50556-2831-21-41, 50556-2831-22-41, 50556-2831-23-41, 50556-2831-24-41, 50556-2831-25-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Cincinnati Gas and Electric Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on March 27, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the May 11, 1979, **Federal Register** (44 FR 27668) with a request for public comments relating to the petitions and the proposed order. No comments were received specifically addressing the Cincinnati Gas and Electric Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Dicks Creek (Monroe, Ohio)	CT 1	103,900	0.3
	CT 2	15,600	0.3
	CT 3	15,600	0.3
	CT 4	19,100	0.3
	CT 5	19,100	0.3

These powerplants will burn an estimated 944,050 MCF of natural gas annually which will result in an estimated displacement of 475 barrels of middle distillate fuel oil per day (173,300 barrels annually).

Statement of Reasons

Because petroleum products in general, and middle distillates in particular are in short supply, there is an ugent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6 these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C., on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion.

[FR Doc. 79-28016 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 50653-2500-03-41]

Consolidated Edison Co. of New York, Inc.; Petition for Temporary Public Interest Exemption

Decision and Order Granting An Exemption Pursuant To Section 311 of the Powerplant And Industrial Fuel Use Act of 1978.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting a temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Consolidated Edison Company of New York, Inc. (petitioner).

The petitioner filed for this temporary public interest exemption pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on April 24, 1979. Notice of the petition and a proposed order granting this temporary exemption was published in the May 11, 1979 **Federal Register** (44 FR 27674) with a request for public comments relating to the petition and the proposed order. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemption.

Based on the information provided by the petitioner, the powerplant listed in the table below is either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or is prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. This temporary exemption will allow this unit to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of low sulfur residual fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Low sulfur residual fuel oil (barrels)	Percent sulfur content
Ravenswood (New York, N.Y.)	#3	1,832,000	0.3

This powerplant will burn an estimated 10,810,000 MCF of natural gas annually which will result in an estimated displacement of 5,019 barrels of low sulfur residual fuel oil per day (1,832,000 barrels annually).

Statement of Reasons

Because petroleum products are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The use of natural gas in this powerplant will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that this powerplant, for which it is requesting a temporary exemption, is an existing unit that is either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of low sulfur residual fuel oil, and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplant for which this temporary exemption is issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting this temporary exemption.

Duration of Temporary Exemption

ERA grants this temporary public interest exemption for an initial period from the effective date of this Decision and Order until December 31, 1980. This exemption will be automatically extended for an additional three year period upon the written acceptance by ERA of a conservation plan pursuant to the third term and condition set forth below in this Decision and Order. The

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temporary exemption is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by this exempted powerplant between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, the temporary exemption granted under this Decision and Order is conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplant, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the initial period covered by this temporary exemption, including the means by which the petitioner will measure progress in implementing this plan, or

(3) If the petitioner seeks to have the exemption automatically extended, the fuel conservation plan must cover both the initial period covered by this temporary exemption and the additional three year period, including the means by which the petitioner will measure progress in implementing this plan.

(4) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the pertinent fuel conservation plan.

Issued in Washington, D.C., on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28021 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Consumers Power Co.; Petitions for Temporary Public Interest Exemptions

Decision and Order Granting Exemptions Pursuant to Section 311 of the Powerplant and Industrial Fuel Use Act of 1978; ERA Docket Nos. 50658-1706-21-41; 50658-1706-22-41; 50658-1706-23-41; 50658-1706-24-41; 50658-1706-25-41; 50658-1719-05-41; 50658-1719-06-41; 50658-1719-07-41; 50658-1719-08-41; and 50658-1719-09-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Consumers Power Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 7, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the June 1, 1979, **Federal Register** (44 FR 31677) with a request for public comments relating to the petitions and the proposed order. No comments were received specifically addressing the Consumers Power Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithtstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Gaylord Peaking Station (Gaylord, Mich.)	Unit 1	1,260	0.4
	Unit 2	1,260	0.4
	Unit 3	1,260	0.4
	Unit 4	1,260	0.4
	Unit 5	1,260	0.4
Thetford Comb. turbine plant (Mt. Morris, Mich.)	Unit 5	45,600	0.4
	Unit 6	45,600	0.4
	Unit 7	45,600	0.4
	Unit 8	45,600	0.4
	Unit 9	45,600	0.4

These powerplants will burn an estimated 1,366,000 MCF of natural gas annually which will result in an estimated displacement of 642 barrels of middle distillate fuel oil per day (234,300 barrels annually).

Statement of Reasons

Because petroleum products, in general, and middle distillates, in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-tern oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28020 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Dayton Power & Light Co.; Petitions for Temporary Public Interest Exemptions

Decision and Order Granting Exemptions Pursuant To Section 311 of the Powerplant And Industrial Fuel Use Act of 1978; ERA Docket Nos. 50752-2854-21-41; 50752-2854-22-41; 50752-2854-23-41; 50752-2854-24-41; 50752-2854-25-41; 50752-2854-26-41; and 50752-2854-27-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Dayton Power and Light Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on April 27, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the June 1, 1979, **Federal Register** (44 FR 31677) with a request for public comments relating to the petitions and the proposed order. ERA has considered all comments received pursuant to the **Federal Register** notice concerning the petitions. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Yankee Street (Dayton, Ohio)	CT 1	52,193	0.3
	CT 2	49,469	0.3
	CT 3	55,587	0.3
	CT 4	64,050	0.3
	CT 5	61,700	0.3
	CT 6	59,354	0.3
	CT 7	57,073	0.3

These powerplants will burn an estimated 2,237,020 MCF of natural gas annually which will result in an estimated displacement of 1,094 barrels of middle distillate fuel oil per day (399,466 barrels annually).

Statement of Reasons

Because petroleum products in general, and middle distillates in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is

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preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions of a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions.

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28018 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Duke Power Co.; Petitions for Temporary Public Interest Exemptions

Decision and Order Granting Exemptions Pursuant To Section 311 of the Powerplant And Industrial Fuel Use Act of 1978; ERA Docket Nos. 50816-3254-26-41; 50816-3254-27-41; 50816-3254-28-41; 50816-3254-29-41; 50816-3254-30-41; 50816-3254-31-41; 50816-3254-32-41; 50816-3254-33-41; 50816-3254-34-41; 50816-3254-35-41; 50816-2732-28-41; 50816-2732-29-41; 50816-2732-30-41; 50816-2732-31-41; 50816-2723-24-41; 50816-2723-25-41; 50816-2723-26-41; 50816-6278-23-41; 50816-2720-27-41; 50816-2720-28-41; 50816-2720-29-41; 50816-3264-24-41; 50816-3264-25-41; and 50816-3264-26-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508, to the Duke Power Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 4, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the June 1, 1979, **Federal Register** (44 FR 31683) with a request for public comments relating to the petitions and the proposed order. ERA has considered all comments received pursuant to the **Federal Register** notice concerning the petitions. All but one of the public comments were in support of the petitions. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) and (3) of the FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel displaced/ volume (bbls.)	Sulfur percent
Buzzard Roost (Chappells, S.C.)	CT 6	48,900	0.3
	CT 7	48,900	0.3
	CT 8	48,900	0.3
	CT 9	48,900	0.3
	CT 10	48,900	0.3
	CT 11	48,900	0.3
	CT 12	48,900	0.3
	CT 13	48,900	0.3
	CT 14	48,900	0.3
	CT 15	48,900	0.3
Riverbend (Mt. Holy, N.C.)	CT 8	97,900	0.3
	CT 9	97,900	0.3
	CT 10	97,900	0.3
	CT 11	97,900	0.3
Dan River (Eden, N.C.)	CT 4	29,200	0.3
	CT 5	29,200	0.3
	CT 6	29,200	0.3
Urquhart (North Augusta, S.C.)	CT 3	1,700	0.3
Buck (Spencer, N.C.)	CT 7	110,300	0.3
	CT 8	110,300	0.3
	CT 9	110,300	0.3
Lee (Pelzer, S.C.)	CT 4	98,500	0.3
	CT 5	98,500	0.3
	CT 6	98,500	0.3

These powerplants will burn an estimated 9,284,900 MCF of natural gas annually which will result in an estimated displacement of 4,373 barrels of middle distillate fuel oil per day (1,596,300 barrels annually).

Statement of Reasons

Because petroleum products, in general, and middle distillates, in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion Economic Regulatory Administration.

[FR Doc. 79-28019 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Florida Power & Light Co.; Petitions for Temporary Public Interest Exemptions

Decision and order granting exemptions pursuant to section 311 of the Powerplant and Industrial Fuel Use Act of 1978; ERA Docket Nos. 51006-0613-21; 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44-41; 51006-0617-21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR

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508 to the Florida Power and Light Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on April 24, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the June 1, 1979, **Federal Register** (44 FR 27674) with a request for public comments relating to the petitions and the proposed order. ERA has considered all comments received pursuant to the **Federal Register** notice concerning the petitions. All but one of the public comments were in support of the petitions. Upon review of the public comments and the purposes of FUA, ERA has determined to grant the requested temporary public interest exemptions.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel displaced volume (barrels)	Percent sulfur content
Lauderdale (Fort Lauderdale, Fla	CT 1	7,000	0.3
	CT 2	7,000	0.3
	CT 3	7,000	0.3
	CT 4	7,000	0.3
	CT 5	7,000	0.3
	CT 6	7,000	0.3
	CT 7	7,000	0.3
	CT 8	7,000	0.3
	CT 9	7,000	0.3
	CT 10	7,000	0.3
	CT 11	7,000	0.3
	CT 12	7,000	0.3
	CT 13	7,000	0.3
	CT 14	7,000	0.3
	CT 15	7,000	0.3
	CT 16	7,000	0.3
	CT 17	7,000	0.3
	CT 18	7,000	0.3
	CT 19	7,000	0.3
	CT 20	7,000	0.3
	CT 21	7,000	0.3
	CT 22	7,000	0.3
	CT 23	7,000	0.3
	CT 24	7,000	0.3
Port Everglades (Port Everglades, Fla.)	CT 1	8,000	0.3
	CT 2	8,000	0.3
	CT 3	8,000	0.3
	CT 4	8,000	0.3
	CT 5	8,000	0.3
	CT 6	8,000	0.3
	CT 7	8,000	0.3
	CT 8	8,000	0.3
	CT 9	8,000	0.3
	CT 10	8,000	0.3
	CT 11	8,000	0.3
	CT 12	8,000	0.3

These powerplants will burn an estimated 1,740,000 MCF of natural gas annually which will result in an estimated displacement of 723 barrels of middle distillate fuel oil per day (264,000 barrels annually).

Statement of Reasons

Because petroleum products in general, and middle distillates in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28017 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Iowa Power & Light Co.; Petitions for Temporary Public Interest Exemptions

Decision and order granting exemptions pursuant to section 311 of the Powerplant and Industrial Fuel Use Act of 1978; ERA Docket Nos. 51407-8029-21-41, 51407-8029-22-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 301(a) (2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to the Iowa Power and Light Company (petitioner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on May 4, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the June 1, 1979, **Federal Register** (44 FR 31677) with a request for public comments relating to the petitions and the proposed order. No comments were received specifically addressing the Iowa Power and Light Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Sycamore (Johnston, Iowa)	CT 1	20,238	0.5
	CT 2	20,238	0.5

These powerplants will burn an estimated 230,000 MCF of natural gas annually which will result in an estimated displacement of 111 barrels of middle distillate fuel oil per day (40,476 barrels annually).

Statement of Reasons

Because petroleum products in general, and middle distillates in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplants for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA

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determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a systemwide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conservation.

[FR Doc. 79-28014 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Kansas Power & Light Co.; Petitions for Temporary Public Interest Exemptions

Decision and order granting exemptions pursuant to section 311 of the Powerplant and Industrial Fuel Use Act of 1978; ERA Docket Nos. 51479-1252-21-41; 51479-1252-22-41; 51479-1248-21-41; 51479-1248-22-41; and 51479-1246-23-41.

The Economic Regulatory Administration (ERA) of the Department of Energy hereby issues this Decision and Order granting temporary public interest exemptions from the prohibitions of Section 310(a) (2) and (3) of the Powerplant and Industrial Fuel Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq. This Decision and Order is issued pursuant to Section 311(e) of FUA, 10 CFR 501.68 and 10 CFR 508 to The Kansas Power and Light Company (petitoner).

The petitioner filed for these temporary public interest exemptions pursuant to 10 CFR 508 (Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230, hereafter referred to as the Special Rule) with ERA on April 25, 1979. Notice of the petitions and a proposed order granting these temporary exemptions was published in the May 11, 1979, **Federal Register** (44 FR 27668) with a request for public comments relating to the petitions and the proposed order. No comments were received specifically addressing the Kansas Power and Light Company proposed order.

Based on the information provided by the petitioner, the powerplants listed in the table below are either prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source or are prohibited from using natural gas as a primary energy source in excess of the average base year proportion allowed in Section 301(a)(3) of the Act. These temporary exemptions will allow these units to burn natural gas, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, to displace consumption of middle distillate fuel oil. The estimated amount and sulfur content of fuel oil to be displaced on an annual basis are as follows:

Generating station	Powerplant identification	Middle distillate fuel oil (barrels)	Percent sulfur content
Tecumseh Energy Center (Tecumseh, Kans.)	CT 1	52,381	0.3
	CT 2	52,381	0.3
Hutchinson (Hutchinson, Kans.)	CT 1	28,571	0.3
	CT 2	28,571	0.3
	CT 3	23,571	0.3

These powerplants will burn an estimated 1,100,000 MCF of natural gas annually which will result in an estimated displacement of 522 barrels of middle distillate fuel oil per day (190,475 barrels annually).

Statement of Reasons

Because petroleum products in general, and middle distillates in particular, are in short supply, there is an urgent need to use these natural resources wisely.

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum, especially middle distillate petroleum. The use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption and will help the United States reduce its dependence on imported petroleum. This increased use of natural gas will also protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency.

The petitioner has demonstrated that these powerplants, for which it is requesting temporary exemptions, are existing units that are either prohibited from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or prohibited from using natural gas in excess of the average base year proportion allowed in Section 301(a)(3) of FUA. The petitioner has also shown that the proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA, will displace consumption of middle distillate fuel oil and will not displace the use of coal or any other alternate fuel in any facility of the petitioner's utility system, including the powerplant for which these temporary exemptions are issued.

By establishing these facts the petitioner has met the eligibility criteria set out in Section 508.2 of the Special Rule. Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioner has demonstrated that it has met the eligibility criteria, ERA is granting these temporary exemptions.

Duration of Temporary Exemptions

ERA grants these temporary public interest exemptions for a period of five years. The temporary exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Effective Date of Decision and Order

This Decision and Order shall become effective on the sixtieth calendar day following publication in the **Federal Register** in accordance with Section 702(a) of FUA, however, in accordance with the policy set forth in the notice implementing this Special Rule (44 FR 21230) ERA will take no action with respect to any natural gas used by these exempted powerplants between May 8, 1979, the effective date of FUA, and the date this Decision and Order becomes effective.

Terms and Conditions

Pursuant to Section 314 of FUA and 10 CFR 508.6, these temporary exemptions granted under this Decision and Order are conditioned upon, and shall remain in effect so long as the petitioner, its successors and assigns, complies with the following terms and conditions:

(1) Petitioner will report to ERA for the period from May 8, 1979, through December 31, 1979, and for each subsequent six-month period thereafter the actual monthly volumes of natural gas consumed in the exempted powerplants, and an estimate of the number of barrels of each type of fuel oil displaced.

(2) Petitioner will submit to ERA, within one year after the date this Decision and Order is issued, a system-wide fuel conservation plan to include the five-year period covered by these temporary exemptions, including the means by which the petitioner will measure progress in implementing this plan.

(3) Petitioner will submit annually to ERA, commencing with the calendar year ending December 31, 1980, a report on progress achieved in implementing the five-year system-wide fuel conservation plan.

Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28015 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Issuance of an Order Granting a Temporary Public Interest Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on August 31, it issued an order granting a temporary public interest exemption, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq., and 10 CFR 501.68 and 10 CFR 508, from the prohibitions of section 301(a) (2) and (3) of the Act to the following powerplant:

Docket No.	Owner	Location	Powerplant ident.	Annual low sulfur residual (barrels)
50653-2500-03-41	Consolidated Edison Co. of New York, Inc.	Ravenswood (New York, N.Y.)	No. 3	1,832,000

A petition was received and filed with ERA, pursuant to 10 CFR 508 (Exemption for use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230), for a temporary public interest exemption for the use of natural gas as a primary energy source.

Notice of the petition and the proposed order granting this temporary exemption was published in the **Federal Register** on May 11, 1979 (44 FR 27668). Written comments were requested on the proposed order. All comments were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry has experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition or proposed order. All other comments received were in support of the petition. The State of New York Department of Environmental Conservation wrote, "We are in favor of the use of natural gas wherever possible, since the environmental benefits are obvious . . ."

This temporary exemption will allow the above-named unit to burn an estimated total of 10,810,000 MCF of natural gas annually, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, displacing an estimated 5,019 barrels of low sulfur residual fuel oil per day (1,832,000 barrels annually).

The order granting this temporary exemption shall become effective sixty days following publication in the **Federal Register** in accordance with Section 702(a) of FUA. The above named powerplant has received the Decision and Order granting this temporary exemption by certified mail. The order is set forth following this notice. This temporary exemption shall be in effect for an initial period ending December 31, 1980, and is subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest. The temporary exemption may be extended for an additional period of three years upon written acceptance by ERA of a system wide fuel conservation plan. Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding this temporary exemption should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-8250.

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Issued in Washington, D.C. on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28022 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act; Issuance of Orders Granting Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on August 31, 1979, it issued orders granting temporary public interest exemptions, pursuant to the authorities granted it by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq., and 10 CFR 501.68 and 10 CFR 508, from the prohibitions of Section 301(a)(2) and (3) of the Act to the following powerplants:

Docket No.	Owner	Generating station location	Powerplant ident.	Annual middle distillate displacement (barrels)
51407-8029-21-41	Iowa Power & Light Co	Sycamore (Johnston, Ia.)	CT 1	20,238
51407-8029-22-41			CT 2	20,238
51479-1252-21-41	The Kansas Power & Light Co	Tecumseh (Tecumseh, Ks.)	CT 1	52,381
51479-1252-22-41			CT 2	52,381
51479-1248-21-41		Hutchinson (Hutchinson, Ks.)	CT 1	28,571
51479-1248-22-41			CT 2	28,571
51479-1248-23-41			CT 3	28,571
50556-2831-21-41	Cincinnati Gas & Electric Co	Dick's Creek (Monroe, Ohio)	CT 1	103,900
50556-2831-22-41			CT 2	15,600
50556-2831-23-41			CT 3	15,600
50556-2831-24-41			CT 4	19,100
50556-2831-25-41			CT 5	19,100
51006-0613-21-41	Florida Power & Light Co	Lauderdale (Fort Lauderdale, Fla.)	CT 1	7,000
51006-0613-22-41			CT 2	7,000
51006-0613-23-41			CT 3	7,000
51006-0613-24-41			CT 4	7,000
51006-0613-25-41			CT 5	7,000
51006-0613-26-41			CT 6	7,000
51006-0613-27-41			CT 7	7,000
51006-0613-28-41			CT 8	7,000
51006-0613-29-41			CT 9	7,000
51006-0613-30-41			CT 10	7,000
51006-0613-31-41			CT 11	7,000
51006-0613-32-41			CT 12	7,000
51006-0613-33-41			CT 13	7,000
51006-0613-34-41			CT 14	7,000
51006-0613-35-41			CT 15	7,000
51006-0613-36-41			CT 16	7,000
51006-0613-37-41			CT 17	7,000
51006-0613-38-41			CT 18	7,000
51006-0613-39-41			CT 19	7,000
51006-0613-40-41			CT 20	7,000
51006-0613-41-41			CT 21	7,000
51006-0613-42-41			CT 22	7,000
51006-0613-43-41			CT 23	7,000
51006-0613-44-41			CT 24	7,000
51006-0617-21-41		Port Everglades (Port Everglades, Fla.)	CT 1	8,000
51006-0617-22-41			CT 2	8,000
51006-0617-23-41			CT 3	8,000
51006-0617-24-41			CT 4	8,000
51006-0617-25-41			CT 5	8,000
51006-0617-26-41			CT 6	8,000
51006-0617-27-41			CT 7	8,000
51006-0617-28-41			CT 8	8,000
51006-0617-29-41			CT 9	8,000
51006-0617-30-41			CT 10	8,000
51006-0617-31-41			CT 11	8,000
51006-0617-32-41			CT 12	8,000
50752-2854-21-41	Dayton Power & Light Co	Yankee Street (Dayton, Ohio)	CT 1	52,193
50752-2854-22-41			CT 2	49,469
50752-2854-23-41			CT 3	55,587
50752-2854-24-41			CT 4	64,080
50752-2854-25-41			CT 5	61,760
50752-2854-26-41			CT 6	59,364
50752-2854-27-41			CT 7	57,073
50816-3254-26-41	Duke Power Co	Buzzard Roost (Chappells, S.C.)	CT 6	48,900
50816-3254-27-41			CT 7	48,900
50816-3254-28-41			CT 8	48,900
50816-3254-29-41			CT 9	48,900
50816-3254-30-41			CT 10	48,900
50816-3254-31-41			CT 11	48,900
50816-3254-32-41			CT 12	48,900
50816-3254-33-41			CT 13	48,900
50816-3254-34-41			CT 14	48,900
50816-3254-35-41			CT 15	48,900
50816-2732-28-41		Riverbend (Mount Holy, N.C.)	CT 8	97,900
50816-2732-29-41			CT 9	97,900
50816-2732-30-41			CT 10	97,900

Docket No.	Owner	Generating station location	Powerplant ident.	Annual middle distillate displacement (barrels)
50816-2732-31-41			CT 11	97,900
50816-2723-24-41		Dan River (Eden, N.C.)	CT 4	29,200
50816-2723-25-41			CT 5	29,200
50816-2723-26-41			CT 6	29,200
50816-6278-23-41		Urquhart (N. Augusta, S.C.)	CT 3	1,700
50816-2720-27-41		Buck (Spencer, N.C.)	CT 7	110,300
50816-2720-28-41			CT 8	110,300
50816-2720-29-41			CT 9	110,300
50816-3264-24-41		Lee (Pelzer, S.C.)	CT 4	98,500
50816-3264-25-41			CT 5	98,500
50816-3264-26-41			CT 6	98,500
50658-1706-21-41	Consumers Power Co	Gaylord (Gaylord, Mich.)	No 1	1,260
50658-1706-22-41			No 2	1,260
50658-1706-23-41			No 3	1,260
50658-1706-24-41			No 4	1,260
50658-1706-25-41			No 5	1,260
50658-1719-05-41		Thetford (Mount Morris, Mich.)	No 5	45,600
50658-1719-06-41			No 6	45,600
50658-1719-07-41			No 7	45,600
50658-1719-08-41			No 8	45,600
50658-1719-09-41			No 9	45,600

Petitions were received and filed pursuant to 10 CFR 508 (Exemption for use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978, April 9, 1979, 44 FR 21230) with ERA for temporary public interest exemptions for the use of natural gas as a primary energy source. Notices of the petitions and the proposed orders granting these temporary exemptions were published in the **Federal Register** on May 11 and June 1, 1979, (44 FR 27668 and 44 FR 31677). Written comments were requested on the proposed orders. All comments were considered by ERA.

A general comment from Allied Chemical Corporation expressed concern that the chemical industry has experienced production curtailments and plant shutdowns due to inadequate gas supplies for nonsubstitutable feedstock and process needs at the same time that DOE has concluded that excess supplies of natural gas are available. The Allied Chemical Corporation comment did not refer to any specific region nor did it specify impacts resulting from any particular petition or proposed order.

It is the position of the Department of Environmental Regulation of the State of Florida that "the implementation of this order will conserve valuable oil supplies and maintain the excellent air quality in these areas."

All comments that referred to specific petitions was supportive of them. However, not all the petitions listed received specific comments. Comments which identified significant issues relating to individual petitions have been evaluated and are addressed in the individual orders granting those petitions.

These temporary exemptions will allow the above-named units to burn an estimated total of 16,265,970 MCF of natural gas annually, notwithstanding the prohibitions of Section 301(a) (2) and (3) of FUA, displacing an estimated 7,941 barrels per day (2,898,317 barrels annually) of middle distillate fuel oil.

The orders granting these temporary exemptions shall become effective sixty days following publication in the **Federal Register** in accordance with Section 702(a) of FUA. All of the above-named powerplants have received Decisions and Orders granting these temporary exemptions by certified mail. The individual orders are set forth following the notice. These temporary exemptions shall be in effect for a period of five years and are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

Copies of all comments received during the public comment period will be available for public inspection and copying in the Public Information Office located in Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

Any questions regarding these temporary exemptions should be directed to Mr. James W. Workman, Acting Director, Existing Facilities Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7450.

Issued in WAshington, D.C., on August 31, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28023 Filed 9-7-79; 8:45 am]

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Federal Energy Regulatory Commission

[Docket No. RP72-110]

Algonquin Gas Transmission Co.; Rate Change Pursuant To Purchased Gas Cost Adjustment Provision

August 30, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August 27, 1979, tendered for filing Substitute 49th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Such rates reflect a change in the cost of purchased gas from its supplier, Texas Eastern Transmission Corporation, proposed to be effective August 1, 1979, and an adjustment to amortize the June 30, 1979 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191).

Algonquin Gas also states that the proposed effective date of the substitute revised tariff sheet as prescribed by Section 17 is September 1, 1979.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules

of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28063 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-416

ANR Storage Company; Notice of Application

August 20, 1979.

Take notice that on July 24, 1979, ANR Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-416 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of gas storage service for Southern Natural Gas Company (Southern), the development and operation of certain gas storage fields and appurtenant facilities, the drilling and operation of certain wells, and the construction and operation of certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant and Southern have entered into gas storage agreement whereby Southern would deliver or cause to be delivered to Applicant during the 1981 and ensuing Summer Periods (April 1 through October 31) for storage up to 11,503,000 Mcf of natural gas. Applicant proposes during the 1981–82 and ensuing Winter periods (November 1 through March 31), to make equivalent volumes of gas available for redelivery to Southern. The terms of the gas storage agreements are 20 years commencing on April 1, 1981, it is stated. Applicant states that Southern would supply injection compressor fuel equal to 1.3 percent of the volumes delivered for storage and that Applicant would deduct from the volumes withdrawn from storage for redelivery to Southern withdrawal compressor fuel equal to 0.2 percent of such volumes. By the terms of the gas storage agreements, Southern may elect to defer redelivery from one contract year to the next of all or any part of the volumes stored.

In order to render the proposed gas storage service, Applicant proposes to develop and operate the Excelsior 6 Gas Storage Field in Excelsior Township, Kalkaska County, Michigan, and the Cold Springs 31 Gas Storage Field in Cold Spring Township, Kalkaska County, which storage fields are at present gas producing fields which are substantially depleted; and Applicant is acquiring all the necessary oil and gas leases, storage and mineral rights and the gas producing properties in these fields. In order to develop and operate the two storage fields, Applicant proposes, at the Cold Springs 31 Field, to rehabilitate one existing well, to drill and complete three new gas wells, and construct a gathering system and appurtenances. At the Excelsior 6 Field, Applicant proposes to rehabilitate one existing well, drill and complete six new gas wells, and to construct a gathering system and appurtenances. Applicant also proposes to install a 7500 horsepower compressor station and a field meter station which would serve both storage fields, and to construct and operate a storage field office and warehouse, field automation, a 1.0-mile, 12-inch storage field pipeline and a 2.3-mile, 20-inch pipeline connecting the proposed storage field pipeline with pipeline facilities of Applicant, to be completed prior to commencement of the storage service proposed herein, which would connect to the existing facilities of Great Lakes Gas Transmission Company (Great Lakes), at MP 753 in Frederic Township, Crawford County, Michigan. The estimated cost of development of the storage field and the construction of the proposed facilities is $26,638,570. It is indicated that initial financing would be by short-term borrowings, sale of common stock and internally generated funds.

Applicant states that when developed, the Excelsior 6 and Cold Springs 31 Gas Storage Fields would have a total working capacity of 12,840,000 Mcf, which working storage capacity is based on a heating value of injection gas of 975 Btu's per cubic foot, the anticipated heat content of the gas to be injected into the fields and stored.

Applicant indicates that it would charge Southern the following rates for the proposed storage service:

Type of service	Average rate
50 Day Service	63.99 cents per Mcf
100 Day Service	45.77 cents per Mcf

It is indicated that Southern has arranged with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), and Michigan Wisconsin has in turn arranged with Great Lakes, to transport Southern's gas to and from the interconnection of Applicant's proposed pipeline facilities with the facilities of Great Lakes at MP 753 in Frederic Township, Crawford County, Michigan. Applicant states that it would transport the gas from this point of interconnection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28064 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-601]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing a proposed change in its FPC Electric Service Rate No. 92. The proposed change would not change revenues from jurisdictional sales for the 12 month period ending October 31, 1979. No transactions have occurred under the Contract during the preceding 12 months, and none are contemplated during the succeeding 12 months.

The change is proposed in accordance with Article V of the Company's agreement with the Lyndonville Electric Department, which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Copies of the filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28066 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-602]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing proposed changes in its FPC Electric Service Rate No. 93. The proposed changes would increase revenues from jurisdictional sales and service by $1,942 for the 12 month period ending October 31, 1979.

The change is proposed in accordance with the provisions of Article VIII, and amendments thereto, of the Company's transmission service agreement with the Lyndonville Electric Department, which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Lyndonville Electric Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28065 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-604]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing proposed changes in its FPC Electric Service Rate No. 97. The proposed changes would increase revenues from jurisdictional sales and service by $4,683 for the 12-month period ending October 31, 1979.

The change is proposed in accordance with the provisions of Article III of the Company's transmission service agreement with the Village of Ludlow Electric Light Department, which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28067 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-605]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing a proposed change in its FPC Electric Service Rate No. 96. The proposed change would decrease revenues from jurisdictional sales and service by $228 for the 12 month period ending October 31, 1979.

The change is proposed in accordance with Article V of the Company's agreement with the Village of Ludlow Electric Light Department, which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities of the proceeding calendar year.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the

appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28068 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-606]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing a proposed change in its FPC Electric Service Rate No. 88. The proposed change would decrease revenues from jurisdictional sales and service by $636 for the 12 month period ending October 31, 1979.

The change is proposed in accordance with Article V of the Company's agreement with the Vermont Electric Cooperative, Inc., which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year.

Copies of the filing were served upon the Vermont Electric Cooperative, Inc., and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28069 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-607]

Central Vermont Public Service Corporation; Proposed Tariff Change

August 31, 1979.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation (Company) on August 20, 1979, tendered for filing proposed changes in its FPC Electric Service Rate No. 89. The proposed changes would increase revenues from jurisdictional sales and service by $14,394 for the 12 month period ending October 31, 1979.

The change is proposed in accordance with the provisions of Article VIII, and amendments thereto, of the Company's transmission service agreement with the Vermont Electric Cooperative, Inc., which provides that charges will be updated annually to incorporate the Company's cost experience for the preceding calendar year.

Copies of the filing were served upon the Vermont Electric Cooperative, Inc., and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28070 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-17]

Columbia Gas Transmission Corp.; Petition To Amend

August 30, 1979.

Take notice that on August 15, 1979, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25323, filed in Docket No. CP79-17 a petition to amend the Commission's order of March 1, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder so as to authorize an increase in the total and single project cost limitations for gas-purchase facilities authorized to be constructed hereunder, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the Commission's order of March 1, 1979, in the instant docket, Petitioner was authorized to construct and operate budget-type gas-purchase facilities for a 12-month period commencing March 1, 1979. It is further indicated that the total authorized cost of facilities constructed under the budget-type authorization is limited $6,000,000 with no single project to exceed $1,500,000.

Petitioner indicates that at the present time it has 13 projects scheduled which could be constructed under its budget-type gas-purchase authorization, which project cost would result in a total cost in excess of $11,000,000. Petitioner further indicates that it has two single projects which it plans to construct under the instant budget-type authorization which costs would result in costs in excess of $1,500,000, and two additional single projects which would cost an estimated $1,400,000. Therefore, Petitioner is requesting waiver of Section 157.7(b)(1) (i) and (ii) of the Commission's Regulations so as to provide for an increase in its current total and single budget-type limitations to $12,000,000 and $2,500,000, respectively.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28071 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-436]

Columbia Gas Transmission Corp.; Notice of Application

August 30, 1979.

Take notice that on August 9, 1979, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP79-436 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct 305 interconnecting tap facilities to provide additional points of delivery to Columbia Gas of Kentucky, Inc. (53 taps), Columbia Gas of Maryland, Inc. (7 taps), Columbia Gas of Ohio, Inc. (97 taps), Columbia Gas of Pennsylvania, Inc. (19 taps), Columbia Gas of Virginia, Inc. (20 taps), and Columbia Gas of West Virginia, Inc. (109 taps), at specified points in Kentucky, Maryland, Ohio, Pennsylvania, Virginia and West Virginia, respectively. Applicant asserts that the additional points of delivery to the wholesale customers are required for the 1979-80 winter heating season.

The estimated total cost of the proposed points of interconnections is estimated to be $91,728, which cost would be financed with internally generated funds.

Applicant does not propose to increase its currently authorized level of sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28072 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-603]

Connecticut Light & Power Co.; Notice of Transmission Agreement

August 31, 1979.

The filing Company submits the following: Take notice than on August 20, 1979, The Connecticut Light and Power Company ("CL&P") tendered for filing under Part 35 of the Commission's regulations a rate schedule entitled "Amendment to the Derby Junction Transmission Agreement between the Connecticut Light and Power Company and the United Illuminating Company" ("UI") dated as of June 1, 1978 (the "Amendment").

CL&P states that the Amendment provides for certain changes in the transmission services provided by CL&P to UI over two of CL&P's 115 kV lines between the Devon Generating Station in Milford, Connecticut and Frost Bridge Substation in Watertown, Connecticut at the Derby Junction tap and new services at an additional tap at the Trap Falls Substation.

CL&P states that although service to the Derby Junction tap point commenced under the Amendment on June 1, 1978, the parties did not reach final agreement on the details of the rate schedule filed until recently. CL&P further states that the new transmission service at the Trap Falls Substation has been provided since December 1, 1969. Delays in development of the detailed language of the rate schedule and the new transmission service to be included thereunder prevented the filing of the Amendment until this date. CL&P therefore has requested that the Commission, pursuant to Section 35.11 of its regulations, waive the customary notice period to permit the Amendment, pertaining to transmission service rendered to the Derby Junction tap, to take effect as of June 1, 1978, and to permit athe Amendment, pertaining to the new transmission service rendered to UI's Trap Falls Substation tap, to take effect as of December 1, 1969.

CL&P states that the charges provided for in the rate schedule were arrived at through negotiations. CL&P states that a copy of this rate schedule has been mailed or delivered to UI at its principal office in New Haven, Connecticut.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28073 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01

[Docket Nos. RP79-73 and RP72-157]

Consolidated Gas Supply Corp.; Notice of Proposed Changes in FERC Gas Tariff

August 30, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on August 27, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 to be effective September 1, 1979.

Consolidated states that the revised tariff sheet reflects rate changes to incorporate in its rates the increased cost of LNG as proposed in Docket No. RP79-73 and a decrease to the semiannual PGA filing made August 2, 1979, for effectiveness September 1, 1979, in Docket No. RP72-157.

Consolidated requests a waiver of any of the Commission's Rules and Regulations that may be deemed necessary in order to permit the rates

shown in Substitute Fifteenth Revised Sheet No. 16 to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC, 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions of protests should be filed on or before September 14, 1979. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28074 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-609]

Edison Sault Electric Co.; Proposed Supplement to Electric Service Contract

August 31, 1979.

The filing Company submits the following: Take notice that Edison Sault Electric Company (Edison), on August 20, 1979, tendered for filing a Supplemental Agreement No. 6 between Edison and Cloverland Electric Cooperative, Inc. (Cloverland), dated November 1, 1976, which agreement will supplement an existing Contract for Electric Service, dated January 2, 1952, between the same two parties. The contract between the parties, dated January 2, 1952, has been designated Rate Schedule FPC No. 2 (Docket No. E-7870). The proposed supplemental agreement provides for a change in the rate schedule as provided in the contract, dated January 2, 1952, supplemented, under "Article V, Rates."

Copies of the filing were served upon Cloverland Electric Cooperative, Inc. and the Michigan Public Service Commission.

Any person desiring to be heard or to protest such agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28075 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-452 and Docket No. ER78-19, et al.]

Florida Power & Light Co.; Order Accepting Rate Schedules for Filing, Providing for Suspension and Hearing, Waiving Regulations and Consolidating Proceedings

Issued August 20, 1979.

On June 22, 1979, the Florida Power & Light Company (FP&L) tendered for filing, pursuant to 18 C.F.R. § 35.13, an executed transmission agreement providing for specified transmission service to the Jacksonville Electric Authority (JEA). [1] Under the agreement, FP&L will provide the transmission service necessary to implement JEA's interchange agreements with Orlando Utilities Commission, Lake Worth Utilities Authority, Fort Pierce Utilities Authority and the City of Lakeland, Florida. According th FP&L, cost support data for this service is identical to that which previously has been submitted as Volume X in *Florida Power & Light Company*, Docket No. ER78-19, on June 16, 1978. Thus, FP&L seeks to incorporate by reference the cost support data furnished in Docket No. ER78-19, *et al.*, into the instant proceeding, pursuant to 18 C.F.R. § 35.19. FP&L also seeks waiver of the Commission's Regulations to the extent necessary to permit this agreement to be effective as of June 21, 1979, the date FP&L began transmission service to JEA. JEA supports this request.

Public notice of FP&L's filing was issued on June 28, 1979, with petitions to intervene or protests to be filed on or before July 20, 1979. No petitions to intervene or protests have been received.

FP&L's submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall suspend the proposed transmission service agreement for one day to become effective June 21, 1979, subject to refund, pending the outcome of a hearing and decision thereon.

FP&L has made previous filings for specified transmission service and the cost support for this filing is identical to those filed in the previous submittals. The prior filings were suspended for one day and consolidated with the ongoing proceeding in Docket Nos. ER78-19, *et al.* [2] The Commission finds that common questions of law and fact exist and it is appropriate to consolidate Docket No ER79-452 with the ongoing proceeding in Docket Nos. ER78-19, *et al.*, for the purpose of hearing and decision.

The Commission Orders

(A) Pursuant to the authority contained in andy subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FP&L in the instant docket.

(B) The Commission hereby waives the notice requirements pursuant to § 35.11 of our Regulations.

(C) Pending a hearing and decision thereon, FP&L's proposed filing is hereby accepted for filing and suspended for one day, to become effective June 21, 1979, the rates thereunder to be subject to refund.

(D) The proceeding in Docket No. ER79-452 is hereby consolidated with Docket Nos. ER78-19, *et al.*, for the purpose of hearing and decision.

(E) The Commission hereby waives the cost support requirement of § 35.13 of its Regulations.

(F) The Secretary shall promptly publish this Order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A—*Florida Power & Light Company*, Docket No. ER79-452

Filed: June 22, 1979.

[1] See Attachment A for designations.

[2] The prior specified transmission agreements are filed in the following dockets, all of which have been consolidated with Docket No. ER78-19, for the purpose of hearing and decision: Docket Nos. ER78-325, ER78-326, ER78-376, ER78-478, ER78-508, ER78-527, ER78-566, ER78-567, ER79-44, ER79-162, ER79-171, ER79-172, ER79-352, and ER79-416.

Effective: June 21, 1979, subject to refund.

Designation and description

(1) Rate Schedule FERC No. 34—Transmission agreement with Jacksonville Electric Authority.
(2) Exhibit A to (1) above—Interchange service between Jacksonville and and Orlando.
(3) Exhibit B to (1) above—Interchange service between Jacksonville and Lake Worth.
(4) Exhibit C to (1) above—Interchange service between Jacksonville and the City of Lakeland.
(5) Exhibit D to (1) above—Interchange service between Jacksonville and Ft. Pierce.

[FR Doc. 79—28076 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-440]

Gas Transport, Inc.; Notice of Application

August 30, 1979.

Take notice that on August 14, 1979, Gas Transport, Inc. (Applicant), 109 North Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP79-440 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing with the date of any Commission's order issued herein, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $150,000, which cost Applicant would finance through internally-generated funds or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Aplicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28077 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01

[Docket No. ER79-614]

Iowa Power & Light Co.; Notice of Rate Schedule Filing

August 31, 1979.

The filing Company submits the following:

Take notice that Iowa Power and Light Company ("Iowa Power"), on August 23, 1979, tendered for filing proposed changes in its FERC Rate Schedule No. 46, which sets forth rates for wholesale electric service to Harlan Municipal Utilities (City).

Proposed Supplement No. 11 to Rate Schedule No. 46 provides for an increased capacity charge for base load power. Proposed Supplement No. 12 provides for an increased capacity charge for equalization power. These changes are needed to conform to increased costs of added capacity and changes in the Mid-Continent Area Power Pool rates.

Iowa Power requests that the Commission waives its prior notice requirements and accept Proposed Supplement Nos. 11 and 12 for filing with a retroactive effective date of June 1, 1979. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28078 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-431]

Kentucky West Virginia Gas Co.; Application

August 30, 1979.

Take notice that on August 7, 1979, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Ashland, Kentucky, 41101, filed in Docket No. CP79-431 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the deliveries of natural gas to its corporate parent, Equitable Gas Company (Equitable), for resale to certain right-of-way grantors in Kentucky, and for the installation and operation of certain minor facilities necessary to make such deliveries, all as more fully set forth in the application on file with the Commission and open to public inspection.

As consideration or part consideration for certain rights-of-way and leases granted in its operating area in eastern Kentucky, Applicant proposes to provide natural gas service for the following landowners for high priority domestic uses in rural dwellings:

V 4 4 / 1 7 6 SE 10 79

1. Albert Spence and Jeanette Spence, his wife, Tomahawk, Kentucky 41416
2. Charles Hamlin and Sandra Hamlin, his wife, Tomahawk, Kentucky 41462
3. Lana Mills and Hobert Ray Mills, her husband, Tomahawk, Kentucky 41462
4. Harold Dean Mills and Ellen Mills, his wife, Tomahawk, Kentucky 41462
5. Earl Mills and Alice Mills, Tomahawk, Kentucky 41462
6. Shirley Spence and Mary J. Spence, his wife, and Donald Spence, Tomahawk, Kentucky 41462
7. Charles Crum and Diana Crum, his wife, Tomahawk, Kentucky 41462
8. Enoch Combs and Dorothy C. Combs, his wife, Garrett, Kentucky 41462
9. Anna Wells, widow, Van Lear, Kentucky 41265
10. Robert Burke and Goldie Burke, his wife, Van Lear, Kentucky 41265
11. William Lafferty and Marlene Lafferty, his wife, Van Lear, Kentucky 41265
12. Enoch Combs and Dorothy Combs, his wife, Garrett, Kentucky 41630
13. Johnie Nolen and Janice Nolen, his wife, Garrett, Kentucky 41630
14. John Gibson and Topsie Gibson, his wife, Garrett, Kentucky 41630
15. Ray Nolen and Brenda Nolen, his wife, Garrett, Kentucky 41630
16. Michael Bolen and Minnie Bolen, his wife, Garrett, Kentucky 41630
17. Ray Bolen and Brenda S. Bolen, his wife, Garrett, Kentucky 41630
18. Allie Inman, Garrett, Kentucky 41630
19. Frank Chaffins and Lucille Chaffins, his wife, Garrett, Kentucky 41630
20. Manis Sheperd and Naomi Sheperd, his wife, Garrett, Kentucky 41630
21. Jannon Coburn and Patty Coburn, Garrett, Kentucky 41630
22. Bennie G. Conn and Glenna Conn, his wife, Garrett, Kentucky 41630
23. Choletta Adams and Harry B. Adams, her husband, Garrett, Kentucky 41630
24. Denver Conley, Garrett, Kentucky 41630
25. Bert Conley and Alene Conley, his wife, Garrett, Kentucky 41630
26. Dallas Cook and Phyllis Cook, his wife, Ashcamp, Kentucky 41512
27. Cecil Bentley and Pricey Bentley, his wife, Kona, Kentucky 41829
28. Dewey Thomas and Rosie Thomas, his wife, Kona, Kentucky 41829
29. Billy Eugene Reffett and Susan Reffett, his wife, Pyramid, Kentucky 41656
30. Carmel Conn and Betty Conn, his wife, David, Kentucky 41616
31. Allen and Flora Robinson, his wife, 561 Spring Drive, Virginia Beach, Virginia 23458
32. Lillian Coleman, South College, Pikeville, Kentucky 41501
33. Allen and Flora Robinson, his wife, 561 Spring Drive, Virginia Beach, Virginia 23458
34. Lucy Pearl Coleman, widow, Raccon, Kentucky 41557
35. Will and Erma D. Phillips, his wife, 100 Scott Avenue, Pikeville, Kentucky 41501
36. Jettie Thacker, a widow, Ashcamp, Kentucky 41512
37. Elbert Slone and Merkie Slone, his wife, Pippa Passes, Kentucky 41844
38. Cleveland Dobson and Opal Dobson, his wife, Talcum, Kentucky 41765
39. John Bud Ritchie and Betty Ritchie, his wife, Talcum, Kentucky 41765
40. Odis Ritchie and Retha Ritchie, his wife, Talcum, Kentucky 41765
41. Paul Combs and Ethel Combs, his wife, Talcum, Kentucky 41765
42. James Patrick and Olga Patrick, his wife, Fisty, Kentucky 41743

Applicant indicates that all of the grantors have relied upon such service as part of the agreement. Applicant also proposes to install and operate minor facilities necessary to provide such natural gas service. The estimated domestic usage by each of these right-of-way grantors would be approximately 250 Mcf of natural gas per year on the average, it is said.

The estimated cost of constructing minor tap and related facilities for each right-of-way grantor would be $171, which cost Applicant would finance from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission or its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28079 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-13]

Lo-Vaca Gathering Co.; Notice of Application

August 30, 1979.

Take notice that on July 31, 1979, Lo-Vaca Gathering Company (Applicant), 5 Greenway Plaza East, Houston, Texas 77046, filed in Docket No. SA79-13 an application pursuant to § 1.41(d)(1)(v) of the Commission's Rules of Practice and Procedure (18 CFR 1.41(d)(1)(v)) for an adjustment and for approval of the rates for the sales of natural gas by Applicant to interstate pipelines or local distribution companies pursuant to section 311(b) of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests approval of (i) the method or basis for calculating its rates for sales of natural gas in interstate commerce pursuant to section 311(b) of the NGPA and Part 284 of the Regulations thereunder, (ii) the method of billing and estimating the rates and (iii) the rates for such sales as being in accordance with and not exceeding the provisions of section 311(b) of the NGPA.

Applicant asserts that it is an intrastate pipeline as defined in section 2(16) of the NGPA and is located wholly within the State of Texas. Applicant states that it has entered into four contracts to sell natural gas on an interruptible basis in interstate commerce to Transwestern Pipeline Company, Texas Eastern Transmission Corporation, El Paso Natural Gas Company, and Pacific Gas and Electric Company. It is indicated that each of the contracts specifically provides that the sale of natural gas is in accordance with the provisions of section 311(b) of the NGPA.

Applicant seeks relief from §§ 284.143, 284.144, and 284.145(d) of the Regulations under the NGPA and approval that its rates for sales pursuant to section 311(b) of the NGPA do not exceed the guidelines specified in section 311(b) and in § 284.144 of the regulations. Applicant states that it and the purchasers have agreed upon a rate which is based on the volumes of gas (expressed in Mcf with a minimum Btu requirement), plus an amount per Mcf which is designed to allow Applicant to recover the costs of gathering, treating, processing, transporting, and delivering natural gas, including an opportunity to earn a reasonable profit thereon.

Because the regulations issued by the Commission under section 311(b) of the NGPA provide that the sales price is to be calculated on the basis of an average price per million Btu's rather than per Mcf, Applicant seeks relief from §§ 284.143 and 284.144 of the regulations to allow the price to be expressed in terms of dollars and cents per Mcf.

Applicant also seeks relief from §§ 284.143, 284.144, and 284.145 to permit the billing of the rate for its sales pursuant to section 311(b) on the basis of estimates of the weighted average acquisition cost of gas which are the same as those utilized in billing Applicant's intrastate customers. The purchasers would be notified of the estimated rate on or about the 20th day of the month in which deliveries occur and would be billed at such estimated rate in the month following the deliveries. There would be an adjustment in the second succeeding month to bring the rate to the actual weighted average acquisition cost of gas. As the regulations specify a different procedure for billing, Applicant requests that the Commission issue an order permitting the use of the agreed upon billing procedure.

Applicant further requests that the Commission issue an order approving the rates for the sales pursuant to section 311(b) of the NGPA as "fair and equitable" under section 311(b) and § 284.144 of the regulations, or, in the alternative, that such rates are in accordance with and do not exceed that specified in section 311(b) of § 284.144.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 25, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28080 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-434]

Montana Power Co.; Notice of Application

August 30, 1979.

Take notice that on August 8, 1979, The Montana Power Company (Applicant), 40 East Broadway, Butte, Montana 59701, filed in Docket No. CP79-434 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for a certificate of public convenience and necessity authorizing the sale of natural gas to Montana-Dakota Utilities Company (MDU), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell up to 11,000 Mcf of natural gas per day to MDU for a period of two years pursuant to the terms of a gas purchase contract dated February 2, 1979, between the two companies. Applicant is able to sell the gas to MDU due to sufficient volumes of gas imported by Applicant from Canada. Applicant indicates that it would sell the gas to MDU at a price of $2.51441 per million Btu, which price would be subject to increase only to the extent that the border price of Canadian gas and cost of service based upon the border price increase to Applicant during the two-year period of the gas purchase contract.

MDU would use the gas on its system to help maintain levels of deliveries to its existing customers and to avoid deeper curtailments, it is stated.

Applicant asserts that since it is an intrastate gas company, and that inasmuch as its gas supply basically is obtained from Canada by import and from producers whose sales are not subject to the jurisdiction of the Commission, Applicant requests that the facilities, transportation, and sales by suppliers of gas to it, including but not limited to any producers, and all of the existing facilities of, transportation of gas, and sales by Applicant with the exception of the instant sale to MDU and the related interconnecting facilities would remain exempt from the Commission's jurisdiction and their non-jurisdictional status shall not be affected by any certificate which may be issued in this proceeding. Applicant also requests that the Commission waive its accounting and reporting requirements with respect to this application for the term of the requested certificated authorization, provided that Applicant would report the volumes of gas sold and the price paid for the gas.

Applicant requests that it be allowed to abandon the sale, transportation and facilities referred to herein at the end of the proposed two-year period without further Commission action in this proceeding.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28081 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL79-27]

Municipal Wholesale Power Group v. Wisconsin Power & Light Co.; Notice of Complaint

August 31, 1979.

Take notice that the Municipal Wholesale Power Group (MWPG) on August 13, 1979 tendered for filing a complaint against the Wisconsin Power & Light Company (WP&L) alleging that WP&L has violated section 205(d) of the Federal Power Act by including charges in its fuel adjustment clause which are prohibited by § 35.14 of the Commission's Rules and Regulations and by WP&L's fuel adjustment clause contained in its W-3 rate schedule currently on file with the Commission in Docket No. ER77-347.

MWPG indicates that it is an informal association of 27 municipal wholesale customers of WP&L.

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Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28082 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-537]

Natural Gas Pipeline Company of America; Notice of Amendment to Application

August 20, 1979.

Take notice that on July 27, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-537 an amendment to its application filed in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for certain changes in the construction of certain proposed facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant now proposes to construct and operate approximately 27 miles of 8-inch pipeline, and appurtenant facilities, from Madill Processing Plant to Applicant's existing 10-inch pipeline in Love County, Oklahoma, and to construct and operate 400 horsepower of compression. The total estimated cost of these facilities is $2,705,000, which cost would be met from funds on hand.

Applicant indicates that the construction and operation of these facilities is necessary in order to receive into its system quantities of natural gas to be produced from reserves located in Bryan and Marshall Counties, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28083 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-204]

Natural Gas Pipeline Co. of America; Notice of Amendment

August 30, 1979.

Take notice that on August 6, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP-79-204 and amendment to its application filed in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to provide for a gas-for-gas exchange arrangement on a monthly basis for gas delivered by Natural to Interstate Gas Company (CIG) and by CIG to Natual on the latter's Amarillo System, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Natural, in its application requested authority to transport gas for CIG pursuant to conditions established in a twenty year gas transportation and exchange agreement between the parties. Natural would transport up to an aggregate volume of 80,000 Mcf per day of gas received for the account of CIG at various points on Natural's pipeline system now existing or as may be added in the future. The agreement also provides that CIG would transport for Natural such volumes available to Natural in the vicinity of CIG's system. CIG has filed an application in Docket No CP-79-205 for authority to perform such service for Natural. Natural proposed to charge CIG its jurisdictional cost of service allocated to onshore transmission operations, a rate currently calculated to be 41.57 cents per Mcf. The volumes of gas redelivered would also be adjusted for fuel used and lost and unaccounted for gas.

Natural and CIG have amended the agreement to permit the exchange on a gas-for-gas basis, of gas delivered to Natural on its Amarillo System by CIG and gas delivered by Natural to CIG. Volumes of gas received in excess of such exchange volumes would be considered "Net Delivery Volumes" by the receiving party and would be subject to the appropriate transportation charge as previously established. Any gas delivered by CIG to Natural on Natural's Gulf Coast Line would not be considered exchange gas and would, therefore, be subject to the applicable average system transportation charges irrespective of any "Net Delivery Volumes" between Natural and CIG in Natural's Amarillo System-CIG System part of the arrangement.

Any person desiring to be heard or make any protest with reference to said amendment should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28084 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-432]

Northern Natural Gas Co.; Notice of Application

August 22, 1979.

Take notice that on August 7, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-432 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon and remove two 1,080 horsepower compressor units from its Redfield, Iowa, Storage Field and further, for a certificate of public convenience and necessity authorizing the construction and operation of certain interconnecting and compression facilities located in Calcasieu Parish, Louisiana, and Pecos County, Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Northern requests authorization to construct and operate a pipeline interconnection and compressor station between the facilities of Transcontinental Gas Pipe Line Corporation (Transco) and Texas Eastern Transmission Corporation (Texas Eastern) to be located near Starks, Calcasieu Parish, Louisiana, and to construct and operate a pipeline interconnection and compressor station between the facilities of Oasis Pipe Line Company (Oasis) and Northern near Fort Stockton, Pecos County, Texas.

Northern states that it has obtained a commitment of reserves from twelve producers having interest in 7 blocks in the High Island area, offshore Texas, and the West Cameron area, offshore Louisiana.

In July 1979, the application indicates, an estimated 85,000 Mcf per day would be available to Northern from certain of the blocks and it is anticipated that in November 1979 the deliverability from the gas reserves attributable to Northern's interest in the blocks would be 130,000 Mcf per day. Such gas would be transported from various points in the High Island and West Cameron areas to a point in West Cameron Block 167, offshore Louisiana, by High Island Offshore System (HIOS), pursuant to a transportation agreement dated February 15, 1978 as amended, between HIOS and Northern. At the northern terminus of the HIOS system in West Cameron Block 167, U-T Offshore System (U-TOS) would take delivery of Northern's gas and would transport such gas to a point of interconnection onshore with the existing facilities of Transco near Johnson's Bayou, Cameron Parish, Louisiana, pursuant to a transportation agreement dated May 1, 1978, as amended, between U-TOS and Northern.

Pursuant to a gas transportation agreement between Transco and Northern dated June 14, 1979, Transco would transport up to 150,000 Mcf per day of Northern's offshore gas received at the terminus of the U-TOS system north through its pipeline system to the point of interconnection, near Starks. The gas would then be compressed and delivered into an existing 30-inch pipeline owned by Texas Eastern. The transportation of gas by Transco for Northern's account would be on a best efforts basis until certain facilities are installed on Transco's Southwest Louisiana Gathering System and the facilities proposed are installed and operating. The agreement also provides for the transportation and delivery on a best efforts basis, of up to 150,000 Mcf per day for Northern's account to an existing interconnection between the pipeline facilities of Transco and Texas Eastern near Ragley, Louisiana.

By agreement dated June 7, 1979, between Texas Eastern and Northern, Texas Eastern would transport up to 100,000 Mcf per day on a firm basis and 50,000 Mcf per day on a best efforts basis of Northern's offshore gas received at the Starks Interconnection and deliver such to Houston Pipe Line Company (Houston) and the Mont Belvieu Interconnection between Texas Eastern and Houston located in Chambers County, Texas and/or at an interconnection located near Mauriceville, Orange County, Texas. Pending completion of Transco's facilities and the Starks Interconnection, Texas Eastern would take delivery of gas from Transco, for Northern's account at the Ragley Interconnection for further transportation and delivery to Houston.

Northern proposed to construct and operate the following facilities:

(1) An interconnection and compressor station between the pipeline facilities of Transco and Texas Eastern near Starks, Calcasieu Parish, Louisiana. The facilities would consist of three 3,100 horsepower turbine driven compressor units (Starks Compressor Station), approximately 0.8 mile of 16-inch pipeline extending from the discharge of the proposed compressor station to Texas Eastern's existing 30-inch pipeline and measurement facilities (Starks Interconnection). One of the units installed at the proposed Starks Compressor Station would serve as a standby unit. Texas Eastern would operate the proposed pipeline and measurement facilities, as agent for Northern.

(2) Minor facilities to reconnect an existing emergency interconnection between the facilities of Oasis and Northern located in Pecos County, Texas (Oasis Delivery Point).

(3) Two 1,080 horsepower turbine drive compressor units (Gomez No. 2 Compressor Station) at the Oasis Delivery Point located in Pecos County, Texas.

The compressor facilities which Northern requests authorization to construct and operate are necessary to effectuate the delivery of gas to Texas Eastern at the Starks Interconnection and the receipt of such gas volumes from Oasis in Pecos County, Texas, it is asserted.

The estimated cost of the proposed facilities is $10,633,500, and would be financed from cash on hand.

Northern presently has six compressor units with a total of 9,160 compressor horsepower installed at its Redfield, Iowa, Storage Field. It has been determined that as a result of operating changes at Redfield, two 1,080 horsepower turbine drive compressor units are no longer required at the Redfield Storage Field.

Northern can maintain the desired injection and withdrawal volumes with less horsepower than is presently installed. Under present and proposed operating conditions, Northern has 2,160 horsepower in excess of the 7,000 horsepower required to compress the volumes to be injected into and withdrawn from the Redfield Storage Field.

Northern plans to utilize the surplus Redfield Storage Field units at the proposed Gomez #2 Compressor Station. The estimated cost of removing the Redfield units is $60,000 which would be financed from cash on hand.

Therefore, Northern requests permission and approval to abandon and remove two 1,080 horsepower turbine driven compressor units from its Redfield, Iowa, Storage Field.

The proposed facilities would materially assist Northern in meeting its customer's requirements during the 1979-80 heating season by enabling it to deliver new gas supplies to Texas Eastern and to ultimately receive back such volumes on a reliable basis from Oasis.

Northern plans to commence construction of the proposed Starks Interconnection in September 1979 with a projected completion date of December 15, 1979, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

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the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment and a grant of the certificate are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28085 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-50]

Northern Natural Gas Co.; Order Granting Petition for Extraordinary Relief and Granting Petitions To Intervene

August 20, 1979.

On March 22, 1979, Northern Natural Gas Company (Petitioner) filed in Docket No. TC79-50 a petition for extraordinary relief pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) seeking authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop Drying Service Rate Schedule ACDS-1. Petitioner seeks authorization to make available, on a best efforts basis, volumes of gas for the drying of seed, grain, and other agricultural crops during a 12-month period commencing with the expiration of the current period of authorized service granted in Docket No. TC78-3. Petitioner's proposals are more fully set forth in said petition.

During a four-year period beginning in 1973, Petitioner was granted extraordinary relief to provide natural gas service to its existing utility customers for seed grain and crop drying under Rate Schedule ACDS-1 on a best efforts basis in volumes up to 750,000 Mcf. The last authorization was granted by order issued August 23, 1978, in Docket No. TC78-3 for a one-year period. For the period 1973-78, the volumes sold during the authorized periods ranged from a low of 78,300 Mcf to a high of 150,402 Mcf. The volumes of gas sold during the latest period is estimated to be approximately 136,573 Mcf.

Petitioner again estimates that it will have available for sale under Rate Schedule ACDS-1 a total of 750,000 Mcf of gas for a one-year period which would commence at the expiration of the authorization granted in TC78-3. Normally, such gas has only been required for the period September 15 through March 15, but should unusual operating conditions, abnormal weather or changes in gas supply occur, Petitioner would have a basis upon which to make such gas available during the other months of the 12-month period. Pursuant to Rate Schedule ACDS-1, the volumes will be made available daily, on a best-efforts basis, under advance operating arrangements. If the volumes nominated exceed the volumes available, seed grain drying will be accorded top priority. No new facilities or change in rates are proposed.

Rate Schedule ACDS-1 is designed to provide special relief for Petitioner's utility customers during the seed and crop drying season. Preservation of feed grain and especially seed grain is universally recognized as an important link in the food chain. In order to be properly preserved, the moisture content of grains must be reduced below 12 percent, otherwise the grain germ will be destroyed and irrecoverable loss will occur.

In view of the Natural Gas Policy Act of 1978 (NGPA), Petitioner is advised that prior to filing a request for such service in future years, it should evaluate the need for the subject service. It may well be that after a year of operation under Section 401 of the Natural Gas Policy Act of 1978, and particularly Part 281 of the Regulations implementing Section 401, Petitioner may not need to offer the subject service.

After due notice by publication in the **Federal Register** on April 26, 1979 (44 FR 24630), timely petitions to intervene were filed by DeKalb Agresearch, Inc., North Central Public Service Co., Division of Donovan Companies, Inc., and Iowa Electric Light and Power Company. Iowa Public Service Company (Iowa Public) and Iowa Southern Utilities Company (Iowa Southern) filed late petitions to intervene. Iowa Public and Iowa Southern are customers of Petitioner and render natural gas service in the agribusiness community. Permitting the filing of their late petitions to intervene will not delay the instant proceeding. A timely notice of intervention was filed by the Iowa State Commerce Commission. None of the petitioners to intervene nor the Iowa Commission requests a formal hearing in this proceeding. No further petition to intervene, further notice of intervention, or protest to the granting of the requested relief has been filed.

The Commission finds. (1) Irreparable injury to the preservation of feed and seed grains and crops would result if Petitioner is not permitted to provide natural gas service to its existing utility customers under its presently effective Agricultural Crop Drying Service Rate Schedule ACDS-1.

(2) Good cause has been shown to permit the filing of the late petitions to intervene and participation by all petitioners to intervene in this proceeding may be in the public interest.

The Commission orders. (A) Northern Natural Gas Company is granted extraordinary relief to provide natural gas service to its existing utility customers up to 750,000 Mcf of gas for a period of 12 months from the termination of the authorization granted in Docket No. TC78-3 (August 22, 1979) under its presently effective Agricultural Crop Drying Service Rate Schedule ACDS-1 of Petitioner's FERC Gas Tariff, Third Revised Volume No. 1.

(B) The petitioners to intervene are permitted to intervene subject to the rules and regulations of the Commission; *Provided, however,* that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene; and, *Provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(C) Petitioner shall file with the Commission, within 15 days after the termination of the extraiordinary relief service herin granted, a report detailing the volumes of gas sold on a monthly basis to each of its customers, including Peoples Division of Petitioner, under Rate Schedule ACDS-1.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-28086 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-616]

Northern States Power Co. (Minnesota), Northern States Power Co. (Wisconsin); Notice of Amendment to Coordinating Agreement Regarding Writeoff of Cancelled Project

August 31, 1979.

The filing Company submits the following:

Take notice that Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin), on August 24, 1979, tendered for filing a proposed amendment to the Coordinating Agreement of October 12, 1970 between the Companies. The Coordinating Agreement is designated FERC Rate Schedule No. 374 for Northern States Power Company (Minnesota) and FERC Rate Schedule No. 53 for Northern States Power Company (Wisconsin).

Northern States Power Company (Wisconsin) is a wholly owned subsidiary of Northern States Power Company (Minnesota). The Companies operate a single integrated power supply system, and share the cost of the system under the Coordinating Agreement. Northern States Power Company (Wisconsin) owns a 67.6% interest in the Tyrone Energy Park project in Dunn County, Wisconsin, which was cancelled following the denial by the Wisconsin Public Service Commission of authority to construct the plant. Northern States Power Company (Wisconsin)'s expenditures on the project to date of cancellation and its expenses in terminating contracts are estimated to total $80 million. In filing the proposed amendment to the Coordinating Agreement, the Companies seek authorization to write off the losses over five years and confirmation that the write-off amounts are to be shared between the Companies under the Coordinating Agreement. The companies seek to include the capital costs of unamortized balances of the write-off amounts in the payments made under the Coordinating Agreement in order to obtain ratable sharing of those costs between the Companies, but commit themselves not to pass through such capital costs to their customers in retail or wholesale ratemaking. Northern States Power Company (Wisconsin) also seeks approval of accounting procedures for the write-off.

Copies of the filing were served upon the wholesale customers of each of the Companies and upon the regulatory commissions of Minnesota, North Dakota, South Dakota and Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28087 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-615]

Ohio Edison Company; Notice of Filing

August 31, 1979.

The filing Company submitted the following:

Take notice that Ohio Edison Company on August 24, 1979, tendered for filing a proposed change in its FERC electric service tariff FERC No. 66, an Amendment No. 3 to the Interconnection Agreement between The Dayton Power and Light Company and Ohio Edison Company. The amendment provides for an increase in the demand charge for Short Term Power service from $0.60 to $0.70 per KW week and for paying the cost to the supplying party of Short Term Power obtained from a third party (plus 10% of the energy charge).

The Dayton Power and Light Company has concurred with the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28088 Filed 9-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-478 and ER79-479]

Public Service Company of New Mexico; Order Accepting Rate Increases for Filing, Suspending Rate Increases, Establishing 205 and 206 Proceedings, Granting Motions, Granting Interventions, Granting Partial Summary Judgement, Establishing Price Squeeze Procedures, and Establishing Additional Procedures

Issued August 28, 1979.

On June 28, 1979, Public Service Company of New Mexico (PNM) tendered for filing four rate increase proposals. One filing, assigned Docket No. ER79-479, was tendered pursuant to Section 205 of the Federal Power Act and contained two separate rate proposals applicable to wholesale customers. [1] One rate proposal included all CWIP in rate base (full-CWIP), and the other proposal submitted as an alternate, included only pollution-control CWIP in rate base (limited CWIP). [2] PNM requests a September 1, 1979, effective date for this filing. A second filing, designated as Docket No. EP79-478, was tendered under Section 206 of the Act, and it contained a full-CWIP rate increase proposal and an alternate limited-CWIP rate increase proposal applicable to the City of Gallup, New Mexico (Gallup). [3]

Notices of the proposed changes in rates for Docket Nos. ER79-478 and ER79-479 were issued on July 3 and July 11, 1979, respectively, with all protests and petitions to intervene due on or before July 24, 1979.

PNM previously applied for the inclusion of all CWIP in rate base in its most recent rate increase proposals in Docket No. ER78-337 and ER78-338 for

[1] The rates would apply to the four following customers: Community Public Service Company; Plains Electric Generation and Transmission Cooperative, Inc.; Department of Energy-Los Alamos; and the City of Farmington, New Mexico.

[2] The governing regulation is Order No. 555, Docket No. RM75-13, issued November 6, 1975, 18 CFR 2.16(b) (1978).

[3] The proposed change in rates for Gallup are filed pursuant to Section 206 in accord with two orders issued by the former FPC in Docket No. E-9454 on July 31 and September 28, 1975. Therein, the FPC found the existing PNM-Gallup contract did not permit unilateral rate increase filings under Section 205, but that the contract permitted a change in rate after the completion of a Section 206 proceeding.

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all the wholesale customers. On June 30, 1978, the Commission ordered that the Company's request for CWIP under the financial hardship exception of Order No. 555 be considered on an expedited basis in Phase I of the two dockets. [4]

In the instant filing, PNM does not provide the financial information necessary to support a request for CWIP under the financial hardship criteria as set forth in Order 555. [5] In its transmittal letter of June 27, 1979, however, the Company asks that the Commission's decision in Phase I of Docket Nos. ER78–337 and ER78–338 control the disposition of the instant full-CWIP filings and that the latter become effective on the date of a final and favorable Commission order in the ER78–337 and ER78–338 dockets.

Petitions To Intervene

Petitions to intervene in Docket No. ER79–479 were filed by: The General Services Administration (CSA) [6]; Community Public Service Company (CPS) [7]; City of Farmington, New Mexico (Farmington) [8]; Plains Electric Generation and Transmission Cooperative, Inc. (Plains) [9]; and Gallup [10]. All petitioners claim that they have a substantial interest in the respective proceedings which cannot be adequately represented by other parties and that their participation would be in the public interest.

Farmington, Plains, Gallup, and CPS object to PNM's requests that the Commission's final order in Docket Nos. ER79–337 and ER79–338 control the present application for full-CWIP. They claim that PNM's present application for full-CWIP fails to make a showing of financial distress as required by Order No. 555. Farmington and Gallup move to summarily reject PNM's applications for full-CWIP. Additionally, petitioners argue that the Commission should not as a matter of policy permit the "pancaking" of requests for emergency CWIP relief. Plains, Farmington, CPS, and Gallup each move for summary judgment against PNM's proposal to include ADITC in the common equity portion of its capital structure, and they maintain that the Company should be required to file revised rates reflecting this adjustment. Farmington and Gallup allege that the proposed filings may create a price squeeze, and they request the ordering of a price squeeze investigation. CPS moves to consolidate Docket Nos. ER79–478 and ER79–479 on the ground the these proceedings involve common issues of law and fact. Gallup points out that its contract with PNM bars a unilateral rate increase under the *Mobile-Sierra* doctrine [11], and it contends that PNM must satisfy the *Mobile-Sierra* burden of proof [12] in Docket No. ER78–478.

Discussion

In its requests for full-CWIP rates, the Company has not complied with the requirements of our regulations implementing Order No. 555. [13] This request presents a novel question as to the kind of showing required when there is an ongoing CWIP proceeding in the prior docket. One type of showing would be a *de novo* showing of financial distress. The second type would build from the showing and Commission determination in a prior case. PNM has not attempted to make a *de novo* showing, nor is there a prior Commission opinion allowing CWIP on which it could build. We therefore reject PNM's CWIP filing, without prejudice to an appropriate submittal.

We have consistently held that the return on ADITC must be measured by the overall rate of return, rather than by the higher common equity return. [14] Therefore, we shall grant petitioners' motions to summarily dispose of this issue and direct PNM to refile its capital structure and rates to reflect treatment of ADITC consistent with our Opinion No. 19, *supra*.

In prior dockets involving the PNM-Gallup contract, the Commission determined that PNM is not required to meet the heavy burden of proof associated with the *Sierra-Mobile* decisions in order to effect a change in rates to Gallup. [15] Gallup's request for such a finding shall be denied.

Allegations of price squeeze have been raised. Pursuant to the policy set forth in Order No. 563 and in our implementing regulation, [16] we find that price squeeze procedures should be initiated in this case.

In a recent *Arkansas Power & Light Company* case, [17] we decided that newly docketed rate proceedings in which price squeeze issues are raised should be phased so that a decision first may be reached on cost of service, capitalization, and rate of return issues. If the price squeeze persists, in the view of the alleging party, a second phase of the proceeding generally is to follow. However, in *Arkansas*, we stated that there may be situations in which price squeeze issues should not be deferred and that we would leave it to the nonreviewable discretion of the presiding judge to accelerate the price squeeze proceeding in whole of in part (e.g., begin price squeeze discovery in the first phase but conduct the hearing on it in the second).

The Section 206 portion of this consolidated proceeding may be a situation in which the price squeeze issue should not be deferred since the Company's rate relief can be prospective only. Therefore, we shall not phase the price squeeze proceeding in Docket No. ER78–478. However, the presiding judge may exercise discretion to phase this issue if PNM, the party which could presumably be harmed by such phasing, does not object.

Because of the similarity of parties and issues in the price squeeze portions of both dockets, we shall also decline to phase the price squeeze issue in Docket No. ER78–479 at this time. The presiding judge shall have complete discretion to phase the issue in this Section 205 proceeding and to conduct the discovery and hearing on price squeeze in the two dockets either concurrently or separately.

The Commission finds that participation in this proceeding by Farmington, Gallup, Plains, CPS and GSA may be in the public interest.

Our review indicates that the proposed partial-CWIP rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Therefore, we shall accept PNM's partial CWIP rates in Docket No. ER78–479 for filing and suspend the proposed rates for five months to become effective February 1, 1980, subject to refund. The partial-CWIP rates for Gallup in Docket No. ER78–478 shall be accepted for filing, to be made effective, if at all, pending completion of the Section 206 proceeding.

The Commission orders: (1) Pursuant to motions by Farmington and Gallup, PNM's tendered full-CWIP rates in Docket Nos. ER78–478 and ER78–479 hereby are rejected, without prejudice.

(2) The partial-CWIP rates proposed by PNM in Docket No. ER78–479 are hereby accepted for filing and suspended for five months, to become effective February 1, 1980, subject to refund.

(3) The partial-CWIP rates proposed by PNM in Docket No. ER78–478 are hereby accepted for filing to become effective, if at all, only after completion of section 206 proceedings.

(4) Pursuant to CPS's Motion to Consolidate, Docket Nos. ER79–478 and ER79–479 hereby are consolidated for purposes of hearing.

(5) CPS, Plains, Gallup, and Farmington are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this processing.

(6) Summary disposition with respect to the treatment of ADITC is hereby ordered in accordance with the discussion of this matter above. PNM shall file within 60 days a revised cost of service and rates to reflect the change in this item.

(7) Pursuant to § 2.17 of the Commission's regulations, we hereby order immediate initiation of consolidated price squeeze procedures in Docket Nos. ER79–478 and ER79–479. The Presiding Judge shall convene a price squeeze prehearing conference within 15 days of the date of this order. The Presiding Judge shall have discretion to alter this schedule subject to PNM's consent regarding the section 206 proceeding.

(8) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206(a), and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by PNM.

(9) Staff serve top sheets in this proceeding on or before November 21, 1979.

(10) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(11) The Secretary shall cause prompt publication of this order to be made in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28089 Filed 9–7–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–608]

Union Electric Co.; Notice of Filing of Interconnection and Facility Use Appendices

August 31, 1979.

The filing Company submits the following:

Take notice that on August 20, 1979, Union Electric Co. tendered for filing under Appendix C of the Interconnection Agreement between Central Illinois Public Service Company, Illinois Power Company, and Union Electric Company a new connection point, revision to an existing connection point and termination of an existing connecting point. Also included in the filing is a new Appendix "P" and cancellation of Appendix "L" and Appendix "N" to the Facility Use Agreement between Union Electric Company and Illinois Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28090 Filed 9–7–79; 8:45 am]

BILLING CODE 6450–01–M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Under Agreement for Cooperation Between United States and Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the United States and Japan (Atomic Energy, Cooperation for Civil Uses).

The subsequent arrangement to be carried out under the above mentioned agreement involves the extension from September 12, 1979 to April 30, 1980, of an agreement executed between the United States and Japan for the reprocessing of up to 99 tonnes of U.S.-supplied fuel at the Tokai reprocessing facility. The original agreement which was signed on September 12, 1977, was to cover a two-year period and to terminate at approximately the same time as the completion of the International Nuclear Fuel Cycle Evaluation (INFCE). Since then, however, the completion of INFCE has been extended to February 1980. The proposed subsequent arrangement would extend the agreement to April 30, 1980, two months following the February 1980, date now set for completion of INFCE.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

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[4] Hearing and briefing in that proceeding has been completed before the Presiding Administrative Law Judge.

[5] 18 CFR Section 2.16.

[6] Filed July 18, 1979. GSA's petition was filed on behalf of the Department of Energy—Los Alamos, a wholesale customer of PNM. GSA is authorized to represent the consumer interests of the executive agencies of the United States pursuant to section 201(a) of the Federal Property and Administration Services Act of 1942, 40 U.S.C. 481(a).

[7] Filed July 20, 1979. CPS is a public utility operating in New Mexico and Texas and is a wholesale customer of PNM.

[8] Filed July 24, 1979. Farmington owns a municipal electric generation and distribution system and purchases part of its electric requirements from PNM.

[9] Filed July 24, 1979. Plains owns and operates electric generation and transmission facilities to supply power to its eleven member-cooperatives in New Mexico.

[10] Filed July 24, 1979. The City of Gallup owns a municipal distribution system and purchases part of its power from PNM.

[11] *See*, footnote 3, *supra*.

[12] *United Gas Pipeline Company* v. *Mobile Gas Service Corporation*, 35a0 U.S. 322 (1956); *Federal Power Commission* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

[13] 18 CFR Section 2.16 (1978).

[14] *Carolina Power and Light Company*, Opinion No. 19, August 2, 1978 (mimeo. pp. 6–10). *See also, Virginia Electric Power Company*, Docket No. ER78–522, Order issued August 30, 1978; and *Public Service Company of Oklahoma*, Docket No. ER78–511, Order issued October 12, 1978.

[15] Order of June 30, 1978 in Docket Nos. ER78–337 and ER78–338; Orders of July 31 and September 26, 1975 in Docket No. E–9454.

[16] 18 CFR 2.17 (1978).

[17] Docket No. ER79–339, order issued August 6, 1979.

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Dated: August 30, 1979.

Robert N. Slawson,

Acting Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-28024 Filed 9-7-79; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 1315-1]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2) (C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of September 1, 1978 and September 30, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 13, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
D-COE-C32009-NJ	Newark Bay, Kill Van Kull Navigation Project, Newark, New Jersey	3	C
DS-COE-D67000-WV	Cabin Creek Basin Demonstration Reclamation Project, Kanawha County, West Virginia	ER-2	D
DS-COE-D90000-VA	Hampton Roads Energy Company's Portsmouth Refinery and Terminal, Portsmouth, Virginia	ER-2	A
D-COE-F07007-IN	Patriot Generating Station, Switzerland County, Indiana	EU-2	F
D-COE-F35026-MI	Austin Lake, Hollywood Development Corporation, Sand Dredge and Fill, Kalamazoo County, Michigan.	EU-2	F
D-COE-F39008-OH	Proposed Lakefront Steel Mill, Permit, Conneaut, Ohio	ER-3	F
DS-COE-G36048-TX	Lake Wichita, Holliday Creek, Flood Control Wichita Falls, Archer County, Texas	LO-1	G
DS-COE-J39005-00	Review Report, Missouri River, Proposed Report of Chief of Engineers, South Dakota, North Dakota, Nebraska and Montana.	ER-2	I
D-COE-K36027-HI	Waiupe Stream, Flood Control and Allied Purposes, Oahu, Honolulu County, Hawaii	LO-1	J
D-COE-K86004-AS	Permit Processing Guidelines To Control the Cumulative Effects of Shoreline Development in Pago Pago Harbor, Tutuila Island, American Samoa.	LO-1	J
D-COE-L39011-WA	Westhaven Cove, Westport Marina Small Boat Basin Expansion, Section 107 Permit, Grays Harbor County, Washington	LO-2	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-A61295-00	Roadless Area Review and Evaluation, Rare II (USDA-DES-78-04)	3	A
D-AFS-J00009-CO	Homestakes Mining Company's Pitch Project, Grand Mesa, Uncompahgre and Gunnison National Forest, Mining and Milling, Saguache County, Colorado.	3	I
D-AFS-J01013-MT	Proposed Mining and Reclamation Plan, Troy Project, Asarco, Inc., Lincoln County, Montana	ER-2	I
D-AFS-J61019-MT	Elkhorn Wilderness Study Area, Helena and Deerlodge National Forests, Montana	LO-1	I
D-AFS-K65027-CA	Medicine Lake Planning Unit, Modoc, Shasta, Trinity and Klamath National Forest, California	ER-2	J
D-AFS-L61117-WA	Kittitas Land Management Plan, Wenatchee National Forest, Kittitas and Chelan Counties, Washington (USDA-FS-R6-DES-(ADM)-78-15).	LO-2	K
D-REA-H08001-NB	Nebraska Public Distrct, 345KV Transmission Facilities, Several Counties, Nebraska (USDA-REA-EIS-(ADM)-78-10-D).	LO-1	H
D-SCS-E36054-SC	White's Mill Flood Prevention, Drainage, RC&D Measure, Sumter County, South Carolina, (USDA-SC-EIS-RC&D-(ADM)-78-1-(D)-SC).	LO-1	E
D-SCS-E36055-SC	Hungry Hall Flood Prevention, Drainage, RC&D Measure, Clarendon and Sumter Counties, South Carolina (USDA-SCS-EIS-RC&D-(ADM)-78-2-(D)-SC).	LO-1	E

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF COMMERCE		
D-MAR-A52131-00	Programmatic Statement for Continued and Future Financing of Tank Vessels Involved in Domestic Trade (MA-EIS-7302-78051D).	ER-2	A
D-NOA-G32031-LA	Port Fourchon Development Plan, La Fourche Parish, Louisiana	LO-1	G
DS-NOA-L81004-WA	Proposed NOAA Western Regional Center Development, Washington	LO-2	K
	DEPARTMENT OF DEFENSE		
D-UAF-A10050-00	Air Force Missile MX. Milestone II	LO-2	A
	DEPARTMENT OF ENERGY		
D-DOE-K03007-CA	Petroleum Production at Maximum Efficient Rate, Naval Petroleum Reserve No. 1, Elk Hills, Kern County, California.	ER-2	J
	DEPARTMENT OF THE INTERIOR		
D-BLM-J99007-WY	Proposed Livestock Grazing Management, Seven Lakes Area, Freemont County, South-Central Wyoming.	LO-2	I
D-BLM-L65042-OR	Vegetation Management With Herbicides, 1978 Through 1987, Western Oregon	LO-1	K
D-IBR-J32002-UT	Uintah Unit, Central Utah Project, Ashley National Forest, Uintah County, Utah.	ER-2	I
DS-IBR-J39008-UT	The Recreation Master Plan, Strawberry Reservoir Enlargement, Bonneville Unit, Central Utah Project, Wasatch County, Utah.	LO-2	I
D-IGS-J01014-WY	Pronghorn Mine, Proposed Mining and Reclamation Plan, Campbell County, Wyoming	ER-2	I
	DEPARTMENT OF TRANSPORTATION		
D-CGD-G40056-LA	US 90, Relocation and Upgrading, Morgan City, St. Mary's Assumption, and Terrebonne Parishes, Louisiana	EU-2	G
D-CGD-L52001-WA	Puget Sound Vessel Traffic Service and Radar Surveillance Expansion, Seattle, Washington	LO-1	K
D-FHW-C40036-NY	Riverdale Avenue Arterial, City of Yonkers, Westchester County, New York	ER-2	C
D-FHW-E40146-NC	Independence Boulevard, US 74 Corridor, Brookshire Freeway to Outer Loop, Charlotte, Mecklenburg County, North Carolina.	LO-2	E
D-FHW-E40147-GA	North Camp Creek Parkway Extension, Fulton County, Georgia (FHWA-GA-68-02-D)	LO-2	E
D-FHW-E40148-NC	Fayetteville Airport Connector to I-95, Cumberland County, North Carolina (FHWA-NC-EIS-78-04-D).	LO-2	E
D-FHW-E40149-GA	I-85, Separation of Interstate Routes I-58 and I-285 Red Oak Easterly to the Clayton County Line, Fulton County, Georgia (FHWA-GA-EIS-77-06-D).	LO-2	E
D-FHW-F40116-IN	Reconstruction of US 24 to US 35, Cass and Miami Counties, Indiana	LO-2	F
D-FHW-H40084-IA	IA-13, Elkader Bypass, Clayton County, Iowa (FHWA-IOWA-EIS-78-02-D)	ER-2	H
D-FHW-J40041-UT	Proposed Highway Improvement From Minnes Gap to Colorado Line, Utah	LO-2	I
D-FHW-J40042-ND	US 2, Surrey East to Rugby, Ward and McHenry Counties, North Dakota	ER-2	I
D-FHW-K40060-NV	Forest Highway 23, NV-23, White Pine County, Nevada	ER-2	J
D-FHW-L40071-WA	NE 12th Street, 100th Avenue NE to Bellevue Way, Bellevue, Washington (FHWA-WEA-EIS-78-04-D).	LO-1	K
D-UMT-D54026-PA	Pittsburgh Light Rail Transit System, Reconstruction, Pittsburgh, Allegheny County, Pennsylvania.	ER-2	D
D-UMT-F40117-IL	Chicago and Franklin Line Rail Rapid Transit Project, Cook County, Illinois	3	F
	FEDERAL ENERGY REGULATORY COMMISSION		
D-FRC-C05006-NY	Prattsville Pumped Storage Project No. 2729, New York	EU-2	C
	GENERAL SERVICES ADMINISTRATION		
D-GSA-E81016-TN	Renovation of Union Station, Nashville, Davidson County, Tennessee	LO-2	E
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-B89010-MA	Lafayette Place, Urban Development, Boston, Suffolk County, Massachusetts (HUD(CDBD)-R01-EIS-78-1D).	ER-2	B
D-HUD-D65017-VA	4447 Duke Street Complex, Rehabilitation, Alexandria, Fairfax County, Virginia	LO-1	D
D-HUD-E28029-AL	Lovick and Trussville Water Extension System, Jefferson County, Alabama	LO-2	E
D-HUD-G85108-TX	Parkway West and Westgreen Subdivisions, Harris County, Texas	LO-2	G
D-HUD-G85109-TX	Westbranch Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85112-TX	Keegans Glen Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85113-TX	Paddock Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85115-TX	Stone Creek Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85141-TX	Westglen Subdivision, Harris County, Texas	LO-2	G
D-HUD-K85017-CA	Residential Development of a Portion of Dover Valley, Fairfield, Solano County, California	ER-2	J
	INTERSTATE COMMERCE COMMISSION		
D-ICC-K53002-CA	Southern Pacific Transportation Company, Discontinue the Operation of Passenger Trains Between San Francisco and San Jose and Intermediate Points, California (Docket 28611).	ER-2	J
	TENNESSEE VALLEY AUTHORITY		
D-TVA-G01003-NM	Crownpoint Uranium Mining Project, McKinley County, New Mexico	ER-1	G

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Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No	Title	General nature of comments	Sources for copies of comments
	CORPS OF ENGINEERS		
F-COE-J39005-00	Missouri River Erosion, Proposed Report of Chief of Engineers, South Dakota, North Dakota, Nebraska, and Montana.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that stream-bank control measures in these free-flowing reaches be designed with possible recreation designation in mind.	I
	DEPARTMENT OF COMMERCE		
F-NOA-C90002-PR	Puerto Rico Coastal Zone Management Program (CZM).	Generally, EPA's concerns were adequately addresses in the final EIS. However, EPA encourages the Department of Commerce to condition approval on the development of a realistic schedule for program implementation and on the reconsideration of actual environmental conditions in Puerto Rico's Coastal Zone.	C
F-NOA-C90003-NJ	State of New Jersey Coastal Management Program, (CZM) Bay and Ocean Shore Segment, New Jersey.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommends certain revisions to better protect the quality of the ambient air and water in New Jersey.	C
F-NOA-D86000-MD	Maryland Coastal Zone Management Program	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA recommends that an annual program evaluation process be integrated into the MCZMP so that Maryland's progress in implementing the MCZMP could be properly monitored.	D
F-NOA-K86003-HI	State of Hawaii Coastal Zone Management Program (CZM), Hawaii.	EPA's concerns were adequately addressed in the final EIS	J
	DEPARTMENT OF TRANSPORTATION		
F-CGD-G50002-LA	Greater New Orleans Mississippi River Bridge No. 2, Jefferson and Orleans Parishes, Louisiana.	EPA has found the final EIS inadequate because it fails to recognize the current air quality in Louisiana. In addition, EPA finds the document unresponsive to comments previously submitted to assure air quality impacts were adequately analyzed.	G
F-FHW-F40097-IN	In-18, Marion, Grant County, Indiana	EPA's concerns were adequately addressed in the final EIS	F
F-FRA-D53045-00	Northeast Corridor Improvement Project	EPA's concerns were adequately addressed in the final EIS	A
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-C85018-PR	Venus Gardens Development, Rio Piedras, Puerto Rico.	EPA's concerns were adequately addressed in the final EIS	C
F-HUD-C89004-NY	Rochester Circulation Plan for the Central Business District, Monroe County, New York.	EPA's concerns were adequately addressed in the final EIS	C
F-HUD-D89021-PA	Eastern North Philadelphia Plan, Philadelphia County, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS. EPA has requested to review the truck study when completed.	D
F-HUD-D89022-VA	Church Street and Huntersville II Redevelopment Projects, Norfolk, Chesapeake County, Virginia.	EPA's concerns were adequately addressed in the final EIS	D
F-HUD-E85040-TN	Kirby Meadows Subdivision, Memphis, Shelby County, Tennessee (HUD-R04-EIS-77-15F).	EPA has environmental reservations on the project as proposed. EPA was not afforded the opportunity to review the draft statement and feel it is appropriate to raise issues for resolution prior to any approval action by HUD. The dangers of siltation and turbidity of Nonconnah Creek are likely as a result of the proposed clearing and subsequent development in the project area. Additionally, any project in a carbon monoxide non-attainment area which will increase ADT requires a microscale analysis to assure attainment/maintenance of the standard.	E
F-HUD-E85033-MI	Proposed Oakland Park Towers, Troy, Oakland County, Michigan.	EPA's concerns were adequately addressed in the final EIS	F
F-HUD-J85015-CO	Concept 80 West, Lake Borough Village Planning Development District, Jefferson County, Colorado.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that HUD withhold its mortgage guarantee until the entire Concept 80 West Development Plans are modified to reflect the noise attenuation measures.	I
F-HUD-J85017-CO	The Highlands, a Planned Unit Development, Colorado.	Generally, EPA's concerns were adequately addresses in the final EIS. However, EPA has serious environmental reservations concerning air quality impacts from the cumulative VMT increases fostered by the Highlands development and other similar housing developments in the Denver-Metro area.	I

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No	Title	General nature of comments	Sources for copies of comments
	VETERANS ADMINISTRATION		
F-VAD-D81003-VA	Proposed VA Replacement Hospital, Richmond, Virginia.	EPA's concerns were adequately addressed in the final EIS. However, EPA did request that air quality information be used to design the facility in a manner to protect public health.	D
F-VAD-K69004-CA	Veterans Administration National Cemetery, Riverside, California.	EPA's concerns were adequately addressed in the final EIS	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No.	Title	Source of Review
	CORPS OF ENGINEERS	
FS-COE-H36039-IA	Cedar River, Waterloo, Local Protection Project, Black Hawk County, Iowa	H
	DEPARTMENT OF AGRICULTURE	
F-AFS-G65019-TX	Sabine Unit Plan, Sabine National Forest, Tex	G
F-SCS-E36053-MS	Beartown RC and D Measure, Flood Control Project, Pike County, Miss	E
	DEPARTMENT OF COMMERCE	
FS-EDA-C69001-NY	1980 Olympic Winter Games, Village Lake Placid, Towns of North Elba and Wilmington and Vicinity, N.Y.	C
F-NOA-E60004-NC	State of North Carolina Coastal Management Program (CZM)	E
	DEPARTMENT OF DEFENSE	
F-USA-J20008-UT	Dispoal of Hydrogen Cyanide at Tooele Army Depot, Tooele County, Utah	I
	DEPARTMENT OF ENERGY	
F-DOE-B09000-RI	Wind Turbine Generator System, Block Island Washington County, R.I. (DOE/EIS-0006)	B
	DEPARTMENT OF TRANSPORTATION	
F-FAA-H51011-IA	Proposed Development Runway Construction, Cedar Rapids Municipal Airport, Cedar Rapids, Linn County, Iowa (See Also FAA-A51860)	H
F-FHW-H40060-NB	Improvement to US 30 and NB-15, Schuyler, Colfax County, Nebr	H
F-UMT-F54002-IL	Rail Rapid Transit Extension, Chicago O'Hare Airport, Cook County, Ill	F

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Sept. 1, 1978, and Sept. 30, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	COUNCIL ON ENVIRONMENTAL QUALITY		
R-CEQ-A86117-00	40 CFR Parts 1500, 1501, 1502, 1503, 1054, 1506, 1507, 1508, National Environmental Policy Act, regulations, proposed implementation.	EPA made several comments on the proposed regulations in respect to definition and interpretations of several sections.	A
	DEPARTMENT OF INTERIOR		
A-BLM-A02128-AK	Proposed 1981, Outer Continental Shelf (OCS) oil and gas lease sale, Offshore Lower Cook Inlet Alaska, Sale No 60, resouce report.	EPA made several comments on the proposed notice and also on the need of the proposed development.	A
R-BLM-A86120-00	43 CFR Part 6290, off-road vehicles, use of public lands (43 FR 29412).	EPA beleves the proposed regulation raises the spectre of continued degradation of public lands by allowing off-road vehicle use to continue until the planning process is completed in 1987 and the possible degradation of lands with wilderness potential. Therefore, EPA recommended significant revision to the proposed rulemaking.	A
	FEDERAL ENERGY REGULATORY COMMISSION		
A-FRC-B05001-ME	Application for major license for constructed Howland project No. 2721, Piscataquis River, Howland, Maine.	EPA's review of the proposed action indicated the project would ultimately involve construction of several major dams and will in all probability cause significant environmental impact. Therefore, EPA recommends the FERC prepare an EIS	B
A-FRC-B05002-ME	Application for preliminary permit for proposed Kennebec River Hydroelectric project No. 2830, Kennebec, Big Sanday, and Carrabessett Rivers, Maine.	EPA's review of the proposed action indicated the project would ultimately involve construction of several major dams and will in all probability cause significant environmental impact. Therefore, EPA recommends the FERC prepare an EIS.	B

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Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

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BILLING CODE 6560-01-M

[FRL 1314-8]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of August 1, 1978 and August 31, 1978.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1978 report; the backlog of reports should be eliminated over the next three months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referencd herein are available from the originating Federal department or agency.

Dated: August 13, 1979.

William D. Dickerson,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Aug. 1, 1978 and Aug. 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
DS-COE-A30031-FL	Beach Erosion Control Project for Manatee County, Florida	LO-2	E
D-COE-B32001-MA	Removal and Disposal of Sources of Floatable Debris, Boston Harbor, Suffolk County, Massachusetts.	LO-2	B
D-COE-E30010-FL	Breakwater at Eastpoint, Apalachicola Bay, Franklin County, Florida	ER-2	E
D-COE-F35024-MI	Westran Corporation, Muskegon Lake, Dredge and Fill Permit, Muskegon County, Michigan	EU-2	F
D-COE-F35025-MI	Modifications to Monroe Harbor, Monroe County, Michigan	3	F
D-COE-G36063-LA	Flood Control, Mississippi River and Tributaries, Tensas Basin, Red River Backwater Area, Sicily Island, Catahoula County, Louisiana.	3	G
D-COE-G39005-00	Arkansas Red River Basin Chloride Control, Areas 1-4, Texas, Oklahoma, and Kansas		G
D-COE-K30005-HI	Kailua Beach Park Erosion Control, Kailua, Oahu, Honolulu County, Hawaii	LO-1	J
D-COE-K30007-HI	Sand Island Shore Protection, Oahu, Honolulu County, Hawaii	LO-1	J
D-COE-K34004-CA	Imperial Beach, Erosion Control Project, San Diego County, California	LO-2	J

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Aug. 1, 1978 and Aug. 31, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF AGRICULTURE		
D-APS-A82100-00	Japanese Beetle Regulatory Program (USDA-APHIS-ADM 78-1-D)	EU-3	A
DS-AFS-K61011-CA	King Planning Unit, Klamath National Forest, Siskiyou County, California	LO-2	J
D-AFS-K61025-AZ	Arizona Snow Bowl Ski Area Proposal, Flagstaff, Coconino National Forest, Arizona	LO-2	J
D-AFS-K61026-CA	Snow Mountain Wilderness, Mendocino National Forest, Lake County, California	ER-2	J
D-AFS-L60000-WA	Alpine Lakes Area Acquisitions, Chelan, King, Kittitas, Pend, Oreille, Pierce, Skagit, Snohomish, Stevens and Yakima Counties, Washington (USDA-FS-DES(ADM)-78-06).	LO-1	K
D-AFS-L60002-AK	Chugach Natives, and Koniag, Inc., Land Adjustment Proposal, Chugach National Forest, Alaska (USDA-FS-RIO-DES(ADM)-78-01).	LO-2	K
D-AFS-L61111-ID	Warren Planning Unit, Payette National Forest, Idaho and Valley Counties Idaho and Valley Counties, Idaho (USDA-FS-R4-DES (ADM) R4-78-6).	LO-2	K
D-AFS-L61112-WA	Satsop Block Planning Unit, Land Management, Olympic National Forest, Mason and Grays Harbor Counties, Washington (USDA-FS-R6-DES (ADM)-78-12).	LO-1	K
D-AFS-L61113-AK	Tongass National Forest Land Management Plan, Alaska (USDA-FS-R-10-78-03-DES)	LO-2	K
D-AFS-L61114-ID	Priest Wild and Scenic River Proposal, Idaho Panhandle National Forest, Coeur D' Alene, Kaniksu, and St. Joe, Boundary County, Idaho (USDA-FS-R1(04)—DES-LEG-78-01).	LO-2	K
D-AFS-L61115-ID	Moyie Wild and Scenic River Proposal, Idaho Panhandle National Forests, Coeur D'Alene, Kaniksu, and St. Joe, Boundary County, Idaho (USDA-FS-R1-(04-DES-LEG-78-9).	LO-2	K
D-AFS-L61116-ID	Land Management Plan, Coeur D'Alene Planning Unit, Coeur D'Alene National Forest, Shoshone County, Idaho (USDA-FS-R1-04-DES-ADM-78-11).	LO-2	K
D-AFS-L65041-OR	Siuslaw National Forest, Ten Year Timber Resource Management Plan, Oregon (USDA-FS-R6-DES(ADM)-78-11)	LO-2	K
D-SCS-A36445-00	Rural Clean Program (RCWP) Section 208 (J) of the Clean Water Act of 1977	LO-2	A
D-REA-G07012-OK	Western Farmers Coal-Fired Plant and Associated Transmission, Choctaw County, Oklahoma	LO-2	G
D-REA-J07007-ND	Stanton Generation Station, Financing of a 60 MW Coal-Fired Supplemental Steam Generator, Mercer County, North Dakota.	LO-1	I
D-SCS-F36059-IL	Little Calumet River Watershed, Cook and Will Counties, Illinois	ER-2	F
D-SCS-J36015-WY	Dougals Watershed, Converse County, Wyoming	ER-2	I
D-SCS-L36057-WA	Marshland Watershed Project, Snohomish County, Washington (USDA-SCS-ES-WS-(ADM)	LO-1	K
	DEPARTMENT OF DEFENSE		
D-JCS-E10002-FL	Joint Readiness Exercise "Gallant Eagle 79", Proposed Exercise Scheduled at Eglin Air Force Base Test Range Complex and Adjacent Coastal Waters, Florida.	LO-1	E
D-USA-G11003-LA	Mission Change, Fort Polk Military Reservation, Fort Polk, Louisiana	ER-2	G
DS-USA-J20007-CO	Disposal of Chemical Identification Sets, Rocky Mountain Arsenal, Adams County, Colorado	LO-1	J
D-USA-J20008-UT	Disposal of Hydrogen Cyanide, Tooele Army Depot, Tooele County, Utah	LO-1	J
D-USA-K11010-CA	Fort Ord Mission Change, Fort Ord, California	LO-2	J
	DEPARTMENT OF THE INTERIOR		
D-BLM-K07003-NV	500 MW Coal Fired Generating Station, Valamy, North Humboldt County, Nevada	LO-2	J
D-BLM-K65028-00	Upper Gila and San Simon Livestock Grazing Management Program, Arizona and New Mexico	LO-2	J
D-BLM-K65029-00	Tuleda and Home Camp Planning Units, Grazing, California and Nevada	LO-2	J
D-BLM-K65030-AZ	Livestock Grazing Program, Cerbat Black Mountain Planning Units, Mohave County, Arizona	LO-1	J
D-NPS-D61008-00	Youghiogheny State and National Wild and Scenic River, Maryland and Pennsylvania (DES 78-23).	LO-1	D
	DEPARTMENT OF TRANSPORTATION		
D-FAA-J51003-UT	15-Year Development Program, Orden Municipal Airport, Ogden, Utah	3	J
D-FAA-K51013-AZ	Scottsdale Municipal Airport, Land Acquisition and Runway Extension, Scottsdale, Maricopa County, Arizona.	ER-2	J
D-FHW-A42064-NH	I-393, Concord, Merrimack County, New Hampshire (Formerly US Routes 4, 202, and NH-9 (FHWA-NH-EIS-73-01-DS).	ER-1	B
D-FHW-B40036-VT	US 7, Manchester to Dorset, Bennington County Vermont (FHWA-VT-EIS-78-03-D)	ER-2	B
D-FHW-E40145-AL	Western Bypass, City of Talladega, Talladega County, Alabama (FHWA-AL-EIS-78-04-D)	LO-1	E
D-FHW-F40113-IN	US 50, White River, Washington City, Bypass, Knox and Daviess Counties, Indiana	LO-2	F
D-FHW-K40059-HI	Hanamulu to Ahukini Cutoff Road, FAP Route 51, HI-51, Kauai County, Hawaii	LO-2	J
D-FHW-L40069-ID	ID-3, St. Manes to Harrison Junction, Benewah and Kootenai Counties, Idaho (FHWA-IDA-EIS-78-01-D).	LO-2	K
D-FHW-L40070-WA	Bucklin Hill Area Transportation Study, Kitsap County, Washington, (FHWA-WA-EIS-78-93-D)	LO-1	K
	GENERAL SERVICES ADMINISTRATION		
D-GSA-D80008-DC	University of the District of Columbia, Mt. Vernon Square Campus, Washington, DC	LO-2	D
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
DS-HUD-A85008-NY	Riverton New Community, Monroe County, New York	2	C
D-HUD-C85022-PR	Monserrate Towers, Sabana Adajo Ward, Carolina, Puerto Rico	LO-2	C
D-HUD-E85039-FL	Carrollwood Meadows Subdivision, Tampa, Hillsborough County, Florida	ER-2	E
D-HUD-F85036-IN	Muirfield Subdivision, Indianapolis, Marion County, Indiana	LO-2	F
D-HUD-G85106-TX	Northwest Park Subdivision, Harris County, Texas	LO-1	G
D-HUD-G85110-TX	Pheasant Creek Subdivision, Fort Bend County, Texas	LO-2	G
D-HUD-L85007-WA	Silver Firs and Snohomish Cascade Master Plan, Everett, Snohomish County, Washington (HUD-RIO-EIS-78-5D).	LO-2	K
	NUCLEAR REGULATORY COMMISSION		
D-NRC-E06008-TN	Watts Bar Nuclear Plant, Units 1 and 2, West Shore of Chickamauga Reservior, Rhea County, Tennessee (NUREG—0352).	LO-2	E
D-NRC-J01008-WY	Highland Uranium Slouton Mining Project, Converse County, Wyoming	ER-2	I

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Appendix II—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately set forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Aug. 1 and Aug. 31, 1978*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CIVIL AERONAUTICS BOARD		
F-CAB-F51015-IL	Chicago Midway Low-Fare Route Proceeding, Illinois (Docket 30277).	EPA's concerns were adequately addressed in the final EIS. However, EPA continues to be concerned about noise impacts and the lack of adequate noise control measures.	F
	CORPS OF ENGINEERS		
F-COE-K32014-AS	Auasi Harbor for Light-Draft Vessels, Auasi, Tutuila Island, American Samoa.	EPA's concerns were adequately addressed in the final EIS.	J
	DEPARTMENT OF AGRICULTURE		
F-AFS-K65020-CA	Timber Management Plan, Eldorado National Forest, California.	EPA's concerns were adequately addressed in the final EIS.	J
F-SCS-F36048-OH	Little Auglaize Watershed, Mercer, Putnam, Paulding and Van Wert Counties, Ohio.	EPA's concerns were adequately addressed in the final EIS. However, EPA continues to express concern regarding long-term water quality impacts.	F
	DEPARTMENT OF INTERIOR		
F-BLM-A02123-00	Proposed 1978 Outer Continental Shelf (OCS) Oil and Gas Lease Sale #65, Offshore Eastern Gulf of Mexico, Florida, Alabama, Mississippi.	EPA finds the final EIS unresponsive to concerns raised on the draft EIS regarding deepwater development technology and the environmental effects of drilling mud discharges. EPA urges that no deepwater tracts be offered in general lease sales until deepwater operating orders are promulgated.	A
F-BLM-A02125-00	Outer Continental Shelf (OCS) Oil and Gas Sale #51, Offshore Western and Central Gulf of Mexico, Texas, Louisiana and Mississippi.	EPA finds the final EIS unresponsive to concerns raised on the draft EIS regarding the environmental effects of drilling mud discharges, the description and regulation of subsea completion and production technology, and validation of the proposed protective stipulations for coral reef and hard bank tracts.	A
	DEPARTMENT OF TRANSPORTATION		
FS-FHW-A42425-KS	I-435 Extension, Johnson and Wyandotte Counties, Kansas (FHWA-KANS-EIS-72-04-FS-3).	EPA finds the final supplemental statement unresponsive to EPA's comments on the draft supplemental statement. Secondary impacts of the proposed interchange were not assessed nor were alternatives properly evaluated which would maintain existing access to and from Kansas State Highway 10 and a major local arterial. EPA is also concerned with topics not covered in the final supplemental statement. Specifically, a comment response section, which includes unresolved environmental issues and a discussion of issues raised at the most recent public hearing on the project were not included. EPA recommended the need to conduct additional analysis which should be publicly reviewed if the project continues to be proposed.	H
F-FHW-C40022-NY	Potsdam Relief Route, US 11 and NY-56, St. Lawrence County, New York.	EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that further consideration be given to the use of barriers to mitigate potential noise impacts.	C
F-FHW-F40028-WI	Lang Drive, WI-35, La Crosse County, Wisconsin	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-H40065-NB	US 275 and US 81, Norfolk, Madison County, Nebraska.	EPA continues to have significant environmental reservations with the high noise levels and the adverse effects on commercial and residential receptors located adjacent to the proposed highway improvement. The final statement combined with information obtained during an onsite inspection of the project, further defined the extent of the noise impacts and the inherent difficulties in attenuating the adverse levels on the public. The additional information, however, does not alleviate the environmental reservations with the anticipated adverse noise levels which will continue to exceed the noise standards of the Federal Highway Administration as defined in the document, "Federal-Aid Highway Program Manual 7-7-3".	H
F-FHW-K40012-CA	Proposed Freeway, CA-101, Santa Clara County, California.	EPA's concerns were adequately addressed in the final EIS.	J

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Aug. 1 and Aug. 31, 1978*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION—Continued		
F-FHW-K40025-HI	Hilo Bayfront Highway, HI-19, Hawaii	EPA's concerns were adequately addressed in the final EIS.	J
	GENERAL SERVICES ADMINISTRATION		
F-GSA-K81006-CA	Central Los Angeles Parking Facility, Los Angeles County, California.	EPA's concerns were adequately addressed in the final EIS.	J
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-C85019-PR	Residential Covadonga Development, Project No. 63-004-2, Toa Baja, Puerto Rico	EPA's concerns were adequately addressed in the final EIS.	C
F-HUD-E85022-SC	Forestbrook Subdivision, Horry County, South Carolina.	EPA's review has found the initial comments on the facility still remains unanswered. Additional data provided on water quality, land use and wetlands within the Atlantic Coastal Plain were insufficient. EPA has recommended denial of the required COE permit regarding dredging in Socaster Creek, as planned in the initial development.	E
F-HUD-E85031-TN	Lakemeer Subdivision, Shelby County, Tennessee	EPA's concerns were adequately addressed in the final EIS.	E
F-HUD-F85026-IL	Rohlwing Grove Apartments, Elk Grove Village, Cook County, Illinois.	EPA's concerns were adequately addressed in the final EIS. However, EPA noticed that the final EIS shows potential violations of the 8-hour carbon monoxide standards in the vicinity of the project.	F
F-HUD-K85013-AZ	Proposed Foothills Planned Unit Development, Tucson, Arizona.	EPA's concerns were adequately addressed in the final EIS.	J
	INTERSTATE COMMERCE COMMISSION		
F-ICC-F53008-WI	Rail Abandonment in Southwestern Wisconsin, Lafayette and Iowa Counties, Wisconsin	EPA's concerns were adequately addressed in the final EIS. However, EPA is concerned about alternatives to the proposed abandonment. EPA feels that alternatives must be discussed fully, in order to make a sound decision.	F
	NUCLEAR REGULATORY COMMISSION		
FS-NRC-A00115-00	Floating Nuclear Power Plants, Part II (FS)	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA does not believe that estuarine and barrier island sites can be reasonably assured.	A
F-NRC-G06003-TX	Blue Hills Station, Units 1 and 2, Newton County, Texas.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA continues to express environmental reservations with regard to construction of such facilities which could have potential adverse effects on the environment.	G

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Aug. 1 and Aug. 31, 1978*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-A36376-IL	East St. Louis and Vicinity, Blue Waters Ditch Improvements, Illinois	F
F-COE-E34007-00	Operation and Maintenance of Hartwell Lake, Savannah River, Georgia and South Carolina	E
F-COE-E40134-NC	US 321, Blowing Rock to Boone, Watauga County, North Carolina	E
F-COE-F36029-MN	Bassett Creek Watershed, Hennepin County, Minnesota	F
F-COE-G35004-TX	Forest Grove Dam and Reservoir, Caney Creek, Henderson County, Texas	G
	DEPARTMENT OF AGRICULTURE	
F-AFS-J65063-MT	Placid-Blanchard Planning Unit, Land Management Plan, Lolo National Forest, Missoula County, Montana	I
F-AFS-L61102-ID	Island park Planning Unit, Targhee National Forest, Land Management Plan, Fremont County, Idaho (USDA-FS-FES(ADM)R4-78-3)	K
F-AFS-L65028-OR	Timber Management Plan, Umpqua National Forest, Douglas and Lane Counties, Oregon (USDA-FS-R6-FES(ADM)-77-08)	K
F-AFS-L65034-00	Rogue River National Forest and Timber Resource Plan, Oregon and California (USDA-FS-R6-FES(ADM)-77-14)	K
F-SCS-A67015-00	Rural Abandoned Mine Program (RAMP)	A
FS-SCS-G36057-LA	Lake Verret Watershed, Ascension, Assumption, and Iberville Parishes, Louisiana	G
F-SCS-G36061-TX	Upper San Marcus Watershed, Comal and Hays Counties, Texas	G
F-SCS-H36032-NB	South Branch Little Nemaha Watershed, Johnson, Lancaster and Otoe Counties, Nebraska	H
	DEPARTMENT OF COMMERCE	
F-NOA-A64045-00	Listing of Three Sea Turtles as Threatened Species	A
F-NOA-F39006-MI	Coastal Zone Management Program, Michigan (CZM)	F
	DEPARTMENT OF DEFENSE	
F-JCS-E10002-FL	Joint Readiness Exercise "Gallant Eagle 79," Florida	E
	DEPARTMENT OF INTERIOR	
F-NPS-E61026-00	Gulf Islands National Seashore, Mississippi and Florida (FES-78-18)	E

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Aug. 1 and Aug. 31, 1979*—Continued

Identifying No.	Title	Source of review
	DEPARTMENT OF TRANSPORTATION	
F-DOT-A41267-WA	WA-5 South 272nd Street Interchange, Widening Star lake Park and Ride Lot and South 272nd Street Flyer Stop, King County, Washington	K
F-FAA-G51005-NM	West Mesa Airport, Albuquerque, Bernalillo County, New Mexico	G
F-FHW-E40126-AL	US 98, FAP Route 9, State Line to Wilmer, Mobile County, Alabama (FHWA-ALA-EIS-77-03F0)	E
F-FHW-F40086-OH	Akron Innerbelt, OH-59, I-76/77 and OH-8, Summit County, Ohio	F
F-FHW-G40058-AR	I-630, I-430 and I-30 Connector, Little Rock Pulaski County, Arkansas	G
F-FHW-G40063-TX	I-20, I-30 to I-820, Benbrook, Fort Worth, Parker, and Tarrant Counties, Texas	G
F-FHW-G50003-AR	White River Bridge, Eastern Arkansas County, Arkansas	G
FS-FHW-H40016-IA	I-380 Black Hawk, Linn, Benton, and Buchanan Counties, Iowa	H
F-FHW-H40076-IA	State Arterial 518, IA-518, Lee County, Iowa	H
F-FHW-L40041-ID	US 26, Granite Hill to Swan Valley, Bonneville County, Idaho	K
F-FHW-L40047-WA	WA-16, Cheney Stadium Vicinity to Narrows Bridge, Pierce County, Washington (FHWA-WA-EIS-76-03-F)	K
F-FHW-L40051-ID	US 95, Ferdinand to Craigmont, Idaho and Lewis Counties, Idaho (FHWA-IDA-EIS-77-02-F)	K
	GENERAL SERVICES ADMINISTRATION	
F-GSA-B81003-ME	Fort Kent Border Station, Aroostook County, Fort Kent, Maine (EME78001)	B
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-E85037-NC	Six Forks North, Mine Valley Subdivision, Raleigh, Wake County, North Carolina (HUD- RO4—EIS-78-0-05-F)	E
F-HUD-G85067-TX	Bear Creek Village Subdivision, Harris County, Texas	G
F-HUD-G85071-TX	Timerhills Subdivision, Harris County, Texas	G
F-HUD-G85082-TX	Chimney Hill Subdivision, Harris County, Texas	G
F-HUD-G85090-TX	Tallow Wood Subdivision, Harris County, Texas	G
F-HUD-G85093-TX	Park Meadows Subdivision, Harris County, Texas	G
F-HUD-J61018-SD	Beadle Greenway Area, Redevelopment Plan, Sioux Falls, Minnehaha County, South Dakota	I
F-HUD-L85005-WA	Proposed Master Plan, Regency Woods, King County, Washington (HUD-R10-EIS-78-F)	K
F-HUD-L85006-ID	Cherry Lane Village, Meridian, Ada County, Idaho (HUD-R10-EIS-78-3F)	K
	INTERSTATE COMMERCE COMMISSION	
F-ICC-G53003-TX	Railroad Abandonment, Bonita Junction and Seagoville, Texas	G
	VETERANS ADMINISTRATION	
F-VAD-E81015-FL	520 Bed Replacement Hospital, 120 Bed Nursing Home Care Unit, 200 Bed Domiciliary and Renovation of Existing Buildings, VA Hospital	E

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Aug. 1 and Aug. 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION		
A-DOT-A86118-00	Floodplain Management and Protection: Proposed Policies and procedures, Implementation of Executive Order 11988 (43 FR 27148), Notices	EPA commended the scope and content of the proposal. However, EPA urges a stronger procedure for transportation activity at the early planning stages	A

Appendix VI—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213) Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 79-28121 Filed 9-7-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1315-3]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 9:30 a.m. to 5:00 p.m. on Tuesday, September 25, 1979. The meeting will be held in Room 3908, Waterside Mall, EPA, 401 M Street, S.W., Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202) 755-4854.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94-469). The agenda includes:

1. A status report on the EPA Asbestos program, including asbestos-containing material in schools and commercial and industrial use of asbestos fibers.
2. A full report on Premanufacturing Notification.
3. An update on other matters concerning the implementation of the Toxic Substances Control Act.
4. Reports from appropriate Administrator's Toxic Substances Advisory Committee subcommittee chairpersons.

The meeting will be open to the public and time will be set aside for public comments. Any member of the public wishing to present an oral or written statement should contact Ms. Marsha Ramsay at the address or phone number listed above.

Dated: September 6, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FR Doc. 79-28127 Filed 9-7-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1306-5]

Safe Drinking Water; Fresno County, Calif.; Determination

Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) the Administrator of the Environmental Protection Agency (EPA) has determined that a portion of the aquifer serving Fresno County is the sole source of drinking water for people of Fresno County, California, and that if the aquifer were contaminated, it would create a significant hazard to public health.

Background

Section 1424(e) of the Safe Drinking Water Act, provides the following: If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On August 9, 1976, Mr. Gerald Lysdahl of Fresno County, California, requested the Administrator of EPA to determine that Fresno County, California is an area which has an aquifer which is the sole or principal source of drinking water for the area and which, if contaminated, would create a significant hazard to public health. A notice of this petition with a request for comments was published in the **Federal Register** on December 6, 1976. A public workshop was held on May 24, 1977. A report on the ground water in Fresno County was prepared by the U.S. Geological Survey to provide needed information to make a determination. Such a report was submitted to EPA in July, 1977.

Written comments were received in response to the notice, the public workshop and the USGS report. EPA completed its evaluation of these and other materials and issued a draft evaluation report for comment on March 14, 1978. A public meeting on the report was held on April 25, 1978.

On the basis of the information provided in the U.S. Geological Survey Report, the Administrator has made the following findings, which are the basis for the determination above:

1. The Fresno County aquifer is the principal source of water for about 500,000 people, approximately twenty-two (22) cities and towns, with pumpage of approximately 140,000 acre feet for domestic use in 1976.
2. The aquifer is vulnerable to contamination through its recharge zone, particularly from septic tanks, impoundments, agricultural recharge and, to a lesser extent, from leaching of discharges to streams, rivers and canals in the recharge and streamflow source zones. Since groundwater contamination can be difficult or impossible to reverse, and because this aquifer is relied upon for drinking purposes by many people, contamination of the aquifer would pose a significant hazard to public health.

The portion of the aquifer serving Fresno County under discussion is that portion of the water-bearing formation which includes consolidated and unconsolidated formations bounded by the Fresno County boundary on the south, the middle of the San Joaquin River on the north, the Friant-Kern Canal on the east, and the Fresno Slough Bypass on the west. Because of the geology and hydrology of the area, the area designated as the aquifer is the recharge zone. Although the recharge zone extends to the Foothills of the Sierra Nevada Mountains, the applicant did not request the recharge zone east of the Friant-Kern Canal to be included in the designation of the aquifer.

The streamflow source zone boundaries include upstream and headwaters areas of the Kings and San Joaquin River basins and areas eastward to the crest of the Sierra Nevada Mountains.

EPA published proposed regulations for the review of Federally assisted projects in areas designated pursuant to Section 1424(e) (42 FR 51574, September 29, 1977). These projects are those which have received financial assistance directly as aid by a department, agency or instrumentality of the Federal government. EPA will use these proposed regulations as guidance for review of projects until final regulations are promulgated.

The data upon which these findings are based are available to the public and may be inspected during business hours at the Office of the Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California 94105. The background information includes:

1. A detailed map outlining the designated portion of the aquifer serving Fresno County, the recharge zones and the streamflow source zones;
2. A copy of the public comments submitted on the sole source designation petition, the Fresno County ground water report prepared by U.S. Geological Survey and the EPA evaluation report;
3. A technical support document for designation of a portion of the aquifer serving the Fresno County under 1424(e) of the Safe Drinking Water Act.

A copy of the above documentation is also available at the U.S. Environmental Protection Agency WH-550, Office of Drinking Water, 401 M Street, SW, Washington, D.C. 20460.

Dated August 30, 1979.

Douglas Costle,
Administrator.

[FR Doc. 79-28122 Filed 9-7-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1315-4]

Water Quality Criteria: Corrections

AGENCY: United States Environmental Protection Agency.

ACTION: Correction notice.

In FR Doc. 79-22804, Wednesday, July 25, 1979, at 44 FR 43660, EPA published and invited comment on Water Quality Criteria. In that document a number of

errors appeared which need correction. The corrections are listed below.

1. 3,3'-Dichlorobenzidene. Page 43667, right hand column: line 16, change "toxaphene" to "dichlorobenzidine".

2. 3,3'-Dichlorobenzidine. Page 43667, right hand column: lines 24-25 should read: "with corresponding criteria of 1.69×10^{-2} µg/l, 1.69×10^{-3} µg/l, and 1.69×10^{-4} µg/l, respectively".

3. 3,3'-Dichlorobenzidine. Page 43667, right hand column: 5th line from bottom should read: "cancer risk below $10^{-5}$is 1.69×10^{-2}µg/l.

4. 3,3'-Dichlorobenzidine. Page 43668, left and middle columns: in table under "Risk levels and corresponding criteria" numbers should read:

0	10^{-7}	10^{-6}	10^{-5}
0	1.69 x 10^{-4} ug/l	1.69 x 10^{-3} ug/l	1.69 x 10^{-2} ug/l
0	1.85 x 10^{-4} ug/l	1.85 x 10^{-3} ug/l	1.85 x 10^{-2} ug/l

5. 3,3'-Dichlorobenzidine. Page 43668, middle column: 23rd line from bottom should read R=1150.

6. 3,3'-Dichlorobenzidine. Page 43668, middle column: change 12th line from bottom to read lifetime cancer risk below 10^{-5}, is 1.69×10^{-2} micrograms per liter.

7. Nickel. Page 43684, middle column: line 28 should read: Human Health: For the protection of human health based on the toxic properties of nickel ingested through water and through contaminated aquatic organisms, the ambient water criterion is determined to be 133 µg/l day.

8. Nickel. Page 43684, middle column: line 7 from bottom should read: Final Chronic Value = e (1.01 × ln (hardness) − 1.02).

$$\frac{5(mg/l)\ x\ 25\ ml/day\ rat}{.3\ (kg/av.rat)} = \frac{125}{.3}$$

$$= 416.67\ ug$$

$$\div 20$$

$$dose/day/av.rat$$

$$\frac{420}{100} = 4.2\ ug\ (ADI)$$

$$4.2\ x\ 70 = 294\ ug\ (ADI\ for\ 70\ kg/man)$$

$$2(X) = (Av.\ fish\ intake)(BCF)(X) = Daily\ Intake$$

$$2(X) + (0.0187)\ (11)\ (X) = 294\ ug$$

$$2.205\ X = 294\ ug$$

$$X = 133\ ug/l\ (criterion)$$

$$2 = amount\ of\ water\ ingested,\ liters/day$$

$$X = Ni\ concentration,\ mg/l$$

$$0.0187 = amount\ of\ fish/shellfish\ products$$

$$products\ consumed,\ kg/day$$

$$F = 11\ (BCF),\ \frac{mg\ Ni/kg\ fish}{mg\ Ni/l\ of\ water}$$

9. Nickel. Page 43684, right hand column: insert the following after line 9:

Final Fish Chronic Value = not available

Final Invertebrate Chronic Value = not available

Final Plant Value = 1.000 µg/l

Residue Limited Toxicant Concentration = not available

Final Chronic Value = 1,000 µg/l

0.44 × Final Acute Value = 220 µg/l

10. Nickel. Page 43685, left hand column: delete 3rd paragraph and insert the following:

If the 5.0 mg/l level were used in the standard water quality criteria, the criterion can be determined to be 133 µg/l.

Drinking water contributes 91 percent of the assumed exposure while eating contaminated fish products accounts for 9 percent. The criterion level for nickel can alternatively be expressed as 1.4 µg/l, if exposure is assumed to be from the consumption of fish and shellfish products alone.

$X\times0.0187\times11=294$ (µg/l)

$X\times0.2057=294$

$X=1.429$ mg

$X=1.4$ (mg/l)

11. Phenol. Page 43688, right hand column: add the following at end of line 3: For the prevention of adverse effects due to the organoleptic properties of chlorinated phenols inadvertently formed during water purification processes, the phenol concentration in water should not exceed 1.0 µg/l.

12. Phenol. Page 43688, right hand column: line 8, change 2.4 to 24.

13. Phenols. Page 43689, middle column: add the following preceding Phthalate Esters:

In summary, based on the use of chronic toxicologid test data for rats and an uncertainty factor of 500, the criterion for phenol corresponding to the calculated acceptable daily intake of 0.1 mg/kg/day is 3.4 mg/l. Drinking water contributes 98 percent of the assumed exposure while eating contaminated fish products accounts for 2 percent. The criterion level could alternatively be expressed as 163 mg/l if exposure is assumed to be from the consumption of fish and shellfish products alone. Based on the potential chlorination of phenol in water, the criterion for phenol is 1.0 µg/l in those instances where such inadvertent chlorination may take place.

14. Phthalate esters. Page 43691, left hand column: add the following paragraph preceding Ploychlorinated Biphenyls:

In summary, based on the use of chronic toxicologic data and uncertainty factors of 100, the criteria levels for phthalate esters have been established. The percent contribution of drinking water and of ingesting contaminated fish is given in the following table. Also given are the criteria levels recommended if exposure is assumed to be from fish and shellfish products alone.

Esters	Criteria level mg/l	Percent contribution of drinking water	Percent contribution of fish products	Criteria if exposure is from fish alone
Dimethyl	160	45	55	268
Diethyl	60	29	71	87
Dibutyl	5	81	19	26
D-2-ethylhexyl	10	53	47	24

15. Polychlorinated biphenyls. Page 43691, middle column: in lines 4 and 8 change the word chloroform to PCB's.

16. Polychlorinated biphenyls. Page 43691, middle column: lines 16 and 17, change the criteria to 0.26 ng/l, 0.026 ng/l, and 0.0026 ng/l.

17. Polychlorinated biphenyls. Page 43692, left and middle columns: change figures in table as follows:

0.0026 ng/l	0.026 ng/l	0.26 ng/l
0.0026 ng/l	0.026 ng/l	0.26 ng/l

18. Polychlorinated biphenyls. Page 43692, middle column: line 27, change 0.24 to 0.26.

19. Toluene. Page 43692, middle column: line 11 from bottom, change 17.4 to 12.4.

20. Toluene. Page 43694, right column: change 1st equation to read:

$$\frac{590\ mg/kg\ x\ 70\ kg\ x\ 5/7\ day}{1,000} = 29.5\ mg/day$$

21. Toluene. Page 43694, right hand column: line 22 from bottom, change 17.4 to 12.4

22. Toluene. Page 43694, right hand column: change 2nd equation to read:

$$\frac{29.5\ mg/day}{2\ liters + (20\ x\ 0.0187)\ x\ 1.0} = 12.4\ mg/l$$

23. Toxaphene. Page 43695, left hand column: lines 11 and 12, change criteria to $4.7\ x\ 10^{-4}$ µg/l, $4.7\ x\ 10^{-5}$µg/l, $4.7\ x\ 10^{-6}$ µg/l

24. Toxaphene. Page 43696, right hand column: make the following corrections in 1st paragraph of text under table: 2nd line, change B_n to B_H 5th line, change 4.f to 4.7.

Dated: September 4, 1979.

Swep T. Davis,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-28125 Filed 9-7-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-86]

Japan/Korea-Atlantic and Gulf Freight Conference Rules Pertaining to Chassis Availability and Demurrage Charges That Result When Chassis Are Not Made Available; Order To Show Cause

The Japan/Korea-Atlantic and Gulf Freight Conference (J/KAG), operating under Agreement No. 3103, as amended, is a conference of common carriers providing liner service from ports in Japan and Korea to United States Atlantic and Gulf ports.

Historically J/KAG member lines and other common carriers by water have tendered cargo containers mounted on chassis to facilitate the rapid removal of cargo from the pier to the ultimate consignee. This long established practice change in 1978 at the Port of Baltimore when certain J/KAG member lines were unable to supply chassis for removal of inbound containers within the five day free time period.

Although operational problems of this nature have occurred in previous years at Baltimore and elsewhere, the situation was aggravated in 1978 by the combined effects of the dock strike and harsh winter weather. The intensity of the chassis shortage was reduced as weather conditions improved, but shortages still occur on a regular basis. As a result, it was the practice of some conference member lines not to assess demurrage charges when they were unable to provide adequate equipment. According to the complainants, this policy was abruptly changed and the carriers invoiced demurrage after the expiration of five days without exception. Unforeseen circumstances, not the fault of the shipper, preventing the removal of cargo from the container yard were no longer valid reasons for foregoing these extra charges.

The Japan/Korea-Atlantic and Gulf Freight Conference in its Tariff FMC-7 currently has in effect tariff rules which have the following effects or results:

1. Consignee or his agent may be charged container demurrage when through no fault of their own a chassis is not made available during the five day free time period for removal of containers from the port area.

2. Shippers have no assurance at the time of booking that a chassis will be available upon discharge of the cargo or within the five day free time period following unloading of the vessel.

Consequently, the tariff is unclear as to who will receive chassis and under what conditions they will be provided during periods of equipment shortages.

These circumstances allow for the possibility of discrimination between those who desire the use of the conference services and denies tariff users the ability to determine the exact service afforded and the precise cost thereof prior to shipment. The current tariff rules appear permissive in nature and indefinite in their application contrary to section 18(b), Shipping Act, 1916 (46 U.S.C. 817(b)), and allows for the continuation of possible unjust practice in violation of section 17, Shipping Act, 1916, (46 U.S.C. 816).

It appears that a proceeding is necessary to permit J/KAG to show cause why its tariff rule relating to the availability of chassis equipment and the assessment of demurrage prescribed by its tariff rule herein at issue should not be amended as being in violation of the aforementioned statutes.

Therefore, it is ordered. That pursuant to sections 17, 18(b) and 22, Shipping Act, 1916 (46 U.S.C. 816, 817(b) and 821), the Japan/Korea-Atlantic and Gulf Conference and its member lines as listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to show cause why the Commission should not find the provisions of its tariff rule relating to the availability of chassis equipment and the assessment of demurrage to result in the assessment of varying rates and charges which are unjustly discriminatory and constitute an unreasonable practice or regulation in violation of section 17; and to be permissive in nature and indefinite in application in violation of section 18(b); and, accordingly, why J/KAG Conference should not be ordered to modify its tariff rules so as to provide for the equal treatment of all shippers/consignees who require the employment of carrier owned or controlled chassis for the removal of their containerized cargo from destination port container yard.

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law and replies thereto. Should any party

feel that an evidentiary hearing is required, the party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove these facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 9, 1979. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business October 12, 1979. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business November 2, 1979.

It is further ordered, That a notice of this order be published in the Federal Register and that a copy thereof be served upon the respondents.

It is further ordered, That persons other than those already party to this proceeding who desire to be parties and participate herein shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business September 21, 1979.

It is further ordered, That all documents submitted by a party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C., 20573, in an original and fifteen (15) copies, as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix "A"

Robert D. Grey, Chairman, Japan/Korea-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Bldg., 2-1, Yaesu 2-chome, Chuo-ku, Tokyo 104, Japan.
Warren and Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.
Barber Blue Sea Line, c/o Barber Steamship Lines, 17 Battery Place, New York, New York 10004.
Japan Line (New York), Inc., One World Trade Center, Suite 2867, New York, New York 10048.
Kawasaki Kisen Kaisha, Ltd., One Market Plaza, Suite 2400, San Francisco, California 94105.
Korea Shipping Corporation, c/o Korea Shipping America, Inc., 71 Broadway, New York, New York 10006.
Lykes Bros. Steamship Company, Inc., Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130.
Mitsui O.S.K. Lines, Ltd., One World Trade Center, Suite 2211, New York, New York 10048.
A. P. Moller-Maersk Line, c/o Moller Steamship Company, Inc., One World Trade Center, Suite 3527, New York, New York 10048.
Nippon Yusen Kaisha, One World Trade Center, Suite 5031, New York, New York 10048.
Orient Overseas Container Line, Inc., c/o Eckert Overseas Agency, Inc., Wall Street Plaza, New York, New York 10005.
Sea-Land Service, Inc., P.O. Box 900, Edison, New Jersey 08817.
United States Lines, Inc., One Broadway, New York, New York 10004.
Yamashita-Shinnihon Steamship Co., Ltd., One California Street, San Francisco, California 94111.
Zim Container Service, One World Trade Center, Suite 2969, New York, New York 10048.

[FR Doc. 79-28099 Filed 9-7-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-50]

Notice of Inquiry Regarding the United Nations Convention on Code of Conduct for Liner Conferences

AGENCY: Federal Maritime Commission.

ACTION: Further enlargement of time to comment.

SUMMARY: Notice of Inquiry in subject proceeding was published in the Federal Register of May 16, 1979 (44 FR 28724). Responses are presently due on August 31, 1979. The Washington Representative of CENSA has requested an extension of time until September 17, 1979 within which to respond. The fact that a study group has been assigned to this matter and is nearing completion of a draft report which must be distributed to member associations scattered throughout the world is cited as the reason for the request. We are anxious to obtain the views of CENSA on this matter and therefore are in favor of granting the extension. This delay will not be critical because it is not contemplated that a rule will issue from this proceeding.

DATES: Comments on or before September 17, 1979.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-28097 Filed 9-7-79; 8:45 am]

BILLING CODE 6730-01-M

[Dockets Nos. 79-2 and 79-3; Agreements Nos. 10293 and 10295]

Notice of Intent To Prepare an Environmental Assessment

The above-referenced proceedings are investigations to determine whether Agreement No. 10293 and Agreement No. 10295 should be approved, disapproved or modified pursuant to section 15 of the Shipping Act, 1916.

The Commission believes that its final resolution of the issues in these proceedings may constitute a major Federal action significantly affecting the quality of the human environment.

Therefore, Notice is hereby given that the Federal Maritime Commission intends to prepare an environmental assessment to determine whether its final decision in these proceedings will constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Written comments regarding possible environmental effects are invited. Such comments should be submitted within thirty days of the date of this Order to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

Copies of discovery materials and all future correspondence, pleadings and exhibits exchanged or filed in these proceedings will be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Francis C. Hurney,

Secretary.

[FR Doc. 79-28098 Filed 9-7-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Rape Prevention and Control Advisory Committees; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of September, 1979.

Rape Prevention and Control Advisory Committee

September 24–25, 1979, 9:00 a.m. Open meeting. Conference Room I, Parklawn Building, Rockville, Maryland 20857.
Contact: Ms. Elizabeth S. Kutzke, Room 13A-44, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-1910.
Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.
Agenda: The entire meeting will be open to the public. The two-day meeting of the Advisory Committee will be devoted to providing input on the National Center's fiscal year 1980 program activities.
Attendance by the public will be limited to space available. Substantive information may be obtained from the contact person listed above.

The NIMH Information Officer who will furnish summaries of the meeting and a roster of Advisory Committee members is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-3600.

Dated: September 5, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-28062 Filed 9-7-79; 8:45 am]

BILLING CODE 4110-88-M

Health Resources Administration

Application Announcement for Financial Distress Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Financial Distress are now being accepted under the authority of section 788(b) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 788(b) authorizes the award of grants to public or nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health to:

1. Meet the costs of operation of an eligible school which is in serious financial distress;

2. Meet accreditation requirements if the school has a special need for financial assistance in meeting such requirements; and

3. Carry out appropriate operational, managerial, and financial reforms on the basis of information obtained in a comprehensive cost analysis study or on the basis of other relevant information.

It is intended that approved applications in categories (1) and (2) be funded prior to approved applications in category (3).

Approximately $5 million is expected to be available in fiscal year 1980 for competitive awards.

Requests for application materials and questions regarding the administration of grants should be directed to: Grants Management Officer (D-14), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, MD 20782.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than October 9, 1979.

Dated: August 24, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

[FR Doc. 79-28111 Filed 9-7-79; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Physician Assistant Training Programs

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Physician Assistant Training Programs are now being accepted under the authority of section 783(a)(1) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484).

Section 783 authorizes the award of grants to schools of medicine or osteopathy or other public or nonprofit private entities to assist in meeting the cost of planning, developing, and operating or maintaining programs for the training of physician assistants. To receive support, programs must meet the requirements of section 701(7) and 783(a)(1) of the Public Health Service Act and the Final Regulations, implementing these sections published in the Federal Register on June 21, 1979, Vol. 44, No. 121.

Funding preference will be accorded approved applications with projects in which:

1. A program is conducted for training physician assistants to provide primary care patient services under the supervision of a doctor of medicine or osteopathy;

2. Substantial training experience is provided in a Health Manpower Shortage Area(s), as defined in Section 332 of the PHS Act, or in an Area Health Education Center funded, at least in part, under section 781 of the Act;

3. A program is established in a state which does not have such a program; and/or

4. A program is conducted in conjunction with primary care physician education in a manner which shares educational resources, and encourages the utilization of physician assistants by physicians.

Approximately $7.4 million is expected to be available in fiscal year 1980 for competitive awards for Grants for Physician Assistant Training Programs under section 783(a)(1) of the Public Health Service Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-21), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436-6098.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than November 5, 1979.

Should additional programmatic information be requested, please contact: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436-7350.

Dated: August 24, 1979.

Henry A. Foley,

Administrator, Health Resources Administration.

[FR Doc. 79-28110 Filed 9-7-79; 8:45 am]

BILLING CODE 4110-83-M

Office of the Secretary

Social Security Administration; Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the Federal Register (44 FR 17218-233) to reflect a reorganization of SSA. Sections SD.00, SD.10, and SD.20 of the SSA Statement, as contained on pages 17221-222 of the amended material published on March 21, 1979, describe the mission.

organization and functions for SSA's Office of the Regional Commissioner (ORC). Section SD.00 is restated and sections SD.10 and SD.20 are modified to reflect the completed reorganization of ORC. The revised material for ORC reads as follows:

Sec. SD.00 *The Office of the Regional Commissioner*—(Mission): The Office of the Regional Commissioner (ORC) serves as the principal SSA component at the regional level and assures effective SSA interaction with HEW regional offices (HEWRO's); other Federal agencies in the regions; State Welfare Agencies; State Disability Determination Services; and other regional and local organizations. The Office provides regional program leadership and technical direction for the retirement, survivors, and disability insurance programs; the black lung benefits program; the supplemental security income program; the aid to families with dependent children (AFDC) program; the program for aid to the aged, blind, and disabled in Guam (Region IX), Puerto Rico, and the Virgin Islands (Region II); the refugee programs; and the U.S. repatriation program. It issues regional operating policy and procedures for these programs and evaluates program effectiveness. It implements national operational and management plans for providing SSA service to the public and directs a regionwide network of district offices, branch offices, and teleservice centers. The Office manages and coordinates SSA regional operations and provides administrative support to SSA regional components. It establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements, and systems; and implements a regional SSA public affairs program. The Office maintains a broad overview of administrative operations of the regional offices of SSA's Office of Hearing and Appeals and Office of Assessment, program service centers, and data operations centers, to assure effective coordination of SSA activities at the regional level.

Sec. SD.10 *The Office of the Regional Commissioner*—(Organization):

The Office of the Regional Commissioner, under the leadership of the Regional Commissioner, includes:

A. The Regional Commissioner (SD1–SDX).

B. The Deputy Regional Commissioner (SD1–SDX).

C. The Immediate Office of the Regional Commissioner (SD1–SDX).

D. The Office of the Assistant Regional Commissioner for Programs (SD1B–SDXB).

E. The Office of the Assistant Regional Commissioner for Family Assistance (SD1A–SDXA).

F. The Office of the Assistant Regional Commissioner for Field Operations (SD14–SDX4).

G. The Office of the Assistant Regional Commissioner for Management and Budget (SD17–SDX7).

Sec. SD.20 *The Office of the Regional Commissioner*—(Functions):

A. *The Regional Commissioner* (SD1–SDX) is directly responsible to the Commissioner for carrying out ORC's mission and provides general supervision to major ORC components.

B. *The Deputy Regional Commissioner* (SD1–SDX) assists the Regional Commissioner in carrying out his/her responsibilities and performs other duties as the Regional Commissioner may prescribe.

C. *The Immediate Office of the Regional Commissioner* (SD1–SDX) provides the Regional Commissioner with high level staff assistance on the full range of his/her responsibilities. It also furnishes staff support for the civil rights, equal opportunity, and external affairs functions.

D. *The Office of the Assistant Regional Commissioner for Programs* (SD1B–SDXB):

1. Provides program leadership and technical direction for the Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), and Black Lung Benefits programs in the region. Issues regional operating policies and procedures necessary to insure implementation of national policies for these programs. Establishes and maintains a field visit program covering district and branch offices, Disability Determination Services (DDS's), and teleservice centers to determine the effectiveness of RSDI, SSI, and Black Lung Benefits program policies and procedures, and to provide technical assistance in the resolution of operational problems relating to these programs. Evaluates RSDI, SSI, and the Black Lung Benefits program effectiveness in the region.

2. Assists State DDS agencies in developing their operating budgets, reviews these budgets with the Assistant Regional Commissioner for Management and Budget, and submits recommendations on the acceptability of DDS budgets to the Regional Commissioner. Manages a comprehensive review and analysis program covering State DDS agency operations.

3. Plans, directs, and coordinates regional activities concerning social security coverage agreements between SSA and State or interstate entities; carries out negotiations with State or interstate authorities on the content of these agreements; makes recommendations to final approving officials regarding the execution of new coverage agreements, modifications in existing agreements, or the termination of agreements; and processes requests for further extensions, or extensions for more than one year, of time limits for assessments, credits, or refunds of amounts due.

4. Negotiates and maintains agreements with States covering the administration of optional State SSI supplementation, mandatory minimum State SSI supplementation, and Medicaid eligibility determinations. Evaluates and monitors State budgets necessary to carry out these agreements and maintains ongoing dialogues with States on SSI program issues in such areas as adjustment levels, hold harmless provisions, operational aspects of the Food Stamp Program, social service referral practices, etc. Directs the preparation of field instructional material necessary to implement agreements negotiated with the States.

5. Overseas SSA regional automated data processing (ADP) systems and automated processing operations, assures their effectiveness, and carries out an ongoing regional systems planning program to assure effective integration of regional operating and management systems. Coordinates and monitors regional implementation of major changes to national systems and conducts various ADP systems validation and piloting operations on behalf of SSA's Central Office components dealing with systems activities.

6. Conducts operational analyses and provides support to regional office, field office, and DDS management in the resolution of operational, procedural, and systems problems. Consolidates, reviews, and arranges for the distribution of regional program instructions and systems instructional material developed at the regional level. Coordinates with HEW's Rehabilitation Services Administration and other agencies to attain disability insurance, black lung benefits, and SSI program goals. Maintains relationships with professional medical organizations, interacts with outside groups representing program interests or concerns, and consults with representatives of community and private organizations on operational matters.

E. *The Office of the Assistant Regional Commissioner for Family Assistance* (SD1A–SDXA):

1. Provides program leadership and technical direction for family assistance program activities in the region. Issues regional operating policies and procedures necessary to insure implementation of national family assistance program policies.

2. Conducts visits to and ongoing liaison with State agencies to determine the effectiveness of family assistance policies and procedures and to provide technical assistance in the resolution of operational problems. Evaluates family assistance program effectiveness regionwide. Plans, directs, and coordinates regional activities with State and local entities. Negotiates with State and local authorities on State plans, plan amendments and recommendations, and recommends approval or disapproval to the appropriate SSA official.

3. Directs and coordinates a program of financial management, including the review and evalution of grant award requests from States. Recommends approval or disapproval of these requests. Reviews State expenditure estimates and reports, and recommends approval or disapproval. Provides overview and assistance to State agencies in implementing major initiatives required by family assistance policies on financial management.

F. *The Office of the Assistant Regional Commissioner for Field Operations* (SD14–SDX4):

1. Provides leadership, guidance, and direction to district and branch offices and teleservice centers, through Area Directors.

2. Insures the consistency of field operations in the region with national and regional policies and procedures, and is accountable to the Regional Commissioner for the effectiveness of these operations.

G. *The Office of the Assistant Regional Commissioner for Management and Budget* (SD17–SDX7):

1. Furnishes leadership and support to SSA regional and field components in the areas of financial, manpower, and organization management, and other areas of management concern.

2. Develops regional management policies, procedures, and guidelines consistent with prevailing Federal, HEW, and SSA requirements and objectives. Guides and controls regional administrative management operations and administrative practices.

Evaluates component performance and needs in these areas to assure effective and economical use of available resources, and takes appropriate action on behalf of the Regional Commissioner to remedy or correct any inefficiencies or undesirable practices uncovered in administrative management operations.

3. Furnishes financial management staff expertise and professional judgments required to compile and recommend effective regional/State operating budgets.

4. Coordinates regional SSA administrative management issues and concerns with the HEWRO, SSA headquarters, and other Federal-regional authorities.

5. Carries out the SSA regional security program.

Dated: August 29, 1979.

Wilford J. Forbush,

Acting, Assistant Secretary for Management and Budget.

[FR Doc. 79-28013 Filed 9-7-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Chinook Indian Tribe, Inc.; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

August 31, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Chinook Indian Tribe, Inc. (Post Office Box 228, Chinook, Washington 98614) has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on July 23, 1979. The petition was forwarded and signed by Mr. Donald E. Mechals.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-28112 Filed 9-7-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Craig District Grazing Advisory Board; Meeting

August 29, 1979.

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Craig District Grazing Advisory Board will be held on October 4, 1979.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office at 455 Emerson Street, Craig, Colorado.

The agenda for the meeting will include (1) expenditures of range betterment funds, (2) the expenditure of county range improvement funds, (3) current status of the White River Environmental Statement, (4) Advisory Board Re-election Procedures, (5) discussion of old business.

The meeting is open to the public. Interested persons may make oral statements or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Persons wishing further information may contact the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado at (303) 824-3417.

Minutes of the meeting will be available at the Craig District Office for public inspection thirty days after the meeting.

Marvin W. Pearson,

District Manager.

[FR Doc. 79-27923 Filed 9-7-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Temporary Water Service Contract With the Westlands Water District; Availability of the Proposed Contract for Public Review and Comment

The Department of the Interior, through the Bureau of Reclamation, has

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submitted to Congress for its review and oversight, a proposed temporary water service contract with the Westlands Water District. The major purpose of the contract is to provide for an agricultural and municipal, industrial, and domestic (M&I) water supply from the San Luis and Coalinga Canals and the Mendota Pool, Central Valley Project (CVP), California.

The district is located west of the city of Fresno in Fresno and Kings Counties, California, and encompasses an area of approximately 600,000 acres.

The proposed contract would provide for 1,100,000 acre-feet of water from San Luis Unit facilities and 50,000 acre-feet of water from the Mendota Pool. The term of the proposed contract is for 1 year commencing January 1, 1980, and expiring December 31, 1980. The water rates in the proposed contract are: $8.00 per acre-foot for 900,000 acre-feet of agricultural water furnished from the San Luis Unit facilities; $8.10 per acre-foot for 50,000 acre-feet of agricultural water furnished from the Mendota Pool; $11.80 per acre-foot for 200,000 acre-feet of agricultural water furnished from the San Luis Unit facilities; $11.80 per acre-foot for any interim agricultural water furnished; and $21.80 per acre-foot for any water within the 1,150,000 acre-feet that is used for M&I purposes.

For further information and copies of the proposed contract, please contact Mr. John Budd, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484–4380.

Comments on the proposed contract will be received up to 30 days from the date of this notice. Any comments received on the proposed temporary water service contract will be considered in future negotiations with the district for a long-term water service contract. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383) as amended.

Dated: September 4, 1979.

R. Keith Higginson,

Commissioner of Reclamation.

[FR Doc. 79–27950 Filed 9–7–79; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Colonial Farm, Maryland; Development Concept Plan; Availability of Assessment of Alternatives and Notice of Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service has prepared an assessment of alternatives for a Development Concept Plan for National Colonial Farm, Piscataway Park, Maryland.

The document presents three alternative levels of development for the site.

A public hearing on this issue will be conducted Tuesday, October 2, 1979, at 7:30 p.m. in the Accokeek Elementary School, Livingston Road, Accokeek, Maryland.

Written comments on this assessment of alternatives are invited and will be accepted for a period of thirty days following the date of the hearing.

Copies of the document are available from and written comments should be directed to: Superintendent, National Capital Parks-East, 5210 Indian Head Highway, Oxon Hill, Maryland 20021, (301) 763–1770.

Dated: September 7, 1979.

Robert Stanton,

Deputy Regional Director, National Capital Region.

[FR Doc. 79–28124 Filed 9–7–79; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

[INT FES 79–38]

Grazing Management Program for the Missouri Breaks of Montana; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Missouri Breaks area of Montana. The proposal includes implementing an improved grazing management program on portions of the public lands within the Lewistown and Miles City Districts in central Montana. Implementation of 266 new grazing plans or Allotment Management Plans (AMPs), revision of 10 AMPs, and continued operation of 42 AMPs is proposed. The plans include provisions for construction of additional fences, livestock watering facilities, and vegetation treatments. Overall a reduction of 1 percent in livestock use is suggested; however, on an individual allotment basis, the changes range from +158 percent to a −58 percent. The proposal is scheduled to be implemented over a 4-year period.

A limited number of copies are available upon request to the State Director, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, telephone: (202) 343–5717.

Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59101.

Lewistown District Office, Bureau of Land Management, Drawer 1100, Airport Road, Lewistown, Montana 59457.

Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Dated: September 5, 1979.

Larry E. Meierotto,

Assistant Secretary.

[FR Doc. 79–28009 Filed 9–7–79; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

National Institute of Law Enforcement and Criminal Justice; Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on September 27, 1979 from 9:00 A.M. to 4:30 P.M. and on September 28, 1979 from 9:00 A.M. to 12:00 P.M. at the Marriott Dulles Hotel, Dulles Airport, 331 West Service Road, Chantilly, Virginia.

The major topic of discussion will concern the Institute's long range research priorities.

The meeting will be open to the public.

For further information, please contact Harry Bratt, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531 (301/492–9108).

Harry Bratt,

Acting Director, NILEC]

[FR Doc. 79–28113 Filed 9–7–79; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361A and 50–362A]

Southern California Edison Company, et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Southern California Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the City of Riverside and the City of Anaheim, for the San Onofre Nuclear Generating Station, Units 2 and 3. The current holders of the construction permits are Southern California Edison Conpany and San Diego Gas and Electric Company.

The information was filed in connection with the application by Southern California Edison Company and San Diego Gas and Electric Company for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on October 18, 1973 at the San Onofre site located in San Diego County, California.

The original application was dated May 28, 1970, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on February 20, 1971 (36 FR 3278). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Environmental Report; and the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for hearing was published in the **Federal Register** on April 7, 1977 (42 FR 18460). Subsequently, the Notice of Hearing was published in the **Federal Register** on October 26, 1977 (42 FR 57575).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Any person who wishes to have his views on the antitrust matters with respect to the City of Riverside and the City of Anaheim presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before October 26, 1979.

Dated at Bethesda, Maryland, this 13th day of August, 1979.

For the Nuclear Regulatory Commission,

Robert L. Baer,

Chief, Light Water Reactors Branch No. 2 Division of Project management.

[FR Doc. 79–26185 Filed 8–24–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

September 5, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OME approval. OME in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

Revisions

Agricultural Stabilization and Conservation Service
Request for Cost-Sharing-Agricultural Conservation
RE–245
Annually
Farmers, 500,000 responses, 125,000 hours
Charles A. Ellett, 395–5080

Economics, Statistics, and Cooperatives Service
*Manufactured Dairy Products
Other (See SF–83)
Manufacturers of dairy products, 57,452 responses, 13, 054 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
*Report of Program Operations
FNS–187

Monthly
State agencies, 888 responses, 444 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377–4217

New Forms

Bureau of the Census
Census of Horticultural Specialties 1979
79–A19.1
Single time
Producers of wholesale and retail horticultural products, 20,000 responses, 10,000 hours
Office of Federal Statistical Policy and Standard, 673–7974

Economic Development Administration
Preliminary Plan for Data Collection Forms for RLF Assessment
ED–4509
Single time
100 RLF grantees and selected borrowers
Richard Sheppard, 395–3211

National Oceanic and Atmospheric Administration
Fishing Obstruction Chart Questionnaire
Single time
U.S. commercial fishermen, 5,000 responses, 2,500 hours
Richard Sheppard, 395–3211

Revisions

Bureau of the Census
*Methods Development Survey Questionnaires
MDS 2A, 2B and 2C
Monthly
Households in eight areas, 36,000 responses, 9,000 hours
Office of Federal Statistical Policy and Standard, 673–7974

Bureau of the Census
Broadwoven Fabrics Finished
MA–22S
Annually
Finishers of broadwoven fabrics, 300 responses, 300 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF DEFENSE

Agency Clearance of Officer—John V. Wenderote—697–1195

Reinstatements

Departmental and Other Government Industry Data Exchange Program (GIDEP) Alert Form
DD 1938
On occasion
Major defense contractor government laboratories, 180 responses, 540 hours
C. Louis Kincannon, 395–3772

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252–5214

Revisions

Synthetic Natural Gas Plant Report
EIA–19
Monthly
13 SNG plants, 156 responses, 624 hours
Jefferson B. Hill, 395–5867

Reinstatements

Domestic Crude Oil Entitlements Program Refiners
Monthly report
ERA–49
Monthly
Crude oil, 2,280 responses, 21,660 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Guess—245–7488

New Forms

Food and Drug Administration
Consumer Comprehension of OTC Drug Labeling
Single time
Consumers
Richard Eisinger, 395–3214

Health Care Financing Administration (Departmental)
Evaluation of Second Surgical Opinion Programs for Elective Surgery
HCFA–6, HCFA–6A, FCFA–I–6
Single time
5,616 Administration of second surgical opinion program and patients requirements SSOP, 5,616 responses, 1,275 hours
Richard Eisinger, 395–3214

National Institutes of Heath
Evaluation of Sickle Cell Education—Questionnaires
Single time
Health providers, sickle cell patients, population at risk, 2,300 responses, 1,334 hours
Richard Eisinger, 395–3214

Office of Human Development
Zoning Survey Questionnaire
Single time
100 zoning officials, 100 responses, 100 hours
Barbara F. Young, 395–6132

Public Health Service
Evaluation of Effectiveness of Current Methods of Disseminating Medical Findings to Practicing Physicians
Other (see SF–83)
1,050 general practitioners, cardiologists, internists, 1,050 responses, 630 hours
Richard Eisinger, 395–3214

Social Security Administration
Report to Social Security Administration About workmen's Compensation SSA 4679–SM, SSA 4584–SM
Single time
15,600 Dis. Emp. under 62 and Miners Rec. Black Lung Benefit, 15,600 responses, 520 hours
Barbara F. Young, 395–6132

Revisions

Social Security Administration
State Agency Quarterly Statement of Financial Plan for AFDC
SSA–25
Quarterly
216 State welfare agencies, 216 responses, 432 hours
Barbara F. Young, 395–6132

National Institutes of Health
National Survey of Public Knowledge, Attitudes, and Practices Related to Breast Cancer
Single time
Sample of female adults and spouses in general pop., 2,800 responses, 1,400 hours
Office of Federal Statistical Policy and Standard, 673–7974

Public Health Service
*National Ambulatory Medical Care Survey (1980–81) PHS 6105 A, B, C, and D
Other (see SF–83)
90,000 physicians in office practice, 90,000 responses, 1,500 hours
Office of Federal Statistical Policy and Standard, 673–7974

Public Health Service
Evaluation of Telephone and Personal Interviews for Collection of Health Data
Single time
Adults in households with telephones, 5,000 responses, 2,500 hours
Office of Federal Statistical Policy and Standard, 673–7974

Extensions

Office of Human Development
Instructions for Applying for Grants From HDS Programs
On occasion
Nonprofit organizations, 15,000 responses, 15,000 hours
Budget Review Division, 395–4775

Social Security Administration
*Partnership Questionnaire
SSA–7104
Annually
13,000 individuals alleging partnership in a business, 13,000 responses, 3,250 hours
Barbara F. Young, 395–6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Office—Robert G. Masarsky—755–5184

New Forms

Policy Development and Research
Survey of Business Leaders in Cities

Single time
Executive of firms headquartered in cities of over 50,000 population, 600 responses, 500 hours
Arnold Strasser, 395–5080

DEPARTMENT OF THE INTERIOR

Agency clearance Officer—William I. Carpenter—343–6716

New Forms

Bureau of Mines
Reader Survey
6–PI–14A & B
Single time
4,000 readers of bureau of mines publications, 4,000 responses, 2,000 hours
Charles A. Ellett, 395–5080

Revisions

Bureau of Mines
Surveys on Mineral Commodities
6–1221–A, et, al.
Monthly
Producers and consumers of minerals and materials, 89,078 responses, 70,935 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633–3526

Revisions

Federal Bureau of Investigation
Age, Sex, Race, and Ethnic Origin of Persons Arrested
4–492 and 4–492A
Monthly
All law enforcement agencies nationwide, 336,000 responses, 168,000 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

New Forms

Employment and Training Administration
Unemployment Insurance Claimants Interview
ETA–22
Single time
Claimants of unemployment insurance benefits, 4,650 responses, 763 hours
Arnold Strasser, 395–5080

Revisions

Employment and Training Administration
Job Corps Data Sheet
ETA 652
On occasion
Disadvantaged youth job corps applicants, 100,000 responses, 50,000 hours
Arnold Strasser, 395–5080

Employment Standards Administration
*Notice of Controversion or Answer to Claim
LS–207
On occasion
Employers and insurance carriers, 21,000 responses, 10,500 hours
Arnold Strasser, 395–5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Coast Guard
*Facility Application for Certificate of Financial Responsibility Outer Continental Shelf Lands Act Amendments of 1978
CG–5210
On occasion
1,000 OCS oil industry, 1,000 responses, 250 hours
Susan B. Geiger, 395–5867

Extensions

Federal Aviation Administration
Civil Rights Data Report
FAA 5190–10
Annually
Airport sponsors subject to 49 CFR Part 21, 1,957 responses, 5,871 hours
Susan B. Geiger, 395–5867

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376–0436

Revisions

Bureau of Customs
Request for Information
Customs 28
On occasion
200,000 importers, 200,000 responses, 33,320 hours
Susan B. Geiger, 395–5867

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634–4070

New Forms

Interview Guide-Problems of Small R. & D. Firms Study
Single time
Small R. & D. performing companies responding to earlier survey, 150 responses, 75 hours
Laverne V. Collins, 395–3214

Revisions

Survey of Graduate Science Students and Postdoctorals, Fall 1979
NSF 811 & 812
Annually
Survey coordinators in graduate S/E institutions, 9,664 responses, 27,060 hours
Laverne V. Collins, 395–3214

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

New forms

White-Collar Professional Occupations Salary Survey
Single time
135 white-collar salary administrators, 135 responses, 33 hours
Laverne V. Collins, 395–3214

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4693

Revisions

*Disability Annuitant's Report to the U.S. Railroad Retirement Board
G–176B
On occasion
Disability annuitants, 3,000 responses, 249 hours
Barbara F. Young, 395–6132

Extensions

*Application for Reimbursement for Hospital Insurance Services Furnished in Canada
AA–104
On occasion
Medicare claimants, 600 responses, 100 hours
Barbara F. Young, 395–6132

U.S. INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

New Forms

Producer's Questionnaire Investigation TA–201–40, Leather Wearing Apparel
Single time
Manufacturers of leather wearing apparel, 125 responses, 2,500 hours
Susan B. Geiger, 395–5867

Importer's Questionnaire Investigation TA–201–40, Leather Wearing apparel
Single time
Importers of leather wearing apparel, 30 responses, 240 hours
Susan B. Geiger, 395–5867

Questionnaire for Purchasers of Titanium Dioxide
Single time
Purchasers of titanium dioxide, 42 responses, 420 hours
Susan B. Geiger, 395–5867

Questionnaire for Importers of Titanium Dioxide
Single time
Importers of titanium dioxide, 15 responses, 900 hours

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Susan B. Geiger, 395–5867
Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
[FR Doc. 28212 Filed 9–7–79; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[70–6343; Release No. 21200]

Columbia Gas System, Inc.; Proposed Issuance and Sale of Debentures at Competitive Bidding and Redemption of Preferred Stock

August 27, 1979.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Columbia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $100,000,000 principal amount of ——— % Debentures, Series Due October 1999. The interest rate of the debentures (which shall be a multiple of ⅛th of 1%) and the price, exclusive of accrued interest, to be paid to Columbia (which shall be not less than 98½% nor more than 101½% of the principal amount therof), will be determined by the competitive bidding. The debentures will be issued under an Indenture between Columbia and Morgan Guaranty Trust Company of New York, Trustee, dated as of June 1, 1961, as heretofore supplemented by various supplemental indentures and as to be further supplemented by a Twenty-seventh Supplemental Indenture to be dated as of October 1, 1979.

The supplemental indenture will prohibit redemption of any of the debentures prior to October 1, 1984, directly or indirectly, with borrowed funds, or in anticipation of funds to be borrowed, having an effective annual interest cost to Columbia of less than the effective annual interest cost of the debentures to Columbia. The proposed debentures will be subject to a sinking fund providing for the retirement of $93,750,000 (94%) thereof prior to maturity through annual payments of $6,250,000 commencing in 1984. Columbia will also have the noncumulative option to redeem on any sinking fund day, at the then current sinking fund redemption price, up to an additional $9,375,000 principal amount of the debentures.

Columbia intends to use the net proceeds from the sale of the new debentures to refund the entire 1,000,000 shares of its 11¼% Cumulative Preferred Stock, Series A ($50 par value) as well as for general corporate purposes, including the 1979 capital expenditure program of Columbia's subsidiaries.

Columbia proposes to redeem such preferred stock on November 1, 1979, at the current redemption price of $54.21 per share plus accrued dividends from September 1, 1979. The purpose of redeeming the preferred stock is to obtain a reduction in capital costs. Columbia states that, at an assumed interest rate of 10% for the new debentures, savings in capital costs, net of income taxes, over the remaining life of the Series A Preferred Stock are estimated to be $15.1 million, before deduction of premium costs asnd redemption expenses of approximately $4.2 million. For each ⅛ of 1% change in the assumed interest rate, the savings in capital costs would change approximately $175,000.

It is stated that the 1979 capital expenditure program of Columbia's subsidiaries is presently estimated to involve expenditures of $360,000,000.

It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees, commissions, and expenses related to the proposed transactions is to be filed by amendment.

Notice is further given that any interested person may not later than September 24, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing theron. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements therof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
[FR Doc. 27880 Filed 9–7–79; 8:45 am]
BILLING CODE 8010–01–M

[811–1614; Rel. No. 10847]

Financial Trends Mutual Fund, Inc.; Proposal To Terminate Registration Pursuant to Section 8(f) of the Act

August 27, 1979.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Financial Trends Mutual Fund, Inc. ("Fund"), 3100 Wilshire Blvd., Suite 1702, Los Angeles, California 90010, registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

The Fund was organized as a California corporation under the name World Trends Mutual Fund, Inc., on February 8, 1968, and filed both a Notice of Registration on Form N–8A and a Registration Statement on Form N–8B–1 on Ferbuary 28, 1968.

The Commission's records indicate that the Fund was adjudicated a bankrupt by the United States District Court for the Central District of California in 1972 in proceedings bearing case number BK–72–7554 (RO). Pursuant to a plan of liquidation ordered by the District Court, all of the Fund's assets were sold and the net proceeds were distributed to its creditors, with the exception of $5,304.85 of final distribution checks returned to the Trustee and deposited with the Court by him pursuant to 11 U.S.C. Section 106(a). The District Court approved a final distribution to creditors and ordered the Fund's estate in bankruptcy closed and the trustee of said estate discharged on November 21, 1978.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 21, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
[FR Doc. 79–27861 Filed 9–7–79; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–16145; File No. SR AMEX–79–11]

Self-Regulatory Organizations; Proposed Rule Changes by: American Stock Exchange, Inc.

In the matter of Responses to the Recommendations of the Special Study of the Options Markets as promulgated by the Securities and Exchange Commission in Release No. 34–15575.

Comments Requested by: October 1, 1979.

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b) (1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 27, 1979, the American Stock Exchange, Inc. ("AMEX") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The Commission has determined that it is necessary and appropriate to provide additional time for public comment on and Commission consideration of the proposed rule changes. Because the subject filing contains numerous rule proposals which, if approved, would affect significantly the operation of the standardized options markets, the Commission believes that additional time is necessary to enable commentators to address meaningfully the substance of the proposals and to enable the Commission to give the proposals the careful consideration they warrant before determining whether to approve the proposals or to initiate proceedings to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends until 90 days from the date of publication of notice of filing of the proposed rule changes captioned above, the time period within which the Commission must either approve the proposed rule changes or institute proceedings to determine whether the proposed rule changes should be disapproved.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes

The following is a summary of the rule changes proposed by AMEX. The text of the proposed rule changes is attached as Exhibit A to this notice, with brackets used to indicate words to be deleted and italics used for words to be added.

Rule 921. A new Commentary .01 has been added to the Rule which lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. Paragraph (b) of the Rule is proposed to be amended to require that customer background and financial information be retained by the member organization as proved in Rule 922. Paragraph (c) of the Rule is proposed to be amended to require that such information be furnished to each new options customer (that is a natural person) for his verification. Also, it is proposed that this information must be sent again to a customer whenever the firm is aware of any material change in the customer's financial situation.

Rule 930. This Rule is proposed to be amended to require customer account statements to bear a legend asking customers to notify the firm of any changes in their financial situation.

Rule 922. A new paragraph (c) of this Rule is proposed to be added to require that customer background and financial information be maintained by members at the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Also, it is proposed that monthly account statements for the most recent months and other records necessary to the proper supervision of accounts be maintained at, or easily accessible to, both offices. A new paragraph (b) is proposed to be added which would require member firms that do a public business to specifically identify a Compliance Registered Options Principal ("CROP") having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision of all of the firm's options activities would remain with the Senior Registered Options Principal ("SROP") although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions annually or having 10 or less options registered representatives.

Rule 923. The Rule is proposed to be amended to prohibit a broker-dealer from recommending any opening transaction to a customer unless he has a reasonable basis for believing that the customer is able to evaluate the risks of the transaction and is financially able to bear them.

Rule 932. This new Rule would require firms to maintain a central, firm-wide file containing specified information concerning all options-related complaints. Copies of such complaints would be required to be forwarded to the central location and maintained at the branch office that is the subject of the complaint.

Rule 342(d). The Rule is proposed to be amended to call for written notification to the AMEX of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

Rule 341.08(11). The rule is proposed to be amended to extend the period of continued disciplinary jurisdiction over terminated registered employees provided an inquiry is commenced

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within one year following notice of termination.

Rule 991. The Rule is proposed to be amended to require the approval by the CROP of all communications to customers and to further define the standards applicable to such communications. The proposed amendments would also exempt advertisements from certain of the approval requirements if such advertisements had been previously submitted to another self-regulatory organization having comparable standards regarding advertising. Commentary .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers. Relevant costs and other assumptions used in computing annualized rates of return would also be required to be disclosed by Commentary .03 under the Rule. This Commentary would also contain other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 would also include performance reports within the definition of "sales literature", require that they be approved by the CROP and be retained by the firm, and establish standards for their content.

Rule 981. The Rule is proposed to be amended to require members who utilize random allocation of exercise notices to use either an automated method that has been approved by a self-regulatory organization, of the manual method that has been uniformly specified by all of the self-regulatory organizations. FIFO methods of allocation would also be required to be approved by a self-regulatory organization. Members would be required to notify their customers of the method of allocation utilized and explain how it works. Also, it is proposed that the Rule be amended to require that records relating to exercise allocation be preserved for three years.

Rule 957. The Rule is proposed to be amended to require that Specialists and Registered Traders in options inform the AMEX of all accounts in which they trade stock or options, and also notify the AMEX of all orders for and positions in underlying securities and related securities.

Rule 922. This Rule is proposed to be amended to require every branch manager to be qualified as a Registered Options Principal ("ROP"), unless the branch office has not more than three Registered Representatives, and is otherwise under the supervision of a ROP.

Rule 924. The Rule is proposed to be amended to require that customers over whose accounts members exercise investment discretion be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed Rule 991. The proposed amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.

II. Self-Regulatory Organization's Statement of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, AMEX included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) *Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes.*—The rule changes filed herewith represent responses to the recommendations of the Special Study of the Options Markets as promulgated by the Commission in Release No. 34–15575.

A discussion of the purpose of each of the rule changes included in this filing is presented below under the caption of the respective recommendation of the Options Study to which the rule change is responsive. To facilitate the Commission's review, the captions of the various responses to recommendations of the Options Study are keyed to the numbering system used in Release No. 34–15575.

The statutory basis for these rule changes, as stated in Release No. 34–15575, is that the implementation of the recommendations of the Options Study is "[c]onsistent with the scheme of self-regulation embodied in the Securities Exchange Act of 1934."

I.A.1.a, b, and c. (Rule 921)

These related recommendations call for the collection and recording of background and financial information concerning customers in order to support the approval of their accounts for options transactions and subsequent suitability determinations, and they also call for the verification by the customer of this information. In response, we propose to add a new Commentary .01 to Rule 921, governing the opening of accounts, that lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. We have not required that all member organizations adopt a uniform options customer information form, since we believe it appropriate to permit the firms to have some flexibility in this regard, so long as the minimum information required by Commentary .01 is included. However, we understand on the basis of discussions with representatives of the Securities Industry Association that the SIA expects to develop and make available contemporaneously with the effective date of this Commentary, a standard options customer information form that would satisfy the new requirements.

We also propose to add specific record keeping requirements applicable to options customer information by including in paragraph (b) of Rule 921 a cross-reference to the provisions of Rule 922 that state how options customer information should be maintained. (See I.A.1.d. below).

Paragraph (c) to Rule 921 will require that every new options customer that is a natural person be sent for his verification the background and financial information reflected in his customer account information form within 15 days of the approval of his account for options transactions. In addition, this information must again be sent to the customer for verification whenever the firm is aware of any material change in the customer's financial situation. Customer account statements will contain a legend asking that customers notify the firm of any changes in their financial situation (see proposed change to Rule 930).

I.A.1.d. (Rule 922)

In response to this recommendation concerning the maintenance of records of customer background and financial information, we propose to add to Rule 922 a requirement that background and financial information of customers approved for options transactions must be maintained both at the branch office and at the principal supervisory office having jurisdiction over the branch office. In addition, Rule 922 will require that monthly account statements for the most recent 6 months be maintained at both offices and that other records necessary to the proper supervision of

accounts be easily accessible to both offices. With these new record keeping requirements, not only the registered representative servicing a customer's account, but also the persons responsible for supervising the registered representative, will have easy access to all relevant information concerning the customers and his account.

I.A.1.e. (Rule 923)

The purpose of the proposed amendment to Rule 923 is to make applicable to all recommended opening options transactions the more stringent suitability requirements (that the customer be able to evaluate the risks of the transaction and be financially able to bear them) that now apply only to recommendations for uncovered call writing or put writing. Under the amended suitability rule, a broker-dealer would be prohibited from recommending any opening options transaction to a customer unless these requirements are met.

I.A.1.f. (Rule 932)

In response to the recommendation that copies of customer compliants be maintained at a central office and at relevant branch offices, we propose to require member firms to maintain a central, firm-wide file of all options-related complaints containing specified information concerning each complaint. Copies of the complaints themselves would also be forwarded to and maintained at the same central location. In addition, a copy of every options-related complaint would be maintained at the branch office that is the subject of the complaint.

I.A.1.g. (Rule 922)

This proposed amendment to Rule 922 would require member firms that do a public business to specifically identify a Compliance Registered Options Principal having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision over all of the firm's options activities would remain with the SROP, although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The separation of responsibilities between the CROP and the SROP (except in those firms that choose to have a non-sales SROP) provides for audit of compliance by someone having no sales functions, and yet recognizes that the leadership of most securities firms appropriately has and will continue to have sales functions in combination with supervisory responsibilities. In order to avoid placing unacceptable economic burdens upon similar firms, the requirement for a non-sales CROP will not apply to firms earning less than $1 million in options commissions or having 10 or less options registered representatives.

I.A.1.h. (Rules 342(d) and 341.08(11))

The proposed amendment to Rule 342(d) provides for notification to the Exchange of disciplinary action taken against members. The Rule will call for written notification of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

The proposed amendment to Rule 341.08(11) extends the period of continued disciplinary jursidiction over terminated registered employees so long as an inquiry is commenced within 1 year following notice of termination.

I.A.1.i, j, k, and l. and I.A.3.a, b, and c. (Rule 991)

We propose to expand existing Rule 991, which currently deals with advertisements, market letters and sales literature, so as to cover all communications to customers. The expanded rule, together with interpretations thereunder, will incorporate a number of different recommendations of the Options Study.

Proposed revisions to Rule 991 itself are designed to require the approval by the Compliance Registered Options Principal of all communications to customers and to further define the standards applicable to such communications. The Rule would also provide for better coordination among the self-regulatory organizations with respect to the approval of advertisements. Commentary .01, .02, and .03 contain further detail concerning what should or should not be included in particular types of communications to customers.

The recommendations that relevant costs and other assumptions used in computing annualized rates of return must be disclosed will be included in Commentary .03 under the Rule. This commentary also contains other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Completed work sheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 also includes performance reports within the definition of "sales literature," and requires that they be approved by the Compliance Registered Options Principal and retained by the firm, and it contains standards for performance reports to assure that each such report is confined to a specifically identifiable and relevant universe.

Finally, the Rule and its commentary contemplate the distribution to all member firms of a publication entitled "Guidelines for Options Communications" that would provide further information concerning the standards applicable to communications to customers. A copy of this publication is available for inspection and copying in the Commission's Public Reference Room, but is not filed as a proposed rule change.

I.A.1.m. (Rule 981)

We proposed to amend Rule 981 by requiring members who choose to utilize a random allocation of exercise notices to use either an automated method that has been approved by an SRO, or the manual method that has been uniformly specified by all of the SRO's. FIFO methods of allocation must also be approved by an SRO. Members will be required to notify their customers of the method of allocation utilized, explaining how it works.

I.A.1.n. (Rule 981)

We proposed adding to Rule 981 a requirement that records relating to exercise allocation be preserved for three years. This period of retention will facilitate auditing compliance with required methods of exercise allocation.

I.A.1.o and p. (Rule 957)

Rule 957 will be amended by adding a new requirement that Specialists and Registered Traders in options must inform the Exchange of all of the accounts in which they trade stock or options, and must also notify the Exchange of all orders for and positions in underlying securities and related securities. Both of these requirements will improve Exchange surveillance over the options-related trading activities of such persons.

I.A.2.b. (Rule 922)

The proposed amendment to this Rule will require every branch manager to be qualified as a ROP, unless the branch office has not more than three RRs, and is otherwise under the supervision of a ROP. This requirement is one of a

number of changes intended to improve internal supervision of firms' options activities.

I.A.2.c. and I.A.2.d. (Rule 924)

The proposed amendment to this Rule will require that customers over whose accounts members exercise investment discretion must be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed "Communications to Customers" rule. The amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions. Under existing Rule 923, a ROP must personally accept every discretionary account, and the added step of a SROP's review of the ROP's acceptance is intended to provide an additioinal level of supervisory audit over the acceptance of these kinds of accounts.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.*—The Exchange recognizes that, as pointed out in several of the comments received from members, certain of the proposed rule changes will increase the costs to members in handling customers' options transactions, which in turn may place smaller member organizations at a competitive disadvantage. The Commission will have to determine whether the possible competitive burden of these rule changes is necessary or appropriate in furtherance of the Act in deciding whether to approve these rule changes.

(C) *Self-Regulatory Organization's Statement on Comments Received From Members, Participants, or Others on Proposed Rule Changes.*—Comments on the proposed rule changes were solicited and received from members in several ways. First, representatives of the Securities Industry Association attended and actively participated in most of the meetings of the joint SRO task force that developed the rule changes. Second, a preliminary draft of the rule changes was mailed to every member of each of the SROs involved, with a request that comments be forwarded to any one of the seven signatory SROs. A large number of detailed comments were received in response to this mailing; these are available for inspection and copying in the Commission's Public Reference Room. Many of the comments received in response to the preliminary draft led to revisions in the rule changes that are reflected in the proposals presented in Item 1 hereof. Where the SROs determined not to make changes in response to member comments, often the SROs were sympathetic to the concerns raised by the commentators, but felt that these concerns were outweighed by the emphasis that the Commission had placed upon the particular rule change that was the subject of the comment. The following is a summary of those comments received from members that are relevant to the proposed rule changes in their present form.

Recommendations I.A.1.a.–c. (Opening of Accounts)

A number of members commented that many customers will consider it burdensome and an invasion of privacy to have to provide personal financial information to their brokers, and will refuse to do so. Others questioned the relevance of much of the information that must be sought. In response to these comments, the list of information that must be obtained has been reduced, as explained in Item 3 above. Verification of customer information was subject to much criticism as being very expensive (especially for smaller firms) and not likely to be meaningful. While much of this comment was directed at the requirement for periodic verification, which has since been significantly reduced, the requirement for *any* verification was criticized by many members. One member criticized the inclusion of specific time requirements governing when the record of a new customer's background information must be first sent to him for verification, claiming that such time limits are arbitrary and artificial.

Recommendation I.A.1.d. and f. (Record-Keeping)

Many members criticized as unnecessarily duplicative and expensive the requirement that customer account records be kept both at headquarters and at the branch office.

Recommendation I.A.1.e. (Suitability)

Several firms expressed the belief that expanded concepts of suitability exposed firms to inappropriate risks of liability. Other comments were that customers should be able to make their own investment decisions without having to satisfy a third party, and that strict options suitability rules would drive customers into other, riskier, less regulated products. Specific criticism was made of the requirement that a broker must assess the customer's ability to evaluate risks, claiming that this goes beyond traditional concepts of suitability.

Recommendation I.A.1.g. (Non-Sales Options Compliance Person)

This proposal drew many comments pointing out the cost it would present for small firms. The expanded exemptive provisions of the rule as filed are included in response to this concern. Other comments objected to the concept of separating the sales function from compliance and supervision functions, while others expressed the view that the non-sales compliance officer would amount to a token appointment, but at a high cost. Many comments noted that the costs of complying with this requirement would place smaller firms at a competitive disadvantage.

Recommendation I.A.1.h. (Disciplinary Reports and Jurisdiction)

Some firms observed that a reporting requirement might inhibit firms from taking disciplinary action. Others noted the absence of clear standards defining what constitutes disciplinary action. Several comments objected to the apparent need to file duplicate reports (which will be eliminated upon the implementation of proposed 17d–2 plans). One comment endorsed the extension of SRO disciplinary jurisdiction over former members, while another comment expressed the view that this was improper and inconsistent with the spirit of the Act.

Recommendation I.A.1.i, j, k, l., and Recommendation I.A.3.a.–c. (Communications to Customers)

Comments suggested that this rule imposed too many responsibilities on the CROP, that centralized approval of communications to customers is unworkable, especially in a large firm, and that advance SRO approval of advertising is contrary to the trend in such matters. Many comments were addressed to the requirements applicable to specific types of written communiations, generally critizing them for being inflexible, unworkable, expensive to administer, and enlarging the firms' exposure to liabilities.

Recommendation I.A.1.m. and n. (Allocation of Exercise Notices.)

Comments suggested that firms should be given more flexibility than this rule would permit, and that an explanation of exercise allocation would be confusing to customers. Others noted the expense involved in conforming data processing equipment to required methods of allocation.

Recommendation I.A.1.o. and p. (Market-Makers' Account and Stock Orders)

Many comments characterized these requirements as burdensome and costly. It was suggested that these requirements should apply to exchange floor members only, and not to upstairs traders.

Recommendation I.A.2.b. (ROP Qualification of Branch Managers)

This requirement was criticized as being costly and not likely to result in improved supervision. Some suggested that it should be sufficient if an assistant manager or other supervisor is ROP-qualified, without requiring that the branch manager be so qualified.

Recommendation I.A.2.c. and d. (Discretionary Accounts)

Several firms commented that these requirements would be so onerous as to inhibit firms from offering discretionary accounts. The requirement for providing an explanation of each strategy utilized in the account was the focus of special criticism. We have attempted to respond to this crticism by making the requirement apply to "programs" for trading options, but not to each separate strategy that might be used.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

On or before December 10, 1979, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. Section 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number SR-Amex-79-11 and should be submitted on or before October 1, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated Authority.

George A. Fitzsimmons,
Secretary.
August 29, 1979.

Exhibit A

Recommendations Rule 921

I.A.1. a., b. and c Opening of Accounts

(a) No member or member organization shall accept an order from a customer [for the] *to* purchase or [sale] *write* an option contract unless the customer's account has been approved for options trading in accordance with the provisions of this Rule.

[(b) through (d)]—Delete

(b) Diligence in Opening Account. In approving a customer's account for options transactions, a member or member oganization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information which shall be retained in accordance with Rule 922. Based upon such information, the branch office manager or other Registered Options Principal shall approve in writing the customer's account for options transactions; provided, that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal.

(c) Verification of Customer Background and Financial Information. The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, unless the information is included in the customer's account agreement, shall be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the member organization shall also be sent to the customer for verification within fifteen (15) days after the member organization becomes aware of any material change in the customer's financial situation.

(d) Agreements to Be Obtained. Within fifteen (15) days after a customer's account has been approved for options transactions, a member organization shall obtain from the customer a written agreement that the account shall be handled in accordance with the Rules of the Exchange and the Rules of the Options Clearing Corporation and that such customer, acting alone or in concert with others, will not violate the position or exercise limits set forth in Rules 904 and 905.

(e) Prospectus to Be Furnished. At or prior to the time a customer's account is approved for options transactions, a member organization shall furnish the customer with a current Prospectus as defined in Rule 926.

Commentary

[.01 through .04]—Delete

[.05 and .06]—See SR-Amex-79–12

.01 In fulfilling its obligations pursuant to paragraph (b) of this Rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

1. Investment objectives (e.g., safety or principal, income, growth, trading profits, speculation)

2. Employment status (name of employer, self-employed or retired)

3. Estimated annual income from all sources

4. Estimated net worth (exclusive of family residence)

5. Estimated liquid net worth (cash, securities, other)

6. Marital status; number of dependents

7. Age

8. Investment experience and knowledge (e.g., number of years, size, frequency and types of transactions) for options, stocks and bonds, commodities, other

In addition, the customer's account records shall contain the following information, if applicable:

a. Source or sources of background and financial information (including estimates) concerning the customer

b. Discretionary trading authorization: agreement on file; name, relationship to customer and experience of person holding trading authority

c. Date prospectus furnished to customer

d. Types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading)

e. Name of registered representative

f. Name of ROP approving account; date of approval

g. Dates of verification of currency of account information

The member organization should consider utilizing a standard account approval form so as to ensure the receipt of all the required information.

.02 Refusal of a customer to provide any of the information called for in

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Commentary .01 shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other information available in determining whether and to what extent to approve the account for options transactions.

.03 The requirement of paragraph (c) of this Rule for the initial and subsequent verification of customer background and financial information is to be satisfied by sending to the customer the information required in Items 1 through 6 of Commentary .01 above as contained in the member's records and providing the customer with an opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

Rule 930

I.A.1.c. Statement of Account

Statements of account required by Rule 419 shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option contract. *The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.*

Rule 923

I.A.1.e. Suitability

(a) No member, member organization or registered employee thereof shall recommend to any customer any transaction for the purchase or sale (writing) of an option contract unless such member, member organization or registered employee has reasonable grounds to believe that the entire recommended transaction is not unsuitable for such customer on the basis of information furnished by such customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such member, member organization or registered employee.

[(b)]—Delete

(b) No member, member organization or registered employee thereof, shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract.

Rule 932 (New)

I.A.1.f. Customer Complaints

Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complainant, (ii) date complaint was received, (iii) identification of Registered Representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

I.A.1.d.

I.A.1.g. Rule 922

I.A.2.b. Supervision of Accounts

(a). Senior Registered Options Principal. In addition to the requirements of Rule 411, every member organization shall provide for the diligent supervision of all its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member organization who is a Registered Options Principal and who has been specifically identified to the Exchange as the member organization's Senior Registered Options Principal.

(b) *Compliance Registered Options Principal. Member organizations shall designate and specifically identify to the Exchange a Compliance Registered Options Principal, who may be the Senior Registered Options Principal and who shall have no sales functions and shall be responsible to review and to propose appropriate action to secure the member organization's compliance with securities laws and regulations and Exchange rules in respect of its options business. The Compliance Registered Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Registered Options Principal is not himself the compliance officer) and to other senior management of the member organization. The requirement that the Compliance Registered Options Principal have no sales functions shall not apply to a member organization that has received less than $1,000,000 in gross commissions on options business as reflected in its FOCUS Report for either of the preceding two fiscal years or that currently has 10 or less Registered Representatives.*

(c) *Maintenance of Customer Records. Background and financial information of customers who have been approved for options transactions shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.*

(d) *Branch Offices. No branch office of a member organization shall transport options business with the public unless the principal supervisor of such branch office accepting options transactions has been qualified as a Registered Options Principal; provided, that this requirement shall not apply to branch offices in which no more than three Registered Representatives are located, so long as the options activities of such branch offices are appropriately supervised by a Registered Options Principal.*

Commentary

.01 No change

.02 No change

I.A.1.h. Rule 341

Approval of Registered Employees and Officers

No member or member organization shall permit any employee to perform regularly any of the duties normally performed by a registered employee unless that employee has been registered with and approved by the Exchange. No member corporation shall permit any person to assume the duties of an officer unless such corporation has filed an application with and received the approval of the Exchange.

Commentary

.01 through .08 subparagraph (10)—No change

Subparagraph (11) If the American Stock Exchange, Inc., during the period of [60 days] *one year* immediately following [(a) termination of my employment, or (b)] receipt by the Exchange of written notification of such termination [whichever occurs later,] gives me written notice that the Exchange is making inquiry into any specified matter or matters occurring prior to termination of such employment, I shall agree that I will thereafter comply with any request of the Exchange for me to appear and testify, submit records, respond to written requests, attend hearings, and accept disciplinary charges or penalties with respect to the matter or matters specified in such notice in every respect in conformance with the Constitution and Rules and practices of the Exchange, in the same manner and to the same extent as required to do if I had remained an employee. If I refuse to accept such written notice or, having been given such notice, refuse or fail to comply with any such request of the Exchange, I agree that such refusal or failure may, in the discretion of the Exchange, act as a bar to future Exchange approval of my employment until such time as the Exchange has completed investigation into the matter or matters specified in such notice; has determined a penalty, if any, to be imposed against me; and until the penalty, if any, has been carried out.

.09 and .10—No change

I.A.1.h. Rule 342

Association of Members, Member Organizations and Persons Associated with Member Organizations

(a) through (c)—No change

(f) Disciplinary Action. Every member shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any national securities exchange or association, clearing corporation, commodity futures market or government regulatory body against the member or its associated persons, and shall similarly notify the Exchange of any disciplinary action taken by the member itself against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500 or any other significant limitation on activities.

I.A.1.i., j., k, 1 Rule 991

I.A.3.a., b., c. Communications to Customers

[Advertisements, Market Letters and Sales Literature Relating to Options]

[(a) through (d)]—Delete

Commentary

[.01]—Delete

(a) General Rule. No member or member organization, and no partner or employee thereof, shall utilize any advertisement, sales literature or other communications to customers or the public concerning options which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste and truthfulness; or

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(b) Approval by Compliance Registered Options Principal. All advertisements and sales literature (except completed worksheets) issued by a member or member organization pertaining to options shall be approved in advance by the Compliance Registered Options Principal or his designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval required by paragraph (b) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Exchange at least ten days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to another self-regulatory organization having comparable standards pertaining to advertisements; and

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization.

(d) Except as otherwise provided in the Commentary hereunder, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received a current prospectus of The Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by a current prospectus of The Options Clearing Corporation.

(ii) The term "sales literature" shall include any written communication (not defined as an "advertisement") distributed or made available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers of the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

Commentary

.01 The special risks attendant to options transactions and the

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complexities of certain options investment strategies shall be reflected in any communication which discusses the uses or advantages of options. In the preparation of communications respecting options, the following guidelines shall be observed:

A. Any statement referring to the potential opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for all investors. All communications discussing the use of options should include a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of The Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of The Options Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The Text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is The Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. Such communications shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

B. Such communications may contain projected performance figures (including projected annualized rates of return), provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (e.g., "assume option exercised," etc.);

(vi) the risks involved in the proposed transactions are also discussed;

(vii) in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions, provided that:

(i) any records or statistics must be confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include or offer to provide the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;

(v) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (e.g., comparison to an index) is valid;

(vi) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vii) a Registered Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

D. In the case of an options program (i.e., an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

E. Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.

F. Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

I.A.1.m. Rule 981

I.A.1.n. Allocation of Exercise Notices

(a) Each member organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in option contracts in such member organization's customers account. Such allocation shall be made on a "first-in, first-out" *or automated random selection basis that has been approved by the Exchange or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system.* [basis, on a basis of random selection or another allocation method that is fair and equitable to the customers of such member organization, provided, however, that such method of allocation may provide that an exercise notice of block size will to the extent possible be allocated to a customer or customers having an open short position of block size and that an exercise notice of less than block size will to the extent possible be allocated to a customer having a short postition of less than block size; and provided further that such method of allocation may provide that a member organization shall allocate an exercise notice to a customer based upon the form of margin deposited by such customer if directed to do so by The Options Clearing Corporation. For the purposes of this Rule, an exercise notice or a short position with respect to 25 or more units of trading of the same class of options shall be deemed to be of "block size"].

(b) Each member organization shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member organization shall change its method of allocation unless the change has been reported to and approved by the Exchange. The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another Exchange having comparable standards pertaining to methods of allocation.

[Each member organization shall, upon the request of a customer, furnish to such customer a description of the method used by it in assigning exercise notices to the accounts of customers.]

(c) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

Commentary

[.01]—Delete

I.A.1.o. Rule 957 (New)

I.A.1.p. Securities Accounts and Orders of Registered Traders and Specialists

(a) Identification of Accounts. In a manner prescribed by the Exchange, each Specialist and Registered Trader engaging in options trading shall file with the Exchange and keep current a list identifying all accounts for stock, option and related securities trading in which the Specialist or Registered Trader may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Specialist or Registered Trader shall engage in stock, options, or related securities trading in an account which has not been reported pursuant to this Rule.

(b) Reports of Orders. In a manner prescribed by the Exchange, each Specialist or Registered Trader engaging in options trading shall, on the business day following order entry date, report to the Exchange every order entered by the Specialist or Registered Trader for the Purchase or sale of a security convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to this Rule. The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times reports of executions were received and, if all or part of the order was executed, the quantity and execution price.

Commentary

Reports of accounts and orders required to be filed with the Exchange pursuant to this rule relate only to accounts in which a Specialist or Registered Trader, as an individual directly or indirectly, controls trading activities. Reports are required for accounts over which a Specialists or Registered Trader exercises investment discretion as well as his proprietary accounts. Reports are not required simply because of a Specialist or Registered Trader's passive interest in his firm's proprietary accounts. For purposes of this rule, related securities include securities convertible into or exchangeable for underlying securities.

I.A.2.c. Rule 924

I.A.2.d. Discretionary Accounts

[a]—Delete

(a) Authorization and Approval required. No member and no partner or employee of a member organization shall exercise any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. The Senior Registered Options Principal shall review the acceptance of each discretionary account to determine the the Registered Options Principal accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintian a record of the basis for his determination. Each discretionary order shall be approved and initialled on the day entered by the branch office manager or other Registered Options Principal, provided that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the Compliance Registered Options Principal. The provisions of this paragraph shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security shall be executed.

(b) Options Programs. Where the discretionary account utilizes options programs involving the systematic use of one or more options strategies, the customer shall be furnished with a written explanation meeting the requirements of Rule 991 of the nature and risks of such programs.

[(b)] *(c)*—No change

[(c)] *(d)*—No change

Commentary

[.01]—See SR–AMEX 79–12

Effectiveness timetable

Amex rule and number of days following commission approval

921(b)—30 days
921 (c)—30 days for initial verification; 60 days for subsequent verification
930—60 days
923—30 days
932—60 days
922 (a)—30 days
922 (b)—90 days
922 (c)—90 days
342 (d)—30 days
341.08 (11)—Immediately
991 (a)—Immediately
991 (b)—90 days; until then approval under present 9.21 (a)
991 (c), (d) and (e)—Immediately
981 (a)—60 days
981 (b)—Immediately
981 (c)—60 days
957 (a) and (b)—60 days
922 (d)—90 days
924(a)—90 days

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924 (b)—90 days
[FR Doc. 79-27872 Filed 9-7-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 16144; File No. SR-NASD-79-2]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

August 28, 1979.

On June 1, 1979, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 1735 K Street, N.W., Washington, D.C. 20006, Filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal") to amend the schedule of charges for users of the NASDAQ System. The new structure will place greater emphasis on usage-based charges and will constitute a reduction in charges paid by all users of the NASDAQ System. Although the percentage of reduction will vary among individual System users, the proposal is designed to produce an overall reduction of approximately 32 percent in user charges.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 15905, June 8, 1979) and by publication in the **Federal Register** (44 FR 34674 June 15, 1979).

All written statements with respect to the proposed rule change which were filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room, 1100 L. Street, N.W., Washington, D.C.

The Commission finds that the Proposal is consistent with the requirements of the Act and the applicable rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A of the Act. The Commission believes that the revised fee structure provides for the equitable allocation of reasonable charges among NASD members and other persons using the NASDAQ System and is not designed to permit unfair discrimination between brokers or dealers. In addition, the Commission has relied upon the Association's representation that, notwithstanding implementation of the proposal, the NASD and NASDAQ, Inc. expect to generate sufficient future revenues to support operation of the NASDAQ System, to implement proposed System enhancements (including those associated with the establishment of a national market system) and otherwise to carry out the Association's self-regulatory responsibilities.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

By the Commission.
George A. Fitzsimmons,
Secretary.
[FR Doc. 79-27873 Filed 9-7-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16142; File No. SR-MSRB-79-9]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 22, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") is filing proposed rule A-17 (hereinafter referred to as the "proposed rule change") as described below. The rule is intended to establish procedures to ensure confidential treatment of any report of an examination of a municipal securities broker or municipal securities dealer, or information extracted from such a report, which is furnished to the Board by the Securities and Exchange Commission (the "Commission").

Proposed rule A-17 sets forth the terms and conditions under which members of the members of the Board and its staff will have access to such information. It provides, among other matters, that access to any examination report will be limited to members of the Board's staff who are authorized to review the material by the Board's Executive Director and General Counsel, jointly. The proposed rule change requires each authorized staff member to execute a written undertaking pledging compliance with the confidentiality provisions of rule A-17. Additionally, it requires that examination reports be maintained in locked cabinets with access permitted only to authorized staff members.

The text of the proposed rule change is as follows:

Rule A-17. Confidentiality of Examination Reports

Any report of an examination or of information extracted from a report of an examination ("examination report") of a municipal securities broker or municipal securities dealer furnished to the Board by the Commission pursuant to Section 15B(c)(7)(B) of the Act [1] shall be maintained and utilized in accordance with the following terms and conditions, in order to ensure the confidentiality of any information contained in such reports:

(1) Any such examination report shall be reviewed only by authorized members of the Board's staff; no member of the Board shall have access, directly or indirectly, to an examination report. Anything herein to the contrary notwithstanding, the staff of the Board may furnish to the Board or any appropriate committee thereof summaries or other communications relating to the examination reports, provided that such summaries or other communications shall not contain information which might make it possible to identify the municipal securities brokers or municipal securities dealers or associated persons which are the subject of the examination reports to which any such summary or other communication relates.

(2) The Executive Director and General Counsel shall designate jointly the members of the staff of the Board who shall have access to the examination reports.

(3) Each member of the staff of the Board who is authorized pursuant to section (2) of this rule to have access to the examination reports shall execute a written undertaking that he or she will not copy or use for personal purposes any part of such reports, nor reveal the contents thereof to any unauthorized person.

(4) The examination reports shall be maintained on the premises of the Board in locked cabinets with access thereto limited to authorized members of the staff of the Board.

[1] On May 30, 1979, the Commission published for comment proposed Rule 15Bc7-1, which would govern the furnishing of examination reports to the Board. Upon adoption of the Commission's Rule, the Board will amend its proposed rule to include a textural reference to Rule 15Bc7-1.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

Section 15B(c)(7)(B) of the Securities Exchange Act of 1934, as amended (the "Act"), provides that the Securities and Exchange Commission (the "Commission") will make available to the Board, upon request, copies of any report of an examination of a municipal securities broker or municipal securities dealer made by or furnished to the Commission, subject to such limitations as the Commission, by rule, deems necessary or appropriate in the public interest.[2] On February 16, 1979, the Board submitted a written request to the Commission pursuant to Section 15B(c)(7) for copies of all such examination reports. The Commission thereafter published for comment Proposed Rule 15Bc7-1 [3] which provides that the Commission will furnish to the Board copies of examination reports, so long as the Board establishes by rule and maintains "adequate procedures for ensuring the confidentiality of any information made available to it by the Commission pursuant to Section 15B(c)(7)(B) of the Act."

The proposed rule change is intended to establish procedures to ensure confidential treatment of such information. The proposed rule change provides, among other matters, that access to any examination report will be limited to members of the board's staff who are authorized to review the material by the board's Executive Director and General Counsel, jointly. In addition, each authorized staff member must execute a written undertaking pledging compliance with the confidentiality provisions of rule A-17. The rule requires the examination reports to be maintained in locked cabinets with access to them permitted only to authorized staff members.

Basis Under the Act for Proposed Rule Change

As noted above, Section 15B(c)(7)(B) of the Act provides that the Commission will make available to the board, upon request, copies of any report of an examination of a municipal securities broker or municipal securities dealer made by or furnished to the Commission, subject to any limitations as the Commission deems necessary or appropriate. The proposed rule change, which is designed to ensure the confidential treatment of such reports, was adopted pursuant to the general authority conferred on the Board by Section 15B(b)(2)(I) of the Act to provide for the operation and administration of the Board.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Board has neither solicited nor received comments on the proposed rule change.

Burden on Competition

The proposed rule change does not affect the conduct of business by any broker, dealer, or municipal securities dealer. The board therefore believes that the proposed rule change does not impose any burden on competition.

On or before October 15, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 25, 1979.

[2] Compliance examinations of municipal securities brokers and municipal securities dealers are conducted periodically by the Commission, the National Association of Securities Dealers, Inc., and the appropriate bank regulatory agencies, which are the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

[3] As of the date of this filing, Proposed Rule 15Bc7-1 has not yet been adopted by the Commission.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.
George A. Fitzsimmons,
Secretary.
August 27, 1979.
[FR Doc. 79-27874 Filed 9-7-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16143; File No. SR-NASD-79-7]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 13, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The NASD's Statement of Text of Proposed Rule Change

The following is the full text of the proposed amendment to Schedule A, under Article III, Section 1 of the By-Laws of the National Association of Securities Dealers, Inc. (Material to be deleted is bracketed, material to be added is italicized).

Schedule A

Assessments and fees, pursuant to the provisions of Article III of the By-Laws of the Corporation, shall be determined on the following basis after [October 1, 1978] *October 1, 1979.*

Section 1—Assessments

Each member shall pay an annual assessment composed of the following:

(a) A basic membership fee of [$250.00] *$300.00.*

(b) An amount equal to:

(i) [0.19%] *0.21%* of annual gross income from state and municipal securities transactions, and

(ii) [0.23%] *0.25%* of annual gross income from over-the-counter securities transactions.

[A member must report annual gross income, as defined in Section 5 of this Schedule, for the preceding calendar year unless the member made a binding, one-time election in 1977 to report annual gross income on the basis of its fiscal year ending during the preceding calendar year. New members may make this election during the first year of membership.]

Each member is to report annual gross income as defined in Section 5 of

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this Schedule, for either the preceding calendar year or the member's fiscal year ending in the preceding calendar year. The 12-month reporting period must be in accordance with the member's previous written election. New members will be given an opportunity to make this election after they become members.

Members wishing to change their reporting year must advise the Association, in writing, of the change in dates and provide a reason for the change (i.e., merger or other organizational change and/or change in tax or fiscal year). If the change is from a fiscal year to the calendar year or to a new fiscal year ending at a later date, the member is to provide two reports of gross income covering the 12 consecutive months of both the new and old years. In such case, the assessment in the year of change will be the greater amount determined from the two reports. If the change is from a calendar year or a fiscal year to a new fiscal year ending at an earlier date, the member is to report gross income for the 12 consecutive months to the end of its new fiscal year.

(c) (unchanged)

Section 2—Fees

(a) (unchanged)

(b) Each member shall be assessed a fee of [$35.00] *$50.00* for each application filed with the Association for registration of a registered representative or registered principal.

(c) There shall be an examination fee of [$30.00] *$40.00* assessed as to each individual who is required to take an examination for registration as a registered representative pursuant to the provisions of Schedule "C" of the By-Laws. This fee is in addition to the registration fee described in Item (b). In a case where a broker/dealer applicant for membership in the Corporation who was previously, and at the time of his application for membership is currently, qualified pursuant to the provisions of Section 15(b)(8) of the Securities Exchange Act of 1934, and Rule 15b8–1 thereunder, to act as a broker/dealer, is requird to register contemporaneously 100 or more registered representatives who were previously and are currently qualified pursuant to the aforementioned Section 15(b)(8) and Rule 15b8–1 the examination fee to be assessed pursuant to this subparagraph (c) shall be determined by the President of the Corporation, or his delegate. The fee shall be based upon a stated amount per applicant, a flat fee to the member or some other equitable basis which recognizes the reduced cost per examination of administering examinations to a large number of applicants within a relatively short period of time. In no case shall the amount agreed upon be less than the equivalent of [$12.50] *$20.00* per applicant and such reduced fee shall not apply to any individual not falling within the scope of the provisions of subparagraph (2) of paragraph II of Schedule C of the By-Laws.

(d) There shall be an examination fee of [$30.00] *$40.00* assessed as to each individual who is required to take an examination for principals pursuant to the provisions of Schedule "C" of the By-Laws.

(Remaining portion of Section 2 is unchanged.)

* * * * *

Section 7—Service Charges for Processing Extension of Time Request

(a) (unchanged)

(b) The service charge for processing each initial extension of time request shall be [$1] *$2*. A service charge of $2 shall be imposed on all subsequent extension of time requests (1) involving the same transaction under Regulation T and/or (2) involving an extension of time previously granted pursuant to Rule 15c3–3(n).

The NASD's Statement on Purpose of Proposed Rule Change

The proposed amendments to Schedule A will increase the Association's income to insure that the Association will receive adequate funding to continue to fulfill its regulatory function. The Association anticipates that the proposed changes will generate sufficient income to provide a balanced budget in fiscal 1980. The lower rate for gross income from states and municipal securities transactions is being continued because of the additional financial burden imposed upon municipal securities broker/dealers in supporting the Municipal Securities Rulemaking Board. The provision permitting a change in reporting year has been adopted as a service to members who wish to change their reporting year.

The NASD's Statement on Basis Under the Act for Proposed Rule Change

It is the responsibility of the Association under Section 15A of the Securities Exchange Act, as amended, to regulate its members and persons associated with its members who deal in securities. Section 15A(b) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. The proposed changes in Schedule A provide for an equitable allocation of the reasonable dues and fees among the members of the Association and is in furtherance of the purposes of the Act.

The NASD's Statement on Comments Received From Members, Participants or Others on Proposed Rule Change

Under Article III, Section 1 of the By-Laws of the Association, membership approval of a change in a fee schedule is not necessary. Therefore, comments of the membership on the proposed amendments to Schedule A were not solicited or received.

The NASD's Statement on Burden on Competition

Section 15A of the Securities Exchange Act places on the Association the responsibility to regulate the activities of its members, and provides the statutory basis for the assessment of equitable fees. Thus, it is felt that there is no general burden on competition imposed by the proposed rule change, and that any incidental financial burdens on the membership is in furtherance of the purposes of the Act.

The NASD's Statement on Basis for Taking, or Being Put Into Effect Pursuant to Section 19(b)(3)

The proposed amendments are to take effect upon filing pursuant to paragraph (A) of Section 19(b)(3) of the Act because they establish or change a due, fee, or other charge. The Association will declare the proposed amendments effective as of October 1, 1979.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspections and copying in the public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 1, 1979. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 28, 1979.

[FR Doc. 79–27875 Filed 9–7–79; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–16152; File No. SR–MSRB–77–12]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 28, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") is filing herewith an amendment to proposed rule G–23 on activities of financial advisors (hereafter referred to as the "proposed rule change"). The text of the proposed rule change is as follows:[1]

Rule G–23. Activities of Financial Advisors

(a) through (c) No change.

(d) Underwriting Activities. No broker, dealer, or municipal securities dealer that has a financial advisory relationship with respect to a new issue of municipal securities shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of such issue, or arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or municipal securities dealer unless

(i) No change.

(ii) if such issue is to be sold by the issuer at competitive bid, [A] the issuer has expressly consented in writing prior to the bid to such acquisition or participation.[, and]

[(B) all material information concerning the issue or the issuer thereof obtained as a result of the financial advisory relationship and utilized or expected to be utilized by such broker, dealer, or municipal securities dealer in the course of purchasing or selling the securities constituting such issue has been made available on a timely basis upon request to other brokers, dealers, and municipal securities dealers interested in bidding for the issue.]

The limitations and requirements set forth in this section (d) shall also apply to any broker, dealer, or municipal securities dealer controlling, controlled by, or under common control with the broker, dealer, or municipal securities dealer having a financial advisory relationship. The use of the term "indirectly" in this section (d) shall not preclude a broker, dealer, or municipal securities dealer who has a financial advisory relationship with respect to a new issue of municipal securities from purchasing such securities from an underwriter, either for its own trading account or for the account of customers, except to the extent that such purchase is made to contravene the purpose and intent of this rule. Each broker, dealer, and municipal securities dealer subject to the provisions of this section (d) shall maintain a copy of the written disclosures, acknowledgements and consents required by this section in a separate file and in accordance eith the provisions of rule G–9.

(e) through (g) No change.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

On September 20, 1977, the Board filed with the Securities and Exchange Commission (the "Commission") a series of proposed rules and rule amendments, the general purpose of which was to codify basic standards of fair and ethical business conduct for municipal securities professionals (the "fair practice rules"). One of the fair practice rules was proposed rule G–23 relating to the financial advisory activities of municipal securities professionals. On October 19, 1978, the Commission approved the fair practice rules, except for proposed rule G–23 and a proposed amendment to rule D–8. The proposed rule change would modify proposed rule G–23.

Proposed rule G–23(d)(ii)(B) would permit a municipal securities professional to act as both financial advisor and underwriter in a competitive sale if two conditions are met: (1) the issuer expressly consents in writing to a municipal securities professional acting in such dual capacity, and (2) the municipal securities professional provides, upon request, to other municipal securities dealers interested in bidding for the issue all material information "concerning the issue or issuer thereof obtained . . . and utilized or expected to be utilized" by the municipal securities professional in the course of purchasing or selling the securities.

The Board adopted these requirements principally for the purpose of providing protection to issuers in the situation where a municipal securities professional acts both as financial advisor and underwriter with respect to the same issue of securities. More specifically, the requirement to obtain the written consent of issuers was adopted to assure that issuers are made aware of the intention of their financial advisors to act in such dual capacity and to provide issuers with an opportunity to prohibit their financial advisors from doing so if the issuers determine that such an arrangement is not in their own best interests. The requirement to disclose information to other prospective underwriters was adopted to provide additional protection to issuers by promoting competition through the timely dissemination of material information.

The proposed rule change eliminates the disclosure requirement. On reconsideration, the Board decided to delete this provision primarily because of its concern that compliance with the provision could pose significant practical problems for municipal securities professionals. For example, the provision might place a municipal securities dealer in a potentially difficult position if the dealer is aware of speculative information of a favorable nature concerning the issuer. Disclosure of such information would be required under the provision in question; however, the dealer might be exposed to lawsuits if the anticipated events did not materialize. The Board notes that a similar point was made by the Commission Staff in a comment letter to the Board, dated June 23, 1977, on the exposure draft of rule G–23.

The provision could also present significant practical problems for a municipal securities professional in the situation were an issuer retains separate counsel to provide advice on disclosure matters. In this situation, a financial advisor may have relatively little control over what information is included in, or omitted from, the official statement. A municipal securities professional wishing to act in both capacities could therefore be put in the difficult position of having to decide whether to disclose information which the issuer and its counsel have decided not to include in the official statement because the

[1] *Italics* indicate new language; [brackets] indicate deletions.

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information is considered either too speculative or immaterial.

Such practical problems might deter municipal securities professionals from bidding on issues for which they act as financial advisors, a result which would be contrary to the purpose of the Board in adopting the rule and not in the best interests of issuers.

The Board does not believe that the deletion of this provision will materially weaken the rule. The other provisions of the rule provide direct protection to issuers in a competitive sale situation. In addition, the Board wishes to stress that the deletion of the disclosure requirement would not affect any obligation which a municipal securities professional may have by reason of the antifraud provisions of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules promulgated thereunder, with respect to the disclosure of material information in connection with the purchase or sale of securities.

Basis Under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to section 15B(b)(2) of the Act, which authorizes the Board to adopt rules governing transactions in municipal securities effected by brokers, dealers and municipal securities dealers, and in accordance with the standards set forth in section 15B(b)(2)(C) of the Act, which provides in part that the Board's rules shall

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, * * * to remove impediments to and perfect the mechanism of a free and open market in numicipal securities, and, in general, to protect investors and the public interest; and [shall] not be designed to permit unfair descrimination between customers, issuers, municipal securities brokers, or municipal securities dealers * * *.

Comments Received From Members, Participants or Others on Proposed Rule Change

No written comments were solicited or received in regard to the proposed rule change. The Board undertook to reconsider proposed rule G-23(d)(ii)(B), however, in response to oral comments made with respect to the provision by industry members and the Commission staff. Several industry commentators expressed concern with the anticipated practical difficulties of complying with the provision. For example, one commentator at a seminar stated that, in view of such problems, his firm would probably either refrain from bidding on issues for which it acts as financial advisor or retain its own counsel solely for the purpose of assuring compliance with the requirements of this provision. The Commission staff also expressed concern regarding the practical consequences of the application of the provision, as well as concern that the provision might conflict with section 15B(d)(2) of the Act.

The Commission staff also raised a question with respect to subparagraph (d)(i)(A) of proposed rule G-23. In the case of negotiated sales of new issues of municipal securities, proposed rule G-23 provides that a municipal securities dealer which has acted as a financial advisor may purchase a new issue of municipal securities if certain specified conditions are met. Subparagraph (d)(i)(A) sets forth one of these conditions, namely, that the municipal securities professional terminate in writing the financial advisory relationship with respect to the issue to be underwritten and obtain the express written consent of the issuer, at or after such termination, to the change in capacity. The Commission staff questioned the need for the termination requirement, and in particular whether such a requirement would have any practical consequences in the situation where there is a continuing financial advisory relationship.

The Board is of the firm belief that the termination requirement is an integral and important part of proposed rule G-23, and should therefore not be deleted from the rule. As indicated in previous filings, the proposed rule is intended to address the inherent conflict of interest involved in a municipal securities professional acting in the dual capacity of financial advisor and underwriter, an arrangement which the Board believes is contrary to the fiduciary obligations of a financial advisor and not consistent with the public interest. The termination requirement would directly address this problem by prohibiting municipal securities professionals from acting simultaneously in both capacities with respect to the same issue.[3] Further, the termination requirement would cause issuers to focus on the intention of their financial advisors to act also as underwriters, and therefore afford issuers the opportunity at a critical point to consider the advisability of permitting them to do so. At a minimum, the requirement would heighten the sensitivity of issuers to the significance of a financial advisor changing capacity and might lead them to scrutinize more closely the consequences of such a development.

In the situation where there is continuing financial advisory relationship, the termination provision would have additional practical importance. Notice of termination of a financial advisory relationship with respect to a particular issue might very well prompt an issuer to renegotiate the fee arrangement under its financial advisory agreement, in order to reflect the diminished services being provided to the issuer pursuant to the agreement. The Board is aware that in many continuing financial advisory relationships the compensation to the dealer is not broken-down by services, but is stated in an aggregate amount or otherwise calculated. The Board believes, however, that municipal securities professionals as a general matter are able to determine with relative precision the cost of providing various services, including the cost of rendering financial advisory services with respect to a particular issue.

Burden on Competition

In the initial filing of the fair practice rules, including proposed rule G-23, the Board stated that in its opinion the fair practice rules "will not impose any burden on competition among brokers, dealers or municipal securities dealers not necessary or appropriate in furtherance of the purposes of the Act." The Board would like to take this opportunity to explain its reasons for this conclusion with respect to proposed rule G-23.

In view of the important purpose of the rule, the Board believes that, to the extent the rule imposes any burden on competition, such a result is justifiable as appropriate and in the public interest. As noted above and in previous filings, the Board believes that there is an inherent conflict of interest in a municipal securities professional acting both as a financial advisor and underwriter with respect to the same issue of municipal securities, and that the existence of this conflict may have serious adverse consequences for issuers and the general public which they represent. Proposed rule G-23 was adopted for the express purpose of providing protection to issuers in such situations.

Further, any burden resulting from the implementation of proposed rule G-23 will necessarily be relatively insignificant. It should be emphasized that there is *no* proscripton in the rule against a municipal securities professional acting both as financial advisor and underwriter with respect to the same issue. A municipal securities professional may act in both capacities in competitive and negotiated sales, provided that certain conditions are met. Moreover, these conditions can be easily satisfied by municipal securities professionals through the disclosure of certain basic information and the taking of other simple actions. Accordingly, proposed rule G-23 would not place municipal securities professionals who act both as financial advisors and underwriters at a material competitive disadvantage to other municipal securities professionals who act only as underwriters.

In this regard, certain persons suggested in their comments on the exposure draft of rule G-23 that, in the absence of federal legislation regulating the activities of independent financial advisors, the rule would place securities professionals at a competitive disadvantage to such advisors. The Board believes that this assertion is without merit. It is precisely the fact that securities professionals may function in a dual capacity as financial advisors and underwriters that forms the basis for the Board's proposal.[3]

The proposed rule change which is the subject of this particular filing would not impose any burden on competition since it eliminates a requirement to which all brokers, dealers, and municipal securities dealers would otherwise be subject.

On or before October 15, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 1, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 30, 1979.

[FR Doc. 79-27876 Filed 9-7-79; 8:45 am]

BILLING CODE 8010-01-M

[3] The Board believes that the conflict involved in acting in both capacities is mitigated in competitive bid situations, where the existance of competition among underwriters for award of the securities tends to introduce an arm's-length element into the establishment of the terms of the issue and the underwriting. In these situations, the Board therefore believes that it is sufficient to require disclosure of a financial advisor's intent to bid on an issue in a competitive sale, and to require the prospective underwriter to obtain the consent of the issuer to the dual role. In contrast, in a negotiated sale situation, the element of competition among prospective purchasers is absent, and the Board therefore believes that it is appropriate to require a municipal securities professional to terminate its financial advisory relationship before acting as an underwriter.

[3] The proposed rule would also apply in the situation where a municipal securities dealer acts as a financial advisor and purchases all or part of a new issue for investment, and not for resale. The Board recognizes that an independent financial advisor would not be subject to the rule if it does the same. The Board believes, nonetheless, that the important public purposes served by the rule justify the competitive disadvantage, if any, which municipal securities professionals may be subject to in such circumstances.

[Rel. No. 10848; 812-4465]

Capital Corp. of Wyoming, Inc.; Filing of Application

August 28, 1979.

Notice is hereby given that Capital Corporation of Wyoming, Inc. ("Applicant"), 145 South Durbin Street, P.O. Box 612, Casper, Wyoming 82602, a Wyoming corporation, filed an application on April 20, 1979, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was organized during July 1978 under the laws of Wyoming. It proposes to operate as a small business investment company under the Small Business Investment Act of 1958 ("SBIA"), as amended. Applicant has filed an application with the Small Business Administration for a license under the SBIA. The application filed with the Commission states that Applicant is a wholly owned subsidiary of Wyoming Industrial Development Corporation ("WIDC"), which is the sole sponsor of Applicant.

Applicant states that its primary function will be to complement and further the business activities of WIDC in carrying out the purposes of the Wyoming Industrial Corporation Act. The application indicates that WIDC supplies capital to Wyoming businesses otherwise unable to obtain institutional financing and that WIDC conducts business only in Wyoming and only with companies doing or proposing to do business in Wyoming. Applicant represents that WIDC will not own securities of any small business investment company other than the Applicant. Furthermore, Applicant represents that its current directors are Wyoming residents and that the Applicant and WIDC intend to restrict directorships of the Applicant to Wyoming residents.

Applicant states that it will provide WIDC access to borrowed funds not available to WIDC. In this regard, Applicant, as a small business investment company, will be able to borrow up to three times the amount of its capital from the Small Business Administration. The application states that WIDC is not able to borrow funds from the Small Business Administration as a small business investment company.

The application states that Applicant's authorized capitalization is 100,000 shares of common stock, $10.00 par value, of which 100 shares are presently issued and outstanding and held of record by WIDC. Applicant represents that when it becomes a licensed small business investment company, it will issue an additional 30,900 shares to WIDC at a price of $10.00 per share. The application states that Applicant's common stock does not have any redemption rights and that although the Wyoming Business Corporation Act will permit a Wyoming corporation to purchase or acquire its own shares, the Applicant does not anticipate purchasing or acquiring any capital shares which may be issued by it.

The Applicant states that it may make an offering of additional shares of its capital stock in the future, but that there are currently no plans to do so. The application indicates that such an offering would be limited to one issuance and would be made only to banking organizations located in Wyoming who are willing to acquire shares for investment and not with a view to public distribution or sale. Applicant represents that any stock certificate issued to banking organizations would be impressed with a restrictive legend. The application

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states that each banking organization would have access to the books and records of Applicant at the time it makes its investment decision and on an ongoing basis. Applicant states that to the best of its knowledge, banking organizations which may purchase shares of Applicant's capital stock will be engaged in safe and sound banking practices. The application states that Wyoming state banks are subject to examination, supervision and control by the Wyoming State Bank Examiner. Applicant represents that there are currently 81 national and state banks located in Wyoming and several charter applications for new banks pending, and also represents that Applicant has not had discussions with any of the banks concerning the possible issuance of additional shares of its capital stock. The application states that if shares of Applicant's stock are issued to banking organizations, the amount or number of shares issued to any particular bank would in no event exceed the lesser of 1% of capital and surplus of the bank or the amount or number of shares otherwise permitted to be held by the bank pursuant to applicable federal and state laws. The application states that no underwriting commissions would be paid in connection with the offering and that Applicant would rely upon Section 3(a)(11) or Section 4(2) of the Securities Act of 1933 as an exemption from the registration requirements of that Act.

In addition to borrowing funds from the Small Business Administration, Applicant states that it may attempt to obtain both long-term and short-term debt financing from banks, some of which may become stockholders of less than 5% of Applicant, and other lending institutions located inside and outside Wyoming. The application states that the proceeds from any such loans would be used by the Applicant in the ordinary course of its business and that Applicant does not anticipate the issuance of debt securities to the general public or that a public trading market will ever be established in respect of such debt securities.

Applicant anticipates that its portfolio will consist approximately of the following: (i) 30% in loan participations with banks and savings and loan associations; (ii) 65% in companion loans with banks and savings and loan associations; and (iii) 5% in equity investments. Companion loans are loans made directly to operating small businesses by the Applicant whereby a bank and/or a savings and loan association would make a separate financing secured by separate financing statements, security agreements and/or mortgage positions. This financing would be interrelated and thus companion in nature.

The Applicant states that its assets, which will consist primarily of notes, mortgages, financing statements, and various agreements, will be held by the Applicant in the offices of WIDC or in a safety deposit box in a Casper, Wyoming, bank. The Applicant will not have office facilities or personnel apart from WIDC's. Applicant represents that its financial statements will be prepared annually and will be certified by independent auditors on a consolidated basis with WIDC.

The application states that Applicant will be regulated and examined at least annually by the Small Business Administration. Applicant also states that WIDC is subject to annual examinations by the Wyoming State Bank Examiner under the Wyoming Industrial Development Act and that it is probable that Applicant will also be examined by the Wyoming State Bank Examiner since it is a wholly owned subsidiary of WIDC.

Applicant represents that no finder's fee will be paid by the Applicant to any officer, director or stockholder, of either the Applicant or WIDC in connection with loans or investments made by Applicant and no such persons will be permitted to have an interest in any company to which or in which the Applicant loans or invests funds. The application states that no investment advisor or advisory fees will be paid by the Applicant to any such person, although, if additional shares of the Applicant are issued at some future date to banking organizations, WIDC may charge the Applicant a management fee as payment for use of its office facilities and personnel. Applicant represents that no transactions of the type prohibited by Section 17 of the Act will be executed by the Applicant with any affiliated persons, as defined by Section 2(a)(3) of the Act, of either the Applicant or WIDC.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Because the Applicant, as a small business investment company, will be engaged in the business of investing and since it proposes to acquire investment securities having a value exceeding 40% of its total assets, the Applicant will be an investment company within the definition of Section 3(a)(3) of the Act and will be required to register under the Act unless exempted under Section 6(c) of the Act.

Applicant seeks an exemption from all provisions of the Act on the grounds that registration under the Act and compliance with the provisions of the Act is not necessary for the protection of investors and submits that the issuance of such order would be in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act.

Notice is further given that any interested person may, not later than September 20, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–27877 Filed 9–7–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21203; 70–6336]

The Narragansett Electric Co.; Proposed Increase in Permitted Short-Term Indebtedness; Order Authorizing Solicitation of Proxies in Connection Therewith

August 29, 1979.

Notice is hereby given that The Narragansett Electric Company ("Narragansett"), 280 Melrose Street, Providence, Rhode Island 02901, an electric utility subsidiary of New England Electric System, a registered holding company, has filed with this Commission a declaration and an amendment thereto prusuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7(e), and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

The preference provisions of Narragansett's preferred stock provide, *inter alia*, that without the affirmative vote of a majority of said stock then outstanding, Narragansett's unsecured indebtedness shall not exceed 10% of the aggregate principal amount of all its bonds and other secured indebtedness and its capital and surplus (capital and retained earnings). By order in file No. 70–5514 dated June 25, 1974 (HCAR No. 18470), Narragansett was authorized to solicit proxies from its preferred stockholders to obtain their approval for the issuance of unsecured indebtedness in excess of the 10% limitation. By order dated July 19, 1974 (HCAR No. 18505), the Commission authorized the proposed increase in unsecured indebtedness, and such proposal was approved by a majority of the preferred stockholders at a special meeting held on July 25, 1974. The authorizations by the preferred stockholders and the Commission expired on July 19, 1979.

In the instant filing Narragansett proposes to submit to the holders of its preferred stock at a special meeting to be held on October 5, 1979, a proposal to renew its permission to issue an increased amount of unsecured indebtedness. Such renewal will require the affirmative vote of a majority of the total number of shares of preferred stock of all series now outstanding. The vote would renew the authorization for Narragansett to issue unsecured indebtedness in excess of the 10% limitation provided (i) such indebtedness be issued within five years of the Commission's order making effective the declaration filed in this proceeding, (ii) such indebtedness have a maturity not more than six years from the date of such order, and (iii) all Narragansett's unsecured indebtedness not exceed 20% of the aggregate principal amount of all its bonds and other secured indebtedness and its capital and surplus (capital and retained earnings).

Narragansett states that it is seeking this authorization in order to provide the flexibility necessary to finance its business. At June 30, 1979, the 10% limitation would have restricted Narragansett's unsecured indebtedness to $18,400,000, whereas the 20% limitation restricted it to $36,800,000. Narragansett desires the flexibility of the 20% limitation to issue greater amounts of short-term debt, when it is advantageous to do so, pending permanent financing. It does not plan to permanently maintain large amounts of unsecured indebtedness.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $8,925, including $3,000 of services to be performed at cost by New England Power Service Company, an affiliate of Narragansett. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than September 25, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the declaration, as amended, regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, pursuant to Rule 62, that the declaration, as amended, regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–27878 Filed 9–7–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–10040]

Warner-Lambert Co.; Application and Opportunity for Hearing

August 30, 1979.

Notice Is Hereby Given that Warner-Lambert Company (the "Company") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that: a) the trusteeship of the Irving Trust Company ("Irving Trust") under an indenture dated March 1, 1966 (the "1966 Indenture") and two indentures dated April 1, 1975 (the "1975 Debenture Indenture" and the "1975 Note Indenture", respectively), which were qualified under the Act, b) the trusteeship of Irving Trust under indentures dated August 1, 1968 (the "1968 Indenture"), April 2, 1975 (the "1972 Indenture") and April 2, 1973 (the "1973 Indenture"), which were not qualified under the Act, and, c) the trusteeship of Irving Trust under a new indenture to be dated as of July 1, 1979 (the "New Indenture"), which will not be qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Irving Trust from acting as trustee under any of said Indentures.

The Company alleges that: 1. As of March 31, 1979, there were outstanding $865,000 principal amount of 4¼% Guaranteed Debentures Due 1981 issued under an indenture dated March 1, 1966 (the "1966 Indenture") among Warner-Lambert International Capital Corporation ("Capital"), the Company and Irving Trust, which was qualified under the Act. The 1966 Debentures are guaranteed by the Company.

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2. As of March 31, 1979, Warner-Lambert Overseas, Inc. ("Overseas"), a wholly-owned subsidiary of the Company, had outstanding $7,509,000 principal amount of its 4½% Convertible Guaranteed Debentures Due 1988 issued under an indenture dated August 1, 1968 (the "1968 Indenture") among Overseas, the Company and Irving Trust, which was not qualified under the Act. The 1968 Debentures are also guaranteed by the Company.

3. As of March 31, 1979, there were outstanding $40,000,000 principal amount of 4½% Convertible Debentures Due 1987 issued under an indenture dated April 2, 1972 (the "1972 Indenture") between the Company and Irving Trust, which were sold outside the United States. The indenture under which such debentures were issued was not qualified under the Act.

4. As of March 31, 1979, the Company had outstanding $29,850,000 principal amount of 4¼% Convertible Debentures Due 1988 issued under an indenture dated April 2, 1973 between the Company and Irving Trust, which were sold outside the United States. The indenture under which such debentures wee issued was not qualified under the Act.

5. As of March 31, 1979, the Company had outstanding $75,000,000 principal amount of 8⅞% Debentures Due 2000 issued under an indenture dated April 1, 1975 between the Company and Irving Trust which was qualified under the Act.

6. As of March 31, 1979, the Company had outstanding $75,000,000 principal amount of 8.30% Notes Due 1985 issued under an Indenture dated April 1, 1975 between the Company and Irving Trust, which was qualified under the Act.

7. Under an indenture to be dated as of July 1, 1979 between Warner-Lambert International, N.V., a wholly-owned subsidiary of the Company ("International"), the Company, as guarantor, and Irving Trust, the Company proposes to guarantee $100,000,000 principal amount of the 9% Guaranteed Notes Due 1984 of International (the "New Notes"). The New Notes will be sold to purchases who are not nationals or residents of the United States and, in the opinion of the Company's counsel, the New Notes need not be registered under the Securities Act and the New Indenture need not be qualified under the Act.

8. The 1966 Indenture, the 1968 Indenture, the 1972 Indenture, and 1973 Indenture, the 1975 Debenture Indenture, the 1975 Note Indenture and the New Indenture will be wholly unsecured and the Company and Capital are not in default under the 1966 Indenture, the Company and Overseas are not in default under the 1968 Indenture, and the Company is not in default under the 1972 Indenture, the 1973 Indenture, the 1975 Debenture Indenture or the 1975 Note Indenture. The rights of the 1966 Debentures, the 1968 Debentures and the New Notes, pursuant to the guarantees thereof by the Company, rank equally with the rights of the holders of the 1973 Debentures, the 1975 Debentures and the 1975 Notes.

9. Such differences as exist among the 1966, the 1968, 1972 and 1973 Indentures, the 1975 Debenture Indenture, the 1975 Note Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Irving Trust from acting as Trustee under any of said Indentures.

The Company has waived notice of hearing any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with the matter.

For a more detailed statement of the matters of fact and law asserted here, all persons are referred to said application, which is a public document on file in the offices of the Commission, at 1100 L Street, N.W., Washington, D.C. 20005.

Notice is further given that any interested person no later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28025 Filed 9-7-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1675]

Tennessee; Declaration of Disaster Loan Area

Sullivan County and adjacent counties within the State of Tennessee constitute a disaster area as a result of damage resulting from heavy rains and flash flooding which occurred on July 15, 1979. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 19, 1979, and for economic injury until close of business on May 20, 1980 at: Small Business Administration, District Office, Parkway Towers—Room 1012, 404 James Robertson Parkway, Nashville, Tennessee 37219; or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

A. Vernon Weaver,

Administrator.

August 20, 1979.

[FR Doc. 79-28045 Filed 9-7-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/07-0012]

Wisconsin Capital Corp.; Filing of Application for Transfer of Control

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1979)) for transfer of control of the Wisconsin Capital Corporation (WCC), 312 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, a federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of control of WCC, which was licensed January 5, 1960, is subject to the prior written approval of SBA.

Pursuant to agreements between Matrix Venture Funds, Inc. (MVF) and shareholders Ronald Herget, Walter Thiede, Earl Charlton, William Charlton and WCC, MVF has offered to purchase a total of 11,624 shares of WCC's stock, 6,974 shares from the above shareholders and 4,650 shares of unissued stock for a total purchase price of $250,000. This purchase will represent 50 percent of WCC's issued and outstanding stock.

Assuming consummation of the proposed transfer of ownership and control, the management and stockholders of WCC will be:

Officers, Directors and Shareholders	Percent of Stock Ownership
MVF, 312 E. Wisconsin Ave., Milwaukee, WI 53202 (Manager/Investment Adviser)	50
Earl A. Charlton, 840 North 3rd St., Milwaukee, WI 53203 (Secretary)	30
William Charlton, 19616 Valado St., Canoga Park, CA (Shareholder)	4
Eugene Shorts, 1000 Chapin St., Florence, WI 54121 (Director)	16
David L. Springob, 1572 E. Capital Dr., Milwaukee, WI 53211 (Director)	
Harold Berlan, 3332 N. Knoll Terrace, Wauwatosa, WI (President & Director) [1]	
Lawrence J. Kujawski, 13870 W. Crawford Ave., New Berlin, WI (Director) [2]	

[1] Mr. Berlan is President and Sole Shareholder of MVF.
[2] Mr. Kujawski is Vice President of MVF.

Matters involved in SAB's consideration of the application include the general business reputation and character of the proposed new shareholders and management, and the probability of successful operations of the company under such management (including profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any person may, not later than September 25, 1979, submit written comments on the proposed transfer of ownership and control to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Milwaukee, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Date: August 31, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28044 Filed 9-7-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/222]

Advisory Committee to the U.S. National Section of the Inter-American Tropical Tuna Commission; Meeting

Notice is hereby given, pursuant to the provisions of Public Law 92-463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission will be held on October 4, 1979 from 1:30 P.M. to 5:00 P.M. and on October 5, 1979 from 9:30 A.M. to 12:00 P.M., in the auditorium of the Southwest Fisheries Center of the National Marine Fisheries Service at 8604 La Jolla Shores Drive, La Jolla, California.

The meeting will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chairman. Subjects to be discussed include an evaluation of the 1979 fishery experience, a preliminary outlook for the 1980 fishery and U.S. views on the overall quota and other aspects of the management program including allocations.

Requests for further information on the meeting should be directed to Brian Hallman, OES/OFA, Room 5806, Department of State. He may be reached by telephone on (202) 632-1073.

Dated: August 30, 1979.

James A. Storer,

Acting Deputy Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 79-28114 Filed 9-7-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Office of Merchant Marine Safety; Meeting

A meeting sponsored by the U.S. Coast Guard's Office of Merchant Marine Safety will be held on Thursday, September 20, 1979 at 9:00 A.M. in the Board Room, National Academy of Sciences, 2101 Constitution Avenue, Washington, D.C. The purpose of the meeting is to discuss the structural research programs and research needs of the maritime industry. Representatives of the Ship Structure Committee, Ship Research Committee and The Society of Naval Architects and Marine Engineers will participate.

Attendance is open to the interested public. Persons wishing to attend and persons wishing to participate should notify LCDR T. H. Robinson, USCG, U.S. Coast Guard Headquarters, Washington, D.C. 20590, (202) 426-2205 not later than the day before the meeting.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 79-28126 Filed 9-7-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-79-19]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 1, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 31, 1979.

John H. Cassady,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

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Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19445	Jay Leslie Wolfson	14 CFR § 135.39(1) (i), (ii), (iii)	To permit petitioner to serve as Director of Operations, Key West Airlines without holding an Airline Transport Pilot Certificate (ATPC).
19486	Executive Air Fleet	14 CFR § 135.297	To permit petitioner to make use of approved visual simulators in the required instrument proficiency check.
19484	American Airlines	14 CFR §§ 135.293, 135.297, and 135.299.	To allow American Airlines Training Corp. to conduct required flight checks in their Cessna 500/501 aircraft simulator.
19485	Utility Helicopters, Inc.	14 CFR § 135.297(d)	To allow Mr. Dave Sanders to complete his instrument proficiency check in an aircraft other than the IFR S58T model used by his company.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
18956	Thunderbird Airways, Inc.	14 CFR §§ 135.89(b) (3) and 121.333(c).	To permit Thunderbird Airways, Inc. to operate its Learjet and Sabreliner aircraft under Section 121.333(c)(2), (3) and (4), which allow for oxygen masks to be worn, secured and sealed, above FL 410 with both crewmembers at their stations equipped with quick-donning masks. *Partial grant 8/28/79.*
19114	Airline Training Center	14 CFR Part 141, Appendix D(3)(c).	To allow an additional pilot to be carried during more than 50 hours of the solo practice required by this section. *Denied 8/28/79.*
19247	Air Indiana, Inc	14 CFR § 121.437(a)	To permit the use of pilot Michael A. Chase as pilot in command of Air Indiana all-cargo aircraft without his holding an Airline Transport Pilot Certificate. Mr. Chase is presently 8 months from reaching the required age limit of 23. *Denied 8/28/79.*
19278	Moody Aviation	14 CFR § 135.115	To permit selected pilot trainees to accompany Air Taxi Commercial Operator (ATCO) cargo flights as additional crewmembers, and to manipulate the controls. Such pilots are neither employed for ATCO duties nor FAR qualified for ATCO second-in-command responsibilities. *Denied 8/28/79.*
19331	United States Air Racing Association (USARA)	14 CFR § 91.27(a)(1)	To permit the petitioner, on behalf of the foreign participants of the Cleveland 50th Anniversary National Air Races, to allow them to operate civil aircraft, that does not have within it a current and appropriate airworthiness certificate. *Granted 8/24/79.*
19337	All Island Air, Inc	14 CFR § 135.243(a)	To allow petitioner to operate its air taxi when the pilot-in-command has a commercial pilot certificate rather than an airline transport pilot rating. *Denied 8/28/79.*

[FR Doc. 79—28034 Filed 9–7–79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Executive Committee to be held September 21, 1979, in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Approval of Minutes of Meeting held July 20, 1979; (2) Special Committee Activities Report July-August, 1979; (3) Chairman's Report on RTCA Administration and Activities; (4) Approval of SC–138 Report on "Minimum Performance Standards—Airborne Omega Receiving Equipment"; (5) Consideration of Establishing New Special Committees; (6) Discussion on Report of Ad Hoc Committee to Review RTCA Policies and Practices in Making Awards, and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 22, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79–28037 Filed 9–7–79; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS–79–13]

East Erie Commerical Railroad Co.; Petition for Exemption from the Hours of Service Act

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the East Erie Commerical Railroad (EEC) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L 91–169, 45 U.S.C. (64a(e)). The petition requests that the EEC be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The EEC seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and had demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–13, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

Communications received before October 5, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

Authority: Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49 (d) of the regulations of the Office of Secretary 49 CFR 1.49 (d).

Issued in Washington, D.C. on August 30, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–27948 Filed 9–7–79; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS–79–14]

Mount Hood Railway Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the Mount Hood Railway Company (MHR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169), 45 U.S.C. (64a(e)). The petition requests that the MHR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The MHR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and had demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–14, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Communications received before October 5, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

Authority: Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49 (d) of the regulations of the Office of Secretary 49 CFR 1.49 (d).

Issued in Washington, D.C. on August 30, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–27947 Filed 9–7–79; 8:45 am]

BILLING CODE 4910-06-M

National Railroad Passenger Corp.; Hearing

The National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) seeking authority to modify a portion of the signal system which controls train operations between Baldwin, Pennylvania and Regan, Delaware. The proposed modification involves the initial installation of the revised signal system that Amtrak intends to utilize on all portions of the Northeast Corridor trackage between Boston, Massachusetts and Washington, D.C. The proposed signal changes are part of a comprehensive improvement program which will enhance the overall performance of railroad service in this area. The proposed signaling and traffic control system are designed to provide safe operations at high speeds in order to permit travel between Washington, D.C. and Boston, Massachusetts to be accomplished within six and one-half hours.

The Amtrak request is contained in several related proceedings which are identified as FRA Block Signal Application Number 1588, and four waiver petitions designated RS&I Number 607, RS&I Number 608, RS&I Number 609 and RS&I Number 610.

Among the more significant aspects of the Amtrak proposal are the request to eliminate wayside signals other than at interlocking and in selected terminal areas; the installation of an automatic train control system under which train speed will be governed by the displayed cab signal aspects; and the conversion track circuitry to make it compatible ith the selected current for providing traction power for the locomotives operating on this trackage. The details of these proposals are contained in the series of public notices issued by the FRA on June 9, 1979, and in the data submitted by Amtrak in support of these proceedings.

After reviewing these proceedings and the comments received in response to the public notices, the Railroad Safety Board (Board) has voted to hold two public hearings before entering a final decision in these proceedings. In view of the scope of the proposal and the potential impact of these proceedings on rail operations from Washington, D.C. to Boston, Masachusetts, the Board will hold public hearings at 10:00 a.m. on October 16, 1979, in Room 909 of the Curtis Building located at Sixth and Walnut Streets in Philadelphia, Pennsylvania and at 10:00 a.m. on October 18, 1979, in Room 2003–A of the John F. Kennedy Building located at Government Center in Boston, Massachusetts.

The hearings will be informal and will be conducted in accordance with section 25 of the FRA Rules of Practice (49 CFR 211.25) by a representative designated by the Board. The hearings are not judicial or evidentiary hearings and, therefore, there will be no cross examination of persons making statements at the hearings. The representative of the Board will make an opening statement concerning the scope of the hearing and the procedures necessary for the conduct of the hearing.

Issued in Washington, D.C. on August 29, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–27946 Filed 9–7–79; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Vehicle Identification Number—Standard 115; Assignment of Manufacturer Identifiers

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of Appointment of Agent for Manufacturer Identifier Assignment.

SUMMARY: This notice announces the appointment of the Society of Automotive Engineers as the NHTSA's agent for the assignment of the manufacturer identifier required by

V 4 4 / 1 7 6

Federal Motor Vehicle Safety Standard No. 115, *Vehicle identification number.*

FOR FURTHER INFORMATION CONTACT: Frederic Schwartz, Jr., Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–1834).

SUPPLEMENTARY INFORMATION: This notice advises the public of a contract entered into by the National Highway Traffic Safety Administration (NHTSA) with the Society of Automotive Engineers (SAE). The contract provides that the SAE will act as NHTSA's agent in assigning the manufacturer identifiers required by S4.5.1 of Federal Motor Vehicle Safety Standard No. 115, *Vehicle identification number.*

The SAE is the assigner of World Manufacturer Identifiers on behalf of the International Standards Organization. As such, it has assigned more than 700 three character identifiers to motor vehicle manufacturers. These identifiers have been submitted to the NHTSA pursuant to S4.5.1 and S6.1. In assigning these identifiers, the SAE has gained considerable experience in the process of manufacturer identification. For this reason, the agency has determined that it would be more efficient and effective to contract with the SAE to act as its agent in acknowledging and/or assigning manufacturer identifiers to the remaining vehicle manufacturers.

All requests for manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue, Warrendale, Pennsylvania 15096, Attention: Leo Ziegler.

Manufacturer identifiers will be supplied at no charge. Manufacturers need not request a particular identifier. Requests for the assignment of specific identifiers can be forwarded to the SAE, however, and these identifiers will be assigned by the SAE if they do not conflict with an identifier already assigned or a block of identifiers already reserved. Identifiers supplied directly to the agency by manufacturers have been forwarded to the SAE.

Manufacturer identifiers assigned by the SAE need not be submitted to the NHTSA. The NHTSA, of course, retains final authority over the assignment process, and any questions should be referred to the agency.

Issued on August 31, 1979.

A. C. Malliaris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 79–28055 Filed 9–7–79; 8:45 am]

BILLING CODE 4910–59–M

Final Contract Briefing; Notice of Public Meeting

The National Highway Traffic Safety Administration will hold a public meeting on September 24, 1979, to present the results of a recently completed, contracted research study entitled "Development and Testing of Techniques for Increasing the Conspicuity of Motorcycles and Motorcycle Drivers." The objective of the study was to develop and evaluate various methods for increasing the conspicuity of motorcylces as a countermeasure to the most prevalent type of motorcycle accident—the urban intersection accident where the other motorist was at fault.

The meeting will be held in Room 2230 at the Nassif Building, 400 Seventh Street Southwest, beginning at 9:30 a.m. and lasting until about noon. The briefing, to be presented by the contractor (Highway Safety Research Institute, University of Michigan), will consist of a brief overview of the study findings, a detailed discussion of the results, and an opportunity for audience questions.

Additional information may be obtained from Dr. Robert Henderson, Office of Driver and Pedestrian Research, Room 3202, Transpoint Building, 2100 Second Street Southwest, Washington, D.C. 20590, telephone: 202–755–8753.

Issued in Washington, D.C., on: September 5, 1979.

R. Rhoads Stephenson,

Associate Administrator for Research and Development.

[FR Doc. 79–28056 Filed 9–7–79; 8:45 am]

BILLING CODE 4910–59–M

Final Contract Briefing; Notice of Public Meeting

The National Highway Traffic Safety Administration will hold a public meeting on September 24, 1979, to present the results of a recently completed, contracted research study entitled "Evaluation of the Feasibility of a Single Beam Headlighting System." The objective of the study was to explore various methods for modifying the light distribution provided by current low beam headlamps to improve drivers' visibility and, thereby, help reduce the high rate of nighttime accidents.

The meeting will be held in Room 2230 at the DOT Headquarters Building, 400 Seventh Street Southwest, beginning at 1:30 p.m. and lasting until about 3:30 p.m. The briefing, to be presented by the contractor (The Highway Safety Research Institute, University of Michigan), will consist of a brief overview of the study findings, a detailed discussion of the results, and an opportunity for audience questions.

Additional information may be obtained from Mr. Michael Perel, Office of Driver and Pedestrian Research, Room 3202, Transpoint Building, 2100 Second Street Southwest, Washington, D.C. 20590, telephone: 202–755–8753.

Issued in Washington, D.C., on September 5, 1979.

R. Rhoads Stephenson,

Associate Administrator for Research and Development.

[FR Doc. 79–28057 Filed 9–7–79; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held October 10 and 11, 1979.

FOR FURTHER INFORMATION CONTACT: Tom Hartnett, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C. 20224, Telephone No. 202–566–4427 (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Advisory Panel will be held on October 10 and 11, 1979, beginning at 10:00 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal Income, Estate, or Gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

Jerome Kurtz,

Commissioner.

[FR Doc. 79–28123 Filed 9–7–79; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

Foreign Portfolio Investment Survey Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the initial meeting of the Foreign Portfolio Investment Survey Advisory committee will be held on September 27, 1979 starting at 10:00 A.M. in Room 4121 of the Main Treasury Building, 15th Street and Pennsylvania Avenue, NW., Washington, D.C.

This Committee has been created to provide the Secretary with views from qualified persons representing business, organized labor, and the academic community regarding the collection of statistics on portfolio investment by foreigners in the United States and on U.S. residents portfolio investment abroad as mandated by the International Investment Survey Act of 1976, Pub. L. 94–472.

The Committee will consider the results of a feasibility study of alternative approaches to surveying U.S. residents' portfolio investment abroad. The International Investment Survey Act requires that a balance between costs, burden to the public, and the need for information must be fully considered before implementing any data collection program. In this regard, the views and recommendations of the Committee have been solicited.

The meeting will be open to the public. A limited number of seats will be available on a first come, first serve basis. In order to facilitate admittance, persons interested in attending are asked to call (202) 566–2757 before September 24, 1979.

Interested persons may file a written statement with the Committee before, during or within one week after the meeting. [The Chairman may, as time permits, entertain oral comments from members of the public attending the meeting. Persons interested in making oral statements are asked to so indicate in advance of the meeting.]

Inquiries may be directed to: Mr. George C. Miller, Jr., Executive Assistant, Office of the Assistant Secretary (Economic Policy), U.S. Department of the Treasury, Washington, D.C. 20220.

[Minutes of the meeting will be available from the above office.]

Daniel H. Brill,

Assistant Secretary, Economic Policy.

September 5, 1979.

[FR Doc. 79–28092 Filed 9–7–79; 8:45 am]

BILLING CODE 4810–25–M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: September 5, 1979.

The following Notices were filed in accordance with section 10528(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Special Freight Systems, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations), P.O. Box 366—Hwy. 17 South, Wauchula, FL 33873.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 166—Mt. Royal Plaza, Paulsboro, NJ 08066.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Daniel Latta & Sons, Inc., Mt. Royal Plaza, Paulsboro, NJ 08066 (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(2) International Farmers Union, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations), Ingenieros 430, Nogales, Sonora, Mexico.

Principal Mailing Address (Street No., City, State, and Zip Code): Ingenieros 430, Nogales, Sonora, Mexico.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Alfonso Cuevas, Apdo. Postal No. 329, Nogales, Mexico. [Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(3) Sinaloa Growers and Producers, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations), Apartado Postal No. 1–133, Mexicali, Baja California, Mexico.

Principal Mailing Address (Street No., City, State, and Zip Code): 292 Naranjos St., Los Pinos, Mexicali, B.C., Mexico.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Manuel Balenzuela A., Apartado Postal No. 1–133, Mexicali, B.C., Mexico (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(4) World Growers Alliance, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations), 292 Naranjos St., Los Pinos, Mexicali B.C.

Principal Mailing Address (Street No., City, State, and Zip Code): Refugio Rodriguez, 292 Naranjos St., Los Pinos, B.C. Mexico.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Refugio Rodriguez, 292 Naranjos, Los Pinos B.C., Mexico (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(5) Great American Trucking Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations), P.O. Box 596, La Habra, CA 90631.

Principal Mailing Address (Street No., City, State, and Zip Code): 1624 E. Holt Ave., Ontario, CA 91761.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Jim Brodie, Box 244, San Juan, TX. (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–28096 Filed 9–7–79; 8:45 am]

BILLING CODE 7035–01–M

Fourth Section Application for Relief

September 5, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 25, 1979.

FSA No. 43741, Southwestern Freight Bureau, Agent's No. B–22, carload rates on sugar, beet or cane, in bulk, in covered hoppers, from stations in Colorado, Idaho, Nebraska, Utah and Wyoming, to Dallas and Ft. Worth, Tex. Also, returned shipments in the reverse direction. Rates are published in Sup. 17 to its Tariff ICC SWFB 4412, to become effective September 25, 1979. Ground for relief—market competition.

SEP 10 79 UMI

V 4 4 / 1 7 6 SEP 10 79 UMI

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28095 Filed 9-7-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice Finance Docket No. 29121]

Railroad Car Service Pooling Application; Notice of Filing and Proposed Special Rules of Procedure

September 5, 1979.

An application, as summarized below, termed a "Railgon Pooling Application," has been filed by certain common carriers by railroad, the trustees of certain common carriers by railroad, Railgon Company and Trailer Train Company under section 11342 of Title 49, U.S. Code "Transportation" (a) for authority to enter into an agreement for the pooling of car service with respect to gondola cars and the pooling and division of earnings as affected thereby and (b) for approval of said agreement. Thr railroads listed as applicants are:

The Atchison, Topeka and Santa Fe Railway Company; The Baltimore and Ohio Railroad Company; Robert W. Meserve and Benjamin H. Lacy, Trustees of Boston and Maine Corporation, Debtor; Burlington Northern Inc.; Central of Georgia Railroad Company; The Chesapeake and Ohio Railway Company; Chicago and North Western Transportation Company; Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor; William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor; Consolidated Rail Corporation; The Denver and Rio Grande Western Railroad Company; Detroit, Toledo & Ironton Railroad, Company; Florida East Coast Railway Company; Illinois Central Gulf Railroad Company; The Kansas City Southern Railway Company; Louisville and Nashville Railroad Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company; Richmond, Fredericksburg and Potomac Railroad Company; St. Louis-San Francisco Railway Company; St. Louis Southwestern Railway Company; Seaboard Coast Line Railroad Company; Southern Pacific Transportation Company; Southern Railway Company; Toledo, Peoria & Western Railroad Company; Union Pacific Railroad Company; Western Maryland Railway Company; The Western Pacific Railroad Company.

The application and an appended "Railgon Pooling Agreement" propose the joint ownership and management of a pool of gondola cars through Railgon Company, a subsidiary of Trailer Train Company. The latter, principally owned by the Railroad Applicants, is now engaged in a similar activity with respect to flat cars and, through a wholly-owned subsidiary, Railbox Company, with respect to box cars. Under the plan proposed, the Railroad Applicants will agree with each other to act through Railgon Company (a) to pool experience and research and to design and develop standardized types of gondola cars for maximum utilization; (b) to pool information as to equipment needs to secure an evaluation of total needs; (c) jointly to purchase needed equipment so as to achieve early and consistent deliveries and economies which result in low unit costs; (d) to act together to secure favorable equipment financing terms; (e) to pool various aspects of utilization, maintenance and accounting; and (f) to pool the ownership costs and expenses of operation and to provide an equitable sharing of costs and expenses associated with the pooling plan. Applicants state that the gondola cars will be free-running cars, available for loading as needed, and not subject to car service rules and regulations normally applicable to railroad-owned gondola cars.

Participation in the pool will not be limited to the railroads which have joined in the filing of the application, but will be open to all other United States carriers of property by railroad who become signatories to the "Railgon Pooling Agreement" and comply with its provisions. Applicants have requested that the approving order in this proceeding provide a period of 180 days following the date thereof during which other railroads may join the pooling plan by filing with the Commission a request to that effect.

A copy of the application is on file, and can be examined in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. In addition, applicants have offered to mail each interested party a copy of the application upon receiving a request therefor addressed to:

Mr. Robert J. Williams, Vice President, General Counsel, and Secretary, Trailer Train Company, 300 South Wacker Drive, Chicago, Illinois 60606.

Any person desiring to participate in the proceedings with respect to the application may file a pleading, stating the nature of its interest and its position with respect thereto, on or before October 10, 1979, with copies to applicants' counsel, Mr. Robert J. Williams, at the address stated above, and to Mr. Paul R. Duke, Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

In the opinion of applicants, the requested Commission action will not constitute major regulatory action within the meaning of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6201 *et seq.*) and the Commission's regulations thereunder (49 CFR 1106.1 *et seq.*). Any protest may include a statement indicating the presence or absence of any impact of the requested Commission action on energy conservation and energy efficiency. If such impact is alleged, the statement shall be accompanied by supporting data indicating the nature and degree of the anticipated energy impact.

Under the Commission's regulations (49 CFR 1108.10), the proposal is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In the opinion of applicants, the requested Commission action will not significantly affect the quality of the human environment within the meaning of said Act. Any protest may include a statement indicating the presence or absence of environmental impacts. If any such effect is alleged to be present, the statement shall include the data required by the Commission's regulations (49 CFR 1108.12(e)).

The Commission has adopted the following Special Rules of Procedure for this proceeding:

1. The hearings in these matters will be conducted under modified procedure in accordance with the following provisions:

(a) Applicants' verified statements will be due ten days after the expiration of the date upon which notices of intention to participate in the proceeding shall be due;

(b) Verified statements by all other parties shall be due 20 days thereafter;

(c) Verified reply statements by all parties shall be due ten days thereafter; and

(d) No oral hearing is comtemplated.

2. If the application is approved, a period of 180 days following the effective date of the Commission's order shall be provided during which other carriers of property by railroad shall be authorized to join the pooling agreement.

Any protests submitted shall be filed with the Commission no later than October 10, 1979.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28094 Filed 9-7-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 176

Monday, September 10, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-241, Amdt. 1; Sept. 5, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the September 6, 1979, meeting.

TIME AND DATE: 10 a.m., September 6, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C 20428.

SUBJECT: 2a. Docket 33019, Chicago-Midway Expanded Service Investigation (Memo 7909-M, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: This item was inadvertently omitted from the September 6, 1979 agenda. Accordingly, the following Members have voted that agency business requires that this item be added to the September 6, 1979 agenda and that no earlier announcement of this addition was possible.

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1746-79 Filed 9-6-79; 3:06 pm]

BILLING CODE 6320-01-M

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, September 11, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, DC. 20506.

MATTERS TO BE CONSIDERED:

Open to the Public

(1) Proposed 706 Agency Designation for the City of Detroit Human Rights Department.

(2) Final 706 designation of three State and Local Agencies.

(3) Proposed Questionnaire requesting information on the impact of Federal equal employment opportunity programs and activities, to be sent to employers.

(4) Report on Commission operations by Executive Director.

Closed to the Public

(1) Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued September 4, 1979.

[S-1749-79 Filed 9-6-79; 4:02 pm]

BILLING CODE 6570-06-M

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September 5, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: September 12, 1979, 10 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—338th Meeting, September 12, 1979, Regular Meeting (10 a.m.)

CAP-1. Docket Nos. ER76-306, et al., New England Power Co.
CAP-2. Docket Nos. ER79-216 and ER79-217, Boston Edison Co.
CAP-3. Docket No. ER78-514, Superior Water, Light & Power Co.

Gas Agenda—338th Meeting, September 12, 1979, Regular Meeting

CAG-1. Docket No. CP76-104 (PGA No. 79-2), Pacific Interstate Transmission Co.
CAG-2. Docket No. RP74-100 (PGA No. 79-4), National Fuel Gas Supply Corp.
CAG-3. Docket Nos. RP72-134, RP75-46 and RP77-17 (PGA No. 79-5 and DCA No. 79-3), Eastern Shore Natural Gas Co.
CAG-4. Docket No. RP72-155, El Paso Natural Gas Co.
CAG-5. Docket Nos. RP72-142, RP76-135 and RP78-76 (PGA79-2A and AP79-2A), Cities Service Gas Co.
CAG-6. Docket No. OR79-3, Lakehead Pipe Line Co.
CAG-7. Special report by Tenneco, Inc., concerning J. R. McDermott & Co., Inc., and Brown and Root, Inc. matters.
CAG-8. Docket Nos. CI76-678 and CI76-722, Tenneco, Inc. Docket No. CI76-784, Texaco, Inc.
CAG-9. Docket No. CI78-1046, Mesa Petroleum Co. Docket No. CI78-654, Shell Oil Co. Docket No. C579-365, Orville C. Rogers. Docket No. G-14614, American Petrofina Co. of Texas, et al. Docket No. CI77-655, Aminoil USA, Inc. Docket No. CI78-1202, Amoco Production Co. Docket No. CI79-332, Mesa Petroleum Co. Docket No. CI74-528, Exxon Corp. Docket No. CI76-721, Amoco production Co. Docket No. CI78-416, Sun Oil Co. Docket No. CI63-1050, Northern Natural Producing. Docket No. CI78-1245, Phillips Petroleum Co. Docket No. CI78-617, Atlantic Richfield Co. Docket No. CI74-567, Chevron U.S.A. Inc. Docket No. CI77-611 and CI77-612, Pennzoil Louisiana Offshore, Inc. Docket No. CI77-654, Southland Royalty Co. Docket No. CI74-567, Chevron U.S.A. Inc. Docket No. CI78-616, Hondo Oil & Gas Co. Docket No. CI77-691, Columbia Gas Development Corp. Docket No. CI78-33, Amoco Production Co., operator, et al. Docket No. CI78-933, Aminoil USA, Inc. Docket No. CI76-586, Atlantic Richfield Co., et al. Docket No. CI79-515, Louisiana Land Offshore Exploration Co., Inc. Docket No. CI67-808, Shell Oil Co. (operator), et al. Docket No. CI79-519, Texaco, Inc. Docket No. CI79-493, Texas Eastern Exploration Co. Docket No. CI67-850, Amoco Production Co. Docket No. CI79-513, The Louisiana Land and Exploration Co. Docket No. CI72-440, Amoco Production Co. Docket No. CI78-655, Sun Oil Co.
CAG-10. Docket No. CP76-285, Mountain Fuel Resources, Inc. Docket No. CP76-388, Mountain Fuel Supply Co. Docket No. CP76-389, Northwest Pipeline Corp. Docket No. CP77-289, El Paso Natural Gas Co. Docket No. CP76-512, Clay Basin Storage Co. Docket No. CP76-87 (Rhodes Reservoir), El Paso Natural Gas Co. Docket No. CP78-172 (Barker Creek Dome), El Paso Natural Gas Co. Docket No. CP78-257 (Barker Creek Dome), Western Gas Interstate Co. Docket No. CI76-506, Supron Energy Corp.

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CAG–11. Docket No. CP79–362, Michigan Wisconsin Pipe Line Co.
CAG–12. Docket No. CP79–265, McCulloch Interstate Gas Corp.
CAG–13. Docket No. CP79–263, Natural Gas Pipeline Co. of America, Columbia Gulf Transmission Co., Northern Natural Gas Co. and Trunkline Co.
CAG–14. Docket Nos. CP79–290, RP79–69 and RP79–49, Equitable Gas Co.
CAG–15. Docket No. CP79–245, Western Transmission Corp.

Power Agenda—338th Meeting, September 12, 1979, Regular Meeting

I. Licensed Project Matters

P–1. Project No. 199, South Carolina Public Service Authority. Docket No. E–9110, James H. Quackenbush v. South Carolina Public Service Authority.

II. Electric Rate Matters

ER–1. Docket No. ER79–535, Kansas City Power & Light Co.
ER–2. Docket Nos. E–8187, E–8700, ER76–203, ER76–238 and ER78–516, Boston Edison Co.
ER–3. Docket No. E–7777 (Phase II), Pacific Gas & Electric Co. Docket No. E–7796, Pacific Power & Light Co.
ER–4. Docket No. E–9578 (Phase I), Texas Power & Light Co.
ER–5. Docket No. ER79–279, Virginia Electric & Power Co.
ER–6. Docket No. EL79–16, Otter Tail Power Co.
ER–7. Docket No. ID–1758, Charles T. Fisher, III.
ER–8. Docket No. ER77–488 and ER78–520 (Phase I), El Paso Electric Co.

Miscellaneous Agenda—338th Meeting, September 12, 1979, Regular Meeting

M–1. Reserved.
M–2. Reserved.
M–3. Docket No. GP79–30, State of Utah § 103 NGPA Determination American Quasar Petroleum, Co. No. Uper 5–1 Well.
M–4. Docket No. GP79–40, United States Geological Survey § 103 NGPA Determination Belco Petroleum Corp. Chapita Wells Unit 32–21 API No. 43–047–30233.
M–5. Notice of Well Determinations.
M–6. Docket No. GP79–18, Guernsey Petroleum Corp.
M–7. Docket No. RM79– , final rule promulgating subpart I of part 271 concerning § 109 of the Natural Gas Policy Act of 1978.
M–8. Docket No. RM79–47, Budget-Type Applications: Gas Supply Facilities—Amendments to scope of existing Docket No. RM79–43, amendments to subpart A, part 157 of the regulations implementing the Natural Gas Act.
M–9. Docket No. RM79–14, regulations implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978.
M–10. Docket No. RM79–21, regulations implementing alternative fuel cost ceiling on incremental pricing under the Natural Gas Policy Act.
M–11. Docket No. RM79–45, exemption from incremental pricing for load-balancing facilities which burn coal.
M–12. Docket No. RM79–46, exemption from incremental pricing for load-balancing facilities which burn oil.
M–13. Docket No. RM79–48, new small boil exemption from incremental pricing.
M–14. Docket No. RM79–77, rule required under section 202 of the Natural Gas Policy Act of 1978.

Gas Agenda—338th meeting, September 12, 1979, Regular Meeting

I. Pipeline Rate Matters

RP–1. Docket No. RP73–65 (PGA77–4), Columbia Gas Transmission Corp.
RP–2. Docket No. RP72–156 (PGA79–1A) Texas Gas Transmission Corp.
RP–3. Docket No. RP79–76, Cities Service Gas Co.
RP–4. Docket No. RP72–133 (PGA77–2), United Gas Pipe Line Co.

II. Producer Matters

CI–1. Docket No. CI75–45, et al., Tenneco Oil Co., et al.

III. Pipeline Certificate Matters

CP–1. Docket No. CP77–403 and CP77–547, Transcontinental Gas Pipe Line Corp.

Kenneth F. Plumb,

Secretary.

[S–1742–79 Filed 9–6–79; 11:35 am]

BILLING CODE 6450–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 51397, Aug. 31, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 5, 1979, 10 a.m.

CHANGE IN MEETING: Addition to the agenda meeting of Sept. 5, 1979.

Item No., Docket No., and Company

M–12.—Depco, Inc., Beall Federal Well No. 1 USGS—Albuquerque New Mexico Section 102 NGPA Determination FERC JD No. 79–13417 USGS Docket No. NM–368–79.
CI–1.—CI79–415, Continental Oil Co., CI79–532, Exxon Corp.

Kenneth F. Plumb,

Secretary.

[S–1748–79 Filed 9–6–79; 3:51 pm]

BILLING CODE 6450–01–M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 13, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin Q. Bolling, (202–377–6677).

MATTERS TO BE CONSIDERED.

Application for Permission to Incur Debt—Guarantee Financial Corporation of California, Fresno, California
Application for Bank Membership—Erie Savings Bank, Buffalo, New York
Application for Bank Membership and Insurance of Accounts—Security Savings and Loan Association, Hayes, Virginia
Application for Bank Membership, Insurance of Accounts and Preliminary Conversion to a Federal Mutual Charter—Montgomery Savings and Loan Association, Troy, North Carolina
Application for Appeal for Remission of Liquidity Deficiency Penalties—USLIFE Savings and Loan Association, Los Angeles, California
Application for Federal Savings and Loan Advisory Council Committee Travel Authorization
Application for Formal Conversion into a Federal Mutual Association—Kings Mountain Savings and Loan Association, Kings Mountain, North Carolina

September 6, 1979.

[S–1745–79 Filed 9–6–79; 3:08 pm]

BILLING CODE 6720–01–M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 52073–52074, September 6, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 5, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677).

CHANGES IN THE MEETING: The following item was added to the agenda for the open meeting—Report Concerning Sale of FSLIC Asset.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.

September 6, 1979.

[S–1747–79 Filed 9–6–79; 3:03 pm]

BILLING CODE 6720–01–M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: September 12, 1979, 10 a.m.

PLACE: Room 12126—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public.

The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Agreement No. 10361 between Farrell Lines and Compagnie Maritime Zairoise and Agreement No. 10362 between Delta Steamship Lines, Inc. and Compagnie Maritime Zairoise establishing agency/husbanding agreements.
2. Agreement No. 9815–28: Modification of the Iberian/U.S. North Atlantic Freight Conference to conform to General Order 7.
3. Petition of Government of the Virgin Islands for reconsideration of the disposition of protest of initial service of Puerto Rico Maritime Shipping Authority to Virgin Islands.
4. Special Docket No. 647: Application of American President Lines, Ltd., for the Benefit of Beverly Coat Hanger Company—Review of initial decision.

Portions Closed to the Public

1. Docket No. 79–76: Pacific Westbound Conference Agreement No. 57–115—Consideration of the record.
2. Docket No. 77–50: North Carolina State Ports Authority International Longshoremen's Association, AFL–CIO, Local 1426, International Longshoremen's Association, AFL–CIO Local 1426–A, Warehousemen v. Dart Containerline Company, Limited—Consideration of petition of respondent for stay or order.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1743–79 Filed 9–6–79; 11:35 am]

BILLING CODE 6730–01–M

8

NATIONAL SCIENCE BOARD.

DATE AND TIME: September 20, 1979, 1 p.m. Open Session. September 21, 1979 9 a.m. Closed Session.

PLACE: National Science Foundation, Rm 540, 1800 G. Street, N.W. Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Minutes—Open Session—208th Meeting
2. Chairman's Report
3. Director's Report—
a. Report on Grant & Contract Activity—8/16–9/19, 1979
b. Organizational and Staff Changes
c. Congressional and Legislative Matters
d. NSF Budget for Fiscal Year 1980
4. Board Committees—Reports on Meetings—
a. Executive Committee
b. Planning and Policy Committee
c. Programs Committee
d. Committee on Minorities and Women in Science
e. Committee on Role of NSF in Basic Research
f. Ad Hoc Committee on Big and Little Science
g. Ad Hoc Committee on Deep Sea and Ocean Margin Drilling Programs
h. Ad Hoc Committee on NSB Nominees
5. NSF Advisory Groups
6. Program Review—Policy Research and Analysis
7. Board Representation at Future Site Visits to Materials Research Laboratories
8. Board Representation at Semiannual Review: Very Large Array at Socorro, New Mexico
9. Grants, Contracts, and Programs—Information Item
10. Review of NSF Act of 1950, as Amended
11. Other Business
12. Next Meetings: National Science Board, 210th Meeting, October 18–19, 1979

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed Session—208th Meeting
B. Grants, Contracts, and Programs
C. Nominations: NSB, NSF Assistant Directors, and Alan T. Waterman Award Committee
D. NSB Annual Reports
E. NSF Budgets for Fiscal Year 1981 and Subsequent Years

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632–5840.

[S–1741–79 Filed 9–6–79; 10:14 am]

BILLING CODE 7555–01–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: September 5 and 6, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW, Washington, D.C.

STATUS: Open/Closed (Changes).

MATTERS TO BE CONSIDERED:

Wednesday, September 5, 2:30 p.m.

The meeting titled "Discussion of Proceeding to Assess Commission Confidence in Safe Disposal of Nuclear Wastes" (Public meeting) was cancelled. The Affirmation Session (Public meeting) will take its place.

Thursday, September 6, 9:30 a.m.

The Briefing by H. Denton on Conclusions of TMI Lessons Learned Recommendations (Public meeting) will begin at 9:30 a.m. instead of 10 a.m., as previously announced.

Thursday, September 6, 3 p.m.

Discussion of Personnel Matter (Approximately 1½ hours—Closed-Ex–6—Continued from 9/4).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Roger M. Tweed,

Office of the Secretary

September 4, 1979.

[S–1744–79 Filed 9–6–79; 11:54 am]

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federal register

Monday
September 10, 1979

Part II

Environmental Protection Agency

Standards of Peformance for New Stationary Sources; Gas Turbines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1276-2]

Standards of Performance for New Stationary Sources; Gas Turbines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes standards of performance which limit emissions of nitrogen oxides and sulfur dioxide from new, modified and reconstructed stationary gas turbines. The standards implement the Clean Air Act and are based on the Administrator's determination that stationary gas turbines contribute significantly to air pollution. The intended effect of this regulation is to require new, modified and reconstructed stationary gas turbines to use the best demonstrated system of continuous emission reduction.

EFFECTIVE DATE: September 10, 1979.

ADDRESSES: The Standards Support and Environmental Impact Statement (SSEIS) may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711 (specify *Standards Support and Environmental Impact Statement, Volume 2: Promulgated Standards of Performance for Stationary Gas Turbines*, EPA-450/2-77-017b).

FOR FURTHER INFORMATION CONTACT: Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone No. (919) 541-5271.

SUPPLEMENTARY INFORMATION:

The Standards

The promulgated standards apply to all new, modified, and reconstructed stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (about 1,000 horsepower). The standards apply to simple and regenerative cycle gas turbines and to the gas turbine portion of a combined cycle steam/electric generating system.

The promulgated standards limit the concentration of nitrogen oxides (NO_x) in the exhaust gases from stationary gas turbines with a heat input from 10.7 to and including 107.2 gigajoules per hour (about 1,000 to 10,000 horsepower), from offshore platform gas turbines, and from stationary gas turbines used for oil or gas transportation and production not located in a Metropolitan Statistical Area (MSA), to 0.0150 percent by volume (150 PPM) at 15 percent oxygen on a dry basis. The promulgated standards also limit the concentration of NO_x in the exhaust gases from stationary gas turbines with a heat input greater than 107.2 gigajoules per hour, and from stationary gas turbines used for oil or gas transportation and production located in an MSA, to 0.0075 percent by volume (75 PPM) at 15 percent oxygen on a dry basis (see Table 1 for summary of NO_x emission limits). Both of these emission limits (75 and 150 PPM) are adjusted upward for gas turbines with thermal efficiencies greater than 25 percent using an equation included in the promulgated standards. These emission limits are also adjusted upward for gas turbines burning fuels with a nitrogen content greater than 0.015 percent by weight using a fuel-bound nitrogen allowance factor included in the promulgated standards, or a "custom" fuel-bound nitrogen allowance factor developed by the gas turbine manufacturer and approved for use by EPA. Custom fuel-bound nitrogen allowance factors must be substantiated with data and approved for use by the Administrator before they may be used for determining compliance with the standards.

The promulgated NO_x emission limits are referenced to International Standard Organization (ISO) standard day conditions of 288 degrees Kelvin, 60 percent relative humidity, and 101.3 kilopascals (1 atmosphere) pressure. Measured NO_x emission levels, therefore, are adjusted to ISO reference conditions by use of an ambient condition correction factor included in the standards, or by a custom ambient condition correction factor developed by the gas turbine manufacturer and approved for use by EPA. Custom ambient condition correction factors can only include the following variables: combustor inlet pressure, ambient air pressure, ambient air humidity, and ambient air temperature. These factors must be substantiated with data and approved for use by the Administrator before they may be used for determining compliance with the standards.

Stationary gas turbines with a heat input at peak load from 10.7 to, and including, 107.2 gigajoules per hour are to be exempt from the NO_x emission limit included in the promulgated standards for five years from the date of proposal of the standards (October 3, 1977). New gas turbines with this heat input at peak load which are constructed, or existing gas turbines with this heat input at peak load which are modified or reconstructed during this five-year period do not have to comply with the NO_x emission limit included in the promulgated standards at the end of this period. Only those new gas turbines which are constructed, or existing gas turbines which are modified or reconstructed, following this five-year period must comply with the NO_x emission limit.

Emergency-standby gas turbines, military training gas turbines, gas turbines involved in certain research and development activities, and firefighting gas turbines are exempt from compliance with the NO_x emission limits included in the promulgated standards. In addition, stationary gas turbines using wet controls are temporarily exempt from the NO_x emission limit during those periods when ice fog created by the gas turbine is deemed by the owner or operator to present a traffic hazard, and during periods of drought when water is not available.

None of the exemptions mentioned above apply to the sulfur dioxide (SO_2) emission limit. The promulgated standards limit the SO_2 concentration in the exhaust gases from stationary gas turbines with a heat input at peak load of 10.7 gigajoules per hour or more to 0.015 percent by volume (150 PPM) corrected to 15 percent oxygen on a dry basis. The standards include an alternative SO_2 emission limit on the sulfur content of the fuel of 0.8 percent sulfur by weight (see Table 1 for summary of exemptions and SO_2 emission limits).

Table 1.—*Summary of Gas Turbine New Source Performance Standard*

Gas turbine size and usage	NO_x emission limit [1]	Applicability date for NO_x	SO_2 emission limit	Applicability date for SO_2
Less than 10.7 gigajoules/hour (all uses)	None	Standard does not apply.	None	Standard does not apply.
Between 10.7 and 107.2 gigajoules/hour (all uses)	150 ppm	October 3, 1982	150 ppm SO_2 or fire a fuel with less than 0.8% sulfur.	October 3, 1977
Greater than or equal to 107.2 gigajoules/hour:				
1. Gas and oil transportation or production not located in an MSA.	150 ppm	October 3, 1977	Same as above	October 3, 1977
2. Gas and oil transportation or production located in an MSA.	75 ppm	October 3, 1977	Same as above	October 3, 1977
3. All other uses	75 ppm	October 3, 1977	Same as above	October 3, 1977
Emergency standby, firefighting, military (except for garrison facility), military training, and research and development turbines.	None	Standard does not apply.	Same as above	October 3, 1977

[1] NO_x emission limit adjusted upward for gas turbines with thermal efficiencies greater than 25 percent and for gas turbines firing fuels with a nitrogen content of more than 0.015 weight percent. Measured NO_x emissions adjusted to ISO conditions in determining compliance with the NO_x emission limit.

Environmental, Energy, and Economic Impact

The promulgated standards will reduce NO_x emissions by about 190,000 tons per year by 1982 and by 400,000 tons per year by 1987. This reduction will be realized with negligible adverse solid waste and noise impacts.

The adverse water pollution impact associated with the promulgated standards will be minimal. The quantity of water or steam required for injection into the gas turbine to reduce NO_x emissions is less than 5 percent of the water consumed by a comparable size steam/electric power plant using cooling towers. There will be no adverse water pollution impact associated with those gas turbines which employ dry NO_x control technology.

The energy impact associated with the promulgated standards will be small. Gas turbine fuel consumption could increase by as much as 5 percent in the worst cases. The actual energy impact depends on the rate of water injection necessary to comply with the promulgated standards. Assuming the "worst case," however, the standards would increase fuel consumption of large stationary gas turbines (i.e., greater than 10,000 horsepower) by about 5,500 barrels of fuel oil per day in 1982. The standards would increase fuel consumption of small stationary gas turbines (i.e., less than 10,000 horsepower) by about 7,000 barrels of fuel oil per day in 1987. This is equivalent to an increase in projected 1982 and 1987 national crude oil consumption of less than 0.03 percent. As mentioned, these estimates are based on "worst case" assumptions. The actual energy impact of the promulgated standard is expected to be much lower than these estimates because most gas turbines will not experience anywhere near a 5 percent fuel penalty due to water or steam injection. In addition, many gas turbines will comply with the standards using dry control, which in most cases has no energy penalty.

The economic impact associated with the promulgated standards is considered reasonable. The standards will increase the capital costs or purchase price of a gas turbine for most installations by about 1 to 4 percent. The annualized costs will be increased by about 1 to 4 percent, with the largest application, utilities, realizing less than a 2 percent increase.

The promulgated standards will increase the total capital investment requirements for users of large stationary gas turbines by about 36 million dollars by 1982. For the period 1982 through 1987, the standards will increase the capital investment requirements for users of both large and small stationary gas turbines by about 67 million dollars. Total annualized costs for these users of stationary gas turbines will be increased by about 11 million dollars in 1982 and by about 30 million dollars in 1987. These impacts will result in price increases for the end products or services provided by industrial and commercial users of stationary gas turbines ranging from less than 0.01 percent in the petroleum refining industry, to about 0.1 percent in the electric utility industry.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** of meetings of the National Air Pollution Control Techniques Advisory Committee to discuss the standards recommended for proposal. These meetings occurred on February 21, 1973; May 30, 1973; and January 9, 1974. The meetings were open to the public and each attendee was given ample opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the **Federal Register** on October 3, 1977. Public comments were solicited at that time and, when requested, copies of the Standards Support and Environmental Impact Statement (SSEIS) were distributed to interested parties. The public comment period extended from October 3, 1977, to January 31, 1978.

Seventy-eight comment letters were received on the proposed standards of performance. These comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the standards which were proposed.

Significant Comments and Changes to the Proposed Regulation

Comments on the proposed standards were received from electric utilities, oil and gas producers, gas turbine manufacturers, State air pollution control agencies, trade and professional associations, and several Federal agencies. Detailed discussion of these comments can be found in Volume 2 of the SSEIS. The major comments can be combined into the following areas: general, emission control technology, modification and reconstruction, economic impacts, environmental impacts, energy impacts, and test methods and monitoring.

General

Small stationary gas turbines (i.e, those with a heat input at peak load between 10.7 and 107.2 gigajoules per hour—about 1,000 to 10,000 horsepower) are exempt from the standards for a period of five years following the date of proposal. Some commenters felt it was not clear whether small gas turbines would be required to retrofit NO_x emissions controls after the exemption period ended. These commenters felt this was not the intent of the standards and they recommended that this point be clarified.

The intent of both the proposed and the promulgated standards is to consider small gas turbines which have commenced construction on or before the end of the five year exemption period as existing facilities. These facilities will not have to retrofit at the end of the exemption period. This point has been clarified in the promulgated standards.

Several commenters requested exemptions for temporary and intermittent operation of gas turbines to permit research and development into advanced combustion techniques under full scale conditions.

This is considered a reasonable request. Therefore, gas turbines involved in research and development for the purpose of improving combustion efficiency or developing emission control technology are exempt from the NO_x emission limit in the promulgated standards. Gas turbines involved in this type of research and development generally operate intermittently and on a temporary basis. The standards have been changed, therefore, to allow exemptions in such situations on a case-by-case basis.

Emissions Control Technology

The selection of wet controls, or water injection, as the best system of emission reduction for stationary gas turbines was criticized by a number of commenters. These commenters pointed out that although dry controls will not reduce emissions as much as wet controls, dry controls will reduce NO_x emissions without the objectionable results of water injection (i.e., increased fuel consumption and difficulty in securing water of acceptable quality). These commenters, therefore, recommended postponement of standards until dry controls can be implemented on gas turbines.

As pointed out in Volume 1 of the SSEIS, a high priority has been established for control of NO_x emissions. Wet and dry controls are considered the only viable alternative control techniques for reducing NO_x emissions from gas turbines. Control of NO_x emissions by either of these two

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alternatives clearly favored the development of the standards of performance based on wet controls from an environmental viewpoint. Reductions in NO_x emissions of more than 70 percent have been demonstrated using wet controls on many large gas turbines used in utility and industrial applications. Thus, wet controls can be applied immediately to large gas turbines, which account for 85–90 percent of NO_x emissions from gas turbines.

The technology of wet control is the same for both large and small gas turbines. The manufacturers of small gas turbines, however, have not experimented with or developed this technology to the same extent as the manufacturers of large gas turbines. In addition, small gas turbines tend to be produced or more of an assembly line basis than large gas turbines. Consequently, the manufacturers of small gas turbines need a lead time of five years (based on their estimates) to design, test, and incorporate wet controls on small gas turbines.

Even with a five-year delay in application of standards to small gas turbines, standards of performance based on wet controls will reduce national NO_x emissions by about 190,000 tons per year by 1982. Therefore, the reduction in NO_x emissions resulting from standards based on wet controls is significant.

Dry controls have demonstrated NO_x emissions reduction of only about 40 percent in laboratory and combustor rig tests. Because of the advanced state of research and development into dry control by the manufacturers of large gas turbines, the much longer lead time involved in ordering large gas turbines, and the greater attention that can be given to "custom" engineering designs of large gas turbines, dry controls can be implemented on large gas turbines immediately. Manufacturers of small gas turbines, however, estimate that it would take them as long to incorporate dry controls as wet controls on small gas turbines. Basing the standards only on dry controls, therefore, would significantly reduce the amount of NO_x emission reductions achieved.

The economic impact of standards based on wet controls is considered reasonable for large gas turbines. (See Economic Impact Discussion.) Thus, wet controls represent ". . . the best system of continuous emission reduction . . . (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) . . ." for large gas turbines.

The economic impact of standards based on wet controls, however, is considered unreasonable for small gas turbines, gas turbines located on offshore platforms, and gas turbines employed in oil or gas production and transportation which are not located in a Metropolitan Statistical Area. The economic impact of standards based on dry controls, on the other hand, is considered reasonable for these gas turbines. (See Economic Impact Discussion.) Thus, dry controls represent ". . . the best system of continuous emission reduction . . . (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) . . ." for small gas turbines, gas turbines located on offshore platforms, and gas turbines employed in oil or gas production and transportation which are not located in a Metropolitan Statistical Area.

Volume 1 of the SSEIS summarizes the data and information available from the literature and other nonconfidential sources concerning the effectiveness of dry controls in reducing NO_x emissions from stationary gas turbines. More recently, additional data and information have been published in the Proceedings of the Third Stationary Source Combustion Symposium (EPA–600/7–79–050C). Advanced Combustion Systems for Stationary Gas Turbines (interim report) prepared by the Pratt and Whitney Aircraft Group for EPA (Contract 68–02–2136), "Experimental Clean Combustor Program Phase III" (NASA CR–135253) also prepared by the Pratt and Whitney Aircraft Group for the National Aeronautics and Space Administration (NASA), and "Aircraft Engine Emissions" (NASA Conference Publication 2021). These data and information show that dry controls can reduce NO_x emissions by about 40 percent. Multiplying this reduction by a typical NO_x emission level from an uncontrolled gas turbine of about 250 ppm leads to an emission limit for dry controls of 150 ppm. This, therefore, is the numerical emission limit included in the promulgated standards for small gas turbines, gas turbines located on offshore platforms, and gas turbines employed in oil or gas production or transportation which are not located in Metropolitan Statistical Areas.

The five-year delay from the date of proposal of the standards in the applicability date of compliance with the NO_x emission limit for small gas turbines has been retained in the promulgated standards. As discussed above, manufacturers of small gas turbines have estimated that it will take this long to incorporate either wet or dry controls on these gas turbines.

Several commenters criticized the fuel-bound nitrogen allowance included in the proposed standards. It was felt that greater flexibility in the equations used to calculate the fuel-bound nitrogen NO_x emissions contribution should be permitted, due to the limited data on conversion of fuel-bound nitrogen to NO_x. These commenters recommended that manufacturers of gas turbines be allowed to develop their own fuel-bound nitrogen allowance.

As discussed in Volume I of the SSEIS, the reaction mechanism by which fuel-bound nitrogen contributes to NO_x emissions is not fully understood. In addition, emission data are limited with respect to fuels containing significant amounts of fuel-bound nitrogen. The problem of quantifying the fuel-bound nitrogen contribution to total NO_x emissions is further complicated by the fact that the amount of nitrogen in the fuel has an effect on this contribution.

In light of this sparsity of data, the commenters' recommendations seem reasonable. Therefore, a provision has been added to the standards to allow manufacturers to develop custom fuel-bound nitrogen allowances for each gas turbine model. The use of these factors, however, must be approved by the Administrator before the initial performance test required by Section 60.8 of the General Provisions. Petitions by manufacturers for approval of the use of custom fuel-bound nitrogen allowance factors must be supported by data which clearly provide a basis for determining the contribution of fuel-bound nitrogen to total NO_x emissions. In addition, in no case will EPA approve a custom fuel-bound nitrogen allowance factor which would permit an increase in NO_x emissions of more than 50 ppm. (See Energy Impact Discussion.) Notice of approval of the use of these factors for various gas turbine models will be given in the **Federal Register.**

Modification and Reconstruction

Some commenters felt that existing gas turbines which now burn natural gas and are subsequently altered to burn oil should be exempt from consideration as modifications. The high cost and technical difficulties of compliance with the standards would discourage fuel switching to conserve natural gas supplies.

As outlined in the General Provisions of 40 CFR Part 60, which are applicable to all standards of performance, most changes to an existing facility which result in an increase in emission rate to the atmosphere are considered modifications. However, according to section 60.14(e)(4) of the General Provisions, the use of an alternative fuel or raw material shall not be considered a modification if the existing facility was designed to accommodate that alternative use. Therefore, if a gas turbine is designed to fire both natural gas and oil, then switching from one fuel to the other would not be considered a modification even if emissions were increased. If a gas turbine that is not designed for firing both fuels is switched from firing natural gas to firing oil, installation of new injection nozzles which increase mixing to reduce NO_x production, or installation of new NO_x combustors currently on the market, would in most cases maintain emissions at their previous levels. Since emissions would not increase, the gas turbine would not be considered modified, and the real impact of the standards on gas turbines switching from natural gas to oil will probably be quite small. Therefore, no special provisions for fuel switching have been included in the promulgated standards.

Economic Impact

Several commenters stated that water injection could increase maintenance costs significantly. One reason cited was that chemicals and minerals in the water would likely be deposited on internal surfaces of gas turbines, such as turbine blades, leading to downtime for repair and cleaning. In addition, the commenters felt that higher maintenance requirements could be expected due to the increased complexity of a gas turbine with water injection.

As pointed out in Volume 1 of the SSEIS, to avoid deposition of chemicals and minerals on gas turbine blades, the water used for water injection must be treated. Costs for water treatment were included in the overall costs of water injection and, for large gas turbines, these costs are considered reasonable.

Actual maintenance and operating costs for gas turbines operating with water or steam injection are limited. Several major utilities, however, have accumulated significant amounts of operating time on gas turbines using water or steam injection for control of NO_x emissions. There have been some problems attributable to water or steam injection, but based on the data available, these problems have been confined to initial periods of operation of these systems. Most of these reported problems such as turbine blade damage, flame-outs, water hammer damage, and ignition problems, were easily corrected by minor redesign of the equipment hardware. Because of the knowledge gained from these systems, such problems should not arise in the future.

As mentioned, some utilities have accumulated substantial operating experience without any significant increase in maintenance or operating costs or other adverse effects. One utility, for example, has used water injection on two gas turbines for over 55,000 hours without making any major changes to their normal maintenance and operating procedures. They followed procedures essentially identical to those required for a similar gas turbine not using water injection, and the plant experienced no outages attributable to the water injection system. Another company has accumulated over 92,000 hours of operating time with water injection on 17 gas turbines with approximately 116 hours of outage attributable to their water injection system. Increased maintenance costs which can be attributed to these water injection systems are not available, as such costs were not accounted for separately from normal maintenance. However, they were not reported as significant.

Some commenters exresssed the opinion that the cost estimates for controlling NO_x emissions from large gas turbines were too low. Accordingly, these commenters felt that wet control technology should not be the basis of the standards for large stationary gas turbines.

The costs associated with wet control technology for large gas turbines were reassessed. In a few cases, it appeared the water-to-fuel ratio used in Volume 1 of the SSEIS was somewhat low. In these cases, the capital and annualized operating costs associated with wet control on large gas turbines were revised to reflect injection of more water into the gas turbine. None of these revisions, however, resulted in a significant change in the projected economic impact of wet controls on large gas turbines. Thus, depending on the size and end use of large gas turbines, wet controls are still projected to increase capital and annualized operating costs by no more than 1 to 4 percent. Increases of this order of magnitude are considered reasonable in light of the 70 percent reduction in NO_x emissions achieved by wet controls. Consequently, the basis of the promulgated standards for large gas turbines remains the same as that for the proposed standards—wet controls.

A number of commenters also expressed the opinion that the cost estimates for wet controls to reduce NO_x emissions from small gas turbines were too low. Therefore, the standards for small gas turbines should not be based on wet controls.

Information included in the comments submitted by manufacturers of small gas turbines indicated the costs of redesigning these gas turbines for water injection are much greater than those included in Volume 1 of the SSEIS. Consequently, it appears the costs of water injection would increase the capital cost of small gas turbines by about 16 percent, rather than about 4 percent as originally estimated. Despite this increase in capital costs, it does not appear water injection would increase the annualized operating costs of small gas turbines by more than 1 to 4 percent as originally estimated, due to the predominance of fuel costs in operating costs. An increase of 16 percent in the capital cost of small gas turbines, however, is considered unreasonable.

Very little information was presented in Volume 1 of the SSEIS concerning the costs of dry controls. The conclusion was drawn, however, that these costs would undoubtedly be less than those associated with wet controls.

Little information was also included in the comments submitted by the manufacturers of small gas turbines concerning the costs of dry controls. Most of the cost information dealt with the costs of wet controls. One manufacturer, however, did submit limited information which appears to indicate that the capital cost impact of dry controls on small gas turbines might be only a quarter of that of wet controls. Thus, dry controls might increase the capital costs of small gas turbines by only about 4 percent. The potential impact of dry controls on annualized operating costs would certainly be no greater than wet controls, and would probably be much less. Consequently, it appears dry controls might increase the capital costs of small gas turbines by about 4 percent and the annualized operating costs by about 1 to 4 percent.

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The magnitude of these impacts is essentially the same as those originally associated with wet controls in Volume 1 of the SSEIS, and they are considered reasonable. Consequently, the basis of the promulgated standards for small gas turbines is dry controls.

A number of commenters stated that the costs associated with wet controls on gas turbines located on offshore platforms, and in arid and remote regions were unreasonable. These commenters felt that the costs of obtaining, transporting, and treating water in these areas prohibited the use of water injection.

As mentioned by the commenters, the costs associated with water injection on gas turbines in these locations are all related to lack of water of acceptable quality or quantity. Review of the costs included in Volume 1 of the SSEIS for water injection on gas turbines located on offshore platforms, indicates that the required expenditures for platform space were not incorporated into these estimates. Based on information included in the comments, platform space is very expensive, and averages approximately $400 per square foot. When this cost is included, the use water treatment systems to provide water for NO_x emissions control would increase the capital costs of a gas turbine located on an offshore platform by approximately 33 percent. This is considered an unreasonable economic impact.

Dry controls, unlike wet controls, would not require additional space on offshore platforms. Although most gas turbines located on offshore platforms would be considered small gas turbines under the standards, it is possible that some large gas turbines might be located on offshore platforms. Therefore, all the information available concerning the costs associated with standards based on dry controls for large gas turbines was reviewed.

Unfortunately, no additional information on the costs of dry controls was included in the comments submitted by the manufacturers of large gas turbines. As mentioned above, the information presented in Volume 1 of the SSEIS is very limited concerning the costs of dry controls, although the conclusion is drawn that these costs would undoubtedly be less than the costs of wet controls. It also seems reasonable to assume that the costs of dry controls on large gas turbines would certainly be less than the costs of dry controls on small gas turbines. Consequently, standards based on dry controls should not increase the capital and annualized operating costs of large gas turbines by more than the 1 to 4 percent projected for small gas turbines. This conclusion even seems conservative in light of the projected increase in capital and annualized operating costs for wet controls on large gas turbines of no more than 1 to 4 percent. In any event, the costs of standards based on dry controls for large gas turbines are considered reasonable. Therefore, the promulgated standards for gas turbines located on offshore platforms are based on dry controls.

In many arid and remote regions, gas turbines would have to obtain water by trucking, installing pipelines to the site, or by construction of large water reservoirs. While costs included in Volume 1 of the SSEIS do not show trucking of water to gas turbine sites to be unreasonable, these costs are not based on actual remote area conditions. That is, these costs are based on paved road conditions and standard ICC freight rates. Gas turbines located in arid and remote regions, however, are not likely to have good access roads. Consequently, it is felt that the costs of trucking water, laying a water pipeline, or constructing a water reservoir would be unreasonable for most arid and remote areas.

As discussed above, the economic impact of standards based on dry controls for both large and small gas turbines in considered reasonable. Consequently, provisions have been included in the promulgated standards which essentially require gas turbines located in arid and remote areas to comply with an NO_x emission limit based on the use of dry controls. A number of options were considered before the specific provisions included in the promulgated standards were selected.

The first option considered was defining the term "arid and remote." While this is conceptually straightforward, it proved impossible to develop a satisfactory definition for regulatory purposes. The second option considered was defining all gas turbines located more than a certain distance from an adequate water supply as "arid and remote" gas turbines. Defining the distance and an adequate water supply, however, proved as impossible as defining the term "arid and remote." The third option considered was a case-by-case exemption for gas turbines where the costs of wet controls exceeded certain levels. This option, however, would provide incentive to owners and operators to develop grossly inflated costs to justify exemption and would require detailed analysis of each case on the part of the Agency to insure this did not occur. In addition, the numerous disputes and disagreements which would undoubtedly arise under this option would lead to delays and demands on limited resources within both the Agency and industry to resolve.

Analysis of the end use of most gas turbines located in arid and remote regions gave rise to a fourth option. Generally, gas turbines located in arid or remote regions are used for either oil and gas production, or oil and gas transportation. Consequently, the promulgated standards require gas turbines employed in oil and gas production or oil and gas transportation, which are not located in a Metropolitan Statistical Area (MSA), to meet an NO_x emission limit based on the use of dry controls. The promulgated standards, however, require gas turbines employed in oil and gas production or oil and gas transportation which are located in a MSA to meet the 75 ppm NO_x emission limit. This emission limit is based on the use of wet controls and in an MSA a suitable water supply for water injection will be available.

Environmental Impact

A number of commenters felt gas turbines used as "peaking" units should be exempt. Peaking units operate relatively few hours per year. According to commenters, use of water injection would result in a very small reduction in annual NO_x emissions and negligible improvement in ground level concentrations.

As pointed out in Volume 1 of the SSEIS, about 90 percent of all new gas turbine capacity is expected to be installed by electric utility companies to generate electricity, and possibly as much as 75 percent of all NO_x emissions from stationary gas turbines are emitted from these installations. Of these electric utility gas turbines, a large majority are used to generate power during periods of peak demand. Consequently, by their very nature, peaking gas turbines tend to operate when the need for emission control is greatest, that is, when power demand is highest and air quality is usually at its worst. Therefore, it does not seem reasonable to exempt peaking gas turbines from compliance with the standards.

A number of commenters also felt that small gas turbines should be exempt from the standards because they emit only about 10 percent of the total NO_x emissions from all stationary gas turbines and therefore, the environmental impact of not regulating these turbines would be small.

A high priority has been established for NO_x emission control and dry control techniques are considered a demonstrated and economically reasonably means for reducing NO_x emissions from small gas turbines. Therefore, the promulgated standards limit NO_x emissions from small gas turbines to 150 ppm based on the use of dry control technology.

Energy Impact

A number of writers commented on the potential impact of the standards on the use of the oil-shale, coal-derived, and other synthetic fuels. It was generally felt that these types of fuels should not be covered by the the standards at this time, since this could hinder their development.

Total NO_x emissions from any combustion source, including stationary gas turbines, are comprised of thermal NO_x and organic NO_x. Thermal NO_x is formed in a well-defined high temperature reaction between oxygen and nitrogen in the combustion air. Organic NO_x is produced by the combination of fuel-bound nitrogen with oxygen during combustion in a reaction that is not yet fully understood. Shale oil, coal-derived, and other synthetic fuels generally have high nitrogen contents and, therefore, will produce relatively high organic NO_x emissions when combusted.

Neither wet nor dry control technology for gas turbines is effective in reducing organic NO_x emissions. As discussed in Volume I of the SSEIS, as fuel-bound nitrogen increases, organic NO_x emissions from a gas turbine become the predominant fraction of total NO $^{2}_{x}$ emissions. Consequently, emission standards must address in some manner the contribution to NO_x emissions of fuel-bound nitrogen.

Low nitrogen fuels, such as premium distillate fuel oil and natural gas, are now being fired in nearly all stationary gas turbines. Energy supply considerations, however, may cause more gas turbines to fire heavy fuel oils and synthetic fuels in the future. A standard based on present practice of firing low nitrogen fuels, therefore, would too rigidly restrict the use of high nitrogen fuel, especially in light of the uncertainty in world energy markets.

Since control technology is not in reducing organic NO_x emissions from gas turbines, the possibility of basing standards on removal of nitrogen from the fuel prior to combustion was considered. The cost of removing nitrogen from fuel oil, however, ranges from $2.00 to $3.00 per barrel. Another alternative considered was exempting gas turbines using high nitrogen fuels, as some commenters requested. Exempting gas turbines based on the type of fuel used, however, would not require the use of best control technology in all cases.

A third alternative considered was the use of a fuel-bound nitrogen allowance. Beyond some point it is simply not reasonable to allow combustion of high nitrogen fuels in gas turbines. In addition, high nitrogen fuels, including shale oil and coal-derived fuels, can be used in other combustion devices where some control of organic NO_x emissions is possible. Greater reduction of nationwide NO_x emissions could be achieved by utilizing these fuels in facilities where organic NO_x emission control is possible than in gas turbines where organic NO_x emissions are essentially uncontrolled. This approach, therefore, balances the trade-off between allowing unlimited selection of fuels for gas turbines controlling NO_x emissions.

A limited fuel-bound nitrogen allowance which would allow increased NO_x emissions above the numerical NO_x emissions limits including in the promulgated standards seems most reasonable. An upper limit on this allowance of 50 ppm NO_x was selected. Such a limit would allow approximately 50 percent of existing heavy fuel oils to be fired in stationary gas turbines. (See Volume I of the SSEIS.) This approach is considered a reasonable means of allowing flexibility in the selection of fuels while achieving reductions in NO_x emissions from stationary gas turbines. (See Control Technology for further discussion.)

A number of commenters felt the efficiency correction factor included in the standards should use the overall efficiency of a gas turbine installation rather than the thermal efficiency of the gas turbine itself. For example, many commenters recommended that the overall efficiency of a combined cycle gas turbine installation be used in this correction factor.

Section 111 of the Clean air Act requires that standards of performance for new sources reflect the use of the best system of emission reduction. With the few exceptions noted above, water injection is considered the best system of emission control for reducing NO_x emissions from stationary gas turbines. To be consistent with the intent of section 111, the standards must reflect the use of water injection independent of any ancillary waste heat recovery equipment which might be associated with a gas turbine to increase its overall efficiency. To allow an upward adjustment in the NO_x emission limit based on the overall efficiency of a combined cycle gas turbine could mean that water injection might not have to be applied to the gas turbine. Thus, the standards would not reflect the use of the best system of emission reduction. Therefore, the efficiency factor must be based on the gas turbine efficiency itself, not the overall efficiency of a gas turbine combined with other equipment.

Test Methods and Monitoring

A large number of commenters objected to the amount of monitoring required. The proposed standards called for daily monitoring of sulfur content, nitrogen content, and lower heating value of the fuel. The commenters were generally in favor of less frequent periodic monitoring.

These comments seem reasonable. Therefore, the standards have been changed to permit determination of sulfur content, nitrogen content, and lower heating value only when a fresh supply of fuel is added to the fuel storage facilities for a gas turbine. Where gas turbines are fueled without intermediate storage, such as along oil and gas transport pipelines, daily monitoring is still required by the standards unless the owner or operator can show that the composition of the fuel does not fluctuate significantly. In these cases, the owner or operator may develop an individual monitoring schedule for determining fuel sulfur content, nitrogen content, and lower heating value. These schedules must be substantiated by data and submitted to the Administrator for approval on a case-by-case basis.

Several commenters stated that the standards should be clarified to allow the performance test to be performed by the gas turbine manufacturer in lieu of the owner/operator. To simplify verification of compliance with the standards and to reduce costs to everyone involved, the recommendation was made that each gas turbine be performance tested at the manufacturer's site. The commenters maintained that gas turbines should not be required to undergo a performance test at the owner/operator's site if they have been shown to comply with the standard by the gas turbine manufacturer.

Section 111 of the Clean Air Act is not flexible enough to permit the use of a formal certification program such as that described by the commenter. Responsibility for complying with the standards ultimately rests with the owner/operator, not with the gas turbine manufacturers. The general provisions of 40 CFR Part 60, however, which apply to all standards of performance, allow the use of approaches other than performance tests to determine compliance on a case-by-case basis. The

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alternate approach must demonstrate to the Administrator's satisfaction that the facility is in compliance with the standard. Consequently, gas turbine manufacturers' tests may be considered, on a case-by-case basis, in lieu of performance tests at the owner/operator's site to demonstrate compliance with the standards. For a gas turbine manufacturers's test to be acceptable in lieu of a performance test, as a minimum the operating conditions of the gas turbine at the installation site would have to be shown to be similar to those during the manufacturer's test. In addition, this would not preclude the Administrator from requiring a performance test at any time to demonstrate compliance with the standards.

Miscellaneous

It should be noted that standards of performance for new stationary sources established under section 111 of the Clean Air Act reflect:

". . . application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environment impact and energy requirements) the Administrator determines has been adequately demonstrated. [section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily mandated health and welfare standards are being violated. In this respect, section 173 of the act requires that a new or modified source constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3), for such category of source. The statute defines LAER as that rate of emission which reflects:

(A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event can the emission rate exceed any applicable new source performance standard (section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (part C). These provisions require that certain sources (referred to in section 169(1)) employ "best available control technology" (as defined in section 169(3)) for all pollutants regulated under the Act. Best available control technology (BACT) must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all events, State implementation plans (SIPs) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of National Ambient Air Quality Standards designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed 4 years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emissions control technology.

No economic impact assessment under Section 317 was prepared on this standard. Section 317(a) requires such an assessment only if "the notice of proposed rulemaking in connection with such standard . . . is published in the Federal Register after the date ninety days after August 7, 1977." This standard was proposed in the Federal Register on October 3, 1977, less than ninety days after August 7, 1977, and an assessment was therefore not required.

Dated: August 28, 1979.

Douglas M. Costle,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. By adding subpart GG as follows:

Subpart GG—Standards of Performance for Stationary Gas Turbines

Sec.

60.330 Applicability and designation of affected facility.
60.331 Definitions.
60.332 Standard for nitrogen oxides.
60.333 Standard for sulfur dioxide.
60.334 Monitoring of operations.
60.335 Test methods and procedures.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended, [42 U.S.C. 1857c-7, 1857g(a)], and additional authority as noted below.

Subpart GG—Standards of Performance for Stationary Gas Turbines

§ 60.330 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities: all stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired.

§ 60.331 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Stationary gas turbine" means any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system that is not self propelled. It may, however, be mounted on a vehicle for portability.

(b) "Simple cycle gas turbine" means any stationary gas turbine which does not recover heat from the gas turbine exhaust gases to preheat the inlet combustion air to the gas turbine, or which does not recover heat from the gas turbine exhaust gases to heat water or generate steam.

(c) "Regenerative cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gases to preheat the inlet combustion air to the gas turbine.

(d) "Combined cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gases to heat water or generate steam.

(e) "Emergency gas turbine" means any stationary gas turbine which operates as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation.

(f) "Ice fog" means an atmospheric suspension of highly reflective ice crystals.

(g) "ISO standard day conditions" means 288 degrees Kelvin, 60 percent relative humidity and 101.3 kilopascals pressure.

(h) "Efficiency" means the gas turbine manufacturer's rated heat rate at peak load in terms of heat input per unit of power output based on the lower heating value of the fuel.

(i) "Peak load" means 100 percent of the manufacturer's design capacity of the gas turbine at ISO standard day conditions.

(j) "Base load" means the load level at which a gas turbine is normally operated.

(k) "Fire-fighting turbine" means any stationary gas turbine that is used solely to pump water for extinguishing fires.

(l) "Turbines employed in oil/gas production or oil/gas transportation" means any stationary gas turbine used to provide power to extract crude oil/natural gas from the earth or to move crude oil/natural gas, or products refined from these substances through pipelines.

(m) A "Metropolitan Statistical Area" or "MSA" as defined by the Department of Commerce.

(n) "Offshore platform gas turbines" means any stationary gas turbine located on a platform in an ocean.

(o) "Garrison facility" means any permanent military installation.

(p) "Gas turbine model" means a group of gas turbines having the same nominal air flow, combuster inlet pressure, combuster inlet temperature, firing temperature, turbine inlet temperature and turbine inlet pressure.

§ 60.332 Standard for nitrogen oxides.

(a) On and after the date on which the performance test required by § 60.8 is completed, every owner or operator subject to the provisions of this subpart, as specified in paragraphs (b), (c), and (d) of this section, shall comply with one of the following, except as provided in paragraphs (e), (f), (g), (h), and (i) of this section.

(1) No owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any stationary gas turbine, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0075 \frac{(14.4)}{Y} + F$$

where:

STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).

Y = manufacturer's rated heat rate at manufacturer's rated load (kilojoules per watt hour) or, actual measured heat rate based on lower heating value of fuel as measured at actual peak load for the facility. The value of Y shall not exceed 14.4 kilojoules per watt hour.

F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(2) No owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any stationary gas turbine, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0150 \left(\frac{14.4}{Y}\right) + F$$

where:

STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).

Y = manufacturer's rated heat rate at manufacturer's rated peak load (kilojoules per watt hour), or actual measured heat rate based on lower heating value of fuel as measured at actual peak load for the facility. The value of Y shall not exceed 14.4 kilojoules per watt hour.

F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(3) F shall be defined according to the nitrogen content of the fuel as follows:

Fuel-Bound Nitrogen (percent by weight)	F (NO_x percent by volume)
$N \leq 0.015$	0
$0.015 < N \leq 0.1$	$0.04(N)$
$0.1 < N \leq 0.25$	$0.004 + 0.0067(N-0.1)$
$N > 0.25$	0.005

where:

N = the nitrogen content of the fuel (percent by weight).

or:

Manufacturers may develop custom fuel-bound nitrogen allowances for each gas turbine model they manufacture. These fuel-bound nitrogen allowances shall be substantiated with data and must be approved for use by the Administrator before the initial performance test required by § 60.8. Notices of approval of custom fuel-bound nitrogen allowances will be published in the Federal Register.

(b) Stationary gas turbines with a heat input at peak load greater than 107.2 gigajoules per hour (100 million Btu/hour) based on the lower heating value of the fuel fired except as provided in § 60.332(d) shall comply with the provisions of § 60.332(a)(1).

(c) Stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (10 million Btu/hour) but less than or equal to 107.2 gigajoules per hour (100 million Btu/hour) based on the lower heating value of the fuel fired, shall comply with the provisions of § 60.332(a)(2).

(d) Stationary gas turbines employed in oil/gas production or oil/gas transportation and not located in Metropolitan Statistical Areas; and offshore platform turbines shall comply with the provisions of § 60.332(a)(2).

(e) Stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (10 million Btu/hour) but less than or equal to 107.2 gigajoules per hour (100 million Btu/hour) based on the lower heating value of the fuel fired and that have commenced construction prior to October 3, 1982 are exempt from paragraph (a) of this section.

(f) Stationary gas turbines using water or steam injection for control of NO_x emissions are exempt from paragraph (a) when ice fog is deemed a traffic hazard by the owner or operator of the gas turbine.

(g) Emergency gas turbines, military gas turbines for use in other than a garrison facility, military gas turbines installed for use as military training facilities, and fire fighting gas turbines are exempt from paragraph (a) of this section.

(h) Stationary gas turbines engaged by manufacturers in research and development of equipment for both gas turbine emission control techniques and gas turbine efficiency improvements are exempt from paragraph (a) on a case-by-case basis as determined by the Administrator.

(i) Exemptions from the requirements of paragraph (a) of this section will be granted on a case-by-case basis as determined by the Administrator in specific geographical areas where mandatory water restrictions are required by governmental agencies because of drought conditions. These

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exemptions will be allowed only while the mandatory water restrictions are in effect.

§ 60.333 Standard for sulfur dioxide.

On and after the date on which the performance test required to be conducted by § 60.8 is completed, every owner or operator subject to the provision of this subpart shall comply with one or the other of the following conditions:

(a) No owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any stationary gas turbine any gases which contain sulfur dioxide in excess of 0.015 percent by volume at 15 percent oxygen and on a dry basis.

(b) No owner or operator subject to the provisions of this subpart shall burn in any stationary gas turbine any fuel which contains sulfur in excess of 0.8 percent by weight.

§ 60.334 Monitoring of operations.

(a) The owner or operator of any stationary gas turbine subject to the provisions of this subpart and using water injection to control NO_x emissions shall install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water to fuel being fired in the turbine. This system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

(b) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall monitor sulfur content and nitrogen content of the fuel being fired in the turbine. The frequency of determination of these values shall be as follows:

(1) If the turbine is supplied its fuel from a bulk storage tank, the values shall be determined on each occasion that fuel is transferred to the storage tank from any other source.

(2) If the turbine is supplied its fuel without intermediate bulk storage the values shall be determined and recorded daily. Owners, operators or fuel vendors may develop custom schedules for determination of the values based on the design and operation of the affected facility and the characteristics of the fuel supply. These custom schedules shall be substantiated with data and must be approved by the Administrator before they can be used to comply with paragraph (b) of this section.

(c) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

(1) *Nitrogen oxides.* Any one-hour period during which the average water-to-fuel ratio, as measured by the continuous monitoring system, falls below the water-to-fuel ratio determined to demonstrate compliance with § 60.332 by the performance test required in § 60.8 or any period during which the fuel-bound nitrogen of the fuel is greater than the maximum nitrogen content allowed by the fuel-bound nitrogen allowance used during the performance test required in § 60.8. Each report shall include the average water-to-fuel ratio, average fuel consumption, ambient conditions, gas turbine load, and nitrogen content of the fuel during the period of excess emissions, and the graphs or figures developed under § 60.335(a).

(2) *Sulfur dioxide.* Any daily period during which the sulfur content of the fuel being fired in the gas turbine exceeds 0.8 percent.

(3) *Ice fog.* Each period during which an exemption provided in § 60.332(g) is in effect shall be reported in writing to the Administrator quarterly. For each period the ambient conditions existing during the period, the date and time the air pollution control system was deactivated, and the date and time the air pollution control system was reactivated shall be reported. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter.

(Sec. 114 of the Clean Air Act as amended [42 U.S.C. 1857c-9]).

§ 60.335 Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.332 as follows:

(1) Reference Method 20 for the concentration of nitrogen oxides and oxygen. For affected facilities under this subpart, the span value shall be 300 parts per million of nitrogen oxides.

(i) The nitrogen oxides emission level measured by Reference Method 20 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

$$NO_x = (NO_{x_{obs}}) \left(\frac{P_{ref}}{P_{obs}}\right)^{0.5} e^{19(H_{obs} - 0.00633)} \left(\frac{T_{AMB}}{288°K}\right)^{1.53}$$

where:

NO_x = emissions of NO_x at 15 percent oxygen and ISO standard ambient conditions.

$NO_{x_{obs}}$ = measured NO_x emissions at 15 percent oxygen, ppmv.

P_{ref} = reference combuster inlet absolute pressure at 101.3 kilopascals ambient pressure.

P_{obs} = measured combustor inlet absolute pressure at test ambient pressure.

H_{obs} = specific humidity of ambient air at test.

e = transcendental constant (2.718).

T_{AMB} = temperature of ambient air at test.

The adjusted NO_x emission level shall be used to determine compliance with § 60.332.

(ii) Manufacturers may develop custom ambient condition correction factors for each gas turbine model they manufacture in terms of combustor inlet pressure, ambient air pressure, ambient air humidity and ambient air temperature to adjust the nitrogen oxides emission level measured by the performance test as provided for in § 60.8 to ISO standard day conditions. These ambient condition correction factors shall be substantiated with data and must be approved for use by the Administrator before the initial performance test required by § 60.8. Notices of approval of custom ambient condition correction factors will be published in the **Federal Register.**

(iii) The water-to-fuel ratio necessary to comply with § 60.332 will be determined during the initial performance test by measuring NO_x emission using Reference Method 20 and the water-to-fuel ratio necessary to comply with § 60.332 at 30, 50, 75, and 100 percent of peak load or at four points in the normal operating range of the gas turbine, including the minimum point in the range and peak load. All loads shall be corrected to ISO conditions using the appropriate equations supplied by the manufacturer.

(2) The analytical methods and procedures employed to determine the nitrogen content of the fuel being fired shall be approved by the Administrator and shall be accurate to within ±5 percent.

(b) The method for determining compliance with § 60.333, except as provided in § 60.8(b), shall be as follows:

(1) Reference Method 20 for the concentration of sulfur dioxide and oxygen or

(2) ASTM D2880-71 for the sulfur content of liquid fuels and ASTM D1072-70 for the sulfur content of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(c) Analysis for the purpose of determining the sulfur content and the nitrogen content of the fuel as required by § 60.334(b), this subpart, may be performed by the owner/operator, a service contractor retained by the owner/operator, the fuel vendor, or any other qualified agency provided that the analytical methods employed by these agencies comply with the applicable paragraphs of this section.

(Sec. 114 of the Clean Air Act as amended [42 U.S.C. 1857c-9]).

Appendix A—Reference Methods

2. Part 60 is amended by adding Reference Method 20 to Appendix A as follows:

* * * * *

Method 20—Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions from Stationary Gas Turbines

1. Applicability and Principle

1.1 Applicability. This method is applicable for the determination of nitrogen oxides (NO_x), sulfur dioxide (SO_2), and oxygen (O_2) emissions from stationary gas turbines. For the NO_x and O_2 determinations, this method includes: (1) measurement system design criteria, (2) analyzer performance specifications and performance test procedures; and (3) procedures for emission testing.

1.2 Principle. A gas sample is continuously extracted from the exhaust stream of a stationary gas turbine; a portion of the sample stream is conveyed to instrumental analyzers for determination of NO_x and O_2 content. During each NO_x and OO_2 determination, a separate measurement of SO_2 emissions is made, using Method 6, or it equivalent. The O_2 determination is used to adjust the NO_x and SO_2 concentrations to a reference condition.

2. Definitions

2.1 Measurement System. The total equipment required for the determination of a gas concentration or a gas emission rate. The system consists of the following major subsystems:

2.1.1 Sample Interface. That portion of a system that is used for one or more of the following: sample acquisition, sample transportation, sample conditioning, or protection of the analyzers from the effects of the stack effluent.

2.1.2 NO_x Analyzer. That portion of the system that senses NO_x and generates an output proportional to the gas concentration.

2.1.3 O_2 Analyzer. That portion of the system that senses O_2 and generates an output proportional to the gas concentration.

2.2 Span Value. The upper limit of a gas concentration measurement range that is specified for affected source categories in the applicable part of the regulations.

2.3 Calibration Gas. A known concentration of a gas in an appropriate diluent gas.

2.4 Calibration Error. The difference between the gas concentration indicated by the measurement system and the known concentration of the calibration gas.

2.5 Zero Drift. The difference in the measurement system output readings before and after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place and the input concentration at the time of the measurements was zero.

2.6 Calibration Drift. The difference in the measurement system output readings before and after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place and the input at the time of the measurements was a high-level value.

2.7 Residence Time. The elapsed time from the moment the gas sample enters the probe tip to the moment the same gas sample reaches the analyzer inlet.

2.8 Response Time. The amount of time required for the continuous monitoring system to display on the data output 95 percent of a step change in pollutant concentration.

2.9 Interference Response. The output response of the measurement system to a component in the sample gas, other than the gas component being measured.

3. Measurement System Performance Specifications

3.1 NO_2 to NO Converter. Greater than 90 percent conversion efficiency of NO_2 to NO.

3.2 Interference Response. Less than ± 2 percent of the span value.

3.3 Residence Time. No greater than 30 seconds.

3.4 Response Time. No greater than 3 minutes.

3.5 Zero Drift. Less than ± 2 percent of the span value.

3.6 Calibration Drift. Less than ± 2 percent of the span value.

4. Apparatus and Reagents

4.1 Measurement System. Use any measurement system for NO_x and O_2 that is expected to meet the specifications in this method. A schematic of an acceptable measurement system is shown in Figure 20-1. The essential components of the measurement system are described below:

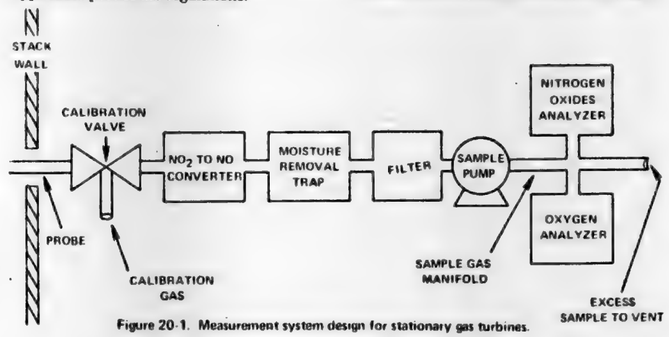


Figure 20-1. Measurement system design for stationary gas turbines.

4.1.1 Sample Probe. Heated stainless steel, or equivalent, open-ended, straight tube of sufficient length to traverse the sample points.

4.1.2 Sample Line. Heated (>95°C) stainless steel or Teflon® tubing to transport the sample gas to the sample conditioners and analyzers.

4.1.3 Calibration Valve Assembly. A three-way valve assembly to direct the zero and calibration gases to the sample conditioners and to the analyzers. The calibration valve assembly shall be capable of blocking the sample gas flow and of introducing calibration gases to the measurement system when in the calibration mode.

4.1.4 NO_2 to NO Converter. That portion of the system that converts the nitrogen dioxide (NO_2) in the sample gas to nitrogen oxide (NO). Some analyzers are designed to measure NO_x as NO_2 on a wet basis and can be used without an NO_2 to NO converter or a moisture removal trap provided the sample line to the analyzer is heated (>95°C) to the inlet of the analyzer. In addition, an NO_2 to NO converter is not necessary if the NO_2 portion of the exhaust gas is less than 5 percent of the total NO_x concentration. As a guideline, an NO_2 to NO converter is not necessary if the gas turbine is operated at 90 percent or more of peak load capacity. A converter is necessary under lower load conditions.

4.1.5 Moisture Removal Trap. A refrigerator-type condenser designed to continuously remove condensate from the sample gas. The moisture removal trap is not necessary for analyzers that can measure NO_x concentrations on a wet basis; for these analyzers, (a) heat the sample line up to the inlet of the analyzers, (b) determine the moisture content using methods subject to the approval of the Administrator, and (c) correct the NO_x and O_2 concentrations to a dry basis.

4.1.6 Particulate Filter. An in-stack or an out-of-stack glass fiber filter, of the type specified in EPA Reference Method 5; however, an out-of-stack filter is recommended when the stack gas temperature exceeds 250 to 300°C.

4.1.7 Sample Pump. A nonreactive leak-free sample pump to pull the sample gas through the system at a flow rate sufficient to minimize transport delay. The pump shall be made from stainless steel or coated with Teflon or equivalent.

4.1.8 Sample Gas Manifold. A sample gas manifold to divert portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, Teflon, type 316 stainless steel, or equivalent.

4.1.9 Oxygen and Analyzer. An analyzer to determine the percent O_2 concentration of the sample gas stream.

4.1.10 Nitrogen Oxides Analyzer. An analyzer to determine the ppm NO_x concentration in the sample gas stream.

4.1.11 Data Output. A strip-chart recorder, analog computer, or digital recorder for recording measurement data.

4.2 Sulfur Dioxide Analysis. EPA Reference Method 6 apparatus and reagents.

4.3 NO_x Caliberation Gases. The calibration gases for the NO_x analyzer may be NO in N_2, NO_2 in air or N_2, or NO and NO_2

in N_2. For NO_x measurement analyzers that require oxidation of NO to NO_2, the calibration gases must be in the form of NO in N_2. Use four calibration gas mixtures as specified below:

4.3.1 High-level Gas. A gas concentration that is equivalent to 80 to 90 percent of the span value.

4.3.2 Mid-level Gas. A gas concentration that is equivalent to 45 to 55 percent of the span value.

4.3.3 Low-level Gas. A gas concentration that is equivalent to 20 to 30 percent of the span value.

4.3.4 Zero Gas. A gas concentration of less than 0.25 percent of the span value. Ambient air may be used for the NO_x zero gas.

4.4 O_2 Calibration Gases. Use ambient air at 20.9 percent as the high-level O_2 gas. Use a gas concentration that is equivalent to 11–14 percent O_2 for the mid-level gas. Use purified nitrogen for the zero gas.

4.5 NO_2/NO Gas Mixture. For determining the conversion efficiency of the NO_2 to NO converter, use a calibration gas mixture of NO_2 and NO in N_2. The mixture will be known concentrations of 40 to 60 ppm NO_2 and 90 to 110 ppm NO and certified by the gas manufacturer. This certification of gas concentration must include a brief description of the procedure followed in determining the concentrations.

5. Measurement System Performance Test Procedures

Perform the following procedures prior to measurement of emissions (Section 6) and only once for each test program, i.e., the series of all test runs for a given gas turbine engine.

5.1 Calibration Gas Checks. There are two alternatives for checking the concentrations of the calibration gases. (a) The first is to use calibration gases that are documented traceable to National Bureau of Standards Reference Materials. Use *Traceability Protocol for Establishing True Concentrations of Gases Used for Calibrations and Audits of Continuous Source Emission Monitors* (Protocol Number 1) that is available from the Environmental Monitoring and Support Laboratory, Quality Assurance Branch, Mail Drop 77, Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Obtain a certification from the gas manufacturer that the protocol was followed. These calibration gases are not to be analyzed with the Reference Methods. (b) The second alternative is to use calibration gases not prepared according to the protocol. If this alternative is chosen, within 1 month prior to the emission test, analyze each of the calibration gas mixtures in triplicate using Reference Method 7 or the procedure outlined in Citation 8.1 for NO_x and use Reference Method 3 for O_2. Record the results on a data sheet (example is shown in Figure 20–2). For the low-level, mid-level, or high-level gas mixtures, each of the individual NO_x analytical results must be within 10 percent (or 10 ppm, whichever is greater) of the triplicate set average (O_2 test results must be within 0.5 percent O_2); otherwise, discard the entire set and repeat the triplicate analyses. If the average of the triplicate reference method test results is within 5 percent for NO_x gas or 0.5 percent O_2 for the O_2 gas of the calibration gas manufacturer's tag value, use the tag value; otherwise, conduct at least three additional reference method test analyses until the results of six individual NO_x runs (the three original plus three additional) agree within 10 percent (or 10 ppm, whichever is greater) of the average (O_2 test results must be within 0.5 percent O_2). Then use this average for the cylinder value.

5.2 Measurement System Preparation. Prior to the emission test, assemble the measurement system following the manufacturer's written instructions in preparing and operating the NO_2 to NO converter, the NO_x analyzer, the O_2 analyzer, and other components.

Date _____ (Must be within 1 month prior to the test period)

Reference method used _____

Sample run	Gas concentration, ppm		
	Low level[a]	Mid level[b]	High level[c]
1			
2			
3			
Average			
Maximum % deviation[d]			

[a] Average must be 20 to 30% of span value.

[b] Average must be 45 to 55% of span value.

[c] Average must be 80 to 90% of span value.

[d] Must be ≤ ± 10% of applicable average or 10 ppm, whichever is greater.

Figure 20-2. Analysis of calibration gases.

5.3 Calibration Check. Conduct the calibration checks for both the NO_x and the O_2 analyzers as follows:

5.3.1 After the measurement system has been prepared for use (Section 5.2), introduce zero gases and the mid-level calibration gases; set the analyzer output responses to the appropriate levels. Then introduce each of the remainder of the calibration gases described in Sections 4.3 or 4.4, one at a time, to the measurement system. Record the responses on a form similar to Figure 20–3.

5.3.2 If the linear curve determined from the zero and mid-level calibration gas responses does not predict the actual response of the low-level (not applicable for the O_2 analyzer) and high-level gases within ±2 percent of the span value, the calibration shall be considered invalid. Take corrective measures on the measurement system before proceeding with the test.

5.4 Interference Response. Introduce the gaseous components listed in Table 20–1 into the measurement system separately, or as gas mixtures. Determine the total interference output response of the system to these components in concentration units; record the values on a form similar to Figure 20–4. If the sum of the interference responses of the test gases for either the NO_x or O_2 analyzers is greater than 2 percent of the applicable span value, take corrective measure on the measurement system.

Table 20–1.—*Interference Test Gas Concentration*

CO	500 ± 50 ppm.
SO_2	200 ± 20 ppm.
CO_2	10 ± 1 percent.
O_2	20.9 ± 1 percent.

Date of test _____

Analyzer type _____ Serial No. _____

Test gas type	Concentration, span	Analyzer output response	% of span

% of span = $\frac{\text{Analyzer output response}}{\text{Instrument span}} \times 100$.

Figure 20-4. Interference response.

Turbine type: _____ Identification number _____

Date: _____ Test number _____

Analyzer type: _____ Identification number _____

	Cylinder value, ppm or %	Initial analyzer response, ppm or %	Final analyzer responses, ppm or %	Difference: initial-final, ppm or %
Zero gas				
Low - level gas				
Mid - level gas				
High - level gas				

$$\text{Percent drift} = \frac{\text{Absolute difference}}{\text{Span value}} \times 100.$$

Figure 20-3. Zero and calibration data.

Conduct an interference response test of each analyzer prior to its initial use in the field. Thereafter, recheck the measurement system if changes are made in the instrumentation that could alter the interference response, e.g., changes in the type of gas detector.

In lieu of conducting the interference response test, instrument vendor data, which demonstrate that for the test gases of Table 20–1 the interference performance specification is not exceeded, are acceptable.

5.5 Residence and Response Time.

5.5.1 Calculate the residence time of the sample interface portion of the measurement system using volume and pump flow rate information. Alternatively, if the response time determined as defined in Section 5.5.2 is less than 30 seconds, the calculations are not necessary.

5.5.2 To determine response time, first introduce zero gas into the system at the

calibration valve until all readings are stable: then, switch to monitor the stack effluent until a stable reading can be obtained. Record the upscale response time. Next, introduce high-level calibration gas into the system. Once the system has stabilized at the high-level concentration, switch to monitor the stack effluent and wait until a stable value is reached. Record the downscale response time. Repeat the procedure three times. A stable value is equivalent to a change of less than 1 percent of span value for 30 seconds or less than 5 percent of the measured average concentration for 2 minutes. Record the response time data on a form similar to Figure 20–5, the readings of the upscale or downscale reponse time, and report the greater time as the "response time" for the analyzer. Conduct a response time test prior to the initial field use of the measurement system, and repeat if changes are made in the measurement system.

Date of test _____

Analyzer type _____ S/N _____

Span gas concentration _____ ppm

Analyzer span setting _____ ppm

Upscale
1 _____ seconds
2 _____ seconds
3 _____ seconds

Average upscale response _____ seconds

Downscale
1 _____ seconds
2 _____ seconds
3 _____ seconds

Average downscale response _____ seconds

System response time = slower average time = _____ seconds.

Figure 20-5. Response time

5.6 NO_2 NO Conversion Efficiency. Introduce to the system, at the calibration valve assembly, the NO_2/NO gas mixture (Section 4.5). Record the response of the NO_x analyzer. If the instrument response indicates less than 90 percent NO_2 to NO conversion, make corrections to the measurement system and repeat the check. Alternatively, the NO_2 to NO converter check described in Title 40 Part 86: *Certification and Test Procedures for Heavy-Duty Engines for 1979 and Later Model Years* may be used. Other alternate procedures may be used with approval of the Administrator.

6. Emission Measurement Test Procedure

6.1 Preliminaries.

6.1.1 Selection of a Sampling Site. Select a sampling site as close as practical to the exhaust of the turbine. Turbine geometry, stack configuration, internal baffling, and point of introduction of dilution air will vary for different turbine designs. Thus, each of these factors must be given special consideration in order to obtain a representative sample. Whenever possible, the sampling site shall be located upstream of the point of introduction of dilution air into the duct. Sample ports may be located before or after the upturn elbow, in order to accommodate the configuration of the turning vanes and baffles and to permit a complete, unobstructed traverse of the stack. The sample ports shall not be located within 5 feet or 2 diameters (whichever is less) of the gas discharge to atmosphere. For supplementary-fired, combined-cycle plants, the sampling site shall be located between the gas turbine and the boiler. The diameter of the sample ports shall be sufficient to allow entry of the sample probe.

6.1.2 A preliminary O_2 traverse is made for the purpose of selecting low O_2 values. Conduct this test at the turbine condition that is the lowest percentage of peak load operation included in the program. Follow the procedure below or alternative procedures subject to the approval of the Administrator may be used:

6.1.2.1 Minimum Number of Points. Select a minimum number of points as follows: (1) eight, for stacks having cross-sectional areas less than 1.5 m^2 (16.1 ft^2); (2) one sample point for each 0.2 m^2 (2.2 ft^2 of areas, for stacks of 1.5 m^2 to 10.0 m^2 (16.1–107.6 ft^2) in cross-sectional area; and (3) one sample point for each 0.4 m^2 (4.4 ft^2) of area, for stacks greater than 10.0 m^2 (107.6 ft^2) in cross-sectional area. Note that for circular ducts, the number of sample points must be a multiple of 4, and for rectangular ducts, the number of points must be one of those listed in Table 20–2; therefore, round off the number of points (upward), when appropriate.

6.1.2.2 Cross-sectional Layout and Location of Traverse Points. After the number of traverse points for the preliminary O^2 sampling has been determined, use Method 1 to located the traverse points.

6.1.2.3 Preliminary O^2 Measurement. While the gas turbine is operating at the lowest percent of peak load, conduct a preliminary O^2 measurement as follows: Position the probe at the first traverse point and begin sampling. The minimum sampling time at each point shall be 1 minute plus the average system response time. Determine the average steady-state concentration of O^2 at each point and record the data on Figure 20–6.

6.1.2.4 Selection of Emission Test Sampling Points. Select the eight sampling points at which the lowest O^2 concentration were obtained. Use these same points for all the test runs at the different turbine load conditions. More than eight points may be used, if desired.

Table 20–2.—*Cross-sectional Layout for Rectangular Stacks*

No. of traverse points	Matrix layout
9	3 x 3
12	4 x 3
16	4 x 4
20	5 x 4
25	5 x 5
30	6 x 5
36	6 x 6
42	7 x 6
49	7 x 7

Location: Date _____

Plant _____

City, State _____

Turbine identification:

Manufacturer _____

Model, serial number _____

Sample point	Oxygen concentration, ppm

Figure 20-6. Preliminary oxygen traverse.

6.2 NO_x and O_2 Measurement. This test is to be conducted at each of the specified load conditions. Three test runs at each load condition constitute a complete test.

6.2.1 At the beginning of each NO_x test run and, as applicable, during the run, record turbine data as indicated in Figure 20–7. Also, record the location and number of the traverse points on a diagram.

6.2.2 Position the probe at the first point determined in the preceding section and begin sampling. The minimum sampling time at each point shall be at least 1 minute plus the average system response time. Determine the average steady-state concentration of O_2 and NO_x at each point and record the data on Figure 20–8.

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TURBINE OPERATION RECORD

Test operator _____ Date _____

Turbine identification:

Type _____ Ultimate fuel

Serial No. _____ Analysis C _____

H _____

Location: O _____

Plant _____ N _____

City _____ S _____

Ambient temperature _____ Ash _____

H_2O _____

Ambient humidity _____

Trace Metals

Test time start _____ Na _____

Test time finish _____ Va _____

K _____

Fuel flow rate[a] _____ etc[b] _____

Water or steam _____ Operating load _____

Flow rate[a]

Ambient Pressure _____

[a]Describe measurement method, i.e., continuous flow meter, start finish volumes, etc.

[b]i.e., additional elements added for smoke suppression.

Figure 20-7. Stationary gas turbine data.

Turbine identification: Test operator name _____

Manufacturer _____ O_2 instrument type _____

Serial No. _____

Model, serial No. _____ NO_x instrument type _____

Serial No. _____

Location:

Plant _____

City, State _____

Ambient temperature _____

Ambient pressure _____

Date _____

Test time - start _____

Test time - finish _____

Sample point	Time, min.	O_2,[a] %	NO_x,[a] ppm

[a]Average steady-state value from recorder or instrument readout.

Figure 20-8. Stationary gas turbine sample point record.

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6.2.3 After sampling the last point, conclude the test run by recording the final turbine operating parameters and by determining the zero and calibration drift, as follows:

Immediately following the test run at each load condition, or if adjustments are necessary for the measurement system during the tests, reintroduce the zero and mid-level calibration gases as described in Sections 4.3, and 4.4, one at a time, to the measurement system at the calibration valve assembly. (Make no adjustments to the measurement system until after the drift checks are made). Record the analyzers' responses on a form similar to Figure 20-3. If the drift values exceed the specified limits, the test run preceding the check is considered invalid and will be repeated following corrections to the measurement system. Alternatively, the test results may be accepted provided the measurement system is recalibrated and the calibration data that result in the highest corrected emission rate are used.

6.3 SO_2 Measurement. This test is conducted only at the 100 percent peak load condition. Determine SO_2 using Method 6, or equivalent, during the test. Select a minimum of six total points from those required for the NO_x measurements; use two points for each sample run. The sample time at each point shall be at least 10 minutes. Average the O_2 readings taken during the NO_x test runs at sample points corresponding to the SO_2 traverse points (see Section 6.2.2) and use this average O_2 concentration to correct the integrated SO_2 concentration obtained by Method 6 to 15 percent O_2 (see Equation 20-1).

If the applicable regulation allows fuel sampling and analysis for fuel sulfur content to demonstrate compliance with sulfur emission unit, emission sampling with Reference Method 6 is not required, provided the fuel sulfur content meets the limits of the regulation.

7. Emission Calculations

7.1 Correction to 15 Percent Oxygen. Using Equation 20-1, calculate the NO_x and SO_2 concentrations (adjusted to 15 percent O_2). The correction to 15 percent O_2 is sensitive to the accuracy of the O_2 measurement. At the level of analyzer drift specified in the method (±2 percent of full scale), the change in the O_2 concentration correction can exceed 10 percent when the O_2 content of the exhaust is above 16 percent O_2. Therefore O_2 analyzer stability and careful calibration are necessary.

$$C_{adj} = C_{meas} \times \frac{5.9}{20.9 - \%O_2} \quad \text{(Equation 20-1)}$$

Where:

C_{adj} = Pollutant concentration adjusted to 15 percent O_2 (ppm)

C_{meas} = Pollutant concentration measured, dry basis (ppm)

5.9 = 20.9 percent O_2 − 15 percent O_2, the defined O_2 correction basis

Percent O_2 = Percent O_2 measured, dry basis (%)

7.2 Calculate the average adjusted NO_x concentration by summing the point values and dividing by the number of sample points.

8. Citations

8.1 Curtis, F. A Method for Analyzing NO_x Cylinder Gases-Specific Ion Electrode Procedure, Monograph available from Emission Measurement Laboratory, ESED, Research Triangle Park, N.C. 27711, October 1978.

[FR Doc. 79-27993 Filed 9-7-79; 8:45 am]

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September 10, 1979

Part III

Securities and Exchange Commission

Update of Listing of Certain Regulatory Matters

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Ch. II]

[Release Nos. 33-6117; 34-16153; 35-21204; IC-10853; IA-697]

Update of Listing of Certain Regulatory Matters

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Updated Listing.

SUMMARY: The Securities and Exchange Commission has determined to publish an update of its March 22, 1979 listing of anticipated major rulemaking and related regulatory matters likely to be considered by the Commission during the balance of 1979. The earlier listing appears in Securities Act Release No. 6040, March 22, 1979 (44 FR 20354); April 4, 1979.

FOR FURTHER INFORMATION CONTACT: Christine Delaney, Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2600.

SUPPLEMENTARY INFORMATION: On March 22, 1979, the Commission published a listing of anticipated major rulemaking and related regulatory matters. Since that time, the Commission has taken action on a number of the items listed, and additional matters, not included last March, have come under consideration. Accordingly, the Commission has determined that the publication of an updated version of its listing would be useful to the public.

As the Commission noted in Securities Act Release No. 6040, any listing of this nature is necessarily based upon priorities at the time of publication. Because the Commission must respond to the developments in the capital markets, changes in economic conditions, new Congressional priorities, and similar circumstances not easily predictable, no such listing can be definitive. Additionally, this listing does not include matters which, although under consideration, have not yet evolved to a point in the deliberative process where public Commission action may be anticipated. Accordingly, while the Commission believes that the information contained herein will be of use to interested persons, those affected by Commission action should not rely solely upon this document.

This updated listing follows the sections utilized in Securities Act Release No. 6040. Significant changes and developments concerning each of the items in that release are set forth below and numbered so as to correspond to the earlier release; a more complete description of these items may be found in Securities Act Release No. 6040. In addition, certain new matters are included at the end of each section.

* * * * *

A. Significant Initiatives in the Areas of Capital Formation and Corporate Disclosure

1. *Tender Offer Rule Proposals.* The Commission has proposed rules which would provide specific filing and disclosure requirements, and additional substantive regulatory protection, for public investors with respect to certain cash tender offers and exchange tender offers. In addition, these propoals embody antifraud provisions which would apply to all tender offers. The staff is actively engaged in analyzing the public comments on these proposals, and the Commission will consider the proposed rules further following completion of that review. For further information, see Securities Act Release No. 6022 (February 5, 1979) (44 FR 9956).

2. *Proposed Rules Concerning Activities of Public Companies Which Seek to Become Private Corporations.* The Commission recently adopted Rule 13e-3 and Schedule 13E-3 to provide disclosure requirements and antifraud provisions with respect to "going private" transactions. Certain amendments to Rule 13e-3 and Schedule 13E-3 were proposed for comment concurrently with the adoption of the rule and schedule. These proposals would require an issuer or an affiliate engaging in a "going private" transaction to disclose projections of revenues, income and earnings per share, prepared by or on behalf of the issuer during the preceding 18 months, which have been furnished to lenders or to persons who have provided certain reports, opinions or appraisals which are materially related to the transaction. For further information, see Securities Act Release Nos. 6100 (August 2, 1979) (44 FR 46736) and 6101 (August 2, 1979) (44 FR 46748).

3. *Small Business Capital Formation.* As a result of the staff's continuing analysis of the file developed during its small business hearings, the Commission expects to consider staff proposals concerning a special limited offering exemption for small businesses, a general revision of the Regulation A exemption, and the classification of issuers for Securities Exchange Act reporting purposes. For further information, see Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562).

4. *Corporate Governance.* As a result of its ongoing comprehensive study of issues relating to corporate governance, the Commission, in December 1978, adopted rules to expand and supplement disclosures made to shareholders in proxy statements. These rules are intended to provide investors with enhanced information on the structure, composition and function of corporate boards of directors. At the time these rules were adopted, the Commission's staff was directed to monitor carefully the quality of the disclosures made in order to determine whether amendments would be appropriate. In light of the staff review to date, as well as the volume of requests for interpretive advice received during the recently completed proxy season, the staff intends to recommend the publication of a release providing certain interpretive views of the Division of Corporation Finance and requesting additional comments on the operation of the proxy rules. [*See also* Item No. 10, *infra*, this section.] In addition, the Commission anticipates that a staff report on corporate governance issues will be completed in early 1980.

5. *Projections.* this proceeding was completed with the adoption of rules providing a "safe harbor" from liability under the Federal securities laws for certain management projections of revenues, income and earnings per share. For further information, see Securities Act Release No. 6084 (June 25, 1979) (44 FR 38810).

6. *Form 10-K.* In its report to the Commission in November 1977, the Advisory Committee on Corporate Disclosure recommended revisions to the annual report filed pursuant to Section 13(a) of the Securities Exchange Act on Form 10-K. The Commission subsequently published a release requesting comments on Form 10-K and on the proposed revised format recommended by the Advisory Committee. The staff anticipates recommending to the Commission revisions to Form 10-K and related rules before the end of 1979. For further information, see Securities Exchange Act Release No. 15068 (August 16, 1978) (43 FR 37460).

New Matters

7. *Statistical Disclosure by Bank Holding Companies.* At the time the Commission issued Guides 61 and 3, it stated that the experiences of registrants and users of the information would be reviewed to see whether the new disclosures made under the guides are necessary or appropriate. The Commission has just issued a release implementing that review process by requesting comments from interested parties on the guides. For further information, see Securities Exchange Act Release No. 6115 (August 30, 1979).

8. *Proposed Guidelines for Disclosure by Electric Gas and Utility Companies.* The Commission recently issued for comment proposed staff guidelines for disclosure in registration statements and reports filed by electric and gas utility companies. These proposed guidelines were developed in response to the recommendation of the Advisory Committee on Corporate Disclosure that the Commission develop disclosure guidelines for specific industries with the requirements for each reflecting the particular characteristics of the industry under consideration. The proposed guidelines, which are intended to improve the quality of the disclosure contained in various documents filed by electric and gas utility companies, reflect practices presently followed by the Commission's Division of Corporation Finance and a number of suggestions derived from the public comments. The comment period on the proposed guidelines expires on Septmeber 24, 1979. For further information, see Securities Act Release No. 6085 (June 25, 1979) (44 FR 38792).

9. *Relationships Between Attorneys and Registrants.* The Commission has requested written comments on a rulemaking petition submitted by the Institute for Public Representation. The petitioner's proposal would require disclosure of certain information concerning the relationships between registered issuers and their counsel, as well as disclosure about resignations or dismissals of an issuer's legal counsel. The public comment period expires September 30, 1979. For further information, see Securities Exchange Act Release No. 16045 (July 25, 1979) (44 FR 44881).

10. *Proxy Rule Amendments.* As a further result of its ongoing corporate governance study, the Commission recently proposed for comment amendments to its proxy rules, including provisions relating to the format of proxies, that are intended to provide for greater participation by shareholders in the corporate electoral process and greater opportunities for shareholders to obtain information and advice with respect to matters on which they vote. [*See also* Item No. 4, *supra*, this section.] For further information, see Securities Exchange act Release No. 16104 (August 13, 1979) (44 FR 48938).

B. Significant Initiatives Affecting Regulation of the Securities Markets and the Securities Industry

1. *Rule 15c3-1.* The staff is continuing its study of the "net-capital rule" and intends to recommend to the Commission proposed amendments to Rule 15c3-1 early in 1980.

2. *National Market System.* The Commission recently has proposed several rules under the Securities Exchange Act designed to govern aspects of the national market system. Proposed Rule 19c-3 would amend the rules of national securities exchanges which limit or condition the ability of their members to engage in over-the-counter transactions in certain exchange traded securities. The Commission held six days of public hearings on this proposal and expects to consider shortly whether to adopt the rule. For further information, see Securities Exchange Act Release No. 15769 (April 26, 1979) (44 FR 26688).

In addition, the Commission has proposed several rules under Section 11A of the Securities Exchange Act which are designed to facilitate the development of a national market system.

a. Proposed Rule 11Acl-3 is intended to provide protection for all displayed public limit orders by requiring satisfaction of those orders at their limit prices, or under certain circumstances, the transaction price. For further information, see Securities Exchange Act Release No. 15770 (April 26, 1979) (44 FR 26692).

b. Proposed Rule 11Aa2-1 is intended to provide procedures for designating securities as qualified for trading in a national market system and would require the dissemination of transaction and quotation information with respect to certain over-the-counter securities included in the system. For further information, see Securities Exchange Act Release No. 15926 (June 15, 1979) (44 FR 36912).

c. Proposed Rule 11Aa3-1 would amend Rule 17a-15, which currently governs the operation of the consolidated transaction reporting system, to permit vendors to retransmit the entire data stream of transaction reports for purposes of creating a moving ticker display. For further information, see Securities Exchange Act Release No. 15250 (October 20, 1978) (43 FR 50606).

d. Proposed Rule 11Acl-2 would establish minimum requirements with respect to the manner in which vendors of securities information display transaction and quotation information. For further information, see Securities Exchange Act Release No. 15251 (October 20, 1978) (43 FR 50615).

3. *Proposed Rule 13e-4 and Schedule 13E-4.* The Commission recently adopted Rule 13e-4 and Schedule 13E-4, dealing with tender and exchange offers by certain issuers and their affiliates for the issuer's equity securities, and intends to propose for comment certain amendments to the rule. For further information, see Securities Act Release No. 6108 (August 16, 1979) (44 FR 49406).

4. *Proposed Rule 13e-2.* The staff intends shortly to make its recommendation to the Commission on whether to publish for comment a revised version of proposed Rule 13e-2, under the Securities Exchange Act, which would impose restrictions on certain issuers and their affiliates repurchasing the issuer's securities in open market transactions, and related amendments to Rule 10b-6, also under the Securities Exchange Act.

5. *Proposed Rule 10b-21.* The staff has not yet recommended further action on proposed Rule 10b-21, under the Securities Exchange Act, which would regulate shortselling prior to underwritten offerings, but expects to make its recommendation to the Commission by the end of 1979. For further information, see Securities Exchange Act Release No. 13092 (December 21, 1976) (41 FR 56542).

6. *Registration Standards for the Regulation of Clearing Agencies.* The staff has not yet recommended further action with respect to the establishment of registration standards for the registration of clearing agencies, but expects to make its recommendation to the Commission by the end of 1979.

7. *Proposed Rule 17Ad-8.* The staff has not yet recommended further action on proposed Rule 17Ad-8, under the Securities Exchange Act. The rule would codify the existing depository practice of transmitting to an issuer, either at regular intervals or at the issuer's request and upon payment of a reasonable fee to the depository, a listing of persons on whose behalf the depository holds that issuer's securities. The staff expects to make its recommendations to the Commission by the end of 1979. For further information, see Securities Exchange Act Release No. 14493 (February 22, 1978) (43 FR 8269).

8. *Rule 19b-4.* The Commission recently has proposed amendments to Rule 19b-4, under the Securities Exchange Act. The rule prescribes procedures to be followed by self-regulatory organizations in filing proposed rule changes and other materials with the Commission. The proposed amendments are designed to simplify and clarify the requirements

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and to facilitate the review of proposed rule changes. The Commission intends to consider the proposals following the completion of the staff review of the public comments. For further information, see Securities Exchange Act Release No. 15838 (May 18, 1979) (44 FR 30924).

9. *Rule 10b–10 and Proposed Rule 15c2–12.* The staff has not yet recommended further action on proposed amendments to Rule 10b–10 and proposed Rule 15c2–12 under the Securities Exchange Act. These proposals would require brokers, dealers and municipal securities dealers to disclose, on customer confirmations, the amount of remuneration received by the broker, dealer or municipal securities dealer in certain transactions in debt securities. For further information, see Securities Exchange Act Release Nos. 15219 (October 6, 1978) (43 FR 47495) and 15220 (October 6, 1978) (44 FR 47538).

10. *Proposed Rule 3a4–1.* The staff has not yet recommended further action on proposed Rule 3a4–1, under the Securities Exchange Act, which would provide guidance to issuers as to the circumstances under which the issuer's own officers and employees would be brokers under the Securities Exchange Act if they participated in the sale of the issuer's securities. The staff intends to make its recommendations to the Commission by early 1980. For further information, see Securities Exchange Act Release No. 13195 (January 21, 1977) (42 FR 5084).

11. *Rule 15b9–2.* The Commission recently has proposed for comment amendments to Rule 15b9–2, under the Securities Exchange Act, which would require SECO firms to pay an annual assessment to be automatically set, unless the Commission determines otherwise, at the same level as the corresponding assessment imposed by the National Association of Securities Dealers, Inc. on its members. The public comment period expires on September 7, 1979. For further information, see Securities Exchange Act Release No. 16080 (August 3, 1979) (44 FR 47953).

12. *Rule 15b10–12.* The Commission has proposed for comment amendments to Rule 15b10–12, under the Securities Exchange Act, which specifies those rules not applicable to municipal securities brokers and dealers, in an effort to eliminate duplicate regulation of SECO municipal securities brokers and dealers. For further information, see Securities Exchange Act Release No. 16018 (July 11, 1979) (44 FR 41832).

13. *Rule 15c3–4.* The staff is continuing to study the possibility of proposing a new Rule 15c3–4, under the Securities Exchange Act, which would set forth standards regarding the borrowing of securities by brokers or dealers.

14. *Proposed Rule 15Bc7–1.* The Commission will consider, following staff review of the public comments, whether to adopt proposed Rule 15Bc7–1 to make available to the Municipal Securities Rulemaking Board copies of reports of examinations, or information contained in examinations, of municipal securities brokers and municipal securities dealers, subject to limitations designed to protect the confidentiality of reports supplied to the MSRB. For further information, see Securities Exchange Act Release No. 15885 (May 30, 1979) (44 FR 32616).

15. *Form MSD.* The Commission will consider, following staff review of the public comments, the adoption of amendments to Form MSD, the form required to be filed for registration as a municipal securities broker or municipal securities dealer, to permit the use of schedules prepared for bank regulatory agencies and otherwise to clarify the form. For further information, see Securities Exchange Act Release No. 14971 (July 17, 1978) (44 FR 32309).

16. *Section 12(f) Applications.* The staff is continuing to study the possibility of proposing rules under the Securities Exchange Act governing the information to be supplied in applications for unlisted trading privileges pursuant to Section 12(f) and enunciating the standards to be applied by the Commission in reviewing such applications.

17. *Options Study Recommendations.* The Commission will consider the steps that the self-regulatory organizations are taking to comply with certain of the recommendations contained in the Special Study of the Options Markets, and the steps the Commission must take to address certain other recommendations. In addition, the Commission will consider the most appropriate way to terminate the existing moratorium on expansion of the standardized options markets. For further information, see Securities Exchange Act Release No. 15575 (Februrary 22, 1979) (44 FR 11876).

18. *Underwriting Practices.* The National Association of Securities Dealers, Inc. filed a proposed rule change in June 1978, dealing with fixed price underwriting practices. The initial impetus for the proposed rule change was the Federal district court decision in *Papilsky* v. *Berndt* [1976–77 Transfer Binder] CCH Fed. Sec. L Rep. ¶95,627 (S.D.N.Y., 1976). The Commission has scheduled public hearings on the NASD proposal to begin in September 1979, and will consider what action to take with respect to the rule proposal after the staff completes its review of the public comments and testimony at the hearings. For further information, see Securities Exchange Act Release No. 15807 (May 9, 1979) (44 FR 28574).

C. Significant Initiatives Affecting Investment Companies and Investment Advisers

1. *"Start Up" Exemptions for Unit Investment Trusts.* This proceeding was completed with the adoption of a proposal which provides "start up" exemptions from the provisions of the Investment Company Act for unit investment trusts. For further information, see Investment Company Act Release No. 10690 (May 15, 1979) (44 FR 29644).

2. *Proposed Rule 434d.* This proceeding was completed with the adoption of Rule 434d, under the Securities Act, which permits the use of "summary prospectuses" by investment companies. For further information, see Securities Act Release No. 6116 (August 31, 1979).

3. *Bearing of Distribution Expenses by Mutual Funds.* The staff has completed its review of the public comments and the Commission shortly will consider whether to propose a rule under Section 12(b) of the Investment Company Act dealing with the circumstances under which investment companies may finance the distribution of their own shares. For further information, see Investment Company Act Release No. 10252 (May 23, 1978) (43 FR 23589).

4. *Rule 17j–1.* The staff has not yet made its recommendation to the Commission on revised Rule 17j–1 under the Investment Company Act, which would require investment companies to develop codes of ethics governing purchases or sales by investment company insiders of the same securities held or to be acquired by the investment company. The staff expects to make its recommendations by the end of 1979. For further information, see Investment Company Act Release Nos. 10162 (March 20, 1978) (43 FR 12721) and 10222 (April 28, 1978) (43 FR 19669).

5. *Rule 10f–3.* This proceeding was completed with the adoption of amendments to Rule 10f–3 under the Investment Company Act, which deals with the circumstances under which investment companies may participate in underwritings in which affiliated persons are participating. For further information, see Investment Company Act Release No. 10736 (June 14, 1979) (44 FR 36151).

6. *Proposed Rule 17e–2.* This proceeding was completed with the adoption of proposed Rule 17e–2 as Rule 17e–1 under the Investment Company Act to define what is a "usual and customary" brokerage fee for purposes of Section 17(e)(2)(A) of the Act. For further information, see Investment Company Act Release Nos. 10740 (June 20, 1979) (44 FR 37202) and 10741 (June 20, 1979) (44 FR 37204).

7. *Proposed Rule 154.* The Commission determined to withdraw proposed Rule 154 and instead issued an interpretive release concerning the circumstances under which guaranteed investment contracts issued by insurance companies may constitute securities requiring registration. For further information, see Securities Act Release Nos. 6050 (April 5, 1979) (44 FR 21656) and 6051 (April 5, 1979) (44 FR 21626).

New Matters

8. *Rule 156.* The Commission will consider whether to adopt a proposed interpretive rule concerning investment company sales literature following completion of the staff review of the public comments. For further information, see Securities Act Release No. 6034 (March 8, 1979) (44 FR 16935).

9. *Rule 205–3.* The Commission has recently invited public comment on proposed Rule 205–3 under the Investment Advisers Act, which would permit certain registered investment advisers to business development companies to be compensated on the basis of a share of net capital gains upon, or net capital appreciation of, the funds of the business development company. Such means of compensation is not currently permitted under the Investment Advisers Act. Upon completion of the staff review of the public comments received, the Commission will consider whether to adopt the proposed rule. For further information, see Investment Advisers Act Release No. 680 (June 19, 1979) (44 FR 37470).

D. Accounting Related Initiatives

1. *Review of Regulation S–X.* In response to a recommendation in the 1977 Report of the Advisory Committee on Corporate Disclosure, the staff has been reviewing Regulation S–X, which governs the form and content of financial statements filed with the Commission, to identify requirements which needlessly duplicate generally accepted accounting principles. Before the end of 1979, the staff intends to recommend to the Commission proposed amendments to Regulation S–X to eliminate any such duplication.

2. *Management Reports.* In its 1978 Report, the Commission on Auditors' Responsibilities ("Cohen Commission"), a commission established by the American Institute of Certified Public Accountants, encouraged companies to publish reports acknowledging the responsibility of management for the representations in financial statements and discussed specific areas which might be covered by such a report. Since that time, there have been various private initiatives directed toward the development of the kind of report by management envisioned by the Cohen Commission. While the staff is not now planning to recommend any initiative in this area during 1979, it intends to follow closely the further efforts of the private sector and will consider the need to propose rules relating to matters that might be included in a management report. [*See also* Item No. 3, *infra*, this section.]

3. *Reporting on Internal Accounting Control.* In April 1979, the Commission proposed for comment rules which would require the inclusion of a statement by management on internal accounting control in annual reports on Form 10–K and in annual reports to securities holders furnished pursuant to the proxy rules. The proposal would also require that the statement of management be examined and reported on by an independent public accountant. Following staff review of the public comments, the Commission will determine whether to adopt the proposed rules. For further information, see Securities Exchange Act Release No. 15772 (April 30, 1979) (44 FR 26702).

4. *Presentation in Financial Statements of Preferred and Common Stocks.* This proceeding was completed with the adoption of amendments to Regulation S–X to require separate balance sheet presentation of preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer. For further information, see Securities Exchange Act Release No. 16047 (July 27, 1979) (44 FR 23971).

5. *Proposed Oil and Gas Supplemental Earnings Summary.* In June 1979, the Commission reopened the comment period on this proposal to allow respondents to consider experience in preparing and reporting valuation information on oil and gas reserves for the year ended December 31, 1978. Following staff consideration of the public comments and the recommendations of the Advisory Committee on Oil and Gas Accounting, the Commission will consider the next appropriate steps to take on the proposal. For further information, see Securities Act Release Nos. 5969 (August 31, 1978) (43 DR 40726) and 6080 (June 14, 1979) (44 FR 36070).

6. *Report on the Accounting Profession.* The Commission submitted its second Report to Congress on the Accounting Profession and the Commission's Oversight Role on June 28, 1979.

New Matters

7. *Scope of Services by Independent Accountants.* In June 1979, the Commission issued an interpretive release setting forth its views concerning certain factors which accountants, and corporate boards or audit committees, should consider in assessing the possible effects upon auditing independence of accountants in performing nonaudit services for publicly-held audit clients. If future events indicate that further action is appropriate, the Commission will reconsider this issue. To facilitate this process, the Commission invited public comment on the interpretive release. For further information, see Securities Act Release No. 6078 (June 14, 1979) (44 FR 36156).

8. *Disclosure Requirements Affecting Oil and Gas Producers.* In June 1979, the Commission proposed an amendment to its reporting requirements for oil and gas producers to permit the financial statement disclosure of oil and gas reserve information required by Regulation S–X to be made in a note or separate schedule designated "unaudited" for fiscal years ending before December 26, 1980. Following staff consideration of the public comments received, the Commission will consider this issue. For further information, see Securities Act Release No. 6079 (June 14, 1979) (44 FR 36068).

9. *Proposed Rules Concerning Accountants Liability Under Section 11(a) of the Securities Act of 1933 for SAS No. 24 Reports.* The Commission shortly will publish for comment two alternative rules which would exclude accountants from liability under Section 11(a) of the Securities Act for SAS No. 24 reports included in Securities Act filings.

E. Consumer Protection Studies

1. *Predispute Arbitration Clauses in Agreements Between Broker-Dealers and Their Public Customers.* On July 2, 1979, the Commission issued a release cautioning broker-dealers about the use of arbitration clauses in customer agreements. For further information, see Securities Exchange Act Release No. 15984 (July 2, 1979) (44 FR 40462).

2. *Uniform Arbitration Code.* The Commission has recieved proposals for a uniform arbitration system from the Securities Industry Conference on Arbitration, which the staff is presently

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reviewing. In addition, proposed rule amendments corresponding to these proposals have been filed pursuant to Rule 19b–4 by the New York Stock Exchange, and other self-regulatory organizations are expected to file similar proposed rule amendments. For further information, see Securities Exchange Act Release No. 16038 (July 18, 1979) (44 FR 43378).

F. Public Utility Holding Company Act Regulation

Annual Report for Service Companies. In February 1979, the Commission approved a revision to Rule 93 of the Public Utility Holding Company Act modernizing the Uniform System of Accounts for Mutual and Subsidiary Service Companies. This revision has necessitated a revision of Rule 94, under the Public Utility Holding Company Act which requires jurisdictional service companies to file an annual report of their financial and accounting operations. The staff intends to recommend that the Commission propose for comment revisions to Form U–13–60, under Rule 94. For further information, see Public Utility Holding Company Act Release No. 20910 (February 2, 1979) (44 FR 8247).

G. Miscellaneous

Rules Relating to Requests for Confidential Treatment. The staff is presently studying the possibility of proposing for public comment rules setting forth formal procedures to be followed by persons wishing to seek confidential treatment of material submitted to the Commission and expects to make its recommendation to the Commission by the end of 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

August 31, 1979.

[FR Doc. 79–28027 Filed 9–7–79; 8:45 am]

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federal register

Monday
September 10, 1979

Part IV

Securities and Exchange Commission

Advertising by Investment Companies

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release Nos. 33-6116, IC-10852; File No. S7-705]

Advertising by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a rule which permits a new type of investment company advertising, in the form of an "omitting" prospectus, subject to certain restrictions and conditions. It is also adopting two amendments to existing rules. One amendment removes the restriction limiting the use of certain information in tombstone advertisements by investment companies to companies whose registration statements under the Securities Act of 1933 have become effective, and the other modifies a filing requirement with respect to advertisements under the new rule being adopted herein.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Stanley B. Judd, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-0213.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission has adopted a rule under the Securities Act of 1933 (the "1933 Act") [15 U.S.C. 77a et seq.] permitting any investment company which is registered under the Investment Company Act of 1940 (the "1940 Act") [15 U.S.C. 80a et seq.], and which is selling or proposing to sell its securities under a registration statement filed under the 1933 Act, to advertise with respect to the securities referred to in such registration statement so long as the advertisement (1) appears in a bona fide newspaper or magazine or on radio or television, (2) contains only information the substance of which is included in the company's full prospectus, (3) states conspicuously from whom a prospectus containing more complete information can be obtained and that an investor should read that prospectus carefully before investing, and (4) if used prior to effectiveness of the registration statement, contains the statement required by Rule 433(b) [17 CFR 230.433(b)] under the 1933 Act.

The Commission also has adopted an amendment to Rule 134 [17 CFR 230.134] under the 1933 Act, concerning "tombstone" advertisements. The amendment removes the prohibition presently contained in that rule with respect to the use by investment companies, during the time between the filing of a registration statement and the time such statement becomes effective, of an advertisement containing information that the rule formerly permitted only after the registration statement had become effective. In addition, the Commission has adopted an amendment to Rule 424 [17 CFR 230.424] under the 1933 Act to provide that advertisements pursuant to the new rule being adopted herein need not be filed as part of the company's registration statement. However, such advertisements must otherwise be filed in accordance with Rule 424.

I. Background

The adoption of new Rule 434d and the amendment of Rule 134 were proposed in Release Nos. 33-5833, IC-9811 on June 3, 1977.[1]

The notice invited interested persons to submit views and comments on the proposed rule and the proposed amendment.

New Rule 434d was proposed primarily to permit investment companies to publish advertisements containing a broader range of information than is permitted in tombstone advertisements under Rule 134, thereby assisting investors in considering alternative investment opportunities. In this regard, the Commission noted in the release containing the proposed rule that institutions such as savings and loan companies and insurance companies, which compete with investment companies for investor interest, are not subject to the same advertising limitations as investment companies, and thus existing limitations on investment company advertising may have had the effect of restricting the availability to investors of information about all relevant investment possibilities. The amendment to existing Rule 134 was intended to remove a seemingly unnecessary restriction as to the time when tombstone advertisements under that rule could be used.

The proposed new Rule 434d was the subject of considerable controversy, but upon consideration of the public comments the Commission has determined to adopt that rule with certain modifications. In connection with the adoption of Rule 434d, the Commission is also adopting an amendment to a filing requirement contained in existing Rule 424. The proposed amendment to Rule 134 was the subject of relatively little comment, and the Commission has determined to adopt that amendment as proposed. The Commission's determinations with respect to these matters are discussed below.

[1] 42 FR 30379.

1. New Rule 434d

Although none of the commenters opposed an easing of the restrictions on investment company advertising, a number of commenters argued that proposed Rule 434d was not the proper vehicle to accomplish this purpose. Specifically, commenters objected to the fact that advertisements under a rule adopted pursuant to section 10(b) of the 1933 Act would constitute prospectuses for purposes of the 1933 Act, and prospectus liability could result from false or misleading statements of material fact in such advertisements. As an alternative, it was suggested that expanded investment company advertising be permitted pursuant to section 2(10)(b) of the 1933 Act. Section 2(10)(b) provides an exception to the definition of "prospectus." Advertisements pursuant to a rule under that section would not be subject to the provisions of, *inter alia*, section 12(2) of the 1933 Act, which provides a civil remedy for investors who purchase securities as a result of a false or misleading prospectus.

The Commission is not persuaded that amendment of its rules under section 2(10)(b) to permit mutual fund advertisements to contain significantly more information than is presently permitted in "tombstone" advertisements pursuant to Rule 134 under that section would be consistent with the protection of investors. Thus, apart from the legal question of whether the Commission would have the authority to permit "tombstone" advertisements to include information on performance, for example, with no prospectus liability for false or misleading advertisements, the Commission does not believe that rule making under section 2(10)(b) is a reasonable alternative to adoption of proposed Rule 434d as a means of significantly expanding the range of permissible investment company advertising and thereby enabling investors to be more fully informed as to available investment alternatives. Furthermore, since the rule is permissive, obviously investment companies need not make use of the rule if they do not choose to do so. In this regard, in order to make clear that the rule does not, to any extent, supplant

Rule 134, the rule explicitly provides that it does not apply to advertisements which are excepted from the definition of prospectus by section 2(10) of the Act and Rule 134 thereunder. Conversely, an advertisement which contains information beyond that permitted under Rule 134 is a prospectus under current law and the rule adopted herein will not alter that status. Such a prospectus may qualify under Rule 434d, however, if the provisions of that rule are met. Accordingly, the Commission has determined to adopt proposed Rule 434d with the modifications discussed below.

In response to comments, the Commission has decided to eliminate the proposed requirement that advertisements under the rule not exceed 600 words. That limitation has been designed to keep advertisements under the rule from being so long that the advertisement, rather than the section 10(a) propectus, might be viewed as the primary sales document for mutual fund shares. However, after consideration the Commission now believes that the expense of advertising will function as a deterrent to unduly long advertisements, and that the 600 word limit therefore is not needed.

The Commission has also decided to modify the proposed requirement that all advertisements pursuant to Rule 434d appear in a "newspaper or magazine of general circulation." Specifically, the Commission has determined that it would be inappropriate not to permit advertisements under the rule from being carried on radio or television, and the rule as adopted therefore permits advertisements on radio and television subject to the same conditions that apply to advertisements in print media.

In addition, with respect to advertisements in print media, the rule as adopted omits the "general circulation" requirement and instead contains a requirement that the newspaper or magazine be "bona fide." The purpose of the proposed "general circulation" limitation was to preclude the use of the rule for advertisements sent by direct mail. Direct mail advertisements may have a greater potential than newspaper or magazine advertisements for supplanting the full section 10(a) prospectus as the primary selling document.[2] However, it appears from some public comments that the "general circulation" limitation might be interpreted as excluding publications with a limited circulation, such as professional journals. The substitution of the "bona fide" limitation for the "general circulation" limitation is intended to make clear that advertisements under the rule may appear in any legitimate publication, including a specialized one.

Certain commenters objected to the rule's limitation of advertising content to information the substance of which is contained in the investment company's section 10(a) prospectus. Any expansion of investment company advertising by means of a rule promulgated under section 10(b) of the 1933 Act must contain this limitation, however, because section 10(b) provides authority only for a prospectus which "omits in part" or "summarizes" information in the section 10(a) prospectus. some of the commenters objecting to this limitation suggested that more guidance be given regarding what information would be permitted in advertisments under the rule. The intent of the limitation is to ensure that all material facts included in advertisments under the rule appear in the company's section 10(a) prospectus. Precise tracking of the language used in the section 10(a) prospectus is not required. Moreover, items such as headlines, logos, or pictures in printed advertisements, and music or pictures in broadcast advertisments, can be used even though they are not part of the section 10(a) prospectus, so long as they do not contain material facts not included in the section 10(a) prospectus.

Some commentators requested that the Commission indicate what information should be included in an advertisement under Rule 434d in order to make the advertisement not misleading. The question of whether a particular advertisment omits material facts necessary to make the statements made not misleading will depend upon the content of such statements and guidance as to what additional information would be necessary in each case to make the particular statement made not misleading is, therefore, not possible. However, the Commission has proposed an interpretative rule which would give general guidance as to some types of representations or presentations in investment company sales literature which might be misleading.[3]

The Commission notes that, under section 12(2), only an untrue statement of material fact, or an omission of a material fact necessary to make the statements made not misleading, gives rise to possible liability. Accordingly, an advertisement which contains only statements that are true, and does not omit facts needed to make those statements not misleading, would not provide a basis for liability under section 12(2) merely because facts which were included in the full prospectus were not included in the advertisement.

The Commission has decided to eliminate the filing requirement contained in Rule 434d when it was submitted for public comment. Because advertisements under the rule will be prospectuses, they will be subject to the filing requirements of the Commission's existing Rule 424 under the 1933 Act, and a separate filing requirement in the new rule does not appear necessary.

Section 10(b) provides, however, that a prospectus permitted thereunder shall be filed as part of the registration statement unless the Commission provides otherwise. The Commission is exempting prospectuses permitted under the new rule from the requirements that they be filed as part of the registration statement for two reasons. The first is that all material facts included in such a prospectus are required to be included in the registration statement. The second is that if such a prospectus were filed as part of the registration statement, it would constitute an amendment to that statement which would not become effective until clearance by the Commission. This could result in unnecessary delays in the use of advertisements. Furthermore, the Commission is amending Rule 424 to provide that the requirement of subsection (a) of that rule that prospectuses used prior to the effective date of a company's registration statement be filed as a part of the registration statement will not apply to advertisments under the new rule.[4] It should be noted that a filing pursuant to Rule 424 also will satisfy the filing requirement for sales literature contained in section 24(b) of the 1940 Act.

2. Amendment of Rule 134

The proposed modification of Rule 134 would allow tombstone advertisements by investment companies to contain certain information prior to the effective date of the company's registration statement under the 1933 Act, which information may presently be used only

[2] Sales literature may be sent by direct mail under section 2(10)(a) of the 1933 Act. Such sales literature, however, must be accompanied or preceded by a full prospectus.

[3] Release Nos. 33-6034, 34-15621, and IC-10621, March 8, 1979, 44 FR 16935.

[4] The amendment to Rule 424 was not proposed for comment as such. However, Rule 434d provides that advertisements under the rule need not be filed as part of the registration statement, and the fact that Rule 424 is being amended to conform to that provision of Rule 434d represents only a technical change from the proposed rule. For this reason, and because the amendment to Rule 424 imposes no burden upon any person, the Commission finds that notice and public procedure upon the amendment to Rule 424 as such are unnecessary.

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after the effective date of the registration. This amendment was addressed by only three commenters, two of whom supported it and the other of whom opposed it. The sole objection to the proposed amendment was based on an assertion that staff review of registration statements often results in changes in the disclosures and even in the basic concepts of the registrant. The Commission believes that, although changes in registration statements and prospectuses frequently are made as a result of staff review and comments, such changes are unlikely to affect items permitted to be included in tombstone advertisements. Even companies with effective registration statements occasionally make significant changes in their modes of operation, and this normally does not cause serious problems with their advertising copy. Moreover, even if changes were made in the registration statement which altered the accuracy of information contained in a company's advertisements, the company would have an opportunity to correct these inaccuracies prior to sale of shares to prospective investors, since no sales could be made until the registration statement became effective.

It should be noted that the modification of Rule 134 does not result in any change in the permissible content of tombstone advertisements by investment companies. All information permitted to be used in a tombstone advertisement during the "waiting period" under the amended Rule 134 is information that can be used at a later date in such advertisements under the existing rule. The present restriction on "waiting period" advertisements applies only to investment companies, since only such companies may use the expanded tombstone advertisements provided for in Rule 134(d)(3)(iii). There does not appear to be any compelling reason to disallow advertising which otherwise complies with Rule 134 during an investment company's "waiting period."

(Secs. 2(10), 10(b), 10(c), 10(d), 10(f), and 19(a) of the 1933 Act [15 U.S.C. 77b(10), 77j(b), 77j(c), 77j(d), 77j(f), and 77s(a)].)

In consideration of the foregoing, the Commission hereby amends Part 230 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

§ 230.134 [Amended]

1. In § 230.134, paragraph (a)(3)(iii) is amended by deleting the words "whose registration statement under the Act is effective" immediately preceding paragraph (A).

2. Paragraph (a) of § 230.424 is amended to provide as follows:

§ 230.424 Filing of prospectuses, number of copies.

(a) Five copies of every form of prospectus sent or given to any person prior to the effective date of the registration statement which varies from the form or forms of prospectus included in the registration statement as filed pursuant to § 230.402(a) of this chapter shall be filed as a part of the registration statement not later than the date such form of prospectus is first sent or given to any person: *Provided, however,* That an investment company advertisement which is deemed to be a prospectus pursuant to § 230.434d of this chapter and which is required to be filed pursuant to this paragraph shall not be filed as part of the registration statement.

* * * * *

3. By adding a new § 230.434d, to provide as follows:

§ 230.434d Advertisement by an investment company as satisfying requirements of section 10.

(a) An advertisement, other than one excepted from the definition of prospectus by section 2(10) of the act and rule 134 thereunder, shall be deemed to be a prospectus under section 10(b) of the act for the purpose of section 5(b)(1) of the act if

(1) It is with respect to an investment company registered under the Investment Company Act of 1940 which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the act,

(2) It appears in a bona fide newspaper or magazine or is used on radio or television,

(3) It contains only information the substance of which is included in the section 10(a) prospectus,

(4) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully before investing, and

(5) It contains the statement required by § 230.433(b) when used prior to effectiveness of the company's registration statement.

(b) An advertisement made pursuant to paragraph (a) of this section need not contain the statement required by § 230.425.

(c) An advertisement made pursuant to paragraph (a) of this section need not be filed as part of the registration statement filed under the Act.

Note.—Such advertisement must, however, be otherwise filed in accordance with the requirements of § 230.424.

By the Commission.

August 31, 1979.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28028 Filed 9-7-79; 8:45 am]

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federal register

Monday
September 10, 1979

Part V

Securities and Exchange Commission

Existing Guides for Statistical Disclosure by Bank Holding Companies; Publication for Comment

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231 and 241]

[Release Nos. 33-6115 and 34-16149; File No. S7-797]

Publication for Comment of Existing Guides for Statistical Disclosure by Bank Holding Companies

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comment on existing staff guidelines for statistical disclosure by bank holding companies.

SUMMARY: The Commission is requesting comments on the quality and desirability of disclosure made under the existing Guides for "Statistical Disclosure by Bank Holding Companies." These comments are requested to fulfill the Commission's undertaking expressed at the time the Guides were promulgated to review the experience of registrants and users of the information to see whether the new disclosures are necessary and appropriate.

DATE: Comments must be received on or before October 30, 1979.

ADDRESS: All communications on the matters discussed in this release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-797 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William H. Carter, Office of Disclosure Policy and Proceedings (202-272-2604), or Charles A. Oglebay, Office of Chief Accountant (202-272-3243), Division of Corporation Finance, Securities and Exchange Commission, 500 Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today requested public comments on the quality and desirability of disclosure made under the existing Guides 61 and 3, "Statistical Disclosure by Bank Holding Companies," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 [15 U.S.C. 77a et seq.] and of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. At the time Guides 61 and 3 (the "Guides") were published [1] the Commission stated that the experience of registrants and users of the information would be reviewed to see whether the new disclosures made under the Guides are necessary and appropriate. The purpose of this release is to implement that review function.

[1] Securities Act of 1933 Release No. 5735 (August 31, 1976) (41 FR 39007).

Background of Guides

Guides 61 and 3 are intended to provide registrants with a convenient reference to the statistical disclosures sought by the staff of the Division of Corporation Finance in registration statements and other disclosure documents filed by bank holding companies. They are not Commission rules nor do they bear the Commission's official approval.

In the preparation of the Guides, the staff was mindful of the investor's need to assess uncertainties and the investor's need for substantial and specific disclosure about changes in risk characteristics of loan portfolios. *See* Accounting Series Release No. 166 (December 24, 1974) (40 FR 2678, January 15, 1975). Accordingly, the Guides call for extensive disclosure about loan portfolios and related items in filings by bank holding companies. In addition, many of the suggested disclosures are intended to provide information to facilitate analysis and comparison of sources of income and exposure to risks. Such information assists investors in evaluating the potential impact of future economic events upon a registrant's business and earnings and in assessing the ability of a bank holding company to move into or out of situations with favorable or unfavorable risk/return characteristics.

The Guides are intended to apply only to the description of business portion of a bank holding company registration statement, proxy statement or report. Although the Guides describe certain information that should be disclosed, they do not purport to be all inclusive and in no way limit the type of information required. Appropriate disclosure must always depend on the individual facts and circumstances concerning each registrant.

Inquiries

The Commission invites comments on all aspects of Guides 61 and 3. Comments are also requested on the following specific matters:

General

1. Recognizing that the Guides were designed to provide, in the Commission's judgment, both the minimum information needed for the protection of investors and the minimum needed to analyze bank holding companies on a comparative basis, what, if any, information could be deleted or simplified without impairing the Guides' utility?

2. What information, if any, could be added to the Guides to enhance their utility?

3. Should the provisions be expanded so that compliance with the Guides would result in full compliance with items 1 and 2 of Regulation SK which are concerned with "Description of business" and "Description of property," respectively?

4. In lieu of requiring information to be presented almost uniformly for a "reported period," what items under the Guides could be presented for shorter periods without loss of significance? [A "reported period" is defined as the latest five years and any interim period and any additional period which may be appropriate.]

5. What specific additional burdens and identifiable expenses are incurred by registrants in complying with the Guides? What particular benefits have been realized as a result of the promulgation of the Guides?

6. What changes, if any, have the Guides had on operating procedures and substantive business conduct of bank holding companies?

Specific

7. What benefits are derived from the five year average balance sheet provision of Item I (Distribution of Assets, Liabilities and Stockholders' Equity)? Is it necessary to provide both average dollar amounts and percentages? Could this requirement be combined with Item VII A (Interest Rates and Interest Differential)?

8. When discussing a tax equivalent presentation, should an explanation be furnished for material shifts in the tax-free investment portfolio where such material shifts have occurred during the period being discussed?

9. Should the 60 day past-due period for determining nonperforming loans, as found in Item III C (Loan Portfolio, Nonperforming Loans), be revised?

10. What changes, if any, could be made in Item III (Loan Portfolio) and Item IV (Summary of Loan Loss Experience) to better illustrate any risks or uncertainties in the loan portfolio? For example, would a narrative discussion of risks by type of loan in the portfolio be an appropriate alternative to the breakdown of the loan loss reserve by category of loan and, if so, what specific type of information should be included in the narrative discussion?

11. Should Item V (Deposits) be revised to include a separate category for time certificates of deposit which bear interest at a rate based upon the weekly sale of Treasury bills or upon some other governmental rate or index?

12. Should there be any additions to or deletions from the ratios included under Item VI (Return on Equity or Assets)?

13. Would it be more appropriate to include the information under Item VII (Interest Rates and Interest Differentials) on a condensed basis as part of the management's discussion and analysis?

14. Should the use of tax equivalent adjusted information in connection with the presentation of information called for by the Guides or otherwise in a report or registration statement be limited to statements or schedules which present only adjusted net interest income after provision for loan losses?

The Commission is aware that differences in presentation currently exist between certain items of the Guides and Article 9 of Regulation S-X. Any future revision of the Guides is expected to resolve these differences by adopting the approach of Article 9. Accordingly, in commenting upon the Guides interested parties need not point out this type of problem. In addition, the Division of Corporation Finance is presently considering the requirements of Article 9 of Regulation S-X with respect to the reporting of loans to certain "insiders" as a separate issue from the reconsideration of Guide 61. Accordingly, the Commission is also not requesting comments on the reporting of loans to such persons at this time.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 30, 1979.

[FR Doc. 79-28046 Filed 9-7-79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 176

Monday, September 10, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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45627 8–3–79 / Making restrictions governing use of frequency 157.425 MHz (channel 88) by aircraft consistent with restrictions applying to other marine VHF frequencies available to aircraft

FEDERAL HOME LOAN BANK BOARD

47761 8–15–79 / Investment in areas receiving concentrated development assistance

47764 8–15–79 / Investment in State housing corporation

47759 8–15–79 / Investment in State and local government obligations

47763 8–15–79 / Loans for alteration, improvement and repair

FEDERAL RESERVE SYSTEM

46432 8–8–79 / Electronic fund transfers; written notification of loss or theft of access device

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity—

47012 8–9–79 / Compliance procedures for affirmative fair housing marketing

LABOR DEPARTMENT

Employment and Training Administration—

47260 8–10–79 / Comprehensive Employment and Training Act; procedures for waivers of time limtations on public service employment

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

46778 8–9–79 / Exhibition, air-racing, and amateur built aircraft; airworthiness certificate and repairman certification

Listing of Public Laws

Last Listing Aug. 17, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H. J. Res. 244 / Pub. L. 96–62 "National Grandparents Day." (Sept. 6, 1979; 93 Stat. 410) Price $.75.

S. 1146 / Pub. L. 96–63 To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act. (Sept. 6, 1979; 93 Stat. 411) Price $.75.

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52950 **Medical Devices** HEW/FDA proposed regulations to the classification of all hematology and pathology devices; comments by 11–13–79 (Part II of this issue) (109 documents)

53066 **Depositaries and Financial Agents** Treasury/FS revises rules to broaden classes of designated financial institutions; effective 9–14–79 (Part III of this issue)

52850 **Free and Reduced Rate Transportation** CAB proposes to allow, but not require, free transportation of official security guards by foreign air carriers; comments by 11–13–79

52847 **Fare Levels For Certain Air Carriers** CAB proposes to permit carriers from U.S. Mainland-Alaska and intra-Alaska markets to exercise greater degree of downward pricing flexibility; comments by 11–13–79, reply comments 11–28–79

52827 **Mine Accident, Injury and Illness Reports** Labor/MSHA amends rules on investigation and reporting; effective 10–11–79

52916 **Fuel Costs** ICC authorizes extra surcharge for carriers not utilizing owner-operators; effective 9–7–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register.**

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52842 **Outer Continental Oil and Gas Lease Sales** DOE proposes to establish subsequent bidding process; comments by 11–14–79, requests to speak by 9–27–79, hearings 10–2, 10–4, and 10–15–79

52888 **Title I—Elementary and Secondary Education** HEW/OE issues notice of intent to waive certain requirements for American Samoa; effective 10–11–79

52838 **Grain Inspection** USDA/FGIS issues rules regarding fees for original online grain inspection services and mileage costs; effective 12–2–79

52858 **Certain Cotton, Wool, and Man-Made Fiber Textile Products from Republic of Phillippines** CITA anounces additional import controls; effective 9–12–79

52859 **Lawn Trimmers and Edgers** CPSC denies petition to establish rule

52832 **Private Express** PS amends rules regarding enforcement and suspension; effective 10–11–79

52824 **Automatic Transfer of Funds** FHLBB revises rules dealing with maximum rate of return on accounts; effective 9–11–79

52894 **1980 Aggregate Production Quotas** Justice/DEA establishes quotas for all controlled substances in Schedules I and II; effective 9–11–79

52815 **Propyl Gallate** HEW/FDA amends conditions for use as a generally recognized as safe human food ingredient; effective 10–11–79

52947 **Sunshine Act Meetings**

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Rules and Regulations

Federal Register
Vol. 44, No. 177
Tuesday, September 11, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 272

Federal Open Market Committee Rules of Practice

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Federal Open Market Committee of the Federal Reserve System has amended its Rules of Procedure to delete references to Deputy Managers, because of a realignment of staff personnel.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Murray Altmann, Secretary, Federal Open Market Committee, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3253).

The Federal Open Market Committee has amended its Rules of Procedure.

1. Effective August 14, 1979 § 272.3(d) and (e) of Rules of Procedure (12 CFR Part 272) is revised to read as follows:

§ 272.3 Meetings.

* * * * *

(d) *Attendance at meetings.* Attendance at Committee meetings is restricted to members and alternate members of the Committee, the Presidents of Federal Reserve Banks who are not at the time members or alternates, staff officers of the Committee, the Managers, and such other advisers as the Committee may invite from time to time.

(e) *Meeting agendas.* The Secretary, in consultation with the Chairman, prepares an agenda of matters to be discussed at each meeting and the Secretary transmits the agenda to the members of the Committee within a reasonable time in advance of such meeting. In general, the agendas include approval of minutes of actions; reports by the Managers on open market operations since the previous meeting, and ratification by the Committee of such operations; reports by Economists on, and Committee discussion of, the economic and financial situation and outlook; Committee discussion of monetary policy and action with respect thereto; and such other matters as may be considered necessary.

(5 U.S.C. 552)

2. The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of this action because the rules involved are procedural in nature and accordingly do not constitute substantive rules subject to the requirements of such section.

By order of the Federal Open Market Committee, August 27, 1979.

Murray Altmann,

Secretary.

[FR Doc. 79-28221 Filed 9-10-79; 8:45 am]
BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 505c

[No. 79-467]

National Security Information; Handling Classified Information

September 5, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This new regulation establishes the policy of the Federal Home Loan Bank Board regarding handling of classified material. The Bank Board has not previously adopted regulations on this subject. Publication of this regulation is required by Executive Order.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: Executive Order 12065, 43 FR 28949 (1978), established new policy for the classification, safeguarding, and declassification of national security information, i.e., information classified Top Secret, Secret, or Confidential. Under that Order, each agency that handles such information must establish procedures regarding such handling and publish them in the **Federal Register**. In accordance with that requirement the Bank Board is amending its General Regulations (12 CFR Subchapter A) by adding a new Part 505c.

The new part includes the following:

(1) Statement of Bank Board policy regarding information security;

(2) Designation of an administrator for the Bank Board's information security program; and

(3) Mandatory review procedure.

The Bank Board finds that notice and public procedure are unnecessary under 12 CFR 508.11 and 5 U.S.C. 553(b) because the regulation concerns internal Bank Board procedures, and that publication of the regulation for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to effective date is unnecessary for the same reason.

Accordingly, the Bank Board hereby amends Subchapter A of its regulations by adding a new Part 505c thereto, to read as follows:

PART 505c—NATIONAL SECURITY INFORMATION

Sec.

505c.1 Purpose and scope.
505c.2 Policy.
505c.3 Administration of program.
505c.4 Procedures.

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); E.O. 12065, 43 FR 28949 (1978). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071

§ 505c.1 Purpose and scope.

(a) This part is issued by the Board pursuant to the requirement of Sec. 5-402 of Executive Order 12065, 43 FR 28949 (1978) ("the Order"), that unclassified regulations that establish information security policy and unclassified guidelines for systematic declassification review, which affect the public, be published in the **Federal Register.**

(b) This part covers all information and material handled by the Board that is owned by, produced for or by, or under the control of, the United States Government, has been determined pursuant to the Order or prior Orders to require protection against unauthorized disclosure, and is so designated. Such

material is referred to in this Part as classified information.

§ 505c.2 Policy.

It is the Board's policy to act in accordance with the Order with respect to all classified information.

§ 505c.3 Administration of program.

The Director, Administrative Services Division (the "Director"), shall (a) implement and oversee the Board's information security program; (b) receive questions, suggestions, and complaints regarding it; (c) make changes to it as he deems advisable; (d) assure that it is at all times consistent with the Order; and (e) receive requests for declassification regardless of the origin of the request, assuring that requests are acted upon within 60 days and that requests submitted under the Freedom of Information Act are handled in accordance with that Act.

§ 505c.4 Mandatory review procedure.

The Director shall process requests for mandatory review for declassification. The Director shall not refuse to confirm the existence or non-existence of a document requested under the Freedom of Information Act or the Mandatory Review Provision of the Order, unless the fact of its existence or non-existence would itself be classifiable under the Order.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-28279 Filed 9-10-79; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Part 526

[No. 79-466]

Maximum Rate of Return on Accounts Subject to Automatic Transfer

September 5, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment increases from 5% to 5.25% the maximum return that members of the Federal Home Loan Bank System may pay on accounts that are subject to automatic transfer of funds to another account. The maximum authorized rate on such accounts in member institutions is required by statute to equal the maximum rate that FDIC-insured banks (excluding mutual savings banks) may pay on such accounts. The maximum authorized rate on commercial bank deposits was recently increased to 5.25%, and this amendment conforms the Bank System regulations to that change.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: Section 526.3(a)(9) of the Regulations for the Federal Home Loan Bank System (12 CFR 526.3(a)(9)) limits to 5% the rate that a member institution may pay on any savings account or deposit that is subject to automatic transfers to the institution itself or to a demand or deposit account of the accountholder. This limitation was adopted to implement title XVI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 which provided that there shall be no differential between the maximum interest payable on such accounts by banks (other than savings banks) whose deposits are insured by the Federal Deposit Insurance Corporation and by thrift institutions whose deposits are insured by the Federal Savings and Loan Insurance Corporation or by mutual savings banks. The 5% maximum rate in § 526.3(a)(9) equalled the maximum authorized rate on bank deposits at the time the section was adopted.

However, the maximum authorized rate of return on bank deposits was recently increased to 5.25%. Therefore, in conformity with that change, the Bank Board is amending § 526.3(a)(9) to reflect an equal increase in the rate applicable to member institutions.

It should be noted that § 526.3(a)(9) in no way authorizes automatic transfer accounts. It merely sets the maximum interest rate payable on these accounts in any State where any provision of State or Federal law permits them to be offered by member institutions.

Because this change is conforming in nature, and because the Bank Board believes it is in the public interest that there should be no interruption in the uniformity of rate ceilings applicable to these accounts, the Bank Board has determined to dispense with (1) notice and public procedure under 5 U.S.C. 553(b) and 12 CFR 508.11 and (2) publication of the amendment for the 30-day period prescribed in 5 U.S.C. 553(d) and 12 CFR 508.14.

Accordingly, the Bank Board hereby amends § 526.3(a)(9) of the Bank System Regulations (12 CFR 526.3(a)(9)), to read as set forth below.

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

* * * * *

(9) 5.25%—savings accounts or deposits which are subject to automatic transfers to the member itself or to a demand or deposit account of the same accountholder, made as a normal practice, according to a prearranged agreement with the accountholder, to cover checks, drafts, or similar instruments drawn by the accountholder on the member.

* * * * *

(Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-28271 Filed 9-10-79; 8:45 am]

BILLING CODE 6720-01-M

12 CFR Part 545

[No. 79-468, Dated September 5, 1979]

Federal Savings and Loan System; Operations—Technical Clarification

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This rule clarifies the Bank Board's intention regarding the order of application of two recently adopted amendments that revised the same regulations.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Board Resolution No. 79-316, published in the **Federal Register** July 3, 1979 (44 F.R. 39108), adopted a revision of most of the Rules and Regulations for the Federal Savings and Loan System, including Part 545 of those Regulations (12 CFR Part 545). The effective date of the revision was August 3, 1979.

On August 2, 1979, the Bank Board, by Board Resolution No. 79-421, adopted additional amendments to Part 545 which became effective immediately. Those amendments were published in the **Federal Register** August 8, 1979 (44 F.R. 46441). The amendments were intended to supersede and amend the revision published on July 3, and the section numbers changed by the amendments were those of revised Part 545. However, because the effective date of the earlier revision follows the effective date of the later amendments, the effect of the two amendments may be unclear.

Therefore, the Bank Board has determined to restate the affected language of the sections involved. Accordingly, §§ 545.1-1 and 545.4 should read in part as set forth below.

§ 545.1-1 Rates of return on savings accounts.

* * * * *

(b) *Fixed balance bonus account.* The board of directors of a Federal association which has adopted the bylaw in § 544.6(e) of this subchapter may determine that, in addition to earnings distributed on savings accounts, the association will distribute a bonus on accounts of a minimum amount maintained for a minimum qualifying period (at least 3 months but not more than 36 months), as follows:

* * * * *

(4) If any part of a fixed-balance bonus account is withdrawn before expiration of the term, the penalty prescribed in § 526.7(a) of this chapter shall apply. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

* * * * *

§ 545.4 Withdrawals.

(a) *Withdrawal prior to expiration of term.* (1) If any part of a savings account authorized under § 545.1-1(f), or any part of a fixed-term savings deposit, is withdrawn before expiration of the term, the penalty prescribed in § 526.7(a) of this Chapter shall apply. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), such penalty shall not be applied.

* * * * *

(3) An association may provide that an account owner cannot withdraw any part of a fixed-term savings deposit or certificate account before its term expires except in the event of death, or adjudication of incompetence, of an account owner and under such other emergency circumstances as may be set forth in the certificate evidencing the account.

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464). Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-28297 Filed 9-10-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 184

[Docket No. 78N-0106]

Direct Food Substances Affirmed as Generally Recognized as Safe; Propyl Gallate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the conditions of use for propyl gallate as generally recognized as safe (GRAS) direct human food ingredient. The change is made because the currently permitted conditions of use are not in accord with traditional good manufacturing practice, the conditions FDA considered in its evaluation of the safety of propyl gallate as a GRAS ingredient. This action revokes the currently permitted conditions of use for the ingredient in food and affirms as GRAS the conditions of use traditionally permitted under good manufacturing practice.

EFFECTIVE DATE: October 11, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 5, 1978 (43 FR 19422), FDA proposed to modify the regulation affirming the GRAS status of propyl gallate to restore the conditions of use traditionally permitted under good manufacturing practice and considered during FDA's evaluation of the safety of propyl gallate as a GRAS ingredient. Traditionally, under good manufacturing practice, propyl gallate, alone or in combination with other antioxidants, did not exceed 0.02 percent of the fat or oil content of the food. However, the GRAS affirmation proposal for propyl gallate that was published in the **Federal Register** of September 23, 1974 (39 FR 34199) inadvertently proposed different conditions of use. These conditions (maximum level of 0.015 percent of food) permitted the use of propyl gallate in food independent of both the fat and oil content of the food and the content of other antioxidants. This altered condition of use was adopted in the final regulation (§ 184.1660 (21 CFR 184.1660)), published in the **Federal Register** of December 7, 1976 (41 FR 53613).

One comment was received in response to the agency's proposed modification of § 184.1660. A manufacturer of cereal grain products requested an additional condition of use for propyl gallate in food and particularly in breakfast cereals. The suggested additional condition of use would permit a level of propyl gallate, alone or in combination with other antioxidants, of 50 parts per million (ppm) (0.005 percent) in food, irrespective of the fat or oil content of the food.

In 1960, the same manufacturer petitioned FDA for a food additive regulation to permit the use of 50 ppm propyl gallate in breakfast cereals. This petition was denied by FDA because of insufficient safety information to support this use. Based on the safety information for propyl gallate that was accumulated and evaluated under the GRAS Review Program, the manufacturer requested FDA to reconsider this use.

FDA recognizes that the Select Committee, in its evaluation of the safety of propyl gallate in food, concluded there was no evidence demonstrating propyl gallate to be a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Despite this conclusion, however, the Select Committee recognized difficulties in the interpretation of some reports. In addition, results from the 1970 National Academy of Science/National Research Council survey of food manufacturers on the use of GRAS ingredients and the Market Research Corporaton of America survey of food consumption suggest that the use of propyl gallate in breakfast cereals could result in a twofold or greater increase in overall consumption of propyl gallate. Moreover, the greatest increase (in terms of milligrams (mg) propyl gallate consumed per kilogram (kg) body weight) would occur in infants (0 to 5 months, 6 to 11 months) on

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account of the disproportionate consumption (per kg body weight) of breakfast cereals by these groups. Furthermore, butylated hydroxyanisole (BHA) and butylated hydroxytoluene (BHT), two alternative antioxidants to propyl gallate, are currently under review by FDA, and uncertainties exist regarding some aspects of their safety. Traditionally permitted conditions of use for propyl gallate, as established in this final rule, would permit its substitution for the GRAS uses of BHA and BHT. This substitution of antioxidants would itself result in a considerable increase in consumer exposure to propyl gallate. Finally, the available toxicity studies for propyl gallate were conducted in the late 1940's and early 1950's. Although these data, combined with the long history of use of propyl gallate as an antioxidant, are currently adequate to reaffirm the GRAS status of current and predicted future uses of propyl gallate at a level of 0.02 percent of the fat or oil content of the food, they are inadequate to support additional new uses of the ingredient.

Propyl gallate has traditionally been added to food to retard rancidity development, and traditional conditions of use, as reestablished by this final rule, are 0.02 percent of the fat or oil content of the food. Data available to FDA are insufficient to establish the functionality of 0.005 percent propyl gallate as an antioxidant in low-fat-containing foods.

As a result of these considerations, the agency concludes that the current safety data for propyl gallate are insufficient to support the potentially vast expansion in consumption of the ingredient that might result from the requested use of propyl gallate at a level of 0.005 percent in food irrespective of the fat or oil content of the food. The agency also concludes that the data concerning the functionality of propyl gallate as an antioxidant in low-fat-containing foods are also inadequate to support this use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 184 is amended in § 184.1660 by revising paragraph (d) to read as follows:

§ 184.1660 Propyl gallate.

* * * * *

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Good manufacturing practice results in a maximum total content of antioxidants (consisting of propyl gallate alone or in combination with other antioxidants) of 0.02 percent of the fat or oil content, including the essential (volatile) oil content, of the food.

Effective date. This regulation shall be effective October 11, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: September 4, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28004 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 40, 41, 43, 44, 46, 48, 70, 75, 77, and 100

Federal Mine Safety and Health; Technical, Nonsubstantive Revisions and Miscellaneous Amendments; Corrections

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Correction of Final Rules.

SUMMARY: This document corrects authority citations to several MSHA rules that appeared in the **Federal Register** in 1978 and 1979 without complete parallel citations.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: Manuel R. Lopez, Room 436, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235-1157.

SUPPLEMENTARY INFORMATION: This is a technical amendment that is nonsubstantive in nature. Therefore, the Secretary finds that advance notice and public participation are unnecessary. The corrections are as follows:

PART 40—REPRESENTATIVE OF MINERS

1. 30 CFR Part 40. In FR Doc. 78-18892 appearing on pages 29508 through 29510 in the **Federal Register** of Friday, July 7, 1978, the authority citation on page 29509 is corrected to read:

Authority: Secs. 5(f)(1), 101(c) and (e), 103(c), (f), (g)(1) and (g)(2), 104(c), 105(a), (b)(1), (c)(1), (c)(2), (c)(3), and (d), 107(b)(1) and (e)(1), 109(b), 115(a)(1) and (a)(2), 302(a), 305(b), 312(b), 505 and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 83 Stat. 745, 91 Stat. 1294, 1295, 1298, 1299, 1301, 1303, 1304, 1305, 1308, 1310 and 1316, 83 Stat. 766, 777, 785, 802, and 803 (30 U.S.C. 804(f)(1), 811(c) and (e), 813(c), (f), (g)(1) and (g)(2), 814(c), 815(a), (b)(1), (c)(1), (c)(2), (c)(3) and (d), 817(b)(1) and (e)(1), 819(b), 825(a)(1) and (a)(2), 862(a), 865(b), 872(b), 954 and 957); Sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1322 (30 U.S.C. 801 note).

PART 41—NOTIFICATION OF LEGAL IDENTITY

2. 30 CFR Part 41. In FR Doc. 78-18893 appearing on pages 29510 through 29513 in the **Federal Register** of Friday, July 7, 1978, the authority citation on page 29512 is corrected to read:

Authority: Secs. 103(h), 109(d) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1299 and 1310, 83 Stat. 803 (30 U.S.C. 813(h), 819(d) and 957); Sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1322 (30 U.S.C. 801 note).

PART 43—PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS

3. 30 CFR Part 43. In FR Doc. 78-18894 appearing on pages 29513 through 29516 in the **Federal Register** of Friday, July 7, 1978, the authority citation on page 29515 is corrected to read:

Authority: Secs. 103(g), and 508 of the Federal Mine Safety and Health Act of 1977 Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1298 83 Stat. 803 (30 U.S.C. 813(g) and 957); Sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1322 (30 U.S.C. 801 note).

PART 44—RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS

4. 30 CFR Part 44. In FR Doc. 78-18895 appearing on pages 29516 through 29524 in the **Federal Register** of Friday, July 7, 1978, the authority citation on page 29518 is corrected to read:

Authority: Secs. 101 and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291, 83 Stat. 803 (30 U.S.C. 811 and 957); Sec. 301(c)(3) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)).

5. 30 CFR Part 44. In FR Doc. 78-22222 appearing on page 35687 in the **Federal Register** of Friday, August 11, 1978, insert the following authority citation immediately following correction item number 2 and before the words "Dated: August 1, 1978.":

(Secs. 101 and 508 of the Federal Mine Safety and Health Act of 1977 Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291, 83 Stat. 803 (30 U.S.C. 811 and 957); Sec. 301(c)(3) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1318 (30 U.S.C. 961(c)(3)))

PART 46—STATE GRANTS FOR ADVANCEMENT OF HEALTH AND SAFETY IN COAL AND OTHER MINES

6. 30 CFR Part 46. In FR Doc. 79-15163 appearing on pages 28588 through 28592 in the **Federal Register** of Tuesday, May 15, 1979, the authority citation on page 28588 is corrected by adding at the end of the citation the following:

* * * 83 Stat. 800, 803 (30 U.S.C. 953, 957).

PART 48—HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

7. 30 CFR Part 48. In FR Doc. 78-29001 appearing on pages 47454 through 47468 in the **Federal Register** of Friday, October 13, 1978, the authority citation on page 47460 is corrected to read:

Authority: Secs. 101 and 115 (a), (b) and (c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291, 1315-1316 (30 U.S.C. 811, 825 (a), (b), and (c)).

8. 30 CFR Part 48. In FR Doc. 79-871 appearing on pages 1979 through 1980 in the **Federal Register** of Tuesday, January 9, 1979, insert the following authority citation on page 1980 immediately following amendment item No. 6 and before the words "Dated: January 2, 1979.":

(Secs. 101 and 115 (a), (b) and (c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291, 1315-1316 (30 U.S.C. 811, 825 (a), (b) and (c))).

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

9. 30 CFR Part 70. In FR Doc. 78-35640 appearing on pages 40760 through 40764 in the **Federal Register** of Tuesday, September 12, 1978, insert the following authority citation on page 40764 immediately following amendment item No. 9:

(Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811); Sec. 301 of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1317 (30 U.S.C. 961)).

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES.

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

10. 30 CFR Parts 75 and 77. In FR Doc. 79-4713 appearing on pages 9379 through 9380 in the **Federal Register** of Tuesday, February 13, 1979, insert the following authority citation on page 9380 immediately following amendment item No. 9 and before the words "Dated: February 2, 1979.":

(Sec. 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 83 Stat. 803 (30 U.S.C. 957)).

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

11. 30 CFR Part 100. In FR Doc. 78-14789 appearing on pages 23514 through 23519 in the **Federal Register** of Tuesday, May 30, 1978, the authority citation on page 23517 is corrected to read:

Authority: Secs. 105, 110 and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1303 and 1311, 83 Stat. 803 (30 U.S.C. 815, 820 and 957); Sec. 307 of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 91 Stat. 1322 (30 U.S.C. 801 note).

Dated: July 26, 1979.

Eckehard Muessig,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-28276 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-43-M

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30 CFR Part 50

Mine Accident, Injury, and Illness Reports

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule amends the existing regulation on the investigation of mine accidents and injuries and the reporting of mine accidents, injuries, illnesses, employment, and coal production. The amended regulation requires operators to complete all of section C of the Mine Accident, Injury and Illness Report (Form 7000-1) for occupational injuries and illnesses.

The information now clearly required by the amended regulation is necessary to enable MSHA to analyze injury and illness causation factors needed to properly evaluate and develop Federal mine safety and health standards and programs.

EFFECTIVE DATE: October 11, 1979.

FOR FURTHER INFORMATION CONTACT: Inga A. Watkins, Room 436, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1157.

SUPPLEMENTARY INFORMATION:

I. Statutory and Rulemaking Background

This amendment is issued pursuant to the Federal Mine Safety and Health Act of 1977, (Sec. 508, Pub. L. 91-173, as amended by Pub. L. 95-164, 83 Stat. 803 (30 U.S.C. 957)) and is exempted from the notice and comment procedures of 5 U.S.C. § 553 by 5 U.S.C. § 553(b)(B). The Assistant Secretary for Mine Safety and Health finds that advance notice and public participation is unnecessary and contrary to the public interest for the reasons stated below.

The existing § 50.20-6(a) was intended to apply to accidents, occupational injuries and occupational illnesses and has been consistently interpreted by MSHA to so apply. The manner in which the regulation has been construed and enforced is well known to members of the mining industy and the vast majority of mine operators have been complying with § 50.20-6(a) accordingly. However, in a recent case, an administrative law judge of the Federal Mine Safety and Health Review Commission held that § 50.20-6(a) only requires mine operators to provide information concerning accidents as defined in § 50.2(h). Since this amendment undertakes to clarify, not change, the original intent of the existing regulation, and since it is consistent with the administrative practice thereunder, the amendment will have a minimal impact on the mining industry as a whole.

Part 50 implements §§ 103 (a) and (h) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, 813, 841), and was intended to achieve the statutory objective of acquisition and analysis of accident, injury and illness data for the purpose of reducing mine safety and health hazards. Part 50 provides a mechanism for the indentification of those aspects of mining which need intensified attention through health and safety regulation. The information now clearly required by the amended regulation is necessary to enable MSHA to analyze injury and illness causation factors needed to properly evaluate and develop Federal mine safety and health standards and programs. The omission of the data which the revised § 50.20-6(a) requires to be provided in section C

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of the Mine Accident, Injury and Illness Report Form 7000–1 would render the submission of the form partially useless and frustrate the purpose of Part 50. Therefore, immediate clarification is necessary to accomplish the intention of the regulation.

The Mine Accident, Injury and Illness Report (Form 7000–1) will be revised to conform to the changes made by this amendment of Part 50. The revision will not be executed until the next printing of the Form 7000–1. Therefore, operators may utilize the existing form to comply with the amended Part 50 until a revised form is made available by the Mine Safety and Health Administation.

It has been determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044 or constitute a major Federal action significantly affecting the quality of the human environment requiring the preparation of an environmental impact statement.

II. Drafting Information

The principal persons responsible for drafting this rule are Inga A. Watkins and Edward P. Clair, Office of the Solicitor, Department of Labor.

30 CFR Part 50 is amended as follows:

§ 50.20 [Amended]

1. In § 50.20, the last sentence of paragraph (a), is revised to read as follows:

* * * * * *

"When an accident specified in § 50.10 occurs, which does not invlove an occupational injury, sections A, B, and items 5 through 11 of section C of Form 7000–1 shall be completed and mailed to MSHA in accordance with the instructions in § 50.20–1 and criteria contained in § 50.20–4 through § 50.20–6."

§ 50.20–6 [Amended]

2. Section 50.20–6 is amended as follows:

(a) By revising the first sentence to read as follows: "(a) Complete items 5 through 12 for each accident, occupational injury, or occupational illness."

(b) By deleting the paragraph designation and subheading "(a) Accident Information" preceding "Item 5."

(c) By deleting the subheading "Injury and illness information" following the paragraph designation "(b)."

(d) By revising the first sentence in paragraph (b) to read as follows: "Complete items 13–27 for each occupational injury or occupational illness."

(e) By adding the words "injury or illness" after the word "accident" each time it appears in the body of § 50.20–6.

(Secs. 103 (a) and (h), and 508, Pub. L. 91–173, as amended by Pub. L. 95–164, 91 Stat. 1297, 1299, 83 Stat. 803 (30 U.S.C. 801, 813, 957)).

Dated: July 26, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79–28292 Filed 9–10–79; 8:45 am]

BILLING CODE 4510–43–M

POSTAL SERVICE

39 CFR Part 111

Mandatory Use of Business Reply Mail by Federal Agencies

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: The final rule requires all Federal Government departments and agencies to use a modified form of business reply mail, metered reply mail, or stamped self-addressed envelopes when providing envelopes, cards and mailing labels to correspondents for official business reply purposes. Exceptions are provided for census reply mail authorized by Title 13, U.S.C., and fourth class and special service reply mail. This rule is intended to improve accountability for official reply mail.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: James S. Stanford, Manager, Government Revenue and Examination Branch, (202) 245–5001.

SUPPLEMENTARY INFORMATION: On August 14, 1978, the Postal Service published for comment in the **Federal Register** (43 FR 35951; as corrected on August 25, 1978, 43 FR 38049) a proposal to revise sections 137.25 and 137.273f of the Postal Service Manual to carry out the rule summarized above.[1] Interested persons were invited to submit written comments concerning the proposed change by September 13, 1978. Written comments were received from 23 Federal Government organizations and 2 non-government parties. Twenty of the commenters opposed the proposal; five favored it as published, or offered no objections if requested modifications were made. All comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

Thirteen commenters objected to the additional costs and/or the "complex administration" of the proposed rule. The Postal Service has no wish to impose unnecessary cost or administrative burdens on those agencies which find it necessary to use reply mail. We have consequently made a number of changes to reduce the administrative cost of these procedures where it is feasible within the constraints of law. We believe, however, that the financial interests of the Postal Service, as well as those of Federal agencies in general, will best be served by providing a more accurate accounting for returned reply mail. The data provided in such an accounting will ensure proper payment to the Postal Service and also permit agency managers to make cost-effective decisions on the use of reply mail. Considerable experience with similar procedures in use by private mailers leads us to conclude that these regulations as modified are less complex administratively and no more costly than any alternatives which would produce an accurate determination of reply volume.

Six commenters recommended increasing the accuracy of the present system of sampling "Postage and Fees Paid" reply envelopes instead of adopting the business reply mail system. Present procedures call for reply mail to be counted when it is returned to the agency, whereas other official mail is counted when it is sent. While some improvement to this approach may be possible with extensive management attention and increased costs, the basic problem with the current procedures that prevents achieving an acceptable level of accuracy is the difficulty in identifying and separating "Postage and Fees Paid" reply mail being returned to a Federal agency from incoming "Postage and Fees Paid" mail. The two kinds of mail appear to be identical. Available evidence indicates that significant volumes of reply mail are not counted, primarily because they are not recognized as reply mail. This is supported by the fact that many Federal agency accounts report little or no official reply volume.

Four agencies requested exemption from the proposed procedures. Three of these argued that they should not be required to use business reply mail since their postage charges are determined by the Postal Service sampling procedures. Postal Service sampling procedures produce statistically reliable results only when a very large volume of mail is available for sampling. Many agencies simply do not have the necessary volume, and such an option would be unavailable to them. We believe it would not be equitable to grant exceptions based solely upon use of Postal Service sampling when that option is not available to all agencies. Official business reply mail, however, would be open to all agencies regardless of size. In addition, that part of the cost of the Postal Service sampling procedures that relates to the counting of official reply mail should properly be paid by the agency for whom the work is performed. The official business reply system provides a fair and equitable method of assigning that cost to the using Federal agency.

The fourth agency, the Bureau of the Census, requested an exemption for the following reasons, among others. The Bureau advised that on March 28, 1980 it will mail out about 80 million addressed questionnaires to households throughout the country for the 1980 Census of Population and Housing. Householders will be asked to return the completed questionnaires on April 1, 1980. It is anticipated that over 50 million households will return the forms by mail within a three day period. As to the remaining 30 million households, they must be contacted by census enumerators for a direct interview. The Bureau said that if it were required to use official business reply mail for this census, vital time would be lost while the 50 million reply questionnaires were being counted in destination post offices. This would delay the process of hiring and training enumerators and determining which households they must visit. Ultimately, the ability of the Bureau to meet its obligation to provide final population figures to the President by January 1, 1981 might be put in jeopardy. Although the effective date of this rule would not require its application to the 1980 Census of Population and Housing, the same argument will apply to the next such Census in 1985.

It appears to the Postal Service that if the business reply system were applied to the Census Bureau, delays might be incurred in the process of counting immense amounts of such business reply census mail. It also appears that the prime mission of the Census Bureau, to count accurately the people and households of the United States, and the systems it has developed to carry out that mission, practically insure an accurate count and record of the Bureau's census reply mail. For these reasons, and in reliance upon the Bureau's statements, the Postal Service believes it would be in the public interest to grant an exemption for official mail relating to a collection of statistics, survey, or census authorized by title 13, United States Code, and addressed to the Department of Commerce or a bureau or agency thereof. Accordingly, mail of this kind, which is specifically authorized by statute, see 39 U.S.C. 3202(a)(3), would continue to qualify for "Postage and Fees Paid" treatment pursuant to 137.31 of the Domestic Mail Manual.

As to 137.32 of the Domestic Mail Manual, we have revised that section to make clear that official business reply mail may be used by clerks of court to transmit mail relating to naturalization.

Six commenters said that the $75 accounting fee in proposed 137.273f(2)(b) for each post office where mail for an agency is authorized to be returned would be unjustified. We based this fee on procedures used for regular business reply mail in which payment and accounting occur at each post office where mail is returned. For official business reply mail, however, commenters stated that the low volume of business reply at numerous small offices would make the acounting fee alone greatly exceed existing postage, and would be excessive. We agree that the accounting fee as orginally proposed would not be appropriate because of the unique aspects of our official mail accounting system. That system is centralized at Postal Service Headquarters and does not require more than one annual accounting fee for each permit issued.

Four agencies said that the requirement in proposed 137.252c for a printed address on official business reply mail would be costly and administratively complex, because each of the large number of locations to which reply mail would be returned would need a separate supply of business reply envelopes, cards and labels. The commenters pointed out that the problem would be further complicated by the low reply mail usage rate at many of these locations. We believe these to be valid points and have consequently modified 137.252c(2) to permit use of typewritten or handstamped addresses or printed, gummed address labels.

One commenter objected to the requirement in proposed 137.252c(2) that the agency return address appear in the upper left corner of the mail piece. The purpose of this requirement was to ensure that the agency be clearly identified, since the address where the mail is to be returned may not always provide the agency name. We note, however, that the agency name will be required as part of the statement "Postage Will be Paid By (Name of Goverment Agency)". Accordingly, we believe this will be sufficient identification for Postal Service employees to determine that the agency is an authorized user of Official Mail. The regulation has consequently been modified to eliminate the requirement for a return address in the upper left corner. The statement "Official Business, Penalty for Private Use, $300" will continue to be required in that area.

Three commenters indicated that they presently use "Postage and Fees Paid" covers for return of fourth-class matter, and for registered return of official mail matter. Neither of these uses is presently authorized for business reply mail. Regular business reply mail is limited to First-Class Mail and cannot be accompanied by special services. However, special services and fourth class reply are permitted by the existing regulations for official reply mail. The Postal Service does not wish to eliminate a service currently provided and needed by our Federal customers. Accordingly, we are including an exception in new 137.252f, which permits, after written approval is granted, distribution of "Postage and Fees Paid" covers for return of official mail at fourth-class rates or with a special service provided. There must be an agreement between each using agency and the Manager, Government Revenue and Examination Branch, concerning procedures for distribution and accounting for return volume. Although this exception will continue limited use of current reply procedures, we believe the relatively low volume, the small number of agencies likely to be involved, and the unique nature of the requirement will permit accurate accounting based upon special agreements with each agency.

One commenter objected to the requirement that agencies notify the Postal Service of all post offices through which official business reply mail will be returned under a single permit number. It is essential that the Postal Service have this information in order to alert each post office where mail will be returned and to ensure proper reporting. This information should also be used by agency mail managers to evaluate and control the use of official business reply mail. We would not expect that

[1] When this proposed rule was published in the **Federal Register** in August 1978, it was drafted as an amendment to Chapter I of the Postal Service Manual. Since that time, however, Chapter I of the Postal Service Manual has been replaced by the Domestic Mail Manual, which, among other things, carries forward the regulations on official mail and became effective on July 30, 1979. See 44 FR 39742. In view of the obsolescence (with certain exceptions not pertinent here) of Chapter I of the Postal Service Manual, the final rule has been drafted as an amendment of the Domestic Mail Manual. The numbering system of Part 137—OFFICIAL MAIL in the Domestic Mail Manual is the same as it was in the Postal Service Manual.

providing this information would be excessively complex or would add significant additional cost. In fact, it seems to us that the required information would already be available to agency mail managers if they were properly monitoring the current agency sampling procedures for reply mail. For these reasons, this requirement must be retained.

Another commenter suggested that the format instructions in 131.235 should be made applicable to official business reply mail. This has already been done, both in the proposal and the final rule. See 137.252c of the Domestic Mail Manual, as revised. The same commenter said that the illustration of the business reply format should also show the dimensions relating to the exact placement of the bar code pattern. This has been done in the final rule.

Four commenters objected to the proposed implementation date of April 1, 1979. To provide time to use existing stocks of "Postage and Fees Paid" reply envelopes and implement the new procedures, the effective date of the final rule has been extended to September 1, 1980. 137.252g has been added to reflect this effective date. If there should be additional problems with this date because of otherwise unusable stocks of "Postage and Fees Paid" envelopes, agencies should contact the Postal Service.

We also made minor, clarifying changes to 137.273f(3) of the Domestic Mail Manual.

For the above reasons, the Postal Service hereby adopts, as amended, the following amendment to the Domestic Mail Manual, effective September 1, 1980:

Part 137—Official Mail

1. In 137.2 of the Domestic Mail Manual, revise .25 and .273f to read as follows:

137.25 Reply and Contractor Use.

.251 *General.* Except as provided in 137.252, .253, and 137.31, a department or agency authorized to use the official mail privilege may not loan or furnish official envelopes, cards, cartons, or labels to any private person, concern, or organization or permit the use of such envelopes, cards, cartons, or labels for private benefit.

.252 Business Reply.

a. A department or agency authorized to use the official mail privilege that wishes to distribute official envelopes, cards, cartons, or labels to any person, concern, or organization from or through whom official matter is desired, must use either the business reply format provided by 137.252 c and d, the metered reply format provided by 144.112, the fourth class and special services reply procedures in 137.252f or affix adhesive postage stamps. "Postage and Fees Paid" envelopes, cards, cartons, and labels (described in 137.242 and .243) may not be distributed for reply purposes except as provided in 137.252f and 137.31.

b. To use business reply mail, a department or agency must apply for a business reply permit in accordance with the provisions of 137.273f. A department or agency which holds a postage meter license may distribute official metered reply cards and envelopes for return to the meter license holder as provided in 144.112. Fourth class and special service reply procedures may be used only after application and approval in accordance with 137.252f. Adhesive postage stamps may be pre-applied to cards and envelopes distributed for reply purposes under the provisions of 137.248.

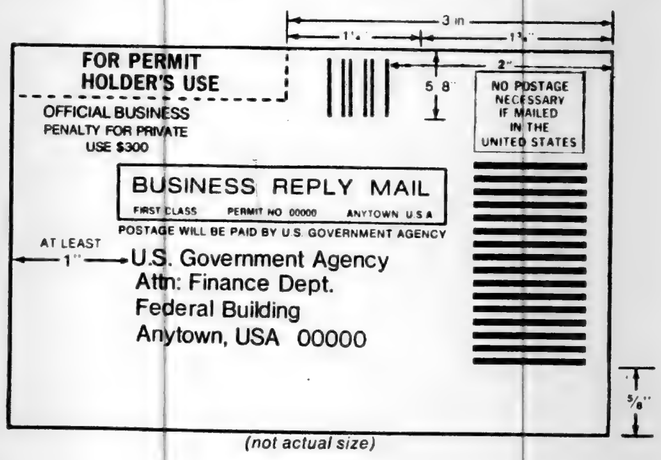
c. Official business reply envelopes must bear the address of one of the authorized departments or agencies listed in 137.231 or one of their component units. They must be printed in the format required by 917.5 with the following exceptions:

(1) The legend required by 917.52a(4) must read "POSTAGE WILL BE PAID BY (name of authorized U.S. Government Agency)".

(2) The address may be printed, typewritten, or handstamped directly on the mail piece, or a printed gummed label may be affixed in the address area. All other preparation requirements for the address side in 917.51 must be met.

(3) The space for permit holders' use described in 917.52b(3)(e) must include the statement, "Official Business, Penalty for Private Use, $300". Space above this statement may be used for return address, logos, distribution codes, etc.

d. The following is an illustration of the official business reply mail format:



(not actual size)

e. Instructions in 144.112 a, b, and c governing the preparation of the address side of metered reply cards and envelopes also apply to official metered reply mail.

f. Departments and agencies that wish to distribute official envelopes, cards, cartons or labels for return at fourth class rates or which require a special service may use the "Postage and Fees Paid" format in 137.242 and .243 after written approval is granted by the Manager, Government Revenue and Examination Branch. Requests to use this procedure should be submitted in writing to the Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service Headquarters, Washington, D.C. 20260. Such request must include: (1) the service desired, (2) the post offices to which the mail will be returned, and (3) the proposed procedures to determine actual volume and postage due. Return envelopes, cards, cartons, or labels used under this provision must have the appropriate fourth-class classification or the special service desired preprinted on them.

g. All official envelopes, cards, cartons, or labels distributed for reply purposes after August 31, 1980 must comply with the requirements of 137.251 and .252 a, b, c, d, e and f as appropriate.

.253 Contractor

a. A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of that department or agency matter printed at Government expense. As provided in 137.254, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

b. A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize non-printer-mailer contractors to use official envelopes and labels, pre-addressed to a Federal Government office or officer, for the transmission of official matter for a specified time, or in the performance of specific contracts with the office or officer. As provided in 137.254, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

c. The Manager, Government Revenue and Examination Branch, Finance Department, or his designee, shall review each request under 137.253 a or b and permit the department or agency to authorize contractor use of official envelopes and labels for a period of one year if he determines that the department or agency has established sufficient accountability procedures to insure reimbursement to the Postal Service for mail service provided to contractors. In making this determination, the Manager, or his designee, shall consider factors including, but not limited to, the following:

(1) Any relevant misuse of the official mail privilege, including the misuse of official envelopes or labels for the transmission of nonofficial matter by contractors licensed by the department or agency under 137.253 a or b.

(2) Any relevant failure of the department or agency to comply with official mail reimbursement instructions issued by the Manager under 137.21, including failure to establish accurate methods for estimating or measuring the volume of official mail;

(3) The method, such as use of a permit imprint, bulk permit, or meter, proposed by the department or agency for obtaining adequate information to insure full reimbursement for the proposed contractor use of official mail.

d. Official envelopes and labels used by any contractor (as provided in 137.253 a and b) must bear the printed return address of one of the authorized departments or agencies listed in 137.321 and must be printed in the form set out in 137.242 and .243. No return name and address of a private person, concern, organization, or contractor may be shown. When a special service is required for contractor mailings, the type of special service desired must be preprinted on the envelope or label. Private users of official envelopes and labels may not add their own marking for these services.

. 254 Reimbursement

Departments and agencies authorized to use the official mail privilege must reimburse the Postal Service for the private use of official envelopes and labels under 137.252 and .253, as provided in instructions issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Departments and agencies, and any contractors authorized by them to use official envelopes and labels, shall promptly furnish, in the manner and form requested, all information, including but not limited to contractor name, points and dates of mailing, classes, quantities, and single-piece weights of mail matter, the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

* * * * *

.273 Mailing Permits

* * * * *

f. *Business Reply Mail.* (1) *Application.* (a) A Federal Government department or agency that wishes to furnish official return envelopes to correspondents may apply for an official business reply mail permit by filing an application in duplicate on Form 3614, *Application to Distribute Business Reply Cards, Envelopes, Cartons and Labels.* The application may be filed at the post office where the mail will be returned, or at the post office where the agency headquarters is located if mail bearing a single business reply mail permit number will be returned to offices in more than one city.

(b) When the postmaster receives the application, he will annotate both copies "Federal Government Agency" and complete the approval and permit portions of the form. The orginal permit portion of the form will be given to the applicant. The original application portion will be filed at the post office by permit number. The postmaster will forward the duplicate copy of the application and the duplicate permit portion to the Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service Headquarters, Washington, D.C. 20260.

(c) Departments and agencies must notify the Manager, Government Revenue and Examination Branch, at the above address if business reply mail having a single permit number will be returned through post offices other than the permit issuing post office. This notification must include, for each permit number, the addresses and cities where mail will be returned. The Manager, Government Revenue and Examination Branch will forward the required information to each affected post office.

(2) *Postage and Fees.* (a) An annual business reply permit fee of $30 and an annual accounting fee of $75 will be charged each calendar year for each permit issued.

(b) The amount to be paid for official business reply mail is the appropriate first-class or priority postage plus a fee of 3.5 cents per piece.

(c) *Post offices will not collect money from Federal Government agencies in connection with issuance of business reply permits or for postage and fees due on such mail.* Annual permit fees, accounting fees, postage, and business reply fees will be paid by Federal Government agencies in accordance with the reimbursement procedures of 137.21.

(3) Mailings. The number of pieces of business reply mail returned to a Federal Government agency, together with the amount chargeable for postage fees, will be recorded daily on Form 25, *Trust Fund Account,* by each unit to which mail is returned. At the end of each postal quarter, these Forms 25 will be totaled and sent by the units to the postmaster for consolidation and forwarding to the Manager, Government

Revenue and Examination Branch, Finance Department, U.S. Postal Service Headquarters, Washington, D.C. 20260 for billing purposes. Negative reports on Form 25 are required for each permit if no business reply items are received during a quarter.

* * * * *

2. In 137.3 of the Domestic Mail Manual, revise .32 to read as follows:

137.3 Census and Naturalization Mail.

* * * * *

.32 *Naturalization Mail.* Official envelopes and labels prepared in accordance with 137.252 and pre-addressed to the Department of Justice, to the Immigration and Naturalization Service, or to any of its officials may be used by clerks of courts to transmit mail relating to naturalization.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2))

W. Allen Sanders,
Acting Deputy General Counsel.

[FR Doc. 79-28219 Filed 9-10-79; 8:45 am]

BILLING CODE 7710-12-M

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39 CFR Parts 310 and 320

Enforcement and Suspension of the Private Express Statutes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Private Express regulations as follows: (1) The definition of letter is amended to exclude: certain tangible objects not normally used as letters; liens, releases, and orders of quasi-judicial bodies; letters sent to or from storage, whether or not sent in bulk; tags, bumper stickers and other items intended to be attached to other objects; photographic materials, such as microfilm, sent for and returned from processing; "copy" sent to, and proofs or printed matter returned from, a printer; sound recordings, films, and packets of letters which are to be disseminated to the public; (2) minor changes are made in the definitions of "packet" and "person"; (3) the phrase "identical printed letters" is defined; (4) minor changes are made in the exceptions for cargo, letters of the carrier, and private hands without compensation, and the suspension for certain data processing materials; (5) new suspensions are established for letters carried by colleges or universities for their student and faculty organizations, and certain documents relating to, but not carried with, cargo shipped by ocean carriers.

EFFECTIVE DATE: October 11, 1979.

FOR FURTHER INFORMATION CONTACT:
Charles Hawley, (202) 245-4584.

SUPPLEMENTARY INFORMATION: On December 28, 1978, the Postal Service proposed a number of changes in its regulations which implement the Private Express Statutes (43 FR 60615). In the **Federal Register** of July 6, 1979 (44 FR 40899), the Postal Service announced, among other things, that it expected shortly to publish final rules on certain proposals in the December 28, 1978, rulemaking that had drawn little public comment because they were perceived as easing the restrictions on private carriage or as making minor changes. In this document, we are adopting those rules. A listing and explanation of the adopted rules and a discussion of the comments on them, if any, appears below:

Certain tangible objects not normally used as letters, § 310.1(a)(1): The Postal Service proposed to add a new second sentence to this section to make clear that not all tangible objects upon which messages appear, such as T-shirts, coffee mugs, tombstones, or automobile tires, constitute letters.

One commenter supported and none objected to this proposal.

Liens, releases, and orders of quasi-judicial bodies, § 310.1(a)(7)(iii): The Postal Service proposed to amend this section to list liens in general, releases, and orders of quasi-judicial bodies among the legal documents excluded from coverage of the Private Express Statutes. No comments were received on this proposal.

Letters sent to or from storage, whether or not sent in bulk, § 310.1(a)(7)(vii): The Postal Service proposed to amend this section to eliminate the requirement that packets of letters sent to or from storage or to destruction or as part of a business or household relocation must be sent in bulk to qualify for the exclusion. One commenter supported and none objected to the proposal.

Tags, bumper stickers and other items intended to be attached to other objects, § 310.1(a)(7)(viii): The Postal Service proposed to amend the regulations to provide a general rule for dealing with the matter of messages for attachment to or posting on other tangible objects. One commenter supported and none objected to the proposal.

Photographic materials, such as microfilm, sent for and returned from processing, § 310.1(a)(7)(ix): One commenter said that the exclusion for these materials should apply when they are sent elsewhere than to the originator of the materials. This could result in applying the exclusion to processed materials which are bring sent because of their informational content, *i.e.*, as letters. We have, therefore, not adopted this suggestion.

"Copy" sent from a publisher to a printer, and proofs or printed matter returned from the printer to the office of the publisher, § 310.1(a)(7)(x): Commenters suggested that the exclusion should not be limited to those who publish books or magazines, as implied by the word "publisher" which we used in the proposal, but should include those who "publish" other things, e.g., menus, business forms, and advertising circulars. This comment has merit. The purpose of the proposal is to create an exclusion for printing "work-in-progress". The transmittal of menus, business forms and advertising circulars for publication clearly falls within such an exclusion.

One commenter suggested that the exclusion should cover materials sent to compositors as well as to printers. This suggestion also appears reasonable and has been incorporated into the final regulation.

Despite comments to the contrary, we believe that the exclusion should not apply when proofs or printed matter are returned from the printer to locations other than the originating office of the publisher. The purpose of this restriction is to limit the exclusion to "work-in-progress" between the originating person or his office and the printer. In order to make it clear that the exclusion applies only for material sent between the originating person or his office and the printer, we are deleting the word "single" used in the proposal, since that word might be interpreted to imply that material could be originated in an office in one place and returned by the printer to an office in another place so long as it was a "single" office. That is not our intention.

Sound recordings, films, and packets of letters, when all or the overwhelming bulk of the messages are to be disseminated to the public, § 310.1(a)(7)(xi): This exclusion would cover packets of circulars sent for subsequent distribution, as well as recordings and films to be played in public areas, *e.g.*, in stores, as "commercials". The exclusion would not apply to shipments of letters which are intended, for example, for employees of the place to which they are sent or for persons "reasonably identifiable to the sender". The quoted phrase was criticized on the grounds that it is not sufficiently clear. We disagree. Moreover, we intend to interpret the phrase not to defeat the exclusion, but rather to prevent its misapplication to situations not covered by it.

Definitions of "packet", "person" and identical printed letters", §§ 310.1 (b), (c), and (g): No comments were received concerning the revised definitions of "packet", and "person", and the new definition of "identical printed letters". They are being adopted as proposed.

Modification of the exception for letters which accompany cargo, § 310.3(a): The change will permit the private carriage of letters which accompany cargo not only when, as is now the case, they relate exclusively to the cargo, but also when they relate "in all substantial respects" to the cargo or its ordering, shipping, or delivering. It was suggested that there should be an exception for "written or printed matter enclosed with cargo or merchandise." The proposed exception would be so broad as to become the entire rule. It would sweep away the entire rationale for the letters accompanying cargo exception. We cannot adopt it.

"Letters of the carrier", § 310.3(b), and "private hands without compensation", § 310.3(c): No comments were received on the proposed revisions of these phrases. They are being adopted as proposed.

Modification of the suspension for certain data processing materials, § 320.2: This modification would: (a) Treat keypunching as the commencement of data processing; (b) require that the materials be produced "recurringly" rather than "on a regular periodic basis"; (c) specify that when materials are sent to a data processing center, they be sent exclusively for that purpose; (d) make the suspension applicable to the carriage of direct output from the data processing center back to the office of origination if data processing was commenced within 36 hours of receipt at the center; (e) clarify that the suspension does not apply, even though the recipient performs data processing functions, when such processing is not done for or specified by the sender. In response to comments, the final rule utilizes the word "carriage" instead of "transmission" in order to avoid the implication that the regulation relates to electronic transmission. Also, the final rule specifies that clerical work preparatory and incidental to the entry of data will not void the suspension. Use of the data, however, for purposes which are not preparatory and incidental, but, for example, are for substantive decision making, will make the suspension inapplicable. The reason for this is that such use is inconsistent with the purpose of the suspension—facilitating the rapid commencement of data processing.

Some parties commented that data processing materials should not be considered to be letters at all. This suggestion ignores the fact that materials sent to data processing centers contain information recorded in or on tangible objects. Accordingly, materials sent to the centers are letters as defined in § 310.1(a) of the Postal Service's regulations. Similarly, the direct output of data processing consists of information recorded in or on tangible objects, so they too are letters. The suspension for data processing materials is operative when specified time factors pertaining to the carriage and to the commencement of processing of such materials are present, but not otherwise. The suggestion that data processing materials are not letters at all is inconsistent with the definition of letter; the public interest does not require the exclusion of such materials from the definition.

Another commenter suggested that "programs", the instructions which are entered into computers so as to direct the manner in which they process data, should not be treated as letters. Inasmuch as "programs" are separate from the information which is entered into computers for "processing", we believe the comment has merit and it has been incorporated in our final regulation in § 310.1(a)(7)(xii). This reverses a prior advisory opinion.

Two minor clarifying changes were made in the suspension. One change makes it clear that only carriers—not shippers—are required to notify the Private Express Liaison Officer before operating under the suspension. This change is reflected in § 320.2(d). In addition, containers of materials carried under the suspension must show the names and addresses of the sender and the addressee, as an aid to assuring that the operations under the suspension are conducted in accordance with the requirements of the suspension. This is reflected in §§ 320.2(e.)

Suspension of the statutes for letters carried by universities and colleges for their student or faculty organizations. § 320.4: One commenter suggested that the new suspension should apply to the use of internal mail systems for the delivery of letters of student and faculty organizations between campuses of a multi-campus university. We concur with this suggestion and it is reflected in the text of the regulation.

We note also that a university or college's "internal mail system", for purposes of this suspension, is one which operates under the *Letters of the carrier* exception in § 310.3(b). Appropriate clarifying language has been added to the regulation.

Letters related to cargo shipped internationally on ocean vessels. § 320.5: The proposed suspension has been made applicable to shipments not only between the United States and foreign locations, but also to shipments between one of the 48 contiguous states and other states and possessions. We did not consider that the public interest required adoption of the suggestion that the suspension be made applicable to documents when they are shipped in connection with, but separate from, the cargo from the port into which the cargo is imported or to the port from which it will be exported. Also, we did not accept the suggestion that the suspension be made applicable to documents other than those which relate to the cargo. We believe that the suspension, as adopted, is responsive to basic problems which confront ocean carriers with respect to documents which would fall within the *Cargo* exception if they were shipped with the cargo. Other needs of this industry may be satisfied if the Postal Service adopts the recently published proposal for a suspension for "extremely urgent" letters. 44 FR 40076.

Revocation or amendment of suspensions, § 320.6: This section is taken from and is a minor revision of existing § 320.2(d). No comments were received concerning it.

In view of the considerations discussed above, 39 CFR is amended as follows:

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

1. In § 310.1, revise paragraphs (a)(1), (a)(7)(iii), (a)(7)(vii), and paragraphs (b) and (c), and add new paragraphs (a)(7)–(viii)(xii) and paragraph (g) to read as follows:

§ 310.1 Definitions.

(a) * * *

(1) Tangible objects used for letters include, but are not limited to, paper (including paper in sheet or card form), recording disks, and magnetic tapes. Tangible objects used for letters do not include (i) objects the material or shape and design of which make them valuable or useful for purposes other than as media for long-distance communications, unless they are actually used as media for personal and business correspondence, and (ii) outsized, rigid objects not capable of enclosure in envelopes, sacks, boxes or

other containers commonly used to transmit letters or packets of letters.

* * * * *

(7) * * *

(iii) Abstracts of title, mortgages and other liens, deeds, leases, releases, articles of incorporation, papers filed in lawsuits or formal quasi-judicial proceedings, and orders of courts and of quasi-judicial bodies.

* * * * *

(vii) Letters sent to a records storage center exclusively for storage, letters sent exclusively for destruction, letters retrieved from a records storage center, and letters sent as part of a household or business relocation.

(viii) Tags, labels, stickers, signs or posters the type-size, layout or physical characteristics of which indicate they are primarily intended to be attached to other objects for reading.

(ix) Photographic material being sent by a person to a processor and processed photographic material being returned from the processor to the person sending the material for processing.

(x) Copy sent from a person to an independent or company-owned printer or compositor, or between printers and compositors, and proofs or printed matter returned from the printer or compositor to the office of the person who initially sent the copy.

(xi) Sound recordings, films, and packets of identical printed letters containing messages all or the overwhelming bulk of which are to be disseminated to the public. The "public" does not include individuals residing at the place of address; individuals employed by the organization doing business at the place of address (whether or not the actual place of employment is the place of address); individuals who are members of an organization, if an organization is located at the place of address; or other individuals who, individually or as members of a group, are reasonably identifiable to the sender.

(xii) Computer programs recorded on media suitable for direct input. For the conditions under which the Private Express Statutes are suspended for data processing materials, see § 320.2.

(b) "Packet" means two or more letters, identical or different, or two or more packets of letters, under one cover or otherwise bound together. As used in these regulations, unless the context otherwise requires, "letter" or "letters" includes "packet" or "packets".

(c) "Person" means an individual, corporation, association, partnership, governmental agency, or other organization or entity.

* * * * *

(g) The term "identical printed letters" includes letters that differ only in name, address or serial number.

2. In § 310.3, revise paragraphs (a), (b)(1) and (2), and (c) to read as follows:

§ 310.3. Exceptions.

(a) *Cargo.* The sending or carrying of letters is permissible if they accompany and relate in all substantial respects to some part of the cargo or to the ordering, shipping or delivering of the cargo.

(b) *Letters of the carrier.* (1) The sending or carrying of letters is permissible if they are sent by or addressed to the person carrying them. If the individual actually carrying the letters is not the person sending the letters or to whom the letters are addressed, then such individual must be an officer or employee of such person (see § 310.3(b)(2)) and the letters must relate to the current business of such person.

(2) The fact that the individual actually carrying the letters may be an officer or employee of the person sending the letters or to whom the letters are addressed for certain purposes does not necessarily mean that he is an officer or employee for purposes of this exception. The following factors bear on qualifications for the exception: the carrying employee is employed for a substantial time, if not fulltime (letters must not be privately carried by casual employees); the carrying employee carries no matter for other senders; the carrying employee is a regular salaried employee and shares in all privileges enjoyed by other regular employees (including employees not engaged primarily by the letter carrying function), including but not limited to salary, annual vacation time, absence allowed for illness, health benefits, workmen's compensation insurance, and retirement benefits.

* * * * *

(c) *Private hands without compensation.* The sending or carrying of letters without compensation is permitted. Compensation generally consists of a monetary payment for services rendered. Compensation may also consist, however, of non-monetary valuable consideration and of good will. Thus, for example, when a business relationship exists or is sought between the carrier and its user, carriage by the carrier of the user's letter will ordinarily not fall under this exception; or, when a person is engaged in the transportation of goods or persons for hire, his carrying of letters "free of charge" for customers whom he does charge for the carriage of goods or persons does not fall under this exception.

3. Revise § 320.2 to read as follows:

§ 320.2. Suspension for certain data processing materials.

(a) The operation of 39 U.S.C. 601(a)(1) through (6) and § 310.2(b)(1) through (6) of this chapter is suspended on all post routes for data processing materials defined in paragraph (c) on the terms detailed in paragraph (b), subject to the operating requirements in § 320.3.

(b) The suspension referred to in paragraph (a) of this section is for data processing materials conveyed (1) to a data processing center, if carriage is completed within 12 hours or by noon of the addressee's next business day and if data processing work is commenced on such materials within 36 hours of their receipt at the center; or (2) back from the data processing center to the address of the office originating the incoming materials, if carriage is completed within 12 hours or by noon of the addressee's next business day, and if data processing work was commenced on the incoming materials within 36 hours of their receipt at the center.

For purposes of the time limitations for completion of delivery referred to in the preceding sentence, delivery of shipments between a domestic point and a foreign point shall be deemed to begin at the time materials of foreign origin are received at the international gateway city or end at the time materials of domestic origin leave the international gateway city. This suspension does not apply to carriages from or to originating offices that are neither part of the firm owning the data processing center nor data processing customers of the firm owning the data processing center.

(c) For purposes of this suspension, (1) "addressee's next business day" means the first calendar day, stated in his local time, on which he conducts business, following the calendar day of dispatch, stated in the sender's local time; (2) "data processing" means electro-mechanical or electronic processing and includes the recording of data by electro-mechanical or electronic means for further processing; and (3) "data processing materials" means materials of all types that are sent exclusively for data processing and are ready for immediate data processing, but only if they are produced recurringly in the course of the normal business operations of the office originating them or receiving them back from the processing center. The performance of clerical work which is merely preparatory and incidental to the commencement of data processing is not, for purposes of this suspension, inconsistent with the requirement that the materials be sent exclusively for data processing and be ready for immediate data processing.

§ 320.3 [Amended]

4. In § 320.3, strike out the first word of paragraphs (a) and (b) and insert "Carriers" in lieu thereof; and revise the heading to read as follows:

§ 320.3 Operations under suspension for certain data processing materials.

5. Add new §§ 320.4, 320.5, and 320.6 reading as follows:

§ 320.4 Suspension for certain letters of college and university organizations.

The operation of 39 U.S.C. 601(a) (1) through (6) and § 310.2(b) (1) through (6) of this chapter is suspended on all post routes to permit colleges and universities to carry in their internal mail systems the letters of their *bona fide* student or faculty organizations to campus destinations. This suspension does not cover the letters of faculty members, students, or organizations other than *bona fide* student or faculty organizations of the carrying college or university. Colleges and universities choosing to provide their student or faculty organizations access to their internal mail systems are responsible for assuring that only letters of *bona fide* student or faculty organizations addressed to campus destinations are carried. (See § 310.4.)

For purposes of this suspension, "internal mail systems" are those which carry letters on, between, and among the various campuses of a single college or university and which operate in accordance with the *Letters of the carrier* exception in 39 CFR 310.3(b).

§ 320.5 Suspension for certain international-ocean carrier-related documents.

The operation of 39 U.S.C. 601(a) (1) through (6) and § 310.2(b) (1) through (6) of this chapter is suspended on all post routes for documents, sent by a shipper or an ocean carrier from a foreign origin to a United States ocean-carrier port city destination or from a United States ocean-carrier port city origin to a foreign destination, that would be excepted under § 310.3(a) if the documents accompanied the cargo. This suspension covers only shipments to or from ports where the cargo to which the documents relate is actually loaded on, or unloaded from, an ocean vessel. For purposes of this suspension "foreign origins" or "foreign destinations" means origins or destinations outside the contiguous 48 states.

§ 320.6 Revocation or amendment of suspensions.

These suspensions may be revoked or amended in accordance with § 310.7. No revocation of the suspension provided in § 320.2 will curtail operations of particular carriers existing at the time of the revocation to a level of operations (in dollar or volume terms, whichever is larger) lower than that antedating the revocation in a particular market served prior to the revocation. Should the suspension referred to in § 320.2 be revoked, carriers, as a condition to continuing operations under this section, will be required to provide reasonably complete and accurate data to support estimates of past operating levels in particular markets.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-28135 Filed 9-10-79; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5681

[C-18304]

Colorado; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order will restore approximately 2,118 acres to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202–343–6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of June 3, 1946, which withdrew lands for the Gunnison-Arkansas Project, is hereby revoked so far as it affects the following described lands:

Sixth Principal Meridian

T. 24 S., R. 66 W.
  Sec. 22, SW¼NW¼ and E½NW¼.
T. 25 S., R. 65 W.
  Sec. 10, E½NE¼ and SW¼NE¼;
  Sec. 11, NW¼NW¼;
  Sec. 19, Lot 1;
  Sec. 28, S½SE¼;
  Sec. 29, W½NW¼, SE¼NW¼, N½SW¼, SW¼SW¼ and NW¼SE¼;
  Sec. 30, SE¼;
  Sec. 31, NE¼.
T. 27 S., R. 65 W.
  Sec. 1, Lot 1, SE¼NE¼ and N½SE¼;
  Sec. 2, S½SW¼.
T. 25 S., R. 64 W.
  Sec. 21, N½NE¼, SW¼NE¼, SE¼NW¼ and E½SW¼;
  Sec. 28, W½NE¼, E½W½, W½SE¼, SE¼SE¼;
  Sec. 32, S½SE¼;
  Sec. 33, E½NW¼, SW¼SW¼ and E½SW¼.

The area described aggregates 2,118 acres in Huerfano County and Pueblo County. The lands are located primarily along the slopes of river drainages in the plains country of eastern Colorado. Vegetative cover is native grasses, weeds, and some pinyon pine and juniper trees.

2. At 10 a.m. on October 5, 1979 the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 5, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on October 5, 1979. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Colorado State Office, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Guy R. Martin,

Assistant Secretary of the Interior.

August 30, 1979.

[FR Doc. 79-28138 Filed 9-10-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5693]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Office of Federal Insurance and Hazard Mitigation have been temporarily withdrawn for administrative or technical reason.

During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) for acquisition and construction of buildings, and

(2) for buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Office of Federal Insurance and Hazard Mitigation's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
44 FR 52835

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made Pursuant to § 65.6:

State, community name, and number	County	Hazard ID date	Rescission date	Reason
Georgia, Dearing, TN, 130356	McDuffie	4–4–75	8–8–79	1
Georgia, Woodbury, TN, 130436	Meriweather	6–27–75	8–8–79	1
Iowa, Salix, city, 190296	Woodbury	3–19–76	8–8–79	1
Indiana, Washington, city, 180037C	Daviess	3–19–76	8–8–79	1A
Kansas, Macksville, city, 200435	Stafford	8–6–76	8–8–79	1
Ohio, McDonald, village, 390538A, C	Trumbull	4–9–76	8–8–79	1A
California, Half Moon Bay, city, 060319C	San Mateo	10–22–76	8–8–79	1A
Michigan, Bark River, township, 260385	Delta	11–19–76	8–25–79	1
Michigan, Escanaba, township, 260387	Delta	3–25–77	8–25–79	1
Michigan, Gourley, township, 260455	Menominee	10–8–76	8–25–79	1
Michigan, Harris, township, 260456	Menominee	2–24–78	8–25–79	1
Michigan, Inwood, township, 260518	Schoolcraft	2–24–78	8–25–79	1
Michigan, Limestone, township, 260344	Alger	11–26–76	8–25–79	1
Michigan, Michigamme, township, 260451	Marquette	4–28–78	8–25–79	1
Michigan, Meyer, township, 260458	Menominee	6–24–77	8–25–79	1
Michigan, Mellen, township, 260692	Menominee	4–28–78	8–25–79	1
Michigan, Nadeau, township, 260459	Menominee	3–25–77	8–25–79	1
Michigan, Onota, township, 260345A	Alger	1–14–77	8–25–79	1
Michigan, Powell, township, 260452	Marquette	2–24–78	8–25–79	1
Michigan, Rock River, township, 260346	Alger	10–22–76	8–25–79	1
Michigan, Spaulding, township, 260461	Menominee	3–11–77	8–25–79	1
Michigan, Thompson, township, 260519	Schoolcraft	12–3–76	8–25–79	1

KEY TO SYMBOLS

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.

C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.

R—The community is participating in the Regular Program.

1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.

2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.

3. The Community lacked land-use authority over the special flood hazard area.

4. A more accurate FIA map is the effective map for this community.

5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.

6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.

7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8. The T&E or H&E Map was rescinded.

9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 28, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–28043 Filed 9–10–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 293

Inventories of Vessels Covered by Operating-Differential Subsidy Agreements; Revocation

AGENCY: Maritime Administration.

ACTION: Revocation of Part (Final Rule).

SUMMARY: The Maritime Administration has determined that the regulation in this part no longer serves a useful purpose and is hereby revoking this part. Revocation of this part will remove an economic burden now being imposed on U.S. operators of vessels under ODSA by eliminating accounting and reporting requirements which are not necessary to administer a major Agency program. It will also reduce the Agency's administrative burden.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: Ernest J. Bruemmer, (202) 377–2562.

SUPPLEMENTARY INFORMATION: By provision of the Merchant Marine Act of 1970 (Pub. L. 91–469), reserve fund and recapture provisions have been deleted from operating-differential subsidy agreements (ODSA). Consequently, inventories of vessels under ODSA are no longer required for reserve fund or recapture determination reasons, effectively nullifying part of the justification for 46 CFR Part 293. Also, the regulation defines several expense categories of vessel stores, supplies, and equipment which no longer qualify for subsidy under all ODSA. In addition, the initial on-subsidy inventory requirement is being waived (pursuant to § 293.8) as a matter of Agency practice, and the value of the ending inventory is included in the vessel sale or trade-in price through negotiation. Furthermore, the recording and reporting by operators of subsidizable spare parts expenses (the only category still receiving subsidy under some ODSA), required by 46 CFR Part 272, provide the Maritime Administration with adequate opportunity to monitor and audit these expenses throughout the life of an ODSA. For these reasons, 46 CFR Part 293 is revoked.

The Maritime Administration has determined that this is not a significant action that requires publication in proposed form with an opportunity for public comment, pursuant to criteria in Executive Order 12044 (43 FR 12661), Department of Commerce Administrative Order 218–7 and Maritime Administration procedures (44 FR 2082).

Dated: September 4, 1979.

Robert J. Patton, Jr.,

Acting Secretary, Maritime Administration.

[FR Doc. 79–28272 Filed 9–10–79; 8:45 am]

BILLING CODE 3510–15–M

MARINE MAMMAL COMMISSION

50 CFR Part 530

Procedures Supplementing the National Environmental Policy Act Regulations

AGENCY: Marine Mammal Commission.

ACTION: Final Rule.

SUMMARY: On July 31, 1979, the Marine Mammal Commission published, at 44 FR 44916–44917, proposed procedures to supplement the National Environmental Policy Act (NEPA) regulations promulgated by the Council on Environmental Quality and thereby implement the provisions of the NEPA as they apply to the functions and responsibilities of the Commission. An error in the text of that notice indicating that written comments may be submitted on or before July 31, 1979 was corrected by notice published on August 3, 1979 at 44 FR 45654 indicating that comments may be submitted on or before August 30, 1979. No comments were received and the procedures have therefore been adopted without change.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Eisenbud, General Counsel, Marine Mammal Commission, Room 307, 1625 I Street, N.W., Washington, D.C. 20006, telephone (202) 653–6237.

Accordingly, Chapter V, Marine Mammal Commission, of 50 CFR is amended by adding a new Part 530 as follows:

PART 530—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

530.1 Purpose.
530.2 Ensuring that environmental documents are actually considered in agency decision-making.
530.3 Typical classes of action.
530.4 Environmental information.

Authority: National Environmental Policy Act, P.L. 91–190; 42 U.S.C. 4321 et seq.

§ 530.1 Purpose.

The purpose of this Part is to establish procedures which supplement the National Environmental Policy Act (NEPA) regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the regulations which are applicable to the activities of the Commission in light of its statutory functions and responsibilities.

§ 530.2 Ensuring that environmental documents are actually considered in agency decision-making.

Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, Commission officials shall: (a) consider all relevant environmental documents in evaluating proposals for agency actions; (b) ensure that all relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes; (c) consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating any proposal for action by the Commission which is likely to significantly affect the quality of the human environment; and (d) where an environmental impact statement (EIS) has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the

subject of the EIS. All Commission officials directly involved in developing, evaluating, and/or reaching decisions on proposed actions shall consider relevant environmental documents and comply with the applicable provisions of the NEPA process.

§ 530.3 Typical classes of action.

Section 1507.3(b)(2), in conjunction with Sec. 1508.4, requires agencies to identify typical classes of action that warrant similar treatment under NEPA with respect to the preparation of EIS's or environmental assessments. As a general matter, the Commission's activities do not include actions for which EIS's or environmental assessments are required. Its activities involve: (a) consultation with and recommendations to other Federal agencies for actions relating to marine mammal protection and conservation for which an EIS or environmental assessment is either not required by the NEPA regulations or for which an EIS or environmental assessment is prepared by another Federal agency; and (b) research contracts relating to policy issues, biological-ecological data needed to make sound management decisions, and better methods for collecting and analyzing data. These activities are not, by themselves, major Federal actions significantly affecting the quality of the human environment and the Commission's activities are therefore categorically excluded from the requirement to prepare an EIS or environmental assessment except for proposals for legislation which are initiated by the Commission, for which the Commission shall develop environmental assessments or EIS's, as appropriate, in accordance with the NEPA regulations. The Commission shall independently determine whether an EIS or an environmental assessment is required where: (1) a proposal for agency action is not covered by one of the typical classes of action above; or (2) for actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 530.4 Environmental information.

Interested persons may contact the Office of the General Counsel for information regarding the Commission's compliance with NEPA.

Dated: September 4, 1979.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 79-28273 Filed 9-10-79; 8:45 am]

BILLING CODE 6820-31-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 26

Fees for Original Online Grain Inspection Services and Mileage Costs

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Final rule

SUMMARY: This rule establishes an hourly method and rescinds the unit-of-grain method for the assessment of fees for original online grain inspection services provided by FGIS in the United States. The rule expands the definition for online inspection services to include all services which are based on official samples obtained during the loading or unloading of grain. The rule establishes fees for online services performed under contract and rescinds the 2-consecutive-hour grace period for the assessment of fees for standby services. The rule will reduce the fees for certain original non-online inspection services and help standardize the fee schedules for inspection and weighing services provided by FGIS. Mileage costs will continue to be included as part of the FGIS inspection fee on a nationwide apportionment basis.

EFFECTIVE DATE: December 2, 1979.

FOR FURTHER INFORMATION CONTACT: John W. Marshall, Director, Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 0624–S, Washington, D.C 20250, (202) 447–8497.

SUPPLEMENTARY INFORMATION: Section 7(j) of the United States Grain Standards Act, as amended [7 U.S.C. 79(j)], hereinafter cited as the Act, authorizes the Administrator of the FGIS to prescribe, charge, and collect reasonable fees to cover the estimated costs of inspection services provided by the Federal Grain Inspection Service (FGIS). The Act provides that the fees shall, as nearly as practicable, cover the costs incident to the performance of the services, excluding administrative and supervisory costs.

On January 9, 1978, pursuant to section 7(j) of the Act, FGIS prescribed a unit-of-grain method (per 1,000 bushels) for the assessment of fees for original online grain inspection services. Comments received later from users of the online inspection services suggested that an hourly method would be a more equitable way of assessing fees for the services. In response to the comments, FGIS published on May 31, 1979, a Notice in the **Federal Register** (44 FR 31243) requesting comments on two alternate methods of assessing fees for original online inspection services—the hourly method and the unit-of-grain method. The Notice also requested comments on two alternate methods of assessing fees for FGIS mileage costs—a standard-rate-per-mile method and an apportionment method.

Ten comments were received in response to the Notice. Nine commentors favored the hourly method of assessing online inspection fees. Five of the nine commentors recommended that both methods be adopted and that the users of the service have the option of specifying the method of their choice. One commentor suggested only that the fees be as reasonable as possible.

Although the comments on adopting both methods were not within the scope of the Notice, consideration has been given to the comments. A fee system that would provide both an hourly method and a unit-of-grain method would require the establishment of unit fees on a location-by-location basis, would result in a complex fee schedule that would not be compatible with the fee schedule for FGIS weighing services, and would substantially increase the recordkeeping and billing responsibilities of FGIS. The added responsibilities would increase FGIS operating costs that would be reflected in the fees assessed by FGIS.

Original Online Inspection Service Fees

On the basis of the comments received and other available information, it is concluded that the hourly method of assessing fees as herein adopted, establishes fees as nearly as practicable to cover estimated costs of FGIS incident to the performance of inspection services and more adequately meets the general needs of the users of the online inspection services.

In adopting the hourly method, fees are prescribed for contract and noncontract services, and for regular workday and nonregular workday services. The hourly fees for non-online original inspection services have been adjusted to conform with the hourly fees for noncontract online inspection services. These adjustments will result in a 20 percent decrease in the hourly fees for noncontract original inspection services performed during a regular workday and a 5 percent decrease for such services performed during a nonregular workday. The term "regular workday" continues to mean the hours of 6 a.m. to 6 p.m., local time, any Monday, Tuesday, Wednesday, Thursday, or Friday that is not a holiday; the term "nonregular workday" continues to mean any holiday and any other time that is not included in a regular workday. "Contract service" means an inspection or weighing service performed pursuant to a contract between the user of the service and FGIS.

In adopting the hourly method of assessing fees for original online inspection services, FGIS is rescinding the 2-consecutive-hour grace period for the assessment of fees for standby services. The grace period was established in the July 2, 1979, issue of the **Federal Register** (44 FR 38439) on the basis of the revenue that was being generated under the unit-of-grain method of assessing fees. Under the hourly method, the justification for the grace period no longer exists and its deletion will help standardize the fees for inspection and weighing services provided by FGIS.

Definition for Online Inspection Service

In the May 31, 1979, Notice, the term "online inspection service" was defined as an inspection service performed during the loading or unloading of grain when the sample for inspection is obtained with an approved diverter-type mechanical sampler. On the basis of the comments received and other information, FGIS has concluded that the definition is too restrictive. The definition has been expanded to include all inspection services which are based on official samples obtained by an approved method from a flowing stream of grain during the loading or unloading of grain.

FGIS Mileage Costs

Only three commentors expressed an opinion regarding the assessment of FGIS mileage costs. Two commentors preferred the standard-rate-per-mile method and one commentor favored the apportionment method. After considering the comments and other available information, FGIS has concluded that there is not sufficient basis at this time to justify a change from the present apportionment method. Accordingly, FGIS mileage costs will continue to be included as part of the FGIS inspection fee on a nationwide apportionment basis.

Fee Schedule

The prescribed fees are based on estimated income and expenses for fiscal year 1980, including an estimated 7.0 percent salary increase for FGIS employees in October 1979. The fees are expected to generate income adequate for fiscal year 1980 operating costs plus maintaining a nominal operating reserve. The fees remain unchanged for reinspection, appeal inspection, and weighing services performed by FGIS in the United States and for original inspection, reinspection, appeal inspection, and weighing services performed by FGIS in Canada.

The costs to FGIS of providing the services for which fees are prescribed are matters known only to FGIS, and the collection of fees for such costs is prescribed by law. Therefore, it is found upon good cause that publication of a notice of proposed rulemaking and other public procedures on the provisions of § 26.71 and § 26.72 of the regulations as set forth in this document are impractical and unnecessary, and good cause is found for making these changes effective December 2, 1979.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. An impact statement may be obtained by writing to: John W. Marshall, Director, Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 0624–S, Washington, D.C. 20250 (202) 447–8497.

Accordingly, pursuant to section 7(j) (7 U.S.C. 79(j)) of the Act, § 26.71(a) and § 26.72(b)(1) of the regulations (7 CFR 26.71(a) and 26.72(b)(1)) under the Act are hereby amended or restated to read as follows:

§ 26.71 Fees for official services performed by the Service.

(a) *General.* The fees shown in schedules A and B apply to official grain inspection and weighing services performed by the Service in the United States and Canada.

Schedule A.—*Fees for official inspection and weighing services performed by the Service in the United States* [1]

Table 1

Inspection services (bulk or sacked grain)	Original inspection service	Reinspection or appeal inspection service [2,3]
(1) Official sample-lot inspection service (white certificate):		
(i) For official grade and official factor determinations:		
(A) Online inspection services (per man-hour per Service representative): [4]		
(1) Contract service:		
(a) Regular workday	$11.20	(5)
(b) Nonregular workday	14.40	(5)
(2) Noncontract service:		
(a) Regular workday	12.80	(5)
(b) Nonregular workday	16.00	(5)
(B) Other than online inspection services:		
(1) Truck or trailer (per truck or trailer or part truck or part trailer)	8.50	$16.00
(2) Boxcar (per car or part car)	10.00	19.60
(3) Hopper car (per car or part car)	13.50	23.80
(4) Barge (per 1,000 bushels or fraction thereof)	2.50	3.50
(5) Ship, bin and all other lots of grain (per 1,000 bushels or fraction thereof) (but see 2 below)	(5)	3.50
(C) Based on official file sample (any lot or part lot)	(5)	13.50
(ii) For official factor or official criteria determinations:		
(A) Based on a sample used for official grade and official factor determinations not obtained during loading or unloading:		
(1) Factor determination (per factor)	4.20	5.45
(2) Protein test (per sample)	3.35	4.35
(B) Based on new sample (any lot or part lot)	(7)	(7)
(2) Special inspection services (sampling, stowage examination, testing of inspection equipment, demonstrating official inspection functions, furnishing standard illustrations, and related services) (per man-hour per Service representative): [6]		
(i) Regular workday	12.80	21.80
(ii) Nonregular workday	16.00	21.80
(3) Warehouseman's sample-lot inspection service (yellow certificate) or submitted sample inspection service (pink certificate):		
(i) For official grade and official factor determinations (per sample)	5.50	13.50
(ii) For official factor or official criteria determinations:		
(A) Factor determinations (per factor)	4.20	5.45
(B) Protein test (per sample)	3.35	4.35
(4) Minimum fee per service request (applicable when the request for service is cancelled after the Service representative(s) arrive at the point of service—fee does not include standby):		
(i) Grain in trucks, trailers, boxcars, or hopper cars	(8)	(8)
(ii) All other lots of grain and special services (per Service representative):		
(A) Regular workday	25.60	43.60
(B) Nonregular workday	32.00	43.60
(5) Standby (per man-hour per Service representative): [9]		
(i) Regular workday	12.80	21.80
(ii) Nonregular workday	16.00	21.80
(6) Extra copies of certificates (per copy)	2.50	2.50

NOTE.—The footnotes for table 1 are shown at the end of table 2

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Table 2

Weighing services (bulk or sacked grain)	Official weighing services					
	Specified inspection point				Noninspection point	
	Contract service		Noncontract service		Contract service	
	Regular workday	Non-regular workday	Regular workday	Non-regular workday	Regular workday	Non-regular workday
(1) Official weighing or supervision of weighing services (per man-hour per Service representatives)	$11.20	$14.40	$12.80	$16.00	$11.20	$14.40
(2) Special weighing services, (stowage examination, testing of weighing equipment, checkweighing sacked grain, checkloading sacked grain, demonstrating official weighing functions, and related services) (per man-hour per Service representative) [8]	11.20	14.40	12.80	16.00	11.20	14.40
(3) Minimum fee per service request (applicable only when request is cancelled after Service representative arrives at point of service—fee does not include standby) (per Service representative)	[9]	14.40	12.80	16.00	[9]	14.40
(4) Standby (per man-hour per Service representative) [8]	[9]	14.40	12.80	16.00	[9]	14.40
(5) Carrier condition and/or scale record report (not available as a single service)	[10]	[10]	5.00	5.00	[10]	[10]
(6) Extra copies of certificates (per copy)	2.50	2.50	2.50	2.50	2.50	2.50

[1] The fees include the cost of performing official inspection and official class X or class Y weighing functions by Service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see sec. 26.72, paragraphs (a) and (b).

[2] If it is found that there was a material error in the inspection from which a reinspection, a field appeal inspection, or a Board appeal inspection is taken, the specified reinspection, field appeal inspection, or Board appeal inspection fee shall not be assessed. (But see sec. 26.72(b) for fees that are assessed in all instances.)

[3] Board appeal inspections are based on file samples. The fee for Board appeal inspection service shall be $34.00 per sample except for protein which shall be $15.00 per sample.

[4] Online inspection services include all inspection services which are based on official samples obtained from a flowing stream of grain during the loading or unloading of grain.

[5] Not applicable.

[6] The unit fee.

[7] Same fees as in (1)(i)(B), plus applicable sampling charge—see (2).

[8] Only one inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[9] For application of fee for standby, see sec. 26.72(b).

[10] No Charge.

* * * * * * *

Schedule B.—*Fees for official inspection and weighing services performed by the Service in Canada* [1]

Table 1

Services (bulk or sacked grain)	Regular workday	Nonregular workday
(1) Original inspection, or official weighing, or special services: [2]		
(i) Contract service (per man-hour per service representative)	$20.00	$24.00
(ii) Noncontract service (per man-hour per service representative)	30.00	36.00
(2) Reinspection or field appeal inspection (per man-hour per service representative) [3] [6]	32.00	38.00
(3) Board appeal inspection (per sample) [3] [4]	34.00	40.00
(4) Minimum fee per service request:		
(i) Noncontract, original inspection, or original weighing, or special services (per service representative) [5]	90.00	108.00
(ii) Reinspection, or field appeal inspection (per service representative) [6] [8]	96.00	114.00
(5) Standby (per man-hour per service representative) [7]	30.00	36.00
(6) Extra copies of certificates (per copy) [8]	2.50	2.50

[1] The fees include the cost of performing official inspection and official class X or class Y weighing functions by Service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see sec. 26.72, paragraphs (a) and (b).

[2] Special services include, but are not limited to the following: sampling, stowage examination, testing of inspection or weighing equipment, demonstrating official inspection or weighing functions, furnishing standard illustrations, checkweighing of sacked grain, checkloading of sacked grain, and related services.

[3] If it is found that there was a material error in the inspection from which a reinspection, a field appeal inspection or Board appeal inspection is taken, the specified reinspection, field appeal inspection or Board appeal inspection fee shall *not* be assessed. (But see § 26.72(b) for fees that are assessed in all instances.)

[4] Appeal inspections are based on file samples. Board appeal inspections for protein shall be $15.00 per sample.

[5] Applicable when the requested service is performed in 3 hours or less, or the request for service is cancelled after Service representative arrives at the point of service.

[6] Not applicable if the reinspection or field appeal inspection is performed concurrently with an original inspection.

[7] For application of fee for standby, see § 26.72(b).

[8] For application of fee for extra copies of certificates see § 26.72(b)(2).

§ 26.72 Federal services: Explanation of fees.

* * * * *

(b) *Fees in addition to unit and hourly fees.* (1) fees for standby services shall be assessed in all cases except no fee shall be assessed for standby performed during a regular workday under a service contract for inspection or weighing services in the United States or Canada.

* * * * *

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79(j)))

Done at Washington, D.C., September 6, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-28275 Filed 9-10-79; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, and 1138

[Milk Order Nos. 126, 71, 73, 97, 102, 104, 106, 108, 120, 132, and 138]

Milk in the Texas and Certain Other Marketing Areas; Order Suspending Effective Date of Orders Amending the Orders

7 CFR Parts and Marketing Areas

1126 Texas
1071 Neosho Valley
1073 Wichita, Kans.
1097 Memphis, Tenn.
1102 Fort Smith, Ark.
1104 Red River Valley
1106 Oklahoma Metropolitan
1108 Central Arkansas
1120 Lubbock-Plainview
1132 Texas Panhandle
1138 Rio Grande Valley

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of effective date of rules.

SUMMARY: This document suspends the September 1, 1979, effective date of uniform base-excess plan provisions that were issued by the Department for 11 southwestern milk orders. This action stems from an order by the U.S. District Court for the Northern District of Texas which restrains the Secretary of Agriculture from implementing the base-excess plans at this time.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of hearing: Issued February 11, 1977, published February 14, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Notice of extension of time for filing briefs: Issued May 18, 1977, published May 25, 1977 (42 FR 26217).

Recommended decision: Issued December 20, 1977, published December 29, 1977 (42 FR 65088).

Notices of extension of time for filing exceptions: Issued January 20, 1978, published January 26, 1978 (43 FR 3568); issued February 15, 1978, published February 22, 1978 (43 FR 7327).

Final decision: Issued July 23, 1978, published July 28, 1978 (43 FR 33192).

Final order: Issued August 29, 1978, published September 5, 1978 (43 FR 39324).

Statement of Consideration

1. This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the orders regulating the handling of milk in the aforesaid marketing areas.

2. On August 29, 1978 (43 FR 39324), the Assistant Secretary for Marketing Services issued on order amending the 11 aforesaid orders. The amended orders were to become effective on September 1, 1979, and would establish uniform base-excess plans for the 11 markets.

3. On March 27, 1979 (44 FR 18938), the Assistant Secretary issued an order amending several of the order provisions (which were not yet in effect) that had been issued in the August 29, 1978, order amending the 11 aforesaid orders. These additional amendments also were to become effective on September 1, 1979. They were issued for the purpose of correlating the new base-excess plan provisions with the provisions that were being issued on March 27, 1979, in connection with changes in the advertising and promotion programs under 10 of the 11 orders. (The Neosho Valley order does not contain an advertising and promotion program.)

4. On August 31, 1979, the U.S. District Court for the Northern District of Texas issued an order restraining the Secretary of Agriculture from implementing the uniform base-excess plan provisions for the 11 aforesaid orders.

It is therefore ordered, That on the basis of the restraining order of the U.S. District Court, the September 1, 1979, effective date of the order amending the 11 aforesaid orders that was issued on August 29, 1978 (43 FR 39324), and of the order amending the 11 aforesaid orders that was issued on March 27, 1979 (44 FR 18938), is hereby suspended until further notice.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Effective date: September 11, 1979.

Signed at Washington, D.C., on September 6, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-28274 Filed 9-10-79; 8:45 am]

BILLING CODE 3410-02-M

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Proposed Rules

Federal Register
Vol. 44, No. 177
Tuesday, September 11, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of the Secretary

[10 CFR Part 376]

Leasing; Proposed Rulemaking and Public Hearing Regarding Outer Continental Shelf Oil and Gas Sequential Bidding Process

AGENCY: Department of Energy.

ACTION: Proposed Rule.

SUMMARY: This regulation proposes to establish a sequential bidding process under which Outer Continental Shelf (OCS) oil and gas lease sales would be conducted. This proposal provides a new bidding process that is designed to foster competition for OCS leases. The sequential bidding process would be employed in lieu of the existing procedure used by the Department of the Interior (DOI). This regulation implements a portion of the Department of Energy's rulemaking responsibilities under Section 302(b)(1) of the Department of Energy Organization Act.

DATES: Written comments are due by 4:00 p.m., November 14, 1979. Requests to speak are due by 4:00 p.m., September 27, 1979. Washington hearing: October 15, 1979. New Orleans hearing: October 2, 1979. Los Angeles hearing: October 4, 1979.

ADDRESSES: All written comments and requests to speak at the Washington, D.C. public hearing should be sent to: Office of Public Hearings Management, Economic Regulatory Administration, Box XJ (Docket No. LPD–79–04), 2000 M Street, NW., Washington, D.C. 20461.

All requests to speak at the New Orleans and Los Angeles public hearings should be sent to:

New Orleans hearing: Department of Energy, 2626 Mockingbird Lane, P.O. Box 352228, Dallas, Texas 75435, Att: Mac L. Lacefield.
Los Angeles hearing: Department of Energy, 111 Pine Street, 3rd Floor, San Francisco, California 94111, Att: Robert Laffel.

HEARING LOCATIONS:

Washington hearing: Room 2105, 2000 M Street, NW., Washington, D.C. 20461.
New Orleans hearing: F. Edward Hebert Building, Room 629, 600 South Street, New Orleans, LA 70130.
Los Angeles hearing: New Otani Hotel, Ballroom No. 2, 120 South Los Angeles Street, Los Angeles, California 90012.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Gribbin, Economist (Office of Leasing Policy Development), Department of Energy, Room 2317, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–9437.
James K. White (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633–8814.
Robert C. Gillette, Director (Office of Public Hearings Management), Economic Regulatory Administration, Room 2214, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–5201.
Milton Jordan, Director, Division of Freedom of Information and Privacy Acts (Office of Administrative Services), Department of Energy, Mail Stop GB 145, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–5955.
Frederic C. Appel, Director of Communications (Office of the Assistant Secretary for Resource Applications), Department of Energy, Room 3309, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633–9418.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Current OCS Bidding Process Regulations
III. The Proposed Regulations
A. Specific Proposals
B. General Objectives
IV. Public Comments and Public Hearing Procedures
A. Specific Comments Requested
B. Written Comments
C. Public Hearing
V. Significance Review
VI. Summary of Regulatory Analysis
VII. Environmental Analysis

I. Introduction

Sections 302 and 303 of the Department of Energy Organization Act (DOE Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)) Transferred from the Department of the Interior (DOI) to the Department of Energy (DOE) certain authorities previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA), the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam act of 1970, and the Energy Policy and Conservation Act. As a result, with respect to Federal leases, the Secretary of Energy is authorized to promulgate regulations that (1) foster competition, (2) implement alternative bidding systems, (3) establish diligence requirements, (4) set rates of production, and (5) specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind. In addition, under section 302(c) of the DOE Act, the Secretary of Energy is granted the authority to establish rates of production for Federal leases, and under section 303(c)(1) the Secretary reviews and may disapprove any term or condition of a Federal lease that relates to DOE's section 302(b) DOE Act authority to promulgate regulations.

This regulation implements part of DOE's authority under DOE Act section 302(b)(1). As required under section 303(b) of the DOE Act, the Secretary of the Interior was consulted during preparation of these proposed regulations and afforded not less than 30 days to comment formally on them. The Secretary of the Interior provided comments which were considered in redrafting these regulations prior to today's publication.

As proposed in this regulation, the sequential bidding process that would be established would be applied exclusively, on an experimental basis, to all OCS lease sales in lieu of the present bidding process of opening and reading bids concurrently, now used by DOI (43 CFR 3316.5(a)). Application of sequential bidding to OCS lease sales on this basis will supply the data and experience needed in order to obtain an early indication of the results of this experiment. Ultimately, the use of sequential bidding as the permanent bidding process will depend upon the observed effects resulting from imposition of the process on an experimental basis. DOE is interested in public comments on the concept of using the experimental sequential bidding process exclusively for all sales immediately upon promulgation until sufficient evidence is obtained to determine whether use of the process should be made permanent.

There are several reasons for initially proposing the use of sequential bidding on an experimental rather than a permanent basis. The impact of sequential bidding on competition for Federal leases is difficult to anticipate. Much of the information on which to base predictions of impacts on competition is closely held by the firms that generally participate in OCS lease sales, thereby precluding evaluation of sequential bidding, except through experimentation. Similarly, it is difficult to predict the reactions of sale participants to sequential bidding, with respect to both preexploratory evaluations and bidding behavior. Empirical evidence of its impacts will be collected and analyzed and a decision made whether or not to continue to apply sequential bidding to OCS lease sales.

Under certain circumstances, it may be beneficial and appropriate during the initial implementation of sequential bidding to exempt particular OCS lease sales from application of the sequential bidding process, i.e., to revert to use of the present DOI process. DOE is interested in obtaining specific comment with regard to the need for an exemption provision, and the types of circumstances surrounding a lease sale that might make exemption advisable. Please refer to Section IV.A. of this preamble for specific comments requested on the issue of exemption.

II. Current OCS Bidding Process Regulations

The existing OCS bidding process regulations require that all tracts included in an OCS lease sale be offered for sale at the same time. All bids must be submitted, by sealed bid accompanied by a certified or cashier's check, bank draft, money order, or cash for one-fifth of the cash bonus amount, by the deadline specified in the Final Notice of Sale. The bids are opened, publicly announced, and recorded, but no bids are accepted or rejected and no leases are awarded at that time. Within 60 days of the opening of the bids, DOI determines whether to accept a bid from the highest qualified responsible bidder for each tract receiving bids. If the highest bid for a lease is not accepted by DOI within the 60 day period following the opening of bids, all bids for that lease are rejected. Notice of that action is transmitted to all the bidders, and cash bonus deposits on all rejected bids are returned.

III. Proposed Regulations

A. Specific Proposals

1. *Purpose and Scope (§ 376.201).* This proposed regulation is designed to foster competition for federal leases through the exercise of DOE's rulemaking responsibility, under section 302(b)(1) of the DOE Act. This proposed regulation is expected to foster competition for Federal leases through structuring an OCS lease sale so as to apportion OCS tracts among three or more bidding sessions. This is expected to increase the number and amount of bids for OCS leases, increase bidders' financial flexibility, increase the return to the United States from OCS lease sales, and permit bidders to revise their bidding strategies several times during an OCS lease sale in order to react to patterns established in completed bidding sessions.

2. *Definitions (§ 376.202).* Two new definitions are proposed by this regulation. They are the definition of "bidding session" and "bidding process". The former is central to the sequential bidding process. It is defined as one of the segments into which an OCS lease sale is devided and during which a portion of the tracts included in an OCS lease is offered for sale. The conclusion of a bidding session is the deadline, announced by DOI, for the submission of bids on tracts offered in that session.

3. *The Sequential Bidding Process (§ 376.210).* A minimum of three bidding sessions per sale would be required by the application of the proposed sequential bidding process to an OCS lease sale (§ 376.210(a)). Fewer than three, we believe, would not be sufficient to achieve the objectives of this regulation.

The regulation requires in § 376.210(a)(1) that there be at least 24 hours between the time fixed by DOI as the dealine for the submission of bids for one bidding session until the same deadline applicable to the following bidding session. DOE seeks comments on whether 24 hours is sufficient for sale participants to readjust their bidding strategies and prepare new bids for the next bidding session.

A random selection procedure would be used to assure that tracts are distributed as equally as possible among bidding sessions with respect to quality or resource potential (§ 376.210(a)(2)). Each bidding session would contain a substantially equal number of OCS lease sale tracts as well (§ 376.210(a)(2)). Although several random selection procedures may be available, such as stratified random selection by geologic structure, the procedure used would be that which best fosters the purposes of this proposed regulation.

At the conclusion of a bidding session, bids would be opened, but the only information announced at this point would be the amount of the highest bid for each tract offered for sale in that bidding session (§ 376.210(a)(3)). In addition to equalizing somewhat the information available to sale participants, this limited release of information should minimize the ability of bidders to predict the bidding strategies of other bidders through the use of gaming techniques. Additional bid information, *e.g.*, the names of bidders and the amounts of their bids for tracts would be announced publicly at the conclusion of the sale (§ 376.210(a)(6)).

At the end of each bidding session, DOI would return the cash bonus bid deposits of all bidders for a tract except that of the highest bidder (§ 376.210(a)(4) and (5)). This return of deposits would enable unsuccessful bidders to recycle these funds for use in the preparation of bids for tracts offered for sale in upcoming bidding sessions.

Within 60 days of the conclusion of the final bidding session in an OCS lease sale, DOI would determine whether or not to except bids from the highest bidders for tracts offered during the sale (§ 376.210(a)(7)).

The sequential bidding process to be established in this regulation shall be used exclusively for each OCS lease sale following promulgation in lieu of the present process used by DOI (§ 376.210(b)). Initial use of the process will be on an experimental basis. When sufficient evidence to judge the merit of the process is available, DOE will determine whether to retain sequential bidding as the exclusive bidding procedure for OCS lease sales, to return to exclusive use of the present DOI process, or to authorize alternative use of the sequential process and the present DOI process.

4. *Analysis and Criteria (§ 376.220).* Before each OCS lease sale, the variable elements of sequential bidding that would apply to a sequential bidding sale, *i.e.*, the number and scheduling of bidding sessions, the random selection procedure used to select tracts for each bidding session, and the number of tracts and specific tracts to be offered for sale in each bidding session, would be analyzed by DOE and recommendations made to DOI. In this analysis, DOE would consider whether different design options would (1) foster competition in the Federal leasing process, (2) permit greater bidding flexibility and increase bidders' chances to compete for more tracts than would the existing bidding process, (3) provide an opportunity to experiment with various bidding processes and permit the identification of those that would best achieve the Government's goals in leasing OCS oil and gas lands, (4) provide a fair and equitable return to the United States, and (5) not impose excessive administrative burdens on either the Government or OCS lease

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sale partricipants. DOE seeks public comment on these criteria.

B. General Objectives

The requirement of the current OCS bidding process that all tracts be offered for sale at one time appears to strain some bidders' financial resources. It compels bidders, when cash bonus bidding is used, to commit all of their cash bonus funds simultaneously, thereby limiting both the number and size of bids that many bidders can afford to submit. In addition, this capital constraint may cause some bidders to focus primarily on tracts that would not command much attention from bidders with greater financial resources. The application of the sequential bidding process to an OCS lease sale is expected, therefore, to afford bidders greater financial flexibility.

Apportioning the total number of tracts offered for sale among several bidding sessions and returning cash bonus deposits to unsuccessful bidders at the end of each bidding session will enable bidders to bid on more tracts and to submit higher bids for those tracts that appear to have the greatest potential for discovery and development. Bidders will be able to concentrate their resources on a smaller number of tracts at a time. Therefore, sequential bidding is also expected to increase the number of bids that are received for each tract.

In addition, the financial flexibility made possible by the sequential bidding process may increase the number of participants in an OCS lease sale, and may attract more interest from smaller firms that have not participated in OCS lease sales previously as a result of the restrictions implicit in the existing bidding process.

Offering all OCS lease sale tracts at the same time also influences bidding strategies. Prior to a lease sale, a bidder must prepare a single, inflexible bidding plan for the whole lease sale. Bidding strategies, therefore, are based on information about tract potential that is available to a bidder before the actual lease sale. For bidders who are unable to engage in extensive pre-sale evaluations, a bidding strategy must often be prepared on the basis of little or no such information. This lack of information may inhibit some bidders from participating in the lease sale at all, and those bidders who submit bids on the basis of little or no information are likely to discount their bids to such an extent that their likelihood of winning leases is small.

Dividing an OCS lease sale into sequential bidding sessions diminishes, to some extent, the information advantage available to bidders that engage in extensive pre-sale evaluation. At the end of each bidding session, DOI would divulge the amount of the highest bid submitted for each tract offered for sale during that bidding session. Since the tracts to be offered for sale in subsequent bidding sesions are known in advance to sale participants, it would be possible for them to adjust their bids for these tracts on the basis of the amounts bid for comparable tracts in earlier bidding sessions. While this type of information will benefit all lease sale participants, it should benefit those with little or no pre-sale information about offered tracts to a greater extent than bidders with a significant amount of such information. While it is difficult to predict with any exactness how the imposition of sequential bidding will affect the evaluative efforts of prospective bidders, it is not expected to diminish significantly such activity.

DOE recognizes that the amount of time allowed between bidding sessions is critical to the success of this proposed rule. The 24-hour minimum time interval between the deadlines of bidding sessions proposed by this regulation would enable bidders to readjust their bidding strategies in mid-sale. Resources freed from previous unsuccessful bids can be redirected to new bids, or be used to increase the amount of their bids to a level that would give them a greater opportunity to obtain leases. Increased bid amounts generally are expected to have the collateral public benefit of increasing the return to the United States from OCS leasing.

The sequential bidding process may also obviate the problem that some bidders now face of obtaining too many tracts in an OCS lease sale. The simultaneous offering of all tracts earmarked for a particular OCS lease sale makes prediction of how many leases a sale participant will obtain virtually impossible. If a bidder ends up with more tracts than it can afford to develop, then OCS oil and gas development and production will be delayed. While this inefficency may be alleviated by the sale, assignment, exchange or other transfer of leases by a winning bidder after the OCS lease sale (authorized, subject to DOI approval, by 43 CFR Subpart 3319), the availability of the "assignments market" is no guarantee that such a transaction can be effected or that the seller will be able to secure the price sought.

With the exception of easing capital constraints, the expected beneficial effects of the sequential bidding process described above would apply to any OCS bidding system, and not solely when the cash bonus is the bid variable.

DOE has also considered the possible impact of sequential bidding on joint ventures, *i.e.*, agreements among bidders to bid jointly for tracts. Joint venture agreements appear mostly to be of two types:

First, joint venturers can agree to contribute a percentage share of the joint venture's bids, leaving the decision as to which tracts to bid on to the organizer. A sequential bidding procedure would not affect the ability of bidders to form this type of joint venture, as the organizer would be able to react to the results of a completed bidding session and revise the joint venture's bidding strategy just as well as an individual bidder.

The second type of joint venture is one that is put together to bid on a specific lease or leases. With respect to leases offered for sale in the first bidding session, sequential bidding would have no adverse effect on the ability of the members to form the joint venture. Any difficulties that may arise from the necessity to revise bidding strategies as a result of a prior bidding session are greatly reduced by the publication in the **Federal Register**, 30 days or more prior to an OCS lease sale, of the scheduling of specific tracts in each bidding session and of the time interval between bidding sessions. These time intervals should permit lease-specific joint venturers to develop and take advantage of contingency plans.

IV. Public Comments and Public Hearing Procedures

We request comments on any aspect of the regulation as proposed. To the extent comments are submitted in response to this notice either proposing or opposing amendments, they should be accompanied by as much supporting data as possible. Data submitted pursuant to this notice that is deemed proprietary should be so labeled.

A. Specific Comments Requested

DOE is requesting comments on the following matters in particular:

1. Does capital represent a bidding constraint or a barrier to entry for some firms more than others; and if so, does the "assignment market" alleviate this constraint?

2. How many bidding sessions are necessary in order for this proposed regulation to achieve its objectives?

3. What time interval between bidding session deadlines would be required for bidders to digest the results of prior bidding sessions, adjust bidding strategies accordingly, and prepare bids for the next round of bidding?

4. Would sequential bidding tend to inhibit the formation joint ventures? That is, would the process encourage more individual bidding?

5. Would the proposal to announce only the amount of the highest bid for tracts at the end of each bidding session be the most effective way to achieve the goal of equalizing information while minimizing gaming possibilities?

6. In addition to random selection, what other systems for ordering tracts among bidding sessions would make for a rational offering of tracts?

7. Given the experimental nature of this proposed rule, what duration of use would be appropriate in order to assess properly the proposed system's impact?

8. During the period in which the sequential bidding process would be applied to each OCS lease sale, should provision be made for exemption of particular OCS lease sales or of certain categories of OCS lease sales? What circumstances, factors, or conditions might justify exemption of a lease sale from application of the sequential bidding process? What criteria might be used to evaluate whether a particular lease sale should be exempted from application of the sequential bidding process as proposed?

9. What specific operational criteria should be employed in order to determine the variable elements of the sequential bidding process for each OCS lease sale, *i.e.*, number and scheduling of bidding sessions, random selection procedure for distribution of tracts among bidding sessions, and number of tracts and specific tracts to be offered during each bidding session, given the general criteria outlined in § 376.220(b)?

B. Written Comments

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Written comments should be submitted by 4:00 p.m., October 9, 1979 to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on the document with the designation: Box XJ, "DOE Proposed Sequential Bidding Process Regulations (Docket No. LPD–79–04)". Ten copies should be submitted.

Any information submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

C. Public Hearing

1. *Procedure for Request to Make Oral Presentation.* The times and places of the hearings are indicated in the "Dates" and "Hearing Locations" section of the preamble.

If you have an interest in the proposed amendments issued today, or represent a group or class of persons that has an interest, you may make a written request (see "Addresses" section of this preamble) for an opportunity to make oral presentation by 4:00 p.m., September 27, 1979. Please describe your interest and, if appropriate, state why you are a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:00 p.m., September 28, 1979. One hundred copies of your statement, labeled "Sequential Bidding Process Regulations" are due, for the Washington hearing, October 14, 1979, and should be delivered to the "Requests to Speak" address; and, for the regional hearings, are due by 9 a.m. on the day of the hearing and should be brought to the hearing location. In the event any person wishing to testify cannot meet the 100 copy requirement, alternative arrangements can be made with the Office of Public Hearings Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Public Hearings Management at 202–254–5201.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at each hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at each hearing. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at a hearing to the addresses indicated above for requests to speak not later than 4:00 p.m., the day before the hearing. If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. DOE or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of each hearing will be made and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GB–145, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

V. Significance Review

DOE has determined that this proposed regulation is significant and will have a major impact within the meaning of DOE's procedures to implement Executive Order 12044 on "Improving Government Regulations" (DOE Order 2030.1, 44 FR 1032, January 3, 1979). Therefore, a regulatory analysis is required for this proposed regulation. In accordance with DOE Order 2030.1, regulatory analyses must address alternative courses of action and reasons for the selection of the preferred alternative, *i.e.*, the proposed regulation.

A summary of the regulatory analysis prepared for this regulation is included below. Copies of the complete regulatory analysis are available for public review in the DOE Freedom of Information Reading Room, Room GB–145, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.20585. Interested parties are invited to submit written comments on the regulatory analysis to the address indicated in the "ADDRESSES" section of this preamble.

VI. Summary of Regulatory Analysis

A. Introduction

The dual requirement of the existing OCS lease sale bidding process of submitting all bids simultaneously and of backing them with substantial deposits creates a degree of financial exposure on all participants that influences both the number and magnitude of bids each participant submits at the time of the sale. It is

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believed that smaller bidders are the most severely restricted by the economic requirements of the present system. Moreover, it is likely that the levels of financial exposure, which many firms face under the current process, represent an effective barrier to entry for a number of firms who otherwise might be interested in leasing and developing OCS tracts.

B. Policy Objectives

During its evaluation of alternative methods of structuring the OCS bidding process, DOE has considered a number of OCS leasing policy objectives. Of primary concern is increasing competition for OCS leases, by reducing a present barrier to entry, *i.e.*, increasing bidding opportunities for smaller firms through a reduction in financial constraints, and thereby increasing the number of bids per tract and the total percentage of tracts in a sale that receive bids. The policy objectives conform to one of the major goals of the National Energy Plan: ensuring "competition in the energy industry generally and among the major oil and gas companies in particular."

C. Alternative Courses of Action

The regulatory analysis considers four alternative courses of action: the "status quo", the holding of "mini-sales", the imposition of a bid limit, and design options for a sequential bidding process.

1. *The Status Quo—Retention of the Current Bidding Process.* While this alternative obviates the need for additional regulations and preserves a maximum degree of simplicity with regard to administrative matters, it has not been selected as the most desired alternative because it does not effectively advance the policy objectives. The maintenance of the status quo would continue to provide larger firms the subtle advantage of being able to dominate in the bidding for prime tracts.

2. *Mini-Sale—A Scheduling Alternative.* Under this alternative, sales would be held more frequently, with a smaller number of tracts. For example, four mini-sales (25 tracts each) might replace a lease sale originally scheduled to encompass 100 tracts.

However, approximately 18 to 24 mini-sales would be needed each year to reduce a firm's financial exposure as effectively as the sequential bidding process. This implies that a sale would be held every two or three weeks. The administrative burdern associated with such a system would be much greater than under sequential bidding.

3. *The "Bid Limit" Option.* Under this option, firms would submit their own maximum aggregate winning cash bonus limitation that would apply to a particular lease sale. In this way a firm can submit bids on all tracts in the sale and yet be assured that its winning bids will not exceed its own pre-stipulated amount.

The bid limit option has several serious deficiencies. For example, the plan could not deal with the situation where a portion of the participants in a joint venture have reached their bid limit before the tract for which the joint venture was formed is put up for sale.

4. *Design Options for a Sequential Bidding Procedure.* In any form, a sequentially-bid sale would apportion the OCS tracts up for bid in a lease sale over several bidding sessions. The adoption of the sequential bidding process (over the three options listed above) is recommended since this process accomplishes the goals of (a) increasing the number and amount of bids for OCS leases; (b) increasing bidders' financial flexibility, (c) increasing the return to the United States from OCS lease sales, and (d) permitting bidders to revise their bidding strategies several times during an OCS lease sale in order to react to patterns established in completed bidding sessions without imposing the drawbacks which are associated with these other alternatives. As part of the decision to utilize sequential bidding, there are several elements of the process which lend themselves to further design options:

a. The amount and timing of information about an OCS lease sale that would be disclosed by the Federal Government.

b. The determination and scheduling of the number of bidding sessions in an OCS lease sale.

c. The determination of the number of tracts to be offered in each bidding session.

d. The ordering of tracts among bidding sessions.

e. The handling of cash bonus bid deposits by the Federal Government.

D. The Preferred Alternative

A regulation implementing a sequential bidding process for OCS lease sales would best accomplish the policy objectives of fostering competiton for Federal leases and of increasing competition in the energy industries generally and among major oil and natural gas companies in particular.

VII. Environmental Analysis

After reviewing the proposed regulations pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*)), DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, DOE has determined that no environmental assessment or environmental impact statement is required for the proposed regulations.

(Outer Continental Shelf Lands Act, Act of August 7, 1953, ch. 345, 67 Stat. 462 (43 U.S.C. 1331 *et seq.*), as amended by Pub. L. 95-372, 92 Stat. 629; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); E.O. 12009, 42 F.R. 46267.)

In consideration of the foregoing, it is proposed to amend Chapter II, title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., September 7, 1979.

George S. McIsaac,

Assistant Secretary, Resource Applications.

Part 376 of Chapter II of Title 10, Code of Federal Regulations, is amended by adding a Subpart C, to read as follows:

PART 376—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

* * * * *

Subpart C—Sequential Bidding

Sec.
376.201 Purpose and scope.
376.202 Definitions.
376.210 Sequential bidding process.
376.220 Analysis and criteria.

Authority: Act of August 7, 1953, ch. 345, sec. 8(a)(1), 67 Stat. 468 (43 U.S.C. 1335(a)(1)) as amended by sec. 205, Pub. L. 95-372, 92 Stat. 640; secs. 302(b)(1), 303(c), Pub. L. 95-91, 91 Stat. 578-579, 579-580 (42 U.S.C. 7152(b)(1), 7153(c)); E.O. 12009, 42 F.R. 46267.

Subpart C—Sequential Bidding Process

§ 376.210 Purpose and scope.

The regulations in this Subpart C establish a sequential bidding process to be utilized in connection with the offering and sale of Federal leases for the exploration, development and production of oil and gas resources located on the OCS. This sequential bidding process is designed to foster increased competition for OCS leases by apportioning the tracts included in an OCS lease sale among several separate bidding sessions. Structuring an OCS lease sale in this manner is expected to:

(1) Provide certain bidders an opportunity to submit bids for more OCS leases than is generally possible when all the tracts included in an OCS lease sale are offered for sale in a single bidding session;

(2) Give bidders greater financial flexibility in submitting bids for OCS leases;

(3) Encourage more bids on OCS tracts offered in OCS lease sales;

(4) Provide a fair and equitable return to the United States from the sale of OCS tracts; and

(5) Give bidders an opportunity to revise bidding strategies during the interval that is provided between the conclusions of each bidding session in an OCS lease sale.

§ 376.202 Definitions.

For purposes of this Subpart C:

"Bidding session" means one of the segments into which an OCS lease sale is divided and during which a portion of the tracts included in an OCS lease sale is offered for sale. The conclusion of a bidding session is the deadline (announced by DOI) for the submission of bids on tracts offered in that session.

"Bidding process" means the method by which bids for OCS leases included in an OCS lease sale are solicited, submitted, opened, and announced, and by which OCS leases are awarded.

§ 376.210 Sequential bidding process.

(a) The sequential bidding process, as administered by DOI, shall consist of the following steps:

(1) An OCS lease sale shall be divided into not less than three bidding sessions with successive deadlines for the submission of bids separated by a time interval of not less than 24 hours;

(2) A substantially equal number of tracts, assigned to bidding sessions through a random selection procedure, shall be offered for sale in each bidding session;

(3) At the conclusion of each bidding session, bids submitted for tracts included in the bidding session shall be opened and, within 4 hours of such conclusion, the amount of the highest bid submitted for each tract included in the bidding session shall be announced publicly;

(4) At the conclusion of each bidding session, the cash bonus bid deposit submitted by the apparent highest qualified responsible bidder for each tract offered for sale during a bidding session shall be retained;

(5) At the conclusion of each bidding session, cash bonus bid deposits shall be returned to bidders other than the apparent highest qualified responsible bidder for each tract offered during that bidding session;

(6) At the conclusion of the final bidding session of an OCS lease sale, a public announcement of all bids received and the names of the bidders that submitted them shall be made; and

(7) An apparent highest qualified bid for an OCS lease shall be accepted not later than 60 days after the conclusion of the final bidding session in an OCS lease sale, or all bids for that lease shall be considered rejected.

(b) The sequential bidding process shall be applied to each OCS lease sale.

§ 376.220 Analysis and criteria.

(a) Prior to each OCS lease sale, DOE shall perform analyses and make recommendations to DOI with regard to:

(1) The number and schedule of sequential bidding sessions;

(2) The random selection procedure to be applied to assignment of tracts among bidding sessions; and

(3) The number of tracts and the specific tracts to be offered during each bidding session, as assigned by DOE through application of the random selection procedure recommended under paragraph (a)(2) of this section.

(b) In performing the analyses required by this section, DOE shall consider the following purposes and policies as criteria, recognizing that the order of listing does not denote a ranking:

(1) Fostering competition in the Federal leasing process;

(2) Permitting greater flexibility in bidding and increasing the opportunities for bidders to participate in bidding on a greater number of the tracts offered in an OCS lease sale;

(3) Providing an opportunity to experiment with various bidding processes to enable the identification of those that are more appropriate for the satisfaction of the objectives of the United States in OCS lease sales;

(4) Providing a fair and equitable return to the Federal Government; and

(5) Limiting administrative burdens on Government and industry.

[FR Doc. 79-28306 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

[14 CFR Parts 221, 399]

[EDR-388/PSDR-63; Docket No. 29198; Dated September 5, 1979]

Carriers in U.S. Mainland—Alaska and Intra-Alaska Market Fares

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to permit carriers in U.S. Mainland-Alaska and intra-Alaska markets to exercise a greater degree of downward pricing flexibility in order that they may be better able to experiment with price/quality of service options tailored to their individual costs as well as to the requirements of individual markets. The proposals would establish ceiling fare levels from which carriers would be permitted to reduce fares within a specified zone. Fares within the zone ordinarily would not be suspended on the grounds that they might be unreasonable. While we are not proposing additional significant fare flexibility above the ceiling in this rule, we would permit an additional upward adjustment in "non-competitive" markets, thereby allowing carriers in all markets to raise fares up to 5 per cent above the Standard Industry Fare Level. This proposal is an extension of the Board's policy of promoting increased competition and consistent with the Airline Deregulation Act.

DATE: Comments due by: November 13, 1979. Reply Comments due by: November 28, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket Section, Civil Aeronautics Board, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing mulitiple copies. Comments may be examined in Room 711, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Robert S. Goldner, Attorney-Advisor, Division of Pricing and Entry, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Ave., NW., Washington, D.C. 20428;

SUPPLEMENTARY INFORMATION:

Background

This new phase of Docket 29198 is the outgrowth of a series of Board orders suspending proposed fare increases in the Mainland-Alaska markets and in the "nonbush" intra-Alaska markets. An investigation was undertaken into the lawfulness of fares in effect in these markets during the course of which a full evidentiary hearing was held. Prior to the enactment of the Airline Deregulation Act (ADA), Pub. L. 95-504, Administrative Law Judge Stephen J. Gross issued a four-part initial decision in this proceeding in which he costed the two major Mainland-Alaska markets individually and divided the remaining markets into two groups.[1] Judge Gross

[1] The Initial Decision divided the markets into four separate groups: Part I—Seattle-Anchorage; Part II—Chicago-Anchorage; Part III—Anchorage-New York, Portland, Minneapolis/St. Paul;

Footnotes continued on next page

found that the coach fares in the Seattle-Anchorage and Chicago-Anchorage markets are unlawfully high, but that fares in other markets are lawful.

The Board took review of all parts of the initial decision and ordered the proceeding bifurcated into a hearing phase, consisting of the record developed to date, and a rulemaking phase which commences with filing of this notice. At the same time, the Board ordered that the hearing phase be terminated (Order 79-9-11, issued concurrently with this Notice of Proposed Rulemaking).

In view of the fact that the ADA generally precludes the Board from finding the Mainland-Alaska fares to be unlawful, we have decided to issue this notice of proposed rulemaking as part of this proceeding. It has been the policy of the Board to liberalize fare flexibility beyond the statutory minima imposed by the ADA. We have already issued rules extending the so-called "zone of reasonableness" in markets within the contiguous 48 states, PS-80, 43 FR 39535, September 5, 1978, and are currently in the process of considering similar rules for Hawaii and Puerto Rico markets, EDR-373, PDR-64, and PSDR-57, 44 FR 18688, March 29, 1979 (Hawaii markets), and EDR-366, PDR-58, and PSDR-52, 43 FR 51641, Nov. 6, 1978 (Puerto Rico markets). This rule proposes to implement additional fare flexibility in Mainland Alaska and intra-Alaska markets by increasing the carriers' flexibility to offer lower fares.

Accordingly, rather than adopt the costing of the initial decision, either to prescribe fares or to prescribe a fare ceiling, we are proposing this rule in order to implement additional fare flexibility in all of the Alaska markets.

The Standard Industry Fare Level (SIFL)

In establishing a proposed zone of reasonableness, we must initially define a baseline from which all allowable fare flexibility may be measured. For purposes of the statutory zone, the ADA defines the SIFL as the fare level (after adjustment for inflation) in effect on July 1, 1977. These fares are to be applied on a market-by-market and class-by-class basis.

Owing to the nature of pricing policies in Alaska markets, on both an interstate and intrastate basis, we do not need to undertake the analysis of fare levels which we found necessary in PSDR-52, where we proposed a similar zone for Hawaiian service. This is largely due to the absence of peak and off-peak pricing options in Alaska, thereby resulting in discrete fare levels based upon class of service within particular markets. However, because Alaska represents the only domestic market which has not undergone a comprehensive costing analysis, we do not have the option of using a DPFI-type baseline for those fares which fall above or below the statutory zone, as was the case in markets in the 48 contiguous states. Consequently, we are proposing to use the actual fares which were in effect on July 1, 1977, as a single baseline for both the statutory zone as well as the regulatory zone which we are proposing in this rule.

Fare Flexibility Below the Ceiling

We have tentatively concluded that a downward zone comparable to the one we have adopted in the *Domestic Passenger-Fare Rulemaking* (PS-80) should be superimposed on the statutory zone. The ADA permits carriers to propose fare reductions of up to 50 percent from the standard industry fare level for the same or similar classes of service without being subject to a Board finding that these fare levels are unjust or unreasonable. The proposed rule would extend the suspend-free zone an additional 20 percent, on 40 percent of a carrier's yearly available seat miles (ASM), thereby encouraging carriers to undertake innovative peak-off pricing policies, particularly on a seasonal basis.

In PS-80 we allowed a 70 percent zone on a similar amount of ASM's on a weekly basis. In view, however, of the extremely seasonal character of traffic in the Alaska markets, we are of the view that the carriers require the additional flexibility of being allowed to further reduce fares during prolonged seasonal periods of low traffic demand without regard to weekly restrictions. As explained below, we are considering a similar form of seasonal zone on the upward end of the proposed ceiling. We ask that commenters explore this aspect of our proposed rule thoroughly.

Under our proposal, fares within these zones could only be suspended by the Board if all of the following circumstances are present:

1. The high probability that the fares would be found to be unlawful after investigation;

2. The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

3. The harm to competition would be greater than the injury to the traveling public if the proposed fare were unavailable; and

4. The suspension is in the public interest.

Fare Flexibility Above the Ceiling

The ADA permits carriers to increase fares up to 5 percent beyond the SIFL without being subject to possible Board suspension or investigation on the ground that such fare levels are unjust or unreasonable. This provision is only applicable, however, where the carrier's share of a particular market is below 70 percent of the total traffic. In PS-80 we expanded this zone to provide additional upward flexibility to a maximum, depending on the number of carriers authorized to serve the particular market, of up to 10 percent above the SIFL.

We are not, at this time, persuaded to expand similarly the upward zone in competitive Alaska markets.[2] In PS-80 we addressed the necessity of increased price competition as a prerequisite to additional upward fare flexibility. We remain reluctant to prematurely enlarge the ceiling of the zone before competitive market forces have the opportunity to establish themselves as a viable price determinant. While we have recently sought to increase competition by encouraging the entry of new carriers into numerous Alaska markets,[3] the realization of these policies is only beginning to be accomplished. We have, therefore, tentatively decided to allow upward flexibility in competitive Alaska markets to remain at the statutory level for the present time, and to treat adjustments above five percent on an *ad hoc* basis. As competition increases and market forces begin to predominate pricing policies in Alaska, we will further enlarge the perimeters of the zone and encourage greater carrier flexibility in the determination of fare ceilings.

We have tentatively decided to allow carriers in "non-competitve" markets the same 5 percent upward flexibility as all other carriers are permitted under the Act. We are proposing to do this because we are concerned that small markets, which are typically non-competitive, and where service is already marginal, might suffer further reductions in non-subsidized services were we to refuse to allow carriers additional upward flexibility. This would avoid any substantial withdrawals of service from these markets as well as the consequent need to underwrite continued service with Federal subsidy.

Additionally, it is administratively difficult to differentiate between competitive and non-competitive markets, even using the Act's 70 percent market share as a basis for evaluation. As a result of increased competition from both new and established carriers, schedule changes, and fluctuations in demand, a carrier's market share of traffic over a given period of time is extremely fluid. An elimination of the distinction between competitive and non-competitive markets for the purpose of upward flexibility serves to alleviate this difficulty, as well as eliminating the resulting uncertainty about the ability of a carrier to raise fares at any given point in time.

Under this proposal all carriers would be allowed, without formal justification, to raise fares the additional 5 percent permitted by the statute. Carriers would continue to justify any additional fare increases on the basis of increased costs, in much the same manner as they have traditionally done.

While we have found potential difficulties in initiating additional upward fare flexibility in Alaska, we strongly recommend that commenters use this opportunity to address the feasibility of implementing alternative approaches. One proposal which might serve to reflect the highly seasonal nature of the Alaska markets would include some form of peak, off-peak pricing. Carriers would be permitted to raise fares up to a set percentage above the statutory ceiling for a certain number of days out of the year. In PS-80 we proposed a similar form of flexibility which was designed to encourage more efficient passenger utilization on a year around basis.

First Class Fares

The Board has previously sought to free first class fares from the constraints of regulatory floors or ceilings which have been imposed on other fare classes. In PS-80 we permitted carriers to exercise complete authority over the establishment of first class fare levels. This policy has also been proposed for Mainland-Hawaii and Mainland-Puerto Rico markets, and we believe that it should also be applicable to Mainland-Alaska as well as intra-Alaska markets. This is a premium service whose price will clearly be set reasonably through the market interaction of willing buyers and sellers.

Procedures for Fare Filing

In the *Domestic Passenger-Fare Rulemaking*, we also amended our economic regulations in order to relieve the proponent of a fare within the zones from having to justify the fare initially. We are now proposing to modify § 221.165 so that the requirement of economic data with fare filings no longer applies to fares within the proposed zones in Alaska markets.

Environment

We tentatively conclude that this proposal does not constitute a major Federal action significantly affecting the environment under the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et. seq.* No appreciable increase in operations is expected to result from implementation of the proposed policy. The Board, in its environmental assessment for the earlier fare rulemaking covering the 48 states (PS-80), found that increasing the carriers' fare flexibility will serve to shift emphasis away from service competition and encourage more vigorous price competition. Since efficiency gains can be expected to accompany increased price competition, these gains may be passed on to the consumer in the form of lower fares. In general, fare reductions will generate additional traffic, depending on the price elasticity of demand in the relevant markets. However, such increases should result in higher load factors rather than in an increase in the number of available flights. Moreover, because Alaska fares have not increased significantly over the past several years, there exists little likelihood of fare decreases of such magnitude as to greatly stimulate additional traffic resulting in a significant impact upon the environment.

Proposed Rules

The Board proposes to amend 14 CFR Part 221 and 14 CFR Part 399 as follows:

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Paragraph (d)(4) of § 221.165 would be revised to read as follows:

§ 221.165 Explanations and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to fares for scheduled passenger service within the 48-contiguous states, the District of Columbia, and Alaska or between the 48-contiguous states and the District of Columbia, on the one hand, and Alaska on the other, which are within the zones set forth under section 399.31 and § 399.34 of this chapter.

PART 399—STATEMENT OF GENERAL POLICY

A new § 399.34 would be added to read as follows:

§ 399.34 Passenger-fare policies for other entities.

It is the policy of the Board to extend the principles of fare flexibility established for domestic fares to other entities as follows:

(a) [Reserve]

(b) [Reserved]

(c) For the Mainland-Alaska and Intra-Alaska ratemaking entities:

(1) Ceiling Fares, other than first class, should be based on the fares in effect July 1, 1977.

(2) Each carrier, including monopoly carriers, as defined in section 1002(d)(4)(A) of the Act, should have the opportunity to set fares, other than for first class, in each market within a zone ranging to 50 percent below the ceiling fares. Also, on 40 percent of their weekly available seat miles, carriers should have the opportunity to set fares in each market down to a 70 percent level below the ceiling. Fares within these zones will not be suspended by the Board absent all of the following extraordinary circumstances:

(i) The high probability that the fare would be found to be unlawful after investigation;

(ii) The substantial likelihood that the fare is predatory so that there would be an immediate and irreparable harm to competition if it were allowed to go into effect;

(iii) The harm to competition would be greater than the injury to the travelling public if the proposed fare were unavailable; and

(iv) The suspension is in the public interest;

(3) Carriers should be free to set market fares below these minima on the basis of such factors as their individual costs or specialized marketing needs, unless the level of the proposed fare reductions will result in an inability of the carriers in the market to provide adequate service to the public or the fares are otherwise unlawful;

(4) Carriers should be permitted to raise fares up to 5 percent above the

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Footnotes continued from last page
Fairbanks-New York, Portland; and Kodiak-Seattle: Part IV—Seattle-Southeast Alaska and Intra-Alaska markets.

[2] Under this proposal, regular fares in most Alaska markets could experience a significant upward adjustment, even without additional fare flexibility, because carriers in these markets have not previously raised fares to compensate for recently experienced inflation. This, of course, may simply reflect an historically high fare level as well as the increased competition resulting from recent Board policies.

[3] The Board has already granted additional authority in Alaska markets in both the *Southeast Alaska Service Investigation* (Order 79-4-168), and the *West Coast-Alaska Investigation* (Order 79-4-36), and is presently considering the question of additional authority in the *Northwest Alaska Service Investigation* (Docket 31571).

SIFL regardless of whether they provide air transportation to 70 per cent or more of persons traveling in a particular market. Such increases will not be suspended by the Board on account of the reasonableness of the fare absent unusual or extraordinary circumstances;

(5) Carriers should be free to set the level of first class fares.

(Secs. 204, 403, 404, 1002, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760 and 788, as amended; (49 U.S.C. 1324, 1373, and 1482))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28281 Filed 9-10-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Part 223]

[EDR-389; Docket No. 36534; Dated: September 6, 1979]

Free Transportation of Security Guards, et al.; Proposed Rule

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to allow, but not require, free transportation of official security guards by foreign air carriers. The Board is proposing this action on its own initiative to relieve administrative burdens on the foreign air carriers, the U.S. Secret Service, and itself.

DATES: Comments by November 13, 1979. Comments received after the above date will be considered only to the extent practical.

ADDRESS: Mail an original and twenty copies to Docket 36534, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit single copies. Comments will be available for public inspection in room 711 at the above address as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard M. Loughlin, Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 202-673-5880.

SUPPLEMENTARY INFORMATION: Section 223.21 of the Economic Regulations requires free carriage of official security personnel aboard U.S. air carrier flights. Foreign-flag carriers transporting dignitaries on official business to the United States often board agents of the U.S. secret Service to afford protection to the foreign dignitary according to established protocol. This happens frequently enough to impose administrative burden on the carrier, the U.S. Secret Service, and the CAB if we were to require individual approval in each instance. The necessity for individual approval may be obviated by amending section 223.21 to allow (but not require) the carriage of official security guards by foreign air carriers.

Accordingly, the Board proposes to amend § 223.21 of 14 CFR Part 223, *Free and Reduced-Rate Transportation*, to read:

§ 223.21 Security guards.

Every air carrier shall carry, without charge, on any aircraft which it operates, any duly authorized person who has been assigned to the duty of guarding such aircraft against unlawful seizure, sabotage or other unlawful interference. Any air carrier or foreign air carrier may carry without charge, on any aircraft which it operates, any duly authorized person who has been assigned the duty of guarding foreign government dignitaries, traveling on official business, against unlawful interference.

(Secs. 204, 403, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended by 74 Stat. 445, 88 Stat. 2105, 91 Stat. 1281, 1282, 92 Stat. 1724), 760 (as amended by 86 Stat. 95, 92 Stat. 1724), 771 (as amended by 92 Stat. 1731, 1732), (49 U.S.C. 1324, 1373, 1374, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28280 Filed 9-10-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

[31 CFR Part 1]

Privacy Act 1974; Proposed Notice of Rule To Delete an Exempt System of Records from Certain Requirements of Privacy Act of 1974

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of Proposed rule to delete a System of Records.

SUMMARY: The internal Revenue Service gives notice that the system of records entitled "File of Persons Making Threats of Force or Forcible Assaults (26.005) be deleted from the exempt systems listing in 31 CFR 1.36. This system notice will be eliminated when it is incorporated into an existing automated system for increased efficiency.

EFFECTIVE DATE: The notice of final rule will be published after the 30 day public comment period and the 60 day advance notice requirement.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Mulroy, Director, Internal Security Division, Office of Assistant Commissioner (Inspection), Internal Revenue Service, Washington, DC 20224, (202) 566-4564.

After approval of related revisions, 31 CFR 1.36 internal Revenue Service, Notice of Exempt Systems will be amended by eliminating from section (b) the system entitled, "File of Persons Making Threats of Force or Forcible Assaults" (26.005) which appears between Collateral Files (26.002) and Form 2209, Courtesy Investigations (26.006).

Dated: August 24, 1979.

W. J. McDonald,

Assistant Secretary (Administration).

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

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The Internal Revenue Service

Notice of exempt systems

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(b) *Exemptions under 5 U.S.C. 552a (k)(2).* * * *

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[*Delete:*] File of persons making threats of force or forcible assaults—....22.005

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[FR Doc. 79-28133 Filed 9-10-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 81]

[FRL 1315-8]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations—California

AGENCY: Environmental Protection Agency (EPA).

ACTIONS: Proposed rulemaking.

SUMMARY: This notice proposes to revise the attainment status designation of Humboldt County, California, for total suspended particulates (TSP). On March 3, 1978 (43 FR 8970), under section 107(d)(2) of the Clean Air Act (CAA), as amended, Humboldt County was designated nonattainment (primary) for TSP (40 CFR 81.305). On March 19, 1979 (44 FR 16392), Humboldt County was redesignated nonattainment (secondary) for TSP, as recommended by the State of California. The EPA now proposes to redesignate Humboldt County as attainment for TSP.

The EPA invites public comments on the proposed redesignation. If the area is redesignated attainment, the requirements of Title I, Part D, of the CAA, as amended, would no longer apply to Humboldt County for TSP.

DATES: Comments will be accepted if received on or before October 11, 1979.

ADDRESSES: Comment should be directed to: Arnold Den, Chief, Air Technical Branch (A-4), Air and Hazardous Materials Divisions, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Information pertinent to the proposed redesignation is available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Library (Room 2922), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460.
EPA Region IX Library, 215 Fremont Street, San Francisco, CA 94105.
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812.
Humboldt County Air Pollution Control District, 5600 South Broadway, Eureka CA 95501.

FOR FURTHER INFORMATION CONTACT: Morris I. Goldberg (A-4-3), Technical Analysis Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105. Phone: (415) 556-2463.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8970), under Section 107(d)(2) of the CAA, as amended, the EPA promulgated the State of California's designation of Humboldt County as nonattainment (primary) for TSP.

On March 19, 1979 (44 FR 16388), under Section 107(d)(5) the EPA revised the designation of Humboldt County to nonattainment (secondary) for TSP, as recommended by the State of California, because some data were found by the State Air Resources Board (ARB) to be invalid. The remaining data indicated violations of the annual "guideline" to the secondary standard, but no violation of the annual primary standard.

A June 28, 1979 letter from the ARB states that Humboldt County was inadvertantly omitted from a list of areas earlier recommended for redesignation to attainment for TSP because of a misunderstanding regarding the "guideline" value of 60 ug/m^3 (see 40 CFR 50.7(a)). The ARB therefore requested the redesignation of Humboldt County to attainment for TSP.

Under Section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for promulgation. Based upon a review of the TSP air quality data for Humboldt County, the EPA believes that the NAAQS for TSP have been attained.

If Humboldt County is redesignated attainment for TSP as proposed, the State would no longer be subject to the requirements of Part D of the CAA, as amended, for TSP in Humboldt County. However, Humboldt County remains subject to the requirements of Part D until the EPA approves in a final rulemaking action the State's redesignation of Humboldt County as attainment for TSP.

Note.—The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Secs. 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)))

Dated: August 31, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79-28304 Filed 9-10-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 146]

[FRL 1315-2]

State Underground Injection Control Programs

AGENCY: Environmental Protection Agency.

ACTION: Extension of Comment Period on Supporting Document, "Estimated Cost of Compliance, Proposed Underground Injection Control Program Regulations, Class II Wells," and on the document, "Potential Production Impacts from the Underground Injection Control Regulations."

SUMMARY: This notice sets a new due date of October 12, 1979, for public comment on the report prepared for the EPA Office of Drinking Water by Arthur D. Little, Inc., on the cost of compliance with the proposed underground injection control program for oil and gas wells and on the EPA analysis performed to estimate the potential impact of the State Underground Injection Control Programs on operators of Class II wells.

DATES: Comments on the Arthur D. Little, Inc., report and the EPA analysis of potential production impacts from the proposed UIC regulations are due October 12, 1979.

ADDRESSES: Written public comments should be sent to the Comment Clerk UIC Program Regulations, Office of Drinking Water (WH-550), EPA, Washington, D.C. 20460. Comments and the supporting documents will be available for public inspection and copying at a reasonable fee during normal business hours at the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460. Copies of the supporting documents will also be available for inspection and copying in the Library at the ten EPA Regional Offices.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, EPA, Office of Drinking Water (WH-550), Washington, D.C. 20460, (202) 426-3934.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to extend, for thirty (30) days, the deadline for submission of public comments on the supporting document, "Estimated Cost of Compliance, Proposed Underground Injection Control Program Regulations, Class II Wells," prepared for the EPA Office of Drinking Water by Arthur D. Little, Inc., and on the analysis, "Potential Production Impacts from the Underground Injection Control Regulations," July, 1979, prepared by the EPA Office of Drinking Water.

The Safe Drinking Water Act requires EPA to develop minimum requirements for State Programs to protect underground drinking water sources. EPA proposed regulations specifying minimum requirements on August 31, 1976 [41 FR 36730]. In response to numerous public comments, EPA has made significant changes in the regulations and has reproposed them for public comment.

The regulations have been separated into two portions. First, regulations under 40 CFR Parts 122, 123, and 124 will consolidate the Agency's major permit programs. Part 122 will contain the basic framework of the underground injection control program (as well as the NPDES permit program under the Clean Water Act and the Hazardous Waste Management Program under the Resource Conservation and Recovery Act) when administered by EPA. Part 123 will specify the requirements for an approvable State program and Part 124 will describe the procedures for issuing permits under the covered programs. These consolidated permit regulations were proposed on June 14, 1979, [44 FR 34244] and the public comment period on them ends on September 12, 1979. Second, 40 CFR Part 146 establishes the technical criteria and standards to be used in implementing the underground injection control program. Part 146 was reproposed on April 20, 1979 [44 FR 23738]. The comment period for 40 CFR

Part 146 was due to end on August 20, 1979, as announced in the April 20, 1979, Federal Register notice. On July 11, 1979, [44 FR 40532], EPA extended the comment period for 40 CFR Part 146 to September 12, 1979, to coincide with the comment period for the proposed consolidated permits regulations.

The preamble to the reproposed 40 CFR Part 146 included an estimate that 12,000 barrels of oil per day potentially could be affected by promulgation of the regulations. After this figure was published, significant interest was shown in the 12,000 barrels per day figure and in the methodology employed in its derivation. Therefore, EPA decided to prepare, in succinct form, a description of the methodology and its application. Development of this description led to refinements in application of the models used. These refinements led to a reduction in the estimates of the potential impact from 12,000 barrels per day to 9,400 barrels per day.

The EPA Office of Drinking Water document, "Potential Production Impacts from the Underground Injection Control Regulations," July 1979, was made available to the public on July 30, 1979. In its preface, EPA stated that it welcomed comments on its analysis including those which could improve the models and their applications. Most of the assumptions used in the EPA analysis are contained in the report "Estimated Cost of Compliance, Proposed Underground Injection Control Program Regulations, Class II Wells," June 1979, prepared by Arthur D. Little, Inc. The Arthur D. Little report has been available to the public since June 15, 1979.

During the comment period for the reproposed Part 146 regulations, EPA has received several letters and oral statements at the public hearings requesting an extension of the comment period beyond the September 12, 1979, due date. Those letters which explained in detail the reasons for the requested extension generally focused on the potential impact of the State underground injection control programs on operators of Class II wells and, in particular, focused on the need for more time to analyze the cost of compliance for operators of oil and gas wells and on the estimated 9,400 barrel per day potential reduction of domestic oil production which would result from promulgation of 40 CFR Part 146. The Agency believes that in light of the current energy situation, the cost of compliance to the oil and gas industry and the possible loss of domestic oil production, it is in the public interest for it to extend the comment period on the Arthur D. Little report and on the Office of Drinking Water analysis of potential production impacts from proposed underground injection control regulations to October 12, 1979. The Agency believes the impacts of the proposed underground injection control regulations to be small but, for the foregoing reasons, EPA believes that good cause exists for extending the comment period for these two documents to October 12, 1979.

After carefully considering all of the requests for an extension of the comment period on the proposed underground injection control regulations, the Agency does not believe that an extension of time on any other issues concerning these proposed regulations is warranted, and the Agency is not granting an extension of the comment period on any other issues.

The comment period on the supporting document, "Estimated Cost of Compliance, Proposed Underground Injection Control Program Regulations, Class II Wells," June 1979, prepared for the EPA Office of Drinking Water by Arthur D. Little, Inc., (44 FR 23752) and on the analysis prepared by the EPA Office of Drinking Water, "Potential Production Impacts from the Underground Injection Control Regulations," July 1979, is hereby extended to October 12, 1979.

Dated: August 29, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-28145 Filed 9-10-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 650]

Mid-Atlantic and New England Fishery Management Councils; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Jointly sponsored public hearing on proposed regulations for fixed fishing gear in the fishery conservation zone (FCZ) of the North Atlantic.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils, the U.S. Coast Guard, and the National Marine Fisheries Service jointly announce a series of public hearings to consider fixed gear regulations for the FCZ of the Northwest Atlantic, and the means of implementing them. The listed agencies have worked for two years with the fishing industry advisors to produce a set of draft regulations and alternatives which are expected to provide for the orderly marking, setting, and reporting of fixed gear. Due to the continued loss of and damage to fixed fishing gear as a result of the activities of foreign and domestic fishing vessels and from other circumstances, it is the opinion of the agencies indicated that a logical system for fixed fishing gear placement, identification, and position reporting would allow other users, in most cases, to be able to anticipate the location of such gear, its direction of set, its magnitude, and whom to contact in the event an incident does occur. The draft regulations are intended to provide for a mandatory, systematic program to apply to specific areas only within the FCZ of the Northwest Atlantic.

DATES: The hearings will be held on the dates and at the times and places indicated below: All hearings are scheduled for evenings from 7:00 to 10:00 p.m.

Revised listing of Hearing Dates

Gear Conflict Hearings

Sept. 18 (Tuesday), Dutch Inn, Great Island Road, Galilee, RI 02882.
Sept. 18 (Tuesday), Golden Eagle Inn, Philadelphia and Beach Drive, Cape May, NJ 08204.
Sept. 19 (Wednesday), Holiday Inn, Route 1 and Route 128, Peabody, MA 01960.
Sept. 19 (Wednesday), Holiday Inn—Riverhead, Route 25, Riverhead, LI, NY 11901.
Sept. 20 (Thursday), North Carolina Marine, Resources Center, Bogue Banks, Atlantic Beach, NC 28512.
Sept. 21 (Friday), Sheraton Inn—Military Circle, 870 N. Military Highway, Norfolk, VA 23502.
Sept. 25 (Tuesday), Holiday Inn, Jct. US 1 and Route 3, Ellsworth, ME 04605.
Sept. 25 (Tuesday), Asbury Pavilion, South Asbury and Ocean Avenue, Asbury Park, NJ 07712.
Sept. 27 (Thursday), Sheraton Fountainbleau, 10100 Ocean Highway, Ocean City, MD 21842.
Sept. 27 (Thursday), Massachusetts, Maritime Academy, Taylor's Point, Buzzards Bay, MA 02532.
Oct. 3 (Wednesday), Holiday Inn, Route 1 and 4, Portsmouth, NH 03801.

FOR FURTHER INFORMATION CONTACT:

Douglas Marshall, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, 01960, telephone: (617) 535–5450.
Lt. J. G. Raymond Blowitski, Commander, Atlantic Area (Ao1), U.S. Coast Guard Building 125, Governors Island, New York, New York 10004, telephone: (212) 668–7878.
Dr. Robert W. Hanks, Deputy Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, telephone: (617) 281–3600.

SUPPLEMENTARY INFORMATION: For the years 1971 through 1978, 246 fixed gear incidents, involving damage or loss of fixed fishing gear, were reported to the Coast Guard by fishermen operating in the area encompassing the FCZ of the Northwest Atlantic Ocean. These represent known incidents of damage or loss; however, there is reason to believe that a substantial number of incidents have occurred which were subsequently not reported to the Coast Guard. There were 24 incidents reported since the enactment of the FCMA (between March 1976 and December 1978), not including any that occurred during 1979. There were 39 claims submitted to the National Marine Fisheries Service in the first half of 1979 for compensation under the Fisherman's Protective Act. Of these, 22 were a result of incidents in the Northwest Atlantic Ocean in waters under jurisdiction of the New England and Mid-Atlantic Fishery Management Councils. Only 13 of these claims are presently documented, however, they exceed $100,000. The circumstances described are a major concern to the agencies sponsoring the public hearings. While the actual cause of the incidents in some cases may never be identified, it is the firm belief of the listed agencies that a substantial number of incidents could have been avoided if fixed fishing gear were appropriately marked and reported to the Coast Guard for subsequent broadcast to mobile fishing gear vessels and other operations in the area. Broadcast fixed fishing gear positions, to include a proposed buffer zone, would alert vessel operators to take appropriate measures to avoid the areas.

For the reasons stated, the sponsoring agencies are seeking public input to determine the utility of the proposed regulations in an attempt to resolve the problems outlined. An agenda of discussion items follows:

Signed this 5th day of September, 1979 at Washington, D.C.

Authority: 16 U.S.C. 1801 *et seq.*

Jack W. Gehringer,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 79-28213 Filed 9-10-79; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 44, No. 177
Tuesday, September 11, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Designation of the South Carolina Department of Agriculture, Columbia, South Carolina, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the South Carolina Department of Agriculture, Columbia, South Carolina, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 26, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTAL INFORMATION: South Carolina Department of Agriculture (the "Agency"), P.O. Box 11280, Columbia, South Carolina 29211, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 72 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on August 1, 1978. Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of South Carolina at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This agency has been performing official inspection services within the proposed geographic area since August 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than October 26, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on: September 6, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79–28278 Filed 9–10–79; 8:45 am]
BILLING CODE 3410–02–M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc., Thornton, Colo.; Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $23,300,000 to Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado. These loan funds will be used to finance construction of an Energy Management System and accompanying associated microwave communications facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances of the guaranteed loan funds from Mr. William Mickey, Manager, Tri-State Generation and Transmission Association, Inc., 12076 Grant Street, Thornton, Colorado 80241.

In order to be considered, proposals must be submitted (within 30 days from the date of the **Federal Register** publication of this notice) to Mr. Mickey. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Tri-State Generation and Transmission Association, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 4th day of September, 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 79–28151 Filed 9–10–79; 8:45 am]
BILLING CODE 3410–15–M

CIVIL AERONAUTICS BOARD

[Docket 29198; Order 79–9–11]

Alaska Fares Investigation; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of September, 1979.

This proceeding is the outgrowth of a series of Board orders suspending proposed fare increases in the Mainland-Alaska markets and in the "nonbush" intra-Alaska markets. Prior to the enactment of the Airline Deregulation Act of 1978 (ADA), P.L. 95–504, Administrative Law Judge Stephen J. Gross issued a four-part initial decision [1] in which he costed the two major Mainland-Alaska markets individually and divided the remaining markets into two groups.[2] Judge Gross found that the coach fares in the Seattle-Anchorage and Chicago-Anchorage markets are unlawfully high, but that fares in other markets are lawful. The Board took review of all parts of the Initial Decision and ordered single briefs covering all markets.[3] After passage of the ADA, it ordered the parties to discuss the implications of that statute on this proceeding.[4]

Under the Act, the Board no longer has authority over the reasonableness of rate increases up to five percent above the "standard industry fare level" (SIFL) which are filed after July 2, 1979 by carriers with less than 70 percent of the traffic in the market at issue. The SIFL is defined in section 1002(d)(6)(A) as ". . . the fare level [as adjusted for inflation] in effect on July 1, 1977. . . ." In view of the fact that existing fares are only marginally higher (less than ten percent) than they were on July 1, 1977, and the intervening inflation has been relatively substantial, the Board, as a practical matter, no longer possesses the authority to find the prevailing fares unreasonably high in "competitive" markets (*i.e.*, where carriers have less than a 70 percent market share).

The Judge found the prevailing fares to be unreasonably high in both the Seattle-Anchorage and Chicago-Anchorage markets. At the present time, however, it does not appear that any carrier has a 70 percent or greater share of either market.[5] While the relative market shares of competing carriers will probably continue to remain fluid, the Board cannot, as of July 1, find the fares unreasonably high and require adjustments.

As regards any "noncompetitive" Mainland-Southeast Alaska and intra-Alaska markets which Judge Gross found to be marginally above cost,[6] we are prepared to accept his findings that these fares should not be adjusted downwards because of indications that a similar result is likely to be accomplished through increased competition in the near future.[7]

For these reasons we have decided to terminate this phase of the *Alaska Fares Investigation* with this order, and to issue concurrently a Notice of Proposed Rulemaking designed to extend our policy of increased fare flexibility to both U.S. Mainland-Alaska and intra-Alaska markets. We believe that this represents the best approach toward the alignment of fare policies in these markets with those in effect in the mainland U.S., as well as those proposed for Hawaii and Puerto Rico.[8] In addition, we believe that this rulemaking will provide an ultimate resolution to the numerous issues of pricing policies in the Alaska markets which have remained unresolved throughout this lengthy proceeding.

Accordingly, it is ordered that: 1. This proceeding be divided into two phases; the hearing phase, which consists of the record developed to date, and a rulemaking phase, to commence with the Notice of Proposed Rulemaking EDR–388/PSDR–63, which is being issued concurrently with this order;

2. The record thus far developed in this proceeding will be considered in the rulemaking phase;

3. The hearing phase of this proceeding is terminated.

By the Civil Aeronautics Board: This order shall be published in the **Federal Register.**[9]

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79–28217 Filed 9–10–79; 8:45 am]
BILLING CODE 6320–01–M

[1] We adopt the findings and conclusions of the initial decision, except to the extent that they are inconsistent with our opinion. It is attached as Appendix A (filed as part of the original document).

[2] The Ifnitial Decision divided the markets into four separate groups: Part I—Seattle-Anchorage; Part II—Chicago-Anchorage; Part III—Anchorage-New York, Portland, Minneapolis/St. Paul; Fairbanks-New York, Portland; and Kodiak-Seattle; Part IV—Seattle-Southeast Alaska and Intra-Alaska markets.

[3] Orders 78–6–186; 78–7–146.

[4] Order 78–10–118.

[5] In establishing the amount of traffic carried by each carrier in these two markets, we have looked at both total origin and destination single-line passengers as a percentage of total city-pair traffic, as well as each carrier's relative share of total passenger miles. In either case, no single carrier has a 70 per cent or greater share of the traffic in either market.

[6] These markets include: Anchorage-Juneau, Seattle-Ketchikan and Seattle-Juneau.

[7] The Board has granted additional authority in Alaska markets in both the *Southeast Alaska Service Investigation* (Order 79–4–168) and the *West Coast-Alaska Investigation* (Order 79–4–36), and is presently considering the question of additional authority in the *Northwest Alaska Service Investigation* (Docket 31571).

[8] EDR–373, PDR–64, and PSDR–57, 44 FR 18688, March 29, 1979 (Hawaii markets) and EDR–366, PDR–58, and PSDR–52, 43 FR 51641, Nov. 6, 1978 (Puerto Rico markets).

[9] All Members concurred.

[Docket 35936]

Commuter Airlines, Inc., Enforcement Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference will be held in the above-entitled matter on October 4, 1979, at 9:45 a.m. (local time), in Room 1003, Hearing Room D, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersignal judge.

Matters to be presented and discussed will include simplification of the issues, offers of proof and stipulations as to facts, authentication of documents, future procedural dates, and such other matters as will contribute to the orderly and prompt conduct of this proceeding.

Dated at Washington, D.C., September 5, 1979.

Elias C. Rodriguez,
Administrative Law Judge.

[FR Doc. 79–28217 Filed 9–10–79; 8:45 am]
BILLING CODE 6320–01–M

[Docket 33363]

Former Large Irregular Air Service Investigation; Change of Hearing

The hearing on the application of JFC Enterprises, Inc., dba Concord International Airlines, heretofore continued to 29 October 1979 (44 F.R. 51632 4 September 1979) is cancelled

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and advanced to 26 October 1979 at the time (9:00 a.m.) and place previously set.

Dated at Washington, D.C., 4 September 1979.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-28216 Filed 9-10-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-8-175]

National Airlines; Application for Various Route Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-8-175 (National Airlines Subpart) Q Proceeding, Docket 36495.

SUMMARY: The Board is issuing Order 79-8-175 to show cause why it should not make final its tentative findings with respect to National's six applications for various route authority filed under our expedited procedures (Subpart Q). Specifically, the Board tentatively finds that it is consistent with the public convenience and necessity to award National the authority it seeks. Furthermore, the tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.[1]

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file and serve upon all persons listed below, no later than October 9, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 36495, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Ava Kleinman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5342.

SUPPLEMENTARY INFORMATION: Objections should be served upon all persons listed in the service list of Docket 36495.

[1] The markets requested in National's six applications are as follows: Las Vegas-New York; Dallas/Ft. Worth-Los Angeles; Albuquerque-Las Vegas/Los Angeles/Salt Lake City; Memphis-Denver/Houston; Dallas/Ft. Worth-Phoenix; Honolulu-San Diego/Denver.

By the Civil Aeronautics Board: August 31, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 28215 Filed 9-10-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the Arizona Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on September 25, 1979, at the Adams Hotel, 111 North Central Avenue, Room 519, Phoenix, Arizona.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a briefing session in preparation for September 26, 1979 consultation on housing needs for minorities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 5, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28201 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Arizona Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 1:00 pm, on September 26, 1979, at the Adams Hotel, 111 North Central Avenue, Maricopa Room, Phoenix, Arizona.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a one-day consultation on housing needs for minorities in Arizona.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 5, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28202 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning and briefing session of the Arizona Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm, on September 27, 1979, at the Marriott Hotel, 180 West Broadway, The Durango Room, Tucson, Arizona 85701.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a briefing session in preparation for September 28, 1979 consultation on housing needs for minorities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 28203 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Arizona Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 1:00 pm, on September 28, 1979, at the Federal Building, 301 West Congress, Room 4 B, Tucson, Arizona 85701.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is for a one-day consultation on housing needs for minorities in Arizona.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28204 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Dakota Advisory Committee (SAC) of the Commission will convene at 7:30 pm and will end at 9:30 pm, on September 27, 1979, and will convene at 9:00 am and will end at 4:00 pm on September 28, 1979, at the Airport Holiday Inn, 1301 W. Russell, Sioux Falls, South Dakota.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan Committee activities for the forthcoming year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 5, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28205 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

Texas Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Texas Advisory Committee (SAC) of the Commission originally scheduled for September 27-28, 1979, at McAllen, Texas, (FR Doc. 79-25452 on page 48309) has been changed.

The meeting now will be held on September 27, 1979, beginning at 9:00 am and will end at 6:00 pm, at the Rodeway Inn, (Room will be designated later), 6201 Gateway (West), El Paso, Texas 70025.

Dated At Washington, D.C., September 4, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28206 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 3:00 pm, on September 24, 1979, at the Sullivan County Library, Second and Durbin, Casper, Wyoming 82601.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan forthcoming activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated At Washington, D.C., September 4, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28207 Filed 9-10-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 8-79]

Greater Cincinnati Foreign-Trade Zone Inc., Cincinnati, Ohio; Application for Expansion of Foreign-Trade Subzone No. 46-A at the General Electric Company Facility in Evendale, Ohio

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone Inc. (GCFTZ), a nonprofit corporation and grantee of Foreign-Trade Zones 46 and 47 in the Greater Cincinnati area, requesting authority for the expansion of Foreign-Trade Subzone No. 46-A at the General Electric aircraft engine and testing plant in Evendale, Ohio, within the Cincinnati Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 4, 1979. GCFTZ is authorized to make the application under House Bill 200 of the Laws of Ohio of 1977.

In January 1979 (44 FR 4003) the Board approved a 15-acre section within the General Electric plant for subzone activity.

The present proposal calls for the expansion of the subzone area to include the entire 279-acre plant.

The reason given for the expansion is that the aircraft engine parts for which zone procedures are needed move at various times throughout the entire plant. Also, GE manufactures marine and industrial gas turbine engines at this facility and the firm wishes to use zone procedures for this product line, which also is heavily exported.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Donald L. Cavanaugh, District Director, U.S. Customs Service, 55 Erieview Plaza, Cleveland, Ohio 44114; and Colonel Thomas P. Nack, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, Kentucky 40201.

Comments concerning the proposed expansion are invited in writing from interested persons and organizations. Comments should be addressed to the Board's Executive Secretary at the address below and be postmarked on or before September 25, 1979.

A copy of the application for expansion filed by GCFTZ is available for public inspection at each of the following locations:

Office of the Director, U.S. Department of Commerce District Office, 10504 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: September 5, 1979.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-28131 Filed 9-10-79; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Edwards Laboratories; Intent To Grant Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS) proposes to grant to Edwards Laboratories (Edwards) of Santa Ana, California 92711, a division of American Hospital Supply Corporation of 1780 Ridge Avenue, Evanston, Illinois 60201, a limited exclusive right in the United States and in some or all of a group of foreign countries including Canada, France, Federal Republic of Germany, Great Britain, Japan and the

Netherlands for the manufacture, use and sale and for the granting of sublicenses for the manufacture, use and sale of the products embodied in the following two inventions disclosed in two U.S. patent applications and any foreign patents and patent application counterparts thereof in countries listed herein of:

(1) "Fiber Optic pH Probe," disclosed in U.S. Patent Application No. 855,384 filed November 28, 1977.

(2) "Dye Fixation by Copolymerization," disclosed in U.S. Patent Application No. 855,397, filed November 28, 1977.

Both patent applications have been assigned to the United States of America, as represented by the Secretary, Health Education and Welfare. Custody of the rights to each of these inventions have been transferred to the Secretary of Commerce.

Copies of the U.S. Patent Applications listed herein can be obtained from the Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

With respect to each U.S. Government-owned invention identified herein, a public announcement stating that the invention was available for licensing in the United States and perhaps also in foreign countries was published in the **Federal Register** (FR) and two other publications shortly after each U.S. Patent Application was issued. The announcement for each invention was made more than six months prior to this notice. The Patent Applications were announced in the **Federal Register** of June 8, 1978, p. 24887. In addition, with respect to each invention identified herein, NTIS has undertaken promotional efforts designed to encourage applications for licenses from U.S. companies to practice these inventions. To date, these promotional efforts have not resulted in the request for, or granting of any nonexclusive licenses under these patents.

It has been determined therefore, in accordance with the Federal Property Management Regulations for Licensing (41 CFR 101—4.103.3) that these inventions are available for limited exclusive license.

The proposed limited exclusive license to be granted by NTIS to Edwards will be a royalty-bearing license for a term of five years from the date of New Drug Approval in the United States as to the U.S. license and five years from first commercial sale in any licensed foreign country as to each foreign country licensed, but no longer than eight years from the effective date of the license agreement as to any country. The license may be revoked by NTIS in accordance with Title 41 CFR 101–4.1.

The proposed limited exclusive license granted to Edwards will be subject to an irrevocable, nonexclusive, nontransferable, royalty-free right in the U.S. Government to make, use or sell the licensed invention throughout the world by or through contract on behalf of the U.S. Government or any foreign government pursuant to a treaty or agreement with the United States.

The proposed limited exclusive license will be granted by NTIS to Edwards unless within sixty (60) days from the date of publication of this notice in the **Federal Register**, NTIS receives (1) an application for a nonexclusive license from a responsible U.S. applicant to practice the inventions identified herein in the United States or the foreign countries listed herein and NTIS determines that such applicant has already brought or is likely to bring the inventions to the point of practical application within a reasonable period under a nonexclusive license; or (2) written evidence and argument which establishes that it would not be in the public interest to grant the proposed limited exclusive license to Edwards.

Written data, inquiries comments or objections concerning this proposed limited exclusive license should be submitted to the Office of Government Inventions and Patents, National Technical Information Service, Springfield, VA 22161. NTIS shall maintain and make available for public inspection a record of all decisions made in this matter and the basis therefore. This record shall contain copies of all written data, inquiries, comments, or objections received by NTIS and pertaining to the proposed limited exclusive license.

Dated: August 15, 1979.

Melvin S. Day,

Director, National Technical Information Service.

[FR Doc. 79–28132 Filed 9–10–79; 8:45 am]

BILLING CODE 3510–04–M

Industry and Trade Administration

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on September 26, 1979, at 1:30 p.m. in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D. C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U. S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility, Room 3012, U. S. Department of Commerce, Washington, D. C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U. S. Department of Commerce, Washington, D. C. 20230, telephone 202/377–5078.

Dated: September 6, 1979.

Edward Gottfried,

Acting Director, Office of Textiles.

[FR Doc. 79–28285 Filed 9–10–79; 8:45 am]

BILLING CODE 3510–25–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of the Philippines

September 6, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton gloves and mittens in Category 331; other wool apparel, such as mufflers, scarves or shawls, among others, in Category 459; knit shirts and blouses of man-made fibers in Category 638/639; and men's and boys' woven shirts of man-made fibers in Category 640 during the twelve-month period which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic the Philippines, the United States Government has decided to control imports of cotton, wool and man-made fiber textile products in Categories 331, 459, 638/639, and 640, produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated. (See 44 FR 92).

EFFECTIVE DATE: September 12, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the **Federal Register** (44 FR 92) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton, wool, and man-made fiber textile products in Cats. 331, 459, 638/639, and 640 during that same period.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in Categories 331, 459, 638/639, and 640 in excess of the designated twelve-month levels of restraint. The levels of restraint have not been adjusted to account for any imports after December 31, 1978. The level for Category 459 is 74,425 dozen including 1978 overshipment charges. Imports in the four categories during the period which began on January 1, 1979 and extends through the effective date of this action will be charged.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

September 6, 1979.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement on August 22 and 24, 1977, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 12, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool an man-made fiber textile products in Categories 331, 459, 638/639 and 640, produced or manufactured in the Philippines, in excess of the following level of restraint:

Category	12-month level of restraint [1]
331	568,011 doz. prs.
459	74,425 lbs.
638/639	788,310 doz.
640	90,343 doz.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79–28284 Filed 9–10–79; 8:45 am]

BILLING CODE 3510–25–M

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78–7]

Lawn Trimmers and Edgers

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting it to establish a consumer product safety rule for lawn trimmers and edgers in order to reduce the risk of injury from objects thrown by trimmers and edgers. The Commission denies the petition because it has insufficient data to conclude that a mandatory standard is necessary.

FOR FURTHER INFORMATION CONTACT: William F. Kitzes, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6557).

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2059, provides that any interested person may petition the Consumer Product Safety Commission (CPSC) to begin a proceeding to issue, amend, or revoke a consumer product safety standard or ban. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the **Federal Register.**

On November 3, 1977, Gerald L. Price, Esq., petitioned the Commission to issue standards for gasoline and electric power lawn edgers which would reduce the risk of injury from objects thrown by these devices and would require warnings or instructions for the user to use a face mask or goggles when using a lawn trimmer or edger. Mr. Price had represented a man who was hit in the eye by a nail propelled by an edger. The

petition stated that the blade guard on the edger was inadequate and that the products are not provided with warnings or instructions for the user to wear a face mask or safety goggles when using the product.

In analyzing this petition, the Commission considered injury information, economic and engineering data, and applicable voluntary standards.

These products have a rotating metal blade. If the blade strikes a foreign object such as a stone, nail, or piece of wire, the object may be forcefully propelled by the impact of the blade. The Commission has 9 investigation reports, collected over the last five years, of injuries incurred when lawn trimmer/edgers threw foreign objects. Some of the involved edgers might be expected to have a reduced risk of throwing foreign objects if additional shielding were provided.

Also, the Commission receives daily reports of consumer product related injuries from a national sample of 119 hospital emergency rooms. Based on data from these hospitals, the Commission estimates that in 1977 about 175 thrown objects injuries associated with all powered lawn trimming and edging equipment were treated in hospital emergency rooms.

The Commission's information indicates that about 200,000 electric and gasoline powered trimmers, edgers and trimmer/edgers of the type for which the petitioner has sought Commission action are produced annually. This production has declined rapidly in the last few years as the direct result of the increased sales of electric filament line type trimmers.

The Commission notes that Underwriters Laboratories has a voluntary standard (UL 82) which incorporates blade guarding requirements for electric trimmers, edgers, and trimmer/edgers. This voluntary industry standard addresses the risk of injury alleged by the petitioner for electric devices, which are believed to represent about three-fourths of all lawn trimmers and edgers. Underwriters Laboratories and the Outdoor Power Equipment Institute have indicated their willingness to develop a voluntary standard applicable to gas powered trimmers and edgers.

Conclusion

Based on the relatively small number of injuries caused by thrown objects from trimmers and edgers and the declining production of these products, and after considering the Commission's resources available for rulemaking for all consumer products, the Commission concludes that the available information is insufficient to determine that mandatory requirements for lawn trimmers and edgers are resonably necessary. Therefore, the Commission has denied the petition.

However, the Commission's staff intends to monitor the Underwriters Laboratories and the Outdoor Power Equipment Institute effort to develop a voluntary standard for gasoline lawn trimmers and edgers.

Copies of the petition and the staff's briefing package to the Commission may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W. Washington, D.C. 20207.

Dated: September 5, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-28143 Filed 9-10-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States

Dates of Meeting: 27—29 Sep 79

Place of Meeting: West Point, New York

Time: At West Point: 2030-2230, 27 Sep, Organizational Meeting, Hotel Thayer; 0830-1400, 28 Sep, Curriculum Review (Cadet Library); 1400-1700, 28 Sep, Board Discussions (Cadet Library); and 0800-1100, 29 Sep, Briefing by Commandant and Board Discussions (Commandant's Conference Room, Bldg. 745)

Proposed Agenda: Inquiry into the curriculum and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information, contact LTC Kermit M. Henninger, United States Military Academy, West Point, New York, telephone 914-938-2785/4723.

For the Board of Visitors.

Kermit M. Henninger,

LTC, GS, Executive Secretary 1979 Board of Visitors.

[FR Doc. 79-28142 Filed 9-10-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976—December 1978; Postponment of Public Hearing

AGENCY: Economic Regulatory Administration; Department of Energy.

ACTION: Notice of Postponement of Public Hearing.

SUMMARY: The Economic Regulatory Administration of the Department of Energy hereby gives notice of the postponement of the public hearing previously set forth in a Notice of Public Hearing issued on July 22, 1979 (44 FR 43761, July 26, 1979).

The Economic Regulatory Administration has secured updated information from participating refiners for the period January 1979 through June 1979 and will shortly issue an analysis of refiners' No. 2 distillate costs and revenues since deregulation to include that period. The purpose of the postponement is to provide all participants in the proceeding with the opportunity to review the updated analysis prior to the conduct of the hearing. In addition to the issues set forth in the July 22 notice, the hearing will be expanded to include consideration of the methodolgy and conclusions of the updated analysis. The hearing originally scheduled for September 13, 1979, is hereby rescheduled for September 26, 1979.

DATES: Hearing Date: September 26, 1979, 9:30 a.m. Hearing Location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mrs. Debra Kidwell (Public Hearing Management), 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201.

William Gillespie, Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461, (202) 632-5140.

William Mayo Lee (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

Issued in Washington, D.C., September 7, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-28361 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

Gas Engine and Compressor Service; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: August 28, 1979. Comments by: October 10, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Office of Enforcement of the ERA executed a Consent Order with Gas Engine and Compressor Service of Longview, Texas. Under 10 C.F.R. 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Gas Engine and Compressor Service wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Gas Engine and Compressor Service effective as of the date of its execution by the DOE and Gas Engine and Compressor Service.

I. The Consent Order

Gas Engine and Compressor Service, with its home office in Longview, Texas, is a firm engaged in the production of natural gas liquids, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R., Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of NGL's, the Office of Enforcement, ERA, and Gas Engine and Compressor Service entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through December 1976, and it included all sales of a mixed NGL stream to Wanda Petroleum and Martin Gas Sales Company.

2. Gas Engine and Compressor Service improperly applied the provisions of 6 C.F.R., Part 150, Subpart L, and 10 C.F.R., Part 212, Subparts E and K, when determining the prices to be charged for its NGL's, and as a consequence the above firms were overcharged on some of their purchases.

3. Gas Engine and Compressor Service agrees to refund to the DOE $51,400, including interest and penalty, within 30 days of the effective date of this Consent Order, August 28, 1979.

4. The provisions of 10 C.F.R. 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Gas Engine and Compressor Service agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I, 1, above, the sum of $51,400 within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 C.F.R. 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claims within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comment or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 34228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Gas Engine and Compressor Service Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on October 10, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. 205.9(f).

Issued in Dallas, Texas on the 28th day of August 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 28148 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65003-9033-01-77; Docket No. ERA-FC-79-002]

Swift Creek Unit S/N 99726, Occidental Chemical Co.

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Determination to Classify the Occidental Chemical Company Swift Creek Installation as an Existing Facility.

SUMMARY: On April 26, 1979, Occidental Chemical Company (Occidental) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify its Swift

Creek Chemical Complex boiler as an existing facility pursuant to § 515.13 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA).

ERA has completed its analysis of Occidental's request and has determined that Occidental has satisfactorily demonstrated that it would suffer a significant operational detriment under the criteria prescribed in § 515.13(b) of the Revised Interim Rule.

ERA has determined that Occidental's Swift Creek Unit S/N 99726 is an "existing" facility and is therefore subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Telephone: (202) 634-2170.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Telephone: (202) 254-7814.

C. Randolph Comstock, Deputy Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, Telephone: (202) 633-8820.

Robert L. Davies, Acting Assistant, Administrator, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128-L, Washington, D.C. 20461, Telephone: (202) 254-7442.

SUPPLEMENTARY INFORMATION:

(1) On April 26, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities issued by ERA on March 15, 1979, Occidental requested ERA to classify Occidental's Swift Creek boiler S/N 99726 as an "existing" facility. A conference was held on April 26, 1979, at Occidental's request. On July 20, 1979, ERA published a summary of Occidental's request for classification in the **Federal Register** (44 FR 42758) and requested comments by interested persons on or before August 13, 1979. No comments were received other than minor corrections of the notice information furnished by Occidental.

(2) A copy of ERA's Summary of Analysis relating to Significant Operational Detriment is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C. September 4, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28150 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

Tom Davis and Charles Forbes, d.b.a. Davis & Forbes; Proposed Remedial Order

Pursuant to 10 C.F.R. § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Tom Davis and Charles Forbes d/b/a—Davis & Forbes, P.O. Box 354, Hebbronville, Texas 78361. This Proposed Remedial Order charges Davis & Forbes with pricing violations in the amount of *$599,382.43*, connected with the *sale of domestic crude oil during the time period November 1, 1973, through April 30, 1978, in the State of Texas.*

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from *Wayne I. Tucker*, District Manager of Enforcement, *P.O. Box 35228, Dallas, Texas 75235*, phone *[214/767-7745]*. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 C.F.R. § 205.193.

Issued in Dallas, Texas, on the 27th day of August 1979.

Herbert F. Buchanan,

Deputy District Manager of Enforcement, Southwest District.

[FR Doc. 79-28149 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

Liquid Products Recovery, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: August 28, 1979. Comments by: October 11, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT:

Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Office of Enforcement of the ERA executed a Consent Order with Liquid Products Recovery, Inc. of Houston, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Liquid Products Recovery, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE had determined that it is in the public interest to make the Consent Order with Liquid Products Recovery, Inc. effective as of the date of its execution by the DOE and Liquid Products Recovery, Inc.

I. The Consent Order

Liquid Products Recovery, Inc., with its home office in Houston, Texas, is a firm engaged in the production and sale of natural gas liquids and a natural gas liquid product, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of NGL's and the NGL product, the Office of Enforcement, ERA, and Liquid Products Recovery, Inc. entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through July 1976, and it included all sales of a mixed NGL stream primarily to Wanda Petroleum and sales of a natural gas liquid product to various customers.

2. Liquid Products Recovery, Inc. improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subparts E and K, when determining the prices to be charged for its NGL and NGL product, and as a consequence overcharged certain of its customers on some of their purchases.

3. Liquid Products Recovery, Inc. agrees to refund to the DOE $62,500, including interest and penalty. Of this amount, $5,208.33 will be refunded on October 1, 1979. The remaining amount will be refunded as 11 payments of $5,208.33 each, due the first day of each month thereafter until the full amount is paid.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Liquid Products Recovery, Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $62,500 in the manner specified in I. 3. above. Refunded ovecharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. in fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Liquid Products Recovery, Inc., Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on October 11, 1979. You should identfiy any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. 205.9(f).

Issued in Dallas, Texas on the 29th day of August 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-28283 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

Perry Gas Processors, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: August 13, 1979. Comments by: October 11, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT:

Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235-[phone] 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 13, 1979, the Office of Enforcement of the ERA executed a Consent Order with Perry Gas Processors, Inc. of Odessa, Texas. Under 10 C.F.R 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Perry Gas Processors, Inc. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Perry Gas Processors, Inc. effective as of the date of its execution by the DOE and Perry Gas Processors, Inc.

I. The Consent Order

Perry Gas Processors, Inc., with its home office in Odessa, Texas, is a firm engaged in the production and sale of natural gasoline and plant condensate, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement, ERA, and Perry Gas Processors, Inc. entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through August 1975, and it included all sales of the natural gas liquid product—natural gasoline, to Shell Oil Company and all sales of condensate to Tesoro Crude Oil Company, and the permian Corporation.

2. Perry Gas Processors, Inc. improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 C.F.R., Part 212, Subparts D, E, and K, when determining the prices to be charged for its NGL product and condensate and, as a consequence, the above firms were overcharged on some of their purchases.

3. Perry Gas Processors, Inc. agrees to refund to the DOE $38,000 within 30 days of the effective date of the Consent Order, August 13, 1979.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

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II. Disposition of Refunded Overcharges

In this Consent Order, Perry Gas Processors, Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of enforcement, ERA, arising out of the transactions specified in I. 1 above, the sum of $38,000 within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refunds amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Perry Gas Processors, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on October 11, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 31st day of August 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-28282 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-619]

Arizona Public Service Co.; Filing of Service Schedule to Power Coordination Agreement

September 5, 1979

The filing Company submits the following:

Take notice that on August 24, 1979, Arizona Public Service Company (APS) tendered for filing a Service Schedule J of the Power Coordination Agreement between APS and Tucson Gas & Electric Company (TG&E). The Coordination Agreement is APS Rate Schedule FPC No. 32. The filing was made pursuant to § 35.12 since the filing represents a new service. Early approval and waiver of Section 35.3 is requested by TG&E as construction is required for performance of this Service Schedule.

Any person desiring to be heard or to protest said filing sould file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Protests will be September 25,1979, considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28256 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP74-61 (PGA79-2); RP79-53 (LFUTA79-2)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheet Reflecting Purchased Gas Cost Adjustment and Louisiana First Use Tax Adjustment

September 5, 1979.

Take notice that on August 29, 1979 Arkansas Louisiana Gas Company (Arkla) tendered for filing 20th Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G–2, to become effective October 1, 1979.

Arkla states that the purpose of 20th Revised Sheet No. 4 is to track producer and pipeline supplier price changes as of October 1, 1979 and to recover the accumulated deferred purchased gas costs as of June 30, 1979, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause. Said tariff sheet also reflects a revision in the Louisiana First Use Tax for the six month period beginning October 1, 1979 computed in accordance with the provisions of Arkla's Louisiana First Use Tax Clause contained in its Rate Schedule No. G–2.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28257 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-626]

Boston Edison Co.; Proposed Rate Schedule Change

September 5, 1979

The filing Company submits the following:

Take notice that on August 28, 1979 Boston Edison Company ("Edison") tendered for filing one revised Exhibit A and four supplemental Exhibit A's to a Service Agreement for the Town of Reading, Massachusetts, under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service ("the Tariff"). The Exhibit A's specify the amount and duration of transmission service required by Reading under the Tariff.

Edison requests an effective date for the Exhibit A's of November 1, 1979, the date on which service commences.

Edison states that it has served the filing on the Town of Reading and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28258 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-205]

Colorado Interstate Gas Co.; Amendment

August 31, 1979

Take notice that on August 14, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-205 an amendment to its pending application filed in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to provide for the exchange, on a gas-for-gas basis, of natural gas delivered by CIG to Natural Gas Pipeline Company of America (Natural) and gas delivered by Natural to CIG, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

CIG requested authorization in the pending application in Docket No. CP79–205 for the transportation and exchange of gas with Natural pursuant to a twenty-year gas transportation and exchange agreement dated December 29, 1978. The transportation and exchange would initially be from certain sources of supply set forth in the agreement. CIG also requested authorization for the transportation of gas on a systemwide basis from any sources of supply the acquiring party may develop or acquire in proximity to the other party's existing or future pipeline system and that the parties mutually agree to connect by revision of Exhibit A of the agreement. Each party would pay the appropriate average system transportation fee for all gas transported.

By the instant filing, CIG proposes to amend its application to apply a transportation charge only to "Net Delivery Volumes;" that is, volumes of gas in excess of thermally equivalent exchange volumes between Natural's Amarillo system and CIG's system. The appropriate transportation charge would be assessed for any gas delivered by CIG to Natural's Gulf Coast system. Further, Natural's offshore facilities have been excluded from the agreement pursuant to this amendment.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28259 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-59]

Colorado Interstate Gas Co., Revised Changes in Rates

September 5, 1979

Take notice that Colorado Interstate Gas Company (CIG) on August 31, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2.

The purpose of the filing is to comply with the directive stated in ordering Paragraph (E) of the Commission's Order of May 1, 1979, requiring CIG (1) to eliminate from Docket No. RP79–59 all costs associated with facilities which have not been certificated and placed in service by September 30, 1979, and (2) to reflect in Docket No. RP79–59 the actual balances of advance payments in Account 166 as of September 30, 1979. As a result of this filing, the jurisdictional cost of service in Docket No. RP79–59 will be reduced by approximately $.7 million.

Replacement Substitute Fourth Revised Sheet Nos. 7 and 8 are proposed to be substituted for and to replace Substitute Fourth Revised Sheet Nos. 7 and 8, as filed with the Commission on August 15, 1979, in Docket No. RP72–122 (PGA79–2). CIG requests that Replacement Substitute Fourth Revised Sheet Nos. 7 and 8 be made effective as of October 1, 1979, the date previously provided for in Docket No. RP79–59.

Replacement Second Revised Sheet Nos. 187, 251, and 330, reflecting the adjusted transportation rates contained in Rate Schedules X–14, X–19, and X–25, were also tendered for filing with a requested effective date of October 1, 1979.

Copies of this filing have been served upon the Company's jurisdictional customers and upon interested bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28260 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-15]

Colorado Interstate Gas Co., Request for Adjustment of Final Regulations Implementing Section 401 of the Natural Gas Policy Act of 1978

August 28, 1979

Take notice that on August 8, 1979, Colorado Interstate Gas Company (CIG), filed in Docket No. SA79-15, an application pursuant to Section 1.41 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 1.41) requesting that the Commission's Director, Office of Producer and Pipeline Regulation issue an order extending by one year the time in which CIG must file tariff sheets and supporting materials in accordance with Section 281.204 of the Commission's Regulations and also requests the Commission construe CIG's Motion For Extension of Time filed on July 24, 1979 in Docket No. RM79-15 as a part of the instant request, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Section 281.204 of the Commission's Regulations requires the filing of tariff sheets regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users, the attribution of natural gas, and the establishment of a Data Verification Committee. CIG states it has diligently attempted to comply with Order No. 29. CIG also states that its present curtailment plan does not call for the collection of end-use data and that CIG's customers have responded saying they require more time to supply the data in response to Order No. 29. CIG further alleges that its April 1979 Form 16 projects no firm curtailment over the next winter heating season. If granted the one year extension CIG states it will continue to pursue the formulation of a curtailment plan which is acceptable to it, its customers and in compliance with Order No. 29. CIG states it believes such a plan would likely avoid the hearings or other formal proceedings which could result if CIG were required to file an Order No. 29 plan by October 1, 1979.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before September 26, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28261 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CP71-68, et al.; RP79-73; RP79-72]

Columbia LNG Corp., et al., Consolidated Gas Supply Corp., Southern Natural Gas Co.; Tariff Sheet Filing

September 4, 1979

Take notice that Southern Natural Gas Company (Southern) on August 27, 1979, tendered for the filing a tariff sheet to its FPC Gas Tariff, Sixth Revised Volume No. 1 in compliance with the Federal Energy Regulatory Commission's (Commission) Suspension Order of June 29, 1979 in the above-captioned dockets.

Southern states that the rate change reflects an increase in the cost of purchasing regasified LNG from Southern Energy Company as a result of the Economic Regulatory Administration's Order of August 22, 1979 in ERA Docket No. 79-14-LNG Approving in Part an Application for Amendments to Import Authorization and for Interim Relief, and Granting Intervention.

Copies of the filing have been served upon Southern's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28244 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-622]

The Connecticut Light and Power Co.; Amendment to Purchase Agreement

September 5, 1979

The filing Company submits the following:

Take notice that on August 27, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed Amendment to Purchase Agreement With Respect to Various Gas Turbine Units (I) (Amendment) dated May 1, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Vermont Electric Cooperative, Inc. (VEC).

CL&P states that the Amendment provides for an increase in Purchase Percentages to be purchased by VEC for the periods from November 1, 1979 to October 31, 1982.

CL&P requests that, in order to permit VEC to receive the needed additional capacity and energy pursuant to the terms of the Amendment and to allow WMECO to receive payment for such capacity and energy permit the Amendment filed to become effective on November 1, 1979

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and VEC, Johnson, Vermont.

CL&P also states that no facilities are to be installed or modified in order to supply the service to be furnished under the Amendment.

CL&P further states that the filing is in accordance with part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28262 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-620]

Consumers Power Co.; Filing

September 5, 1979

The filing Company submits the following:

Take notice that Consumers Power Company on August 27, 1979 tendered for filing a Service Agreement for Wholesale for Resale Electric Service, dated August 8, 1979, between Consumers Power Company ("Consumers Power") and the City of Charlevoix, Michigan ("Charlevoix"). The Service Agreement became effective on August 8, 1979 and on that date supplanted a prior contract between the two parties, dated September 30, 1975, designated Consumers Power Company Rate Schedule FERC Electric Tariff Original Volume No. 1. The initial term of the Service Agreement is three years from and after the effective date.

Consumers Power states that the new contract is necessitated by a request from Charlevoix to Consumers Power to provide a capacity reservation increase from 7,000 kW to 8,600 kW, which increase required modifications in Consumers Power's existing Charlevoix Substation.

Consumers Power states that the initial rates and charges under the Service Agreement are those presently in effect for service to its wholesale jurisdictional customer class.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed by or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28263 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP74-126]

El Paso Natural Gas Co.; Petition to Amend

August 31, 1979

Take notice that on July 19, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-126, a petition to amend the order of April 2, 1975 [1] issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing the establishment of certain new exchange and balancing points between El Paso and Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

El Paso and Natural are authorized to exchange natural gas in quantities of up to 65,000 Mcf per day, pursuant to the order of April 2, 1975.

El Paso states that it has been advised by Natural that Natural has acquired additional natural gas supplies in Lea and Eddy Counties, New Mexico, which Natural would cause to be delivered to El Paso under an existing exchange arrangement. Such additional natural gas supplies are situated in close proximity to El Paso's existing gathering systems located in Lea and Eddy Counties, New Mexico.

In addition, El Paso has advised Natural that El Paso has natural gas available in Roosevelt County, New Mexico, and Washita County, Oklahoma, which it would cause to be delivered to Natural under the existing exchange arrangement. Such natural gas is located in close proximity to Natural's existing gathering systems located in Roosevelt County, New Mexico, and Washita County, Oklahoma.

The petition further indicated that in order that Natural and El Paso may each obtain the additional volumes of natural gas available to them for use on their respective systems, El Paso and natural have executed amendatory agreement No. 12, dated June 22, 1979, amending the gas exchange agreement dated September 24, 1973, to provide for, *inter alia*, certain new exchange arrangement and balancing points under the authorized exchange arrangement and to establish on area of interest for future exchange deliveries. The proposed additional exchange points are identified as the Lea No. 5 Exchange Point, the Lea No. 6 Exchange Point, the Eddy No. 8 Exchange Point and the Eddy No. 9 Exchange Point. Deliveries of natural gas to El Paso for Natural's account at such exchange points would be commingled with natural gas purchased by El Paso and delivered into El Paso's existing gathering system through common measurement facilities installed, owned and operated by El Paso; therefore, no additional facilities would be required by Natural at such exchange points, the petition further asserts.

Further, Natural and El Paso have utilized an existing authorized point of interconnection between their respective pipeline systems located in Reeves County, Texas (Worsham Exchange Point), as an alternate exchange balancing point and as a point of delivery by Natural to El Paso of gas produced from the Warwink and Caprito fields. El Paso has advised Natural that the quantities of gas received at such point require treating and, as a result, a charge for such service has been porvided for in said amendatory agreement. Natural has agreed to pay El Paso 3.64 cents per Mcf for the cost of treating the volumes of natural gas delivered by natural at the Worsham Exchange Point. Natural would operate and maintain the existing measurement facilities at such point; and no additional facilities required.

Said amendatory agreement also provides that, subject to the mutual agreement of the parties, El Paso would cause the delivery of exchange gas for its account to Natural at a new exchange point at the inlet of Natural's existing delivery and measurement facilities located at the outlet of Cities Service Gas Company's Bluitt Gasoline Plant in Roosevelt County, New Mexico. The quantities delivered at that exchange point would be those quantities in excess of the natural gas delivered by El Paso to Natural under a gas transportation agreement dated August 25, 1975, between El Paso and Natural. The exchange point is identified as the Roosevelt Exchange Point.

An additional new exchange delivery point, where El Paso would deliver, or cause the delivery of exchange gas for its account to Natural, is the Enserch-Bragg No. 1 well located in Washita

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

County, Oklahoma (Washita Exchange Point).

The amendatory agreement provides for the deletion of the Worsham Exchange point as a balancing point. If balancing of exchange gas cannot be achieved between the parties at the existing and proposed exchange points, El Paso and Natural have agreed that deliveries of natural gas volumes necessary to achieve such balance would be made by the owing party to the other at either or both of the existing points of interconnection between the pipeline systems of El Paso and Natural located in Ward County, Texas (Lockridge Exchange Point) and in Lea County, New Mexico (Jal Exchange Point).

El Point further requests authorization for the exchange of natural gas from additional exchange points which may be attached to the respective gathering systems of each party as the natural gas at such exchange points becomes available to El Paso and Natural in the area of interest identified in said amendatory agreement and, further, the addition of such balancing points as may be required to keep the volumes of exchange gas in balance during the term of the arrangement. In addition, El Paso requests blanket authorization for the deletion of exchange points and/or balancing points from the exchange arrangement, as may be mutually agreed to from time to time by El Paso and Natural.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28264 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-155 and RP79-12]

El Paso Natural Gas Co.; Proposed Change in Rate Pursuant to Purchased Gas Cost Adjustments

September 5, 1979

Take notice that on August 31, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system. Such service is rendered under rate schedules affected by and subject to Article 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, and under rate schedules affected by and subject to the PGAC—Clean High Pressure Gas Provision ("PGAC–CHPG") contained in El Paso's FERC Gas Tariff, Original Volume No. 2A.

El Paso states that the instant notice of change in rates occasioned by the PGAC and PGAC–CHPG provisions will compensate El Paso for (i) changes in the cost of purchased gas (including certain gas produced by El Paso which is priced for rate purposes on an area rate basis) to be in effect on or before October 1, 1979, applied to volume of natural gas purchased (or produced) during the calendar month of June 1979, adjusted and annualized, and (ii) changes in the surcharge adjustment resulting from the actual balance in El Paso's Account 191, Unrecovered Purchased Gas Cost, as of June 30, 1979, including the applicable carrying charges. El Paso further states that the instant notice of change in rates includes adjustments attributable to (i) advance payments, (ii) transportation costs and (iii) gas well royalty costs, pursuant to the adjustment mechanisms designed to track such costs provided for in El Paso's Stipulation and Agreement dated June 23, 1978, at Docket No. RP78–18, which were subsequently extended and modified by similar provisions contained in El Paso's Stipulation and Agreement dated May 31, 1979, at Docket No. RP79–12.[1] An adjustment necessary to track production tax costs, as provided for in the Stipulation and Agreement at Docket No. RP79–12 has also been included in the derivation in the change of rates provided for herein.

It is stated that the overall net increase in El Paso's rates for which notice is given is 3.76¢ per Mcf as to its east-of-California ("EOC") customers and 11.95¢ per Mcf as to its California customers.

The currrent net PGAC adjustment proposed for El Paso's EOC customers and the California customers are 9.63¢ per Mcf and 17.82¢ per Mcf, respectively. Such net PGAC adjustments are comprised of (i) a purchased gas cost adjustment, (ii) the unrecovered purchased gas cost balance in Account 191, as of June 30, 1979, applicable to each of said customer categories, and (iii) elimination of the PGAC surcharge adjustments applicable to the EOC and California customers, respectively, presently included in El Paso's rates.

El Paso states that the curent net PGAC–CHPG adjustment, for which notice is also given herein, aggregates an increase of 12.3339¢ per Mcf. Such current net adjustment is comprised of (i) an increase in the weighted average purchased cost of clean, high-pressure gas, (ii) a surcharge adjustment representing the unrecovered purchased gas cost balance in Account 191 as of June 30, 1979, and (iii) elimination of the PGAC–CHPG surcharge adjustments presently included in El Paso's clean high-pressure rates.

El Paso states that the adjustment mechanisms designed to track variations in its costs attributable to advance payments, transportation costs and gas well royalty and production tax costs, as approved at Docket Nos. RP78–18 and RP79–12, result in the net rate adjustments summarized below:

Adjustment	EOC and California Rates (cents)
Advance payment	0
Transportation	0.42
Gas well royalty and production tax	(6.29)

El Paso further states that the proposed current net adjustments reflect the elimination of the appropriate surcharges reflected in El Paso's PGAC filing effective April 1, 1979.

El Paso has requested that waiver be granted of all applicable rules, orders and regulations of the Commision, as may be deemed necessary, to permit the effectiveness on October 1, 1979, of the tariff sheets tendered as a part of the instant notice of change in rates.

El Paso states that copies of the filing and attachments have been served upon all parties of record in Docket Nos. RP72–155 and RP79–12, and, otherwise, upon all affected customers and interested state regulatory commissions.

[1] Said stipulation and Agreements were accepted and approved by the Commission's letter orders dated September 5, 1978, at Docket No. RP78–18 and July 20, 1979, at Docket No. RP79–12.

Any peson desiring to be heard or to make any protest with reference to said tariff filing should, on or before Sept. 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28265 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-18]

El Paso Natural Gas Co.; Payment of Refunds

September 4, 1979

Take notice that on August 29, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing a Report of Refunds Made on August 27, 1979, to its interstate jurisdictional, and nonjuridictional keyed customers. El Paso states that such refunds were make in accordance with Article V and the procedures for disposition of refunds set forth in Article XVI of El Paso's Stipulation and Agreement dated and filed June 23, 1978, as approved by Commission letter order dated September 5, 1978, at Docket No. RP78–18. El Paso further states that the aggregate amount of refunds made by El Paso on August 27, 1979, is $12,246,280.96.

El Paso states that copies of the filing were served upon all of El Paso's affected interstate transmission system customers, all parties of record in Docket No. RP78–18, and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before September 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28245 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-37]

El Paso Natural Gas Co.; Proposed Change in Rate

September 4, 1979

Take notice that on August 29, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, particularly Section 154.38(h) thereof, the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1	Twenty-sixth Revised Sheet No. 3-B.
Third Revised Volume No. 2	Seventeenth Revised Sheet No. 1-D.
Original Volume No. 2A	Eighteenth Revised Sheet No 1-C.

El Paso states that such tendered sheets implement the instant notice of change in rate to be effective October 1, 1979, pursuant to the provisions of El Paso's Louisiana First-Use Tax Tracking Provision ("LFUT"), contained in Section 22 of the General Terms and Conditions of El Paso's Gas Tariff, Original Volume No. 1. El Paso further states that the net increase in rate attributable to the LFUT, for which notice is given herein, is 0.04¢ per Mcf, which will be applied as an adjustment to all rate schedules contained in El Paso's FERC Gas Tariff, Original Volume No. 1 and to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A. Such net LFUT adjustment is comprised of (i) a LFUT Adjustment of 0.03¢ per Mcf to recover annualized increases in LFUT costs and (ii) a LFUT Surcharge Adjustment of 0.01¢ per Mcf based upon the unrecovered balance in the LFUT Deferred Cost Account, as of June 30, 1979. El Paso also states that in conformity with El Paso's selection of the corporate undertaking procedure pursuant to Commission Order No. 10–B, issued March 2, 1979, at Docket No. RM78–23, El Paso will collect the increase in LFUT, subject to refund.

El Paso has requested that waiver be granted of all applicable rules and regulations of the Commission, as may be deemed necessary to permit the effectiveness on October 1, 1979, of the tariff sheets tendered as part of the instant notice of proposed change in rates.

El Paso also states that copies of the filing have been served upon all parties of record in Docket No. RP79–37, and, otherwise, upon all of El Paso's interstate transmission system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28246 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-435]

Equitable Gas Co.; Application

August 30, 1979

Take notice that on August 9, 1979, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP79–435 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Equitable to install one main-line tap at a cost of approximately $300.00 and to transport natural gas for service to Federal Supply Company (Federal), an industrial customer, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Equitable states that on May 1, 1979, Federal applied to Equitable for natural

gas service exclusively for space heating its premises. The proposed service would be from Equitable's Field Line No. F-114, located in Greene County, Pennsylvania, which line transports natural gas in interstate commerce from various production facilities to Equitable's transmission lines.

Federal has informed Equitable that its premises are now heated by means of propane and that it desires to convert to natural gas. Equitable asserts that it is ready, willing and able to provide the requested service.

Equitable proposes to install a main-line tap and regulators on its Field Line No. F-114 as soon as reasonably possible at an estimated cost of $300.00, with construction estimated to be completed within one day. The gas line from the tap to the premises is to be provided by the customer at customer's expense.

The proposed service would require the transportation in interstate commerce of approximately 3,000 Mcf of natural gas per year, the application indicates.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitable to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28247 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-136 (PGA 79-2) and RM78-23]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under Purchased Gas Adjustment Provisions

September 5, 1979

Take notice that on August 31, 1979, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing 22nd Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1, containing changes in its resale rates in Rate Schedules G and I to be effective on October 1, 1979.

According to FGT, the changes in rates contained on 22nd Revised Sheet No. 3-A are in accordance with the purchased gas cost adjustment provision in its Tariff (Section 15, General Terms and Conditions) and the Louisiana First Use Tax Provision (Section 20, General Terms and Conditions). FGT states that the rates contained on 22nd Revised Sheet No. 3-A are proposed to supersede those on Substitute Alternate 21st Revised Sheet No. 3-A.

FGT further states that the following shows a comparison between the rates in effect pursuant to Substitute Alternate 21st Revised Sheet No. 3-A and those to be made effective on October 1, 1979 under this filing:

	¢/Therm	
	Effective Prior to October 1, 1979	Effective October 1, 1979
Rate Schedule G	15.187	22.039
Rate Schedule I	15.187	22.039

According to FGT, the annual effect of the proposed rate changes is an increase of $56,993,030, of which $54,358,449 is attributable to the purchased gas cost provision and $2,364,581 results from the Louisiana First Use Tax Provision based on sales under Rates Schedules G and I for the twelve months ended June 30, 1979.

FGT states that a copy of its filing has been served on all customers purchasing gas under its FERC Gas Tariff, Original Volume No. 1 and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28266 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-624]

Gulf Power Co.; Supplement

September 5, 1979

The filing Company submits the following:

Take notice that on August 28, 1979, Gulf Power Company (Gulf) filed herein Supplement to its FERC Electric Tariffs providing for changes in loads for service by Gulf to Florida Public Utilities Company at Altha (Calhoun County), Chipola (Jackson County) and Marianna (Jackson County), Florida. This tariff supplement is proposed to be effective for service commencing on August 1, 1979. and Gulf therefore requests waiver of the Commission's notice requirements to allow such effective dates

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1, 8, 1.10). All such petitions or protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28287 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-621]

The Hartford Electric Light Co.; Purchase Agreement

September 5, 1979

The filing company submits the following:

Take notice that on August 27, 1979 The Hartford Electric Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to System Power (Purchase Agreement), dated May 1, 1978 between HELCO, The Connecticut Light and Power Company, and Western Massachusetts Electric Company (together the NU Companies) and New York State Electric and Gas Corporation (NYSE&G).

HELCO states that the Purchase Agreement provides for a sale to NYSE&G of specified amounts of capacity and related energy from the HELCO System during the period from November 1, 1979 to April 30, 1982, together with related transmission service provided by the NU Companies.

HELCO requests that the Commission permit the rate schedule to become effective on November 1, 1979.

HELCO states that the capacity charge rate for the proposed service is a negotiated amount, approximately equal to the costs associated with Middletown Unit No. 4, located at Middletown Generating Station in Middletown, Connecticut. The monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the system of the NU Companies determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which NYSE&G is entitled to receive. The energy charge is based on NYSE&G's portion of the applicable fuel expenses for Middletown Unit No. 4 and no special cost-of-service studies were made to derive this charge.

HELCO states that the services to be provided under the Purchase Agreement are not similar to services provided by HELCO under any other rate shedule.

HELCO states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, The Connecticut Light and Power Company (CL&P), Hartford, Connecticut, Western Massachusetts Electric Company (WMECO), West Springfield, Massachusetts and NYSE&G, Binghampton, New York.

CL&P and WMECO have filed certificates of concurrence in this docket.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28268 filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-631]

The Hartford Electric Light Co.; Purchase Agreement

September 6, 1979

The filing Company submits the following:

Take notice that on August 31, 1979, The Hartford Electric Light Company (HELCO) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with Respect to Middletown Unit No. 4 between HELCO and Green Mountain Power Corporation (GMP) dated as of April 1, 1977.

HELCO states that the Purchase Agreement provides for a sale to GMP of a specified percentage of capacity and energy from HELCO's Middletown Unit No. 4 generating unit during the period November 1, 1979 through October 31, 1985.

HELCO requests that the Commission permit the rate schedule filed to become effective on November 1, 1979.

HELCO states that the Capacity Charge rate for the proposed service is a rate determined on a cost-of-service basis. The monthy transmission charge rate is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee.

The monthly Transmission Charge is determined by the product of (i) the transmission charge rate ($/KW-month), and (ii) the number of kilowatts of winter capability which GMP is entitled to receive. The Energy Charge is based on GMP's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge.

HELCO states that the services to be provided under the Purchase Agreement are similar to service provided by HELCO relating to an agreement between HELCO and North Attleborough Electric Department (Rate Schedule FERC No. 155).

HELCO states that a copy of the rate schedule has been mailed or delivered to HELCO, Hartford, Connecticut, GMP, Burlington, Vermont.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28269 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-66 (PGA79-1)]

Inter-City Minnesota Pipelines Ltd., Inc.; Proposed Rate Change Pursuant to Purchased Gas Cost Adjustment Provisions

September 4, 1979

Take notice that Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City) on August 17, 1979, tendered for filing Eleventh Revised Sheet No. 4 to its F.E.R.C. Gas Tariff, Original Volume No. 1, proposed to be effective September 1, 1979. On August 24, 1979, Inter-City supplemented

its filing with materials in support of this tariff sheet.

Inter-City states that the filing reflects a request for a purchased gas adjustment cost pursuant to § 154.38(d)(4) of the Commission's regulations. Inter-City further states that the instant filing is a result of recent increases in the border price of Canadian gas. In order to effect this increase Inter-City requests waiver of the provisions of Order No. 13 to the extent necesary to allow this filing to become effective September 1, 1979, or in the alternative, that the request be permitted to become effective following a one-day suspension.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28246 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-628]

Iowa Power & Light Co., Rate Schedule Filing

September 6, 1979

The filing Company submits the following:

Take notice that Iowa Power and Light Company ("Iowa Power"), on August 28, 1979, tendered for filing proposed changes in Iowa Power and Light Company FPC Rate Schedule No. 39, which sets forth rates for wholesale electric service to the City of Ames, Iowa.

Proposed Supplement No. 6 to Rate Schedule No. 39 provides for an additional service schedule for the sale of short term power and energy. This change is needed in order to allow the parties to carry out the transactions of power desired.

Iowa Power requests that the Commission waive its prior notice requirements and accept proposed Supplement No. 6 for filing with a retroactive effective date of August 1, 1979. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to be proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28270 Filed 9-10-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-629]

Iowa Power & Light Co.; Filing of Participation Power Agreements

September 6, 1979

The filing Company submits the following:

Take notice that Iowa Power and Light Company, Des Moines, Iowa (Iowa Power), on August 29, 1979, tendered for filing four Participation Power Agreements with Iowa Electric Light and Power Company, Cedar Rapids, Iowa (Iowa Electric).

Relating to Iowa Electric's purchase of 100 mW from May 1, 1979 through April 30, 1980; 148 mW from May 1, 1980 through April 30, 1981; and 76 mW from May 1, 1981 through April 30, 1982 of participation power according to Service Schedule A of the Mid-Continent Area Power Pool Agreement dated May 31, 1972, as amended. This Participation Power Pool Agreement establishes demand, energy, and transmission charges for such services and is to run from May 1, 1979 through April 30, 1982. Iowa Power requests waiver of the Commission's notice requirements and proposes an effective date of May 1, 1979.

Iowa Power states the purpose of the proposed rates is to recover reflected costs of the facilities to be provided as the scheduling path and for demand and energy power provided.

Iowa Power states copies of the filing have been mailed to Iowa Electric and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1979.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28230 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-623]

Kansas Gas & Electric Co.; Filing of Service Agreements

September 5, 1979

The filing Company submits the following:

Take notice that Kansas Gas & Electric Company, on August 28, 1979 tendered for filing Agreements for Electric Service with its eight (8) rural electric cooperative customers.

The filing is necessary because the previous Agreements expired December 31, 1978.

Copies of the filing were served upon each of the cooperatives involved as well as the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Para. 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28231 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-57]

Kansas-Nebraska Natural Gas Co., Inc.; Petition To Amend

August 31, 1979

Take notice that on August 8, 1979, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP75-57 a petition to amend the order of May 11, 1977,[1] issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to exchange, transport and sell natural gas to and with Montana-Dakota Utilities Co. (MDU) in accordance with three amendatory agreements dated July 9, 1977, October 9, 1978, and March 6, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the May 11, 1977, order Petitioner and MDU were authorized, *inter alia,* to exchange, transport and sell natural gas in accordance with a gas sales, transportation and exchange agreement dated May 10, 1974, between the two companies. It is indicated that the agreement provided that Petitioner would connect the wells covered by the agreement either to MDU's gathering system or to its own gathering system with delivery from the gathering system to be made at MDU's Bowdoin Compressor Station, Phillips and Valley Counties, Montana. Although the agreement contemplated the connection of wells to MDU's gathering system, Petitioner indicates, when it came time to connect wells which, because of their location, could be more economically connected to the gathering system of MDU, it was discovered that revision of the agreement was necessary.

Therefore, by amendatory agreements dated July 19, 1977, October 9, 1978, and March 6, 1979, Petitioner and MDU amended the May 10, 1974, agreement to provide for the connection of such wells to MDU's gathering system and the deletion of said wells from Petitioner's system. Said amendments, *inter alia,* exclude the volumes associated with these wells from the gathering and delivery charge MDU is required to pay Petitioner since they are not connected to Petitioner's facilities, specify the formula by which each party's share of the cost of facilities to connect the wells is to be determined, and provide for the proportion of gas to be received from these wells by each party. Consequently, Petitioner requests that the Commission amend the order in the instant docket to provide for such changes. Petitioner also requests authorization to add and delete wells/acreage under the terms of the agreement as required from time to time.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28232 Filed 9-10-79; 8:46 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. RP73-23 PGA79-3(a)]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

September 5, 1979

Take notice that on August 27, 1979 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on August 24, 1979, proposed to become effective August 1, 1979, and identified as follows:

Substitute Eighteenth Revised Sheet No. 4, and Substitute Seventeenth Revised Sheet No. 18.

Lawrenceburg states that its substitute tariff sheets were filed to reflect a reduction in its cost of gas purchased from Texas Gas Transmission Corporation which occurred subsequent to its PGA filing made on June 28, 1979. The Commission by letter order issued August 2, 1979 had accepted Lawrenceburg's PGA filing subject to revisions to reflect decreases in its cost of gas purchased from Texas Gas.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28233 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-617]

The Montana Power Co.; Cancellation of Agreements

September 5, 1979

Take notice that on August 22, 1979, the Montana Power Company ("Montana") tendered for filing a Notice of Cancellation of Agreements with: San Diego Gas and Electric Company ("San Diego"), FERC Rate Schedule No. 41 and Supplement No. 1 to FERC Rate Schedule No. 41; The Washington Water Power Company ("Washington"), FERC Rate Schedule No. 43; Utah Power and Light Company ("Utah"), Supplement No. 3 to Rate Schedule No. 27; Portland General Electric Company ("Portland"), FERC Rate Schedule No. 42; and Utah Power and Light Company ("Utah"), Supplement No. 17 to Rate Schedule No. 3. Montana states that the agreements or Service Schedules have either expired of their own terms and have not been renewed, or transactions have not occurred for several years and are not anticipated to again occur under the applicable schedule.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1979. Protests

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will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28234 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-482]

Mississippi Power Co.; Order Accepting for Filing and Suspending Proposed Increased Electric Tariff Rates, Granting Intervention and Establishing Procedures

Issued August 24, 1979

On June 29, 1979, Mississippi Power Company (Mississippi) tendered for filing a revision of the rates included in its Seventh Revised Sheet No. 3 and its Eighth Revised Sheet No. 4 (designated as Rate Schedule MRA-14) to its FERC Electric Tariff, Original Volume No. 1, to become effective September 1, 1979.[1] Mississippi states that the proposed rates would increase revenues from jurisdictional sales under the revised tariff by $1,760,960 (4.89%) based upon a projected twelve-month test period ending August 31, 1980.

Public notice of this filing was issued on July 5, 1979. Comments, protests and petitions to intervene were due on or before July 30, 1979.

On July 30, 1979, three electric power associations (Associations) [2] jointly filed a protest and petition to intervene in the proceeding in which they also request a five-month suspension and hearing. In support of their request for a maximum suspension period, Associations allege that Mississippi's proposed increased rates would result in returns substantially greater than those shown by Mississippi due to cost-of-service errors in computing wholesale costs. Associations also allege that the filing is deficient in form in that it is impossible to determine precisely Mississippi's cost-of-service treatment of various elements of alleged wholesale cost.

Participation by Associations in this proceeding may be in the public interest. Pursuant to our policy set forth in Section 2.17 of our General Policy and Interpretations, we find it is appropriate that price squeeze procedures be initiated in this docket. However, as we stated recently,[3] we believe that decisions on cost-of-service, capitalization and rate of return issues in rate proceedings may reduce proposed wholesale rates to the point where price squeeze concerns are eliminated, or at least substantially diminished by resulting refunds. Hence, we shall order that the price squeeze portion of this proceeding be held in abeyance until after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. If, in the view of the alleging party, the price squeeze persists at that time, a second phase of the proceeding will follow for the hearing and adjudication of price squeeze under Section 2.17 (*supra*).

There may be situations in which price squeeze issues should not be deferred. We leave it to the discretion of the presiding judge in this proceeding to determine whether this case is one. The presiding judge may act on his or her own motion or upon the request of a party to accelerate the price squeeze phase; however, such rulings are discretionary rulings which shall not be appealable to the Commission under Section 1.28 of our Rules of Practice and Procedure, 18 CFR 1.28.

Our review of Mississippi's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, we shall accept Mississippi's proposed rates for filing and suspend them for one month, to become effective October 1, 1979, subject to refund.

The Commission Orders: (A) Mississippi's proposed rates hereby are accepted for filing and suspended for one month, until October 1, 1979, when they shall become effective, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket by Mississippi.

(C) Associations hereby are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *provided, however,* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *provided further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) An Administrative Law Judge shall be designated by the Chief Administrative Law Judge for purposes of convening a conference in ths proceeding. The conference shall be held within the (10) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426. The Presiding Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(E) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commissin opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The Presiding Judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in Section 2.17 of the Commission's regulations, as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(F) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 30, 1979.

(G) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28249 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-618]

The Montana Power Co.; Cancellation

September 5, 1979

The filing Company submits the following:

Take notice that on August 22, 1979, The Montana Power Company ("Montana") tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 33, an agreement for the sale of non-firm energy between Montana and the Department of Water and Power of the City of Los Angeles. Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 24, 1979. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28235 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP76-96, RP77-14 and RP77-57]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

September 4, 1979

Take notice that on August 29, 1979 National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Substitute Eighth Revised Sheet No. 4 proposed to be effective November 1, 1976, Substitute Third Revised Sheet No. 35 proposed to be effective November 1, 1976, Substitute Third Revised Sheet No. 36 proposed to be effective November 1, 1976, Second Substitute Tenth Revised Sheet No. 4 proposed to be effective February 1, 1977, Third Substitute Thirteenth Revised Sheet No. 4 proposed to be effective November 1, 1977, Substitute Twenty-Fourth Revised Sheet No. 4 proposed to be effective Janaury 1, 1979, and Twenty-Eighth Revised Sheet No. 4 proposed to be effective September 1, 1979.

National states that these sheets are being filed pursuant to the Commission's Opinion No. 58, issued August 6, 1979 in Docket Nos. RP76-96, RP77-14, and RP77-57, and to reflect the property transfer approved in Docket No. CP78-334.

National requests that the Commission grant such waivers of its regulations as it deems necessary to permit the revised tariff sheets to become effective on the dates requested.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers, interested state regulatory commissions and parties to the proceeding in Docket Nos. RP76-96, RP77-14 and RP77-57.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28250 Filed 9-10-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-625]

Northern States Power Co., Supplement No. 3

September 5, 1979

The filing Company submits the following:

Take notice that Northern States Power Company, on August 28, 1979, tendered for filing Supplement No. 3 dated August 20, 1979, to the Interconnection and Interchange Agreement, dated September 12, 1977, with the City of Kenyon.

Supplement No. 3 amends Article IX of the Interconnection and Interchange Agreement continuing the terms of the Agreement through October 31, 1994.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28236 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-627]

Northern States Power Co.; Agreement with Wisconsin Power & Light Co.

September 5, 1979

The filing Company submits the following: Take notice that Northern States Power Company (Minnesota) on August 28, 1979, tendered for filing an Agreement, dated July 30, 1979, with Northern States Power Company (Wisconsin) and Wisconsin Power and Light Company.

The Agreement provides for an interconnection between the parties at the Arpin Interconnection and details the Service Schedules available for the interchange of power and energy.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28237 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-57]

Northwest Pipeline Corp.; Rate Change

September 5, 1979

Take notice that on August 31, 1979, Northwest Pipeline Corporation ("Northwest") tendered for filing the following revised tariff sheets as part of its FERC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 122
First Revised Sheet Nos. 140, 169, 264, 384, 403, 422, 480, 527, 545, 565, 592, 629, 652, 658, 748, and 791.

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[1] The rate schedule designations are:
FERC Electric Tariff Original Volume No. 1
6th Revised Sheet No. 3 (Supersedes 5th Revised Sheet No. 3)
7th Revised Sheet No. 4 (Supersedes 6th Revised Sheet No. 4)

[2] The electric power associations and their headquarter cities in Mississippi are: Coast Electric Power Association, Bay St. Louis; East Mississippi Electric Power Association, Meridian; and Singing River Electric Power Association, Lucedale.

[3] *See,* "Order Accepting for Filing and Suspending Proposed Rate Changes, Granting Intervention, and Establishing Hearing and Price Squeeze Procedures," *Arkansas Power & Light Company,* Docket No. ER79-339, issued August 6, 1979.

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As more fully explained in the instant filing, the tariff sheets incorporate the current gathering and transportation rates for each related rate schedule as determined by Northwest and supported by its Motion to Place Rates into Effect ("Motion") at Docket No. RP79–57 filed concurrently herewith. Said Motion also reflects the estimated revenue impact of the new rates.

The proposed effective date for the tendered tariff sheets is October 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28238 filed 9–10–79; 8:45 am]

BILLING CODE 6450–01–M

Docket No. GP79–35]

State of Louisiana, 103 NGPA Determination, Florida Gas Exploration Co., 7900 RA SUA L&N RR Co., No. 6 Well, JD79–3495, Louisiana NGPA No. 79–745; Final Order on Well Category Determination

Issued August 27, 1979

On June 15, 1979, the Commission issued a notice of preliminary finding that the determination by the State of Louisiana Office of Conservation (Louisiana), Florida Gas Exploration Company 7900 RA SUA L&N RR Co. No. 6 well qualifies as a new, onshore production well under Section 103 of the Natural Gas Policy Act of 1978 (NGPA), was not supported by substantial evidence in the record on which the determination was based.

A well qualifies as a new, onshore production well under Section 103 of the NGPA only if, among other requirements, the surface drilling of the well began on or after February 19, 1977. The Basis for the Commission's preliminary finding was that the record accompanying Louisiana's determination indicated that the subject well was a reentry to an old well which had been spudded prior to February 19, 1977.

On July 6, 1979, Louisiana submitted a supplement to its original determination which included additional evidence demonstrating that the subject well is actually located twenty feet from the old well and is a new well having been spudded after February 19, 1977. Louisiana also states that the subject well was drilled within a proration unit in existence at the time the surface drilling of such well began, and that natural gas had been produced in commercial quantities from another well in the proration unit. In accordance with § 271.305(c) of the regulations, Louisiana made an implicit finding that the subject well was necesaary to effectively and efficiently drain the portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit, and the record developed by Louisiana prior to the commencement of drilling would support an explicit finding to this effect.

Thus, pursuant to 18 CFR § 275.202(e), the Commission orders that Louisiana's determination—that the Florida Gas Exploration Company 7900 RA SUA L&N RR Co. No. 6 well qualifies as a new, onshore production well under Section 103 ofthe NGPA—be affirmed.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28239 filed 9–10–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–88]

South Texas Natural Gas Gathering Co., Petition for Declaratory Order

September 5, 1979

Take notice that on August 15, 1979, South Texas Natural Gas Gathering Company (South Texas), Five Greenway Plaza East, Houston, Texas 77046, filed a petition for declaratory order pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.7(c). The petition requests that the Commission determine the proper vintage classification for a well from which South Texas purchases gas for resale in interstate commerce, i.e., the A.A. McAllen Well No. 34, Texas Railroad Commission I.D. No. 54803 (Well No. 34).

South Texas states that it is a natural gas company engaged in the gathering, transmission, sale, and transportation of natural gas through company owned and operated lines in Texas. South Texas further states that it purchases natural gas produced from Well No. 34 from Shell Oil Company (Shell) under FERC Rate Schedule 297, previously authorized in Docket No. CI63–1509.

It is alleged by South Texas that Shell has improperly classified the gas sold from Well No. 34 as subject to the "recompletion" rate approved by the Commission in Opinion No. 770–A (*see* 18 C.F.R. § 2.56a(a)(5)) and incorporated by reference in section 104 of the Natural Gas Policy Act of 1978 (*see* 18 C.F.R. § 271.402). Instead of the recompletion rate, South Texas alleges that production from Well No. 34 should receive the "flowing gas" rate (*see* 18 C.F.R. § 271402] for deliveries on or after December 1, 1978; the rate under Opinion No. 749 (*see* 18 C.F.R. § 2.56b(a)(2)) for deliveries prior to December 1, 1979; and the rate under Opinion No. 595 (*see* 18 C.F.R. § 154.109) for deliveries prior to January 1, 1976. According to its view of the applicable rate for deliveries from Well No. 34, South Texas estimates that its overpayments have approximated $400,000.

South Texas argues that there must be production from an "initial" completion before there can be a "recompletion" within the meaning of the Commission's regulations. South Texas asserts that there has never been more than an "initial" completion and cites records of the Texas Railroad Commission in support of its assertion. South Texas states that the Commission's regulations do not explicitly define either "completion" or "recompletion," so that a declaratory order is necessary to resolve the pricing issue. In the event the Commission determines that the rate charged by Shell is in excess of the lawful rate, South Texas requests that the Commission order Shell to make a prompt refund with interest, and grant such other relief as may be appropriate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 1.8 and 1.10). All such petitions or protests should be filed on or before September 28, 1979. Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–28241 Filed 9–10–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–425]

Southern Natural Gas Co.; Application

August 31, 1979

Take notice that on August 1, 1979, Sothern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35303, filed in Docket No. CP79–425 an application pursuant to Section 7 of the Natural Gas Act and Sections 157.7(b), 157.7(c), 157.7(e) and 157.7(g) of the Regulations thereunder (18 CFR 157.7(b), 157.7(c), 157.7(e), and 157.7(g)), for a certificate of public convenience and necessity authorizing the construction during the period commencing October 21, 1979, through December 31, 1980, and operation of gas-purchase facilities; authorizing the construction, for the same time period, and operation of facilities to make miscellaneous rearrangements on its system; for permission and approval to abandon, during the same time period, direct sale service and facilities no longer required for deliveries of natural gas to Southern's customers; and for a certificate authorizing the construction and for permission for and approval of the abandonment, during the same time period, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Southern to act with reasonable dispatch in contracting for and connecting to its pipeline system, and to the system of other natural gas companies authorized to transport for or exchange with Southern, supplies of natural gas in areas generally coextensive with such systems; to augment Southern's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Southern; to augment Southern's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities[1] and to augment Southern's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Southern's system salable capacity or service from that authorized prior to the filing of the instant application.

Southern requests waiver of the maximum term limitations of Sections 157.7(b), 157.7(c), 157.7(e) and 157.7(g) of the Regulations to permit the issuance of budget-type authorizations for the lengthened period October 21, 1979, through December 31, 1980, instead of the traditional 12-month period. Southern contends that the purpose of requesting this waiver is to assist in the implementation of the Commission's proposal in its Notice of Proposed Rulemaking in Docket No. RM79–37 to establish budget-type certificates for gas-purchase facilities on a calendar-year basis. Granting this requested waiver of the aforementioned Sections requested would enhance the efficient administration of these authorizations by both Southern and the Commission, it it is stated.

Additionally, Southern requests waiver of Section 157.7(b)(4) in order to permit it to expand the definition of "gas-purchase facilities to include the construction and operation of the following:

(1) Facilities necessary to connect the facilities of a producer or other similar seller allowed by the Natural Gas Policy Act of 1978 (NGPA) to make a sale of gas to Southern for resale in interstate commerce without specific Commisison authorization, with Southern's interstate pipeline system, the system of another natural gas company authorized to transport or exchange such gas with Southern, or with the facilities of an intrastate pipeline authorized by Commission order or pursuant to Section 311(a) of the NGPA to transport such gas for the account of, or for the exchange of such gas with Southern, and

(2) Facilities necessary to connect the facilities of an interstate or intrastate pipeline transporting gas to or for the account of Southern with Southern's Interstate pipeline system or with that of another interstate or intrastate pipeline authorized by Commission order or by Section 311(a) of the NGPA to transport or exchange such gas with Southern.

Southern also requests waiver of the cost ceilings contained in Sections 157.7(b)(1)(i) and (ii), 157.7(c)(3)(i), and 157.7(g)(3), respectively, to permit the total estimated cost of construction of gas-purchase facilities for the lengthened period to be $24,000,000 with no single onshore project to exceed $2,400,000 and no single offshore project to exceed $4,500,000; to permit the total estimated cost of construction of facilities to be constructed to make miscellaneous rearrangements on its system to be $644,400; and to permit the total cost of construction, relocation, removal or abandonment of field compression facilities not to exceed $6,620,000, with no single project to exceed $920,000. Southern states that these increased cost ceilings are necessary to offset the effect of inflation and real increases in construction costs since the present cost ceilings were established. Southern further states that the cost of all facilities proposed to be constructed herein would be financed with cash on hand or with cash available from current operations.

The application states that Southern would not abandon any direct service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further

[1] Southern states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28240 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No RP72-121 PGA79]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

September 5, 1979

Take notice that on August 27, 1979, Southwest Gas Corporation ("Southwest") tendered for filing Fourth Revised Sheet No. 10 constituting the Statement of Rates of its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to adjust rates of Southwest under its Purchased Gas Adjustment Clause in Section 9 of the General Terms and Conditions contained in said tariff, as a result of changes in rates from its supplier, Northwest Pipeline Corporation ("Northwest"), effective October 1, 1979. The proposed effective date for Southwest's proposed change in rates is October 1, 1979.

Southwest states that copies of the filing have been mailed to the Public Service Commission of Nevada, the California Public Utilities Commission, Sierra Pacific Power Company and CP National (formerly California-Pacific Utilities Company).

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28242 Filed 9-10-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-297]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; East Tennessee Natural Gas Co.; Petition To Amend

August 31, 1979

Take notice that on August 8, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP77-297 a petition to amend further the order issued April 29, 1977,[1] as amended, issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) by authorizing an extension for an additional two years of the transportation service for William L. Bonnell Company (Bonnell), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Tennessee and East Tennessee were authorized to transport up to 1,200 Mcf per day for Bonnell. The volumes transported were produced by Forman Exploration Company, *et al.* (Forman), from the Cadeville Field, Ouachita Parish, Louisiana, and were received by Tennessee for Bonnell's account at Tennessee's Greenbrier Sales No. 2 delivery point to East Tennessee located in Robertson County, Tennessee. Also, pursuant to the authorization and East Tennessee's Rate Schedule T-5, East Tennessee transported the gas delivered to it by Tennessee to Middle Tennessee Natural Gas Utility District for redelivery to Bonnell.

On March 24, 1978, Tennessee and East Tennessee were authorized to receive gas for the account of Bonnell from an additional source, Texas Pacific Oil Company (UK), Inc. (Texas Pacific).

The authorization, as amended, expired on May 31, 1979 and the purchase contracts between Bonnell and Forman and Bonnell and Texas Pacific are terminated.

The petition asserts that Bonnell has a continuing need for a supplemental supply for natural gas. Accordingly, Bonnell entered into a new gas purchase contract with Forman dated May 31, 1979. Tennessee and East Tennessee request authorization for the continuation of the transportation service for Bonnell for an additional two-year period of volumes of natural gas produced by Forman from the Cadeville Field, Ouachita Parish, Louisiana, with maximum daily volumes not to exceed 600 Mcf per day for the first year and not to exceed 300 Mcf per day for the second year as set out in said new contract between Bonnell and Forman. The proposed service does not contemplate further deliveries from Texas Pacific.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Sept. 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28251 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[Docket Nos. CP77-286; CP77-316]

Transcontinental Gas Pipe Line Corp., United Gas Pipe Line Co.; Petition to Amend

August 31, 1979

Take notice that on August 8, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-286 and CP77-316, respectively, a petition to amend the order issued May 20, 1977 [1] issuing certificates of public convenience and necessity in the instant dockets pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General policy and Interpretations (18 CFR 2.79) by authorizing an extension of the term of the transportation service rendered for Dan River, Inc. (Dan River), for an additional two years, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

Transco and United are authorized to transport on an interruptible basis up to 1,300 Mcf per day of gas for Dan River, an existing industrial customer of the City of Danville, Virginia, (Danville) and Piedmont Natural Gas Company, Inc. (Piedmont), two of Transco's resale customers served under Rate Schedule CD-2.

Dan River causes such gas to be delivered to United in St. John the Baptist Parish, Louisiana, and United, in turn, delivers the gas to Transco at mutually agreeable existing authorized points of exchange. Transco redelivers the subject gas to Danville and Piedmont for the account of Dan River.

The petition indicates that Dan River has entered into a new gas purchase agreement dated June 6, 1979, with Jar Timber Corporation, Vermilion Bay Land Company, John Stuart Hunt, Jean Gannon Hunt, Sherman M. Hunt, and Mary Andrews Hunt, to continue the sale of gas from the No. 1 Lutcher Moore Cypress well for an additional two-year term. Additionally, Dan River has entered into new transportation agreements with Transco and United, to continue the transportation of the subject gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 21, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28252 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-230]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

August 30, 1979

Take notice that on August 3, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-230 a petition to amend the Commission's order of June 7, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the maximum daily quantities of gas which Transco is authorized to transport for El Paso Natural Gas Company (El Paso), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the Commission's order of June 7, 1979, issued in the instant docket, Transco is presently authorized to transport up to 30,000 Mcf of natural gas per day for El Paso. Transco indicates that it is presently transporting such quantities of gas for El Paso from a point of interconnection of its Southwest Louisiana Gathering System (SW System) and the tailgate of the separation plant of U-T Offshore System at Johnson's Bayou, Cameron Parish, Louisiana, to a point of connection between the facilities of Transco and the Katy Plant of Exxon Company, U.S.A., in Waller County, Texas, and the point of connection between the facilities of Transco and Houston Pipe Line Company near Fulshear, Fort Bend County, Texas.

El Paso now desires to increase the maximum daily transportation quantities from 30,000 Mcf per day to 60,000 Mcf per day and Transco requests that the Commission amend the order in the instant docket to provide for such increase daily transportation quantities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28253 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP77-19]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 4, 1979

Take notice that Transwestern Pipeline Company (Transwestern) on August 28, 1979, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, various tariff sheets reflecting interim rates for the period June 1, 1977 through February 28, 1979. These sheets are being issued pursuant to the Commission's Order Approving Stipulation and Agreement Subject To Conditions And Setting Reserved Issues For Hearing issued July 9, 1979 in Docket No. RP77-19. These sheets reflect interim base tariff rates as set forth in Appendix B of the Stipulation and Agreement approved by the Commission for the locked-in period June 1, 1977 thru February 28, 1979 in accordance with the terms of the Stipulation and Agreement.

The interim rates are pending determination of the final rates subject to the resolution of certain unresolved issues in RP75-74 and RP77-19 as set forth in the Commission's July 9, 1979 order.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28254 Filed 9-10-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-404]

Washington National Gas Company, as Project Operator; Application

August 30, 1979

Take notice that on July 9, 1979, Washington Natural Gas Company, as Project Operator (Washington), 815 Mercer Street, Seattle, Washington

V 4 4 / 1 7 7

98111, filed in Docket No. CP79-404 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of the Jackson Prairie Storage Project located in Lewis County, Washington, in such a manner as necessary to increase deliveries to Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The application indicates that the Jackson Prairie Storage Project [1] is an aquifer type storage area which provides storage capacity for the rendition of a special winter peaking service by Northwest pursuant to its Rate Schedule SGS-1 in its FERC Tariff Original Volume No. 1.

The project is authorized to deliver up to 300,000 Mcf daily, with an additional best efforts increment of 71,800 Mcf, for a combined daily capability of 371,800 Mcf, including both firm and best efforts gas. The project is further authorized on a temporary basis to deliver up to 10,800,000 Mcf during a seasonal period, commencing October 1 of each year and continuing through the succeeding April 30.

Washington asserts that Northwest also purchases storage capacity from Mountain Fuel Resources Inc. in the Clay Basin Storage Field. Washington has been informed that Mountain Fuel Resources Inc. and Northwest are presently authorized to utilize Clay Basin for the withdrawal of up to 150,000 Mcf per day and 20,000,000 Mcf seasonally. As a result of improved Canadian gas deliveries, Northwest determined that it could fulfill the request of a number of its customers for additional gas volumes in the winter months. In order to provide such volumes Northwest proposed to convert a portion of the Clay Basin storage capability and to provide such volumes under a Winter Service Rate Schedule. To assure that Northwest has sufficient storage capability to protect its firm contract demands, Northwest determined that with 75,000 Mcf of daily deliverability and a seasonal capability of 2,000,000 Mcf it could effectively protect its firm peak day requirements. Therefore, Northwest has made the necessary arrangements to utilize the Jackson Prairie Storage Project for this purpose as well as for the purpose of providing storage service pursuant to Northwest's SGS-1 Rate Schedule.

[1] Washington, Northwest and The Washington Water Power Company are joint and equal undivided owners in the Jackson Prairie Project and Washington acts as operator of the project.

The utilization of Jackson Prairie by Northwest for its account would require that Washington store and deliver to Northwest up to 2,000,000 Mcf on a seasonal basis. At least 1,000,000 Mcf of this is to be in place prior to the commencement of the heating season, with the 1,000,000 Mcf to be injected by Northwest during off peak periods of the winter season as space is provided. Winter service would require an increase in firm deliverability of 25,000 Mcf per day, increasing the presently authorized level of 300,000 Mcf per day to 325,000 Mcf per day.

Washington requests authorization to operate the Jackson Prairie Storage Project so as to be able to increase deliveries to Northwest of seasonal working gas quantities, beginning with 1979/80 heating season until April 30, 1982, from the present authorized level of 10,800,000 Mcf to 12,800,000 Mcf and to increase the authorized maximum daily delivery rate from 300,000 Mcf, with an additional best efforts increment of 71,800 Mcf to 325,000 Mcf, with an additional best efforts increment of 71,800 Mcf.

No additional facilities are required and there are no costs associated with this operation.

In order to increase the capability of the Storage Project to achieve the expanded seasonal quantities as proposed, it is indicated that the total storage inventory would increase to not less than 29,900,000 Mcf, comprised of the cushion gas in the storage of not less than 18,100,000 Mcf. The seasonal working gas quantity would be established at 12,800,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Washington to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-28255 Filed 9-10-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No ER79-630]

The Washington Water Power Co.; Filing

September 6, 1979

The filing company submits the following:

Take notice that on August 31, 1979, The Washington Water Power Company (Washington) tendered for filing a transmission rate for power transfers through its system. This transmission rate is to apply to those wheeling transactions that are not provided for under existing tariffs.

Washington further states that the rate for power transfers is 0.75 mill per kilowatt-hour plus losses.

Washington proposes an effective date of November 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) should be filed on or before September 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-28243 Filed 9-10-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1315-7]

Science Advisory Board Executive Committee

Subcommittee on Toxic Substances; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Subcommittee on Toxic Substances of the Science Advisory Board will be held on Friday, October 19, 1979, in Room 1101 (West Tower), Waterside Mall, 401 M Street, S.W., Washington, D.C. The Meeting will start at 9:00 a.m.

The Subcommittee will be meeting for the fifth time, the purpose being to review health effects test standards proposed by the Office of Toxic Substances, and to discuss research activities required to support regulatory decisions pursuant to provisions of the Toxic Substances Control Act.

The Meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. October 16, 1979. Please ask for Dr. Richard A. Rhoden. The telephone number is (202) 472-3026.

Dr. Richard M. Dowd,
Staff Director, Science Advisory Board.
September 5, 1979.

[FR Doc. 79-28288 Filed 9-10-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FDAA-576-DR; Docket No. NFD 738]

Alabama; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice

SUMMARY: This Notice amends the Notice of a major disaster for the State of Alabama (FDAA-578-DR), dated April 18, 1979.

DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the State of Alabama dated April 18, 1979, is hereby amended to include the following areas among those areas determined to have been affected adversely by the catastrophe declared a major disaster by the President in his declaration of April 18, 1979.

For Federal assistance to disaster-damaged public schools under Public Law 81-815 and Public Law 81-874, as appropriate, in addition to Individual Assistance under Public Law 93-288 as designated previously on April 18, 1979, the Counties of: Jefferson and Marshall.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477, School Construction, and No. 13.478, School Maintenance and Operation Assistance.)

William H. Wilcox,
Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28166 Filed 9-10-79; 8:45 am]
BILLING CODE 4210-22-M

[FEMA-594-DR; Docket No. NFD-736]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of California (FEMA-594-DR), dated July 27, 1979.

DATED: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7625.

NOTICE: The Notice of a major disaster for the State of California dated July 27, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 27, 1979.

For Public Assistance in addition to Individual Assistance: Riverside County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28167 Filed 9-10-79; 8:45 am]
BILLING CODE 4210-22-M

[FEMA-596-DR; Docket No. NFD-737]

Indiana; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency

ACTION: Notice

SUMMARY: This Notice amends the Notice of a major disaster for the State of Indiana (FEMA-596-DR), dated July 31, 1979.

DATED: August 23, 1979

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the State of Indiana dated July 31, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 31, 1979.

The following County for Public Assistance only:
Posey.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,
Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28168 Filed 9-10-79; 8:45 am]
BILLING CODE 4210-22-M

FEDERAL COUNCIL ON THE AGING

Amended Notice of Meeting-Change in Location

Notice is hereby given of the change in location of the meeting of the Federal Council on the Aging originally scheduled for September 12, 1979 in Room 1813, Food and Drug Administration Building, 200 C Street, S.W. The new location is Room 3906, Environmental Protection Agency Building, 401 M Street, S.W., Washington, D.C.

Further information on the Federal Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441. FCA meetings are open for public observation.

Dated: September 6, 1979.

Nelson H. Cruikshank,
Chairman, Federal Council on the Aging

[FR Doc. 79-28286 Filed 9-10-79; 8:45 am]
BILLING CODE 4110-92-M

FEDERAL RESERVE SYSTEM

American Security Corp.; Proposed Acquisition of American Security Financial Services

American Security Corporation, Washington, D.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 18432(c)(8)) and

§ 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of American Security Financial Services, Bethesda, Maryland.

Applicant states that the proposed subsidiary would engage in the activities of a consumer finance company, make first mortgage loans, sell credit life, accident and health insurance directly related to its extensions of credit, and sell travelers checks, money orders and savings bonds. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Applicant also states that the proposed subsidiary would offer Applicant's debentures for sale to the public and cash checks for its customers. These activities would be performed from offices of Applicant's subsidiary to be located in Bethesda, Maryland and Arlington County, Virginia, and the geographic areas to be served are the Maryland and Virginia suburbs of Washington, D.C.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for as hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writting and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 1, 1979.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28169 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirecly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 5, 1979.

A. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

Security Agency, Inc., Decorah, Iowa (personal property leasing activities; Iowa): to engage, through its subsidiary, Security Leasing Company, Inc., in making leases of personal property in accordance with the Board's Regulation Y. This activity would be conducted from an office in Decorah, Iowa, serving Winneshiek County, Iowa.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 5, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-28170 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 4, 1979.

A. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

Maryland National Corporation, Baltimore Maryland (financing activities; Pennsylvania): to engage, through its subsidiary, Maryland National Industrial Finance Corporation, in making and servicing commercial loans and in acting as advisor or broker in commercial loan transactions. These activities would be conducted from an office in Pittsburgh, Pennsylvania, serving western Pennsylvania, West Virginia, Ohio, Michigan, Kentucky, and other states in the Midwest.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28171 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 4, 1979.

A. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Philadelphia National Corporation, Philadelphia, Pennsylvania (mortgage banking and insurance activities; Ohio, Pennsylvania, New York, Vermont): to engage, through its subsidiary, Signal Mortgage Corporation, in mortgage banking activities and in selling casualty, credit life, and credit accident and health insurance directly related to its extensions of credit at a proposed new office located in East Palestine, Ohio serving Ohio, Pennsylvania, New York, and Vermont.

2. Philadelphia National Corporation, Philadelphia, Pennsylvania (insurance activities; Ohio): to engage, through its subsidiary, Signal Mortgage Corporation, in selling credit accident and health insurance to borrowers in connection with loans made pursuant to Signal Mortgage Corporation's second mortgage lending business. Such insurance would be offered at offices in Bowling Green, Mentor, Sandusky, Stow, and North Olmstead, Ohio in the portions of Ohio within an approximate 50 mile radius of each office.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 4, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-28172 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 1, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. CHEMICAL NEW YORK CORPORATION, New York, New York (financing and insurance activities; California): to engage, through its subsidiary, Sunamerica Corporation, in making direct loans, including loans secured by real and personal property, purchasing installment sales contracts, and acting as agent or broker for the sale of life, accident and health and property and casualty insurance directly related to such extensions of credit. These activities would be conducted from an office in San Mateo, California, servicing the northeast and southeast sections of the city. This application is for the relocation of an office within the same city.

2. CHEMICAL NEW YORK CORPORATION, New York, New York (financing and insurance activities; Arizona): to engage, through its subsidiary, Sunamerica Corporation, in making direct loans, including loans secured by real and personal property, purchasing installment sales contracts, and acting as agent or broker for the sale for life, accident and health and property and casualty insurance directly related to such extensions of credit. These activities would be conducted from an office in Phoenix, Arizona, serving the northwest section of the city as well as the suburb of Glendale, Arizona. The credit life and credit accident and health insurance would be reinsured through Sun States Life and Great Lakes Insurance Companies, subsidiaries of Sunamerica Corporation.

B. *Other Federal Reserve Banks.* None.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28173 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

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determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 1, 1979.

A. *Federal Reserve Bank of Philadelphia,* 100 North 6th Street, Philadelphia, Pennsylvania 19105:

PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (financing and insurance activities: Delaware, Maryland, Pennsylvania): to engage, through its subsidiary Signal Finance of New Castle, Inc., in making installment loans for personal, family and household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family and household goods or services; selling credit life, health and accident insurance in connection with certain installment loans made and sales finance contracts purchased and reinsuring such insurance through Applicant's indirect subsidiaries, Patrick Henry Life Insurance Company and Patrick Henry Insurance Company. These activities would be conducted in an office in New Castle, Delaware, serving Delaware and contiguous portions of Maryland and Pennsylvania.

B. *Federal Reserve Bank of Cleveland,* 1455 East Sixth Street, Cleveland, Ohio 44101:

MELLON NATIONAL CORPORATION, Pittsburgh, Pennsylvania (mortgage banking, loans servicing and insurance activities; Ohio, Indiana, Pennsylvania, Illinois): to engage, through a subsidiary, Mellon Mortgage Inc.-East, in making or acquiring for its own account and the account of others, loans and other extensions of credit as would be made by a mortgage company; servicing loans and other extensions of credit for non-affiliated institutional investors; and placing mortgage redemption, health and accident insurance for persons whose mortgage loans are owned or serviced by the company. These activities would be conducted at offices in Cleveland, Canton, Columbus, Cinncinnati, and Dayton, Ohio, Indianapolis, Indiana; Chicago, Illinois, and Pittsburgh, Pennsylvania. These services would be provided in those states where the above offices are located.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28174 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Beltway Bancshares, Inc.; Formation of Bank Holding Company

Beltway Bancshares, Inc., Houston, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Beltway Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28175 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Citizens Bancshares Corp.; Formation of Bank Holding Company

Citizens Bancshares Corporation, Jonesboro, Arkansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 83 per cent of the voting shares of Citizens Bank of Jonesboro, Jonesboro, Arkansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28176 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Dakota Bancshares, Inc.; Proposed Acquisition of Red River Acceptance, Inc.

Dakota Bankshares, Inc., Fargo, North Dakota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Red River Acceptance, Inc., Fargo, North Dakota.

Applicant states that the proposed subsidiary would engage in the activities of a small loan and consumer finance company. These activities would be performed from an office of Applicant's subsidiary in Fargo, North Dakota, and the geographic area to be served is the city of Fargo and the surrounding North Dakota area. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 4, 1979.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28177 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Exchange Bank Corp.; Formation of Bank Holding Company

Exchange Bank Corporation, Del City, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquring 80 per cent or more of the voting shares (less directors' qualifying shares) of Exchange National Bank of Del City, Del City, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28178 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

First M & F Corp.; Formation of Bank Holding Company

First M & F Corporation, Kosciusko, Mississippi, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by accquiring 80 percent or more of the voting shares of Merchants & Farmers Bank, Kosciusko, Mississippi. The factors that are considered in acting on the application are set for in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28179 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Hampton Bancshares, Inc.; Formation of Bank Holding Company

Hampton Bancshares, Inc., Hampton, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 per cent of the voting shares of State Bank of Hampton, Hampton, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 5, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28180 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Ionia Bancshares, Inc.; Formation of Bank Holding Company

Ionia Bancshares, Inc., Ionia, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of Ionia, Ionia, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 28181 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Loof Investment Co.; Formation of Bank Holding Company

Loof Investment Co., Grand Junction, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 93.8 per cent or more of the voting shares of Peoples Trust and Savings Bank, Grand Junction, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the

application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28182 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Merkel Bancshares, Inc.; Formation of Bank Holding Company

Merkel Bancshares, Inc., Merkel, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Farmers and Merchants National Bank of Merkel, Merkel, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28183 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Mid-Nebraska Co., Inc.; Formation of Bank Holding Company

Mid-Nebraska Co., Inc., Kearney, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of Kearney State Bank, Kearney, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28184 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Old Kent Financial Corp., Acquisition of Bank

Old Kent Financial Corporation Grand R apids, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to State Bank and Trust Company of Petoskey, Petoskey, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28185 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Sabrina Properties, N.V.; Pan Properties, N.V., Eagle National Holding Co., Inc.; Formation of Bank Holding Companies

Sabrina Properties, N.V., Curacao, Netherlands Antilles, Pan Properties, N.V., Curacao, Netherlands Antilles, and Eagle National Holding Company, Inc., Miami, Florida, have applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become bank holding companies by acquiring 81.2 per cent of the voting shares of Central National Bank of Miami, Miami, Florida. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Fedeal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 4, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-28186 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Town Financial Corp.; Proposed Retention of Town Finance Co., Inc.

Town Financial Corporation, Hartford City, Indiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of Town Finance Company, Inc., Hartford City, Indiana.

Applicant states that the subsidiary engages in making consumer loans, financing retail installment sales contracts, and issuing credit life and credit accident and health insurance in connection with extensions of credit. These activities are performed from offices of Applicant's subsidiary in Hartford City, Logansport, Muncie, Tell City, Auburn, Bluffton, and Columbia City, Indiana; and Albion, Big Rapids, Charlotte, Dowagiac, Grand Ledge, Holland, and Monroe, Michigan. The geographic areas to be served are the counties in Indiana and Michigan in which the offices listed above are located. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank or Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 4, 1979.

Board of Governors of the Federal Reserve System, September 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28187 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Trader's Holding Co.; Formation of Bank Holding Company

Trader's Holding Company, Tullahoma, Tennessee, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 84 per cent of the voting shares of Trader's National Bank, Tullahoma, Tennessee. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 30, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28188 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Trans Texas Bancorporation, Inc.; Acquisition of Bank

Trans Texas Bancorporation, El Paso, Texas, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of West El Paso National Bank, El Paso, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-28189 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

Trust Co. of Georgia; Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The Citizens Bank, Douglasville, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 1, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 31, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-28191 Filed 9-10-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Title I, Elementary and Secondary Education Act; Intent of Waive Certain Title I, ESEA, Statutory Requirements for American Samoa Beginning on July 1, 1979.

AGENCY: Office of Education, HEW.

ACTION: Notice of intent.

EFFECTIVE DATE: The effective date of this notice is October 11, 1979.

ADDRESSES: Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 3642–E, ROB–3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve Dane, (202) 245–2506.

SUMMARY: Notice is given that, under section 1004(a) of the Elementary and Secondary Education Act of 1965 (as amended by the Education Amendments of 1978), the Commissioner intends to waive the applicability of certain title I, ESEA, requirements to the American Samoa Department of Education beginning July 1, 1979. In addition to identifying the title I requirements that the Commissioner intends to waive, this notice sets forth the terms and conditions upon which the Commissioner intends to grant the waiver.

SUPPLEMENTARY INFORMATION:

A. Authority for Granting a Waiver

The Elementary and Secondary Education Act of 1965 was recently amended by the Education Amendments of 1978, to authorize the Commissioner to waive certain title I, ESEA, requirements for American Samoa. In particular, section 1004(a)(1) of the Act states the "(i)f the Commissioner determines that compliance with any of the requirements of this Act by . . . American Samoa, . . . is impractical or inappropriate because of conditions or circumstances particular to that jurisdiction, he may waive any of those requirements upon the request of the State educational agency."

B. Waiver Request

On May 18, 1979, the American Samoa Department of Education requested the Commissioner to waive the applicability of certain title I requirements to all title I funds obligated by the Department beginning on July 1, 1979. This waiver request identifies the requirements contained in, or based upon, the following sections of the title I statutes as those for which it is seeking a waiver:

Section 123(a)
Section 124(a)
Section 124(b)
Section 124(g)(1)
Section 183(f)
Section 124(j)
Section 125
Section 128
Section 168
Section 171(a)(5)

The May 18, 1979, waiver request clearly describes why the title I requirements listed above are impractical or inappropriate in light of conditions in American Samoa. In general, the request is based upon the widespread poverty and educational deprivation that exists throughout the Island. By seeking a waiver for some of the "categorical" requirements of title I, the American Samoa Department of Education hopes to be permitted to use title I funds for activities that are designated to upgrade the entire system.

C. Management Plan

Section 1004(a)(2) of the Elementary and Secondary Education Act of 1965 provides that any waiver of title I requirements for American Samoa must ". . . be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this Act, including the submission by the jurisdiction concerned of a plan for the management of the funds provided under this Act, in order to insure that those funds are used in a manner designed to achieve the purposes of this Act."

In accordance with section 1004(a)(2), the American Samoa Department of Education submitted a management plan in conjunction with its May 18, 1979, waiver request. The management plan indicates how the total title I funds (approximately $1,785,150) will be obligated by the American Samoa Department of Education during the period covered by the waiver. Title I funds will be used to combine a variety of federally-funded English development programs into a comprehensive program for English-as-a-Second Language for all children in grades 1–12. Because virtually all Samoan children experience difficulty with the basic skills of English communication they are at a serious educational disadvantage when asked to function in the totally English curriculum. The American Samoa Department of Education has made a convincing case that since the vast majority of elementary and secondary school students in American Samoa are eligible for title I services, the improvements resulting from the consolidated and expanded English language program will be of significant benefit to title I children.

D. Notice of the Commissioner's Intent to Grant a Waiver

Section 1004(a)(1) of the Elementary and Secondary Education Act of 1965 requires that at least 30 days prior to approving any such request for a waiver, the Commissioner shall ". . . publish in the **Federal Register** a notice of his intent to grant such waiver and the terms and conditions upon which such a waiver will be granted."

In accordance with the above requirement, notice is hereby given that, subject to the terms and conditions described below, the Commissioner intends to waive the requirements contained in the following sections of the title I statute beginning July 1, 1979: 123(a), 124(a), 124(b), 124(g)(1), 183(f), 124(j), 125, 128, 168, and 171(a)(5). As requested by the American Samoa Department of Education, the Commissioner also intends to exempt American Samoa from any regulations or guidelines that are promulgated to implement or interpret those sections.

In addition, the American Samoa Department of Education's obligation to monitor and enforce compliance with title I requirements will be limited to those requirements that are not waived. Unless the Commissioner publishes further notice in the **Federal Register**, his approval of American Samoa's May 18, 1979, waiver request will be granted on the thirtieth day after publication of this notice of intent to waive.

E. Terms and Conditions Upon Which the Commissioner Intends to Grant a Waiver

The Commissioner intends to approve the request for a waiver only if the American Samoa Department of Education formally agrees to comply with the following terms and conditions:

(1) All title I funds that are obligated by the American Samoa Department of Education during the period covered by the waiver must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, except those title I requirements that are specifically identified in the waiver;

(b) These terms and conditions;

(c) The management plan that was submitted in conjunction with the May 18, 1979 waiver request, or amendments to that plan have been approved by the Commissioner; and

(d) Annual title I budgets which have been submitted to and approved by the Commissioner on such dates as the Commissioner may determine.

(2) The American Samoa Department of Education must, on or before September 30 of each year—beginning on September 30, 1980—submit an annual report to the Commissioner which—

(a) Indicates how all title I funds have been spent during that fiscal year;

(b) Describes the results and effectiveness of the title I program during that fiscal year;

(c) Identifies which, if any, title I requirements the Commissioner should continue to waive; and

(d) Indicates why the title I requirements which the Commissioner is requested to continue to waive are impractical or inappropriate.

F. Opportunity for Public Comment

The Commissiner invites public comments on this notice of intent to waive certain title I requirements for American Samoa. Interested persons may send written comments to Mrs. Genevieve Dane, at the address at the beginning of this notice. All comments must be received on or before October 11, 1979.

(Catalog of Federal Domestic Assistance No. 13.428 Educationally Deprived Children Local Educational Agencies.)

Dated: August 31, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79–28277 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–02–M

National Advisory Council on the Education of Disadvantaged Children; Meeting Postponed/Rescheduled

This notice is to amend the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the **Federal Register** on Wednesday, August 29, 1979. The Council meeting which was scheduled to be held on September 14–15, 1979, has been postponed to October 19–20, 1979. The meeting times and location will remain the same.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The entire meeting will be open to the public. For any additional information regarding the above meeting, please contact Mrs. Lisa Haywood at 202/724–0114.

Signed at Washington, D.C., on September 7, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79–28361 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–02–M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by John Taylor, District Director, Boston District Office, Boston, MA.

DATE: The meeting will be held from 10 a.m. to 12:30 p.m. on Monday, September 24, 1979.

ADDRESS: The meeting will be held at the Food and Drug Administration, 2d floor Conference Room, 585 Commercial St., Boston, MA.

FOR FURTHER INFORMATION CONTACT: Yolan L. Harsanyi, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 585 Commercial St., Boston, MA 02109, 617–223–5857.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Boston District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 5, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–28140 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James A. Anderson, District Director, Kansas City District Office, Kansas City, MO.

DATE: The meeting will be held from 9:30 a.m. to 12 m., on Thursday, September 27, 1979.

ADDRESS: The meeting will be held at the Food and Drug Administration, Conference Room, 1009 Cherry St., Kansas City, MO.

FOR FURTHER INFORMATION CONTACT: Lorena A. Meyers, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 1009 Cherry St., Kansas City, MO. 64106, 816–374–3817.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Kansas City District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 5, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–28141 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

Office of the Secretary

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women will hold its Family Policy Task Force meeting on Thursday, October 4, 1979 from 9:00 A.M. to 4:00 P.M. The meeting will be held in Room 4131 North Building, 330 Independence Avenue, S.W., Washington, D.C. The agenda will include family policy issues on social security, domestic violence and White House Conference on Families.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone 202–245–8454. These meetings are open to the public.

DATE: September 6, 1979.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79–28287 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–12–M

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Assiniboine and Sioux Tribes Fort Peck Indian Reservation, Poplar, Mont.; Transfer of Federally Owned Lands

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

On April 25, 1979, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 93–599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the Denver Director, Real Property Division of the General Services Administration, to the Area Director, Billings Area Office, Bureau of Indian Affairs, without reimbursement, to be held in trust for the benefit and use of the Assiniboine and Sioux Tribes, Fort Peck Indian Reservation, Poplar, Montana.

Lots 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15 and 16, Block 5 Second Addition to Townsite of Poplar, Roosevelt County, Montana, containing 1.80 Acres.

These Lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Assiniboine and Sioux Tribes. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 28222 Filed 9–10–79; 8:45 am]

BILLING CODE 4310–02–M

Ramapough Mountain Indians, Inc.; Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

August 30, 1979

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Ramapough Mountain Indians, Inc. (40 Malcolm Road, Mahwah, New Jersey 07430) has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on August 14, 1979. The petition was forwarded and signed by Mr. Otto Mann, Jr.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under Section 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79–28223 Filed 9–10–79; 8:45 am]

BILLING CODE 4310–02–M–M

Bureau of Land Management

[AA–14015]

Alaska Native Claims Selection

On December 12, 1974, Sealaska Corporation filed selection application AA–14015, later amended, under the provisions of sec. 14(h)(8) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, as amended (85 Stat. 688, 705; 43 U.S.C. 1601, 1613(h)(8) (1976)), for the surface and subsurface estates of certain lands that were withdrawn pursuant to sec. 16(a) for the Native villages in southeast Alaska.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to sec. 14(h)(8) of ANCSA, as amended, aggregating approximately 1,286 acres, are considered proper for acquisition by Sealaska Corporation and are hereby approved for conveyance pursuant to sec. 14(h)(8) of ANCSA:

The Following Lands May Be Conveyed By Patent

That portion of Mineral Survey 419B, Alaska, known as the Washington, Indiana, New York, Geo. W., High Ore, Green Mountain, Brooklyn, Oregon, Alabama, Sola, Iowa, Ohio and New Jersey mill sites, situate in the Copper Mountain Mining District.

Continuing 52.05 acres.

That portion of Mineral Survey 562B, Alaska, known as the Jumbo Nos. 3, 6, 7, 8-Scott, 10 and 11 mill sites, situate in the Copper Mountain Mining District.

Containing 33.267 acres.

Mineral Survey 1599, Alaska, known as the Goshen Nos. 5 and 10 mill sites, situate in the Ketchikan Mining District.

Containing 8.914 acres.

That portion of Mineral Survey 2208, Alaska, known as the Tim Nos. 6 through 14, 16 through 25, 27 through 39, 41 through 52, 55 through 57 and 59 through 62 placer claims, situate in the Ketchikan Mining District.

Containing 986.756 acres.

Aggregating 1,080.987 acres.

The Following Lands May Be Conveyed By Interim Conveyance

That portion of Mineral Survey 419B, Alaska, known as the Chicago and Dakota mill sites, situate in the Copper Mountain Mining District, excluding that portion within five hundred (500) feet of the center of Reynolds Creek (Power Project Nos. 132, 186 and 664).

Containing approximately 2.5 acres.

That portion of Mineral Survey 562B, Alaska, known as the Jumbo Nos. 1, 2, 4 and 5 mill sites, situate in the Copper Mountain Mining District, excluding those portions lying within patented homestead entry No. 98 (U.S. Survey 1191).

Containing approximately 7 acres.

That portion of Mineral Survey 886, Alaska, known as the Wright Nos. 3, 4, 5, 6, 7 and 8 lode claims, situate in the Ketchikan Mining District, which lies within T. 77 S., R. 85 E., Copper River Meridian.

Containing approximately 73 acres.

Mineral Survey 1522B, Alaska, known as the Hetta Mill Site No. 1, situate in the Ketchikan Mining District, excluding that portion which lies within Mineral Survey 419B.

Containing approximately 0.5 acre.

Mineral Survey 1523B, Alaska, known as Hetta Mill Sites Nos. 2 and 3, situate in the Ketchikan Mining District, excluding those portions which lie within Mineral Survey 419B and that portion of the Hetta Mill Site No. 3, which lies within five hundred (500) feet of the center of Reynolds Creek (Power Project Nos. 132, 186 and 664).

Containing approximately 2 acres.

That portion of Mineral Survey 1596, Alaska, known as the Goshen Nos. 4, 5, 9 and 10 lode claims, situate in the Ketchikan Mining District, which lies within Secs. 28 and 33, T. 76 S., R. 84 E., Copper River Meridian.

Containing approximately 40 acres.

That portion of Mineral Survey 2208, Alaska, known as the Tim Nos. 1 through 5, 15 and 58 placer claims, situate in the Ketchikan Mining District, excluding all portions below the mean high tide line.

Containing approximately 80 acres.

Aggregating approximately 205 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

1. Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–18968, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 48 G) easement sixty (60) feet in width for an existing road from the shore of Hetta Inlet in MS 562B, Sec. 33, T. 76 S., R. 84 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 68 C5) A one (1) acre site easement upland of the mean high tide line in MS 562B, Sec. 33, T. 76 S., R. 84 E., Copper River Meridian, on the east shore of Hetta Inlet. The uses allowed are those listed above for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him.

Further, pursuant to sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (1976)) (ANCSA), and valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Sealaska Corporation is entitled to conveyance of a minimum of 220,201 acres of land selected pursuant to sec. 14(h)(8) of ANCSA. Together with the lands herein approved, approximately 161,635 acres of this entitlement have been approved for conveyance; the remaining entitlement will be conveyed at a later date.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the SOUTHEAST ALASKA EMPIRE (Juneau). Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 11, 1979 to file an appeal.

3. Any party or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Sealaska Corporation, One Sealaska Plaza, Juneau, Alaska 99801.

Sue Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79–28209 Filed 9–10–79; 8:45 am]

BILLING CODE 4310–84–M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63, Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will meet on October 11, 1979, from 10:00 a.m.–4:00 p.m., and on October 12, 1979, from 9:00 a.m.–1:00 p.m. in Rooms 7000A & B, Department of the Interior, 18th & C Streets, NW., Washington, D.C.

The agenda for the meeting will include the following subjects:

Committee Organization
Introduction to the Environmental Studies Program
Status Report on the FY 1980 Environmental Studies Program
Report from the Director's (Bureau of Land Management) Ad-Hoc Committee on Environmental Studies

The meeting of this Committee is open to the public. Approximately 75 visitors can be accommodated on a first-come/first-served basis. All inquiries concerning this meeting should be addressed to: Piet deWitt, Chief, Branch of Offshore Studies (543), Bureau of Land Management, Washington, D.C. 20240, Telephone: (202) 343–7744.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: September 6, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79–28199 Filed 9–10–79; 8:45 am]

BILLING CODE 4310–84–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 31,

S E 1 1 7 9 UMI

1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Reservation Service, U.S. Department of the Interior, Washington, 20243. Written comments or a request for additional time to prepare comments should be submitted by September 21, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ALASKA

Nome Division

Nome, *Discovery Saloon*, 1st. and D Sts.

CALIFORNIA

Los Angeles County

Los Angeles, *Los Angeles Union Passenger Terminal*, 800 N. Alameda St.

COLORADO

El Paso County

Colorado Springs, *Chambers Ranch*, 3202 Chambers Way.
Manitou Springs, *Barker House*, 619 Manitou Ave.
Manitou Springs, *First Congregational Church*, 101 Pawnee Ave.

DELAWARE

New Castle County

Wilmington vicinity, *Glynrich*, Mill Rd. and Race St.

IDAHO

Bingham County

Blackfoot, *Idaho Republican Building*, 167 W. Bridge St.

Oneida County

Malad City, *United Presbyterian Church*, 7. S. Main St.

MARYLAND

Baltimore (independent city)

Sharp Street Memorial United Methodist Church, 508—516 Dolphin St.

Cecil County

Earleville, *Elf. The (yacht)* NE of Earleville.

Harford County

Abingdon, vicinity, *Woodside*, NW of Abingdon at 400 Singer Rd.

Talbot County

Bellevue, *Clay's Hope*, Bellevue Rd.
Easton vicinity, *Hope Houses*, NW of Easton.

Washington County

Sharpsburg vicinity, *Wilson-Miller Farm*, SW of Sharpsburg.

MASSACHUSETTS

Worcester County

Worcester, *WORCESTER MULTIPLE RESOURCE AREA*. This nomination includes the following properties:

Main Street Railway Office, 99–109 Main St.
Armsby Block, 144–148 Main St.
Lincoln Block, 201–205 Main St.
Elwood Adams Store, 156 Main St.
Old State Mutual, 240 Main St.
Mechanics Hall District, properties between 282 and 343 Main St.
WCIS Bank, 365 Main St.
Slater Building, 390 Main St.
Park Building, 507 Main St.
Enterprise Building, 540 Main St.
Colton's Block, 588 Main St.
Franklin Building, 550 Main St.
Babcock Block, 600 Main St.
Worcester Market Building, 631 Main St.
Bancroft Hotel, 50 Franklin St.
Stevens' Building, 24–44 Southbridge St.
Union Station, Washington Sq.
Lower Pleasant Street District, 418–426 Main St. and 9–49 Pleasant St.
Green Hill Park Shelter, Green Hill Parkway
Bancroft Tower, Bancroft Tower Rd.
Bloomingdale School, 321 Plantation St.
Elm Park (Previously listed in NR)
Elizabeth Street School, 31 Elizabeth St.
Bloomingdale Firehouse, 676 Franklin St.
Abbott Street School, 36 Abbott St.
Pleasant Street Firehouse, 406 Pleasant St.
English High School, 20 Irving St.
City Hall and Common (Previously listed in NR)
East Worcester School/Norcross Factory, 10 E. Worcester St.
Downing Street School, 92 Downing St.
Beacon Street School, 108 Beacon St.
Ash Street School, Ash St.
Woodland Street Firehouse, 36 Woodland St.
Grafton Street School, 311 Grafton St.
Dartmouth Street School, 13 Dartmouth St.
Providence Street Firehouse, 98 Providence St.
Webster Street Firehouse, 40 Webster St.
Freeland Street School, 12 Freeland St.
Cambridge Street School, 510 Cambridge St.
Cambridge Street Firehouse, 534 Cambridge St.
Upsala Street School, 36 Upsala St.
Quinsigamond Firehouse, 837 Millbury St.
Ward Street School–Millbury Street, 389 Millbury St.
Greendale Branch Library, 470 W. Boylston St.
South Worcester Branch Library, 705 Southbridge St.
Quinsigamond Branch Library, 812 Millbury St.
Waldo Street Police Station, Waldo St.
Worcester Asylum and related buildings, 305 Belmont St.
Greendale Improvement Society Building (Previously listed on NR)
North Worcester Aid Society, 58 Holden St.
Odd Fellows' Home, 40 Randolph Rd.
American Antiquarian Society (Previously listed on NR)
Mission Chapel, 205 Summer St.
Higgins Armory Museum, 100 Barber Ave.
100F Building, 674 Main St.
Masonic Temple, Ionic Ave.
Worcester Polytechnic Institute bounded by Boynton and West Sts. and Institute Rd.
Worcester Academy, Worcester Academy campus
Clark University, Clark University campus
Institutional District, properties on Lincoln and Wheaton Squares and on Salisbury and Tuckerman Sts.
Washburn and Moen North Works District, properties on Grove St.
Crompton Loom Works, 132–142 Green St.
Hammond Organ Factory, 9 May St.
Junction Shop and Herman Street District, properties on Jackson, Herman, and Beacon Sts.
Ashworth and Jones Factory
Harding-Winter Street Manufacturing District, 28–88 Winter St.
Whittall Mills, properties off Brussels St.
Salisbury Factory Building, 25 Union St.
Salisbury Factory Building, 49–51 Union St.
Adriatic Mills, 3–35 Armory St.
Southbridge-Sargent Manufacturing District, Southbridge, Sargent, and Gold Sts.
Union Congregational Church, 5 Chestnut St.
Cathedral of St. Paul, 15 Chatham St.
St. Johns Catholic Church, 40 Temple St.
Emmanuel Baptist, 717 Main St.
St. Peters Catholic Church, 935 Main St.
South Unitarian, 886 Main St.
Pilgrim Congregational, 909 Main St.
St. Marks, Freeland St.
St. Matthews, 693 Southbridge St.
Smith-Thaxter-Merrifield House, 158 Holden St.
Amos Flagg House, 246 Burncoat St.
William McFarland House, 525 Salisbury St.
Chadwich-Brittan, 809 Lincoln St.
Chamerlain-Flagg House, 2 Brookshire Rd.
Timothy Paine House (Previously listed on NR)
Stafford Newton House, 124 Bailey St.
Salisbury Mansion and Store (Previously listed on NR)
Benjamin Flagg House, 136 Plantation St.
Stearns Tavern, 651 Park Ave.
Liberty Farm (Previously listed on NR)
Ezra Rice House, 1133 W. Boylston St.
Charles Newton House, 24 Brattle St.
John Brooks House, 12 Nelson Pl.
George Gabriel House, 31 Lenox St.
Harry Goddard House, 190 Salisbury St.
Frederick Daniels House, 148 Lincoln St.
Charles Miles House, 131 Lincoln St.
Soho Cottage, 21 Windsor St.
Forest Hill Cottage, 22 Windsor St.
William Trowbridge Forbes House, 23 Trowbridge Rd.
Salisbury House (Previously listed on the NR)
Aldus Higgins House, 1 John Wing Rd.
Whitcomb Mansion, 51 Harvard St.
Bliss Building, 26 Old Lincoln St.
Goddard House, 12 Catherine St.
Draper Ruggles House, 21 Catherine St.
Jesse Moore House, 25 Catherine St.
Addison Prentiss House, 3 Channing Way
D. Wheeler Swift House, 22 Oak Ave.
George Bentley House, 9 Earle St.
George Gale House, 15 Elizabeth St.
Samuel Copeland House, 31 Harvard St.
Henry Goulding House, 26 Harvard St.
Otis Putnam House, 25 Harvard St.
Jerome Marble House, 23 Harvard St.
Tilley Raymond House, 12 George St.
Emory Bannister House, 3 Harvard St.
Gov. Levi Lincoln House, 4 Avalon Pl.
George Cobb House, 24 William St.
John Hastins Cottage, 31 William St.
Katz and Leavitt Apartment House, 53 Elm St.
Isaac Divis House, 1 Oak St.
Charles Allen House, 65 Elm St.
Francis Dewey House, 71 Elm St.
Merrill Double House, 18–20 West St.

William Hogg House, 54 Elm St.
Joseph Davis House, 41 Elm St.
Alexander Marsh House, 57 Elm St.
Marcus Hobbs House, 16 William St.
Richard Barker Octagon House, 312 Plantation St.
Leonard Sturtevant House, 84 Mulberry St.
Charles Chamberlain House, 373 Pleasant St.
Haratio Tower, 71 Pleasant St.
Harris-Merrick House, 41 Fruit St.
Moody Shattuck House, 768 Main St.
Dowley-Taylor House, 770 Main St.
John Legg House, 5 Claremont St.
Franklin Wesson House, 8 Claremont St.
Norcross Brothers Houses, 16, 18 Claremont St.
C. H. Fitch House, 15 Oread St.
Edward Stark House, 21 Oread St.
James Schofield House, 3 Mt. Pleasant St.
Newton House, 8 Sycamore St.
Daniel Stevens House, 7 Sycamore St.
Arad Alexander House, 53 Waverly St.
Elias Crawford House, 3 Norwood St.
Larchmont, 36 Butler St.
Borden-Pond House, 40 Laurel St.
Lucius Knowles House, 838 Main St.
Elliot Smith House, 839 Main St.
Brightside Apartments, 2 King St.
Fairlawn, 189 May St.
W. H. Goulding House, 4 Dix St.
Indian Hill-North Village, properties along Ararat St. and Delaval, Heroult, Marconi, Watt, and Westinghouse Rds.
Knollwood, 425 Salisburg St.
Massachusetts Avenue Historic District (Previously listed on NR)
Hammond Heights, properties along Germain, Haviland, Highland, and Westland Sts. and Institute Rd.
Oxford Crown Historic District (Previously listed on NR)
Oxford-Crown Extension District, properties along Ashland, Austin, Chatham, Congress, Crown, and Pleasant Sts.
May Street District, properties from 29 to 46 May St.
Castle Street Row, 4–18 Castle St.

Wellington Street Apartment House District, properties along Jacques Ave., and Wellington and Irving Sts.
Boynton and Windsor, 718 and 720 Main St.
Montvale, properties along Monadnock, Sagamore, Waconah, and Whitman Rds., and Salisbury St.
Lincoln Estate-Elm Park Historic District, properties along Cedar, Fruit, Oak, Sever, West, and William Sts.
Woodland Street Historic District, properties along Hawthorne, Loudon, Norwood, and Woodland Sts.

MINNESOTA

Hennepin County

Rockford, *Ames-Florida House*, 8131 Bridge St.

Murray County

Avoca, *Avoca Public School*, Cole Ave. and 2nd St.
Fulda, *Chicago, Milwaukee, St. Paul and Pacific Depot*, Off MN 62.

MISSISSIPPI

Lauderdale County

Meridian, *Meridian Multiple Resource Area (Partial Inventory)*. This area includes: *Cahn-Crawford House*, 1200 22nd Ave.; *Carnegie Branch Library*, 2721 13th St.; *Dabney-Green House*, 1017 22nd Ave.; *Dement Printing Company*, 2002 6th St.; *Dial House*, 1003 30th Ave.; *Dixie Gas Station*, 2902 5th St.; *Elson-Dudley House*, 1101 29th Ave.; *First Presbyterian Church*, 911 23rd Ave.; *Gulf, Mobile and Ohio Freight Depot*, 20 2nd. Ave.; *Lamar Hotel*, 410 21st. Ave.; *Loeb, Alex, Incorporated*, 2115 5th St.; *Masonic Temple*, 1220 26th Ave.; *McLemore Cemetery*, 601 16th Ave.; *Meridian Museum of Art*, 628 25th Ave.; *Meyer-Loeb Building*, 2100 4th St.; *Municipal Building*, 601 24th Ave.; *Niolon Building*, 718 23rd Ave.; *Pigford Building*, 818 22nd Ave.; *Porter-Crawford House*, 1208, 22nd Ave.; *Scottish Rite Cathedral*, 1101 23rd Ave.; *Stevenson Primary School*, 1015 25th Ave.; *St. Patrick Catholic Church Diocese*, 2614 Davis St.; *Suttle Building*, 801 22nd Ave.; *Temple Theater*, 2318 8th St.; *Threefoot Building*, 601 22nd Ave.; *Union Hotel*, 2000 Front St.

MISSOURI

Cape Girardeau, County

Cape Girardeau, *Glenn House*, 325 S. Spanish St.

Jackson County

Kansas City *Kansas City, Athenaeum*, 900 E. Linwood Blvd.

Lafayette County

Lexington, *Waddell House*, 1704 South St.

Nodaway County

Maryville, *Nodaway County Courthouse*, 3rd and Main Sts.

Ray County

Richmond, *Ray County Courthouse*, Off MO 10 and MO 13.
St. Louis (independent city).
St. Liborius Church and Buildings, 1835 N. 18th St.

NEW JERSEY

Hunterdon County

Clinton vicinity, *Van Syckel Corner District*, Van Syckels Corner and Norton Rds.

NORTH CAROLINA

Ashe County

Glendale Springs, *Glendale Springs Inn*, NC 16 and SR 1632.

Onslow County

Palopato, *Palo Alto Plantation*, SR 1434.

NORTH DAKOTA

Traill County

Mayville, *Stomner House*, 32 3rd St., NE.

TEXAS

Bexar County

San Antonio, *San Pedro Springs Park*, San Pedro Ave.

Hidalgo County

Hidalgo, *Old Hidalgo Courthouse and Buildings*, Flora and 1st Sts.
Hidalgo, *Old Hidalgo School*, Flora and 4th Sts.

Jefferson County

Port Arthur, *Rose Hill*, 100 Woodworth Blvd.

Travis County

Austin, *Rather House*, 3105 Duval St.

WYOMING

Laramie County

Cheyenne, *Downtown Cheyenne Historic District*, U.S. 30 (boundary increase).

[FR Doc. 79–27867 Filed 9–10–79; 8:45 am]
BILLING CODE 4310–03–M

Heritage Conservation and Recreation Service National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 6, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by September 21, 1979.

Carol Shull,

Acting Keeper of the National Register.

California

Santa Barbara County

Channel Islands Archeological District (also in Ventura County)

[FR Doc. 79–28214 Filed 9–10–79; 8:45 am]
BILLING CODE 4310–03–M

National Park Service

Revised Management Policies

Correction

In FR Doc. 79–24882 appearing on page 47412 in the issue of Monday, August 13, 1979, in the middle column of page 47412, three lines from the bottom change ". . . which is not part 616. . ." to read ". . . which is now part 616. . .".

BILLING CODE 1505–01–M

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Office of the Secretary

[INT FES 79-39]

Proposed Range Management Program for the Little Lost-Birch Creek Planning Area, Idaho; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposed grazing management program for the Little Lost-Birch Creek Planning Unit of the Idaho Falls District located in southeastern Idaho.

The proposal involves changes in initial stocking rates, implementing improved grazing systems and installation of certain range improvements. Approximately 332,000 acres of public lands and 65,000 acres of withdrawn lands (Department of Energy) are involved.

Copies of the Final environmental statement are available for inspection at the following locations:

Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529-1020.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384-1770.

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240.

A limited number of single copies may be obtained from the Idaho State Director, and the Idaho Falls District Manager, Bureau of Land Management at the above addresses.

This final statement was prepared using the comments received through the public review process on the draft statement. All comments on the draft statement and our responses to these comments are included in Chapter 9 of the final statement.

The final statement itself is not the decision document; however, management decisions can be made 30 days following filing of the final statement with the Environmental Protection Agency and distribution to the public. A range management decision document will be prepared by the District Manager and will be available for review by livestock operators and special interest groups. These decisions will be based upon the proposed grazing management plan, one of the four alternatives, or a combination of the best features of the proposal and alternatives. More specific decisions will subsequently be developed on an allotment by allotment basis.

Dated: September 5, 1979.

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 79-28137 Filed 9-10-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances in Schedules I and II; Establishment of 1980 Aggregate Production Quotas

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On July 6, 1979, a notice of the proposed aggregate production quotas for Schedule I and II controlled substances for 1980 was published in the **Federal Register** (44 FR 39626-7). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before August 6, 1979. Ciba-Geigy Corporation of Summit, New Jersey and Hoffmann-LaRoche, Inc. of Nutley, New Jersey each submitted comments relative to the proposed quotas.

Relative to levorphanol, Hoffmann-LaRoche, Inc. commented that this proposed quota was inadequate to meet their expected 1980 needs. In light of a trend of increasing sales and the company's experience in 1979 of a low beginning year inventory, Hoffmann-LaRoche requested that the aggregate production quota for levorphanol be increased.

Relative to methylphenidate, Ciba-Geigy Corporation commented that, based on expected 1979 and 1980 needs, the proposed quota will be insufficient to meet 1980 needs. In order not to waive its rights to a hearing, Ciba-Geigy requested a hearing on the proposed quota.

However, the company suggested that this hearing be deferred pending DEA's review of actual 1979 sales and year-end inventories for Schedule I and II substances which will take place in early 1980. Ciba-Geigy expects that this review will lead to a satisfactory resolution to the issue of the 1980 quota for methylphenidate and that no hearing will be necessary.

Pursuant to § 1308.11(c) of Title 21 Code of Federal Regulations, the Administrator of the Drug Enforcement Administration has deemed, in his sole discretion, that hearings relative to any of the above mentioned comments are not necessary at this time.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that final aggregate production quotas for Schedule I and II controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class	Established 1980 quota
SCHEDULE I	
2,5-Dimethoxyamphetamine	32,000,000
SCHEDULE II	
Alphaprodine	80,000
Amobarbital	6,089,000
Amphetamine	2,681,000
Anileridine	251,500
Cocaine	1,800,000
Codeine (for sale)	55,712,000
Codeine (for conversion)	2,902,000
Desoxyephedrine (1,644,000 grams for the sproduction of levodesoxyephedrine for use in a non-controlled, non-prescription product, and 301,000 grams for the production of methamphetamine)	1,945,000
Dihydrocodeine	1,045,000
Diphenoxylate	1,220,000
Ecgonine (for conversion)	1,200,000
Ethylmorphine	25,000
Fentanyl	3,000
Hydrocodone	915,000
Levorphanol	11,000
Meperidine	10,500,000
Methadone	1,382,000
Methadone Intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)	1,710,000
Methaqualone	11,476,000
Methylphenidate	1,202,000
Mixed Alkaloids of Opium	17,000
Morphine (for sale)	868,000
Morphine (for conversion)	67,556,000
Opium, (tinctures, extracts, etc. expressed in terms of USP powdered opium)	2,284,000
Oxycodone (for sale)	1,800,000
Oxycodone (for conversion)	8,000
Oxymorphone	4,000
Pentobarbital	14,000,000
Phenmetrazine	2,073,000
Secobarbital	7,508,000
Thebaine (for sale)	2,368,000
Thebaine (for conversion)	1,579,000

DEA will review the above established quotas early in 1980 to take into consideration actual 1979 sales and actual December 31, 1979 inventories as well as other information which might be available to DEA. At that time, DEA will again consider those comments received in response to the proposal of July 6, 1979.

This order is effective September 11, 1979.

Dated: August 17, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-28210 Filed 9-10-79; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (whether such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 5th day of September 1979.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending Sept. 8, 1979

Name of applicant and location of enterprise	Principal product or activity
J. J. Ferguson Sand and Gravel, Carroll, Leflore, Grenada, and Holmes Counties, Miss.	Production and transportation of sand, gravel and asphalt.

[FR Doc. 79-28130 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-112-C]

Forman-Lose Mining Inc.; Petition for Modification of Application of Mandatory Safety Standard

Forman-Lose Mining Inc., Route 2, Box 229, Albright, West Virginia 26519 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 1 Mine located in Preston County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining coal seams ranging 43 to 55 inches in height. This roof to pavement height is reduced about two and three fourths inches if measured from the roof bolts or about five inches if measured from the cross supports.

3. At times, undulations in the roof reduce roof to pavement clearances to 40 inches.

4. The petitioner believes cabs or canopies in the heights encountered in its mine would result in a diminution of safety for the following reasons:

(a) Cabs or canopies would not allow the equipment oprator proper visibility of surrounding conditions to insure safe operation of the equipment while remaining under the cab or canopy.

(b) Cabs or canopies could dislodge roof support in areas of uneven roof.

(c) The cramped and confined space under a cab or canopy would impair the equipment operator's ability to properly control the equipment.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 11, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

September 4, 1979.

[FR Doc. 79-28227 Filed 9-10-79; 8:45 am]

BILLING CODE 28227-M

[Docket No. M-79-136-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 125 South Wacker Drive #2400, Chicago, Illinois

60606, has filed a petition to modify the application of 30 CFR 75.902 (cable couplers) to its Nos. 21, 24, 25, 26, and 27 Mines, its Central Shop, and its John Ross Preparation Plant, all located in Franklin County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The standard states in part that cable couplers must be constructed so that during uncoupling the ground check continuity conductor must be broken (opened) first and the ground conductors broken last.

2. The petitioner uses primarily a pilotless ground monitoring system in conjunction with its cable couplers. This system does not have a separate ground check continuity conductor.

3. The petitioner's couplers are used with an external ground pin to insure that the coupler housing remains grounded to the receptacle until the phase pins disengage.

4. During uncoupling, the couplers hinge at the top so that the coupler interlock switch breaks first, the ground pin and one phase pin break next, followed by the other two phase pins, and the external ground pin breaks last.

5. The coupler interlock switch connects directly to the circuit breaker trip circuit, tripping the circuit breaker when the coupler is uncoupled. If the coupler interlock fails, the ground monitor trips the circuit breaker when the ground pin breaks.

6. The petitioner believes that its couplers and ground monitoring system provide the same measure of protection as the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 11, 1979. Comments must be filed with the Office of Standards, regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

September 4 1979

[FR Doc. 79-28229 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-26-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, P.O. Box 1080, Kellogg, Idaho 83837, has filed a petition to modify the application of 30 CFR 57.19-40 (sheave grooves) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. Law 95–164.

The substance of the petition follows:

1. The standard states in part that sheaves must have grooves properly contoured for the rope diameter used.

2. During shaft operations at its mine, the petitioner proposes to use a ⅞" rope with a sheave grooved for 1⅛" diameter rope.

3. The service life of the rope will be shortened with this combination; however, the petitioner believes there will be no diminution of safety to its workers because the very nature of shaft sinking, i.e., increasing depth, will necessitate replacing the hoisting rope long before it is worn out.

4. As part of its alternative method, the petitioner proposes frequent and thorough cable inspections involving periodic cable cuts to ensure the integrity of its hoisting rope.

5. The petitioner believes that its alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 11, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Robert B. Lagather,

Assistant Secretary, Mine Safety and Health.

September 4, 1979

[FR Doc. 79-28228 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5724-5]

Eastern Associated Coal Corp., Keystone, W. Va., Herndon, W. Va. Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an invetigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 15, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurigical coal at Keystone 1 Mine (TA–W–5724) and Keystone 2 & 3 Mines (TA–W–5725) of Eastern Associated Coal Corporation, Beckley, West Virginia. The investigation revealed that there is a preparation plant attached to Keystone 1 Mine and a preparation plant attached to Keystone 2 & 3 Mines. Keystone 1 Mine and Preparation Plant are located in Keystone, West Virginia, and Keystone 2 & 3 Mines and Preparation Plant are located in herndon, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department of Labor conducted a survey of the customers of Eastern Associated Coal Corporation. None of the customers purchased imported metallurgical coal. Some customers did not purchase any imported coke and the remainder decreased their reliance on imported coke in the January–May period of 1979, compared with the same period in 1978.

In a previous determination issued on March 9, 1979 workers at Keystone 1 Mine and Preparation Plant (TA–W–4586, 4586a) were denied eligibility to apply for adjustment assistance on the basis that any decreases in sales or production at the mine in 1978 were caused by either the Untied Mine Workers of America strike or a strike at the Norfolk and Western Railroad, which transports all the coal produced at the mine. In the same determination, workers at Keystone 2 & 3 Mines and Preaparation Plant (TA–W–4587, 4588, 4587a) were denied on the basis that sales or production did not decrease.

Conclusion

After careful review, I determine that all workers of Eastern Associated Coal Corporation, Keystone 1 Mine and Preparation Plant, Keystone, West Virginia, and Keystone 2 & 3 Mines and Preparation Plant, Herndon, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of September 1979.

James F. Taylor,

Director, Office of Mangement, Administration and Planning.

[FR Doc. 79-28103 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5723 and 5723A]

H. Freeman and Son, Inc., Philadelphia, Pa., Norristown, Pa., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 26, 1979 which was filed by the Amalgamated Clothing and Textile Worker's Union on behalf of workers and former workers producing men's suits, slacks and sportcoats at H. Freeman, Philadelphia, Pennsylvania. The investigation revealed that the Philadelphia plant of H. Freeman and Son, Incorporated, along with a Norristown, Pennsylvania plant, is part of an integrated production process. The investigation was expanded to include the Norristown plant. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S. imports of men's and boys' tailored dress coats and that U.S. imports of men's and boys' tailored dress coats and sportcoats decreased absolutely and increased relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first half of 1979 compared to the same period in 1978.

U.S. imports of men's and boys' tailored suits decreased absolutely and increased relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first half of 1979 compared to the same period in 1978.

U.S. imports of men's and boys' dress and sport trousers and shorts increased absolutely and relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first half of 1979 compared to the same period in 1978.

In a survey conducted by the Department of Commerce, customers accounting for a significant proportion of H. Freeman and Son, Incorporated's sales decline indicated that they had decreased purchaases from H. Freeman and Son, Incorporated and had increased purchases of imported men's suits, slacks and sportcoats. The U.S. Department of Commerce certified H. Freeman and Son, Incorporated as eligible to apply for firm adjustment assistance on August 2, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suits, slacks and sportcoats produced at H. Freeman and Son, Incorporated plants in Philadelphia, Pennsylvania and Norristown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Philadelphia, Pennsylvania and Norristown, Pennsylvania plants of H. Freeman and Son, Incorporated who became totally or partially separated from employment on or after June 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28104 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5856]

Philip Gurian Sons, Inc., Tamaqua, Pa., Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1979 in response to a worker petition received on August 7, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania.

The Notice of Investigation was published in the **Federal Register** on August 17, 1979 (44 FR 48386). No public hearing was requested and none was held.

The petitioning group of workers in this case was included in a determination (TA–W–5713) issued on August 28, 1979. In that determination, all workers of the Hometown plant of Philip Gurian Sons, Incorporated, Tamaqua, Pennsylvania who became totally or partially separated from employment on or after August 26, 1978 were certified as eligible to apply for worker adjustment assistance.

Since all workers are covered by an existing certification, a new investigation would serve no purpose. Therefore, this investigation is terminated.

Signed at Washington, D.C. this 31st day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-28105 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5711, 5740]

M. Jensen, Inc., Just Mort, Inc., Secaucus, N.J., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on July 5, 1979 and July 11, 1979 in response to worker petitions received on July 5, 1979 which were filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at M. Jensen, Incorporated, New York, New York and producing ladies' dresses at Just Mort, Incorporated, New York, New York. The investigation revealed that the plants of M. Jensen, Incorporated and Just Mort, Incorporated are located in Secaucus, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's slacks and shorts increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of women's, misses' and children's skirts increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' dresses increased absolutely and

relative to domestic production from 1977 to 1978.

Evidence developed during the course of the investigation revealed that Tucker Knits, Incorporated is the parent company of M. Jensen, Incorporated and Raoul, Incorporated and manages Just Mort, Incorporated. Each company produces a separate product line under the label of the company's name but all workers, excluding the salaried workers, work on all product lines. All workers, except designers and salesmen, are employed by Tucker Knits, Incorporated. The designers and salesmen are employed by each respective company.

The Office of Trade Adjustment Assistance conducted a survey of customers of the sportwear products (pants, skirts, and blouses) of M. Jensen and the dresses of Just Mort.

Customers accounting for a significant proportion of the sales of M. Jensen in 1977 reduced purchases from M. Jensen and increased purchases of imported pants, skirts and blouses in 1978 compared to 1977 and in the first half of 1979 compared to the first half of 1978.

Customers accounting for a significant proportion of the sales of Just Mort in 1977 reduced purchases from Just Mort and increased purchases of imported dresses in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sportswear produced at M. Jensen, Incorporated, Secaucus, New Jersey, and ladies' dresses at Just Mort, Incorporated, Secaucus, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Tucker Knits, Incorporated, Secaucus, New Jersey engaged in employment related to the production of ladies' sportwear at M. Jensen, Incorporated, and to the production of ladies' dresses at Just Morton, Incorporated and all workers of M. Jensen, Incorporated and of Just Mort, Incorporated, Secaucus, New Jersey who became totally or partially separated from employment on or after November 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28106 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5741]

Raoul, Inc., Secaucus, N.J.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1979 in response to a worker petition received on July 5, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Raoul, Incorporated, New York, New York. The investigation revealed that Raoul, Incorporated produced ladies' combination suits, such as jumpsuits, dresses and pantsuits and that the Raoul plant is located in Secaucus, New Jersey.

Due to the short term of operation of Raoul, Incorporated and the seasonality of the ladies' apparel industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in Section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 31st day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-28107 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5807]

A. Soloff and Son, Fall River, Mass.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 31, 1979 in response to a worker petition received on July 24, 1979 which was filed on behalf of workers and former workers producing men's outerwear at A. Soloff and Son, Fall River Massachusetts.

In a letter, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 31st day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-28108 Filed 9-10-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Jazz Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Section) to the National Council on the Arts will be held September 24-28, 1979, from 9:00 a.m. to 5:30 p.m. each day, in room 1422, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

August 30, 1979

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-28225 Filed 9-10-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Boards

5 USC 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the Federal Register. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning July 13, 1979, and ending February 29, 1980.

Name and title
Robert E. Allen—Acting Associate General Counsel, Enforcement Litigation.
William C. Baisinger—Chief Counsel to Chairman.
Willie L. Clark, Jr.—Solicitor.
Harold J. Datz—Associate General Counsel, Advice.
Joseph E. DeSio—Associate General Counsel, Operations Management.
John E. Higgins, Jr.—Deputy General Counsel.
Thomas N. Kessel—Chief Administrative Law Judge.
Harry M. Leet—Chief Counsel to Board Member.
William A. Lubbers—Executive Secretary.
Helen C. Reiner—Chief Counsel to Board Member.
Eugene L. Rosenfeld—Deputy Associate General Counsel, Operations Management.
Ernest Russell—Director of Administration.
Henry L. Segal—Chief Counsel to Board Member.
Berton Subrin—Director, Office of Representation Appeals.
Robert Volger—Deputy Executive Secretary.
Tamara J. Wall—Chief Counsel to Board Member.

By Direction of the Board: August 29, 1979

George A. Leet,

Associate Executive Secretary.

[FR Doc. 79-28224 Filed 9-10-79; 8:45 am]

BILLING CODE 7545-01-M

NUCLEAR REGULATORY COMMISSION

Classification, Downgrading, and Declassification of Information and Systematic Declassification Review Guidelines

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: Section 5-402 of Executive Order 12065, relating to national security information, requires that regulations establishing agency information security policy and guidelines for systematic declassification review shall be published in the Federal Register. This notice contains the Nuclear Regulatory Commission's (NRC) revised NRC Manual Chapter Appendix 2101 Part XIV "Classification, Downgrading and Declassification" of its management directives and NRC's Systematic Review Guidelines and thus fulfills the requirements of the Executive Order as they apply to the Commission.

DATE: Effective date of Part XIV: August 23, 1979. Effective date of Systematic Review Guidelines: July 5, 1979.

ADDRESS: Communications in response to this notice should be sent to the U.S. Nuclear Regulatory Commission; Chief, Security Policy Branch, Division of Security, Washington, DC 20555. Copies of Part XIV, as well as other parts to NRC's Manual Chapter and Appendix 2101, "NRC Security Program," in accordance with 10 CFR Part 9, "Public Records" are available for review at NRC's Public Document Room, 1717 H Street, NW., Washington, DC 20555, 301-427-4472.

Dated at Bethesda, Maryland this 31st day of August 1979.

For the Nuclear Regulatory Commission.

William J. Dircks,

Acting Executive Director for Operations.

U.S. Nuclear Regulatory Commission Manual Chapter and Appendix 2101—Part XIV—Classification, Downgrading and Declassification

A. General Provisions

1. *Purpose and Scope.* This part sets forth procedures for conducting the classification, downgrading and declassification program of the Nuclear Regulatory Commission (NRC).

2. *Basis for Classification, Downgrading and Declassification Program.* Executive Order 12065, "National Security Information," its Information Security Oversight Office implementing directives, the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, form the basis for the NRC classification, downgrading and declassification program.

3. *Classified Information.* "Classified Information" is a term used to include National Security Information (NSI), Restricted Data (RD) and Formerly Restricted Data (FRD). See Appendix 2101 Part I for definitions.

4. *Policy.* Classification, downgrading and declassification of classified information under the jurisdiction of the NRC is to be performed in a manner to increase the openness of Government operations by limiting classification of information and accelerating declassification, and to improve the protection for information that needs to be classified. Declassification of information shall be given emphasis comparable to that afforded classification. The classification, downgrading and declassification process assesses: the possible threat to the national security from access to the information by unauthorized persons or foreign nations; advantages resulting from declassification to the advancement of science, technology and the general welfare; and the effect of controls on accomplishment of national goals. Classification guidance (guides, bulletins and correspondence) assist in implementing this policy.

Classification and declassification of Restricted Data and Formerly Restricted Data takes place in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued thereunder.

5. *Role of Director, Division of Security.* The Director, Division of Security, (1) determines that the classification, change of classification and declassification of National Security Information within the NRC, NRC contractors and other organizations takes place in accordance with E.O. 12065, Information Security Oversight Office (ISOO) directives and other implementing directives including Commission regulations, and (2) provides classification, declassification and change of classification assistance as required to NRC, NRC contractor and other personnel.

B. Classification

1. *Classification Process.* Classification is the process of identifying the information the NRC needs to protect in the interest of the national security or because it is Restricted Data or Formerly Restricted Data, and determining the level of protection needed.

The classification of information, a document or material requires a determination of the:

a. Sensitivity to the national security of the information involved.

b. Assignment of the level of protection (Top Secret (TS), Secret (S) or Confidential (C)) required for the information.

c. Category of classified information (e.g., National Security Information (NSI) or Restricted Data (RD)).

d. Applicability to NSI of the criteria outlined in Section 1-301, E.O. 12065, and the determination that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security. This provision does not apply to Restricted Data or Formerly Restricted Data which are classified by the Atomic Energy Act and not in accordance with Executive Order 12065.

In the course of classification, and incidental thereto, the authorized classifier:

a. Determines the date or event on which automatic declassification of NSI may take place or the date on which the matter should be reviewed for declassification (e.g., in six years, at the end of twenty years or, in the case of foreign government information, at the end of thirty years).

Restricted Data and Formerly Restricted Data are not subject to automatic declassification and should be declassified by referral to the Division of Security, which will coordinate the matter with the Department of Energy as necessary.

b. Ensures the placement of markings on the document or item of material to indicate the determinations made and to convey the additional information required under Part III of this Appendix.

2. *Importance of Classificction.* Security afforded to information, a document or material is based on the classification assigned to it. Classification markings, security clearances, guards, security repositories and other such security measures are used as appropriate to protect classified matter.

The disclosure of classified information either to unauthorized persons or foreign governments without authorization is likely to result in damage to the national security or foreign relations of the United States. Therefore, it must be restricted to only those authorized individuals who need the information to perform their official duties.

3. *Who Can Classify.* a. *Authorized Classifiers.* (1) Authorized classifiers within the NRC are the Chairman, NRC, and NRC contractor employees and others who occupy a specific position that has been designated in writing by the Chairman, Commissioners or Executive Director for Operations to classify, downgrade and declassify information, documents or material.

(2) Authorized classifiers are designated as either original or as derivative classifiers.

(a) An authorized classifier of NSI with orginal classification authority may determine, based on his own knowledge, authority and expertise, the classification level necessary to protect information or matter in those cases where the information is not covered by classification guidance or in which classification has not otherwise been previously determined.

(b) An authorized classifier with derivative classification authority may classify only that information which is based on a classification determination made by an individual with original classification authority, a source document or in classification guidance (e.g., guide or bulletin). Each official with original classification authority also has derivative classification authority. NRC contractor employees and others may be designated as derivative classifiers.

(c) Each authorized classifier is responsible for assuring that the classification he/she assigns to NSI is strictly in accordance with the classification requirements of the Executive Order and policies established by the NRC and that the classification assigned to Restricted Data or Formerly Restricted Data is in accordance with the classification requirements of the Atomic Energy Act and applicable classification guidance.

b. *Top Secret Classifying Officials.* E.O. 12065 designates the Chairman of the NRC as a Top Secret authorized classifier. By authority of the Order, he may delegate this authority to only the four Commissioners and the Executive Director for Operations. Secret and Confidential original and derivative classifying officials for the NRC are designated by the Commission or Executive Director for Operations on the basis of a request in writing submitted to the Director, Division of Security by the appropriate Office Director or Regional Office Director. Such request shall include:

(1) the designation of the position or positions for which authority is sought,

(2) the level of classification authority requested, and

(3) the justification for such request, including a description of the type of information that is anticipated to require classification and the frequency of the need to exercise such authority.

4. *Classification Guides.* a. Classification Guides for NSI are required under Section 5–403 of Executive Order 12065. Such guides shall:

(1) Identify the information to be protected, using categorization to the extent necessary to insure that the information involved can be identified readily and uniformly;

(2) State which of the classification designations (i.e., Top Secret, or Confidential) applies to the information;

(3) State the duration of classification in terms of a period of time or future event. When such duration is to exceed six years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination, those reasons need be recorded only on or with the record copy of the guide; and

(4) Indicate how the designations, time limits, markings, and other requirements of the order and this directive are to be applied, or make specific reference to agency regulations that provide for such application.

b. Each classification guide will be kept current and will be reviewed at least once every two years. The Division of Security will maintain a list of all classification guides in use within the NRC and will schedule the reviews.

c. Each classification guide will be approved in writing by the Executive Director for Operations and reviewed by the Commission prior to issuance.

Within NRC, classification guides are grouped in the following categories:

(1) Program Classification Guides. These guides through specific topical terms apply classification policy to a particular aspect of the NRC program. They frequently involve the mission of more than one office or division. Their issuance and revision is the responsibility of the Director, Division of Security, who coordinates with other agencies as required. A program guide establishes an authoritative frame of reference within which more detailed local classification guides may be prepared.

The Division of Security (in conjunction with appropriate Offices and Divisions concerned) determines that a program classification guide is needed to implement policy in a field of work, or that an existing program guide requires revision. The preparation of program classification guides will be coordinated with appropriate offices and divisions including the program office(s) by the Division of Security. Upon approval of the guide by the Executive Director for Operations and review by the Commission, the Director, Division of Security issues it to appropriate NRC, NRC contractor and other personnel for their use.

(2) Local Classification Guides. These guides are based on program classification guides. They provide detailed classification guidance for the programs or segments of programs carried out wholly within the jurisdiction of a single organization. Local classification guides shall be submitted to the Director, Division of Security, for approval prior to use and publication.

5. *Executive Order 12065.* The provisions of Executive Order 12065 apply only to NSI and not to Restricted Data or Formerly Restricted Data.

a. System of Classification, Downgrading and Declassification. E.O. 12065 states that National Security Information must be classified as Top Secret, Secret or Confidential. The definitions of Top Secret, Secret and Confidential information are set forth therein. Authority to originally classify is restricted to agencies concerned with national security matters and limited to the minimum number of persons required for efficient administration. Heads of agencies and other personnel of agencies authorized to originally classify information as Top Secret, Secret or Confidential are specified and limited by the order.

b. Duration of Classification. The E.O. provides that at the time of original classification, each original classification authority must set a date or event for declassification no more than six years later unless:

(1) An original Top Secret authorized classifier determines that information must be classified for a longer period. In such cases a declassification date or event, or a date for review to determine whether declassification is appropriate, must be set. The date or event for declassification shall be as early as national security permits. In any event, this longer period, except for foreign government information, can be for no more than twenty years. (At the end of this twenty years, the Chairman, NRC, may extend the classification for an additional 10-year period provided: a) the category of information has been included in a systematic review guideline; and b) it is reviewed item-by-item at the 20-year mark to determine whether continued protection beyond 20 years is needed.

(2) The information was originated by a foreign government and provided to the United States Government under the condition that it be held in confidence, or the information was produced by the United States, in accordance with a written joint arrangement with a foreign government or international organization of governments, requiring that either the information or the arrangement, or both, be kept in confidence. Foreign government information must not be assigned a date or event for automatic declassification unless the date or event is specified or agreed to by the originating foreign government or originating international organization of governments. Foreign government information classified after the effective date of the order must be assigned a date for declassification or review for declassification which may be up to thirty years from the time the information was classified or acquired.

c. Method of Indication of Extension of Classification Beyond Six Years. The extension authority is to be used sparingly.

(1) National Security Information. Documents and material may be classified for longer than six years by:

(a) A case-by-case determination by an official with original Top Secret classification authority (which must be noted on the face of the document). If possible, a date or event for declassification or review for declassification sooner than twenty years should be used.

(b) A determination by an authorized classifier other than an original Top Secret classification authority based on classification guidance, or a source document approved by an original Top Secret classification authority. Classified documents originated or items of material produced may retain their classification for more than six years, if they contain information which an original Top Secret classification authority requires to be classified beyond that date.

(c) In each case, covered by (a) or (b), the document or item of material will show on its face the reason for extended classification. The annotation may be accomplished either by reference to an agency regulation, a classification guide or other NRC classification guidance that states the reason for extension in narrative form or by a narrative statement on the face of the document. The authorized classifier must sign his name to such document and note on the document the guide item, or source document which authorized the extension.

(2) Restricted Data and Formerly Restricted Data are specifically exempted from all automatic downgrading and declassification procedures of the Executive Order. No indication of exemption other than the "Restricted Data" or "Formerly Restricted Data" marking is necessary.

d. Citation of Extension Authority:

(1) Information covered by a Classification Guide. In classifying information, a document or material containing National Security Information when an approved guide indicates that the contents are subject to extended classification pursuant to E.O. 12065, the document or material should be marked with the declassification or review date or event indicated in the guide.

The citation of the guide in the "Classified by" line, the signature of the authorized classifier in the "Derivative Classifier" line, the name of the approving official for the guide in the "Extended By" line, and the reason given in the guide for the extended classification in the "Reason for Extension" line are required for all extended classification actions. In the case of material, where it is not feasible to place the data on the item, a record maintained by the classifier and information furnished by memorandum to holders should set forth this information.

(2) Information Not Covered by a Guide. If information not covered by an approved classification guide is involved, an NRC regulation or original Top Secret classification authority may specifically sanction extended classification of a particular document or item of material. If an individual document or item of material is involved, the signature of the Top Secret authorized classifier must be obtained as authority for extended classification.

e. Prohibitions on Classification. The order prohibits classification to conceal violations of law, inefficiency or administrative error, to prevent embarrassment to a person, organization or agency, to restrain competition, to limit the dissemination of information that is not classifiable under the order, or to prevent or delay the public release of such information.

f. Administrative Sanctions:

(1) Officers and employees of the United States Government shall be subject to appropriate administrative sanctions if they knowingly and willfully classify or continue the classification of information in violation of E.O. 12065 or any implementing directives, or knowingly, willfully and without authorization disclose information properly classified under E.O. 12065 or prior E.O.s or compromise properly classified information through negligence, or knowingly and willfully violate any other provision of E.O. 12065 or an implementing directive. Any such conduct is to be considered a violation of 10 CFR Part 0 and handled accordingly.

(2) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law and agency regulations.

6. *Atomic Energy Act and Energy Reorganization Act.* The Atomic Energy Act of 1954, as amended, in Subsection 11 defines Restricted Data, and in Subsection 142d establishes the basis for the concept of Formerly Restricted Data. The Act is the basis for the determination that all Restricted Data and Formerly Restricted Data are classified.

The Atomic Energy Act contains, in Sections 141 and 142, a statement of policy in regard to declassification of Restricted Data, requirements for the review of Restricted Data, and removal of information from the Restricted Data category. The Energy Reorganization Act, which created the Energy Research and Development Administration (since merged into the Department of Energy) and the NRC, leaves these provisions in effect.

The U.S. Atomic Energy Commission determined that Restricted Data and Formerly Restricted Data would be classified Top Secret, Secret or Confidential. Classification guidance presently in existence conveys to

authorized classifiers the proper classification level to be assigned to Restricted Data and Formerly Restricted Data.

7. *Determination of Proper Classification.* a. Levels and Special Markings. Classification of information includes the determination and assignment of the level of sensitivity (TS, S, or C), the category of information (NSI, RD, FRD) and any special control markings which may apply [e.g., Warning Notice—Intelligence Sources and Methods Involved (WNINTEL)].

b. Reason for Classification. Among other considerations, the determination of whether information is classified and the level of classification must be based on: (1) the information contained in the document, or the information which may be revealed by study, analysis, observation or use of material; and (2) the information the document or material may reveal when associated with other information, including that which the classifier knows is in the public domain.

The determination is based on the assumption that any person who has access to the document is: (1) highly qualified in the particular field, and (2) thoroughly familiar with the data that have been treated as unclassified in the general subject area.

8. *Responsibilities of Authorized Classifiers.* Each person possessing classification authority, either original or derivative, shall be held accountable for the propriety of his classification actions. Unnecessary classification, overclassification, and underclassification shall be avoided.

The responsibilities of authorized classifiers are set forth in E.O. 12065, "National Security Information," approved June 28, 1978, and its implementing directive of October 2, 1978. Additional policies and procedures are also set forth in this Part.

a. Responsibility for Classification. Authorized original classifiers may classify information, only up to the classification levels for which they have been given classification authority. A derivative classification authority may classify only that information which is based on guidance provided by source documents or previously issued classification guidance. An original classification authority may, in addition to the above, determine classification in cases where no guidance exists, basing his decision on experience and program knowledge. In both cases, it is the responsibility of the authorized classifier to determine the level of classification which is to be applied to official information and to verify, insofar as is practical, the currency of classification guidance or classification level of source documents before applying derivative classification.

b. Responsibility for Unclassified Determination. Any authorized classifier may determine that an unmarked document is, in fact, unclassified. This determination is distinctly different from a declassification determination concerning currently classified information (see D. below). He may use as guidance the information contained in:

(1) The topics of a local guide or other guidance authorized for his/her use;

(2) Previously declassified documents; or

(3) Documents determined to be unclassified by the Division of Security.

c. Referral to Higher Authority. When an authorized classifier is in doubt as to whether information is classified, or as to the proper level of classification or the interpretation of a guide topic or as to which topic applies, or is unable to resolve the classification or failure to classify, he/she should refer the matter promptly to the next higher classification authority or the Division of Security. In cases of unresolvable differences of opinion as to classification, the Division of Security will refer the matter to the NRC Classification Review Committee (see d. below). During the process of determining the proper classification, the document shall be marked and safeguarded in accordance with the procedure for the highest classification under consideration.

d. The NRC Classification Review Committee appointed in accordance with Section 5-404(b) of E.O. 12065 is composed of the following members:

(1) Deputy Executive Director for Operations, Chairman (voting).

(2) Director, Office of Policy Evaluation (voting).

(3) Director of the Office responsible for the matter under review (voting).

(4) Director, Division of Security (voting).

(5) Director, Office of Management and Program Analysis (voting).

(6) Director, Division of Rules and Records (voting).

(7) Executive Legal Director (voting).

(8) Chief, Information Security Branch, Division of Security, Secretary (nonvoting).

A quorum of three voting members shall be necessary to transact the business of the Committee. A majority vote of those members present will reflect the views and determinations of the Committee on the matters under consideration.

e. The functions of the NRC Classification Review Committee are as follows:

(1) The Committee shall act on written suggestions and complaints from persons with or outside the NRC with respect to the administration of the classification-declassification and downgrading aspects of E.O. 12065 and its implementing directive within NRC. Such suggestions and complaints may include those regarding overclassification, failure to classify, or unusual delays in declassifying information and material.

(2) The Committee will consider cases referred to it in writing. Where it finds that unnecessary classification or overclassification has repeatedly ocurred, or in cases of violation of the provisions of E.O. 12065 or the implementing directive, the Committee will report to the Executive Director for Operations, as required, with recommendations for corrective steps to be taken.

(3) The Committee shall exercise the authorities and responsibilities delegated to it under Appendix A of 10 CFR Part 9.

(4) The Committee shall consider any other matters that may be referred to it.

(5) See D.9a. and b and D.10f. through i. below for other functions.

f. In addition to participating as a member of the Classification Review Committee, the Director, Division of Security, is responsible for carrying out decisions of the Executive Director for Operations on recommendations submitted by the Committee under paragraphs e(2), (3), and (5) above.

9. *Responsibilities of Originators of Documents.* a. Originator who is not an authorized classifier. If the originator believes that a document originated by him/her requires classification or has any doubt of the need for classification, he/she shall refer the document to an authorized classifier for decision.

If the originator is certain that a document is unclassified, he/she need not refer it to an authorized classifier but will handle it accordingly.

b. Originator who is an authorized classifier.

(1) Derivative Classification Authority. If the document contains information covered in classification guides or other NRC approved classification guidance or is extracted from a previously classified document, an authorized classifier with derivative classification authority may classify the document. The derivative classifier must, where practicable, verify the information's current level of classification. If the document contains other matter which may require

classification, it must be referred to an authorized original classifier.

(2) Original Classification Authority. Originator may classify his/her own documents and those referred to him/her provided that such action is within the authority delegated to him/her.

10. *Identification of Classification Authority.* Executive Order 12065 requires classified documents to indicate on their face the identity of the authorized classifier.

a. Original Classification Authority. An original classifier may assign classification to information based on classification guidance, extraction or derivation of the information from previously classified information. Additionally, he is authorized to make an initial determination that information requires classification to protect against unauthorized disclosure in the interest of national security, and he is required to designate the level of classification if it is within his delegated authority, or his own experience and detailed program knowledge. When a classified document is originated, the signature of the authorized classifier shall be placed on the face of the document.

b. Derivative Classification Authority. When a document is classified by a derivative classifier, the signature of the derivative classifier shall be placed on the face of the document.

c. Classification Determination. The authorized classifier assumes full responsibility for the classification assigned to the document regardless of the source of the information. The authorized classifier's signature on the face of the document indicates acceptance of this responsibility.

(1) For a document containing only classified information extracted or drawn from other documents or other sources, an authorized classifier, in this case either an original or a derivative classifier, must assume responsibility for the classification of the entire document. However, he should assure himself that the classification assigned to the derivative information is accurate.

If a document contains only classified information extracted or drawn from one other document or source, the identity of the original classifier as shown on the other document or identified with the other source may be cited in the new document.

In the case of classified information extracted or drawn from more than one document, one of which has a higher classification than any of the others, the new document should be assigned the highest classification of the information extracted or drawn. This may be the classification of the more highly classified document unless the new document, as a result of the incorporation of information from a number of sources, requires a still higher classification. If the new document, due to the sensitivity of the compilation, requires a higher classification than any of the source documents, this would be considered to be an original classification determination and must be made by an original classifier. If the new document does not require a level of classification higher than any of the source documents a derivative classifier may authorize the classification at a level equal to the classification of the most highly classified source.

(2) For a document containing classified information extracted or drawn from other documents and additional classified information supplied by the originator, classification would be accomplished by a derivative classifier if the additional information is covered in issued classification guidance. If it is not covered by such guidance, the determination must be made by an original classifier. In either event, the authorized classifier must assume responsibility for the classification of the entire document. His/her identity should be appropriately placed on the document as the authorized classifier.

11. *Specified Instances.* a. *Notices of Classification and Upgrading:*

(1) A notice that a document mistakenly issued as unclassified is in fact, classified, or notice that a document has been mistakenly declassified, must be classified at least at the Confidential National Security Information level, and must be marked to show eligibility for declassification six years from origin or sooner, unless the notice contains information requiring a higher classification, contains information that must remain classified longer than six years, or contains RD or FRD.

(2) If all copies of a document which had been mistakenly issued as unclassified or mistakenly declassified have been classified or destroyed before the declassification date on the notice, the notice (unless the content is otherwise classified) set forth in (1) above shall be declassified immediately and action taken to notify holders of the notice to this effect.

(3) Notice that a classified document has been upgraded to a more restrictive classification may be unclassified provided no classified information is included in the upgrading notice.

(4) The fact that a document issued as unclassified actually contains classified information may not be disclosed over unsecured telecommunication circuits (e.g., by regular telephone conversations).

b. *Downgrading and Declassification Notices.* Notices that a classified document has been declassified or downgraded are unclassified unless the notices otherwise contain classified information.

c. *ADP Matter.* Generally, ADP matter (e.g., cards, tapes and disk packs) is prepared on the basis of a request, or on the basis of information supplied, from sources outside the Automatic Data Processing (ADP) Center. It is the responsibility of the person transmitting data to the ADP Center to advise the Center as to the classification and category of information (NSI, RD or FRD) involved, and also to advise as to the identify of the classifying official. This will guide the Center in protecting and marking the data and any derivative data such as printouts. If extended classification is involved, the person transmitting the data to the Center must also provide the identify of the extending authority and the basis for extension. The ADP matter, when produced, will be marked, documented and controlled consistent with the provisions of Parts III and XII of this Appendix.

d. *Subjects or Titles.* Classified subjects or titles may be used on documents only when it is not feasible to use unclassified titles. Top Secret information shall not be included in a subject or title.

e. *Classified Documents Furnished to other Government Agencies.* Classified documents furnished by NRC, NRC contractors or other personnel associated with the NRC program to other government agencies, their contractors or members of the Armed Forces shall be downgraded, declassified or transclassified only with NRC consent.

f. *Outside Agency Documents.* Classified outside agency documents shall be downgraded, declassified or transclassified only after the consent of the originating agency or government has been obtained.

g. *Information Received from Foreign Governments or International Organizations.* (1) Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall assure a degree of protection equivalent to that required by the originating government or international organization.

(2) Any such classified documents shall not be declassified or downgraded without the consent of the originating government or international organization.

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(3) If the foreign classification on such documents is in English, no additional U.S. classification designation is required to be placed on the documents. If the classification is in a foreign language, an equivalent U.S. classification designation will be added.

h. *Documents Where Classification or Lack of Classification is Questioned.*

(1) When a recipient of a document questions its classification or lack of classification, he shall immediately contact the originator to resolve the matter. Pending determination of its proper classification, the document, together with all copies, drafts, reproductions, extracts, work sheets and the information itself, will be safeguarded in accordance with the highest classification and category which might reasonably be assigned to it.

(2) When such document has been distributed outside the originator's function (i.e., outside an originating Headquarters Office or Division, an originating Regional Office, or an originating contractor facility), the originator shall give immediate notice of the matter to the Division of Security.

(3) When such document has not been distributed outside the originator's function, but the recipient and the originator cannot agree as to the classification of the document within five working days of the questioning of same, the originator shall give immediate written notice of the matter to the Division of Security.

(4) The notices to the Division of Security will be accompanied by a copy of the questioned document, or by advice as to where in NRC Headquarters a copy can be obtained. Any such document transmitted will be safeguarded consistent with (1) above. Notices will include any pertinent information then known to the originating office, including any available information as to the distribution of the document or information. However, unless authorized by the Division of Security, the originating office should not go outside its own boundaries to acquire information for the report.

(5) The Division of Security will determine whether any physically-unclassfied document actually is classified, or whether a physically-classified document is improperly classified, and, if so, will effect appropriate follow-up action, either directly, or through the originating office or function. Division of Security follow-up will include, among other items, determination of the cause of failure to properly classify a document, the applicability of infraction procedures to individuals involved, and the desirability from the standpoint of residual security of the information involved, and recovering copies of the documents.

(6) The originating office or function and any other functions involved shall furnish the Division of Security all possible cooperation in these matters, but will take no action or make no inquiries (such as ascertaining the identity of outside recipients of a document) beyond the confines of their own offices, except as approved by the Division of Security.

12. *Conferences and Symposia.* A times, NRC, NRC contractors, and others affiliated with NRC, sponsor or participate in conferences and symposia which are intended to be unclassified, but which relate to sensitive programs or installations. To minimize the risk of inadvertently revealing classified information at such meetings, the procedures in a. and b., below, have been established.

a. Review of Papers. Papers involving sensitive programs or installations are to be submitted to an NRC authorized classifier (see B.3. above) or the Division of Security for review prior to unclassified use.

b. Briefings. All NRC and NRC contractor personnel, who are to deliver briefings which involve sensitive programs or installations, shall have the text of such briefings reviewed for classification by an authorized classifier or the Division of Security before they are presented.

13. *Publication or Release of Documents.* Where there is any doubt as to whether a document contains NSI, RD, or FRD, the author will refer the document to the Director, Division of Security, or to an NRC authorized classifier for classification review.

a. Review of Documents Prepared by NRC Employees. NRC Contractor Employees or Other NRC Affiliated Personnel. An NRC or NRC Contractor employee, or other person associated with the NRC program may desire to release, as unclassified, information relating to his activity. Contracts for classified work contain clauses that require safeguarding of NSI, RD or FRD. These contracts require that proposed disclosures, whether in the form of documents, visual materials, speeches or otherwise, be reviewed by an authorized classifier to prevent the release of classified information, as well as to obtain appropriate review for patent clearance. NRC employees and other personnel associated with the NRC program are under similar obligation to protect against the unintentional disclosure of classified information in conjunction with the release of unclassified information.

b. Review of Documents Submitted by Uncleared Authors. Documents voluntarily submitted for review by an uncleared author who, to the best of the reviewer's knowledge, has never had access to classified data should be forwarded to the Division of Security for review. If, after review, it is determined that the article contains information which should be classified, the Division of Security shall advise the author, to the extent possible within the bounds of security, of the reason for the necessity for classification and, if possible, take action to have the author delete any classified information contained in the document. In the course of such a review, the Division of Security will refer the documents to other Headquarters Offices and Divisions and other Government agencies, as appropriate.

c. Review of Documents Submitted by Formerly Cleared Persons or by Authors with Active Clearances. Documents submitted by formerly "Q" or "L" cleared persons, by persons with active NRC clearances other than those set forth in a. above or by persons formerly or presently cleared by other Government agencies, shall be reviewed by an NRC authorized classifier or the Division of Security, and the author will be required to delete any classified information contained in the document prior to unclassified publication.

C. Change of Classification

Change of classification is the determination that higher or lower classification applies to a classified item. It does not include declassification. (See D. for information concerning declassification.)

1. *Authority to Change Classification.* An authorized classifier may change the classification of information which he, or his predecessors in that position, have classified to make it consistent with current classification guidance. A supervisor of the above official, if he has classification authority, may also make such changes in such classification.

2. *Automatic Downgrading of Documents.* Documents containing RD or FRD, are exempt from automatic downgrading. Documents, other than RD or FRD may be determined to be subject to automatic downgrading at some date prior to their declassification date or event if the original authorized classifier determines their sensitivity will decrease with the passage of time. When automatic downgrading instructions are placed on the document at the time of origin, the document will be downgraded at the assigned date with no notice to holders required.

The custodian shall either downgrade his/her copies of the document on or after the date specified or assure that the documents will be downgraded when withdrawn from files. However, if the custodian believes that the downgrading is inappropriate, he/she will refer the matter to the Director, Division of Security.

3. *Restricted Data and Formerly Restricted Data.* Downgrading of Restricted Data and Formerly Restricted Data may take place only in accordance with approved classification guidance, e.g., classification guides or bulletins.

4. *Notification of Changes.* a. Top Secret (TS) Documents. The person authorizing the change in classification of a TS document (i.e., the TS classifying official, his/her successor, or higher authority with TS classification authority) must notify the Division of Security, which in turn will notify custodians of all copies.

b. Secret (S) and Confidential (C) Documents. The person (i.e., TS, S or C classification authority) authorizing the change of classification of a Secret or Confidential document must notify all holders of other copies of the document of the change.

c. Forwarding of Notices. If the recipient of a classification change notice has forwarded the document to another custodian, the change notice should be forwarded to the new custodian.

d. Content of Notices. Notices of change of classification should identify the document as fully as possible, stating the title (or a brief description of the document), the document number, if any, the author, the date of the document, the person authorizing the change, and the nature and date of the change.

5. *Effecting Change of Classification.* See Appendix 2101, Part III, for information to be placed on documents on change of classification.

6. *Markings for Transclassification.* On receipt of notice of transclassification (change from RD to FRD or to National Security Information (NSI) without declassification), custodians shall take the following action. They shall line out the RD marking and replace it with the FRD marking, if transclassified in accordance with Subsection 142d of the Atomic Energy Act of 1954. If transclassified in accordance with Subsection 142e of the Act, custodians shall replace the RD stamp with the NSI stamp and, in addition, the appropriate review or declassification marking shall be placed on the document.

D. Declassification

1. *Request for Declassification Review.* Request for declassification review may be sent to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

2. *National Security Information.* E.O. 12065 provides for the declassification of NSI as early as national security considerations permit, and contains further guidance on the subject.

3. *Restricted Data and Formerly Restricted Data.* Section 142 of the Atomic Energy Act describes the ways in which information can be removed from the RD and FRD categories.

Any proposed declassification or transclassification action in regard to RD or FRD documents shall be forwarded to the Director, Division of Security, who will coordinate the matter as necessary with the Department of Energy. Declassification of Restricted Data and Formerly Restricted Data may only take place in accordance with approved classification guidance and in accordance with the Atomic Energy Act.

4. *Authority to Declassify Documents and Material.* a. NRC original authorized classifiers may declassify documents containing National Security Information if they made the original classification decision and are still in the same position, by a successor or by a supervising official or either, who is an authorized classifier in the same area of information.

b. The Director, Division of Security, and the Chief, Information Security Branch, of that division are authorized to declassify National Security Information, in accordance with NRC approved policies and guides.

5. *Declassification Notices.* When a Top Secret document is declassified, the person authorizing the declassification must notify the Division of Security, which in turn will notify custodians of all copies.

When a Secret or Confidential document is declassified, the individual authorizing the declassification shall send a notice of declassification to all known holders of the document. These notices will normally be unclassified unless unusual circumstances require the inclusion of classified information in the declassification notice.

6. *Method Used in Declassification Review.* Declassification review may be a:

a. Standard declassification review.

b. Systematic review under E.O. 12065.

c. Review under Freedom of Information Act or Privacy Act.

d. Mandatory review under E.O. 12065.

7. *Standard Declassification Review.* The following procedure will be used for declassification review of documents produced as a result of work for the NRC, its contractors or other organizations associated with the NRC program.

The initiator of a request for declassification review of a document, which contains NSI, shall transmit two copies of the document to be reviewed to the authorized classifier responsible for the classification, his successor, or to a supervisory official of the authorized classifier or his successor with authority for classification of the level of information involved or to the Director, Division of Security. All documents containing RD or FRD must be forwarded to the Director, Division of Security, who will be responsible to assure that necessary action is taken. The authorized classifier, his successor, or supervisory official, or Division of Security, will forward one copy of any document containing patented or patentable information to the Executive Legal Director, who will reply directly to the sender concerning its release from a patent viewpoint. The second copy may be used, when necessary, to obtain the views of other organizations, including other Government agencies or other governments. If the views of other organizations, including other Government agencies or other governments, and the evaluation of the reviewer(s) are in agreement that the document may be declassified, the authorized classifier, his successor, or supervisory official, or Division of Security, will declassify the document and, after receipt of patent clearance, if applicable, will transmit a memorandum reflecting the results of such review to the initiator. In all cases in which unresolved differences of opinion exist as to the declassifiability of a document originated by NRC or its contractors or other personnel associated with the NRC program, the final determination will be made by the NRC Classification Review Committee. Declassification of a document containing patented or patentable information does not permit its release until clearance has been obtained from the Executive Legal Director by the office proposing the release.

8. *Systematic Review Under E.O. 12065.* Classified information constituting permanently valuable records of the government, as defined by 44 U.S.C. 2103, and information in the possession and control of the Administrator of General Services,

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pursuant to 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes twenty years old. The review will be conducted in accordance with NRC guidelines established and maintained for such purposes. The guidelines shall be kept current through a review at least every two years unless earlier review for revision is requested by the Archivist of the United States. These guidelines will state specific, limited categories of information which, because of their national security sensitivity should not be declassified automatically, but must be reviewed item by item to determine whether continued protection beyond twenty years is needed. All categories of information not covered by the guidelines shall be declassified by the Archivist or any authorized classifier automatically at the end of twenty years from the date of original declassification. RD, FRD and information provided to the United States Government by a foreign government, or international organization of foreign governments, with an understanding of confidentiality, or information produced by the United States, in accordance with a written joint arrangement with a foreign government or international organization of governments requiring that the information or arrangement or both kept in confidence must be reviewed by authorized classifiers on a case-by-case basis. RD and FRD must be removed from the RD or FRD category before it can be declassified. Foreign government information shall be reviewed by authorized classifiers to declassification at the end of thirty years but not automatically declassified. See D.3. above regarding Restricted Data and Formerly Restricted Data.

9. *Review Under Freedom of Information Act or Privacy Act.* Classification review and other actions regarding review of classified documents and material, in accordance with the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), must be conducted in accordance with the provisions of this Part and Chapter 0211.

a. The Director, Division of Security, will attempt to resolve disagreements on the releasability of information requested under the Freedom of Information Act or withheld under the Privacy Act.

b. The NRC Classification Review Committee will review all appeals for records under the Freedom of Information or the Privacy Act when a proposed denial is based on E.O. 12065, and the Division of Security is unable to resolve the disagreement.

c. The Committee will review and act within ten working days (twenty working days for PA requests) upon all appeals regarding requests for declassification of information and material under the FOIA or PA which are referred to it. The Committee will forward its recommendations to the Executive Director for Operations. When documents under review are Commission documents as opposed to Staff documents, the Committee will make its recommendations to the Commission.

d. If there is an FOIA request for information originated on or after December 1, 1978, which carried no classification marking (Top Secret, Secret or Confidential) at the time the request was received, but was determined to be classified information during the course of FOIA processing, that information must be forwarded through FOIA channels to the Chairman, NRC, for his personal review and certification that retroactive classification is warranted. In the case of an FOIA request for information originated prior to December 1, 1978, the Executive Director for Operations may perform this review and certification.

e. If the NRC receives a request for a classified document in its custody which was originated by another federal agency, it will forward the request to that agency for a disclosure determination and notify the requester of the referral. The originating agency should then respond directly to the requester.

f. When a classified document requested was originated by NRC but contains information provided or classified by another federal agency, the part of the document provided or classified by that agency will be referred to that agency for a disclosure determination. The other agency should respond to NRC which will then notify the requester of the resulting determinations.

10. *Mandatory Review of Information Under Executive Order 12065.* a. Information classified under E.O. 12065, or previous orders which is requested by a member of the public, a Government employee, or a Government agency• under the provisions of Section 3–501 of E.O. 12065, is subject to a mandatory declassification review provided the request reasonably describes the information.

(1) Whenever a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken.

(2) If there is a mandatory review request for information which was not marked as classified at the time the request was received, but was determined to be classified in the course of the mandatory review processing, the procedures for review and certification by the NRC Chairman or Executive Director for Operations outlined in D.9.d. above apply.

(3) If the NRC receives a request for a document in its custody which was classified by another agency, it shall forward the request to that agency and notify the requester of the referral. Upon the other agency's determination of the current status of the information, NRC will advise the requester of the result.

(4) If the NRC receives a request for a document in its possession which contains foreign government information, it shall be processed in accordance with the provisions of this section except that, where applicable, coordination with the government or international organization concerned will be made.

b. Any person desiring mandatory declassification review of NRC documents containing NSI, RD or FRD should address such requests to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Requests need not be made on any special form but shall, as specified in the E.O., describe the documents with sufficient particularity to enable NRC personnel to identify and obtain the documents from NRC records without expending more than a reasonable amount of effort. Charges for services (e.g., locating and reproducing copies of records) will be made, when deemed applicable, in accordance with NRC regulations and will be consistent with charges for information requested under the Privacy Act, NRC Manual Chapter 0204 or Freedom of Information Act, NRC Bulletin 0211–4.

c. The Director, Division of Security, will acknowledge receipt of the request.

d. Every effort will be made to complete action on each request within thirty days of receipt of the request. If action cannot be completed within thirty days, the requester shall be so advised by the Director, Division of Security, along with the reasons for the need for additional time. Requests must be acted upon within 60 days after receipt. The requester will be advised that in exceptional circumstances if a decision from NRC on his request is not received within 60 days from the date of receipt of his request by NRC, or from the date of the most recent receipt of response to an NRC request for more particulars, he/she may apply to the Chairman of the NRC Classification Review Committee for a decision on his request.

e. The Director, Division of Security, shall determine whether the information may be declassified and, if so, make the information available to the requester unless withholding is warranted for some other reason under the provisions of applicable law.

f. In the event the Director, Division of Security, determines that requested information or matter must remain classified under the provisions of E.O. 12065, or the Atomic Energy Act,[1] the requester shall be given prompt notification of that decision and shall be provided a statement as to why the information cannot be declassified. If appropriate, classified sections of the document will be identified and the requester advised that a "sanitized" document can be provided with an appropriate unclassified description of the deleted information. The requester shall be advised that he may appeal that determination to the NRC Classification Review Committee by submitting a request for review in writing to the Chairman of the Committee in care of the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, within thirty days after the date of the correspondence advising him of the denial. Any such requests shall specify the reasons why the requester believes that the information or material does not warrant classification under provisions of E.O. 12065.

g. The NRC Classification Review Committee will normally render a decision on the matter within thirty days of the receipt of a request. If a longer period is likely to be required because of the need for consultations with other agencies or the requester, the requester will be advised of the time needed to complete review of the matter. The Committee shall determine whether continued classification is required in whole or in part, notify the requester of the determination, and make available any information that is declassified and is otherwise releasable. If continued classification is required, the requester shall be notified of the reasons. The Committee shall also communicate the determination on the appeal to any government agency which was asked to participate in the review.

h. In the event the Director, Division of Security, or the NRC Classification Review Committee, determines that the information is unclassified, but the information appears to be of the type exempt from public disclosure as set forth in 10 CFR Part 9, the requester shall be so notified in writing.

i. Whenever the NRC Classification Review Committee determines that information must remain classified, it shall notify the requester that, except in the case of information subject to the provisions of the Atomic Energy Act, he may be entitled to appeal that action to the Commission.

11. *Privileged Information.* Declassification of information in documentary or other form does not necessarily result in publication or unlimited dissemination of the information involved if it is within the exemptions of the Freedom of Information Act, within the scope of the Privacy Act or otherwise not releasable under the provisions of Chapter 0211, Parts IV or XVI of this appendix.

E. Data Index System

1. *Purpose.* The Data Index System has been designed by the NRC to ensure current and accurate information is readily available for use by the NRC in its reporting responsibility to the Information Security Oversight Office (ISOO) and in its initial responsibilities of conducting an effective classification/declassification program.

2. *Operation of System.* Whenever an NRC authorized classifier (original or derivative) completes a classification action, whether it be at the Top Secret, Secret, or Confidential level, an NRC Form 790, "Classification Record," must be filled out and submitted to the Division of Security.

Each authorized classifier completes one Form 790 for each classification action taken.

The authorized classifier submits two copies of the Form 790 to the Division of Security and retains one copy for his/her files. The Division of Security will monitor all Data Index input and maintain the system's records.

3. *Data Index System Reports.* The Division of Security is responsible, for preparing specific reports which are based on the information provided by the Data Index System and are submitted to the ISOO on predetermined due dates. Additionally, the Division of Security is required to maintain a current listing of positions, by classification designation, to which original classification authority has been granted. The reports enable the Division of Security to administer the NRC Security Program. The Division of Security will forward to each Office a listing of classified documents not subject to automatic declassification so that they may be reviewed.

F. Classification Education

1. *Initial Classification Indoctrination for Authorized Classifiers.* Each new NRC authorized classifier must understand his/her classification responsibilities before being given authority to classify, declassify and downgrade information. Each employee who obtains classification authority by filling a designated position shall be familiarized with the responsibilities of his position by another authorized classifier or other appropriate personnel designated by the Director, Division of Security. The indoctrination shall include:

a. a review of Executive Order 12065 "National Security Information," the implementing directive of October 2, 1978 and the Atomic Energy Act;

b. an explanation of classification and classified information, including the difference between NSI, RD, and FRD and the levels of classification;

c. an explanation of the NRC classification organizational structure and the channels through which the new authorized classifier should refer classification questions;

d. stress of the authorized classifier's responsibility for assuring that documents are reviewed for classification and declassification;

e. a review of applicable classification guidance.

If a briefing is conducted, a report by the person who conducts it shall be forwarded to the Director, Management Development and Training Staff, NRC, by completion of NRC Form 121, "Training Control and Input."

2. *Follow-up Indoctrination.* Within a suitable period after entry on duty (not to exceed three months), a representative of the Division of Security or an authorized classifier or appropriate personnel designated by the Director, Division of Security, will communicate with newly authorized classifiers to reemphasize the above points, expand on them, as appropriate, and explain in detail classification guidance covering the employee's work. What constitutes a suitable period will depend on the nature of an individual's employment. For example, a newly authorized classifier in the safeguards field may require such a follow-up almost immediately to assure that classified information is not inadvertently disclosed by him or other person under his jurisdiction in writing or discussions.

A report of follow-up indoctrination shall be submitted to the Director, Management Development and Training staff, NRC, as set forth above.

[1] Declassification of Restricted Data and Formerly Restricted Data may take place only in accordance with D.3. above.

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3. *Continuing Classification Education.* It is essential that classification awareness be maintained at a high level. Accordingly, Office and Regional Directors shall conduct a program to assure continuing awareness by authorized classifiers of their classification responsibilities and the appropriate exercise of these responsibilities.

G. Classification Appraisals

1. *Requirements.* The Director, Division of Security, is required to keep informed of the classification practices and procedures of Headquarters Offices and Divisions, Regional Offices and contractors. This is accomplished through the appraisal (see Appendix 2101, Part I for definition of "appraisal") process.

2. *Scope of Appraisals.* Classification practices and procedures of NRC and NRC contractor organizations shall be reviewed during an appraisal to determine the correctness and uniformity of interpretation and implementation of NRC classification policy and standards.

3. *Content of Appraisals.* An appraisal should provide data in regard to all of the following items which are applicable:

a. Data Regarding Appraiser and Sites Appraised. Name and position, title(s) of the appraiser(s), facility (organization) visited, persons interviewed, and dates involved in the appraisal.

b. Activity of Management. Activity of management in keeping informed of current NRC classification policy, as it applies to information, projects, documents, and material affecting its operations.

c. Educational Program. Activity and effectiveness of the educational program in the indoctrination and instruction of authorized classifiers and other individuals in classification standards and procedures. The appraisal will conform the conduct of classification education as specified in F.1, 2 and 3 above.

d. Work or Project Classification. Stress placed on the necessity for establishing the appropriate classification of new work or projects in the earliest stages of their conception.

e. Conformity with NRC Classification Practices. Conformity of classification practices, in the activity appraised, with NRC procedures (the data should be based on a review of classified and unclassified correspondence, records, procurement forms, financial reports, etc.).

f. Authorized Classifiers. Appointment of appropriate authorized classifiers to fill requirements of the activity appraised.

g. Declassification. Appointment of appropriate personnel to review documents to ensure continued classification is warranted and initiate declassification action where appropriate.

h. Guidance. Completeness and effectiveness of guidance developed for classification (appraisal of a prime contractor should include the review of classification guidance furnished by the contractor to subcontractors and of the classification practices of the subcontractors).

i. Special Problems. Any special classification problems existing in the activity appraised.

j. Recommended Revisions of Classification Practices. Statement of classification practices not essential or contributing to classification programs, objectives or simplication of classification practices and procedures.

4. *Frequency of Appraisal.* a. Factors To Be Considered. The activity and past performance of the organization to be appraised, problem areas and functions representing potential trouble spots, and the need for information by management of the appraising organization should determine the frequency of appraisals.

b. Intervals. Every function originating classified documents frequently should be appraised at least once every three years unless particular circumstances indicate otherwise. Activities originating classified documents occasionally may be appraised once every five years or at longer intervals at the discretion of the Director, Division of Security.

5. *Report.* a. Content. A written report must be prepared following each appraisal containing a clear picture of classification practices of the organization appraised.

b. Information to Management. As a general practice, management of an appraised organization should be informed of the results of an appraisal prior to the preparation of the report. Where this is considered inappropriate, the discussion will be held with the Director of the Headquarters Office or Regional Office concerned.

c. Distribution. Copies of appraisal reports of Regional Offices, or Headquarters Offices or Divisions or their contractors shall be furnished to the Director of the Regional Office, Headquarters Office or Division involved, and to the senior NRC official charged with oversight of the Information Security Program (EDO).

6. *Follow-up.* NRC Offices or Divisions or contractors shall take prompt action to assure that necessary corrective measures are introduced based on recommendations contained in the report.

U.S. Nuclear Regulatory Commission; Systematic Review Guidelines for National Security Information

Preface

Restricted Data and Formerly Restricted Data (as defined in Sections 11y and 142d of the Atomic Energy Act, as amended) are exempt from the provisions of Executive Order 12065 calling for systematic review and automatic declassification.

The marking "Restricted Data" was first introduced in 1947 and the marking "Formerly Restricted Data" in 1954. Even after those dates, due to incorrect markings or failure to properly mark them, documents containing Restricted Data (abbreviated RD) or Formerly Restricted Data (FRD) may not be properly marked to clearly signify the presence of such information.

Any document containing information falling within the definitions of Restricted Data or Formerly Restricted Data (see Appendix C, attached) identified during the systematic review process as originated by regulatory personnel of the Atomic Energy Commission (AEC) or of concern to the AEC's regulatory functions and not appropriately marked, will be reviewed by the Nuclear Regulatory Commission (NRC) Division of Security. The Division of Security will coordinate with the Department of Energy and apply the appropriate markings.

Foreign government information is not included in the guidelines. Information of concurrent jurisdiction with or of interest to other agencies will be coordinated by NRC with those agencies prior to declassification.

A. *Authorization*

Under the provisions of Section 3-402 of Executive Order 12065, the U.S. Nuclear Regulatory Commission (NRC) authorizes the Archivist of the United States to apply these guidelines to the review of information classified for more than 20 years. These guidelines apply only to National Security Information (i.e., not to Restricted Data nor Formerly Restricted Data) over which this agency has jurisdiction and which has been transferred to the General Services Administration and accessioned into the National Archives of the United States.

These guidelines consequently apply only to classified information pertaining to the licensing and related regulatory activities of the Atomic Energy Commission. Appendix A contains a chronology and organization of the licensing and regulatory activities of the AEC which preceded the NRC. Appendix B is a brief functional statement of the NRC's responsibilities and jurisdiction to further assist in identifying information over which the NRC exercises jurisdiction. Appendix C contains definitions of terms used in these guidelines.

These guidelines will be reviewed biennially to assure they remain current. The inclusion of any category in these guidelines does not indicate that it will remain classified, but only that such information must be examined item-by-item by specifically designated personnel of the NRC prior to declassification.

B. *Categories of Information Excepted From Automatic Declassification*

Information classified for over 20 years in any of the following categories, which is under the jurisdiction of this agency and which has become part of the National Archives of the United States, unless marked with instructions authorizing automatic declassification within 20 years after origination, may not be automatically declassified but must be reviewed by the NRC.

1. Intelligence information, whether dealing with foreign countries or the United States, relating to atomic energy matters.

2. Nuclear non-proliferation information (such as programs and studies related to the proliferation of SNM to nonweapon states or subnational groups) and programs for the control of exports of nuclear materials and equipment and transfer of nuclear technology.

3. Information regarding foreign relations.

4. Information relating to safety or safeguarding of foreign government reactors or nuclear facilities.

5. SSNM Measurement Data: The Limit of Error on Inventory Differences involving Strategic Special Nuclear Material (SSNM) which would enable the development of current data as to throuhput or unaccounted for SSNM at any facility for an individual material balance or on a cumulative period basis.

1. Physical protection at facilities (production, utilization, research, or fuel cycle) including, but not limited to:

a. The physical security plan for a nuclear facility or site.

b. Specific site "as built" drawings, diagrams, sketches, maps, etc., showing the identity, together with the location, and/or description, of facility features or special interest because of their relationship to the physical security system that, if revealed, could facilitate theft or diversion of special nuclear materials or sabotage of a facility.

c. Government sponsored or required evaluation of specific site construction features of physical security barriers revealing vulnerabilities or limitations which could facilitate penetration or by-passing physical security barriers or systems.

d. Scope, conceputal design, and construction plan of intrusion and detection alarm systems for a nuclear facility or site.

e. Details of alarm systems installed: layout, location and electrical design which, if disclosed, could facilitate gaining unauthorized access to SSNM, nuclear facilities or classified information.

f. Information, including the effect of specific modifications of alarm systems, revealing in-place operating capability which, if disclosed, would facilitate bypassing such systems.

g. Security-related vulnerability or weakness of alarm systems: layout, location, and electrical design.

h. Total quantities of SSNM by designated vault and vault type storage areas.

i. Contigency plans for response to a specific threat, e.g., disposition, armament or planned response of security forces, including number of personnel responding to specific incidents.

j. Government-sponsored or required evaluations of security systems revealing vulnerabilities or limitations in physical security measures, operating procedures, or personnel capabilities.

k. Detailed reports of attempted or successful penetrations of nuclear facilities and attempted or successful diversion or theft of special nuclear material within or from a nuclear facility or sabotage within a nuclear facility or in connection with SNM shipments.

7. Diversion or sabotage vulnerability studies:

a. Scenarios involving thefts, diversion, or sabotage at specific sites or on specific routes used in the shipment of formula or greater quantities of SSNM.

b. Evaluation of scenarios involving theft, diversion, or sabotage in such cases.

c. Diversion path or vulnerability analysis of specific sites or routes in such cases.

8. Plans for response to threats:

a. Vulnerabilities of specific facilities.

b. Specific threat levels against which licensees can or cannot protect.

c. External and internal threat levels which are used as a part of a sensitivity analysis of a security system to threats in that system.

9. Specific performance capabilities or vulnerabilities of systems, subsystems, materials, equipment or processes in Research, Development, Testing and Evaluation for new or improved safeguards:

a. Information revealing a vulnerability which would significantly assist the by-pass or defeat of the integrated safeguards system actually installed (or planned to be installed) at a specific facility or in the transportation system.

b. Information about a characteristic or feature that meets all of the following criteria: (1) it would significantly delay the by-pass or defeat or an operational application, and (2) its presence in an operational configurement and application would not be reasonably expected or predicted.

C. *Agency Assistance to the National Archives*

This agency has designated experienced personnel to guide and assist National Archives personnel in identifying and separating documents and specific information contained in documents that require continued protection. These NRC personnel are also authorized to declassify categories of information exempt from automatic declassification (listed in the preceding section), if it is determined that they no longer require protection and to make recommendations for maintaining protection of information requiring continued classification. Questions regarding classification or declassification of documents should be referred to Raymond J. Brady, Director, Division of Security, on (301) 427-4472.

Appendices

A. Chronology & Organization of Regulatory Process of the AEC
B. NRC Functional Statement
C. Definitions

Appendix A—Chronology and Organization of Regulatory Process of the U.S. Atomic Energy Commission

The purpose of this Appendix is to furnish a brief chronology of the regulatory process and regulatory organization of the U.S. Atomic Energy Commission (AEC) and the jurisdiction of the U.S. Nuclear Regulatory Commission (NRC), as provided by statute, to provide a better understanding and more meaningful review by the National Archives of information at least 20 years old.

The AEC existed from January 1, 1947, to January 19, 1975. On that date, in accordance with the Energy Reorganization Act of 1974, the licensing and related regulatory functions were divorced from the developmental functions (e.g., research and development, military and production activities) and promotional functions. NRC was established by the Act to handle the licensing and regulatory functions which were formerly part of the activities of the Atomic Energy Commission. The Energy Research and Development Administration (ERDA), since integrated into the Department of Energy (DOE), was given responsibility for the performance of the other functions.

NRC derives its powers from, among other sources, statutes (e.g., the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954, as amended) and from executive orders (e.g., Executive Orders 10450, 10865 and 12065) and related directives.

The chronology of the principal AEC organizational developments relating to the regulatory program is as follows:

August 1, 1946. Atomic Energy Act authorized AEC to issue regulations and licenses for the control of specified atomic energy materials and facilities.

December 13, 1946. Atomic Energy Commission assumed responsibility for the Atomic Energy Program.

March 1947. AEC's New York Operations Office was designated to administer source material licensing regulations.

Fall 1947. Reactor Safeguard Committee was established by the Commission to advise on the hazards of reactor operations.

November 1947. AEC established Production Facilities Control Branch in Headquarters to administer new 10 CFR Part 50 (production and utilization facility licenses).

January 1948. Permanent Advisory Committee on Isotope Distribution (replacing interim Manhattan Engineering District Committee) was formed.

Winter 1951. AEC appointed Industrial Committee on Reactor Location Problems.

November 1952. AEC's Production Facilities Control Branch was renamed Licensing Controls Branch and assumed responsibility from the New York Operations Office for the administration of source material licensing regulations.

August 9, 1953. Advisory Committee on Reactor Safeguards was established by merging the Reactor Safeguards Committee and the Advisory Committee on Reactor Location Problems.

October 1, 1954. Division of Inspection was activated pursuant to the Atomic Energy Act of 1954.

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March 22, 1955. Division of Licensing (renamed the Division of Civilian Application in June 1955) was established to administer licensing and related responsibilities under the 1954 act.

April 8, 1955. Reactor Hazards Evaluation Staff was organized in the Office of the General Manager.

August 1956 to February 1957. AEC Operations Offices (including Albuquerque, Chicago, Hanford, Idaho, New York, Oak Ridge, San Francisco and Savannah River Operations Offices) assumed delegated authority to perform compliance inspection of byproduct and source material licensees.

December 26, 1957. Regulatory functions of the Division of Civilian Application was transferred to the Division of Licensing and Regulation.

August 1, 1958. AEC established Office of Hearing Examiner.

September 12, 1959. Office of Health and Safety was established.

November 13, 1959. Position of Assistant General Manager for Regulation and Safety was established.

May 26, 1960. Division of Compliance was activated, assuming on August 1, 1960, responsibility for inspection of licensed materials and reactors.

The regulatory function in the AEC was exercised under the policy direction of the Commission (five Commissioners) and operational direction of the General Manager and Assistant General Manager for Regulation and Safety. The Office of General Counsel, Divisions of Civilian Application, Compliance, Licensing, Licensing and Regulation, and Inspection and the AEC field offices were the principal additional organizations involved in the execution of the regulatory function. A number of these organizations, although they had functions related to the regulatory program, also had functions subsequently assumed by DOE. Records held by these organizations, when they were part of the AEC, in certain cases were destroyed, but in various instances were retained and their custody transferred to NRC or DOE. Since the creation of the NRC, the NRC Division of Security has exercised the classification function of the regulatory aspects of the atomic energy program, previously performed by the AEC Division of Classification.

The Atomic Energy Act provides the legal basis for the AEC regulatory program, i.e., the Commission regulation of civilian atomic energy activity. The Act establishes a comprehensive system of licensing controls. The facility (e.g., reactor) licensing provisions of the statute are, for the most part, contained in Sections 101–110. The Commission authority to issue a license for the use and transfer of special nuclear material, source material, byproduct material, production or utilization facilities, as set forth in the Act, is described below.

The following types of licenses are required under the Act:

a. Special nuclear material. License to receive, possess, use and transfer special nuclear material, as provided in Sections 53 and 57a for use under commercial licenses pursuant to Section 103; for the conduct of research and development activity or in medical therapy, under noncommercial licenses pursuant to Section 104; and for other appropriate uses.

Source material. License to transfer, deliver, receive, possess, import, or export source materials after removal from the place of deposit in nature, as provided in Sections 62 and 63 for use in the conduct of research and development activities under Section 31; for use under commercial licenses pursuant to Section 103; for use in research and development activities or in medical therapy under noncommercial licenses pursuant to Section 104; or for "any other use approved by the Commission as an aid to science or industry."

c. Byproduct material. License to transfer, receive, manufacture, produce, acquire, own, possess, import, or export byproduct material, as provided in Sections 81 and 82, for use in research and development, medical therapy, industrial uses, agricultural uses, or "such other useful applications as may be developed."

d. Commercial utilization or production facility. License for commercial utilization or production facility as provided in Sections 101, 102 and 103.

e. Noncommercial utilization or production facility. License for noncommercial utilization or production facility as provided in Sections 101 and 104 for medical therapy, research and development activities for industrial or commercial purposes, and research and development activities for noncommercial purposes.

f. Construction permit. Construction permit for construction prior to licensing, or alteration after licensing, of utilization or production facility licensed under Sections 103 and 104, as provided in Section 185.

g. Operator's license. License to individuals, as provided in Section 107, as operators of various classes of utilization or production facilities under the act.

Appendix B—United States Nuclear Regulatory Commission Functional Statement

The Nuclear Regulatory Commission (NRC) licenses and regulates the uses of nuclear energy to protect the public health and safety and the environment. It does this by licensing persons and companies to build and operate nuclear reactors and to own and use nuclear materials. The NRC makes rules and sets standards for these types of licenses. The NRC also carefully inspects the activities of the persons and companies licensed to ensure that they do not violate the safety rules and safeguards established by the Commission.

The Nuclear Regulatory Commission was established as an independent regulatory agency under the provisions of the Energy Reorganization Act of 1974 (88 Stat. 1242; 42 U.S.C. 5841) and Executive Order 11834. Transferred to the NRC were all licensing and related regulatory functions formerly assigned to the Atomic Energy Commission. The Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.), as amended, sets forth these functions.

The major program components of the NRC are the Office of Nuclear Reactor Regulation, the Office of Nuclear Material Safety and Safeguards, and the Office of Nuclear Regulatory Research, which were created by the Energy Reorganization Act of 1974; plus the Commission-created Office of Standards Development and Office of Inspection and Enforcement. Headquarters offices are located in Washington, D.C., Bethesda, Md., and nearby areas, and Regional Offices are located in five domestic areas (King of Prussia, Pennsylvania, Atlanta, Georgia, Glen Ellyn, Illinois; Arlington, Texas; and Walnut Creek, California).

The Division of security is responsible for classification and declassification of national security information within the NRC, NRC contractors and other NRC affilated organizations, i.e., to assure that it takes place in accordance with the provisions of Executive Order 12065 and National Security Council directives, providing classification assistance as required to NRC, NRC contractors and other personnel.

Programs and Activities

NRC fulfills its responsibilities through a system of licensing and regulation. This system includes, among other things: licensing the construction, operation, export and import of nuclear reactors and other nuclear facilities and the possession, use, processing, transport, handling and disposal of nuclear materials; export, import, and regulation of licensed activities including assurance that measures are taken for the physical protection of facilities and materials; development and implementation of rules and regulations governing licensed nuclear activities; conduct of public hearings on radiological safety, environmental, common defense and security and antitrust matters, and the development of effective working relationships with the States regarding the regulation of nuclear materials. This relationship includes the assurance that adequate regulatory programs are maintained by those States which exercise, by agreement with the Commission, regulatory control over certain nuclear materials within their respective borders. Inspection of NRC licensed activities is carried out from the five regional offices.

The Commission also contracts for research deemed necessary for performing licensing and related regulatory functions.

The Nuclear Regulatory Commission's purpose is to assure that the civilian uses of nuclear materials and facilities are conducted in a manner consistent with the public health and safety, environmental quality, common defense and security, national security, and the antitrust laws.

Appendix C—Definitions Used in Guidelines

1. Formerly Restricted Data—classified information related primarily to the military utilization of atomic weapons, removed by the Atomic Energy Commission, the Energy Research and Development Administration or the Department of Energy from the Restricted Data category pursuant to section 142d. of the Atomic Energy Act of 1954, as amended, and safeguarded as National Security Information, subject to the restrictions on transmission to other countries and regional defense organizations that apply to Restricted Data.

2. Fuel Cycle—construction and operation of facilities for uranium milling, uranium hexaflouride conversion, fuel processing and fabrication, "spent" fuel storage and "spent" fuel reprocessing.

3. Inventory Difference (ID)—the algebraic difference between a physical inventory and its concomitant book inventory after determining that all known removals and additions have been reflected in the book inventory. It is calculated by subtracting ending inventory plus removals from beginning inventory plus additions to inventory.

4. National Security Information (NSI)—information or material that is owned by, produced for or by, or under the control of the United States Government, and that has been determined pursuant to Executive Order 12065, or prior Executive Orders, to require protection against unauthorized disclosure, and that is so designated.

5. Nuclear Facility—any facility for originating, producting, using, shipping, receiving or storing formula quantities of SSNM.*

6. Physical Security Plan—a specific site document (or group of documents) that provides a comprehensive description of the measures employed for the physical protection of nuclear facilities and materials against sabotage, theft, or diversion of SNM.

7. Production Facility—means:

1. Any nuclear reactor designed or used primarily for the formation of plutonium or uranium-233; or

2. Any facility designed or used for the separation of the isotopes of uranium or the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

3. Any facility designed or used for the processing of irradiated materials containing special nuclear material, except:

(i) labortory-scale facilities designed or used for experimental or analytical purposes:

(ii) facilities in which the only special nuclear materials contained in the irradiated material to be processed are uranium enriched in the isotope U–235 and plutonium produced by the irradiation, if the material processed contains not more than 10^{-4} grams of plutonium per gram of U–235 and has fission product activity not in excess of 0.25 millicuries of fission products per gram of U–235; and

(iii) facilities in which processing is conducted pursuant to a license issued under Title 10 Code of Federal Regulations Chapter 1, Parts 30 and 70, or equivalent regulations of an Agreement State, for the receipt, possession, use, and transfer of irradiated special nuclear material, which authorizes the processing of the irradiated material on a batch basis for the separation of selected fission products and limits the process batch to not more than 100 grams or uranium enriched in the isotope 235 and not more than 15 grams of any other special nuclear material.

8. Restricted Data (RD)—defined in the Atomic Energy Act of 1954, as amended, as "all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in production of energy; but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142."

9. Safeguards—A system of physical protection, accountability and material control measures designed to deter, protect against, detect and respond to theft (unauthorized possession and use) of nuclear materials as well as physical protection measures designed to protect against and deter sabotage of activities involving such materials. In practice, it is the development and application of techniques and procedures dealing with the establishment and continued maintenance of a system of activities including physical protection, knowledge of the presence, location and use of nuclear materials and administrative controls and surveillance to assure that procedures and techniques of the system are effective and are being carried out.

10. Special Nuclear Material (SNM)—(1) plutonium, uranium-233, uranium enriched in the isotope-233 or in the isotope-235, and any other material which the Commission, pursuant to the provisions of Section 51 of the Atomic Energy Act, as amended, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing but does not include source material.

11. Strategic Special Nuclear Material (SSNM)—uranium-235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium-233, or plutonium.

12. Utilization Facility—any nuclear reactor other than one designed or used primarily for the formation of plutonium or U–233.

[FR Doc. 79-28211 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

* Formula quantities = 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium)

NUCLEAR REGULATORY COMMISSION

Study of Nuclear Power Plant Construction During Adjudication; Meetings

The next meeting of the Nuclear Regulatory Commission's advisory committee on nuclear powerplant construction during adjudication previously announced (44 FR 51384) as being scheduled to be held at 9:30 a.m. Friday, September 7, 1979, in Room 415, East West Towers, 4350 East West Highway, Bethesda, Maryland has been rescheduled for Friday, September 14, 1979 at the same time and place. Following that meeting, the next study group meeting will be held on Friday, September 28, 1979 at the same time and place. At those meetings the group will continue drafting its final report to the Commission which is due November 1, 1979.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, 202/634–3224.

Dated at Washington, DC, this 31st day of August, 1979.

Gary Milhollin,

Chairman.

[FR Doc. 79-28192 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-400, 50-401, 50-402 and 50-403]

Carolina Power & Light Co. Availability of Supplemental Initial Decision of the Atomic Safety and Licensing Board for Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4 and Issuance of Amendment to Construction Permits

Pursuant to the issuance on July 13, 1979 of a Supplemental Initial Decision (Construction Permit) by the Atomic Safety and Licensing Board the U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 1 to Construction Permit Nos. CPPR–158, CPPR–159, CPPR–160 and CPPR–161.

Amendment No. 1 adds an additional condition to the construction permits issued on January 27, 1978 to the Carolina Power & Light Company for construction of the Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4

located about 20 miles southwest of Raleigh, North Carolina in Wake and Chatham Counties. The amended permits are effective as of their date of issuance.

The Supplemental Initial Decision is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Wake County Library, 104 Fayetteville Street, Raleigh, North Carolina 27601.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the amended construction permits.

A copy of (1) the Supplemental Initial Decision (Construction Permit); and (2) the amended construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 31st day of August, 1979.

For the Nuclear Regulatory Commission

Olan D. Parr, *Chief,*

Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 79-28194 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 F.R. 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Consumers Power Company (Big Rock Point Plant) Facility Operating License No. DPR-6.

This action is in reference to an Order published by the Commission on July 23, 1979, in the **Federal Register** (44 F.R. 43126-27) entitled "Consumers Power Co.; Proposed Issuance of Amendment to Facility Operating License".

The Chairman of this Board and his address is as follows: Herbert Grossman, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other Members of the Board and their address are as follows: Dr. Oscar H. Paris, and Mr. Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 31st day of August 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-28195 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250-SP and 50-251-SP]

Florida Power and Light Co. (Turkey Point Nuclear Generating Units Nos. 3 and 4) Facility Operating Licenses Nos. DPR-31 and DPR-41; Reconstitution of Board

Dr. David B. Hall was a member of the Atomic Safety and Licensing Board for the above proceeding. Dr. Hall has recused himself from further service on this Board.

Accordingly, Dr. Emmeth A. Luebke, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 5th day of September 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-28196 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. CPR-49 issed to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment will: (1) Modify the scram insertion time specifications to provide for a faster scram than currently assumed and to be more restrictive than the current specification, (2) modify the specification on operating limit minimum critical power ratios, based upon the faster scram, to be less restrictive than the current specification.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 27, 1978, as supplemented May 23, 1979, August 15, 1979 and August 17, 1979, (2) Amendment No. 54 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426, Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 4th day of September 1979.

For the Nuclear Regulatory Commision,

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-28197 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co. (Duane Arnold Energy Center); Request for Action

Notice is hereby given that by petition dated July 17, 1979, Citizens United for Responsible Energy requested that proceedings be instituted to modify the license of the Duane Arnold Energy Center so that a limiting condition of operation be compliant with General Electric Company recommendation NEDO-23631, "BWR Coolant Oxygen Control". This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the Cedar Rapids Public Library, 428 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Dated at Bethesda, Maryland this 29th day of August, 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-28198 Filed 9-10-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

Agency for International Development

Research Advisory Committee; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a) (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on October 29-30, 1979 at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room 'C' to review, appraise and make recommendation to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of food and nutrition, health and population, education and selected development problems.

The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Miloslav Rechcigl, Jr., Chief of Research and Methodology Division, Bureau for Development Support, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information, contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (202) 235-9011.

Dated: August 27, 1979.

Miloslav Rechcigl,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 79-28139 Filed 9-10-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Proposed Revisions of Several Systems of Records

AGENCY: Department of the Treasury, Internal Revenue Service

ACTION: Proposed Revised Systems of Records

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), Department of the Treasury, Internal Revenue Service, gives notice of the proposed revisions to Treasury/IRS systems of records entitled Individual Master File (IMF) #24.030, Taxpayer Delinquent Accounts (TDA) #26.019, Taxpayer Delinquent Investigation (TDI) Files #26.020, Audit Information Management System (AIMS) #42.008, and File of Persons Making Threats of Force or Forcible Assaults §26.005. A new system report was filed with the Office of Management and Budget, the Speaker of the House and the President of the Senate.

DATES: Comments must be received on or before 30 days from the date of this publication.

ADDRESSES: Office of Assistant Commissioner (Inspection), Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Mulroy, Director, Internal Security Division, Office of Assistant Commissioner (Inspection), Internal Revenue Service, Washington, D.C. 20224, (202) 566-4564.

Dated: August 24, 1979.

W. J. McDonald,

Assistant Secretary (Administration).

The following systems, as last published in 43 FR 42661, 42662, 42665, 42666, and 42678 are amended to read as follows:

Treasury/IRS 24.030

SYSTEM NAME:

Individual Master File (IMF); Data Services-Treasurer/IRS

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number (SSN) and other indicators pertaining to entity maintenance, including zip code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Recorded here are tax transactions such as tax amount, additions, abatements of tax payments,interest and like type transactions recorded relative to each tax module and a code identifying taxpayers who threatened or assaulted IRS employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine discolures may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

* * * * *

RETENTION AND DISPOSAL:

As specified in the Records Retention Handbook published by the Service. The code identifying taxpayers who threatened or assaulted IRS employees will be removed after five years of initial input.

* * * * *

Treasury/IRS 26.005

SYSTEM NAME:

File of Persons Making Threats of Force or Forcible Assaults CP:C—Treasury/IRS

Delete This entire system

Treasury/IRS 26.019

SYSTEM NAME:

TDA (Taxpayer Delinquent Accounts) including sub-systems (a) Adjustment and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, and (d) Tax Collection Waiver Forms 900 Files, CP:C Treasury/IRS.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, informatin about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, cancelled checks, amended returns, claims, collateral submitted to stay collection, copies of notices of federal tax liens, revenue officer reports, waivers to extend statutory period for collection, etc. This system includes Installement Agreement Files; Delinquent Account Inventory Profile (DAIP); Currently Not Collectible Accounts Register; Currently Not Collectible Accounts Register (Over $25,000); Advance Dated Remittance Check Files; Currently Not Collectible Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communicatins System and a code identifying taxpayers that threatened or assaulted IRS employees.

Treasury/IRS 26.020

SYSTEM NAME:

TDI (Taxpayer Delinquency Investigation) Files, CP:C Treasury/IRS

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s) including class of tax, chronological investigative history, Delinquency Investigation Inventory Prolile (DIIP) and a code identifying taxpayers that threatened or assaulted IRS employees.

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)—Treasury/IRS

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examining officer's name including related internal management information and a code identifying taxpayers that threatened or assaulted IRS employees.

* * * * *

[FR Doc. 79-28134 Filed 9-10-79; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES RAILWAY ASSOCIATION

[Docket No. STP-1]

Supplemental Transaction Proposal

On August 16, 1979, copies of the United States Railway Association's *Evaluation of Supplemental Transaction Proposal No. 1* (Docket No. STP-1), were delivered to the Interstate Commerce Commission, attorneys for the Providence and Worcester Company ("P&W"), Conrail, the **Federal Register**, and others. On August 21, 1979, that report was printed in the **Federal Register**, pursuant to Section 305(b) of the Regional Rail Reorganization Act of 1973, as amended. Under Section 305(b), the P&W had 30 days in which to notify USRA of its acceptance or rejection of the proposed supplemental transaction.

By letter dated August 27, 1979, the P&W notified USRA of its acceptance of the transaction as proposed, at a purchase price of $2.75 million. A copy of that letter is appended.

Peter J. Gallagher,

Secretary.

August 27, 1979.

Mr. Donald C. Cole,
President, United States Railway Association, 995 L'Enfant Plaza North, S.W., Washington, D.C. 20595.

Dear Mr. Cole: By document dated April 6, 1979 the Federal Railroad Administrator transmitted to the United States Railway Association a Supplemental Transaction Proposal (STP) pursuant to Section 305 of the Regional Rail Reorganization Act of 1973 as amended (Act). The STP established $2.75 million as the "fair and equitable" purchase price.

Pursuant to Section 305(b) of the Act, Providence and Worcester Company hereby notifies you of its acceptance of the STP.

Sincerely yours,

Robert H. Eder,

President.

cc: Mr. John M. Sullivan,

Administrator, Federal Railroad Administration.

Mr. Arthur B. Powers,

Commissioner, Department of Transportation, State of Connecticut.

[FR Doc. 79-28226 Filed 9-10-79; 8:45 am]

BILLING CODE 8240-01-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate transportation for Certain Nonmemers

Dated: September 6, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Big Sky Farmers & Ranchers Marketing Cooperative of Montana

Complete Legal Name of Cooperative Association Or Federation Of Cooperative Associations, 7777 Industry Ave., Pico Rivera, CA 90660
Principal Mailing Address (Street No., City, State, and Zip Code), 7777 Industry Ave., Pico Rivera, CA 90660
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code) Harold Goolsbee Jr. General Manager, 7777 Industry Ave., Pico Rivera, CA 90660
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)

(2) Growers Cooperative of Nayarit, Inc.

Complete Legal Name Of Cooperative Assocation Or Federation Of Cooperative Associations, Apartado Postal #1-123, Mexicali, Baja CA, Mexico
Principal Mailing Address (Street No., City, State, and Zip Code) 292 Naranjos St., Los Pinos, B.C., Mexico
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code) Carlos V. Courtney, Apdo #1-123, Mexicali, BC, Mexico
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)

(3) Vera Cruz Citrus Growers and Packers, Inc.

Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations, Apartado Postal #1-124, Mexicali, Baja CA, Mexico
Principal Mailing Address (Street No., City, State, and Zip Code) 292 Naranjos St., Los Pinos, Mexicali, B.C., Mexico
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code) Humberto R. Gamez, Apdo Postal #1-124, Mexicali, BC, Mexico
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28158 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 88 (SDM)]

Bessemer & Lake Erie Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Bessemer & Lake Erie Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 88 (SDM). The Commission on April 5, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 88 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28152 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 156 (SDM)]

Delaware and Hudson Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Delaware and Hudson Railway Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 156 (SDM). The Commission on April 24, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 156 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28161 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 3 (SDM) [1]]

Missouri Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Missouri Pacific Railroad Company and its subsidiaries, has filed with the Commission its amended color-coded system diagram map in docket No. AB 3 (SDM). The Commission on June 4, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 3 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28154 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 14 (SDM)]

Northwestern Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Northwestern Pacific Railroad Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 14 (SDM). The Commission on May 21, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 14 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28153 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 12 (SDM)]

Southern Pacific Transportation Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Southern Pacific Transportation Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 12 (SDM). The Commission on May 22, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the Commission, Section of Dockets, by requesting docket No. AB 12 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28159 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[AB 26 (SDM) [1]]

Southern Railway Company; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Southern Railway Company and its consolidated subsidiaries, has filed with the Commission its amended color-coded system diagram map in Docket No. AB 26 (SDM). The Commission on July 5, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 26 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28160 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[1] AB 3 (SDM) includes all Missouri Pacific Railroad Co. subsidiaries: AB 21 (SDM), Abilene & Southern Railway Company, Chicago Heights Terminal Transfer Company, Doniphan, Kensett and Searcy Railway Company; AB 24, Fort Worth Belt Railway Company, Missouri-Illinois Railroad Company; AB 142 (SDM), New Orleans and Lower Coast Railroad Company, St. Joseph Belt Railway Company, AB 22 (SDM), Texas-New Mexico Railway Co.; AB 23, Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans, Union Terminal Railway Company; AB, Weatherford Mineral Wells & Northwestern Railway Company.

[1] AB 26 (SDM) includes its consolidated subsidiaries: AB 27 (SDM), The Alabama Great Southern Railroad Company; AB 28 (SDM), Central of Georgia Railroad Company; AB 29 (SDM), The Cincinnati, New Orleans and Texas Pacific Railway Company; AB 30 (SDM), Georgia Southern and Florida Railway Company; AB 64 (SDM), Chattanooga Station Company; AB 118 (SDM), Albany Passenger Terminal Company; and AB 125 (SDM), Norfolk Southern Railway Company.

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided September 5, 1979.

In our decision of August 28, 1979, a 9-percent surcharge was authorized on all owner-operator traffic, and on all truckload-rated traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

In addition, a 1.6-percent surcharge was authorized on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators. This was an adjustment from the previously authorized 2.7-percent surcharge on this traffic that had been applicable since June 19, 1979.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload-rated traffic is 9.7 percent, we are authorizing that the surcharge for this traffic will be 9.5 percent. All owner-operators are to receive compensation at the 9.5-percent level. In addition, we are authorizing a 1.7 percent surcharge on LTL traffic performed by carriers not utilizing owner-operators.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday at 12:01 a.m., September 7, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,

Secretary.

September 5, 1979.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)

January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)

September 4, 1979 ..... 99.4¢

Appendix.—*Fuel Surcharge* —Continued

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)
16.9%	2.9% [1]
Percent Surcharge Developed	
9.7%	1.7%
Percent Surcharge Allowed	
9.5%	1.7%

1 Additional data for general commodity carriers indicate the following:
(a) Percent Fuel (including tax) of revenue (all traffic) 7.3%
(b) Percent T.L. and LTL Revenue of total revenue:

	Revenue (in millions of dollars)	Percent
T.L.	$3,451,661	32
LTL	7,427,232	68
Total	10,878,893	100

Utilizing the T.L. and LTL weighting factors and retaining the relationship of fuel to revenue for owner operators (also applied to T.L. rated traffic) and in total of 16.9 percent and 7.3 percent respectively, the comparable relationship for LTL is 2.9 percent. This figure should not be construed as an actual relationship but is developed as a method to adjust the LTL surcharge.

[FR Doc. 79-28162 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[Rule 19, Mandatory Car Service Rules, Ex Parte No. 241; Exemption No. 171]

Chicago, Rock Island, and Pacific Railroad Co.; Car Service Rules

Because of a strike, the Chicago, Rock Island and Pacific Railroad Company (RI) is unable to relocate empty cars to other stations for loading or to return them promptly to car owners in accordance with Car Service Rules 1 and 2. Consequently, RI is unable to furnish cars of suitable ownership to shippers while at the same time similar cars of other ownerships are idle because of the inability of the RI to return them to owners. In addition, RI freight cars on other lines are not needed on the RI because of the strike.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) The Chicago, Rock Island and Pacific Railroad Company (RI) is authorized to accept from shippers general service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2. This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' orders requiring return of cars to owners.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, ICC–RER 6410–B issued by W. J. Trezise, or successive issues thereof as having the following mechanical designations:

Plain Boxcars: "XM", "XMI", "XMIH"
Gondola Cars: "GA", "GB", "GD", "GH", "GS", "GT"
Hopper Cars: "HFA", "HK", "HM", "HMA", "HT", "HTA"
Flat Cars: "FM", less than 200,000 lb. capacity

(c) RI owns numerous general service freight cars and specialized equipment cars that are not needed on RI because of the strike. The RI general service freight cars listed in paragraph (b) and RI freight cars subject to Car Service Directives 150 and 155 shall be exempt from the provisions of Car Service Rules 1 and 2.

(d) This exemption does not authorize use of RI Cars subject to Car Service Directives 145 and 435 by other railroads. Any railroad desiring to use these cars must receive authorization from Henry Metz, General Superintendent, Car Utilization and Service, RI, Chicago, Illinois.

Effective: August 28, 1979.

Expires: September 5, 1979.

Issued at Washington, D.C., August 28, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-28155 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[Rule 19, Mandatory Car Service Rules Ex Parte No. 241; Thirty-Eighth Revised Exemption No. 12]

Atlantic and Western Railway, et al.; Car Service Rules

To all railroads: It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and (b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hartford and Slocum Railroad Company
Reporting Marks: HS
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
[1] Lackawaxen and Stourbridge Railroad Corporation
Reporting Marks: LASB
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK

Effective September 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., August 28, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-28156 Filed 9-10-79; 8:46 am]

BILLING CODE 7035-01-M

[Rule 19 Mandatory Car Service Rules Ex Parte No. 241; Thirty-First Revised Exemption No. 129]

Atlanta and Saint Andrews Bay Railway Co., et al.; Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC [1]

Effective 12:01 a.m., September 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., August 28, 1979.

Interstate Commerce Commission

Joel E. Burns,

Agent.

[FR Doc. 79-28157 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Addition

[1] Southern Railway Company deleted.

Permanent Authority Decisions; Decison-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for invervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major

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regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before October 11, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 142

Decided: August 13, 1979.

By the Commission, Review Board Number 1. Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 4405 (Sub-611F), filed April 6, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers and trailer chassis*, (except those designed to be drawn by passenger automobiles) in initial movements, from West Point, PA, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 14215 (Sub-33F), filed April 13, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Beaver Falls, PA, to points in CT, GA, IN, IL, KY, NC, NJ, OH, SC, TN, VA, and the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 14215 (Sub-34F), filed April 13, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel articles*, from Steubenville, OH, to points in IL, IN, KY, and the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 14314 (Sub-31F), filed April 5, 1979. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Lima, OH 45802. Representative: Paul F. Berry, 275 East State St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Honda of America Manufacturing, Inc., near Marysville, OH, as an off-route point in connection with carrier's otherwise—authorized regular-route operations. (Hearing site: Columbus, OH.)

MC 29904 (Sub-4F), filed April 13, 1979. Applicant: SUDDATH VAN LINES, INC., 525 Stevens St., P.O. Box 6699, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, between points in FL, TX, IA, MN, MI, WI, ME, AR, KS, OK, NY, NJ, DE, MD, PA, WV, VA, NC, SC, GA, AL, TN, KY, MS, LA, MO, IL, IN, MA, CT, RI, NH, VT, OH, and DC. Note: The person or persons who appear to be engaged in common control of applicant and any other regulated carrier must either file an application under 49 U.S.C. 11343(a) formerly section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 20 days from the date of publication. (Hearing site: Jacksonville, FL.)

MC 45764 (Sub-31F), filed April 10, 1979. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 38, Essington, PA 19029. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (1) in containers, or trailers, having an immediately prior or subsequent movement by water, and (2) empty containers, or trailers chassis, (a) between points in NY, NJ, DE, PA, and MD; and (b) between the points named in (1) above, on the one hand, and, on the other, Boston, MA, Norfolk, VA, Cleveland and Toledo, OH, and Charleston, SC. (Hearing site: New York, N.Y.)

MC 52464 (Sub-11F), filed April 10, 1979. Applicant: EVANS TRUCKING CO., a corporation, 2773 Darlington Rd., Beaver Falls, PA 15010. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Buffalo, NY, to points in Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Cuyahoga, Geauga, Guernsey, Harrison, Holmes, Jefferson, Lake, Lorain, Mahoning, Medina, Muskingum, Portage, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, OH, and Allegheny, Armstrong, Beaver, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland Counties, PA. (Hearing site: Washington, DC.)

MC 78687 (Sub-73F*), filed June 14, 1979, previously and erroneously published in the **Federal Register** of August 2, 1979 as Sub 67F*. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001.

Note.—This partial republication indicates that the correct docket number is MC 78687 Sub 73F*. All other issues remain as previously published.

MC 83835 (Sub-157F), filed April 12, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, TX 75222. Representative: James W. Hightower, First Continental

*Dual operations may be involved.

Bank Bldg. #301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment*, and (2) *parts, accessories, and attachments* for material handling equipment, between the facilities of Stewart & Stevenson, at or near Houston, Corpus Christi, Beaumont, San Antonio, and Harlingen, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 85934 (Sub-100F), filed April 12, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48121. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400 Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities in bulk*, between points in MI, on the one hand and, on the other, points in OH and IN, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Chicago, IL.)

MC 106674 (Sub-382F), filed April 11, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from the facilities of Morton Salt, at or near Manistee and Marysville, MI, to points in IL, IN, IA, and WI. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 110325 (Sub-98F), filed March 5, 1979, previously notice in the **Federal Register**, issue of July 6, 1979, and republished this issue. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg. 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Portland, OR, and Tacoma, WA, over Interstate Hwy 5, as an alternate route for operating convenience only, serving no intermediate points, restricted against the transportation of traffic originating and destined to Portland, OR, and Tacoma and Seattle, WA, and points in their respective commercial zones. (Hearing site: Washington, DC.)*

Note:— This republication is to clarify the restriction.

MC 114045 (Sub-539F), filed April 12, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *citric acid*, in containers, from the facilities of Pfizer, Inc., at or near Southport, NC, to points in IL, IN, IA, KS, MI, MN, MO, and WI. (Hearing site: New York, NY.)

MC 115654 (Sub-138F), filed April 13, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meatpacking houses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from the facilities of Armour Food Company, at or near Louisville, KY, to Bristol, VA, points in AL, GA, MS, and TN, and those in De Soto County, MS, and Crittenden County, AR. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 116254 (Sub-262F), filed April 10, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Georgetown, SC, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Atlanta, GA, or Charlotte, NC.)

MC 116544 (Sub-172F), filed March 16, 1979, previously noticed in the **Federal Register** issue of August 2, 1979 as Sub 171. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Kirk Wm. Horton, P.O. Box 10061, Palo Alto, CA 94303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulations under 49 U.S.C. 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act) when moving in mixed loads with bananas, from Charleston, SC, to points in IL, IN, WI, MN, IA, MO, and FL. (Hearing site: Washington, DC, or Miami, FL.)

Note.—This republication indicates the correct Sub-No.

MC 119765 (Sub-74F), filed March 9, 1979. Applicant: EIGHT WAY EXPRESS, INC., 5402 South 27th St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coffee and tea*, and (2) *non-alcoholic beverages* (except those described in (1) above), from Linden, and points in Morris County, NJ, to St. Louis, MO, Houston, TX, and Anderson and Yorktown, IN, and (b) from Houston, TX, to St. Louis, MO, and Anderson and Yorktown, IN. (Hearing site: St. Louis, MO, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 119934 (Sub-229F), filed April 13, 1979. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, IN 46040. Representative: Robert W. Loser II, 1009 Chamber of Commrce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing ink*, in bulk, in tank vehicles, from New Albany, IN, to points in IL, KY, MD, MS, NY, OH, PA, RI, TN, and TX. (Hearing site: Louisville, KY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123387 (Sub-19F*), filed June 14, 1979, previously and erroneously published in the **Federal Register** of August 2, 1979 as Sub 1 *. Applicant: E. E. HENRY, 1923 Sparrow Rd., Chesapeake, VA 23320. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001.

Note.—This partial republication indicates that the correct docket number is MC 123387 Sub 19 *. All other issues remain as previously published.

MC 125335 (Sub-55F), filed April 13, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/MARS, at or near (a) Elizabeth and Hackettstown,

* Dual operations may be involved.

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NJ, and (b) Elizabethtown, PA, to points in FL, GA, IL, IN, NC, SC, TN, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia or Harrisburg, PA)

Note.—Dual operations may be involved.

MC 126045 (Sub-25F), filed April 13, 1979. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of North Star Steel Company, at or near St. Paul, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN.)

MC-127524 Sub 17F, filed April 10, 1979. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart St., Rahway, NJ 07065. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10582. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from Newark, NJ, to Baltimore, MD, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: New York, NY, or Newark, NJ)

MC 134484 (Sub-25F), filed April 12, 1979. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Ore-Ida Foods, Inc., at or near (a) Burley, ID, and (b) Ontario, OR, to points in CA. (Hearing site: Boise, ID)

MC 135364 (Sub-38F), filed April 10, 1979. Applicant: MORWALL TRUCKING, INC., P.O. Box 76C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *artificial trees, wreaths, garlands, and shrubbery, and plastic articles*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between the facilities of American Technical Industries, Inc., at or near (a) Lexington, KY, (b) Aurora, IL, (c) West Coxsackie, NY, (d) Americus, GA, (e) Hialeah, FL, (f) Austin, TX, and (g) Mira Loma, CA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, under continuing contract(s) with American Technical Industries, Inc., of Mt. Vernon, NY. (Hearing site: Washington, DC)

Condition.—Issuance of a permit is subject to prior or coincidental cancellation of Permit No. MC 135364 (Subs1, 15, and 26) at applicant's written request.

MC 135524 (Sub-16F), filed March 5, 1979, previously noticed in the Federal Register of July 6, 1979. Applicant: G. F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 912 Salts Springs Rd., Youngstown, OH 44509. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, fittings, and couplings*, (2) *accessories* for the commodities in (1) above, and (3) *materials, and supplies* used in the manufacture and installation of the commodities named in (1) above, (except commodities in bulk), between the facilities of Samson Plastic Conduit and Pipe Corporation in Geneva County, AL, on the one hand, and, on the other, points in AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, VA, VT, WI, WV, and DC. (Hearing site: Mobile, AL, or Columbus, OH)

Note.—This republication modifies the commodity description and includes VT in the territorial description.

MC 138635 (Sub-78F), filed April 12, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical goods*, and (2) *materials and supplies* used in the manufacture and sale of electrical goods (except commodities in bulk, and those, which because of size or weight require the use of special equipment), (a) from Ontario, CA, and Seattle, WA, to Allentown, PA, Broadview, IL, Atlanta, GA, Lenexa, KS, Grand Prairie, TX, Columbus, OH, Edison, NJ, Boston, MA, Laurel, MD, and Mansfield, MA, and (b) from Brockport, NY, and Allentown, PA, to Broadview, IL, San Leandro and Garden Grove, CA, Lenexa, KS, Grand Prairie, TX, and Tukwila, WA. (Hearing site: Hartford, CT)

Note.—Dual operations may be involved.

MC 139495 (Sub-432F), filed April 10, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages* (except in bulk, in tank vehicles), from points in CA, to points in CO, NM, and those points in TX on and north of Interstate Hwy 40. (Hearing site: San Francisco, CA)

MC 139495 (Sub-433F), filed April 12, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *candles, chemicals, chemical additives, foodstuffs, and plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) above, (except commodities in bulk, in tank vehicles in (1) and (2) above), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of McCormick and Company, Inc. (Hearing site: Washington, DC.)

MC 139495 (Sub-468F), filed April 5, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, canned and preserved, from the facilities of Heinz USA, at or near Muscatine and Iowa City, IA, to point in KS, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 139495 (Sub-469F), filed April 9, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *display racks, stands* and *cases, stationery, pens, pencils*, and *markers*, from the facilities of The Gillette Company, at or near La Mirada, CA, to La Grange Park, IL, and Andover, MA. (Hearing site: Washington, DC.)

MC 139615 (Sub-26F), filed April 12, 1979. Applicant: D. R. S. TRANSPORT, INC., P.O. Box 29, OSKALOOSA, IA 52577. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trusses*, and (2) *materials and supplies* used in the manufacture, construction, and distribution of agricultural and commercial buildings (except commodities in bulk), (a) from Oskaloosa, IA, to points in ND, SD, CO, NE, KS, OK, AR, MO, IL, MN, and WI, and (b) from points in AR, AL, IL, MO, MS, WY, CO, and LA, to Oskaloosa, IA. (Hearing site: Des Moines, IA.)

MC 140615 (Sub-31F), filed April 10, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St. N.W., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lighting fixtures*, and *parts and accessories* for lighting fixtures, (a) from the facilities of keystone Lighting Corporation, at Bristol, PA, to points in IL, IN, KS, MI, MN, MO NE, OH, and WI, and (b) from Chicago, IL, to the facilities in (a) above. (Hearing site: Washington, DC.)

MC 140615 (Sub-36F), filed April 10, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St. N.W., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of Campbell Soup Company, at Napoleon, OH, to Camden, NJ, and points in IA, IL, IN, KY, MI, MN, MO, NC, ND, NY, PA, SC, SD, TN, VA, WI, and WV. (Hearing site: Washington, DC.)

MC 142715 (Sub-36F), filed April 12, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers*, from Green Bay and Milwaukee, WI, and Chicago, IL, to points in MN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 142715 (Sub-66F), filed April 6, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products* (except commodities in bulk), from the facilities of Salerno-Megowen Biscuit Co., at Niles, IL, to points in CO, ND, SD, NE, KS, MO, IA, MN, WI, IN, MI, OH, PA, NY, NJ, MD, DE, CT, RI, MA, KY, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 142715 (Sub-67F), filed April 17, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), (1) from the facilities of the Creamette Company, at Minneapolis and New Hope, MN, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX (except MN), and (2) from Fairlawn, NJ, and Carnegie, PA, to the facilities in (1) above, restricted to the transportation of traffic in (1) and (2) above originating at the named origins and destined to the indicated destinations except on traffic moving in foreign commerce. (Hearing site: St. Paul, MN.)

MC 144804 (Sub-2F), filed April 11, 1979. Applicant: FORTUNE EXPRESS, INC., 2930 Hansboro Dr., Dallas, TX 75233. Representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *magazines, periodicals, paperback books, calendars, maps, and newspapers*,om Dallas, TX, to El Dorado, Ft. Smith, Little Rock, and Pine Bluff, AR, Baton Rouge, Crowley, New Orleans, and Shreveport, LA, Albuquerque, Gallup, Tucumcari, and Carlsbad, NM, Oklahoma City and Tulsa, OK, Amarilo, Austin, Corpus Christi, El Paso, Galveston, Houston, Lubbock, Lufkin, Midland, Paris, Temple, Tyler, Victoria, Wichita Falls, Beaumont Bryan, San Antonio, Laredo, and Harlingen, TX, under continuing contracts(s) with Magazine and Book Shippers, Inc., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 14504 (Sub-13F), filed April 13, 1979. Applicant: COORS TRANSPORTATION CO, a Corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *baker's yeast*, from Bakersfield, CA, to Salt Lake City, UT, Denver and Grand Junction, CO, and Houston, Corpus Christi, and San Antonio, TX. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 146424 (Sub-2F), filed April 4, 1979. Applicant: TRANSPORTATION ANALYST, INC. d.b.a. CLAREDEN-BRETON TRUCK DIVISION, 9419 East 63rd St., Kansas City, MO 64133. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities*, as are dealt in or used by retail discount department stores, (1) between the facilities of Mattingly Stores, Inc., at Kansas City and Lexington, MO, and (2) from the facilities in (1) above, to the retail discount department stores of Mattingly Stores, Inc., at (a) Centerville, IA, and (b) points in MO, under continuing contract(s) with Mattingly Stores, Inc., of Lexington, MO. (Hearing site: Kansas, MO.)

MC 146805 (Sub-1F), filed April 6, 1979. Applicant: JR. PORTER, INC., Rt. 5 Box 589, South Point, OH 45680. Representative: R. William Berry, 406 Second Ave., Chesapeake, OH 45619. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bags, from the facilities of Louisville Cement Company, at Huntington, WV, to points in OH and KY, under a continuing contract(s) with the Louisville Cement Company, of Louisville, KY. (Hearing site: Columbus, OH, or Wheeling, WV)

Passenger Authority

MC 147735F, filed March 7, 1979. Applicant: DALE EVANS, d.b.a. EVANS TRANSPORTATION, 420 Allen St., Yreka, CA 96097. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in round-trip and one-way charter operations, beginning or ending at points in Siskiyou County, CA, and extending to points in OR and NV. (Hearing site: Yreka, CA, or Medford OR)

Volume No. 143

Decided: August 15, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.

MC 4405 (Sub-599F), filed May 1, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101.

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Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *concrete batch plants*, and *accessories* for concrete batch plants, from Blair, NE, to points in the United States (except AK and HI). (Hearing site: Omaha, NE.)

MC 4405 (Sub-600F), filed May 1, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water conditioning equipment and supplies* (except commodities in bulk, in tank vehicles), from Ashville, NC, and Commerce City, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 4405 (Sub-601F), filed May 1, 1979. Applicant: DEALER TRANSIT, INC., P.O. BOX 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers and trailer chassis* (other than those designed to be drawn by passenger automobiles), in initial movements, and *trailer converter dollies*, in truckaway service, from Delta, OH, and Albion, PA, to points in the United States (except AK and HI). (Hearing site: Erie, PA.)

MC 14215 (Sub-32F), filed April 17, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *calcium chloride*, in bags, from the facilities of Dow Chemical Co., at Midland and Ludington, MI, to points in IL, IN, IA, KY, MO, OH, PA, WI, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 42405 (Sub-37F), filed April 16, 1979. Applicant: MISTLETOE EXPRESS SERVICE, a corporation P.O. Box 25614, Oklahoma City, OK 73125. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving in express service, (1) between Afton and West Siloam Springs, OK: from Afton over U.S. Hwy 59 to junction OK Hwy 33, then over OK Hwy 33 to West Siloam Springs, and return over the same route, and (2) between junction OK Hwy 82 and U.S. Hwy 66 and Maysville, AR: from junction OK Hwy 20 and U.S. Hwy 66 over OK Hwy 20 to the OK–AR State line, then over AR Hwy 72 to Maysville, AR, and return over the same route, serving in connection with (1) and (2) above all intermediate points, and points in Delaware County, OK as off-route points. (Hearing site: Tulsa or Oklahoma City, OK.)

MC 53965 (Sub-151F), filed April 18, 1979. Applicant: GRAVES TRUCK LINE INC., P.O. Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, canned and preserved*, from the facilities of Heinz USA, at or near Iowa City and Muscatine, IA, to points in KS, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Chicago, IL.)

MC 65475 (Sub-24F), filed April 13, 1979. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304 Representative: J. G. Dail Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products* (except commodities in bulk, in tank vehicles), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 94635 (Sub-8F), filed April 16, 1979. Applicant: INTERSTATE SAND & GRAVEL TRANSPORTATION, INC. 717 Elmer St., Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K St., N.W., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand, stone, gravel, clay, (except commodities in bulk) and commodities in bulk*, between points in NJ, CT, DE, ME, MD, MA, WV, NY, NH, OH, PA, RI, VT, VA, and DC, under a continuing contract(s) with Owens-Illinois, Inc., restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 105045 (Sub-104F), filed April 18, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville IN 47701. Representative: Paul F. Sullivan, 711 Washington, Bldg., 15th and New York Ave., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *copper tubing*, from Wynne, AR, to points in MN. (Hearing site: Minneapolis, MN.)

MC 106074 (Sub-102F), filed May 1, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture of decorations and ornaments, from points in IL, KY, NJ, OH, PA, and TX, to the facilities of Rauch Industries, Inc., at Gastonia, NC, restricted to the transportation of traffic destined to the above-named facilities. (Hearing site: Charlotte, NC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106644 (Sub-285F), filed April 20, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *self-propelled vehicles*, restricted to commodities which are transported on trailers, and (2) *attachments, accessories, and parts* for self-propelled vehicles, between the facilities of Master Craft Industrial Equipment Corp., (a) at Belleville, MI, and (b) in Tift County, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

MC 107515 (Sub-1223F), filed May 1, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coffee and coffee products* (except commodities in bulk), from New Orleans, LA, to points in FL. (Hearing site: Cincinnati, OH.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1224F), filed May 1, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *molded plastic cabinetry* and *molded plastic cabinetry parts*, from the facilities of Kyowa America Corporation, (a) at Swainsboro GA, and (b) in Fulton County, GA, to San Diego, CA. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1225F), filed May 1, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives* and *adhesive products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Danielson, CT, to points in the United States (except AK, CT, and HI). (Hearing site: Hartford, CT, or Washington, DC.)

Note.—Dual operations may be involved.

MC 109124 (Sub-69F), filed April 17, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand*, from the facilities of Ottawa Silica Company, at or near Ottawa, IL, to Carleton and Dearborn, MI. (Hearing site: Chicago, IL.)

MC 111594 (Sub-86F), filed April 17, 1979. Applicant: C. W. TRANSPORT, INC., 610 High St. Wisconsin Rapids, WI 54494. Representative: Leonard Kofkin, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Stevens Point, WI, and Merrill, WI, from Stevens Point, over U.S. Hwy 51 to junction WI Hwy 64, then over WI Hwy 64 to Merrill, and return over the same route, serving all intermediate points, and the off-route points of Mosinee, Brokaw, Schofield, Rothschild, and Wausau, WI. (Hearing site: Wausau or Milwaukee, WI.)

MC 113784 (Sub-84F), filed May 1, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise St., Hamilton, Ontario, Canada, L8L 4M1. Representative: David A. Sutherland, 1150 Connecticut Ave., N.W., Suite 400 Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, and *non-ferrous metals*, between points in MI and NY, on the one hand, and on the other, points in DE, IL, IN, MD, MI, NJ, NY, OH, PA, WV, and DC. (Hearing site: New York, NY.)

MC 113855 (Sub-483F), filed April 16, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction equipment, earth moving equipment*, and *material handling equipment*, and (2) *attachments, accessories, and parts* for the commodities in (1) above, between White Marsh, MD, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 115654 (Sub-139F), filed April 13, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Fremont and Toledo, OH, to points in AL, GA, MS, and TN, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Nashville, TN.)

MC 119974 (Sub-80F), filed April 18, 1979. Applicant: L.C.L. TRANSIT COMPANY, A CORPORATION, 9459 Advance St., Green Bay, WI 54304. Representative: L.F. Abel, P.O. Box 949, Green Bay, WI 54305. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *cleaning compounds* (except commodities in bulk), from Green Bay and Peshtigo, WI, to Kansas City, KS, and points in IA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Green Bay, WI.)

MC 123075 (Sub-33F), filed April 16, 1979. Applicant: SHUPE & YOST, INC., North U.S. 85 Bypass, P.O. Box 1123, Greeley, CO. 80631. Representative: Stuart L. Poelman, 700 Continental Bank Bldg., Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products*, and (2) *animal and poultry feed*, in mixed loads with the commodities named in (1) above, from Lake Point, UT, to points in KS, NE, ND, SD, CO, and WY, under continuing contracts(s) with Utah Salt Company, Inc., of Salt Lake City, UT. (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 124154 (Sub-76F), filed April 16, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container parts*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), between Homerville, GA, on the one hand, and, on the other, points in the United States (except AK and HI) (Hearing site: Atlanta or Albany, GA.)

MC 124154 (Sub-77F), filed April 17, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical appliances, equipment and parts*, as defined by the Commission in Appendix VII to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 283, (except commodities in bulk), and (2) *materials* used in the manufacture of the commodities in (1) above (except commodities in bulk), between the facilities of Gibson-Metalux Corporation, at or near Americus, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta or Albany, GA.)

MC 125335 (Sub-56F), filed April 13, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L.

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Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from the facilities of Campbell Soup Company, at or near Maxton, NC, to points in AL, FL, GA, NC, SC, TN, VA, and DC. (Hearing site: Charlotte, NC, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 125335 (Sub-57F), filed April 13, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by paint stores and paint supply houses (except commodities in bulk), from Chicago, IL, to points in IA, MN, NE, ND, SD, WI, and KS (except Kansas City and Leavenworth, KS). (Hearing site: Chicago, IL, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 125335 (Sub-58F), filed April 17, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Dubuque Packing Company, at or near Denison, IA, to points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Omaha, NE, or Harrisburg, PA.)

MC 126305 (Sub-115F), filed April 16, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R. D. 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber* and *lumber products*, from Warren, AR, and El Paso, TX, to points in VA. (Hearing site: Montgomery or Birmingham, AL.)

MC 126305 (Sub-116F), filed May 2, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *waste paper*, from points in AR, FL, GA, IL, IA, KY, LA, MS, MO, NC, SC, and TN, to the facilities of National Gypsum Co., at or near Anniston, AL. (Hearing site: Birmingham, or Montgomery, AL.)

MC 128205 (Sub-71F), filed April 16, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour*, in bulk, (1) from Hastings, MN, to points in WI, IL, IN, MI, KY, OH, IA, and MO, and (2) from Alton, IL, to points in WI, IA, MO, IN, MI, OH, MN, and KY. (Hearing site: Chicago, IL)

MC 128205 (Sub-73F), filed April 16, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour*, in bulk, from Buffalo, NY, to points in MA, PA, NJ, VA, WV, KY, OH, IN, MI, and IL. (Hearing site: Chicago, IL)

MC 133095 (Sub-253F), filed April 16, 1979. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *packaging materials* used in the distribution and sale of alcoholic beverages, (1) from points in PA, to points in NJ, AR, IL, and CA, and (2) from points in IL, to points in NJ, LA, AR, and CA, restricted to the transportation of traffic originating at or destined to the facilities used by Hiram Walker, Inc. (Hearing site: Dallas, TX)

MC 133655 (Sub-149F), filed May 1, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120 Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cellulose materials, cellulose products, paper and paper products*, and *(2) equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Los Angeles and Union City, CA, Salt Lake City, UT, and Phoenix, AZ, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, and TX. (Hearing site: Chicago, IL)

MC 133805 (Sub-17F), filed March 16, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities used by The Coca-Cola Company Foods Division, in FL, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Jacksonville, FL, or Ft. Worth, TX)

Note.—Dual operations may be involved.

MC 133805 (Sub-18F), filed April 16, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Fort Worth, TX, or Pittsburgh, PA)

MC 133805 (Sub-19F), filed April 16, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AL, CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Wichita, KS, or Fort Worth, TX)

MC 134084 (Sub-8F), filed April 16, 1979. Applicant: SHROCK TRUCKING, INC., P.O. Box 428, Hubbard, OR 97032. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, between points in OR and WA. (Hearing site: Portland, OR.)

MC 134235 (Sub-16F), filed April 16, 1979. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, OH 44022. Representative: Kenneth T. Johnson, Bakers Trust Bldg., Jamestown, NY 14701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *solar salt*, from Baltimore, MD, to points in CT, DE, KY, MA, NJ, NH, NC, OH, PA, RI, SC, VT, VA, and WV. (Hearing site: Buffalo, NY.)

MC 134235 (Sub-18F), filed May 1, 1979. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, OH 44022. Representative: Kenneth T. Johnson, Bankers Trust Bldg., Jamestown, NY, 14701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in bulk, from Cleveland, OH, to points in IN, KY, NY, PA, WV, and the lower peninsula of MI. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 135524 (Sub-23F), filed April 14, 1979. Applicant: G. F. TRUCKING CO., a Corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Respresentative: George Fedorisin, 912 Salts Springs Rd., Youngstown, OH 44509. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *conveyors, and conveyor systems*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the erection, installation and maintenance of the commodities in (1) above, between the facilities of Litton Unit Handling Systems, at or near Florence, KY, on the one hand, and, on the other, points in AL, AR, CT, DE, GA, KY, LA, ME, MD, MA, MI, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WI, and DC. (Hearing site: Cincinnati or Columbus, OH.)

MC 135874 (Sub-175F), filed April 11, 1979. Applicant: LTL PERISHABLES, INC., 550 E. 5th St., So., So. St. Paul, MN 55075. Respresentative: Paul Nelson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of (a) Continental Freezers of Illinois, and (b) U.S. Cold Storage, at Chicago, IL, to points in PA, OH, KY, MI, IN, WI, MN, ND, NE, SD, CO, KS, IA, and MO, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 136545 (Sub-17F), filed April 13, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Respresentative: Richard A. Westley, 4506 Regent St., Suite 100 Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture of hydraulic loading equipment (except commodities in bulk), from points in the United States (except AK, HI, IL, IN, OH, and the Lower Peninsula of MI), to the facilities of Omark Industries, Inc., at or near (a) Prentice, WI, and (b) Zebulon, NC. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 138875 (Sub-160F), filed April 16, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture and distribution of (a) buildings, in section, (b) motor homes, (c) recreational vehicles, and (d) trailers designed to be drawn by passenger automobiles, (except commodities in bulk), from points in MI and OH, to points in OR and WA, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 139615 (Sub-27F), filed April 17, 1979. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, IA 52577. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand*, from Oregon, IL, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Kansas City, MO.)

MC 140484 (Sub-40F), filed April 17, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2871 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer*, and *sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AL, CA, FL, GA, IL, IN, KY, OH, SC, TN, and WV, and (2) (a) *petroleum, petroleum products, vehicle body sealer*, and *sound deadener compounds* except commodities in bulk, in tank vehicles), and *filters*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, OH, SC, and VA to the origin facilities in (1) above, restricted in both (1) and (2) to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 141804 (Sub-212F), filed May 1, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *copper rod and copper cathodes*, from the facilities of Magma Copper Co., a subsidiary of Newmont Mining Corporation, at San Manuel, AZ, to points in the United States (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA).

MC 142715 (Sub-35F), filed April 17, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat by-products, articles distributed by meat-packing houses, and commodities used by meat-packing houses*, as described in sections A, C, and D of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), between the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA, and (b) Armour and Company, at Mason City, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Phoenix, AZ, or St. Paul, MN).

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MC 142715 (Sub-37F), filed April 17, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Sunstar Foods, Inc., at South St. Paul, MN, to points in the United States in and east of ND, SD, NE, CO, OK, and TX (except MN, FL, ME, NH, and VT), restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Paul, MN)

MC 144364 (Sub-4F), filed April 16, 1979. Applicant: ART BETZ, P.O. Box 955, South Sioux City, NE 68776. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 Ten Main Center, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., at or near Schuyler and Fremont, NE, to points in CA. (Hearing site: Omaha, NE.)

MC 145274 (Sub-2F), filed April 16, 1979. Applicant: SERVICEWAY MOTOR FREIGHT, INC., P.O. Box 243, Alcoa, TN 37701. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container ends*, and (2) *Materials and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of National Can Corporation, at Collierville, TN, on the one hand, and, on the other, points in AL, AR, GA, KY, LA, MS, NC, and SC. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 145445 (Sub-1F), filed April 12, 1979. Applicant: RITCHIE L. HOWE d.b.a. HOWE TRUCKING, 13650 S.W. 24 St., Ft. Lauderdale, FL 33325. Representative: (same as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Mobile AL, to points in Broward, Dade, Duval, Orange, Palm Beach and Martin Counties, FL. (Hearing site: Ft. Lauderdale, FL.)

MC 145595 (Sub-4F), filed April 18, 1979. Applicant: WARREN G. GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 W. Swan, Springfield, MO 65807. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal, fireplace logs, wood chips, and lighter fluid*, (except liquid commodities in bulk), and (2) *accessories* for the commodities in (1) above from Meta, MO, to points in AZ, CA, CO, FL, GA, KS, MS, NE, NM, OK, OH, SD, TX, and WA. (Hearing site: Kansas City, MO.)

MC 145905 (Sub-1F), filed May 1, 1979. Applicant: Z. H. HURT ENTERPRISES, INC. d.b.a. MEX-CAL TRUCKLINE, P.O. Box 83, Bonita, CA 92009. Representative: William H. Shawn, 1730 M St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between Los Angeles and San Diego, CA, and points in Imperial County, CA. (Hearing site: San Diego or Los Angeles, CA.)

MC 146095 (Sub-2F), filed April 18, 1979. Applicant: McGEE-BALLENGER TRUCKING CO., INC., P.O. Box 851, Mauldin, SC 29662. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northfille, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor coverings*, from the facilities of Dan River Mills, Inc., at Greenville, SC, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), under a continuing contract(s) with Dan River Mills, Inc., of Greenville, SC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146225 (Sub-2F), filed May 1, 1979. Applicant: BECKER TRUCKING COMPANY, a Corporation, Box 217, Newton Falls, OH 44444. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *scrap metal*, in dump vehicles, between Cleveland, OH, on the one hand, and, on the other, points in WV and PA, and (2) *slag*, in dump vehicles, between Lordstown and Youngstown, OH, on the one hand, and, on the other, points in WV. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 146764 (Sub-2F), filed April 16, 1979. Applicant: S & T TRUCKLOAD, INC., 2527 NE 28th St., Fort Worth, TX 76106. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Thompson Industries, Inc., at (a) Phoenix, AZ, (b) Tinton Falls, NJ, (c) Alexandria, VA, (d) City of Industry, CA, (e) Des Plaines, IL, (f) Forth Worth, TX, (g) Higginsville, MO, (h) Milford, NH, (i) Monroeville and Mt. Sterling, OH, (j) Renton, WA, (k) Sheveport, LA, and (l) Stone Mountain, GA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Thompson Industries, Inc., of Phoenix, AZ. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 146815 (Sub-1F), filed April 17, 1979. Applicant: ROLAND GIGUERE, d.b.a. GIGUERE & SON, Route 1, Pownal Rd., Auburn, ME 04210. Representative: J. Michael May, Suite 508, 1447 Peachtree St., NE., Atlanta, GA 30309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery waste materials*, and *feed ingredients*, in bulk, between the facilities of International Bakerage, Inc., at Carteret, NJ, on the one hand, and, on the other, points in CT and ME, under continuing contract(s) International Bakerage, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 147314 (Sub-1F), filed May 1, 1979. Applicant: GARFIELD TRANSPORTATION SYSTEMS, INC., 1426 Clark St., Montreal, Quebec, Canada H2X 2R3. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers or trailers, having a prior or subsequent movement by water, between ports of entry on the international boundary line between the United States and Canada, in NY and VT, on the one hand, and, on the other, Weehawken, NJ; and (2) *empty containers, trailers, and trailer chassis*, from Weehawken, NJ, to ports of entry on the international boundary line between the United States and Canada, in NY and VT. (Hearing site: Boston, MA, or Montpelier, VT.)

Passenger

MC 105154 (Sub-12F), filed April 12, 1979. Applicant: MOODY TRANS., INC., d.b.a. STAR VALLEY-JACKSON STAGES, P.O. Box 715, Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 162, Boixe, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in special and charter operations, between Idaho Falls, Rigby, Rexburg, Sugar City, Teton City, Tetonia, and Driggs, ID, on the one hand, and, on the other, Grand Targhee Ski Area, near Alta, WY, Jackson Ski Area, near Jackson, WY, and Teton Village Ski Area, near Wilson, WY. (Hearing site: Idaho Falls, ID.)

Volume No. 144

Decided: August 27, 1979.

By the Commission, Review Board Number 2. Members Boyle, Liberman, and Eaton.

MC 217 (Sub-24F), filed March 29, 1979. Applicant: POINT TRANSFER, INC., 5075 Navarre Road, S.W., P.O. Box 1441, Station C, Canton, OH 44708 Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment*, and *supplies* used in the manufacture of iron and steel articles, (a) between points in Bucks and Cambria Counties, PA, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WV, (b) between points in Cuyahoga, Lorain, Mahoning, Stark, and Trumbull Counties, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, PA, and WV, (c) between points in Allegheny and Westmoreland Counties, PA, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WV, (d) between points in Cook and Will Counties; IL, on the one hand, and, on the other, points in IN, KY, MI, OH, PA, and WV, and (e) between points in Lake County, IN, on the one hand, and, on the other points in IL, KY, MO, OH, PA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 21866 (Sub-113F), filed April 2, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive accessories, automotive parts*, and *automotive supplies*, and (2) *materials, equipment*, and *supplies* used in the installation and manufacture of the commodities named in (1) above, (except commodities in bulk), between the facilities of Wagner Electric Corporation, at (a) Boaz, AL, (b) Chicago, IL, (c) Florence, KY, (d) Berkeley and Wellston, MO, and (e) Black Mountain, NC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 27817 (Sub-154F), filed March 29, 1979. Applicant: H. C. GABLER, INC., R. D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operation as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of Heinz Company, at or near a Pittsburgh, PA; (b) Holland, MI, and Fremont and Toledo, OH, to points in SC restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 28307 (Sub-25F), filed March 19, 1979. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, P.O. Box 21098, Charlotte, NC 28206. Representative: Loy J. Foster (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers and fiberboard containers*, from Midway, NC, to Eden, NC. (Hearing site: Winston Salem, or Charlotte, NC.)

MC 29886 (Sub-364F), filed March 28, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trucks and truck chassis*, in secondary movements, in driveaway service, and (2) *parts* and *equipment* for the commodities named in (1) above, from Chesapeake and Portsmouth, VA, to points in the United States (except AK and HI), restricted to the transportation of traffic manufactured at the facilities of A. B. Volvo. (Hearing site: Washington, DC.)

MC 35807 (Sub-96F), filed March 2, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, and securities*, (a) between Omaha, NE, and points in NE, and (b) between Kansas City, MO, and points in MO, under continuing contract(s) with banks and banking institutions. (Hearing site: Kansas City, MO.)

MC 39167 (Sub-14F), filed April 3, 1979. Applicant: C. J. ROGERS TRANSPORTATION COMPANY, a corporation, 2947 Greenfield Road, Melvindale, MI 48122. Representative: Robert D. Schuler, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automobile transmissions, automobile transmission parts, metal containers, and metal racks*, (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, and (3) *iron and steel scrap*, between points in Batavia Township, OH, on the one hand, and on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Lansing, or Detroit, MI.)

MC 42487 (Sub-907F), filed April 2, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and green hides), (1) between Chattanooga, TN, and Nashville, TN, over Interstate Hwy 24, (2) betweem Nashville, TN and Memphis, TN, over Interstate Hwy 40, (3) between Memphis, TN, and Dallas, TX; from Memphis over Interstate Hwy 40 to Little Rock, AR, then over Interstate Hwy 30 to Dallas, and return over the same route, and (4) between

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Dallas, TX, and junction Interstate Hwy 20 and U.S. Hwy 290, over Interstate Hwy 20, serving intermediate points in (1) through (4) above, as alternate routes for operating convenience only in connection with carrier's presently authorized regular route operations. (Hearing site: Washington, DC.)

Note.—Applicant indicates intention to tack the sought rights with its existing authorities.

MC 52437 (Sub-3F), filed March 26, 1979. Applicant: SHIPPERS SERVICE EXPRESS, INC., 7200 Fly Road, P.O. Box 207, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foodstuffs*, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act) in mixed loads with the commodities in (1), above, from Syracuse, NY, to points in CT, MA, ME, NH, RI and VT. (Hearing site: Syracuse, NY, or Washington DC.)

MC 55896 (Sub-114F), filed April 4, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address a applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Chicago, IL, to the facilities of Montgomery Ward & Co., at or near Cincinnati, OH. (Hearing site: Chicago, IL, or Cincinnati, OH.)

MC 60157 (Sub-30F), filed March 29, 1979. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 5327 N. Central Expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *petroleum products* and *paints*, in containers, from the facilities of Mobil Oil Corporation at Beaumont and Houston, TX, to points in LA, MS, and TX, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Dallas or Ft Worth, TX.)

MC 63417 (Sub-196F), filed March 29, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal feed, and animal feed ingredients*, (except commodities in bulk), and (2) *materials* and *supplies* used in the manufacture and distribution of animal feed, (except commodities in bulk), from Hutchinson, KS, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NJ, NH, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC. (Hearing site: Roanoke, VA, or Los Angeles, CA.)

MC 69116 (Sub-230F), filed April 4, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Joel H. Steiner, 39 South LaSalle Street, Suite 600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Medina, NY, as an off-route point in connection with the carrier's otherwise authorized regular route operations. (Hearing site: Chicago, IL.)

MC 95876 (Sub-275F), filed April 2, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc. at Ashland, KY, to points in MN and IA. (Hearing site: Cincinnati, OH or Louisville, KY.)

MC 100666 (Sub-452), filed March 26, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural construction and industrial equipment*, and, (2) *such merchandise* as is dealt in or used by lawn care, garden care and leisure product dealers, from the facilities of Allis-Chalmers Corporation at or near (a) Port Washington and Milwaukee, WI and (b) LaPorte, IN, to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, NM, NC, OH, OK, PA, SC, TN, TX, VA and WV. (Hearing site: Milwaukee, WI.)

MC 100666 (Sub-455F), filed April 2, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from the facilities of E. L. Bruce Hardwood Flooring Company at Nashville, TN, to points in IL, IN, IA, MN, VA, WV, and WI. (Hearing site: Nashville, TN.)

MC 102567 (Sub-222F), filed April 2, 1979. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *liquid plastic resins*, in bulk, in tank vehicles, from the facilities of Chemetics Systems, Inc., at or near Monticello, AR, to points in the United States (except AK and HI), and (2) *glycols*, in bulk, in tank vehicles, in the reverse direction. (Hearing site: Houston, TX.)

MC 102616 (Sub-990F), filed April 2, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *methanol*, in bulk, in tank vehicles, from Circleville, OH, to Old Hickory, TN and Cape Fear, NC. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 104896 (Sub-56F), filed April 2, 1979. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk, in tank vehicles), between those points in the United States and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Philadelphia, PA.)

MC 108587 (Sub-26F), filed March 16, 1979. Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Ave., Colchester, CT 06415. Representative: S. Harrison Kahn Suite, 733 Investment Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA, on the one hand, and, on the other, points in ME, NH, and VT. NOTE: Applicant intends to tack this authority with its authority presently held to serve points in MA over regular and irregular routes. Applicant now holds such authority in No. MC–108587 and Sub. Nos. 12 and 25 to provide service between points in MA, CT, a portion of RI, the lower tier of NY (including New York City), NJ, the eastern portion of PA, portions of DE, MD, and DC (including the commercial zone of Washington, DC). (Hearing site: Hartford, CT, or Boston, MA.)

MC 109026 (Sub-21F), filed March 30, 1979. Applicant: MANNING MOTOR EXPRESS, INC., P.O. Box 685, Glasgow, KY 37215. Representative: Walter Harwood, P.O. Box 15214, Nashville, KY 37215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electric motor parts*, between the facilities of General Electric Co., at or near Scottsville, KY, on the one hand, and, on the other hand, the facilities of (a) General Electric Co., at or near Tyler, TX, and (b) Sunstrand Compressor, at or near Bristol, VA. (Hearing site: Louisville, KY or Nashville, TN.)

MC 109847 (Sub-29F), filed April 4, 1979. Applicant: BOSS–LINCO LINES, INC., 3903 Genesee Street, Cheektowaga, NY 14225. Representative: Harold G. Hernly, Jr., 110 South Columbus Street, Alexandria, VA 22314. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Binghamton and Albany, NY, over NY Hwy 7, serving the intermediate point of Oneonta, NY, and the off-route point of Amsterdam, NY. NOTE: Applicant indicates intention to tack this authority with its existing rights at Binghamton, Amsterdam, and Albany, NY, to serve points in WV, VA, PA, NJ, MD, OH, VA, NY, and New England. (Hearing site: Albany or New York, NY.)

MC 111936 (Sub-16F), filed March 29, 1979. Applicant: MURROW's TRANSFER, INC., P.O. Box 4095, High Point, NC 27263. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of Davis Cabinet Company at or near Nashville, TN, to points in AL, FL, GA, NJ, NY, NC, PA, SC, and VA. (Hearing site: Washington, DC, or Charlotte, NC.)

MC 112617 (Sub-424F), filed April 2, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, and chemicals*, in bulk, between the facilities of Ashland Oil, Inc. located in (a) Boyd County, KY, (b) Lawrence County, OH, and (c) Wayne County, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR and LA. (Hearing site: Louisville, KY or Washington, DC).

MC 114457 (Sub-491F), filed March 19, 1979, and previously published in the FR issue of July 27, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, (2) *plastic articles*, and (3) *equipment, materials, and supplies* used in the manufaucture and distribution of the commodities in (1) and (2) above (except commodities in bulk and those which because of size or weight require the use of special equipment) between the facilities of Fort Howard Paper Company at or near Green Bay, WI, on the one hand, and, on the other, points in the United States (except AK, HI, WA, OR, ID, AZ, CA, NV, UT, NM, and WI), restricted to the transportation of traffic originating at or destined to the above-named facilities of Fort Howard Paper Company. (Hearing site: Washington, DC).

Note.—The purpose of this republication is to amend the commodity description

MC 114457 (Sub-497F), filed April 4, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James C. Hardman, 33 North LaSalle Street, Suite 2108, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal container caps and enclosures*, from Milwaukee, WI, to those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Philadelphia, PA, or Chicago, IL.)

MC 114457 (Sub-496F), filed March 30, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, articles*, distributed by meat-packing houses, and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in CT, DE, GA, IL, IN, KS, KY, ME, MD, MA, MI, MN, MO, NE, NJ, NH, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC. (Hearing site: Phoenix, AZ, or St. Paul, MN.)

Volume No. 145

Decided: August 24, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 117686 (Sub-253F), filed March 29, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same addresss as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, and *such commodities* as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc. at or near Britt, IA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, ID, IA, KS, KY, LA, MN, MO, MS, MT, NE, NC, ND, NM, NV, OK, OR, SC, SD, TN, TX, UT,

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WA, WI, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 117686 (Sub-254F), filed March 30, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cloth* and (2) *materials and supplies* used in the manufacture and distribution of goods produced from cloth, in mixed loads with cloth, from points in AL (except Eufaula, Lanett, Opelika and Sylacauga), AR (except Osceola), GA (except Atlanta, Augusta, Columbus, Decatur, Lindale, and Trion), KY (except Lawrenceburg and Louisville), MS (except Stonewall), NC (except Erwin, Greensboro, Haw River, Mount Holly, Salisbury and Yadkin), SC (except Graniteville, Greenville, Orangeburg, Rock Hill, and Ware Shoals), TN (except Centerville, Knoxville, Nashville, Memphis and Osceola) and TX (except Brenham and New Braunfels) to Le Mars, Sheldon, Sioux City, Spencer and Storm Lake, IA. (Hearing site: Omaha, NE or Washington, DC.)

Note.—Dual opertions are involved.

MC 117686 (Sub-255F), filed April 2, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschback (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heating and cooling units*, from Los Angeles, CA, to points in AZ, CO, IA, KS, MN, MO, NE, OK and WI. (Hearing site: Los Angeles or San Francisco, CA.)

Note.—Dual operations are involved.

MC 118696 (Sub-20F), filed March 29, 1979. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from points in IN, MI, and OH, to Chicago, IL. (Hearing site: Chicago, IL.)

MC 119176 (Sub-23F), filed March 29, 1979. Applicant: THE SQUAW TRANSIT COMPANY, a corporation, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hydraulic cylinders*, from Willits, CA, to points in the United States (except AK and HI), and (2) *machinery, equipment, materials, and supplies* used in the manufacture of hydraulic cylinders, in the reverse direction. (Hearing site: San Francisco, CA.)

MC 119176 (Sub-24F), filed April 1, 1979. Applicant: THE SQUAW TRANSIT COMPANY, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tubing* from points in Milwaukee County, WI, to points in the United States (except AK and HI), and (2) *machinery, equipment, materials, and supplies* (except commodities in bulk) used in the manufacture of the commodities described in (1), in the reverse direction. (Hearing site: Washington, D.C.)

MC 119656 (Sub-56F), filed March 28, 1979. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corp. at Logansport, IN, to Plainfield and points in Cook County, IL, and points in OH, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 119777 (Sub-362F), filed March 28, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Box Drawer L, Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *pipe, pipe fittings and pipe accessories*, and (b) *materials, equipment, and supplies* used in the installation of the commodities named in (1)(a) above, from Henderson, KY, to those points in the United Staes in and east of MT, WY, CO, and NM, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 119777 (Sub-363F), filed March 28, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and distribution of (a) self-propelled articles, and (b) machinery, tools, parts, and supplies for self-propelled articles, from points in AL, AR, FL, GA, IL, IN, IA, KS, LA, MD, MI, MS, MO, NC, OH, OK, PA, SC, TN, TX, VT, WI, and WV, to the facilities of FMC Corporation, Crane and Excavator Division, at Lexington, KY. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 119777 (Sub-364F), filed April 2, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting (1) *paneling, board, and molding*, and (2) *materials, equipment and supplies* used in connection with the manufacture or distribution of commodities described in (1) above, between the facilities of Pan-American Gyro-Tex Company at or near Jasper and Jacksonville, FL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, NM and TX. (Hearing site: Jacksonville or Miami, FL).

MC 119777 (Sub-365F), filed April 2, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85-East, P.O. Drawer L, Madisonville, KY 42431. Representative: Carl U. Hurst (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Pine Bluff, AR, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* (except in bulk) used in the manufacture, or distribution of commodities named in (1) above, in the reverse direction. (Hearing site: Little Rock, AR or Memphis, TN.)

MC 120427 (Sub-27F), filed April 2, 1979. Applicant: WILLIAMS TRANSFER, INC., 2128 E. Highway 30, Grand Island, NE 68801. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church Street, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *meats, meat products and meat byproducts, and article distributed by meat-packing houses* as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Fremont and Schuyler, NE, to points in CA. (Hearing site: Omaha, NE or Chicago, IL).

MC 120646 (Sub-27F), filed April 4, 1979. Applicant: BRADLEY FREIGHT LINES, INC., 35 Garfield Street, Asheville, NC 28803. Representative: Henry E. Seaton, 929 Pennsylvania Bldg, 425 13th Street, N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, and (2) *such commodities* as are used in the manufacture of new furniture, between the facilities of Drexel Heritage Furnishings at or near Drexel, Marion, Morganton, Hildebran, Shelby, Mocksville, High Point, Black Mountain, Asheville, and Whittier, NC, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IA, KS, LA, MD, MN, MS, NC, NE, NJ, OK, SC, TN, TX, and DC. (Hearing site: Asheville, NC.)

MC 121626 (Sub-14F), filed March 29, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacrameto, CA 95828. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, (except commodites in bulk), from the facilities of Seneca Foods Corporation at Prosser, WA, to points in CA. (Hearing site: Portland, OR, or San Francisco, CA.)

MC 121626 (Sub-15F), filed March 29, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible meats, inedible meat products*, and *inedible meat byproducts*, from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to the facilities of Kal Kan Foods, Inc., at or near Vernon, CA. (Hearing site: Los Angeles, CA.)

MC 123126 (Sub-5F), filed March 29, 1979. Applicant: FRANKLIN BUS SERVICE, INC., 309 Roosevelt Street, Franklin, VA 23851. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at Suffolk, VA, and points in Brunswick, Greensville, Isle of Wight, Southampton, Surry, Sussex, Mecklenburg, and Lunenburg Counties, VA, and Hertford and Gates Counties, NC, and extending to those points in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: Emporia, VA.)

MC 123407 (Sub-566F), filed March 28, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural machinery* and *agricultural implements*, and (2) *parts* and *attachments* for the commodities named in (1) above, from the facilities of Allis-Chalmers at LaPorte, IN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 124306 (Sub-57F), filed March 29, 1979. Applicant: KENAN TRANSPORT COMPANY, INC., P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dimethyl terephthalate*, in bulk, in tank vehicles, from the facilities of E.I. DuPont at Old Hickory, TN, to points in IN and OH. (Hearing site: Wilmington, DE, or Washington, DC.)

MC 124997 (Sub-4F), filed April 2, 1979. Applicant: R. F. TRUESDELL CO., 6515 Anno Avenue, Orlando, FL 32809. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from Krannert and Mead, GA, to points in AL, AR, DE, FL, GA, IL, IN, KS, KY, LA, MD, MI, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WI and WV, and (2) *materials, equipment and supplies* used in the production and distribution of the commodities described in (1) above, (except in bulk) in the reverse direction, under a continuing contract(s) with The Mead Corporation of Dayton, OH and Georgia Kraft Co., of Rome, GA. (Hearing site: Atlanta, GA.)

MC 125777 (Sub-241F), filed March 26, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cullet*, in bulk, in dump vehicles, between points in IL, CA, CO, CT, FL, GA, IN, KS, LA, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, OR, PA, TN, TX, VA, and WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128246 (Sub-39F), filed March 5, 1979, and previously published in the **Federal Register** issue of July 16, 1979. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, and (2) *equipment, materials and supplies* (except in bulk) used in the conduct of such business, in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc. at or near Los Angeles and Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA and WY, under a continuing contract(s) with Kraft, Inc. of Chicago, IL. (Hearing site: Los Angeles, CA or Phoenix, AZ.)

Note.—The purpose of this republication is to indicate NM as the destination point in lieu of MN.

MC 128746 (Sub-49F), filed April 4, 1979. Applicant: D'AGATA NATIONAL TRUCKING COMPANY, a corporation, 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, from the Falstaff Brewery at or near Cranston, RI, to points in NY, NJ, PA, DE, MD, VA, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 133526 (Sub-3F), filed April 2, 1979. Applicant: DICKSON'S TRANSPORT AND COACH LINES (NAPANEE) LIMITED, 293 Dundas Street, West, Napanee, Ontario, Canada K7R 2B4. Representative: Hebert M. Canter, 305 Montgomery Street,

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Syracuse, NY 13202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *fabricated steel* and *fabricated steel machinery*, and (b) *components*, for the commodities named in (1)(a) above, and (2) *materials, equipment*, and *parts* for fabricated steel machinery, from ports of entry on the international boundary line between the United States and Canada at points in NY, MI, and MN, to points in IL, IN, MD, MI, MN, NJ, NY, NC, OH, PA, SC, VA, and WV, restricted to the transportation of traffic originating in foreign commerce (Hearing site: Syracuse, NY, or Washington, DC.)

MC 134286 (Sub-101F), filed April 4, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, acids, solvents, and edible oils*, in vehicles equipped with mechanical refrigeration (except in bulk), from the facilities of (a) Allied Chemical at or near Syracuse, NY, (b) Dow Chemical at or near Ludington, MI, (c) Burris Chemical at or near East Point, GA, (d) North Star Chemical at or near Pine Bend, MN, and (e) Standard Milling at or near Meta, MO, to the facilities of Warren-Douglas Chemical Company at or near Sioux City, IA, and Omaha, NE. (Hearing site: Sioux City, IA, or Omaha, NE.)

MC 136246 (Sub-23F), filed April 2, 1979. Applicant: GEORGE BROS. INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron* and *steel articles*, from Midwest Steel, Division of National Steel Corporation, at Portage, IN, to points in IA, KS and NE. (Hearing site: Chicago, IL or Omaha, NE.)

Note.—Duel operations are involved.

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Decided: August 24, 1979

By the Commission, Review Board Number 1. Members Carleton, Joyce, and Jones.

MC 138157 (Sub-131F), filed April 2, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *resin compound* and *acrylic plastic pellets*, (except commodities in bulk), from Compton, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-132F), filed April 2, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wheels and parts* for wheels, from the facilities of Cragar Industries, Inc., at Compton, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 139577 (Sub-35F), filed April 2, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, from Ripon, WI, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of foodstuffs, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Oshkosh, or Madison, WI.)

MC 141426 (Sub-21F), filed April 4, 1979. Applicant: WHEATON CARTAGE CO., a corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture of paper, (except commodities in bulk), from the facilities of Scott Paper Company at points in PA, to points in MA, OH, NY, CT, RI, VT, ME, NH, NJ, DE, MD, MI, and DC, under continuing contract(s) with Scott Paper Company of Philadelphia, PA. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 143267 (Sub-61F), filed March 30, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick*, from the facilities of Streator Brick Systems, Inc., at or near Streator, IL, to points in IN, MI, MO, OH and WI. (Hearing site: Cleveland, OH or Washington, DC.)

MC 143267 (Sub-62F), filed March 30, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roofing, building and insulating materials*, and (2) *equipment and supplies* used in the insulation of the commodities named in (1) above, from the facilities of GAF Corporation (1) at or near Joliet, IL, to points in IA, MI, and OH, and (2) at or near Baltimore, MD, to points in WV. (Hearing site: Cleveland, OH or Washington, DC.)

MC 143696 (Sub-15F), filed March 19, 1979. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal castings*, and *machined metal forgings*,(2) *machinery*, and (3) *vehicle parts* and *vehicle accessories*, between points in Dallas and Rockwall Counties, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Prior Products, Inc., of Dallas, TX. (Hearing site: Dallas, TX.)

MC 144127 (Sub-2F), filed April 4, 1979. Applicant: R & A TRUCKING CO., a corporation, 7929 San Leandro Street, Oakland, CA 94621. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pig iron*, from Oakland , CA, to points in OR, and WA, under continuing contract(s) with Miller and Company of Torrance, CA. (Hearing site: San Francisco or Oakland, CA.)

MC 144247 (Sub-5F), filed March 30, 1979. Applicant: DOWNEY ENTERPRISES, INC., 31706 Coast Highway, South Laguna, CA 92647. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such* commodities are as dealt in by grocery stores, from Chicago and Momence, IL, Kansas City, KS, Cincinnati, OH, and Jackson, TN, to points in AZ, CA, CO, ID, OR, UT and WA, under continuing contract(s) with The Procter & Gamble Distributing Company, of Cincinnati, OH. (Hearing site: Cincinnati, OH or New York City, NY.)

MC 144557 (Sub-10F), filed April 4, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar* (except in bulk), from the facilities of Godchaux-Henderson Sugar Co., Inc., at or near Reserve and Kenner, LA, to points in AL, AR, FL, GA, IL, IA, IN, KS, KY, MI, MS, MO, NC, NE, OH, OK, SC, TN, TX, VA, WI, and WV. (Hearing site: New Orleans, LA).

Note.—Dual operations may be involved.

MC 144827 (Sub-26F), filed March 26, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automotive wreckers and towing equipment*, and (2) *parts* for the commodities named in (1) above, from Newborn, TN, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Memphis, TN.)

MC 144927 (Sub-18F), filed April 4, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren Co. Moberly, 320 North Meridian Street, #777, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, (1) from St. Louis, MO, to Columbus, OH, Chicago, IL, and points in CT, DE, MA, NH, NJ, NY, PA, RI, and VT, (2) from Columbus, OH, to Chicago, IL, and points in CT, DE, MA, MO, NH, NJ, PA, RI, NY, and VT, and (3) from Newark, NJ, to points in IA, IL, IN, KY, MI, MO, NY, OH, PA, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145276 (Sub-5F), filed March 29, 1979. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Ave. S.W., P.O. Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Suite 329, 4601 Excelsior Blvd., Minneapolis, MN 55416. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *film* and (2) *theater supplies* when moving in mixed shipments with film, between Minneapolis MN, on the one hand, and, on the other, points in SD. (Hearing site: Sioux Falls, SD.)

Note.—Dual operations may be involved.

MC 145577 (Sub-4F), filed April 4, 1979. Applicant: GULLETT–GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry animal feed* from Dayton and Lewisburg, OH, to points in CA, AZ, NV, OR, WA, ID, and MT. (Hearing site: Columbus, OH, or Washington, DC.)

MC 145676 (Sub-3F), filed March 30, 1979. Applicant: JOHN BREITWEISER TRUCKING, INC., R.R. #1, Dow, IL 62022. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carbonated beverages and flavored syrups*, (a) from Granite City, IL, to points in AR, IN, KS, KY, MO, and TN, and (b) from Lenexa, KS and Memphis, TN, to Granite City, IL, under continuing contract(s) with Shasta Beverages, a Div. of Consolidated Foods Company, of Hayward, CA. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 145976 (Sub-2F), filed March 30, 1979. Applicant: C & Y LEASING CORPORATION, P.O. Box 9426, Casper, WY 82609. Representative: Edward A. O'Donnell, 1004–29th Street, Sioux City, IA 51104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, equipment, materials, supplies*, and *facilities* used in, or incidental to, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas, petroleum, petroleum products, petroleum byproducts, electrical energy, ore, coal, and geothermal and nuclear resources, (except drilling rigs), between points in CO, ID, MT, NE, NV, NM, ND, SD, WY, and UT. (Hearing site: Casper, WY, or Denver, CO.)

MC 146176 (Sub-6F), filed April 2, 1979. Applicant: J & L TRANSPORT, INC., Route 1–Box 308, Almond, WI 54909. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY. (Hearing site: Madison or Stevens Point, WT.)

MC 146187 (Sub-6F), filed April 2, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood and aluminum stepladders*, from the facilities of the Davidson Manufacturing Corp. at Nashville, TN, to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, PA, SC, TX, VA and WV, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Nashville, TN or Louisville, KY.)

MC 146187 (Sub-11F), filed April 2, 1979. Applicant: THE TEN WHEELERS, INC., Rt. 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, 805 South Garden St., Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (a) *electroless nickel plating solution and* (b) *materials* used in the manufacture of the commodities described in (b) above, from the facilities of Elnic of Tennessee, Inc., of Nashville, TN, to points in IL, IA, LA, MN, NV, NY, OK, RI and TX, and (2) from Rochester, NY, and Chicago, IL, to the facilities of Elnic of Tennessee, Inc., of Nashville, TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Nashville or Knoxville, TN.)

MC 146187 (Sub-5F), filed April 3, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry cleaning and laundry equipment and*

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materials and supplies for dry cleaning and (except commodities in bulk and those which by reason of their size or weight require the use of special equipment), and (2) *parts* for the commodities named in (1) above (except commodities which by reason of their size or weight require the use of special), from the facilities of W. M. Cissell Manufacturing Company at (a) Louisville, KY, and (b) Cincinnati, OH, to points in AZ, CA, FL, GA, NV, NM, OR, TX, UT and WA, restricted to the transportation of traffic originating at the above named origins and destined to the indicated destination. (Hearing site: Nashville, TN or Louisville, KY.)

MC 146336 (Sub-4F), filed March 30, 1979. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 902 Avenue N, Grand Prairie, TX 75050. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *uncrated xerox copying machines* and *word processing machines*, and (2) *materials, supplies, and parts* used in the manufacture, installation, and distribution of the commodities named in (1) above, between El Paso, TX, on the one hand, and, on the other, points in NM, under continuing contract(s) with Xerox Corporation of Arlington, TX. (Hearing site: Dallas, TX.)

MC 146947 (Sub-1F), filed March 26, 1979. Applicant: COMMODITY TRANSPORT, INC., P.O. Box 40248, Indianapolis, IN 46240. Representative: Donald W. Smith (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal* in dump vehicles, between points in IL, IN, IA, KY, MD, MI, MN, MO, NE, OH, PA, TN, WV, and WI, under continuing contract(s) with A. Borinstein, Inc. of Indianapolis, IN. (Hearing site: Indianapolis, IN.)

MC 147137F, filed March 29, 1979. Applicant: BARNETS MILL ELEVATOR, INC., 1619 Barnets Mill Road, Camden, OH 45311. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean meal*, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to those points in the United States north and east of WI, IL, KY, TN, and NC. (Hearing site: Columbus, OH, or Washington, DC.)

MC 147907F, filed March 7, 1979. Applicant: WHITE'S GARAGE, INC., 39 Felton Street, Waltham, MA 02154. Representative: John F. O'Donnell, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used motor vehicles* (except in driveaway service), between points in Worcester, Middlesex, Essex, Suffolk, Norfolk, Plymouth, and Bristol Counties, MA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Boston, MA.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-28163 Filed 9-10-79; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 148]

Permanent Authority Decisions; Decision-Notice

Decided. August 24, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before October 11, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3 Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,
Secretary.

MC 41406 (Sub-121F), filed February 28, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, and *stationary highway products*, between Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Chicago, IL.)

MC 86247 (Sub-16F), filed January 10, 1979. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 1333 College Avenue, Windsor, Ontario, Canada. Representative: Joseph P. Allen, 7701 W. Jefferson, P.O. Box 09259, Detroit, MI 48209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *aluminum scrap and steel scrap*, in bulk, in dump vehicles, from ports of entry on the International Boundary line between the United States and Canada, at Detroit and Port Huron, MI, to Toledo, Sandusky, and Cleveland, OH, Gary, IN and Chicago, IL. The purpose of this application is to substitute a single line service, for which one of the carriers has dropped out of the two line service. (Hearing site: Detroit, MI or Washington, DC.)

Note.—Applicant states tacking is authorized at Detroit and Port Huron, MI with carriers authority in MC 86247, MC 86247 Sub 3, and MC 86247 Sub 4.

MC 95466 (Sub-7F), filed December 20, 1978, and previously noticed in the **Federal Register** issue of April 6, 1979. Applicant: DATTCO, INC., 99 Newington Ave., New Britain, CT 06051. Representative: W. C. Mitchell, 370 Lexington, Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between Bridgeport, Hartford, Meriden, Middletown, New Haven, and Stamford, CT, Springfield, MA, and New Rochelle, NY, on the one hand, and, on the other, points in the United States, (including AK, but excluding HI), restricted to the transportation of traffic performed for passenger brokers. (Hearing site: Hartford, CT.)

Note.—This republication is to show a radial movement and impose the restriction.

MC 113646 (Sub-18F), filed February 23, 1979, and previouslu noticed in the **Federal Register** issue of June 6, 1979. Applicant: JEFFERSON TRUCKING COMPANY, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, and *materials and supplies* used in the manufacture, distribution, and installation of the aforenamed commodities (except commodities in bulk), between Newark, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KS, LA, MA, OK, NE, ND, SC, and SD, under a continuing contract(s) with Tectum, Inc., of Newark, OH. (Hearing site: Charlotte, NC)

Note.—This republication to show contracting shipper.

MC 133937 (Sub-31F), filed January 29, 1979. Applicant: CAROLINA CARTAGE COMPANY, INC., 1638 East Vesta Drive, Atlanta, GA 30337. Representative: Henry P. Willimon, P.O. Box 1075, Greenville, SC 29602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *office supplies, office machines, office equipment, paper articles, printed matter*, and (2) *leather goods, shoe polish, shoe laces, and materials* used in the manufacture of wearing apparel, between Los Angeles, Ontario, and San Francisco, CA, Chicago, IL, Dallas, TX, and points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Columbia, SC)

MC 135197 (Sub-20F), filed December 12, 1978, and previously published in the **Federal Register** issue of June 6, 1979. Applicant: LEESER TRANSPORTATION, INC., P.O. Box 545, Palmyra, MO 63461. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feeds, and plant growth regulants, pesticides*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, (except liquids in bulk), between points in IL, IN, IA, MN, MO, and NE, restricted to the transportation of traffic originating at or destined to the facilities of American Cyanamid Company. The purpose of the republication is to correctly reflect the commodity description. (Hearing site: St. Louis, MO)

MC 142487 (Sub-4F), filed February 23, 1979. Applicant: JOHN H. KOOY TRUCKING, INC., 3926 Shelby Road, Lynwood, WA 98036. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic rubber sealants and coatings*, in containers, from Glendale, CA, to points in OR and WA. (Hearing site: Seattle, WA, or Portland, OR)

MC 142977 (Sub-1F), filed December 27, 1978. Applicant: HOOSIER FREIGHT LINES, INC., P.O. Box 16006, Louisville, KY 40216. Representative: James K. Stayton, Suite 216, Atkinson Square, Louisville, KY 40218. To opeate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, contractor's equipment, and mining and road building equipment), between Campbellsburg, IN, and Louisville, KY; from Campbellsburg over IN Hwy 60 to junction IN Hwy 56, then over IN Hwy 56 to junction IN Hwy 135, then over IN Hwy 135 to junction IN Hwy 60, then over IN Hwy 60 to junction IN Hwy 111, then over IN Hwy 111 to Louisville, and return over the same route, serving all intermediate points. (Hearing site: Louisville, KY, or Indianapolis, IN.)

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MC 144817 (Sub-1F), filed February 9, 1979. Applicant: J.N.A. CONTRACT SHIPPERS, INC., 11474 Norton Avenue, Chino, CA 91710. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *steel shelving and furniture*, and (b) parts for the commodities named in (1) above, (2) *lift trucks*, and (3) *paint* used in the manufacture and distribution of the commodities named in (1) above, from the facilities of SPS Technologies, Inc., Hallowell Division, at Hatfield, PA, to points in AZ, AR, CA, CO, FL, ID, MT, NV, NM, OK, OR, TX, UT, and WA, under continuing contract(s) with SPS Technologies, Inc., of Hatfield, PA. (Hearing site: Los Angeles, CA.)

MC 144927 (Sub-6F), filed November 27, 1978, and previously noticed in the Federal Register issue of March 15, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Robert B. Hebert, 320 North Meridian St., 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Griffith Laboratories, U.S.A., Inc., at (a) Union City and Los Angeles, CA, (b) Alsip and Chicago, IL, (c) Lithonia, GA, (d) Union, NJ, (e) Mayland, TN, and (f) Remington, IN, to points in the United States (except AK and HI), and (2) materials and supplies used in the manufacture of foodstuffs, (except commodities in bulk), in the reverse direction. (Hearing site: Indianapolis, IN, or Washington, DC.)

Note.—(1) This republication is to include Remington, IN, as

MC 145386 (Sub-1F), filed January 12, 1979. Applicant: ROBERT L. McMAHON, d.b.a. ROBERT McMAHON CONSTRUCTION, 1105 South Maple, Staunton, IL 62088. Representative: Robert McMahon (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* between the facilities of Livingston Pipe and Tube Inc. at Staunton, IL, on the one hand, and, on the other, points in AR, AL, FL, GA, IA, IN, KS, KY, LA, MI, MO, MN, MS, NE, NC, OH, OK, PA, SC, TN, TX, VA, WI, and WV, under continuing contract(s) with Livingston Pipe and Tube, Inc. of Staunton, IL. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 145686F, filed November 13, 1978, and previously noticed in the Federal Register issue of February 20, 1979. Applicant: COOK MOTOR LINES, INC., 2110 Gibbs Drive, Tallahassee, FL 32303. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jacksonville and Mariana, FL: (a) over U.S. Hwy 90, or (b) over Interstate Hwy 10, serving all intermediate points between Greenville and Marianna, FL. (Hearing site: Jacksonville or Tallahassee, FL.)

Note.—This republication to show correct routes.

[FR Doc. 79-28164 Filed 9-10-79; 8:45 am]

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[Volume No. 31]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate.

August 30, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority; Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1, F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 491 (Sub-3), (M1F) (Notice of filing of petition to modify certificate) filed December 18, 1978. Petitioner: MARSH EXPRESS, INC., P.O. Box 447, Glassboro, NJ 08028. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificate in MC-491 Sub 3 issued July 1, 1977. MC-491 Sub 3 authorizes transportation, over regular routes, as pertinent, of *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Philadelphia, PA, and Newfield, NJ, serving all intermediate points. By the instant petition, petitioner seeks to modify the authority to authorize service to points in NJ (except those in the New York, NY Commercial Zone) as off-route points.

MC 44735 (Sub-26) M1F, (Notice of filing of petition to modify a certificate), filed April 10, 1979. Petitioner: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64126. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Petitioner holds a motor *common carrier* certificate in MC 44735, Sub No. 26,

issued October 7, 1976, authorizing transportation over irregular routes of: *Iron and Steel Articles* (except commodities as described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459, 544 and *earth drilling commodities* as described in *Roy L. Jones, Inc., Ext.—Earth Drilling Equipment*, 103 M.C.C. 823, 832), From the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, NE, to points in KS, MO, and OK, restricted to the transportation of shipments originating at the facilities of the Nucor Steel Division of Nucor Corporation at or near Norfolk, NE, and destined to the above-named destinations. By the instant petition, petitioner seeks the removal of the plantsite restriction by deleting the phrase "the facilities of Nucor Steel Division of Nucor Corporation at or near" and removal from the restriction the phrase "the facilities of the Nucor Steel Division of Nucor Corporation at or near." Hearing: Kansas City, MO or Omaha, NE.

Caption Summary of Authority Sought

MC 55889 (Sub-46M1F), filed April 16, 1979 (Notice of filing of petition to add alternate gateway). Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting: *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Augusta, GA and Albany, GA, serving no intermediate points and serving Augusta and Albany for purposes of joinder only: From Augusta over U.S. Hwy 1 to junction U.S. Hwy 221, then over U.S. Hwy 221 to junction U.S. Hwy 319, then over U.S. Hwy 319 to Dublin, GA, then over GA Hwy 257 to Albany, and return over the same route; (2) Between Augusta, GA and Atlanta, GA, serving all intermediate points between Athens and Atlanta and serving Augusta for purposes of joinder only: From Augusta over U.S. Hwy 78 to Athens, GA, then over U.S. Hwy 29 to Atlanta, and return over the same route; (3) Between Albany, GA and Columbus, GA, serving all intermediate points for purposes of joinder only: From Albany over U.S. Hwy 82 to Dawson, GA, then over GA Hwy 55 to junction U.S. Hwy 280, then over U.S. Hwy 280 to Columbus, and return over the same route; (4) Between Albany, GA and Atlanta, GA, serving all intermediate points for purposes of joinder only: From Albany over U.S. Hwy 19 to Atlanta, and return over the same route; (5) Between Columbus, GA and Atlanta, GA, serving all intermediate points for purposes of joinder only: From Columbus over GA Hwy 85 to Atlanta, and return over the same route; (6) Between Augusta, GA and Greer, SC, serving all intermediate points between Greenville and Greer, including Greenville, and serving Augusta for purposes of joinder only: From August over U.S. Hwy 25 to Greenville, SC, then over U.S. Hwy 29 to Greer, and return over the same route; (7) Between Charlotte, NC and Athens, GA, serving all intermediate points: From Charlotte over U.S. Hwy 29 to Athens, and return over the same route; (8) Between Charlotte, NC and Greensboro, NC, serving all intermediate points: From Charlotte over U.S. Hwy 29 to Greensboro, and return over the same route; (9) Between Charlotte, NC and Raleigh, NC, serving all intermediate points: From Charlotte over NC Hwy 49 to junction U.S. Hwy 64, then over U.S Hwy 64 to Raleigh, and return over the same route; (10) Between Charlotte, NC and Winston-Salem, NC, serving all intermediate points: From Charlotte over U.S. Hwy 21 to Statesville, NC, then over U.S. Hwy 64 to junction U.S. Hwy 158, then over U.S. Hwy 158 to Winston-Salem, and return over the same route; (11) Between Greer, SC and Asheville, NC, serving all intermediate points: From Greer over SC Hwy 14 to junction U.S. Hwy 176, then over U.S. Hwy 176 to junction U.S. Hwy 25, then over U.S. Hwy 25 to Asheville, and return over the same route; (12) Between Raleigh, NC and Durham, NC, serving all intermediate points: From Raleigh over U.S. Hwy 70 to Durham, and return over the same route. Serving as off-route points in connection with carrier's regular-route authority (1) Macon, GA, (2) all points in GA between Albany and Dawson on U.S. Hwy 82, including Albany and Dawson, between Dawson and Columbus on GA Hwy 55 to junction U.S. Hwy 280 and then on U.S. Hwy 280 to Columbus, including Columbus, between Albany and Atlanta on U.S. Hwy 19, including Atlanta and between Columbus and Atlanta on GA Hwy 85, and (3) all points in NC between Greensboro and Durham on U.S. Hwy 70, including Greensboro and Durham. Restriction: The Operations authorized hereinabove are restricted to the transportation of traffic serving (a) between points in NC, on the one hand, and, on the other, those points in that part of SC on and north of a line beginning at Charleston and extending along U.S. Hwy 78 to junction U.S. Hwy 178, then along U.S. Hwy 178 to Anderson, and then along U.S. Hwy 29 to the SC–GA State line, (b) from Charleston, SC to points in that part of SC as specified in (a) above with no transportation on return except as otherwise authorized, (c) between Wilmington, NC, on the one hand, and, on the other, points in NC, (d) between Columbia, SC, on the one hand, and, on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (e) between Charlotte, NC, on the one hand, and on the other, points in GA in connection with traffic moving from, to, or through Atlanta, GA, (f) between Augusta and Savannah, GA, on the one hand, and, on the other, points in GA and SC, or (g) between Augusta and Savannah, GA, Richmond, VA, and points in NC, on the one hand, and, on the other, points in Richland, Lexington, and Calhoun Counties, SC.

By the instant petition, petitioner seeks to modify the above authority by adding Atlanta, GA as an alternate gateway in limitation (f), except on shipments moving between Atlanta and north Alabama, so that (f), will be phrased as follows: ". . . between Atlanta (except on traffic moving between Atlanta and points in Alabama north of AL Hwy 14), Augusta, and Savannah, GA, on the one hand, and, on the other, points in Georgia and South Carolina. . . ."

MC 71593 (Sub-7) (MLF) (Notice of filing of petition to modify certificate), filed July 13, 1979. Petitioner: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Petitioner holds a motor *common carrier* Certificate in MC 71593 (Sub-7), issued June 29, 1979, to transport in interstate or foreign commerce, over irregular routes, *general commodities;* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. 10102(8) (formerly section 402(5) of the Interstate Commerce Act), (1) between New Haven, CT, Boston and Springfield, MA, and Philadelphia, PA, on the one hand, and, on the other, Chicago, IL, and Milwaukee, WI, and (2) from St. Louis, MO, to New Haven, CT, Boston, MA, and Philadelphia, PA. By the instant petition, petitioner seeks to

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modify the authority as follows: Modify part (1) to read: . . . between points in CT, MA, and PA, on the one hand, and, on the other, points in IL and WI. Modify part (2) to read: . . . between points in MO, on the one hand, and, on the other, points in CT, MA, and PA. The purpose of the proposed modification is to permit petition to serve all points in the states where it now has authority to serve specific points.

MC 88594 M2 F, (Notice of filing of petition to modify certficate), filed April 25, 1979. Petitioner: CARLETON G. WHITAKER, INC., Route 17 Exit 84, Town of Deposit, NY 13754. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds *common carrier* authority over irregular route in MC 88594, served June 22, 1976, and corrected on July 30, 1976. MC 88594 authorizes the transportation of *Milk* (except in hermetically sealed containers, and *milk products* (except in hermetically sealed containers), from points in NY, (except those in Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming Counties), to New York, NY, and points in Nassau, Suffolk, and Westchester Counties, NY, and points in CT, MA, NJ, and RI; and *empty containers* used in the transportation of the above-described commodities, from the above-specified destination points, to the respective origin points specified above, restricted against the transportation of ice cream mix from Camton, Cochocton, Canisteo, Skaneateles, and Canastota, NY, to any of the destination points describeo above, or ice cream mix, in tank trucks, from any of the origin points described above to any point in CT, *butter and ice cream*, from New York, NY and points in NJ and NY within 50 miles of the City Hall, in New York, NY, to the above-specified origin points, and *liquid sugar* and *invert sugar*, in bulk, in tank loads, from Yonkers, NY, to Waddington, NY.

By order served April 2, 1979, MC 88594 M1F was granted authority to transport "foodstuffs (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration" in lieu of "milk (except in hermetically sealed containers) and milk products (except in hermetically sealed containers."

By the instant petition, petitioner seeks to modify the above certificate to read: "*foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, and *materials, equipment, and supplies* used in the manufacture, distribution, and sale of foodstuffs (except commodities in bulk, in tank vehicles), between points in NY (except those in Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming Counties, on the one hand, and, on the other, New York, NY, and points in Suffolk and Westchester Counties, NY, and points in CT, MA, NJ, and RI."

MC 104421 (Sub-18) (M1F) (Notice of filing of petition to modify certificate) filed March 1, 1979. Petitioner: ECONOLINES, INC., P.O. Box 623, D.T.S., Omaha, NE 68101. Representative: Roger W. Norris (same as address as applicant). Petitioner holds motor *common carrier* certificate in MC 104421 (Sub-18) issued August 4, 1977. MC 104421 (Sub-18) authorizes transportation, over irregular routes, of *Commodities* (except lumber) used in the manufacture, operation, maintenance, and repair of commercial truck trailers, between Council Bluffs, IA, and Springfield, NE, on the one hand, and, on the other, points in ID, MT, NV, ND, OR, SD, UT, and WA. By the instant petition, petitioner seeks to modify the authority as follows: *Commodities* (except lumber and commodities in bulk) used in the manufacture, operation, maintenance, and repair of commercial truck trailers and motor vehicles, between Council Bluffs, IA, and North Bend and Springfield, NE, on the one hand, and, on the other, points in ID, MT, NV, ND, OR, SD, UT, and WA.

MC 104832 (Sub-12) (M1F) (Notice of filing of petition to modify certificate), filed July 5, 1979. Petitioner: HOLMAN TRANSFER CO., a corportation, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Petitioner holds motor *common carrier* Certificate in MC 104832 (Sub-12) issued May 7, 1979, authorizing the transportation, over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from the facilities of Holman Transfer Co., at Portland, OR, to points in King, Pierce and Inohomish Counties, WA, and (2) from the facilities of Holman Transfer Co., at Kent, WA, to Portland, OR, restricted in both (1) and (2) above to the transportation of traffic originating at the named origin facilities. By the instant petition, petitioner seeks to motify the authority as follows: Petition seeks (1) to add the facilities of Holman affiliate companies as origin points, and (2) correct the spelling of Snohomish County, WA.

MC 111302 (Sub-124F) (M1F) (Notice of filing of petition to modify certificate), filed June 22, 1979. Petitioner: HIGHWAY TRANSPORT, INC., P.O. Box 10108, Knoxville, TN 37919. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW, Washington, D.C. 20004. Petitioner holds motor *common carrier* Certificate in MC 111302 (Sub-124F) issued May 25, 1979, authorizing transportation, over irregular routes, of *liquid chemicals* in bulk, in tank vehicles, from (a) the facilities of Cargill Incorporated, and of Nalco Chemical Company in Clayton County, GA, (b) the facilities of Vinings Chemical Company in Cobb County, GA, and (c) the facilities of Union Carbide Corporation, in DeKalb County, GA, to points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the authority as follows: delete the references to the facilities of named shippers, and substitute just the names of said counties.

MC 115331 (Sub-334) (M1F) and Sub-394 (M1F) (notice of filing of petition to modify certificate), filed December 6, 1978. Petitioner: TRUCK TRANSPORT, INCORPORATED, 230 St. Clair Ave., East St. Louis, IL 62201. Representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, DC 20001. Petitioner holds motor *common carrier* certificate in MC–115331 Subs 334 and 394 issued October 31, 1974 and October 19, 1977, respectively. MC–115331 Sub 334 authorizes transportation, over irregular routes, of (1) *Grass seed and chemicals*, in containers, *agricultural implements;* and *gardening supples;* and (2) *commodities*, the transportation of which is exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, from Marysville, OH, to points in KS and NE. MC–115331 Sub 394 authorizes transportation, over irregular routes, of (1) *Such commodities* as are dealt in by lawn and garden care centers, and materials and equipment and supplies used in the conduct of such business (except commodities in bulk); (2) *commodities*, the transportation of which is exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, from the facilities utilized by O. M. Scott and Sons Co., Inc., at or near Marysville, Union County, OH, to points in OH, MI, KY, IN, IL, IA, MO, WI, MN, TN, AR, OK, TX, CO, NM, MT, WY, ID, UT, AZ, WA, OR, CA, NV, ND, and SD,

restricted to the transportation of traffic originating at the above-described origin point. By the instant petition, petitioner seeks to add Vermilion and Columbus, OH as additional origin points in the above authority.

MC 124211 (Sub-236) (M1F) (notice of filing of petition to modify certificate), filed October 16, 1978. Petitioner: HILT TRUCK LINES, INC., P.O. Box 988, Downtown Station, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC–124211 Sub 236 issued April 30, 1979, authorizing transportation, over irregular routes, of (1) *cellular products, athletic and sporting goods, plastic, plastic products, plastic coated products*, and *fiberglass products*, and (2) *commodities* used in the production, distribution, and sale of the commodities described in (1) above (except hides, skins, and tannery products and supplies, and those commodities which because of their size and weight require the use of special equipment), (a) between points in Maricopa County, AZ, Orange County, CA, Los Angeles Counties, CA, and Essex and Middlesex Counties, MA, on the one hand, and, on the other, points in the United States (except AK and HI), and (b) between points in Coweta County, GA, Grant County, IN, Ionia and Oakland Counties, MI, Lowndes County, MS, Lucas and Tuscarawas Counties, OH, and Westmoreland County, PA, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MT, NE, NV, MN, ND, OK, OR, SD, TX, UT, WA, and WY, restricted against the transportation of commodities in bulk, and further restricted to shipments originating at or destined to facilities utilized by The General Tire & Rubber Company. By the instant petition, petitioner seeks to delete the county of Lucas, OH from the territorial description in 2(b) and add it to 2(a).

MC 129902 (M1F) (notice of filing of petition to modify certificate), filed July 16, 1979. Petitioner: LESLIE JOE BURTON AND EDDIE LAWYER, a partnership, d.b.a. B. & L. TRUCKING, P.O. Box 163, Orleans, IN 46452. Representative: Robert W. Loser, 1101 Chamber of Commerce Building, Indianapolis, IN 46204. Petitioner holds a motor *common carrier* Certificate in MC–129902, issued November 4, 1974, to transport in interstate or foreign commerce, over irregular routes, *commercial feed*, from the plant site of Ralston Purina Chow Co., in Louisville, KY, to points in that part of IN on and south of U.S. Hwy 40, extending from the IL–IN State line to Indianapolis, IN, and on and south of U.S. Hwy 52, extending from Indianapolis to the IN–OH State line, with no transportation for compensation on return except as otherwise authorized. *Commercial feed and commercial feed ingredients*, from Vandalia, IL, to points in Daviess, Dubois, Gibson, Knox, Martin, Pike, Posey, and Vanderburgh Counties, IN, with no transportation for compensation on return except as otherwise authorized. By the instant Petition, petitioner seeks to modify the authority as follows: Seeks to eliminate "the plant site of Ralston Purina Chow Co., in Louisville, KY," as set forth in the first portion of said authority.

MC 135732 (Sub-28) (M1F) (notice of filing of petition to modify certificate), filed June 11, 1979. Petitioner: AUBREY FREIGHT LINES, INC., P.O. Box 503, Elizabeth, NJ 07202. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* Certificate MC–135732 Sub 28 issued January 31, 1979, to transport in interstate or foreign commerce, over irregular routes, (1) *Plastic film and sheeting* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Edison Plastic Company, located at South Plainfield, NJ, and Washington, GA, to points in CA and points in the United States in and east of MN, IA, MO, OK, and TX. (2) *Materials, equipment and supplies* used in the manufacture or sale of plastic film or sheeting (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in CA and points in the United States in and east of MN, IA, MO, OK, and TX, to the facilities of Edison Plastic Company, located at South Plainfield, NJ, and Washington, GA. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin points and destined to the named destination points. This certificate may not be joined or tacked with the carrier's other irregular-route authority. By the instant petition, petitioner seeks to modify the authority as follows: Add Armin Polyethylene Film, Armin Corporation, located at Elizabeth, NJ as an additional shipper.

Motor Carrier Operating Rights Applications; Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications *will be rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirments as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC–110988 (Sub-396f), filed August 16, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4322 W. College Avenue, Appleton, WI 54911. Representative: Charles W. Singer, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Commodities in bulk* (except in dump vehicles) (1) from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, TN, VT, VA, and WV to points in IL, IN, LA, KY, MI, MN, MO, OH, WI, and those points in PA on and west of US Hwy. 219, and (2) from points in KY and OH to points in IL, IN, IA, MI, MN, MO, and WI.

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NOTE: Applicant intends to rely in part on the rate issue in the proceeding. The application is assigned for hearing on October 23, 1979 at the offices of the Interstate Commerce Commission, Washington, DC, in conjunction with the application of applicant in No. MC–110988 (Sub-No. 375F). Certain underlying documents will be available for examination on October 22, 1979, at 1:00 PM at Offices of the Interstate Commerce Commission, Washington, DC.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

No. MC 11220 (Deviation No. 50), GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101, filed August 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Richmond, IN, over US Hwy 35 to Muncie, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Richmond, IN, over US Hwy 40 to Dunrieth, IN, then over IN Hwy 3 to Muncie, IN, and return over the same route.

No. MC 11220 (Deviation No. 50), GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101, filed August 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Fort Wayne, IN, over US Hwy 33 to Decatur, IN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Decatur, IN, over US Hwy 224 to junction US Hwy 30, then over US Hwy 30 to Fort Wayne, IN, and return over the same route.

No. MC 56640 (Deviation No. 4), DELTA LINES, INC., 333 Hegenberger Rd., Oakland, CA 94621, filed August 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: from Las Vegas, NV, over Interstate Hwy 15 to junction Interstate 10 at San Bernardino, CA, then over Interstate Hwy 10 to the Los Angeles Basin Territory, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Las Vegas, NV, over U.S. Hwy 91 to junction Nevada Hwy 16, then over Nevada Hwy 16 to Pahrump, NV, then over Nevada Hwy 52 to the Nevada-California State line, then over California Hwy 178 (formerly California Highway 52) to Shoshone, CA. NOTE: A portion of this deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

No. MC 108835 (Deviation No. 13), HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104, filed August 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Chicago, IL, over Interstate Hwy 55 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Chicago, IL, over Interstate Hwy 55, to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction US Hwy 92, then over US Hwy 92 to junction IA Hwy 163, then over IA Hwy 163 to junction US Hwy 69, then over US Hwy 69 to junction US Hwy 34, then over US Hwy 34 to junction US Hwy 169, then over US Hwy 169 to junction IA Hwy 2, then over IA Hwy 2 to junction IA Hwy 148, then over IA Hwy 148 to junction US Hwy 71, then over US Hwy 71 to junction US Hwy 59, then over US Hwy 59 to junction US Hwy 73, then over US Hwy 73 to Kansas City, MO, and return over the same route.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation 745) (cancels Deviation No. 641), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed August 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express* and *newspapers*, in the same vehicle with passengers, over deviation routes as follows: from New Orleans, LA, over Interstate Hwy 10 to junction Interstate Hwy 59 near Slidell, LA, then over Interstate Hwy 59 to Birmingham, AL, with the following excess routes: (1) from junction Interstate Hwy 59 over city streets to Bessemer, AL, (2) from junction Interstate Hwy 59 over city streets to Tuscaloosa, AL, (3) from junction Interstate Hwy 59 and County Road 19, over County Road 19 to Boligee, AL, (4) from junction Interstate Hwy 59 and Alabama Hwy 28, over Alabama Hwy 28 to junction U.S. Hwy 11, approximately 2 miles north of Livingston, AL, (5) from Enterprise, MS, over Mississippi Hwy 513 to junction Interstate Hwy 59, (6) from Heidelberg, MS, over Mississippi Hwy 528 to junction Interstate Hwy 59, (7) from Hattiesburg, MS, over U.S. Hwy 49 to junction Interstate Hwy 59, (8) from Hattiesburg, MS, over U.S. Hwy 98 to Junction Interstate Hwy 59, (9) from Purvis, MS, over unnumbered Hwy to junction Interstate Hwy 59, (10) from Lumberton, MS, over Mississippi Hwy 13, to junction Interstate Hwy 59, (11) from Poplarville, MS, over Mississippi Hwy 26 to junction Interstate Hwy 59, (12) from Poplarville, MS over Mississippi Hwy 53 to junction Interstate Hwy 59, (13) from Picayune, MS, over Mississippi Hwy 43 to junction Interstate Hwy 59, (14) from Slidell, LA, over U.S. Hwy 190 to junction Interstate

Hwy 10, and (15) from Slidell, LA, over Louisiana Hwy 433 to junction Interstate Hwy 10, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: from New Orleans, LA, over U.S. Hwy 11 to Birmingham, AL, and return over the same route.

No. MC 1515 (Deviation No. 746) (Cancels Deviation No. 648), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed August 7, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: from junction Interstate Hwy 270 and U.S. Hwy 61, approximately 1 mile southwest of Mehlville, MO, over Interstate Hwy 270 to junction U.S. Hwy 66 then over U.S. Hwy 66 to junction Illinois Hwy 143, then over Illinois Hwy 143 to Edwardsville, IL, with the following access routes: (1) from junction Interstate Hwy 270 and Interstate Hwy 44 over Interstate Hwy 44 and/or city streets to Sunset Hills, MO, (2) from junction Interstate Hwy 270 and Interstate Hwy 70 over Interstate Hwy 70 and/or city streets to Champ, MO, and (3) from junction Interstate Hwy 270 and Interstate 70 over Interstate Hwy 70 and/or city streets to Bridgeton, MO, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) from Hamel, IL, over Illinois Hwy 157 to Edwardsville, IL, then over Illinois Hwy 159 to Collinsville, IL, then over Business Route U.S. Hwy 40 to East St. Louis, IL, then over Eads Toll Bridge to St. Louis, MO, (2) from St. Louis, MO, over Veteran Memorial Bridge to East St. Louis, IL, and (3) from St. Louis, MO, over U.S. Hwy 67 to Mehlville, MO, then over U.S. Hwy 61 to junction old U.S. Hwy 61 near Turrell, AR, and return over the same routes.

No. MC 1515 (Deviation No. 747), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed August 13, 1979. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: from Atlanta, GA, over Interstate Hwy 85 to junction Interstate Hwy 185, then over Interstate Hwy 185 to Columbus, GA, with the following access routes: (1) from Newnan, GA, over Georgia Hwy 34 to junction Interstate Hwy 85, (2) from Hogansville, GA, over Georgia Hwy 100 to junction Interstate Hwy 85, and (3) from LaGrange, GA, over Georgia Hwy 109 to junction Interstate Hwy 85 and Interstate Hwy 185, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: from Atlanta, GA, over U.S. Hwy 29 via Moreland to LaGrange, GA, then over U.S. Hwy 27 to Columbus, GA, and return over the same route.

No. MC 1515 (Deviation No. 748), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed August 14, 1979. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers and their baggage*, and *express* and *newspaper* in the same vehicle with passengers, over deviation routes as follows: from junction Interstate Hwy 96, Interstate Hwy 275 and Michigan Hwy 14, over Michigan Hwy 14 to junction Business Route U.S. Hwy 23, then over Business Route U.S. Hwy 23 to Ann Arbor, MI, with the following excess route: (1) from junction Michigan Hwy 14 and U.S. Hwy 23, over U.S. Hwy 23 to Ann Arbor, MI, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) from Ann Arbor, MI, over Michigan Hwy 17 to Ypsilanti, MI, then over U.S. Hwy 12 to Detroit, MI, and (2) from junction Interstate Hwy 275 and new Interstate Hwy 96 over Interstate Hwy 275 to junction Interstate Hwy 75, and return over the same routes.

Motor Carrier Intrastate Applications; Notice

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–1856, filed August 6, 1979. Applicant: NASON'S DELIVERY, INC., 70 Nason Blvd., Springville, NY 14141. Representative: WILLIAM J. HIRSCH, ESQ., 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Cattaraugus, Chautauqua, Erie, Niagara and Wyoming Counties: NOTE: The applicant presently holds authority in Cattaraugus, Chautauqua and Erie Counties and parts of Niagara County. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Building #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Montana Docket No. T–4528, filed August 9, 1979. Applicant: JAMES M. STOOS, Geraldine, MT 59446. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between Great Falls and Denton, MT, Great Falls over Montana Highway 230 and US Hwy 87; Square Butte over Montana Highway 230; and Fort Benton, MT, over Montana Hwy 230; serving Coffee Creek over Montana Hwy 230 and 235; Denton over Montana Hwy 235, and Highwood, MT, over county roads from Geraldine, MT. Intermediate and off-route points to be served: Square Butte, Fort Benton, Geraldine, Coffee Creek and Highwood, MT. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–6374, filed July 31, 1979. Applicant: A.C.U. TRANSPORT, INC., 131 East Broad Street, Frankfort, NY 13340. Representative: Roy D. Pinsky, Esq., 1020 State Tower Bldg., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between the Cities of Schenectady, Albany, Troy and Rensselaer. Intrastate,

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interstate and foreign commerce authority sought. HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices; Date

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107403 (Sub-E 767), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID, ND, and MT to points in CT, MD, MA, NJ, NH, NY, RI, VT and ME. (Gateway eliminated: Lawrenceville, IL.)

MC 107403 (Sub-E768), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Petroleum products*, as described in Appendix XIII of the *Descriptions* case, in bulk, in tank vehicles, from ports of entry on the US–CD Boundary line in ND, MT and ID to points in VA. (Gateway eliminated: Lawrenceville, IL.)

MC 107403 (Sub-E769), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Whiskey*, in bulk, in tank vehicles, in foreign commerce, between ports of entry on the US–CD Boundary line in ID, MT, and ND, and on the one hand, and, on the other, points in IN (Decatur, IL*) and OH (Lawrenceville, KY*). (Gateway eliminated: asterisked.)

MC 107403 (Sub-E770), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Liquid sugar and blends thereof*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID, MT and ND to points in IN, OH and WV. (Gateway eliminated: Louisville, KY.)

MC 107403 (Sub-E771), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Acids and chemicals*, (except liquefied petroleum gases), in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID and MT to points in AL, GA and FL. (Gateway eliminated: Lake Charles, LA.)

MC 107403 (Sub-E772), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals and washing compounds*, in bulk, in tack vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND, MT and ID to points in MI, CT, NY, OH, IN, NJ, MA and RI. (Gateway eliminated: facilities of Stephen Chemical Company at Millsdale, IL.)

MC 107403 (Sub-E773), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Vegetable oil*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND, ID and MT to points in GA. (Gateway eliminated: points in LA.)

MC 107403 (Sub-E774), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Vegetable oil*, in bulk, in tank vehicles, in foreign commerce, and *edible flour*, in bulk, in foreign commerce, from ports of entry on the US–CD Boundary line in ID, MT and ND to points in AL and FL. (Gateway eliminated: points in LA.)

MC 107403 (Sub-E775), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum and petroleum products* (except anhydrous ammonia), in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND, ID and MT to points in FL, GA and AL. (Gateway eliminated: Pascagoula, MS.)

MC 107403 (Sub-E776), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND, ID, and MT to points in VA. (Gateway eliminated: Calvert City, KY.)

MC 107403 (Sub-E777), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, as defined in *The Maxwell Co., Extension-Addyston*, 61 M.C.C. 677, and *acids*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID and MT to points in SC. (Gateway eliminated: facilities of Dow Chemcial Company, at Plaquemine, CA.)

MC 107403 (Sub-E778), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products*, as described in Appendix XII to the report in the *Descriptions Case*, 61 M.C.C. 209, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND, MT, and ID to points in WV. (Gateway eliminated: Lawrenceville, IL.)

MC 107403 (Sub-E779), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals and washing compounds*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND to points in PA and MD. (Gateway eliminated: facilities of Stephen Chemical Company at Millsdale, IL.)

MC 107403 (Sub-E780), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID to points in WV, PA and MD all within 150 miles of Monongahela, PA. (Gateway eliminated: Robertson County, TN.)

MC 107403 (Sub-E781), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in foreign commerce, from ports of entry on the US–CD Boundary line in ID to points in NC. (Gateway eliminated: facilities of Georgia-Pacific Corporation at Plaquemine, LA.)

MC 107403 (Sub-E782), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in MT to points in MD. (Gateway elimination: Clavert City, KY.)

MC 107403 (Sub-E783), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in MT to points in PA. (Gateway elimination: Robertson County, TN.)

MC 107403 (Sub-E784), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Petroleum products*, in bulk, in tank vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ID and MT to points in MI in and south of Oceana, Midland, Newaygo Bay, Meconla, Tuscola, Isabella and Huron Counties. (Gateway eliminated: Lawrenceville, IL.)

MC 107403 (Sub-E785), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND and MT to points in WV. (Gateway eliminated: Robertson County, TN.)

MC 107403 (Sub-E786), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Chemicals*, (except anhydrous ammonia, aqua ammonia and liquid fertilizer), in bulk, in tank or hopper vehicles, in foreign commerce, from ports of entry on the US–CD Boundary line in ND to AL, GA and FL. (Gateway eliminated: facilities of Monsanto Company at Muscatine, IA.)

MC 107403 (Sub-E787), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Benzaldehyde*, in bulk, in tank vehicles, from Kalma, WA to points in CT and RI (Huron, OH, and New York, NY*), SC, GA, FL (Delaware County, OH, and Calvert City, KY*), KY (Delaware County, OH*), MA, VT, ME, NH (Newark, NJ*), NY (Huron, OH*), PA, IN and WV (Painesville, OH*). (Gateways eliminated: asterisked.)

MC 118831 (Sub-E 87) filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from points in NC (Except Charlotte) in and east of Rutherford, McDowell and Yancy Counties, and points west and north of Robeson, Bladen, Onslow, and Carteret Counties, to points in FL. (Gateway eliminated: NC and points in SC.)

MC 118831 (Sub-E 91), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid petrochemicals* in bulk, in tank vehicles, (1) from points in SC to points in CT, DE, MA, NJ, NY, PA and RI, and (2) from points in SC (except points in Dillon, Florence, Georgetown, Harry, Marion and Williamsburg Counties) to points in DE and MD. (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E 92) filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer and fertilizer materials, and vegetable oils), in bulk, in tank vehicles, from points in NC in east of Cleveland, Catawba, Caldwell, Wilkes and Ashe Counties to points in AL and MS restricted against the transportaiton of caustic soda from Acme, NC, and 5 miles thereof. (Gateway eliminated: Points in SC, Lanett, AL and points in GA within the Lanett commercial zone.)

MC 118831 (Sub-No. E96), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Liquid petrochemicals* (except fertilizer and fertilizer materials, and anhydrous ammonia), (1) between points in NC on, south and east of a line beginning at Beaufort extending along NC Hwy 24 to Beaulaville, then along NC Hwy 41 to Harrells, then along unnumbered highway through Ivanhoe to junction NC Hwy 210, then along NC Hwy 210 to junction NC Hwy 53, then along NC Hwy 53 through Kelly to junction unnumbered highway, then along unnumbered highway through Carvers to Council, then along NC Hwy 211 to Clarkton, then along US Hwy 701 to junction unnumbered highway, then along unnumbered highway to Chaldhorn, then along US Hwy 74 to Boardman, then along NC Hwy 130 to junction I Hwy 95, then along I Hwy 95 to the NC–SC State line, on the one hand, and, on the other, points in NC on and west of a line beginning at the SC–NC State line extending along US Hwy 501 to Laurinburg, then along US Hwy 74 to Rockingham, then along US Hwy 220 to Asheboro, then along US Hwy 64 to Lexington, then along US Hwy 52 to the NC–VA State line; (2) between points in New Hanover and Brunswick Counties, NC, on the one hand, and, on the other, points in NC on and west of a line beginning at the NC–SC State line extending along US Hwy 701 to Tabor City, then along NC Hwy 904 to junction US Hwy 501, then along US Hwy 501 to Carthage, then along unnumbered highway through Glendan to junction NC Hwy 87, then along NC Hwy 87 to Graham, then along NC Hwy 49 to Haw River, then along US Hwy 70 to Burlington, then along NC Hwy 87 to Reidsville, then along NC Hwy 14 to the NC–VA State line; (3) between Charlotte, NC, on the one hand, and, on the other, points in NC on and east of a line beginning at the NC–SC State line extending along NC Hwy 109 to Wadesboro, then along US Hwy 74 to junction US Hwy 220, then along US Hwy 220 to Ellerbee, then along unnumbered highway to Hoffman, then along US Hwy 1 to Sanford, then along US Hwy 15 to Pittsboro, then along NC Hwy 87, then along NC Hwy 87 to junction NC Hwy 704, then along NC Hwy 704 to junction NC Hwy 8, then along NC Hwy 8 to the VA–NC State line, and points in NC on and west of a line beginning at the NC–VA extending along US Hwy 221 to Pineola, then along NC Hwy 181 to Morganton, then along NC Hwy 18 to Shelby, then along NC Hwy 226 to the NC–SC State line; and (4) between Greensboro and High Point,

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NC, on the one hand, and, on the other, points in NC on, east and south of a line beginning at the NC–SC State line extending along NC Hwy 177 to Hamlet, then along US Hwy 74 to junction I Hwy 95, then along I Hwy 95 to Lumberton, then along NC Hwy 211 to Bolton, then along US Hwy 74 to Wrightsville Beach, and points in NC on, south and west of a line beginning at the NC–SC State line extending along NC Hwy 200 to junction NC Hwy 16, then along NC Hwy 16 to junction I Hwy 85, then along I Hwy 85 to junction US Hwys 29 and 74, then along US Hwy 74 to Asheville, then along US Hwy 25 to the NC–TN State line. (Gateway eliminated: points in SC.)

No. MC 118831 (Sub-E97), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid chemicals* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, (1) between Charleston, Charleston Heights and North Charleston, SC, on the one hand, and, on the other, points in SC on and north of a line beginning north of Myrtle Beach at junction US Hwy 17 and SC Hwy 9 extending along SC Hwy 9 to Lakeview, then along SC Hwy 41 to Fork, then along SC Hwy 41–A to junction SC Hwy 917, then along SC Hwy 917 to Oak Grove, then along SC Hwy 38 to Bennettsville, then along SC Hwy 9 to junction SC Hwy 265, then along SC Hwy 265 to junction SC Hwy 903, then along SC Hwy 903 to Lancaster, then along SC Hwy 200 to junction US Hwy 21, then along US Hwy 21 to Great Falls, then along SC Hwy 99 to junction SC Hwy 97, then along SC Hwy 97 to Chester, then along SC Hwy 9 to Pacolet, then along SC Hwy 150 to Glen Springs, then along SC Hwy 215 to junction US Hwy 29 to Lyman, then along SC Hwy 290 to junction US Hwy 29, then along SC Hwy 29 to Greenville, then along SC Hwy 123 to the SC–GA State line. (2) Between Columbia, SC, on the one hand, and, on the other, points in SC on and north of a line beginning north of Myrtle Beach at the junction of SC Hwy 9 and US Hwy 17 extending along SC Hwy 9 to Lancaster, then along US Hwy 521 to junction SC Hwy 160, then along SC Hwy 160 to junction US Hwy 21, then along US Hwy 21 to junction SC Hwy 161, then along SC Hwy 161 to junction SC Hwy 274, then along SC Hwy 274 to junction SC Hwy 55, then along SC Hwy 55 to Kings Creek, then along SC Hwy 5 to Blacksburg, then along US Hwy 29 to Gaffney, then along SC Hwy 11 to New Prospect, then along SC Hwy 9 to junction SC Hwy 292, then along SC Hwy 292 to junction SC Hwy 176, then along SC Hwy 176 to Campobello, then along SC Hwy 11 to Walhalla, then along SC Hwy 28 to the SC–GA State line. (3) Between Georgetown, SC, on the one hand, and, on the other, points in SC on and north of a line beginning at the junction of US Hwy 17 and SC Hwy 9 extending along SC Hwy 9 to Chesterfielf, then along SC Hwy 265 to junction SC Hwy 903, then along SC Hwy 903 to junction SC Hwy 9, then along SC Hwy 9 to Chester, then along SC Hwy 72 to Joanna, then along US Hwy 76 to the GA–SC State line. (4) Between Greenville, SC, on the one hand, and, on the other, points in SC on, east and north of a line beginning at Charleston extending along US Hwy 52 to Kingstree, then along SC Hwy to Wisacky, then along SC Hwy 341 to Kershaw, then along US Hwy 521 to junction SC Hwy 160, then along SC Hwy 160 to Fort Mill, then along US Hwy 21 to junction SC Hwy 161, then along SC Hwy 161 to junction SC Hwy 274, then along SC Hwy 274 to junction SC Hwy 55, then along SC Hwy 55 to junction SC Hwy 5, then along SC Hwy 5 to junction US Hwy 29, then along US Hwy 29 to Gaffney, then along SC Hwy 11 to Campobello, then along US Hwy 176 to the NC–SC State line. (5) Between Walterboro, SC, on the one hand, and, on the other, points in SC on and north of a line beginning at the junction of US Hwy 17 and SC Hwy 9 extending along SC Hwy 9 to Nichols, then along US Hwy 76 to Mullins and Marion, then along US Hwy 501 to junction of SC Hwy 38, then along SC Hwy 38 to Bennettsville, then along SC Hwy 9 to junction SC Hwy 265, then along SC Hwy 265 to junction SC Hwy 903, then along SC Hwy 903 to Lancaster, then along SC Hwy 9 to junction SC Hwy 105, then along SC Hwy 105 to junction SC Hwy 211, then along SC Hwy 211 to Ashbury, then along an imaginary straight line through Rochuck and Pelham to Greenville, then along US Hwy 123 to Central, then along the eastern shore to Lake Keawee and the Toxaway River to the NC–SC State line. (6) Between Beaufort, SC, on the one hand, and, on the other, point in SC, on, north and west of a line beginning at the junction of US Hwy 17 and SC Hwy 9 extending along SC Hwy 9 to Loris, then along US Hwy 701 to Homewood, then along SC Hwy 319 to junction SC Hwy 917, then along SC Hwy 917 to junction US Hwy 76, then along US Hwy 76 to Marion, then along US Hwy 501 to junction SC Hwy 38, then along SC Hwy 38 to Bennettsville, then along SC Hwy 9 to junction US Hwy 1, then along US Hwy 1 to Patrick, then along SC Hwy 102 to Chesterfield, then along SC Hwy 265 to junction SC Hwy 601, then along SC Hwy 601 to junction US Hwy 521, then along US Hwy 521 to Lancaster, then along SC Hwy 200 to junction US Hwy 21, then along US Hwy 21 to Great Falls, then along SC Hwy 99 to junction SC Hwy 97, then along SC Hwy 97 to Chester, then along SC Hwy 9 to Robat, then along SC Hwy 105 to junction SC Hwy 211, then along SC Hwy 211 to Ashbury, then along an imaginary straight line through Roebuck to Greenville, then along US Hwy 123 to Easley, then along SC Hwy 8 to Pickens, then along SC Hwy 183 to Walhalla, then along SC Hwy 28 to the SC–GA State line. (Gateway eliminated: points in NC.)

No. MC 118831 (Sub-No. E 98), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., PO Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Dimethyl terephthalate,* in bulk, in tank or hopper-type vehicles, (1) from points in NC (except Charlotte, Asheboro, Rocky Mount, Plymouth, Raleigh, Goldsboro, Sanford, Kinston, Moncure and Conway) on and east of a line beginning at the NC-SC State line extending along US Hwy 276 to junction NC Hwy 280, then along NC Hwy 280 to junction NC Hwy 191, then along NC Hwy 191 to junction US Hwy 25, then along US Hwy 25 to the NC-TN State line, to points in AR; MO; and points in IL on and west of a line beginning at Cairo extending along I Hwy 57, to Champagne, then along US Hwy 150 to Bloomington, then along US Hwy 51 to Mindota, then along US Hwy 52 to the IL-IA State line; and (2) from Asheboro, Rocky Mount, Plymouth, Raleigh, Goldsboro, Sanford, Kinston, Moncure and Conway, NC, to points in AR.

(Gateways eliminated: Spartanburg County, SC, and Robertson County, TN.)

No. MC 118831 (Sub-No. E 99), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., PO Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Liquid petrochemicals,* (except fertilizer and vegetable oils), in bulk, from points in Richmond County, GA, to points in AL on and west of a line beginning at the AL-FL State line extending along AL Hwy 27 to Geneva, Enterprise, Ozark, and Abbeyville, then along AL Hwy 10 to the AL-GA State line, then along the Chattahoochie River to Lanett, then along AL Hwy 81 to Stroud, then along US Hwy 431 to Anniston, then along AL Hwy 202 to junction US Hwy 78, then along US Hwy 78 to Birmingham, then along US Hwy 31 to Warrior, then along I Hwy 63 to Decatur, then along US Hwy 72 to junction US Hwy 43, then along US Hwy 43 to the AL-TN State line. (Gateway eliminated: points in SC and Lanett, AL.)

MC 118831 (Sub–E 111) filed April 19, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from Asheboro, NC, to points in MO (except the St. Louis, MO, Commerical zone); IL (except the E. St Louis, IL, commercial zone); WI; MI; IN, points in TN on and west of a line beginning at Iron Gap Mountain extending along TN Hwy 107 to junction US Hwy 23, then along US Hwy 23 to Erwin, then along TN Hwy 81 to Haw Crossroad, then along TN Hwy 93 to Kingsport, then along US Hwy 23 to the TN-VA State lines; points in KY on and west of a line beginning at the KY-VA State line extending along KY Hwy through Cumberland to junction KY Hwy 80, then along KY Hwy 80 to junction US Hwy 460, then along US Hwy 460 to junction KY Hwys 201 and 1 at Grayson, then along US Hwy 60 to Olive Hill, then along KY Hwy 59 to Vanceburg, then along KY Hwy 10 to Maysville; and points in OH on and west of a line beginning at the Ohio River extending along US Hwy 62 to junction OH Hwy 32, then along OH Hwy 32 to junction OH Hwy 134, then along OH Hwy 134 to junction US Hwy 68, then along US Hwy 68 to Springfield, then along OH Hwy 4 to Maysville, then along US Hwy 36 to junction US Hwy 36, then along US Hwy 36 to junction US Hwy 62, then along US Hwy 62 to junction OH Hwy. 39, then along OH Hwy 39 to junction US Hwy 250, then along US Hwy 250 to junction US Hwy 22, then along US Hwy 22 to the OH-PA State line. (Gateways eliminated: points in SC and Charlotte, NC.)

MC 118831 (Sub-E112), filed April 19, 1979. Applicant: CENTRAL TRANSPORT, INC., PO Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW, Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of US Hwy 25 to points in MI on and north of a line beginning at Saginaw Bay extending along unnumbered highway through Pinconning to junction US Hwy 23, then along US Hwy 23 to junction MI Hwy 55, then along MI Hwy 55 to junction MI Hwy 66, then along MI Hwy 66 to junction MI Hwy 42, then along MI Hwy 42 to junction US Hwy 131, then along US Hwy 131 to junction MI Hwy 113, then along MI Hwy 113 to junction MI Hwy 37, then along MI Hwy 37 to junction US Hwy 31, then along US Hwy 31 to junction MI Hwy 115, then along MI Hwy 115 to junction MI Hwy 22, then along MI Hwy 22 to Empire, then due westward across Lake Michigan to Lscanha, then along US Hwy 41 to unnumbered highway through Tesch, Terronville, Hardwood and Felch to junction MI Hwy 95, then along MI Hwy 95 to junction MI Hwy 69, then along MI Hwy 69 to junction MI Hwy 73, then along MI Hwy 73 to the MI–WI State line; points in WI on, north and west of a line beginning at the MI–WI State line extending along WI Hwy 55 to junction WI Hwy 70, then along WI Hwy 70 to junction WI Hwy 17, then along WI Hwy 17 to junction US Hwy 8, then along US Hwy 8 to junction US Hwy 51, then along US Hwy 51 to junction WI Hwy 86, then along WI Hwy 86 to junction WI Hwy 102, then along WI Hwy 102 to junction WI Hwy 13, then along WI Hwy 13 to junction WI Hwy 64, then along WI Hwy 64 to junction WI Hwy 27, then along WI Hwy 27 to junction WI Hwy 29, then along WI Hwy 29 to junction US Hwy 53, then along US Hwy 53 to junction WI Hwy 93, then along WI Hwy 93 to junction US Hwy 10, then along US Hwy 10 to junction WI Hwy 37, then along WI Hwy 37 to junction WI Hwy 35, then along WI Hwy 35 to the WI–IA State line; and points in MO on and west of a line beginning at the IA–MO State line extending along unnumbered highway to junction of MO Hwys 46 and 246, then along MO Hwy 46 to junction MO Hwy 113, then along MO Hwy 113 to junction MO Hwy 118, then along MO Hwy 118 to junction US Hwy 159, then along US Hwy 159 to the MO–NE State line. (Gateway eliminated: points in SC and Charlotte, NC.)

MC 118831 (Sub-E113), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of a line beginning at the NC–SC State line extending along US Hwy 321 to junction I Hwy 85, then along I Hwy 85 to junction NC Hwy 49, then along NC Hwy 49 to junction NC Hwy 73, then along NC Hwy 73 to junction NC Hwy 211, then along NC Hwy 211 to junction US Hwy 401, then along US Hwy 401 to junction NC Hwy 24 at Fayetteville, then along US Hwy 117 to junction NC Hwy 132, then along NC Hwy 132 to junction US Hwy 74, then along US Hwy 74 to Wrightsville Beach, to points in IL (except points in East St. Louis, IL, commercial zone), IN, KY, MI, MO (except points in the St. Louis, MO, commercial zone), OH, TN, and WI restricted against the transportation of caustic soda from Acme, NC, and points within 5 miles thereof). (Gateway eliminated: points in SC and Charlotte, NC.)

MC 118831 (Sub-E114), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals* (except fertilizer, fertilizer materials, and anhydrous ammonia), in bulk, from points in NC (except Moncure, Conway, Asheboro, Rocky Mount, Plymouth, Raleigh, Sanford, Kinston and Goldsboro) on and east of a line beginning at the NC–SC State line extending along NC Hwy 108 to junction US Hwy 221, then along US Hwy 221 to junction I Hwy 40, then along I Hwy 40 to junction NC Hwy 18, then along NC Hwy 18 to junction NC Hwy 268, then along NC Hwy 268 to junction US Hwy 601, then along US Hwy 601 to junction US Hwy 52 then along US Hwy 52 to the NC–VA State line, to points in WI. (Gateway eliminated: points in SC and Charlotte, NC.)

MC 118831 (Sub-E113), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC (except Moncure, Conway, Rocky Mount, Plymouth, Raleigh, Sanford, Kinston and Goldsboro) on and east of a line beginning at the NC–SC State line extending along US Hwy 108 to junction US Hwy 221, then along US Hwy 221 to junction I Hwy 40, then along I Hwy 40 to junction NC Hwy 18, then along NC Hwy 18 to junction NC Hwy 90, then along NC Hwy 90 to junction US Hwy

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901, then along NC Hwy 901 to Hiddenite, then along US Hwy 64 to Mocksvile, then along US Hwy 29 to junction I Hwy 85, then along I Hwy 85 to junction US Hwy 158, then along US Hwy 158 to junction NC Hwy 48, then along NC Hwy 48 to junction I Hwy 95, then along I Hwy 95 to the NC–VA State line, to points in MI. (Gateway eliminated: points in SC and Charlotte, NC.)

MC 118831 (Sub-E116), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. (A) *Liquid petrochemicals* (except dimethyl terephthalate, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC (except Conway, Rocky Mount, Plymouth, Raleigh, Sanford, Kinston and Goldsboro), on and east of a line beginning at the NC–SC State line extending along unnumbered highway through Forest City to junction NC Hwy 226, then along NC Hwy 226 to junction NC Hwy 10, then along NC Hwy 10 to junction NC Hwy 18, then along NC Hwy 18 to Icard, then along unnumbered highway through Rhodhiss to Granite Falls, then along unnumbered highway to junction NC Hwy 90, then along NC Hwy 90 to junc-unnumbered highway, then along unnumbered highway to Newhope, then along NC Hwy 901 to junction US Hwy 21, then along US Hwy 21 to junction US Hwy 421, then along US Hwy 421 to junction US Hwy 311, then along US Hwy 311 to junction US Hwy 220, then along US Hwy 220 to the NC–VA State line, to points in IL (except points in the East St. Louis, IL, Commercial zone). (Gateways eliminated: points in SC and Charlotte, NC.) (B) *Dimethyl terephthalate*, in bulk, from points in NC (except Conway, Rocky Mount, Plymouth, Raleigh, Sanford, Kinston and Goldsboro), on and east of a line beginning at the NC–SC State line extending along unnumbered highway through Forest City to junction NC Hwy 226, then along NC Hwy 226 to junction NC Hwy 10, then along NC Hwy 10 to junction NC Hwy 18, then along NC Hwy 18 to junction unnumbered highway, then along unnumbered highway to Icard, then along unnumbered highway through Rhodhiss to Granite Falls, then along NC Hwy 90 to Hiddenite, then along unnumbered highway to Newhope, then along NC Hwy 901 to junction US Hwy 21, then along US Hwy 21 to junction US Hwy 421, then along US Hwy 421 to junction US Hwy 311, then along US Hwy 311 to junction US Hwy 220, then along US Hwy 220 to the NC–VA State line, to points in IL on and east of a line beginning at Cairo extending along I Hwy 57 to Champagne, then along US Hwy 150 to Bloomington, then along US Hwy 51 to Mindota, then along US Hwy 52 to the IL–IA State line. (Gateway eliminated: Spartanburg County, SC, and Robertson County, TN.)

Transportation of "Waste" Products for Reuse or Recycling

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "*Waste" Products*, Ex Parte No. MC–85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed withe the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

P–9–79 (Special certificate—waste products), filed August 13, 1979. Applicant: Robert Brown, 3715 Richmond Rd, NE., Cedar Rapids, IA 52402. Representative: Robert Brown (same address as applicant). Sponsor: Consolidated Recycling, Inc., of Cedar Rapids, IA. Commodities: Waste products.

P–10–79 (Special certificate—waste products), filed August 13, 1979. Applicant: James Anderson, 2009 Wilson Ave., SW., Cedar Rapids, IA 52404. Representative: James Anderson (same as applicant). Sponsor: Consolidated Recycling, Inc., of Cedar Rapids, IA. Commodities: Waste products.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28486 Filed 9-10-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 177

Tuesday, September 11, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, September 11, 1979, at 11 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance, Personnel.

DATE AND TIME: Thursday, September 13, 1979, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinion 1979–42, Walter Ray Vernon, Jr. (South Carolina National Bank PAC).
1980 elections and related matters: Revision of Proposed Regulations on the Funding and Sponsorship of Candidate Debates.
Consultants report on audit process—staff director's proposal to implement.
Audit request of Baker committee.
Thresholds for referring matters from the reports analysis division to the Office of General Counsel.
Appropriations and budget—Budget Execution Report.
Pending legislation.
Classification actions.
Routine administrative matters.

Portions Closed to the Public

Any matters not concluded on September 11, 1979.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone 202–523–4065.

Lena L. Stafford,

Acting Secretary to the Commission.

[S–1752–79 Filed 9–7–79; 11:45 am]

BILLING CODE 6715-01-M

2

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 10 a.m., Friday, September 14, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20561.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. 2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 6, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–1750–79 Filed 9–6–79; 4:41 pm]

BILLING CODE 6210-01-M

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 1 p.m., Wednesday, September 12, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Oral Presentation in Amendment to Trade Regulation Rule on Preservation of Consumers' Claims and Defenses.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information (202) 523–3830; Recorded Message (202) 523–3806.

[S–1751–79 filed 9–7–79; 9:47 am]

BILLING CODE 6750-01-M

4

NATIONAL NEIGHBORHOOD REINVESTMENT CORPORATION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 172, September 4, 1979.

"PREVIOUSLY ANNOUNCED TIME AND DATE: Wednesday, September 5, 1979, 3:30 p.m.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

CHANGES IN THE MEETING: The Status of the Meeting has been changed from "Open" to "Open and Closed". The following item has been changed from the open to the closed portion of the meeting:

Consideration of proposed 1981 budget of the National Neighborhood Reinvestment Corporation.

No. 7, September 7, 1979.

Donnie L. Bryant,

Secretary.

[S–1754–79 Filed 9–7–79; 3:44 pm]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 10, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, September 13, 1:30 p.m.

1. Briefing on Report of Task Force on Emergency Planning (Approximately 1 hour, public meeting).
2. Briefing on Report on Current NRC Requirements and Guidance to Licensees for Qualifications of Reactor Operators (approximately 1 hour, public meeting).
3. Affirmation Session (approximately 10 minutes, public meeting, tentative): a. Order in Offshore Power Systems. b. Order in UCS Petition.

Friday, September 14, 2 p.m.

1. Continuation of Briefing by H. Denton on Conclusions of TMI Lessons Learned Recommendations (continued from September 6, approximately 1 hour, public meeting).
2. Discussion of Hearing Board Report on Clearance Rule Proceeding (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

September 6, 1979.

[S–1753 Filed 9–7–79; 2:59 pm]

BILLING CODE 7590-01-M

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federal register

Tuesday
September 11, 1979

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

Medical Devices; Classification Hematology and Pathology

V 4 4 / 1 7 7 SE 1 1 7 9 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 864]

[Docket No. 78N-1833]

Classification of Hematology and Pathology Devices; Development of General Provisions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency is proposing general rules applicable to the classification of all hematology and pathology devices. The Medical Device Amendments of 1976 require the Food and Drug Administration (FDA) to classify all medical devices intended for human use into three categories: class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble to this proposal, FDA describes the development of the proposed regulations classifying individual hematology and pathology devices, which are being published elsewhere in this issue of the **Federal Register**. The preamble also describes the activities of the Hematology Device Classification Panel and the Pathology Device Classification Panel, FDA advisory committees that make recommendations to FDA concerning the classification of hematology and pathology devices.

DATES: Comments by November 13, 1979. FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-430), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device classification panel (an FDA advisory committee); (2) published the Panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the **Federal Register** of July 28, 1978 (43 FR 32988), the agency issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the **Federal Register** of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the **Federal Register** of May 19, 1975 (40 FR 21848).

Hematology and pathology devices are subject to labeling requirements in § 809.10 (21 CFR 809.10) for in vitro diagnostic products. As defined in § 809.3(a) (21 CFR 809.3(a)), in vitro diagnostic products are those reagents, instruments, and systems intended for use in the diagnosis of disease or in the determination of the state of health in order to cure, mitigate, treat, or prevent disease or its sequelae. These products are intended for use in collecting, preparing, and examining specimens taken from the human body. Before the Medical Device Amendments of 1976, FDA regarded in vitro diagnostic products as drugs or devices, or as combinations of drugs and devices. Since the enactment of the amendments, with their expanded definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)), FDA regards in vitro diagnostic products as devices.

Certain in vitro diagnostic products are also biological products subject to section 351 of the Public Health Service Act (42 U.S.C. 262). Hematology devices that are also biological products include blood grouping sera, antihuman globulin sera, leukocyte typing sera, hepatitis B antigen, antibody to hepatitis B antigen, blood group specific substances, and reagent red blood cells. Establishments manufacturing these products are subject to licensure by the Bureau of Biologics, FDA, under section 351 of the Public Health Service Act. The Hematology Device Classification Panel has not yet made classification recommendations concerning these products. However, certain of these products have in vitro diagnostic uses for which licensing is not required. The Hematology Panel made recommendations concerning those uses, which FDA is publishing elsewhere in this issue of the **Federal Register** in the proposal for classification of blood group substances of nonhuman origin for in vitro diagnostic use (Docket No. 78N-1922). This proposal excludes licensable blood group specific substances. Similarly, the proposal for classification of systems for the identification of hepatitis B antigen (Docket No. 78N-1934) excludes licensable hepatitis B antigen and antisera to hepatitis B antigen. The proposal for classification of quality control kits for blood reagents (Docket No. 78N-1938) covers antisera to various blood group antigens, antihuman globulin sera, and red blood cells, none of which are licensable.

Among the hematology devices that are subject to classification proposals in this issue of the **Federal Register** are a number of devices that are used in establishments that manufacture human blood and blood products. The classifications of devices used in these establishments are being codified in Subpart J of proposed Part 864 (21 CFR Part 864, Subpart J). Establishments that manufacture human blood and blood products include human blood and

plasma donor centers, blood banks, transfusion services, other blood product manufacturers, and independent laboratories that engage in quality control and testing for blood product establisments. These establishments are already regulated by the Bureau of Biologics under regulations in Parts 606, 607, and 640 (21 CFR Parts 606, 607, and 640). FDA has decided that it is appropriate for devices used only in these establishments to be regulated under the provisions of the Federal Food, Drug, and Cosmetic Act that apply to devices, as well as under section 351 of the Public Health Service Act, where applicable, and the regulations in Parts 606, 607, and 640.

Activities of Panels

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Hematology Device Classification Panel and the Pathology Device Classification Panel were originally chartered on October 15, 1974, as the Hematology/Pathology Subcommittee of the Diagnostics Products Advisory Committee.

On August 9, 1976, the Subcommittee was divided and rechartered as the Hematology Device Classification Panel and the Pathology Device Classification Panel to reflect new responsibilities under the amendments. The agency directed each Panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, each Panel reviewed all devices that FDA had referred to it to make certain that its recommendations were in accord with the amendments.

Throughout the Panels' deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of hematology and pathology devices. The Panels also invited experts to testify and sought information on many devices from the published literature.

In October 1977, the Panels submitted to FDA preliminary reports of their recommendations. The reports included rosters of current and former Panel members and consultants and listed all meeting dates. The agency placed copies of the report in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, and announced their availability to the public by notice published in the **Federal Register** of November 29, 1977 (42 FR 60782). Also available in the office of the Hearing Clerk are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in individual hematology and pathology device proposed classification regulations. Interested persons may review these documents in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Hematology and Pathology Devices

In 1972 FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of hematology and pathology devices. The Panels supplemented the list using their members' knowledge of hematology and pathology devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included.

FDA is proposing to establish a new Part 864 in Title 21 of the Code of Federal Regulations. Part 864 will consist of sections identifying each hematology or pathology device with a brief narrative description and stating the classification of that device. A list of the hematology and pathology devices appears elsewhere in this preamble.

Individual Hematology and Pathology Device Classification Regulations

Elsewhere in this issue of the **Federal Register**, the agency is issuing 108 individual proposed regulations to classify each hematology and pathology device. The agency is proposing to classify 46 hematology and pathology devices into class I (general controls), 55 devices into class II (performance standards), 6 devices into class III (premarket approval), and one document proposes to classify the electromagnetic type of a device into class III and the nonelectromagnetic type of the device into class II. FDA also is publishing the recommendations of the Panels regarding these devices, as required by section 513(c)(2) and (d)(1) of the act.

Published Panel Recommendations

Each published Panel recommendation concerning a hematology or pathology device includes the information described below.

1. *Identification.* Both the Panel recommendation and proposed FDA classification regulation include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 864.1 (21 CFR 864.1), any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807) cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes that the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87) and whether the device is described in a classification regulation.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). Although the Panels did not recommend that any device be exempted at this time from section 519 of the act, the Pathology Device Classification Panel did recommend that the manufacturers of several class I devices be exempted from good manufacturing practice regulations (and thus from the records and reports requirements in these regulations) in the manufacture of these devices. The Hematology Device Classification Panel recommended that manufacturers of one class I device be

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exempted from the premarket notification requirements of section 510(k). The agency's policy concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high," "medium," or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and III Devices," the agency is not proposing the establishment of FDA priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory criteria for classification into class I, II, or III.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, the agency is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

The summary of reasons for a recommendation identifies any device that is an implant of a life-supporting or life-sustaining device. The summary of reasons for any implant or life-supporting or life-sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. The agency provides a similar explanation in the "Proposed Classification" section of the preamble to any proposal to classify an implant or a life-supporing or life-sustaining device into a class other than class III.

4. *Summary of data on which the recommendation is based.* In many cases, the Panels based their recommendation on the Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied on clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has a special meaning in section 513(c)(2)(A) of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H. Rept. No. 94–853, 94th Congress, 2d Session 40 (1967)). The agency has determined that clinical experience and judgment is valid scientific evidence for classifying certain devices.

In many cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the "Proposed Classification" section of the preambles to individual hematology and pathology device proposed regulations. The FDA is adopting, as the agency's statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by hematology or pathology devices, the Panels recognized that few devices are completely free of risk. The Panels listed the risks they considered most significant, especially those that are unique to the individual device. In some cases, FDA has identified additional risks to health presented by a device. These additional risks are set out in the section of the preamble concerning the "Proposed Classification" of a particular device.

Because the classification recommendations and FDA regulations do not identify all risks to health presented by hematology and pathology devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Proposed Classification

Each proposed regulation to classify a hematology or pathology device states whether FDA agrees with the Panel's recommendation, describes the agency's proposed classification of the device, and proposes a new section in Part 864 in which the device classification will be codified.

The FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Priorities for Class II and Class III Devices

For a device that a Panel recommends be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignement of a priority for application to the device of performance standards or premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class II or class III, the Panels compared the devices with other hematology or pathology devices on the basis of information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panels recommended assignment of a "high priority" only to those class II or class III devices that the Panels believed should receive the agency's immediate attention.

The FDA is not proposing at this time to establish priorities for development of performance standards for class II devices or application of premarket approval requirements to class III devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. At a later date, however, the agency will establish priorities for the development of standards for class II devices and the application of premarket approval requirements to class III devices. These priorities will be based on classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the **Federal Register**.

The agency intends to proceed as quickly as the statute and classification panel resources permit to require premarket approval of devices classified into class III. There are two factors affecting the length of time necessary before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a classification panel. For example, where FDA classifies into class III only a few devices within a Panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the Panel, regardless of whether they are considered to be of a high or a low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (at least 30 months) following classification, during which a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for in section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510, registration; section 519, records and reports; and section 520(f), good manufacturing practices:

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of * * * a device or devices" must register with FDA (section 510(b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See 21 CFR Part 807.) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device classification panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, for certain devices, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions. Thus, the agency has proposed to exempt certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice of new products within this exempt generic type of device.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation (21 CFR Part 820), published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations in accordance with section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the **Federal Register** of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt a device from § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. Such a device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program, as is required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that

device manufacturers have adequate systems for complaint investigation and followup, all such manufacturers are required to comply with the complaint file requirements of § 820.198. All device manufacturers also are required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of class I devices from requirements under section 510, 519, or 520(f), but has acted on the basis of exemption recommendations of the device classification panels. Manufacturers and other interested persons may submit comments on the appropriateness of exemptions of manufacturers of class I devices that are not the subject of panel exemption recommendations. FDA will consider granting exemptions from the requirement of premarket notification and from the GMP regulation (other than §§ 820.180 and 820.198) according to the policies and criteria discussed above. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation (other than § 820.180 and 820.198), or both, is consistent with the policies and criteria discussed above.

List of Hematology and Pathology Devices

The following is a list of the hematology and pathology devices that FDA is proposing to classify, the section and subpart of Part 864 in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Subpart B—Biological Stains

Section	Device	Docket No.	Class
864.1850	Dye or chemical solution stains	78N-1834	I
864.1875	Dye powder stains	78N-1835	I

Subpart C—Cell and Tissue Culture Products

864.2220	Synthetic cell and tissue culture media and components	78N-1836	I
864.2240	Cell and tissue culture supplies and equipment	78N-1373	I
864.2260	Chromosome culture kit	78N-1837	I
864.2280	Cultured animal and human cells	78N-1838	I
864.2360	Mycoplasma detection media and components	78N-1839	I
864.2600	Animal and human sera	78N-1840	I
864.2875	Balanced salt solutions or formulations	78N-1841	I

Subpart D—Pathology—Instrumentation and Accessories

864.3010	Tissue processing equipment	78N-1842	I
864.3250	Specimen transport and storage container	78N-1843	I
864.3300	Cytocentrifuge	78N-1844	I
864.3400	Device for sealing micro-sections	78N-1845	I
864.3600	Microscopes and accessories	78N-1846	I
864.3800	Automated slide stainer	78N-1847	I
864.3875	Automated tissue processor	78N-1848	I

Subpart E—Specimen Preparation Reagents

864.4010	General purpose reagent	78N-1849	I
864.4400	Enzyme preparations	78N-1850	I

Subpart F—Automated and Semi-Automated Hematology Devices

864.5200	Automated cell counter	78N-1851	II
864.5220	Automated differential cell counter	78N-1852	III
864.5240	Automated blood cell diluting apparatus	78N-1853	I
864.5260	Automated cell locating device	78N-1854	II
864.5300	Red cell indices device	78N-1855	II
864.5350	Microsedimentation centrifuge	78N-1856	I
864.5400	Coagulation instrument	78N-1857	II
864.5425	Multipurpose system for in vitro coagulation studies	78N-1858	III
864.5600	Automated hematocrit instrument	78N-1859	II
864.5620	Automated hemoglobin system	78N-1860	II
864.5680	Automated heparin analyzer	78N-1861	III
864.5700	Automated platelet aggregation system	78N-1862	II
864.5800	Automated sedimentation rate device	78N-1863	I
864.5850	Automated slide spinner	78N-1864	I
864.5950	Blood volume measuring device	78N-1865	II

Subpart G—Manual Hematology Devices

864.6100	Bleeding time device	78N-1866	II
864.6150	Capillary blood collection tube	78N-1867	I
864.6160	Manual blood cell counting device	78N-1868	I
864.6400	Hematocrit measuring device	78N-1869	II
864.6475	Iron kinetics test	78N-1870	II
864.6550	Occult blood test	78N-1871	II
864.6600	Osmotic fragility test	78N-1872	I
864.6650	Platelet adhesion test	78N-1873	I
864.6675	Platelet aggregometer	78N-1874	II
864.6750	Red cell survival test	78N-1875	II
864.6800	Erythrocyte sedimentation rate test	78N-1876	I

Subpart H—Hematology Kits and Packages

864.7040	Adenine nucleotide assay	78N-1877	I
864.7060	Antithrombin III assay	78N-1878	II
864.7100	Cell enzyme assay	78N-1879	II
864.7140	Activated whole blood clotting time test	78N-1880	II
864.7250	Erythropoietin assay	78N-1881	III
864.7275	Euglobulin lysis time test	78N-1882	II
864.7290	Qualitative and quantitative factor deficiency test	78N-1883	II
864.7300	Fibrin monomer paracoagulation test	78N-1884	II
864.7320	Fibrin split products assay	78N-1885	II
864.7340	Fibrinogen determination system	78N-1886	II
864.7360	Erythrocytic glucose-6-phosphate dehydrogenase assay	78N-1887	II
864.7375	Glutathione reductase assay	78N-1888	II
864.7400	Hemoglobin A_2 assay	78N-1889	II
864.7415	Abnormal hemoglobin assay	78N-1890	II
864.7425	Carboxyhemoglobin assay	78N-1891	II
864.7440	Electrophoretic hemoglobin analysis system	78N-1892	II
864.7455	Fetal hemoglobin assay	78N-1893	II
864.7490	Sulfhemoglobin assay	78N-1895	II
864.7500	Whole blood hemoglobin assay	78N-1896	II
864.7525	Heparin assay	78N-1897	II
864.7660	Leukocyte alkaline phosphatase test	78N-1898	I
864.7675	Leukocyte peroxidase test	78N-1899	I
864.7720	Prothrombin consumption test	78N-1900	II
864.7735	Prothrombin-proconvertin test and thrombotest	78N-1901	II
864.7750	Prothrombin time test	78N-1902	II
864.7825	Sickle cell test	78N-1903	II
864.7875	Thrombin time test	78N-1904	II
864.7900	Thromboplastin generation test	78N-1905	I
864.7925	Partial thromboplastin time test	78N-1906	II

Subpart I—Hematology Reagents and Stains

864.8030	Hematology stains	78N-1907	I
864.8100	Bothrops atrox reagent	78N-1908	II
864.8150	Calibrator for cell indices	78N-1909	III
864.8165	Calibrator for hemoglobin and hematocrit measurement	78N-1910	II
864.8175	Calibrator for platelet counting	78N-1911	II
864.8185	Calibrator for red cell and white cell counting	78N-1912	II
864.8200	Blood cell diluent	78N-1913	I
864.8500	Lymphocyte separation medium	78N-1914	I
864.8540	Red cell lysing reagent	78N-1915	I
864.8625	Hematology quality control mixture	78N-1916	II
864.8950	Russell viper venom reagent	78N-1917	I

Subpart J—Products Used in Establishments That Manufacture Blood and Blood Products

864.9050	Blood bank supplies	78N-1918	I
864.9100	Container for collection and processing of blood and blood components.	78N-1919	II
864.9125	Vacuum-assisted blood collection system	78N-1920	I
864.9145	Processing system for frozen blood	78N-1921	III
864.9160	Blood group substances of nonhuman origin for in vitro diagnostic use.	78N-1922	II
864.9175	Automated blood grouping and antibody test system	78N-1923	II
864.9185	Blood grouping view box	78N-1924	I
864.9195	Blood mixing and weighing device	78N-1925	I
864.9205	Blood and plasma warming device	78N-1926	II, III
864.9225	Cell-freezing apparatus and reagents for in vitro diagnostic use.	78N-1927	I
864.9245	Automated blood cell separator	78N-1928	III
864.9275	Blood bank centrifuge for in vitro diagnostic use	78N-1929	I
864.9285	Automated cell-washing centrifuge for immuno-hematology	78N-1930	II
864.9300	Automated Coombs test system	78N-1931	II
864.9320	Copper sulfate solution for specific gravity determinations	78N-1932	I
864.9400	Stabilized enzyme solution	78N-1933	II
864.9500	System for the identification of hepatitis B antigen	78N-1934	I
864.9550	Lectins and protectins	78N-1935	II
864.9575	Environmental chamber for storage of platelet concentrate	78N-1936	II
864.9600	Potentiating media for in vitro diagnostic use	78N-1937	II
864.9650	Quality control kit for blood banking reagents	78N-1938	II
864.9700	Blood storage refrigerator and blood storage freezer	78N-1939	II
864.9750	Heat-sealing device	78N-1940	I
864.9675	Transfer set	78N-1942	I

Devices Considered By Two or More Panels

Many devices were reviewed by two or more device classification panels. For these devices, FDA will publish each panel's recommendations and a single proposed classification regulation. The following devices were considered by Panels other than the Hematology Device Classification Panel or the Pathology Device Classification Panel:

1. The Clinical Chemistry Device Classification Panel recommended that colorimetric methods for the detection of occult blood in urine and enzymatic methods for the detection of occult blood in urine be classified into class II. The Hematology Device Classification Panel recommended that occult blood reagents be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying occult blood tests into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

2. The Clinical Chemistry Device Classification Panel recommended that NADP reduction (ultraviolet) and visual semi-quantitative (colorimetric) methods to measure glucose-6-phosphate dehydrogenase activity and electrophoretic methods to measure glucose-6-phosphate dehydrogenase isoenzyme activity be classified into class II. The Hematology Device Classification Panel recommended that catalase inhibition, methemoglobin reduction, and quantitative methods to measure glucose-6-phosphate dehydrogenase activity be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying methods for the measurement of erythrocytic glucose-6-phosphate dehydrogenase activity into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

3. The Clinical Chemistry Device Classification Panel recommended that fluorescence (visual observation, qualitative ultraviolet) methods for the measurement of glutathione reductase activity be classified into class II. The Hematology Device Classification Panel recommended that red cell glutathione be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying methods for the measurement of glutathione reductase activity into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

4. The Immunology Device Classification panel recommended that antithrombin III immunoassays be classified into class II. The Hematology Device Classification Panel recommended that antithrombin III quantitation be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying methods for antithrombin III quantitation into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

5. The Immunology Device Classification Panel recommended that immunoassays to detect fibrinogen and split products, including those employing FITC, peroxidase, and rhodamine, be classified into class II. The Hematology Device Classification Panel recommends that fibrinogen tests and fibrinogen determination standards and controls be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying fibrinogen determination systems into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

6. The Anesthesiology Device Classification Panel recommended that electromagnetic blood warmers be classified into class III and that nonelectromagnetic blood warmers be classified into class II. The Hematology Device Classification Panel recommended that blood and plasma warming devices be classified into class II. The agency has determined that these devices should be classified in a single regulation. FDA is proposing that nonelectromagnetic blood and plasma warming devices be classified into class II and that electromagnetic blood and plasma warming devices be classified into class III. FDA is publishing the two Panels' recommendations elsewhere in this issue of the **Federal Register.**

7. The Hematology Device Classification Panel and the Clinical Chemistry Panel made classification recommendations concerning the following devices:

Blood collection tray
Vacuum sample tube with anticoagulant
Blood tube mixer
General laboratory timer

The Hematology Device Classification Panel's recommendations and proposed classification regulations for the devices listed above will be published when FDA publishes the recommendations of the Clinical Chemistry Panel.

8. The Hematology Device Classification Panel recommended that crystal violet, giemsa stain, new methylene blue stain, and toluidine blue be classified into class I. The Pathology Device Classification Panel recommended that dye powder stains be classified into class I. The Microbiology Device Classification Panel recommended that microbiology stains be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying dye powder stains into class I and is publishing the three Panels' recommendations in a proposal appearing elsewhere in this issue of the **Federal Register.**

9. The Pathology Device Classification Panel and the other panels listed below made classification recommendations concerning the following devices:

Device	Other panel(s)
Centrifuge, general	Clinical chemistry.
Resin, ion exchange	Clinical toxicology.

The Pathology Device Classification Panel's recommendations and proposed classification regulations for the devices listed above will be published when the agency publishes the recommendations of the other panels that reviewed the devices.

Skin Preparation Materials

The Hematology Device Classification Panel recommended that skin preparation materials be classified into class I. A skin preparation material is a prepacked product containing sterilizing solution (e.g., alcohol swabs) used to prepare the skin of a blood donor before blood is drawn or of a patient before a blood transfusion. Because these materials are, for now, being regulated as drugs rather than as devices, FDA is not publishing a proposal to classify these materials.

Immersion Oil

The Hematology Device Classification Panel recommended that immersion oil be classified into class I. Immersion oil is a fluid that is placed between an oil immersion microscope objective and a microscope slide to improve the resolution of the objective. Because FDA has determined that immersion oil is not a "device" under section 201(h) of the act (21 U.S.C. 321(h)), FDA is not publishing a proposal to calssify this product.

Vitamin B_{12}

Absorption Test (Schilling's Test)

The Hematology Device Classification Panel recommended that the vitamin B_{12} absorption test (Schilling's test) be classified into class II. The test consists of the oral administration of radioisotope-labeled (usually ^{57}Co or ^{60}Co) vitamin B_{12} (cyanocobalamin) followed by administration of a flushing dose of unlabeled B_{12}. The radioactivity of the patient's urinary output is then measured over a 24-hour period to determine the status of B_{12} absorption by the patient's gastrointestinal tract. Because the test is an in vivo diagnostic test and therefore a "drug" under section 201(g)(1) of the act, FDA is not publishing a proposal to classify this test as a device.

Environmental Impact

The FDA has carefully considered the environmental effects of proposed § 864.1 and of the proposed hematology and pathology device classification regulations, and because the proposed actions will not significantly affect the quality of the human environment has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration (address above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)), and under authority delegated to the Commissioner of Food and Drugs (21 U.S.C. 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 864, Subpart A, to read as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

Subpart A—General Provisions

Sec.
864.1 Scope.

Authority.— Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c and 701(a)).

Subpart A—General Provisions

§ 864.1 Scope.

(a) This part sets forth the classification of hematology and pathology devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 of this chapter cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87 of this chapter.

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding proposed § 864.1. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27612 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1834]

Medical Devices; Classification of Dye and Chemical Solution Stains

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying dye and chemical solution stains into class I (general controls). The FDA is also publishing the recommendations of the Pathology Device Classification Panel and the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel and the Hematology Device

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Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of dye and chemical solution stains:

1. Identification: Dye and chemical solution stains are either solutions of one or more synthetic and/or natural dyes or solutions of one or more nondye chemicals used to stain cells and tissues for diagnostic histopathology and hematology. The Pathology Device Classification Panel reviewed these products under the names "chemical and chemical solution stains" and "dye solution stains." The Hematology Device Classification Panel reviewed these products under the name "periodic acid Schiff stain."

2. Recommended classification: The Pathology Device Classification Panel recommends that the devices reviewed under the name "chemical and chemical solution stains" be classified into class I (general controls) with exemptions from records and reports and good manufacturing practices requirements. The Pathology Device Classification Panel recommends that the devices reviewed under the name "dye solution stains" be classified into class I (general controls) with no exemptions. The Hematology Device Classification Panel recommends that the product reviewed under the name "periodic acid schiff stain" be classified into class I (general controls) with no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that dye and chemical solution stains be classified into class I because the hazards of these products are minimal when used by persons trained in their use. Both Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Pathology Device Classification Panel recommends that the products reviewed under the name "chemical and chemical solutions" be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)) and from records and reports requirements under section 519 of the act (21 U.S.C. 360i) because current manufacturing practices in the manufacture of the device and user experience with the device indicate that the application of the GMP regulation will not improve the safety and effectiveness of the device. The Panel also recommends that dye and chemical solution stains be exempt from the records and reports requirements of section 519 of the act (21 U.S.C. 360i).

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' familiarity and clinical experience with these devices, and on the devices' history of satisfactory performance.

5. Risks to health: The Pathology Device Classification Panel has not identified any risks to health. The Hematology Device Classification Panel has identified the following risk to health: Inappropriate diagnosis or therapy: Poor staining characteristics may contribute to failure to detect abnormal cell types, inability to differentiate reactive from malignant cells, improper classification of a leukemic process, or inability to classify an anemic process.

Proposed Classification

FDA agrees with the recommendations of the Pathology Device Classification Panel and the Hematology Device Classification Panel and is proposing that dye and chemical solution stains be classified into class I (general controls). The agency believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these products.

FDA disagrees with the Panels' recommendation that manufacturers of dye and chemical solution stains be exempt from the records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirement, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panels' recommendation that manufacturers of dye and chemical solution stains be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt, in the manufacture of the devices, from all requirments in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of dye and chemical solution stains must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of dye and chemical solution stains must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart B and new § 864.1850, to read as follows:

Subpart B—Biological Stains.

§ 864.1850 Dye and chemical solution stains.

(a) *Identification:* Dye and chemical solution stains are either solutions of one or more synthetic and/or natural dyes or solutions of one or more nondye chemicals used to stain cells and tissues for diagnostic histopathology and hematoloty.

(b) *Classification:* Class I (general controls). The devices are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirments concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all coments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27613 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1835]

Medical Devices; Classification of Dye Powder Stains

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying dye powder stains into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel, the Microbiology Device Classification Panel, and the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, the Microbiology Device Classification Panel, and the Hematology Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of dye powder stains:

1. Identification: Dye powder stains are synthetic or natural dyes that are used in the staining of cells and tissues for diagnostic histopathology and hematology. The Pathology Device Classification Panel reviewed these products under the names "certified dye powder stains" and "noncertified dye powder stains." Certified dye powder stains have been tested and certified by the Biological Stain Commission by satisfying specific physiochemical standards and in-use tests. Noncertified dye powder stains have either not been tested or have been tested but not certified by the Biological Stain Commission. The Hematology Device Classification Panel reviewed these products under the names "crystal violet for hematology," "giemsa stain," "new methylene blue stain," and "toluidine blue." The Microbiology Device Classification Panel reviewed these products under the name "all microbiological stains."

2. Recommended classification: The Pathology Device Classification Panel recommends that the products reviewed under the name "certified dye powder stains" be classified into class I (general controls) with exemptions from good manufacturing practice requirements under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)) and from records and reports regulations under section 519 of the act (21 U.S.C. 360i). The Pathology Device Classification Panel recommends that the products reviewed under the name "non-certified dye powder stains" be classified into class I (general controls) with exemption from the good manufacturing practice regulations under section 520(f) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360j(f)). The Hematology Device Classification Panel recommends that "crystal violet for hematology," "giemsa stain," "new methylene blue stain," and "toluidine blue" be classified into class I with no exemptions. The Microbiology Device Classification Panel recommends that "all microbiological stains" be classified into class I with no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that dye powder stains be classified into class I (general controls) because these products present no risks to health when used by persons trained in their use. All three Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Pathology Device Classification Panel recommends that the devices reviewed under the name "certified dye powder stains" be exempt from records and reports regulations because certification by the Biological Stain Commission is satisfied by meeting specific physiochemical standards and in-use tests, and controls are used to help detect reagent failure in the more critical diagnostic tests. The Pathology Device Classification Panel also recommends that dye powder stains, whether or not certified, by exempt from good manufacturing practice requirements because current manufacturing practices in the manufacture of the devices and user experience with the devices indicate that the application of the GMP regulation will not improve the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Pathology Device Classification Panel, the Hematology Device Classification Panel, and the Microbiology Device Classification Panel based their recommendations upon their Panel members' familiarity and clinical experience with the devices, and on the devices' history of satisfactory performance.

5. Risks to health: The Pathology Device Classification Panel and the Microbiology Device Classification Panel did not identify any risks to health. The Hematology Device Classification Panel identified the following risks to health: Inappropriate diagnosis or therapy: Poor staining characteristics may contribute to failure to detect abnormal cell types, inability to differentiate reactive from malignant cells, improper classification of a leukemic process, or inability to classify an anemic process.

Proposed Classification

FDA agrees with the recommendations of the Pathology Devices Classification Panel, the Microbiology Device Classification

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Panel, and the Hematology Device Classification Panel and is proposing that dye powder stains be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

FDA disagrees with the Panels' recommendation that manufacturers of dye powder stains be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panels' recommendation that manufacturers of dye powder stains be exempt from the device good manufacturing practive (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of dye powder stains must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of dye powder stains must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart B by adding new § 864.1875 as follows:

§ 864.1875 Dye powder stains.

(a) *Identification.* Dye powder stains are synthetic or natural dyes that are used in the staining of cells and tissues for diagnostic histopathology and hematology.

(b) *Classification.* Class I (general controls). The devices are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27614 Filed 9-10-79; 8:45 am]

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[21 CFR Part 864]

[Docket No. 78N-1836]

Medical Devices; Classification of Synthetic Cell and Tissue Culture Media and Components

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying synthetic cell and tissue culture media and components into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of synthetic cell and tissue culture media and components:

1. Identification: Synthetic cell and tissue culture media and components are substances that are composed entirely of defined components (e.g., amino acids, vitamins, inorganic salts, etc.) that are essential for the survival and development of cell lines of humans and other animals.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that synthetic cell and tissue culture media and components be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. Although these reagents are susceptible to batch-to-batch variations in their manufacturing process due to the biological nature of the components, the Panel believes that conformity by manufacturers with FDA's device good manufacturing practice regulation should control these variations.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with these products and upon the products' history of satisfactory performance.

5. Risks to health: Delayed diagnosis: The failure of these devices to provide sufficient nutritional factors in a cell and tissue culture system may require that a given diagnostic procedure be repeated, causing a delay in diagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that synthetic cell and tissue culture media and components be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart C including new § 864.2220 as follows:

Subpart C—Cell and Tissue Culture Products

§ 864.2220 Synthetic cell and tissue culture media and components.

(a) *Identification.* Synthetic cell and tissue culture media and components are substances that are composed entirely of defined components (e.g. amino acids, vitamins, inorganic salts, etc.) that are essential for the survival and development of cell lines of humans and other animals.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27615 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1373]

Medical Devices; Classification of Cell and Tissue Culture Supplies and Equipment

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cell and tissue culture supplies and equipment into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that these devices be classified into class I. The effect of classifying a device into class I is to require that the devices meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of cell and tissue culture supplies and equipment:

1. Identification: Cell and tissue culture supplies and equipment are devices that are used to examine, propogate, nourish, or grow cells and tissue cultures. These include such articles as slide culture chambers, perfusion and roller apparatus, cell culture suspension systems, and tissue culture flasks, disks, tubes, and roller bottles.

2. Recommended classification: Class I (general controls). The Panel recommends that these products be exempted from good manufacturing practice regulations.

3. Summary of reasons for recommendation: The Panel recommends that cell and tissue culture supplies and equipment be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel recommends that these devices be exempt from the good manufacturing practice regulation because current manufacturing practices in the manufacture of the devices and user experience with the devices indicate that the application of the GMP regulation will not improve the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with these devices, and upon the devices' history of satisfactory performance.

5. Risks to health: None specified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that cell and tissue culture supplies and equipment be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

In response to the Panel's recommendation that manufacturers of cell and tissue culture supplies and equipment be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360j(f)), FDA is proposing that

a manufacturer of these devices who does not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of cell and tissue culture supplies and equipment, even when they are not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of cell and tissue culture supplies and equipment must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of cell and tissue culture supplies and equipment that are labeled or otherwise represented as sterile is in the manufacture of these devices, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart C by adding new § 864.2240 as follows:

§ 864.2240 Cell and tissue culture supplies and equipment.

(a) *Identification.* Cell and tissue culture supplies and equipment are devices that are used to examine, propagate, nourish, or grow cells and tissue cultures. These include such articles as slide culture chambers, perfusion and roller apparatus, cell culture suspension systems, and tissue culture flasks, disks, tubes, and roller bottles.

(b) *Classification.* Class I (general controls). If the devices are not labeled or otherwise represented as sterile, they are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27616 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1837]

Medical Devices; Classification of Chromosome Culture Kits

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying chromosome culture kits into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classfying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of chromosome culture kits:

1. Identification: A chromosome culture kit is a device containing the necessary ingredients (e.g., Minimum Essential Media (MEM) or McCoy's 5A culture media, phytohemagglutinin, fetal calf serum, antibiotics, and heparin) used to culture tissues for diagnosis of congenital chromosome abnormalities.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that chromosome culture kits be classified into class I (general controls) because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. Although the performance of these products is susceptible to batch-to-batch variations in their production, the Panel believes that conformity by manufacturers with FDA's device good manufacturing practice regulation should control these variations.

4. Summary of data on which the recommendation is based: The Panel based its recommendations upon the Panel members' familiarity and clinical experience with the product and upon the product's history of satisfactory performance.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of these products to perform satisfactorily may result in a misdiagnosis of chromosomal abnormality. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk, unnecessarily.

Proposed Classification

The Commissioner agrees with the Panel recommendations and is proposing that chromosome culture kits be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the product.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart C by adding new § 864.2260 as follows:

§ 864.2260 Chromosome culture kit.

(a) *Identification.* A chromosome culture kit is a device containing the necessary ingredients (e.g., Minimum Essential Media (MEM) of McCoy's 5A culture media, phytohemagglutinin, fetal calf serum, antibiotics, and heparin) used to culture tissues for diagnosis of congenital chromosome abnormalities.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27617 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1838]

Medical Devices; Classification of Cultured Animal and Human Cells

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cultured animal and human cells into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this porposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cultured animal and human cells:

1. Identification: Cultured animal and human cells are in vitro cultivated cell lines from the tissue of humans or other animals which are used in various diagnostic procedures, particularly diagnostic virology and cytogenetic studies.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that cultured animal and human cells be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. Although cultured animal and human cells are susceptible to batch-to-batch variations in their production, the Panel believes that conformity by manufacturers with FDA's device good manufacturing practice regulation should control these variations.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with this device and the product's history of satisfactory performance.

5. Risks to health: Misdiagnosis: Failure of the cell line to support the growth of suspected viral pathogens could result in a misdiagnosis because the viral agent(s) suspected of causing a disease would not be detected.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that cultured animal and human cells be classifed into class I (general controls) with no exemption. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart C by adding new § 864.2280 as follows:

§ 864.2280 Cultured animal and human cells.

(a) *Identification.* Cultured animal and human cells are in vitro cultivated cell lines from the tissue of humans or other animals which are used in various diagnostic procedures, particularly diagnostic virology and cytogenetic studies.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27618 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1839]

Medical Devices; Classification of Mycoplasma Detection Media and Components

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

V 4 4 / 1 7 7 S E 1 1 7 9

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mycoplasma detection media and components into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Helath, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mycoplasma detection media and components:

1. Identification: Mycoplasma detection media and components are products that are used to detect and isolate mycoplasma pleuropneumonia-like organisms (PPLO), a common microbial contaminant in cell cultures. The Pathology Device Classification Panel reviewed these products under the names "mycoplasma detection kit" and "mycoplasma detection media."

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the products reviewed under the names "mycoplasma detection media" and "mycoplasma detection kit" be classified into class I (general controls) because these devices present no risks to health. The devices are used as a quality control component of a cell culture system and are not used directly for the diagnosis of disease. The Panel believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness for these products.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with this device, and the products' history of satisfactory performance.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendations and is proposing that mycoplasma detection media and components be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness for these products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 865 be amended in Subpart C by adding new § 864.2360 as follows:

§ 864.2360 Mycoplasma detection media and components.

(a) *Identification.* Mycoplasma detection media and components are used to detect and isolate mycoplasma pleuropneumonia-like organisms (PPLO), a common microbial contaminant in cell cultures.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all coments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27619 Filed 9-10-79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1840]

Medical Devices; Classification of Animal and Human Sera

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying animal and human sera into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of animal and human sera:

1. Identification: Animal and human sera are biological products, obtained from the blood of humans or other animals, that provide the necessary growth-promoting nutrients in a cell culture system.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that animal and human sera be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. Although these products are susceptible to batch-to-batch variations in nutritional properties and contamination by indigenous agents during their manufacture, the Panel believes that the manufacturer's conformity with good manufacturing practices and labeling requirements under class I (general controls) should control these problems.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with these products, and upon the products' history of satisfactory performance.

5. Risks to health: Delay in diagnosis. The failure of sera to provide sufficient growth-promoting factors in a cell culture system may require that a given diagnostic procedure be repeated, causing a delay in diagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that animal and human sera be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart C by adding new § 864.2800 as follows:

§ 864.2800 Animal and human sera.

(a) *Identification.* Animal and human sera are biological products, obtained from the blood of humans or other animals, that provide the necessary growth-promoting nutrients in a cell culture system.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above ofice between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 27, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27620 Filed 9-10-79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1841]

Medical Devices; Classification of Balanced Salt Solutions or Formulations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying balanced salt solutions or formulations into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of balanced salt solutions or formulations:

1. Identification: A balanced salt solution or formulation is a defined mixture of salts and glucose in a simple medium. This device is included as a necessary component of most cell culture systems.

This media component controls for pH, osmotic pressure, energy source, and inorganic ions.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that balanced salt solutions or formulations be classified into Class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these products. These products present minimal risks to health because they are used as a component of a cell culture system and are not used directly for the diagnosis of disease.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' familiarity and clinical experience with this demand upon the products' history of satisfactory performance.

5. Risks to health: Delayed diagnosis: The failure of balanced salt solutions to provide sufficient growth promoting factors in a cell culture system may require that a given diagnostic procedure be repeated, causing a delay in diagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that balanced salt solutions or formulations be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart C by adding new § 864.2875 as follows:

V 4 4 / 1 7 7

§ 864.2875 Balanced salt solutions or formulations.

(a) *Identification.* A balanced salt solution or formulation is a devined mixture of salts and glucose in a simple medium. This device is included as a necessary component of most cell culture systems. This media component controls for pH, osmotic pressure, energy source, and inorganic ions.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27621 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1842]

Medical Devices; Classification of Tissue Processing Equipment

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying tissue processing equipment into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel and the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel and the Hematology Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of tissue processing equipment:

1. Identification: Tissue processing equipment consists of devices used to prepare human tissue specimens for diagnostic histological examination by processing the specimens through the various stages of decalcifying, infiltrating, sectioning, and mounting on microscope slides. The Pathology Device Classification Panel considered this type of product under the names "decalcifying devices," "paraffin dispensers," "flotation baths," "infiltrators," "imbedding containers," "microtomes and accessories," "microscope slides and coverslips, " and "slide-warming lamps and tables." The Hematology Device Classification Panel considered the classification of "microscope slides and coverslips."

2. Recommended classification: The Pathology Device Classification Panel recommends that tissue processing equipment be classified into class I (general controls) with exemption from good manufacturing practice regulations under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). The Hematology Device Classification Panel recommends that the product reviewed under the name "microscope slides and coverslips" be classified into class I (general controls) with no exemptions.

3. Summary of reasons for recommendation: The Pathology Device Classification Panel recommends that tissue processing equipment be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Pathology Device Classification Panel also recommends that these devices be exempt from FDA's device good manufacturing practice regulation under section 520(f) of the act because current manufacturing practices in the manufacture of the device and user experience with the device indicate that the application of the GMP regulation will not improve the safety and effectiveness of the device. The Hematology Device Classification Panel recommends that the devices reviewed under the name "microscope slides and coverslips" be classified into class I because they present no risks to health when used by trained personnel. The Hematology Device Classification Panel also believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: The Pathology Device Classification Panel and the Hematology Device Classification Panel based their recommendations on the Panel members' familiarity and clinical experience with these devices, and on the device's history of satisfactory performance.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the recommendation of the Panels and is proposing that tissue processing equipment be classified into class I (general controls) with no exemptions. The Commissioner believes that these controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner disagrees with the Panel's recommendation that manufacturers of tissue processing equipment be exempt from the good manufacturing practice regulation under section 520(f) of the act. The Commissioner believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will prevent production of tissue processing equipment having defects that could cause failure and harm to users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart D, including new § 864.3010 as follows:

Subpart D—Pathology—Instrumentation and Accessories

§ 864.3010 Tissue processing equipment.

(a) *Identification.* Tissue processing equipment consists of devices used to prepare human tissue specimens for diagnostic histological examination by processing the specimens through the various stages of decalcifying, infiltrating, sectioning, and mounting on microscope slides.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27622 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1843]

Medical Devices Classification of Specimen Transport and Storage Containers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying specimen transport and storage containers into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of specimen transport and storage containers:

1. Identification: A specimen transport and storage container is a device used to contain biological specimens during storage and transport within and between clinics and laboratories in such an environment that the specimen can effectively be used for histological or cytological examination. The Panel reviewed these products under the names "specimen transport and storage containers" and "temperature controlled specimen transport and storage containers".

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Reasons for recommendation: The Panel recommends that specimen transport and storage containers be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness for these devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' familiarity and clinical experience with these products, and on a history of satisfactory product performance.

5. Risks to health: (a) Contamination: Any leakage or breakage of the container may cause contamination of laboratory, clinic, or personnel by any infectious organism in the specimen. (b) Misdiagnosis: Biological specimens, e.g., amniotic fluid or fetal tissue, may have a toxic reaction with the material of which the container is made, causing aberrations of the specimen. Contamination of the container may also cause specimen aberrations with the production of artifacts (tissues that have been altered from their natural state), which make the specimen unusable for diagnosis. (c) Delay in diagnosis: Damage to the specimen by failure to maintain it at a specified temperature can cause physiological changes in the specimen and require the health professional to obtain a new specimen, with a consequent delay in diagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that specimen transport and storage containers be classified into class I with no exemptions. The Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3250 as follows:

§ 864.3250 Specimen transport and storage container.

(a) *Identification.* A specimen transport and storage container is a device used to contain biological specimens during storage and transport within and between clinics and laboratories in such an environment that the specimen can effectively be used for histological or cytological examination.

(b) *Recommended classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27623 Filed 9–10–79; 8:45 am]

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[21 CFR Part 864]

[Docket No. 78N-1844]

Medical Devices; Classification of Cytocentrifuges

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cytocentrifuges into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. the effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of cytocentrifuges:

1. Identification: A cytocentrifuge is a centrifuge used to concentrate cells from biological cell suspensions (e.g., cerebrospinal fluid) and to deposit these cells on a glass microscope slide for cytological examination.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the cytocentrifuge be classified into class I because the device presents no hazards to health. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's familiarity and clinical experience with the product, and on the product's history of satisfactory performance.

5. Risks to health: None specified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that cytrocentrifuges be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3300 as follows:

§ 864.3300 Cytocentrifuge.

(a) *Identification.* A cytocentrifuge is a centrifuge used to concentrate cells from biological cell suspensions (e.g., cerebrospinal fluid) and to deposit these cells on a glass microscope slide for cytological examination.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27624 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1845]

Medical Devices; Classification of Devices for Sealing Microsections

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying devices for sealing microsections into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of devices for sealing microsections:

1. Identification: A device for sealing microsections is an automated instrument used to seal stained cells and microsections for histological and cytological examination.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that devices for sealing microsections be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. This device presents minimal risks to health because the examiner can easily determine whether it is effective by simple inspection of the end product.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' familiarity and clinical experience with these devices, and on the product's history of satisfactory performance.

5. Risks to health: (a) Delay in diagnosis: An instrument malfunction can result in an incomplete sealing of the microscope slide and possibly render a tissue specimen unusable for examination. (b) Unnecessary surgical procedures: Specimen damage or loss can result from an instrument malfunction causing the need to obtain an additional biopsy specimen. This additional biopsy would require additional surgical procedures and delay the diagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that devices for sealing microsections be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3400 as follows:

§ 864.3400 Device for sealing microsections.

(a) *Identification.* A device for sealing microsections is an automated instrument used to seal stained cells and microsections for histological and cytological examination.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27625 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1846]

Medical Devices; Classification of Microscopes and Accessories

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying microscopes and accessories into class I (general controls). The FDA is also publishing the recommendations of the Pathology Device Classification Panel and the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel and the Hematology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of microscopes and accessories:

1. Identification: Microscopes and accessories are optical instruments used to enlarge images of specimens, preparations, and cultures for examination. Variations of microscopes and accessories (through a change in light source) used in clinical laboratories include the following: (a) Phase contrast microscopes, which permit visualization of unstained preparations by altering the phase relationship of light that passes around the object and through the object. (b) Fluorescence microscopes, which permit examination of specimens stained with fluorochromes that fluoresce under ultraviolet light. (c) Inverted stage microscopes, which permit examination of tissue cultures or other biological specimens in bottles or tubes with the light source mounted above the specimens. The Pathology Device Classification Panel reviewed these products under the names "microscope condensers," "microscope lamps," "fluorescent UV microscope," "tissue culture inverted stage microscope," "light microscope," "phase contrast microscope," and "microscope stages." The Hematology Device Classification Panel reviewed these products under the name "microscope."

2. Recommended classification: Class I (general controls). The Pathology Device Classification Panel recommends that there be no exemptions. The Hematology Device Classification Panel recommends that microscopes be exempted from section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

3. Summary of reasons for recommendation: The Pathology Device Classification Panel and the Hematology Device Classification Panel recommend that microscopes and accessories be classified into class I because these devices present no hazards to health. The Panels believe that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these devices. The Hematology Device Classification Panel recommends that microscopes be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panel believes that compliance by the manufacturers with the requirements of section 510 of the act is not necessary for the protection of the public health.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the panel members' familiarity and clinical experience with these devices, and on a history of satisfactory performance.

5. Risks to health: None identified.

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Proposed Classification

The Commissioner agrees with both Panel recommendations and is proposing that microscopes and accessories be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide a reasonable assurance of safety and effectiveness for the device.

The Commissioner disagrees, however, with the Hematology Device Classification Panel's recommendation that manufacturers of microscopes be exempt from registration, device listing, and premarket notification under section 510 of the act. Under section 510(g)(4) of the act, the Commissioner may exempt a manufacturer from compliance with section 510 of the act only upon a finding that compliance is not necessary for the protection of the public health. In the case of microscopes, the Commissioner cannot make the required finding. To protect the public health, the agency needs to require manufacturers of this device to register and to list their products with FDA, so that the agency can identify the firms and products that it regulates and can conduct necessary inspections and investigations concerning safety, effectiveness, adulteration, or misbranding. Premarket notification by these manufacturers assures that FDA learns of new products, and of significant modification of existing products, for which premarket approval is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3600 as follows:

§ 864.3600 Microscopes and accessories.

(a) *Identification.* Microscopes and accessories are optical instruments used to enlarge images of specimens, preparations, and cultures for examination. Variations of microscopes and accessories (through a change in the light source) used in clinical laboratories include the following:

(1) Phase contrast microscopes, which permit visualization of unstained preparations by altering the phase relationship of light that passes around the object and through the object.

(2) Fluorescence microscopes, which permit examination of specimens stained with fluorochromes that fluoresce under ultraviolet light.

(3) Inverted stage microscopes, which permit examination of tissue cultures or other biological specimens contained in bottles or tubes with the light source mounted above the specimen.

(b) *Recommended classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27626 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1847]

Medical Devices; Classification of Automated Slide Stainers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated slide stainers into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel and the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (FHA–305), Food and Drug Administation, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel and the Hematology Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of automated slide stainers:

1. Identification: An automated slide stainer is a device used to stain histology, cytology, and hematology slides for diagnosis. The Pathology Device Classification Panel considered this device under the names "immersion type slide stainer" and "contact type slide stainer." The Hematology Device Classification Panel considered this device under the name "automated slide stainer."

2. Recommended classification: The Pathology Device Classification Panel and the Hematology Device Classification Panel recommended that the automated slide stainer be classified into class I (general controls). The Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Pathology Device Classification Panel and the Hematology Device Classification Panel recommend that the automated slide stainer be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This product presents minimal risks to health because the examiner can easily determine whether the device is effective by a simple inspection of the end product.

4. Summary of data on which the recommendation is based: The Pathology Device Classification Panel and the Hematology Device Classification Panel based their recommendation on the Panel members' familiarity and clinical experience with these devices and on the product's history of satisfactory performance.

5. Risks to health: Both Panels identified the following risks to health: (a) Delayed diagnosis: A malfunction in the staining qualities of the product can result in artifacts (tissues that have been altered from their natural state), which make the slide difficult to read or unusable for diagnosis. Diagnosis could be delayed, expecially if an additional specimen is needed for examination. (b) Unnecessary surgical procedures: A device malfunction may cause damage to the specimen making it unusable for diagnosis and resulting in additional surgical procedures to obtain a new specimen for examination.

Proposed Classification

The Commissioner agrees with the recommendations of the Pathology Device Classification Panel and the Hematology Device Classification Panel and is proposing that automated slide stainers be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3800 as follows:

§ 864.3800 Automated slide stainer.

(a) *Identification.* An automated slide stainer is a device used to stain histology, cytology, and hematology slides for diagnosis.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27627 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1848]

Medical Devices; Classification of Automated Tissue Processors

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated tissue processors into class I (general controls). The FDA is also publishing the recommendation of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel an FDA advisory committee, made the following recommendation with respect to the classification of automated tissue processors:

1. Identification: An automated tissue processor is an automated system used to process tissue specimens for examination through fixation, dehydration, and infiltration.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the automated tissue processor be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' familiarity and clinical experience with these devices, and on the devices' history of satisfactory performance.

5. Risks to health: (a) Delay in diagnosis: A product malfunction can result in an improperly fixed tissue specimen, which may be unusable for staining and examination. If an additional specimen is needed, the diagnosis may be delayed. (b) Unnecessary surgical procedures: Specimen damage or loss can result from a product malfunction requiring an additional biopsy specimen to be obtained. Additional surgical procedures and a delay in diagnosis may result.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that the automated tissue processor be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart D by adding new § 864.3875 as follows:

§ 864.3875 Automated tissue processor.

(a) *Identification.* An automated tissue processor is an automated system used to process tissue specimens for examination through fixation, dehydration, and infiltration.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27628 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

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[21 CFR Part 864]

[Docket No. 78N-1849]

Medical Devices; Classification of General Purpose Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying general purpose reagents into class I (general controls). The proposed regulation would apply to cytological preservatives, decalcifying reagents, fixatives and adhesives, tissue processing reagents, isotonic solutions, and pH buffers. The FDA is also publishing the recommendation of the Pathology Device Classification Panel and the Hematology Device Classification Panel that these devices be calssified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel and the Hematology Device Classification Panel, FDA advisory committee, made the following recommendation with respect to the classification of general purpose reagents:

1. Identification: A general purpose reagent is a chemical reagent that has general laboratory application, that is used to collect, prepare and examine specimens from the human body for diagnostic histopathology and hematology, and that is not labeled or promoted for medical use or for a specific diagnostic application. General purpose reagents include cytological preservatives, decalcifying reagents, fixatives and adhesives, tissue processing reagents isotonic solutions, and pH buffers. The Pathology Device Classification Panel reviewed these products under the names "cytological preservatives," "decalcifying reagents," "fixatives," and "reagents for dehydrating, clearing, imbedding, and mounting." The Hematology Device Classification Panel considered the classification of isotonic solutions and pH buffers.

2. Recommended classification: The Pathology Device Classification Panel recommends that products reviewed under the names cytological preservatives, decalcifying reagents, and fixatives be classified into class I (general controls) with no exemptions. The Pathology Device Classification Panel recommends that reagents for dehydrating, clearing, imbedding, and mounting be classified into class I (general controls) with exemption from records and reports and good manufacturing practice requirements under sections 519 and 520(f), respectively, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i and 360j(f)). The Hematology Device Classification Panel recommends that isotonic solutions and pH buffers be classified into class I (general controls) with no exemptions.

3. Summary of reasons for recommendation: The Pathology Device Classification Panel recommends that the products included in the category of general purpose reagents be classified into class I because the hazards associated with the use of these products are minimal when they are used by persons trained in their use. The Panel believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these products. The Panel recommends that "reagents for dehydrating, clearing, imbedding and mounting" be exempt from the good manufacturing practice regulation (GMP) under section 520(f) of the act and the records and reports requirements under section 519 of the act because current manufacturing practices in the manufacture of the device and user experience with the device indicate that the application of the GMP regulation will not improve the safety and effectiveness of the device. The Hematology Device Classification Panel recommends that isotonic solutions and pH buffers be clasified into class I because these products present no hazard to life, health, or well-being and because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these products.

4. Summary of data on which the recommendation is based: The Pathology Device Classification Panel and the Hematology Device Classification Panel based their recommendations on the Panel members' familiarity and clinical experience with these products, and the products' history of satisfactory performance.

5. Risks to health: Delay in diagnosis: If reagents fail to perform as intended, specimen deterioration, damage, or improper fixation will make the tissue specimen unusable for examination. Additional time will be needed to obtain and prepare a new specimen, thus causing a delay in diagnosis.

Proposed Classification

FDA agrees with the recommendation of the Panels and is proposing that general purpose reagents be classified into class I (general controls). The agency believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these products.

FDA disagrees with the Panels' recommendation that manufacturers of general purpose reagents be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device food manufacturing practice (GMP) regulation, published in the **Federal Register** of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panels' recommendation that manufacturers of general purpose reagents be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices who does not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of general purpose reagents, even when they are not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of general purpose reagents must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of general purpose reagents that are labeled or otherwise represented as sterile is, in the manufacture of these devices, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended by adding new Subpart E including § 864.4010 to read as follows:

Subpart E—Specimen Preparation Reagents

§ 864.4010 General purpose reagent.

(a) *Identification.* A general purpose reagent is a chemical reagent that has general laboratory application, that is used to collect, prepare, and examine specimens from the human body for diagnostic histopathology and hematology, and that is not labeled or promoted for medical use or for a specific diagnostic application. General purpose reagents include cytological preservatives, decalcifying reagents, fixatives and adhesives, tissue processing reagents, isotonic solutions, and pH buffers.

(b) *Classification.* Class I (general controls). If the devices are not labeled or otherwise represented as sterile, they are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-30-5), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27629 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR PART 864]

[Docket No. 78N-1850]

Medical Devices; Classification of Enzyme Preparations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying enzyme preparations into class I (general controls). The FDA is also publishing the recommendations of the Pathology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Pathology Device Classification Panel an FDA advisory committee, made the following recommendation with respect to the classification of enzyme preparations:

1. Identification: Enzyme preparations are products that are used in the histopathology laboratory for the following purposes: (a) to disaggregate tissues and cells already in established cultures for preparation into subsequent cultures (e.g., trypsin); (b) to disaggregate fluid specimens for cytological examination (e.g., papain for gastric lavage or trypsin for sputum liquefaction); (c) to aid in the selective staining of tissue specimens (e.g., diastase for glycogen determination). The Panel reviewed these products under the name "enzymes."

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that enzyme preparations be classified into class I because general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' familiarity and clinical experience with these products, and on

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the products' history of satisfactory performance.

5. Risks to health: None specified.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that enzyme preparations be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide a reasonable assurance of the safety and effectiveness of these products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart E by adding new § 864.4400 as follows:

§ 864.4400 Enzyme preparations.

(a) *Identification.* Enzyme preparations are products that are used in the histopathology laboratory for the following purposes:

(1) To disaggregate tissues and cells already in established cultures for preparation into subsequent cultures (e.g., trypsin);

(2) To disaggregate fluid specimens for cytological examination (e.g., papain for gastric lavage or trypsin for sputum liquefaction);

(3) To aid in the selective staining of tissue specimens (e.g., diastase for glycogen determination).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27630 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1851]

Medical Devices; Classification of Automated Cell Counters

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated cell counters into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of automated cell counters:

1. Identification: An automated cell counter is a device used to count red blood cells, white blood cells, or blood platelets, to measure hemoglobin and hematocrit, and to measure or calculate the red cell indices (the erythrocyte mean corpuscular volume, the mean corpuscular hemoglobin, and the mean corpuscular hemoglobin concentration) using an sample of the patient's peripheral blood (blood circulating in one of the body's extremities, such as the arm).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that automated cell counters be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the information presented by Dr. O. W. Van Assendelft, a consultant to the Panel and the chairman of the Quantitative Cellular Hematology Subcommittee of the National Committee for Clinical Laboratory Standards, who stated that the Subcommittee could develop a standard for automated cell counters in approximately 2 years, and upon the Panel members' own clinical experience with automated cell counters.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of potentially serious disorders such as anemia, leukopenia (a decreased number of leukocytes in the circulating blood), or leukocytosis (an increased number of leukocyes in the circulating blood). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Erroneous cell counts can be potentially life-threatening when those counts are used to monitor patients undergoing chemotherapy.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the automated cell counter be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

The Commissioner has reviewed additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by performance standards. Wintrobe et al. (Ref. *1*) indicate that the results of electronic counters are not necessarily more accurate or more reliable than those of semi-automated or manual cell-counting methods. The authors list 12 sources of error in electronic counters. Williams and Schneider (Ref. *2*) state that errors occur in electronic counting when the white blood cell count is very high. False low white blood cell counts result when significant lymphocytosis (an excess number of lymphocytes in the blood, as in chronic lymphocytic leukemia) is present (Ref. *2*). The Commissioner believes that the matter of error in automated cell counts should be addressed in the device labeling. If the labeling specifies the possible sources of error the operator would be alerted to the possibility of erroneous cell counts under certain operating conditions. A performance standard containing such a labeling requirement would provide a reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Wintrobe, M. M., G. R. Lee, D. R. Boggs, T. C. Bithell, J. W. Athens, and J. Foerster, "Clinical Hematology," Lea and Febiger, Philadelphia, pp. 15–20, 1974.

2. Williams, W. J. and A. S. Schneider, "Examination of the Peripheral Blood," *in* "Hematology," 2d Ed., Edited by W. J. Williams, McGraw-Hill Book Co., New York, pp. 11–14, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart F including new § 864.5200, as follows:

Subpart F—Automated and Semi-Automated Hematology Devices

§ 864.5200 Automated cell counter.

(a) *Identification.* An automated cell counter is a device used to count red blood cells, white blood cells, or blood platelets, to measure hemoglobin and hematocrit, and to measure or calculate the red cell indices (the erythrocyte mean corpuscular volume, the mean corpuscular hemoglobin, and the mean corpuscular hemoglobin concentration) using a sample of the patient's peripheral blood (blood circulating in one of the body's extremities, such as the arm).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27631 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1852]

Medical Devices; Classification of Automated Differential Cell Counters

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated differential cell counters into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of automated differential cell counters:

1. Identification: An automated differential cell counter is a device used to identify and classify one or more of the formed elements of the blood.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated differential cell counters be classified into class III (premarket approval) because of the possibility of misclassification of cells, which could result in the failure to diagnose a serious disorder. The device therefore presents a potential unreasonable risk of illness or injury. Misclassification by the device could result from a failure to differentiate between cell types or a failure to detect a certain cell type. The Panel was concerned about the fully automated mode of certain differential cell counters. With this type of device, the task of classifying suspect cells, once that of the technician, now is left entirely to the machine. The Panel believes that the ability of this device to accurately identify abnormal cells remains to be established. Therefore, operator verification of the device's abnormal cell identifications is essential. The Panel believes that general controls would not provide

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sufficient control over these characteristics. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is not sufficient information to establish a standard to provide such assurance. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with automated differential cell counters and on information presented at a symposium entitled "Differential Counters in Hematology" held at the Panel meeting. Among the speakers at the symposium was Dr. Robert Miller of the Johns Hopkins University Medical Center. Dr. Miller discussed difficulties concerning data interpretation, precision and accuracy, correlation to reference methods and error in terms of coincidence, nonreproducible results, nonlinearity, and specific interferences.

5. Risks to health: (a) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a blood cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the automated differential cell counter be classified into class III (premarket approval). The Commissioner believes that the device is purported or represented for use in the classification of blood cells, a use which is of substantial importance in preventing impairment of human health. The Commissioner believes that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance. FDA has reviewed medical literature concerning automated differential cell counters (Refs. *1* through *6*). The medical literature reports two basic methodologies for automated differential cell counting—pattern recognition and flow-through techniques. Pattern recognition systems microscopically scan a fixed, stained blood film. Flow-through systems count and identify cells suspended in a liquid medium.

Pattern recognition systems are handicapped by their lack of accuracy (Ref. *1*). In one study, 68.8 percent of the abnormal cells that the system examined were classified as normal (Ref. *2*). An error of this sort could result in the failure to detect a pathological blood sample (Ref. *1*). Several studies (Refs. *3* through *6*) show a discrepancy between pattern recognition counts and manual counts of monocytes (mononuclear leukocytes). It is suggested that the criteria for identifying monocytes need to be better defined (Refs. *4* and *5*). There also have been reports of discrepancies between pattern recognition counts and manual counts of plasma cells and atypical lymphocytes (Refs. *4* and *6*). The tendency of pattern recognition systems to underestimate the number of atypical lymphocytes is ascribed to flaws in the recognition criteria. Pattern recognition systems also cause difficulty in blood film preparation. Overlapping cells must be avoided, and a uniform distribution of cell types must be achieved (Ref. *1*).

Flow-through systems allow a hundred-fold increase in the rate at which cells are counted. There is imperfect correlation between the classification logic systems of the flow-through machines and the morphological features of the blood cell classes as defined by fixed, Romanowsky-stained preparations (Ref. *1*). Therefore, these machines will fail to classify up to 10 percent of normal cells.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Bentley, S. A. and S. M. Lewis, "Automated Differential Leukocyte Counting: The Present State of the Art," *British Journal of Haematology*, 35:481–485, 1977.

2. Megla, G. K., "The LARC Automatic White Blood Cell Analyzer," *Acta Cytologica*, 17:3–14, 1973.

3. Cairns, J. W., et al., "Evaluation of the Hemalog D Differential Leucocyte Counter," *Journal of Clinical Pathology*, 30:997–1004, 1977.

4. Egan, J. J., et al., "Evaluation of an Automated Differential Leukocyte Counting System III. Detection of Abnormal Cells," *American Journal of Clinical Pathology*, 62:537–544, 1974.

5. Christoper, E. A., et al., "Automated Detection of Abnormal Cells," *American Journal of Medical Technology*, 40(1):470–473, 1974.

6. Benzel, J. E., et al., "Evaluation of an Automated Differential Leukocyte Counting System II. Normal Cell Identification," *American Journal of Clinical Pathology*, 62:530–536, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5220 as follows:

§ 864.5220 Automated differential cell counter.

(a) *Identification.* An automated differential cell counter is a device used to identify and classify one or more of the formed elements of the blood.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27632 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1853]

Medical Devices; Classification of Automated Blood Cell Diluting Apparatus

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated blood cell diluting apparatus into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated blood cell diluting apparatus:

1. Identification: An automated blood cell diluting apparatus is a device used to make, automatically, appropriate dilutions of a blood sample for further quantitative testing.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the automated blood cell diluting apparatus be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that labeling of the product be required to include explicit directions for calibration.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with these devices.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a blood cell disorder. In appropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (c) Electrical shock: A malfunction could result in an electric shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that automated blood cell diluting apparatus be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner believes that if the operator of this device is properly trained to use this device and employs good laboratory procedures, the risks of hepatitis infection and electrical shock are minimal. Furthermore, if good laboratory practices and quality control procedures are followed, the possibility of improper dilution is minimal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5240 as follows:

§ 864.5240 Automated blood cell diluting apparatus.

(a) *Identification.* An automated blood cell diluting apparatus is a device used to make, automatically, appropriate dilutions of a blood sample for further quantitative testing.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27633 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1854]

Medical Devices; Classification of Automated Cell-Locating Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated cell-locating devices into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated cell-locating devices:

1. Identification: An automated cell-locating device is a device used to locate blood cells on a peripheral blood smear, allowing the operator to identify and classify each cell according to type. (Peripheral blood is blood circulating in one of the body's extremities, such as the arm.)

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a

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performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that automated cell-locating devices be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel expressed concern over the potential for bias in the results obtained from the use of these devices due to failure to identify a particular cell type. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with automated cell locating devices.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a blood cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated cell-locating devices be classified into class II (performance standards). The differential cell count is used to identify abnormalities that require followup and diagnosis. Leukocytosis (an increase in the number of circulating leukocytes) may be caused by bacterial infection, leukemia, infectious hepatitis and a number of other disorders (Refs. *1* and *2*). Leukopenia (a decreased number of leukocytes in the circulation) may be caused by malaria, viral pneumonia, viral hepatitis, radiation, or drug therapy (Refs. *1* and *2*). Certain disorders cause increased numbers of cells other than leukocytes. The number of platelets in the blood is increased in conditions such as polycythemia vera (a disease state in which the total red cell mass and the total blood volume are increased) and chronic myelogenous leukemia (a leukemia originating in the bone marrow). The Commissioner concurs with the Panel's view that an inaccurate total or differential white cell count resulting from a failure to locate or recognize leukocytes is potentially hazardous to the patient.

The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of this device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), at the address above, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Simmons, A., "Technical Hematology," 2d Ed., J. B. Lippincott Co., Philadelphia, pp. 88 and 109, 1976.

2. Brown, B. A., "Hematology: Principles and Procedures," 2d Ed., Lea and Febiger, Philadelphia, pp. 75–76, 88–89, 100–101, 247, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5260 as follows:

§ 864.5260 Automated cell-locating device.

(a) *Identification.* An automated cell-locating device is a device used to locate blood cells on a peripheral blood smear, allowing the operator to identify and classify each cell according to type. (Peripheral blood is blood circulating in one of the body's extremities, such as the arm.)

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27834 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1855]

Medical Devices; Classification of Red Cell Indices Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying red cell indices devices into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of red cell indices devices:

1. Identification: A red cell indices device, usually part of a larger system, calculates or directly measures the erythrocyte mean corpuscular volume (MCV), the mean corpuscular hemoglobin (MCH), and the mean corpuscular hemoglobin concentration (MCHC). The red cell indices are used for the differential diagnosis of anemias. The Panel considered this generic type of device under the names "red cell indices, calculated" and "red cell indices, measured."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that red cell indices devices be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familiarity with these devices. In making its recommendation, the Panel indicated that because this device is usually a component of a larger system and because the parameters used are often calculated from measurements made by that larger system, the accuracy of the device is dependent upon the accuracy of the larger system. Therefore, performance standards for red cell indices must be developed in conjunction with the performance standards for systems for red cell counting and measurement of the hematocrit and hemoglobin.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of anemia. A miscalculation of the MCV, MCH, and MCHC may lead to an incorrect differential diagnosis between thalassemia minor (a hereditary hemolytic anemia that is the result of decreased synthesis of the beta chains of hemoglobin) and other anemias. In appropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that red cell indices devices be classified into class II (performance standards). The Commissioner believes that a performance standard is necesary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5300 as follows:

§ 864.5300 Red cell indices device.

(a) *Indentification.* A red cell indices device, usually part of a larger system, calculates or directly measures the erythrocyte mean corpuscular volume (MCV), the mean corpuscular hemoglobin (MCH), and the mean corpuscular hemoglobin concentration (MCHC). The red cell indices are used for the differential diagnosis of anemias.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27835 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1856]

Medical Devices; Classification of Microsedimentation Centrifuges

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying microsedimentation centrifuges into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of microsedimentation centrifuges:

1. Identification: A microsedimentation centrifuge is a device used to sediment red blood cells for the microsedimentation rate test.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the microsedimentation centrifuge be classified into class I because general

controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' belief that the reference methods for erythrocyte sedimentation rate of the International Committee for Standardization in Hematology (Refs. *1* and *2*) and the National Committee for Clinical Laboratory Standards (Ref. *3*) sufficiently assure the safety and effectiveness of this test. The Panel also considered medical literature concerning the effects of low and high levels of asymmetric macromolecules (Ref. *4*), tube length and diameter (Ref. *5*), disadvantages of the present methodology because of the length of time required to perform the test (Ref. *7*), and the controversy over correction for anemia (Refs. *4* through *7*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of various illnesses, including infections, plasma cell abnormalities, and inflammatory diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the microsedimentation centrifuge be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lewis, S. M., "ICSH Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Scandinavian Journal of Haematology*, 10:319–320, 1973.

2. Boroviczeny, K. G., et al., "Reference Method for Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Journal of Clinical Pathology*, 26:301–302, 1973.

3. National Committee for Clinical Laboratory Standards: Standard Method for the Human Erythrocyte Sedimentation Rate (ESR) Test, NCCLS Tentative Standard: TSH–1 (proposed 1971, approved 1973), 2525 W. 8th St., Los Angeles, CA 90057.

4. Bull, B. S. and G. Brecher, "An Evaluation of the Relative Merits of the Wintrobe and Westergren Sedimentation Methods, Including Hematocrit Correction," *American Journal of Clinical Pathology*, 62:502–510, 1974.

5. Bull, B. S., "Is a Standard ESR Possible?" *Laboratory Medicine*, 6(11):31–35, 1975.

6. Lascari, A. D., "The Erythrocyte Sedimentation Rate," *Pediatric Clinics of North America*, 19(4):1113–1121, 1972.

7. Raich, P. C. and N. Temperley, "Comparison of the Wintrobe Erythrocyte Sedimentation Rate with the Zeta Sedimentation Ratio," *American Journal of Clinical Pathology*, 65:690–693, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5350 as follows:

§ 864.5350 Microsedimentation centrifuge.

(a) *Identification.* A microsedimentation centrifuge is a device used to sediment red cells for the microsedimentation rate test.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27636 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1857]

Medical Devices; Classification of Coagulation Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying coagulation instruments into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of coagulation instruments:

1. Identification: A coagulation instrument is an automated or semiautomated device used to determine the onset of clot formation for in vitro coagulation studies. The Panel considered this generic type of device under the names "automated clot timer" and "automated and semiautomated coagulation instrument."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that coagulation instruments be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a performance standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familiarity with coagulation instruments. The Panel noted that the Center for Disease Control has proposed studies of automated coagulation instruments and that such studies could aid in the development of a performance standard.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a clotting disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Electrical shock: A malfunction could result in an electric shock.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that coagulation instruments be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that sufficient information exists to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5400 as follows:

§ 864.5400 Coagulation instrument.

(a) *Identification.* A coagulation instrument is an automated or semiautomated device used to determine the onset of clot formation for in vitro coagulation studies.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27637 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1858]

Medical Devices; Classification of Multipurpose Systems for In Vitro Coagulation Studies

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying multipurpose systems for in vitro coagulation studies into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectivness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of multipurpose systems for in vitro coagulation studies:

1. Identification: A multipurpose system for in vitro coagulation studies is a device consisting of one automated or semiautomated instrument and its associated reagents and controls. This system is used to perform a series of coagulation studies and coagulation factor assays.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this system be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that multipurpose systems for in vitro coagulation studies be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel also expressed concern over the accuracy and precision of the automated systems. Specifically, this concern centered on the ability of the instruments to determine an endpoint in instances of markedly abnormal coagulation. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable asurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familiarity with these systems. The Panel noted that the Center for Disease Control is currently involved in the development of a standardized methodology.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a coagulation disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Electrical shock: A malfunction could result in an electric shock.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that multipurpose systems for in vitro coagulation studies be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lewis, S. M., "ICSH Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Scandinavian Journal of Haematology*, 10:319–320, 1973.

2. Boroviczeny, K. G., et al., "Reference Method for Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Journal of Clinical Pathology*, 26:301–302, 1973.

3. National Committee for Clinical Laboratory Standards: Standard Method for the Human Erythrocyte Sedimentation Rate (ESR) Test, NCCLS Tentative Standard: TSH–1 (proposed 1971, approved 1973), 2525 W. 8th St., Los Angeles, CA 90057.

4. Bull, B. S. and G. Brecher, "An Evaluation of the Relative Merits of the Wintrobe and Westergren Sedimentation Methods, Including Hematocrit Correction," *American Journal of Clinical Pathology*, 62:502–510, 1974.

5. Bull, B. S., "Is a Standard ESR Possible?" *Laboratory Medicine*, 6(11):31–35, 1975.

6. Lascari, A. D., "The Erythrocyte Sedimentation Rate," *Pediatric Clinics of North America*, 19(4):1113–1121, 1972.

7. Raich, P. C. and N. Temperley, "Comparison of the Wintrobe Erythrocyte Sedimentation Rate with the Zeta Sedimentation Ratio," *American Journal of Clinical Pathology*, 65:690–693, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5350 as follows:

§ 864.5350 Microsedimentation centrifuge.

(a) *Identification.* A microsedimentation centrifuge is a device used to sediment red cells for the microsedimentation rate test.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27636 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1859]

Medical Devices; Classification of Automated Hematocrit Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated hematocrit instruments into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated hematocrit instruments:

1. Identification: An automated hematocrit instrument is a device used to determine the hematocrit by means of a calculation involving a measurement of the average red cell volume and the number of red cells per unit volume of whole blood.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated hematocrit instruments be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon

performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk

[21 CFR Part 864]

[Docket No. 78N–1860]

Medical Devices; Classification of Automated Hemoglobin Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated hemoglobin systems into class II (performance

3. Summary of reasons for recommendation: The Panel recommends that automated hemoglobin systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that multipurpose systems for in vitro coagulation studies be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5425 as follows:

§ 864.5425 Multipurpose system for in vitro coagulation studies.

(a) *Identification.* A multipurpose system for in vitro coagulation studies is a device consisting of one automated or semiautomated instrument and its associated reagents and controls. The system is used to perform a series of coagulation studies and coagulation factor assays.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27638 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1859]

Medical Devices; Classification of Automated Hematocrit Instruments

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated hematocrit instruments into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated hematocrit instruments:

1. Identification: An automated hematocrit instrument is a device that measures automatically the packed red cell volume of a blood sample to distinguish normal from abnormal states, such as anemia and erythrocytosis (an increase in the number of red cells).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated hematocrit instruments be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel stated that the hematocrit is one of the most important determinations in hematology. The Panel stressed the need to standardize the methodology because certain devices claim to measure the packed red cell volume, but in fact measure something else. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the existence of a protocol for the determination of packed red cell volume developed by the World Health Organization and the International Committee for Standardization in Hematology (Ref. *1*). The Panel also considered proficiency testing surveys conducted by the College of American Pathologists and the Center for Disease Control.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hematological abnormality such as anemia, erythrocytosis, or thalassemia (a hereditary hemolytic anemia characterized by a decreased rate of synthesis of one or more of the hemoglobin polypeptide chains). (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the automated hematocrit instrument be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Van Assendelft, O. W., J. F. Coster, and P. J. Crossland-Taylor, "Methods for the Determination of Packed Cell Volume," World Health Organization Document Lab/76.3.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5600 as follows:

§ 864.5600 Automated hematocrit instrument.

(a) *Identification.* An automated hematocrit instrument is a device that measures automatically the packed red cell volume of a blood sample to distinguish normal from abnormal states, such as anemia and erythrocytosis (an increase in the number of red cells).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27639 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1860]

Medical Devices; Classification of Automated Hemoglobin Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated hemoglobin systems into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated hemoglobin systems:

1. Identification: An automated hemoglobin system is a device consisting of the reagents, calibrators, controls, and instrumentation used to determine the hemoglobin content of human blood.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this product be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated hemoglobin systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a performance standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the fact that a method and reference solution for hemoglobin determination have been addressed in standards developed by the International Committee for Standardization in Hematology (Ref. *1*). This method and reference solution have been accepted by the College of American Pathologists, the American Society of Hematology, and the National Committee for Clinical Laboratory Standards. In addition, a preliminary standard has been devloped by the Center for Disease Control. The Panel also relied upon the medical literature concerning hemoglobinometry. Van Assendelft's discussion (Ref. *2*) of the subject considers the standardization of hemoglobinometry and photometric errors. Van Assendelft, Zijlstra, and van Kampen (Ref. *3*) discuss the sources of error in the cyanmethemoglobin method. They state that errors occur due to improper technique in obtaining and diluting the blood sample. Reagents may have been stored in improper containers, accidentally frozen, or improperly prepared. The hemoglobin determination also may be in error if the measuring instrument was not calibrated and checked with a cyanmethemaglobin reference solution.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The measurement of the patient's hemoglobin is the basis for a decision to intitiate or terminate treatment.

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including blood transfusion. (b) Potassium cyanide hazard: The potassium cyanide present in some hemoglobin reagents constitutes a hazard to the laboratory user. (c) Electrical shock: A malfunction could result in an electric shock.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated hemoglobin systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the divice. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Hematology. "Recommendations for Hemogolobinometry in Human Blood," *British Journal of Haematology*, 13 (Supple.):71, 1967.

2. Van Assendelft, O. W., "Spectrophotometry of Hemoglobin Derivatives," Charles C. Thomas Co., Springfield, IL, pp. 35-38, 86-118, 1970.

3. Van Assendelft, O. W., W. G. Zijlstra, and E. J. van Kampen, "Hemoglobinometry: Challenges and Pitfalls," *Proceedings Koninklijke Nederlandse Akademie van Wetenschappen*, 73:104, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5620 as follows:

§ 864.5620 Automated hemoglobin system.

(a) *Identification.* An automated hemoglobin system is a device consisting of the reagents, calibrators, controls, and instrumentation used to determine the hemoglobin content of human blood.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27640 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1861]

Medical Devices; Classification of Automated Heparin Analyzers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated heparin analyzers into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated heparin analyzers:

1. Identification: An automated heparin analyzer is a device used to determine the heparin level in a blood sample by mixing the sample with protamine (a heparin-neutralizing substance) and determining photometrically the onset of air-activated clotting. The analyzer also determines the amount of protamine necessary to neutralize the heparin in the patient's circulation.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that the automated heparin analyzer be classified into class III (premarket approval) because reliance upon the information derived from the use of this device, if inaccurate, could be hazardous to the patient's health. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that there is not sufficient information available regarding the operating principles of this device or the processes involved in its manufacture. The Panel believes that this lack of information would prevent the establishment of a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation, in part, upon the conclusion by the Center for Disease Control that there are insufficient data to determine that the safety and effectiveness of this device could be assured by general controls or a performance standard (Ref. *1*). The Panel also considered Biggs' discussion of heparin neutralization (Ref. *2*), Williams' discussion of heparin and anticoagulant therapy (Ref. *3*), and the Panel members' clinical experience with heparin neutralization.

5. Risks to health: (a) Hemorrhage or thrombosis: If this device incorrectly reports the level of heparin in the patient's circulation, hemorrhage or thrombosis may result due to the administration of an inappropriate amount of protamine. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated heparin analyzers be classified into class III (premarket approval). This device is intended for use during hemodialysis, to direct heparin therapy, or to monitor heparin levels during surgical procedures such as cardiovascular surgery. If this device fails to report the patient's heparin level accurately during such a procedure, potentially life-threatening thrombosis or hemorrhage could result. Therefore the Commissioner believes that the device presents a potential unreasonable risk of illness or injury (including death) to the patient if the physician directs heparin therapy in reliance upon the information derived from the device. The Commissioner agrees that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Transcript of the Hematology Device Classification Panel Meeting, June 14, 1977, pp. 104-109.

2. Biggs, R., "Human Blood Coagulation, Hemostasis, and Thrombosis," Blackwell Scientific Publications, Oxford, p. 576, 1976.

3. Williams, W. J., "Disorders of Hemostasis—Thrombosis," *in* "Hematology," 2d Ed., Edited by W. J. Williams, McGraw-Hill Book Co., New York, pp. 1481-1489, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5680 as follows:

§ 864.5680 Automated heparin analyzer.

(a) *Identification.* An automated heparin analyzer is a device used to determine the heparin level in a blood sample by mixing the sample with protamine (a heparin-neutralizing substance) and determining photometrically the onset of air-activated clotting. The analyzer also determines the amount of protamine necessary to neutralize the heparin in the patient's circulation.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before (*insert date 60 days after date of publication in the* **Federal Register**) submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27641 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1862]

Medical Devices; Classification of Automated Platelet Aggregation Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated platelet aggregation systems into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated platelet aggregation systems:

1. Identification: An automated platelet aggregation system is a device used to determine changes in platelet shape and platelet aggregation following the addition of an aggregating reagent to a platelet-rich plasma.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that automated platelet aggregation systems be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel expressed concern over the variation in results obtained with these systems. The Panel ascribed this variation to the nonuniform stability and reactivity of the reagents. The Panel recommends that the labeling be required to describe the stability of the reagents and their active constituents, and directions for storage. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance

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standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a performance standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and knowledge of the medical literature concerning platelet aggregation. The Panel considered a review article by Arkel (Ref. *1*) describing platelet aggregation and its clinical applications. Arkel states that although inherited platelet function disorders are rare, they are dangerous because they can cause excessive bleeding during surgery. Han and Ardlie (Ref. *2*) describes the effects of pH, temperature, and calcium concentration on platelet aggregation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a platelet disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Failure to diagnose a platelet disorder could result in bleeding during surgery.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated platelet aggregation systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Arkel, Y. W., "Evaluation of Platelet Aggregation in Disorders of Hemostasis," *Medical Clinics of North America*, 60(5):881–911, 1976.

2. Han, P. and N. G. Ardlie, "The Influence of pH, Temperature, and Calcium on Platelet Aggregation: Maintenance of Environmental pH and Platelet Function for In Vitro Studies in Plasma Stored at 37° C," *British Journal of Haematology*, 26:373–389, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5700 as follows:

§ 864.5700 Automated platelet aggregation system.

(a) *Identification.* An automated platelet aggregation system is a device used to determine changes in platelet shape and platelet aggregation following the addition of an aggregating reagent to a platelet-rich plasma.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27642 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1863]

Medical Devices; Classification of Automated Sedimentation Rate Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated sedimentation rate devices into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classfication of automated sedimentation rate devices:

1. Identification: An automated sedimentation rate device is an instrument that measures automatically the erythrocyte sedimentation rate in whole blood. Because an increased sedimentation rate indicates tissue damage or inflammation, the erythrocyte sedimentation rate device is useful in monitoring treatment of a disease.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the automated sedimentation rate device be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' belief that the reference method for erythrocyte sedimentation rate (Refs. *1* and *2*) of the International Committee for Standardization in Hematology and the reference method of the National Committee for Clinical Laboratory Standards sufficiently control the safety and effectiveness of this test. The Panel also considered medical literature concerning the effect of low and high levels of asymmetric macromolecules (Ref. *4*), tube length and diameter (Ref. *5*), disadvantages of the present methodology because of the length of time required to perform the test (Ref. *7*), and the controversy over correction for anemia (Refs. *4* through *7*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of various illnesses, including infections, plasma cell abnormalities, and inflammatory diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated sedimentation rate devices be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lewis, S. M., "ICSH Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Scandinavian Journal of Hematology*, 10:319–320, 1973.

2. Boroviczeny, K. G., et al., "Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Journal of Clinical Pathology*, 26:301–302, 1973.

3. National Committee for Clinical Laboratory Standards: Standard Method for the Human Erythrocyte Sedimentation Rate (EST) Test NCCLS Tentative Standard: TSH–1 (proposed 1971, approved 1973), 2525 W. 8th St., Los Angeles, CA 90057.

4. Bull, B. S. and G. Brecher, "An Evaluation of the Relative Merits of the Wintrobe and Westergren Sedimentation Methods, Including Hematocrit Correction," *American Journal of Clinical Pathology*, 62:502–510, 1974.

5. Bull, B. S., "Is a Standard ESR Possible?" *Laboratory Medicine*, 6(11):31–35, 1975.

6. Lascari, A. D., "The Erythrocyte Sedimentation Rate," *Pediatric Clinics of North America*, 19(4):1113–1121, 1972.

7. Raich, P. C. and N. Temperley, "Comparison of the Wintrobe Erythrocyte Sedimentation Rate with the Zeta Sedimentation Ratio," *American Journal of Clinical Pathology*, 65:680–693, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5800 as follows:

§ 864.5800 Automated sedimentation rate device.

(a) *Identification.* An automated sedimentation rate device is an instrument that measures automatically the erythrocyte sedimentation rate in whole blood. Because an increased sedimentation rate indicates tissue damage or inflammation, the erythrocyte sedimentation rate device is useful in monitoring treatment of a disease.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27643 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1864]

Medical Devices; Classification of Automated Slide Spinners

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated slide spinners into class I (general controls). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated slide spinners:

1. Identification: An automated slide spinner is a device that prepares automatically a blood film on a microscope slide using a small amount of peripheral blood (blood circulating in one of the body's extremities, such as the arm).

2. Recommended classification: Class II (general controls). The Panel recommends that there be no exemptions.

3. Summary the reasons for recommendation: The Panel recommends that the automated slide spinner be classified into class I because general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with this device.

5. Risks to health: (a) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (b) Electrical shock: A malfunction could result in electric shock. (c) Cuts and abrasions: There is a risk of injury to the operator from borken glass microscope slides if the device fails to function properly. (d) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a serious disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. There is a risk of misdiagnosis due to mislabeling of slides and poor quality of spun slide preparations.

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Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that automated slide spinners be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Commissioner believes that if the operator is properly trained to use this device and follows the manufacturer's instructions carefully, the risks of hepatitis, injury from broken glass, mislabeling of slides, and poor slide quality are minimal. If good laboratory practices and quality control procedures are followed, the possibility of hepatitis infection or mislabeling of slides is minimal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under the authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5850 as follows:

§ 864.5850 Automated slide spinner.

(a) *Identification.* An automated slide spinner is a device that prepares automatically a blood film on a microscope slide using a small amount of peripheral blood (blood circulating in one of the body's extremities, such as the arm).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, (*insert date 60 days after date of publication in the* **Federal Register**) submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27644 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1865]

Medical Devices; Classification of Blood Volume Measuring Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood volume measuring devices into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305). Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of blood volume measuring devices:

1. Identification: A blood volume measuring device is a manual semiautomated, or automated system that is used to calculate the red cell mass, plasma volume, and total blood volume.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the blood volume measuring device be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that sufficient information exists to establish a performance standard that will provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with these systems.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of polycythemia vera (a disease characterized by an absolute increase in the red cell mass and the total blood volume). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendations and is proposing that blood volume measuring devices be classified into class II (performance standards).

An FDA review of the medical literature shows that certain aspects of blood volume measuring devices could be addressed in a performance standard. The use of labeled red cells is the method of choice for measuring the total circulating red cell volume. Use of either stable or radioactive carbon monoxide as a label results in a tendency to overestimate the total red cell volume (Ref. *1*). There also are inherent difficulties in measurement of plasma volume. Allowance must be made for the time required for the label to mix with the plasma and the continual elimination of the label from the plasma. The plasma volume does not remain constant and therefore is hard to define (Ref. *1*). If the Evans blue dye method is employed, it is difficult to obtain an accurate measurement. The deep blue dye hampers any measurement made in a syringe. The patient also must be fasting to control the opacity of the plasma (Ref. *2*). There are also instances in which the peripheral blood volume does not correlate closely with the red cell volume (Ref. *2*).

In addition to the uses cited by the Panel, the blood volume measurement is used in the following situations: to evaluate blood and fluid losses during major surgical procedures and following trauma (e.g., burns), to serve as a guide in preoperative and postoperative transfusion therapy, to evaluate gastrointestinal and uterine bleeding, and to aid in the diagnosis of hypovolemic shock (i.e., shock characterized by abnormally low levels of fluid in the body's circulatory system). An inaccurate blood volume measurement in these circumstances poses great potential for harm. The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that sufficient information exists to establish a performance standard for the device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Berlin, N. I., "Laboratory Evaluation of Erythrokinetics," *in* "Hematology," 2d Ed., Edited by W. J. Williams, McGraw-Hill Book Co., New York, pp. 237–240, 1977.

2. Simmons, A., "Technical Hematology," 2d Ed., J. B. Lippincott Co., Philadelphia, pp. 338–339, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart F by adding new § 864.5950 as follows:

§ 864.5950 Blood volume measuring device.

(a) *Identification.* A blood volume measuring device is a manual, semiautomated, or automated system that is used to calculate the red cell mass, plasma volume, and total blood volume.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27645 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1866]

Medical Devices; Classification of Bleeding Time Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying bleeding time devices into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of bleeding time devices:

1. Identification: A bleeding time device is a device, usually employing two spring-loaded blades, that produces two small incisions in the patient's skin. The length of time required for the bleeding to stop is a measure of the effectiveness of the coagulation system, primarily the platelets.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that bleeding time devices be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that it is vitally important that the template used to make the incision be sterilizable or disposable. If the template is sterilizable, the label should specify the method of sterilization to be used. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' knowledge of, and clinical experience with, this device. In making its recommendation, the Panel indicated that a standard should not be difficult to develop because the current template, with its well-standardized design, works well and is widely accepted.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a potentially serious bleeding disorder.

Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The result could be severe bleeding during surgery. (b) Scarring: If the device is used improperly the patient may receive a permanent scar. (c) Cuts and abrasions: The spring-loaded blades may injure the technician if the device is not handled properly. (d) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that bleeding time devices be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commission also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart G including new § 864.6100 as follows:

Subpart G—Manual Hematology Devices

§ 864.6100 Bleeding time device.

(a) *Identification.* A bleeding time device is a device, usually employing two spring-loaded blades, that produces two small incisions in the patients's skin. The length of time required for the bleeding to stop is a measure of the effectiveness of the coagulation system, primarily the platelets.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27646 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1867]

Medical Devices; Classification of Capillary Blood Collection Tubes

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying capillary blood collection tubes into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of capillary blood collection tubes:

1. Identification: A capillary blood collection tube is a plain or heparinized glass tube of very small diameter used to collect blood by capillary action.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that capillary blood collection tubes be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with the device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that capillary blood collection tubes be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6150 as follows:

§ 864.6150 Capillary blood collection tube.

(a) *Identification.* A capillary blood collection tube is a plain or heparinized glass tube of very small diameter used to collect blood by capillary action.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27647 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1868]

Medical Devices; Classification of Manual Blood Cell Counting Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying manual blood cell counting devices into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of manual blood cell counting devices:

1. Identification: A manual blood cell counting device is a device used to count red blood cells, white blood cells, and blood platelets. The Panel considered this generic type of device under the names "hemocytometer," "differential hand tally," "quantitative hematology pipettes," and "manual platelet counting."

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that manual blood cell counting devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with these devices.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a blood cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that manual blood cell counting devices be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner believes that if the blood cells are counted according to an established procedure, the chance of an inaccurate cell count is greatly reduced.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner, it is proposed that Part 864 be amended in Subpart G by adding new § 864.6160, to read as follows:

§ 864.6160 Manual blood cell counting device.

(a) *Identification.* A manual blood cell counting device is a device used to count red blood cells, white blood cells, and blood platelets.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27648 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1869]

Medical Devices; Classification of Hematocrit Measuring Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hematocrit measuring devices into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification

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Panel, an FDA advisory committee, made the following recommendation with respect to the classification of hematocrit measuring devices:

1. Identification: A hematocrit measuring device is a system consisting of instruments, tubes, racks, and a sealer and a holder. The device is used to measure the packed red cell volume in blood to determine whether the patient's total red cell volume is normal or abnormal. Abnormal states include anemia (an abnormally low total red cell volume) and erythrocytosis (an abnormally high total red cell mass). The packed red cell volume is produced by centrifuging a given volume of blood. The Panel considered this generic type of device under the names "hematocrit, centrifugal force packed, cell volume" and "hematocrit tubes, racks, sealer, and holder."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hematocrit measuring devices be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel indicated that measurement of the hematocrit is one of the most important measurements in hematology. The Panel stressed the need to standardize the methodology because of the use of this measurement to distinguish various hematogical abnormalities and because certain devices claim to measure the packed red cell volume, but in fact measure something else. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the existence of a protocol for the determination of packed red cell volume developed by the World Health Organization and the International Committee for Standardization in Hematology (Ref. *1*). The Panel also considered proficiency testing surveys conducted by the College of American Pathologists and the Center for Disease Control.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hematological abnormality such as anemia, erythrocytosis, or thalassemia (a hereditary hemolytic anemia characterized by a decreased rate of synthesis of one or more of the hemoglobin chains). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Hepatitis infection. Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the hematocrit measuring devices be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Van Assendelft, O. W., J. F. Coster, and P. J. Crossland-Taylor, "Methods for the Determination of Packed Cell Volume," World Health Organization Document LAB/76.3.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6400 as follows:

§ 864.6400 Hematocrit measuring device.

(a) *Identification.* A hematocrit measuring device is a system consisting of instruments, tubes, racks, and a sealer and a holder. The device is used to measure the packed red cell volume in blood to determine whether the patient's total red cell volume is normal or abnormal. Abnormal states include anemia (an abnormally low total red cell volume) and erythrocytosis (an abnormally high total red cell mass). The packed red cell volume is produced by centrifuging a given volume of blood.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27649 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1870]

Medical Devices; Classification of Iron Kinetics Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying iron kinetics tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierkscheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of iron kinetics tests:

1. Identification: An iron kinetics test is a device used to determine the plasma iron clearance and red cell iron incorporation. The information obtained from this system is used to diagnose iron metabolism disorders.

2. Recommended Classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that iron kinetics tests be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with this device.

5. Risks to health: (a) Radiation hazard: The user may be exposed to radiation from radioisotopes that are a part of this device. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of an iron metabolism disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that iron kinetics tests be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6475 as follows:

§ 864.6475 Iron kinetics test.

(a) *Identification.* An iron kinetics test is a device used to determine the plasma iron clearance and red cell iron incorporation. The information obtained from this system is used to diagnose iron metabolism disorders.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27650 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1871]

Medical Devices; Classification of Occult Blood Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying occult blood tests into class II (performance standards). The FDA is also publishing the recommendations of two FDA advisory committees concerning this device. The Hematology Device Classification Panel recommends that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The Clinical Chemistry Device Classification Panel recommends that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel and the Clinical Chemistry Device Classification Panel, two FDA advisory committees, made the following recommendations with respect to the classification of occult blood tests:

1. Identification: An occult blood test is a device used to detect occult blood in urine or feces. (Occult blood is blood present in such small quantities that it can be detected only by chemical tests of suspected material, or by microscopic or spectroscopic examination.) The Panels considered this generic type of device under the names "occult blood reagent," "colorimetric, occult blood in

urine," and "enzymatic method, occult blood in urine."

2. Recommended classification: The Hematology Device Classification Panel recommends that the occult blood reagent be classified into class I (general controls) with no exemptions. The Clinical Chemistry Device Classification Panel recommends that colorimetric and enzymatic methods for the detection of occult blood in urine be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that occult blood tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

The Clinical Chemistry Device Classification Panel recommends that the occult blood test be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data upon which the recommendation is based: The Panels based their recommendations upon the Panel members' clinical experience with occult blood tests, the results of interlaboratory proficiency studies, and Derman and Pauker's article on the various methodologies for detecting occult blood (Ref. *1*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of gastro-intestinal bleeding, renal disease, urinary tract disease, or hemoglobinuria (hemoglobin in the urine). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner has reviewed the Panels' recommendations and is proposing that occult blood tests be classified into class II (performance standards). The Commissioner has reviewed additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by performance standards. Adlercreutz, Liewendahl, and Virkola have compared the various tests for the detection of occult blood in the feces (Ref. *2*). They note features of the test that need to be improved or standardized: sensitivity, identification of the amount of feces to be used, and measures to prevent contamination of the surrounding area.

The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. The Commissioner believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Derman, H. and S. Pauker, "Detection of Occult Blood in Feces and Urine," in "Hemoglobin, Its Precursors and Metabolites," Edited by F. W. Sunderman and F. W. Sunderman, Jr., J. P. Lippincott Co., Philadelphia, pp. 70–80, 1964.

2. Adlercreutz, H., K. Liewendahl, and P. Virkola, "Evaluation of Fecatest, a New Guaiac Test for Occult Blood in Feces," *Clinical Chemistry*, 24(5):756–761, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6550 as follows:

§ 864.6550 Occult blood test.

(a) *Identification.* An occult blood test is a device used to detect occult blood in urine or feces. (Occult blood is blood present in such small quantities that it can be detected only by chemical tests of suspected material, or by microscopic or spectroscopic examination.)

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27651 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1872]

Medical Devices; Classification of the Osmotic Fragility Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying osmotic fragility tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of the osmotic fragility tests:

1. Identification: An osmotic fragility test is a device used to determine the resistance of red blood cells to hemolysis (destruction) in varying concentrations of hypotonic saline solutions.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that osmotic fragility tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel stated that it is customary to run samples of normal blood as controls; and if this is done, there is little chance of an erroneous result.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familiarity with these tests: In certain hemolytic anemias, e.g., hereditary spherocytosis (a congenital, familial form of hemolytic anemia) and acquired hemolytic anemia (anemia caused by nonhereditary factors such as infectious agents, poisons, and physical agents), the resistance of the red cells to hemolysis by hypotonic solutions is reduced. Conversely, resistance is increased in thalassemia (another type of hereditary hemolytic anemia), sickle cell anemia, and ordinary hypochromic (iron deficiency) anemia.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of hereditary spherocytosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The patient could be subjected to a splenectomy unnecessarily.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that osmotic fragility tests be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner believes that if the volumes of blood and saline are measured precisely, if the dilutions are performed carefully, if the proper pH and temperature are maintained, and if samples of normal blood are run as controls, this test can be carried out accurately.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6600 as follows:

§ 864.6600 Osmotic fragility test.

(a) *Identification.* An osmotic fragility test is a device used to determine the resistance of red blood cells to hemolysis (destruction) in varying concentrations of hypotonic saline solutions.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docke number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27652 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1873]

Medical Devices; Classification of Platelet Adhesion Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying platelet adhesion tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of platelet adhesion tests:

1. Identification: A platelet adhesion test is a device used to determine in vitro platelet function.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendations: The Panel recommends that platelet adhesion tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that reliance upon diagnostic information derived from the use of this device, if inaccurate, could be hazardous to the patient's health. The Panel recommended that this device not be used to predict thrombotic tendency.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience which indicates that the required rate of blood flow through a glass bead column has been established. The Panel also based its recommendation upon the medical literature concerning this device. Bowie and Owen (Ref. *1*) have found this test to be especially useful in evaluating and confirming a diagnosis of von Willebrand's disease (a bleeding

disorder characterized by a prolonged bleeding time and decreased levels of factor VIII, an antihemophilic factor). A platelet adhesion test, when used in combination with the bleeding time, can detect the presence of platelet defects, but a platelet aggregation study must be done to determine the nature of the defect (Ref. *2*). Other studies (Refs. *3* and *4*) have investigated the effects of glass surfaces, platelet aggregation, adenine diphosphate, fibrinogen, and calcium on platelet adhesion.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of von Willebrand's disease, a thrombopathy (a blood coagulation disorder due to platelet dysfunction), a platelet defect, or deficiencies of blood coagulation factor VIII or factor IX (plasma thromboplastin component). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that platelet adhesion tests be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Bowie, E. J. W. and C. A. Owen, Jr., "The Value of Measuring Platelet Adhesiveness in the Diagnosis of Bleeding Diseases," *American Journal of Clinical Pathology*, 60:302–308, 1973.

2. Papayannis, A. G. and M. C. G. Israels, "The Value of the Platelet Adhesiveness Test in the Assessment of Abnormalities of Platelet Function," *Acta Hematologica*, 46:1–13, 1971.

3. Rossi, E. C. and D. Green, "A Study of Platelet Retention by Glass Beed Columns ('Platelet Adhesiveness' in Normal Subjects)," *British Journal of Haematology*, 23:47–57, 1972.

4. George, J. N., "Direct Assessment of Platelet Adhesion to Glass: A Study of the Forces of Interaction and Effects of Plasma and Serum Factors, Platelet Function and Modification of the Glass Surface," *Blood*, 40:862–874, 1972.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6650 as follows:

§ 864.6650 Platelet adhesion test.

(a) *Identification.* A platelet adhesion test is a device used to determine in vitro platelet function.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27653 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1874]

Medical Devices; Classification of Platelet Aggregometers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying platelet aggregometers into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health , Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A notice elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of platelet aggregometers:

1. Identification: A platelet aggregometer is a device used to determine changes in platelet shape and platelet aggregation following the addition of an aggregating reagent to a platelet rich plasma.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that platelet aggregometers be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient countrol over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and knowledge of the medical literature concerning platelet aggregation. The Panel considered a review article by Arkel (Ref. *1*) describing platelet aggregation and the evaluation of platelet function in hemostasis and thrombosis. Arkel indicates that although inherited platelet function disorders occur infrequently, they can cause bleeding problems during surgery. Han Ardlie (Ref. *2*) described the effects of pH, temperature, and calcium concentration on platelet aggregation.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a platelet disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Bleeding from an undetected platelet disorder could result in complications during surgery.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the platelet aggregometer be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Arkel, Y. S., "Evaluation of Platelet Aggregation in Disorders of Hemostasis," *Medical Clinics of North America*, 60(5):881–911, 1976.

2. Han, P. and Ardlie, N. G., "The Influence of pH, Temperature, and Calcuim on Platelet Aggregation: Maintenance of Environmental pH and Platelet Function for in Vitro Studies in Plasma," *British Journal of Haematology*, 26:373–389, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 864 in Subpart G by adding new § 864.6675 as follows:

§ 864.6675 Platelet aggregometer.

(a) *Identification.* A platelet aggregometer is a device used to determine changes in platelet shape and platelet aggregation following the addition of an aggregating reagent to a platelet rich plasma.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk document found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27654 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1875]

Medical Devices; Classification of the Red Cell Survival Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying the red cell survival tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of the red cell survival tests:

1. Identification: A red cell survival test is a device system used to measure the mean red cell survival or loss in either a patient or a suitable recipient.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that red cell survival tests be classified into class II (performance standards) because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnositic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the existence of a red cell survival methodology recommended by the International Committee for Standardization in Hematology (Ref. *1*) and upon the Panel member's clinical experience and familiarity with these tests.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a red blood cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products or blood aerosols presents a risk of hepatitis infection. (c) Radiation hazard: The user may be exposed to radiation from radioisotopes that are a part of this device.

Proposed Classification

The Commissioner agrees with the Panel's recommendation and is proposing that the red cell survival test be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. ICSH panel on Diagnostic Applications of Radioisotopes in Haematology, "ICSH Recommended Method for Radioisotope Red Cell Survival Studies," *British Journal of Haematology*, 21(2):241–250, 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6750 as follows:

§ 864.6750 Red cell survival test.

(a) *Identification.* A red cell survival test is a device system used to measure the mean red cell survival or loss in either a patient or a suitable recipient.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27655 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1876]

Medical Devices; Classification of Erythrocyte Sedimentation Rate Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying erythrocyte sedimentation rate tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of erythrocyte sedimentation rate tests:

1. Identification: An erythrocyte sedimentation rate test is a device that measures the length of time required for the red cells in a blood sample to fall a specified distance. An increased rate indicates tissue damage or inflammation. The Panel considered this generic type of device under the names "erythrocyte sedimentation rate" and "sedimentation rate tubes."

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that erythrocyte sedimentation rate tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the belief that the erythrocyte sedimentation rate reference methods of the International Committee for Standardization in Hematology (Refs. *1* and *2*) and the National Committee for Clinical Laboratory Standards (Ref. *3*) sufficiently control the safety and effectiveness of this test. The Panel also considered medical literature concerning the effects of low and high levels of asymmetric macromolecules (Ref. *4*), tube length and diameter (Ref. *5*), disadvantages of present methodology because of the length of time required to perform the test (Ref. *7*), and the controversy over correction for anemia (Refs. *4* through *7*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of various illnesses, including infections, plasma cell abnormalities, and inflammatory diseases. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that erythrocyte sedimentation rate tests be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The medical literature concerning the erythrocyte sedimentation rate test describes it as a nonspecific test that can indicate tissue damage or inflammation (Refs. *5, 6, 8,* and *9*). Therefore, the erythrocyte sedimentation rate is of value in screening for infection and in following the progress of a disease. Because this test is used to confirm a diagnosis based on another test, the risk of misdiagnosis due solely to the erythrocyte sedimentation rate is small (Ref. *6*).

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Hematology, "ICSH Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Scandinavian Journal of Hematology*, 10:319–320, 1973.

2. Boroviczeny, K. G. et al., "Reference Method for the Erythrocyte Sedimentation Rate (ESR) Test on Human Blood," *Journal of Clinical Pathology*, 26:301–302, 1973.

3. National Committee for Clinical Laboratory Standards: Proposed Standard Method for the Human Erythrocyte Sedimentation Rate (ESR) Test, NCCLS Tentative Standard TSH–1 (Proposed 1971, approved 1973), 2525 W. 8th St., Los Angeles, CA 90057.

4. Bull, B. S. and G. Brecher, "An Evaluation of the Relative Merits of the Wintrobe and Westergren Sedimentation Methods, Including Hematocrit Correction," *American Journal of Clinical Pathology*, 62:502–510, 1974.

5. Bull, B. S., "Is a Standard ESR Possible?" *Laboratory Medicine*, 6(11):31–35, 1975.

6. Lascari, A. D., "The Erythrocyte Sedimentation Rate," *Pediatric Clinics of North America*, 19(4):1113–1121, 1972.

7. Raich, P. C. and N. Temperly, "Comparison of the Wintrobe Erythrocyte Sedimentation Rate with the Zeta Sedimentation Ratio," *American Journal of Clinical Pathology*, 65:690–693, 1976.

8. Simmons, A., "Technical Hematology," 2d Ed., J. B. Lippincott Co., Philadelphia, pp. 326–329, 1976.

9. Brown, B. A., "Hematology: Principles and Procedures," 2d Ed., Lea and Febiger, Philadelphia, pp. 93–94, 1976

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart G by adding new § 864.6700 as follows:

§ 864.6700 Erythrocyte sedimentation rate test.

(a) *Identification.* An erythroctye sedimentation rate test is a device that measures the length of time required for the red cells in a blood sample to fall a specified distance. An increased rate indicates tissue damage or inflammation.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27656 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1877]

Medical Devices; Classification of Adenine Nucleotide Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying adenine nucleotide assays into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of adenine nucleotide assays:

1. Identification: An adenine nucleotide assay is a device that measures the levels in the body tissues and fluids of adenine nucleotide (a compound consisting of the base adenine, a sugar, and a phosphate group). This measurement is often made with a photometer (a device that measures light intensity). Adenosine diphosphate (ADP) is the nucleotide responsible for platelet aggregation in the arrest of bleeding.

2. Recommended classification: Class I (general controls): The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that adenine nucleotide assays be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with adenine nucleotide assays.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a serious disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (c) Electrical shock: A malfunction in the electrical system of the photometer could result in an electrical shock.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that adenine nucleotide assays be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that, if users heed warnings in the labeling against use of contaminated or deteriorating reagents, the enzyme preparation will be pure and stable. If the user employs good laboratory procedures for handling blood, the risk of hepatitis should be minimal. If the operating instructions for the photometer are followed carefully, the risk of electrical shock will also be minimal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended by adding

Subpart H including new § 864.7040, as follows:

Subpart H—Hematology Kits and Packages

§ 864.7040 Adenine nucleotide assay.

(a) *Identification.* An adenine nucleotide assay is a device that measures the levels in the body tissues and fluids of adenine nucleotide (a compound consisting of the base adenine, a sugar, and a phosphate group). This measurement is often made with a photometer (a device that measures light intensity). Adenosine diphosphate (ADP) is the nucleotide responsible for platelet aggregation in the arrest of bleeding.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27657 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1878]

Medical Devices; Classification of Antithrombin III Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying antithrombin III asssays into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel and the Immunology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel and the Immunology Device Classification Panel, FDA advisory committees, made the following recommendation with respect to the classification of antithrombin III assays:

1. Identification: An antithrombin III assay is a device that is used to determine the plasma level of antithrombin III (a substance that acts with the anticoagulant heparin to prevent coagulation). This determination is used to monitor the administration of heparin in the treatment of thrombosis. The determination may also be used in the diagnosis of thrombophilia (a congenital deficiency of antithrombin III).

2. Recommended classification: The Hematology Device Classification Panel recommends that antithrombin III assays be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority. The Immunology Device Classification Panel recommends that antithrombin III assays be classified into class II and that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that antithrombin III assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel also expressed concern about the substances and conditions that can cause a falsely elevated antithrombin III determination. The Immunology Device Classification Panel recommends that the device be classified into class II to assure the product's reliability by means of adequate controls over the sensitivity, specificity, and stability of the reagents used in the device. Lack of sensitivity, specificity, or stability may cause a product malfunction, resulting in an erroneous diagnosis of a hypercoagulation state (a state characterized by increased susceptibility to coagulation) and in subsequent patient mismanagement. Information concerning the concentration of antithrombin III is of great clinical significance in determining the likelihood of clot formation, particularly when the concentration falls to 50 percent of normal or lower. Patients who have developed thrombosis, emboli, or disseminated intravascular coagulation have abnormally low levels of antithrombin III. The level of this substance is also low in patients with congenital antithrombin III deficiency, liver diseases such as cirrhosis and hepatitis, or diabetes mellitus, and in patients who are taking oral contraceptives. Increased antithrombin III levels are associated with the use of anticoagulants, congenital heart diseases, hemophilia, and other blood disorders. Both Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Hematology Device Classification Panel based its recommendation on the Panel members' clinical experience with this device, which indicates that this is a relatively simple assay. The Immunology Device Classification Panel based its recommendation upon the Panel members' clinical experience with this device and upon a review of the medical literature (Refs. *1* through *4*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hypercoagulation state resulting from an antithrombin III deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Inappropriate heparin therapy, such as the administration of anticoagulants or factor IX concentrates to hemophiliacs, could result.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that antithrombin III assays be classified into class II (performance standards). An FDA review of medical literature concerning antithrombin III revealed a considerable body of evidence to support the recommendations of both Panels (Refs. *5* through *10*).

Assays of antithrombin III may be divided into three types: Clotting assays based upon the neutralization of thrombin or factor Xa in the absence of heparin, clotting assays in the presence of added heparin, and immunoassays (Ref. *5*). Clotting assays of both types tend to be nonspecific, time consuming, unwieldy, and characterized by poor reproducibility (Refs. *6*, *7*, and *8*). The addition of heparin increases the assay's specificity by shortening its incubation period, but may require the use of a heparin-neutralizing agent (Refs. *5*, *6*, and *9*). Regardless of whether heparin is added, clotting assays are affected to a minor degree by the presence of alpha 2 macroglobulin. (A high molecular weight protein found in the blood in many diseases, alpha 2 macroglobulin inhibits clotting by binding irreversibly to the enzyme thrombin (Ref. *5*).) Because antithrombin III inhibits serine proteases (enzymes that break down protein) by forming an irreversible one-to-one complex via the active center serine of the enzyme, it is important to choose the proper serine protease to incubate with the antithrombin III. Although the usual choice is either thrombin or coagulation factor Xa (activated Stuart factor), other enzymes such as plasmin or trypsin are sometimes employed (Ref. *9*). If thrombin is used, the amount of antithrombin III that is measured depends upon the concentration of purified thrombin (Refs. *8* and *9*) and upon the complete, rapid, and irreversible inactivation of the thrombin by antithrombin III. The amount of antithrombin III that is measured also depends upon the method of defibrination used (Ref. *8*), although at least one assay requires no defibrination (Ref. *6*). The selection of the correct substrate is also important (Ref. *9*). Some methods recommend a chromogenic substrate (Ref. *6*). Immunoassays are generally lengthy (Ref. *5*). With these assays, an inactive protein often produces a positive result (Ref. *10*). Although immunoassays seem to be the method of choice for screening large numbers of patients, it has not been proven that immunoassays accurately measure antithrombin III in all disease states (Ref. *3*).

Oral contraceptives increase the production of thrombin while inhibiting antithrombin III activity. This situation can lead to thrombotic complications (Ref. *8*).

FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A Performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be viewed by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Bick, R. L., I. Kovacs, and L. F. Fekete, "A New Two-Stage Functional Assay for Antithrombin III (Heparin Cofactor). Clinical and Laboratory Evaluation," *Thrombosis Research*, 8:745–756, 1976.

2. Fagerhol, M. D. and U. Abildgaard, "Immunologioal Studies on Human Antithrombin III. Influence of Age, Sex, and Use of Oral Contraceptives," *Scandinavian Journal of Haematology*, 7:10–17, 1970.

3. Von Kaulla, E. and K. M. von Kaulla, "Deficiency of Antithrombin III Activity with Hereditary Thrombosis Tendency," *Journal of Medicine*, 3:349–358, 1972.

4. Yue, R. H., T. Starr, and M. M. Gertler, "Quantitative Determination of Total Antithrombin III in Plasma," *Thrombosis et Diathesis Haemorrhagica*, 30:84–92, 1973.

5. Gitel, S. N., and S. Wessler, "Plasma Antithrombin III: A Quantiative Assay of Biological Activity," *Thrombosis Research*, 7:5–16, 1975.

6. Odegard, O. R., M. Lie, and U. Abildgaard, "Heparin Cofactor Activity Measured with an Amidolytic Method," *Thrombosis Research*, 6:287–294, 1975.

7. Miale, J. B., "Laboratory Medicine Hematology," C. V. Moseby Co., St. Louis, pp. 1083–1085, 1977.

8. Howie, P. W., C. R. M. Prentice, and G. P. McNicol, " A Method of Antithrombin Estimation Using Plasma Defibrinated with Ancrod," *British Journal of Haematology*, 25:101–110, 1973.

9. Damus, P. S. and R. D. Rosenberg, "Antithrombin-Heparin Cofactor," *Methods in Enzymology*, 45:653–669, 1977.

10. Rosenberg, R. D. and P. S. Damus, "The Purification and Mechanism of Action of Human Antithrombin-Heparin Cofactor," *Journal of Biological Chemistry*, 248:6490–6505, 1973.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7060 as follows:

§ 864.7060 Antithrombin III assay.

(a) *Identification.* An antithrombin III assay is a device that is used to determine the plasma level of antithrombin III (a substance which acts with the anticoagulant heparin to prevent coagulation). This determination is used to monitor the administration of heparin in the treatment of thrombosis. The determination may also be used in the diagnosis of thrombophilia (a congenital deficiency of antithrombin III).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27658 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1879]

Medical Devices; Classification of Cell Enzyme Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cell enzyme assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the

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safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of cell enzyme assays:

1. Identification: A cell enzyme assay is a device used to measure the activity in red cells, white cells, or both, of various clinically important enzymes and metabolites, such as pyruvate kinase and 2,3-diphosphoglycerate. A red cell enzyme assay is used to determine the enzyme defects responsible for a patient's hereditary hemolytic anemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that cell enzyme assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel noted that the kits currently being marketed are not sufficiently reliable to accurately diagnose a heterozygous enzyme deficiency state, and the Panel recommended that these products be so labeled.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familiarity with the commercially available products and upon the existence of a standard for red cell enzymes developed by the International Committee for Standardization in Hematology (Ref. *1*). Two Panel members, T. F. Necheles, M.D., Ph.D., and H. Frischer, M.D., described numerous instances in which patients were to have had their spleen removed because the device failed to detect a pyruvate kinase deficiency. These device failures resulted in misdiagnoses of hereditary spherocytosis (a congenital hemolytic anemia).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a serious disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Such therapy may include inappropriate drug therapy, contraindicated splenectomy, or unnecessary transfusions.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that cell enzyme assays be classified into class II (performance standards). An FDA review of the medical literature concerning the determination of various red and white cell enzymes found evidence to support the Panel recommendation (Refs. *2* and *3*). One article stated that the crucial factor in the diagnosis of an enzyme deficiency is the demonstration of that deficiency by enzyme assay (Ref. *2*).

FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Beutler, E., et al., "International Committee for Standardization in Haematology: Recommended Methods for Red Cell Enzyme Analysis," *British Journal of Haematology*, 35(2):331–340, 1977.

2. Valentine, W. N., "Deficiency of Other Enzymes Leading to Anemia," *in* "Hematology," 2d Ed., Edited by W. J. Williams, McGraw-Hill Book Co., New York, pp. 483–486, 1977.

3. Miale, J. B., "Laboratory Medicine Hematology," C. V. Moseby Co., St. Louis, p. 1024, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7100 as follows:

§ 864.7100 Cell enzyme assay.

(a) *Identification.* A cell enzyme assay is a device used to measure the activity in red cells, white cells, or both, of various clinically important enzymes and metabolites, such as pyruvate kinase and 2,3-diphosphoglycerate. A red cell enzyme assay is used to determine the enzyme defects responsible for a patient's hereditary hemolytic anemia.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27659 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1880]

Medical Devices; Classification of Activated Whole Blood Clotting Time Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying activated whole blood clotting time tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of activated whole blood clotting time tests:

1. Identification: An activated whole blood clotting time test is a device used to monitor heparin therapy for the treatment of venous thrombosis or pulmonary embolism, and therapy for deficiencies of coagulation factors VIII (antihemophilic factor), IX (plasma thromboplastin component), and XI (plasma thromboplastin antecedent), by measuring the coagulation time of whole blood.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that activated whole blood clotting time tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the product labeling be required to warn the user that this product should not be used as a screening test for coagulation defects.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with the device and upon an article by Hattersley (Ref. *1*) that stated that the activated whole blood clotting time test is a well-established means of monitoring heparin therapy and therapy for deficiencies of coagulation factors VIII, IX, and XI.

5. Risks to health: Hemorrhage or thrombosis: If the device does not accurately report the level of heparin in the patient's blood and the physician prescribes an inappropriate dosage of protamine (a heparin neutralizing drug), hemorrhage or thrombosis may result.

Proposed Classification

The FDA agrees with the Panel's recommendation and is proposing that activated whole blood clotting time tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Hattersley, P. G., "Progress Report: The Activated Coagulation Time of Whole Blood (ACT)," *American Journal of Clinical Pathology*, 66(5):899–904, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7140 as follows:

§ 864.7140 Activated whole blood clotting time test.

(a) *Identification.* An activated whole blood clotting time test is a device used to monitor heparin therapy for the treatment of venous thrombosis or pulmonary embolism, and therapy for deficiencies of coagulation factors VII (antihemophilic factor), IX (plasma thromboplastin component), and XI (plasma thromboplastin antecedent), by measuring the coagulation time of whole blood.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27660 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1681]

Medical Devices; Classification of Erythropoietin Assays

AGENCY: Food and Drug Adminstration.

UMI

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ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying erythropoietin assays into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of erythropoietin assays:

1. Identification: An erythropoietin assay is a device that measures the concentration of erythropoietin (an enzyme that regulates the production of red blood cells) in serum or urine. This assay provides diagnostic information for the evaluation of erythrocytosis (increased total red cell mass) and anemia.

2. Recommended classification: Class III (premarket approval). The Panel recommends that establishing premarket approval for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that erythropoietin assays be classified into class III because the device is purported or represented to be for use in the diagnosis of polycythemia vera, a potentially fatal disease characterized by erythrocytosis (increased total blood volume) and often accompanied by increased leukocyte and platelet counts. This use presents a potential unreasonable risk of illness or injury if the diagnosis is missed due to inaccurate diagnostic information derived from the use of this assay. The Panel believes that this assay is suitable only for research purposes because it lacks sufficient accuracy, precision, sensitivity, and specificity for clinical use. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that insufficient information exists to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The device therefore should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance and thus assure its safety and effectiveness. On two separate occasions the Panel discussed the possibility of banning this device. One Panel meeting included discussion of a draft of a National Committee for Clinial Laboratory Standards recommendation that the commercially available hemagglutination inhibition assays for erythropoietin not be used for clinical purposes.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with erythropoietin assays.

5. Risk to health: (a) Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the differential diagnosis between secondary polycythemia, and polycythemia vera. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. A misdiagnosis of polycythemia vera could unecessarily subject the patient to potentially harmful chemotherapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that erythropoietin assays be classified into class III (premarket approval). An FDA review of medical literature concerning erythropoietin assays has found evidence that a sufficiently sensitive and specific in vitro erythropoietin assay has yet to be developed (Refs. *1* and *2*). The difficulty with immunological assays lies in obtaining an antigen of the required concentration and purity (Refs. *2, 3,* and *4*). Unless the erythropoietin is very pure, the immunological reactions observed are likely to be due to contamination (Ref. *2*). Available in vivo animal assays are not suitable for measuring very low levels of erythropoietin (Refs. *2* and *5*).

The effectiveness of erythropoietin assay methods is limited by the lack of an acceptable erythropoietin reference. Although erythropoietin Standard B is the International Reference Preparation for Erythropoietin (Ref. *2*), a study conducted by Dukes, Hammond and Shore (Ref. *6*) shows that this reference preparation is not sufficiently pure or sufficiently concentrated. These devices are purported or represented for use in the diagnosis of polycythemia vera, a potentially fatal disease. The FDA believes that the use of the assay for this purpose presents a potential unreasonable risk of illness or injury to the patient if inaccurate diagnostic information results in a failure to diagnose polycythemia vera. The agency believes that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Wintrobe, M. M., G. R. Lee, D. R. Boggs, T. C. Bithell, J. W. Athens, and J. Foerster, "Clinical Hematology," 7th Ed., Lea and Febiger, Philadelphia, p. 975, 1974.

2. Miale, J. B., "Laboratory Medicine Hematology," C. V. Moseby Co., St. Louis, pp. 20–25, 1977.

3. Krugers Dagneaux, P. G. L. C., R. Goudsmit, and H. W. Krijnen, "Investigations on an Immunoassay of Erythropoietin," *Annals of the New York Academy of Science*, 149:294–297, 1968.

4. Lange, R. D., T. P. McDonald, and T. Jordan, "Antisera to Erythropoietin: Partial Characterization of Two Different Antibodies," *Journal of Laboratory and Clinical Medicine*, 73:79–90, 1969.

5. Erslev, A. J., "Erythropoietin Assay," *in* "Hematology," 2d Ed., Edited by W. J. Williams, McGraw-Hill Book Co., New York, pp. 1616–1618, 1977.

6. Dukes, P. P., D. Hammond, and N. A. Shore, "Comparison of Erythropoietin Preparations Yielding Different Dose-Response Slopes in the Exhypoxic Polycythemic Mouse Assay," *Journal of Laboratory and Clinical Medicine*, 74:250–256, 1969.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed to amend Part 864 in Subpart H by adding new § 864.7250 as follows:

§ 864.7250 Erythropoietin assay.

(a) *Identification.* An erythropoietin assay is a device that measures the concentration of erythropoietin (an enzyme that regulates the production of red blood cells) in serum or urine. This assay provides diagnostic information for the evaluation of erythrocytosis (increased total red cell mass) and anemia.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27681 Filed 9–10–79; 8:45 am]
BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1882]

Medical Devices; Classification of Euglobulin Lysis Time Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying euglobulin lysis time tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of euglobulin lysis time Tests:

1. Identification: A euglobulin lysis time test is a device that measures the length ot time required for the lysis (dissolution) of a clot formed from fibrinogen in the euglobulin fraction (that fraction of the plasma responsible for the formation of plasmin, a clot lysing enzyme). This test evaluates natural fibrinolysis (destruction of a blood clot after bleeding has been arrested). The test also will detect accelerated fibrinolysis.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that euglobulin lysis time tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience and familarity with this test and upon an article by Chakrabarti et al. (Ref. *1*) stating that this test is widely used, but that its reproducibility is dependent upon the pH and temperature of the euglobulin fraction and suspending buffer and the anticoagulant used to collect the blood.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a disease process such as disseminated intravascular coagulation (a potentially life-threatening condition which may be characterized by shock, bleeding, and vessel blockage) or primary fibrinolysis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The patient may be subjected unnecessarily to potentially hazardous therapy.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that euglobulin lysis time tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A standard addressing the pH, temperature, and anticoagulant used in the assay will provide reasonable assurance of the safety and effectiveness of the assay. The agency also believes that there is sufficient information to establish a standard to provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305) (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Chakrabarti, R. et al., "Methodological Study and a Recommended Technology for Determining Euglobulin Lysis Time," *Journal of Clinical Pathology*, 21:698–701, 1968.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Foods and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7275 as follows:

§ 864.7275 Euglobulin lysis time test.

(a) *Identification.* A euglobulin lysis time test is a device that measures the length of time required for the lysis (dissolution) of a clot formed from

fibrinogen in the euglobulin fraction (that fraction of the plasma responsible for the formation of plasmin, a clot lysing enzyme). This test evaluates natural fibrinolysis (destruction of a blood clot after bleeding has been arrested). The test also will detect accelerated fibrinolysis.

(b) *Classification.* Class II (performance standards). Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27662 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1883]

Medical Devices; Classification of Factor Deficiency Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying factor deficiency tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of factor deficiency tests:

1. Identification: A factor deficiency test is a device used to diagnose specific coagulation defects, to monitor certain types of therapy, to detect coagulation inhibitors, and to detect a carrier state (a person carrying both a recessive gene for a coagulation factor deficiency such as hemophilia and the corresponding normal gene).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel Recommends that factor deficiency tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. Because the plasmas used as substrates are obtained from multitransfused patients, there is a very high hepatitis B risk. The Panel recommends that the device be required to bear labeling which indicates the level of factor substrate that is present and to warn the user of the high risk of hepatitis B infection from contact with the substrate.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with factor deficiency tests.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a bleeding disorder or the failure to detect coagulation inhibitors. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. In addition, there is a risk of postoperative hemorrhage from an undetected bleeding disorder. (b) Hepatitis infection: Exposure of the user to the substrate presents a risk of hepatitis B infection.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that the factor deficiency tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7290 as follows:

§ 864.7290 Factor deficiency test.

(a) *Identification.* A factor deficiency test is a device used to diagnose specific coagulation defects, to monitor certain types of therapy, to detect coagulation inhibitors, and to detect a carrier state (a person carrying both a recessive gene for a coagulation factor deficiency such as hemophilia and the corresponding normal gene).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27663 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1884]

Medical Devices; Classification of Fibrin Monomer Paracoagulation Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying fibrin monomer paracoagulation tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of fibrin monomer paracoagulation tests:

1. Identification: A fibrin monomer paracoagulation test is a device used to detect fibrin monomer in the diagnosis of disseminated intravascular coagulation (nonlocalized clotting within a blood vessel) or in the differential diagnosis between disseminated intravascular coagulation and primary fibrinolysis (dissolution of the fibrin in a blood clot).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that fibrin monomer paracoagulation tests be classified into Class II to assure control over the purity of the protamine sulfate used in the test. Impure protamine sulfate causes the user to detect varying concentrations of fibrin monomer. This variability affects the test's accuracy and sensitivity and the interpretation of the test results. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the device be required to bear labeling which indicates the lowest level of fibrin monomer that the device can detect.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with this test and upon an article by Kidder et al. (Ref. 1) which evaluated the sensitivity of the test and the effects of fibrinogen concentration, fibrin degradation products, anticoagulants, temperature, and plasma storage conditions. Kidder and his coworkers concluded that this test should be included in any screening procedures in cases of suspected intravascular coagulation.

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of disseminated intravascular coagulation, a potentially life-threatening condition which may be characterized by shock, bleeding, and vessel blockage. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that fibrin monomer paracoagulation tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Kidder, W. R. et al., "The Plasma Protamine Paracoagulation Test: Clinical and Laboratory Evaluation," *American Journal of Clinical Pathology*, 58:675–686, 1972.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7300 as follows:

§ 864.7300 Fibrin monomer paracoagulation test.

(a) *Identification.* A fibrin monomer paracoagulation test is a device used to detect fibrin monomer in the diagnosis of disseminated intravascular coagulation (nonlocalized clotting within a blood vessel) or in the differential diagnosis between disseminated intravascular coagulation and primary fibrinolysis (dissolution of the fibrin in a blood clot).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27664 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1885]

Medical Devices; Classification of Fibrin Split Products Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying fibrin split products assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with regard to the classification of fibrin split products assays:

1. Identification: A fibrin split products assay is a device used to detect and quantitate fibrin split products (protein fragments produced by the enzymatic action of plasmin on fibrin) as an aid in detecting the presence and degree of intravascular coagulation and fibrinolysis (the dissolution of the fibrin in a blood clot) and in monitoring therapy for disseminated intravascular coagulation (nonlocalized clotting in the blood vessels).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that fibrin split products assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the labeling for those kits employing the staphylococcal clumping methodology be required to include precautions regarding the potential for staphylococcal infection from the use of this device.

4. Summary of data on which the recommendations are based: The Panel based its recommendations upon the Panel members' clinical experience and upon medical literature concerning fibrin split products (Refs. *1* and *2*). The literature shows that current methods are usually too complex and time consuming for clinical use and that they lack the required sensitivity. Recent improvements in the fibrin plate and latex agglutination methods have overcome some of these limitations (Refs. *1* and *2*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of disseminated intravascular coagulation, a potentially life-threatening condition which may be characterized by shock bleeding, and vessel blockage. Inappropriate therapy, e.g., unnecessary administration of heparin in the treatment of venous thrombosis, based on inaccurate diagnostic data may place the patient at risk. (b) Staphylococcal infection: The user faces a risk of staphylococcal infection from the kit materials.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that fibrin split product assays be classified into Class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 5 p.m., Monday through Friday.

1. Ellman, L., A. Carvalho, and R. W. Colman, "The Thrombo-Wellcotest as a Screening Test for Disseminated Intravascular Coagulation," *New England Journal of Medicine*, 288:633-634, 1973.

2. Bishop, R., et al., "The Preparation and Evaluation of a Standardized Fibrin Plate for the Assessment of Fibrinolytic Activity," *Thrombosis et Diathesis Haemorrhagica* (Stuttgart), 23(2):201-210, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7320 as follows:

§ 864.7320 Fibrin split products assay.

(a) *Identification.* A fibrin split products assay is a device used to detect and quantitate fibrin split products (protein fragments produced by the enzymatic action of plasmin on fibrin) as an aid in detecting the presence and degree of intravascular coagulation and fibrinolysis (the dissolution of the fibrin in a blood clot) and in monitoring therapy for disseminated intravascular coagulation (nonlocalized clotting in the blood vessels).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27665 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1886]

Medical Devices; Classification of Fibrinogen Determination Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying fibrinogen determination systems into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel and the Immunology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel and the Immunology Device Classification Panel, two FDA advisory committees, made the following recommendations with respect to the classification of fibrinogen determination systems:

1. Identification: A fibrinogen determination system is a device that consists of the instruments, reagents, standards, and controls used to determine the fibrinogen levels in disseminated intravascular coagulation (nonlocalized clotting within the blood vessels) and primary fibrinolysis (the dissolution of fibrin in a blood clot). The Panels identified this generic device under the names "fibrinogen test," "fibrinogen determination standards and controls," "fibrinogen and split products, antigen, antiserum, control," "fibrinogen and fibrin split products, antigen, antiserum, control," "fibrinogen and split products, FITC, antigen, antiserum, control," "fibrinogen and split products, peroxidase, antigen, antiserum, control," and "fibrinogen and split products, rhodamine, antigen, antiserum, control."

2. Recommended classification: The Hematology Device Classification Panel recommends that the "fibrinogen test" and "fibrinogen determination standards and controls" be classified into class II (performance standards) and that establishing a performance standard for this device be a medium priority. The Immunology Device Classification Panel recommends that "fibrinogen and split products antigen, antiserum, control," "fibrinogen and fibrin split products, antigen, antiserum, control," "fibrinogen and split products, FITC, antigen, antiserum, control," "fibrinogen and split products, peroxidase, antigen, antiserum, control," and "fibrinogen and split products, rhodamine, antigen, antiserum, control" be classified into class II and that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that fibrinogen determination systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Immunology Device Classification Panel recommends that fibrinogen determination systems be classified into class II because their reliability will be better assured by controls over the sensitivity, specificity, and stability of the reagents used in them. Lack of adequate sensitivity, specificity, or stability may cause a malfunction that results in an erroneous diagnosis and patient mismanagement. Both Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendations upon the Panel members' clinical experience with this product and the medical literature concerning fibrinogen determination (Refs. *1* through *5*). Fibrinogen is essential for blood clot formation because it is the protein that is converted to fibrin, the basic substance from which the clot is formed. Fibrinogen disorders include: afibrinogenemia (an absence of fibrinogen), hypofibrinogenemia (low levels of fibrinogen), and dysfibrinogenemia (normal levels of fibrinogen but with defective fibrinogen). An acquired deficiency is associated with some liver disorders. The Panels considered evaluations of various methods for determining plasma fibrinogen (Refs. *1* through *5*). Evaluations of nonimmunologic methods showed that the clottable protein methodology is superior in terms of accuracy, reproducibility, specificity, and preventing effects from interfering substances. This method does, however, have limitations. It is complex, presents a potential for error if not performed carefully, and is too time consuming for use in emergency situations. The precipitable protein method is considered unreliable, nonquantitative, nonspecific, and subject to large errors. Antigen-antibody systems for estimating plasma fibrinogen are specific, offer the advantage of requiring only small amounts of plasma, and provide good recovery for fibrinogen values in the low range. Immunologic methods allow the user to distinguish dysfibrinogenemia from hypofibrinogenemia. In general, fibrinogen tests are not standardized because of the lack of a quick, simple

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reference method. The Hematology Device Classification Panel indicated that the Center for Disease Control is working in conjunction with the International Committee for Standardization in Hematology (ICSH) and the International Committee on Thrombosis and Hemostasis to standardize fibrinogen determination on an international basis.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a bleeding disorder or disseminated intravascular coagulation (nonlocalized clotting within the blood vessels), a potentially life-threatening condition which may be characterized by shock, bleeding, and vessel blockage. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The risks include bleeding, kidney failure, and unnecessary therapy. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panels' recommendation and is proposing that fibrinogen determination systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305) (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Filip, D. J., J. D. Eckstein, and C. A. Sibley, "Observations and Diagnostic Kits for the Determination of Plasma Fibrinogen," *American Journal of Clinical Pathology*, 62:32–39, 1974.

2. Stevens, D. J. and M. J. Sanfelippo, "Evaluation of Three Methods for Plasma Fibrinogen Determination," *American Journal of Clinical Pathology*, 60:182–187, 1973.

3. Grannis, G. F., "Plasma Fibrinogen: Determination, Normal Values, Physiologic Shifts, and Fluctuations," *Clinical Chemistry*, 16(6):486, 1970.

4. Chen, T. and C. H. Lai, "Fibrinogen Assay by an Immunodiffusion Plate," *American Journal of Clinical Pathology*, 52(5):629–630, 1969.

5. Alkjaersig, N., A. Fletcher, and R. Burstein, "Association Between Oral Contraceptive Use and Thromboembolism: A New Approach to Its Investigation Based on Plasma Fibrinogen Chromatography," *American Journal of Obstetrics and Gynecology*, 122(2):199–211, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7340 as follows:

§ 864.7340 Fibrinogen determination system.

(a) *Identification.* A febrinogen determination system is a device that consists of the instruments, reagents, standards, and controls used to determine the fibrinogen levels in disseminated intravascular coagulation (nonlocalized clotting within the blood vessels) and primary fibrinolysis (the dissolution of fibrin in a blood clot).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27066 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1887]

Medical Devices; Classification of Erythrocytic Glucose-6-Phosphate Dehydrogenase Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying erythrocytic glucose-6-phosphate dehydrogenase assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel and the Clinical Chemistry Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning development of the proposed regulation. The Hematology Device Classification Panel and the Clinical Chemistry Device Classification Panel, two FDA advisory committees, made the following recommendation with respect to the classification of erythrocytic glucose-6-phosphate dehydrogenase assays:

1. Identification: An erythrocytic glucose-6-phosphate dehydrogenase assay is a device used to measure the activity of the enzyme glucose-6-phosphate dehydrogenase or of glucose-6-phosphate dehydrogenase isoenzymes. The results of this assay are used in the diagnosis and treatment of nonspherocytic congenital hemolytic anemia or drug-induced hemolytic anemia associated with a glucose-6-phosphate dehydrogenase deficiency. This generic device includes assays based on fluorescence, electrophoresis, methemoglobin reduction, catalase inhibition, and ultraviolet kinetics. The Hematology Device Classification Panel identified this generic device under the names "glucose-6-phosphate dehydrogenase (erythrocytic), catalase inhibition," "glucose-6-phosphate dehydrogenase (erythrocytic), methemoglobin reduction," and "glucose-6-phosphate dehydrogenase (erythrocytic), quantitative." The Clinical Chemistry Device Classification Panel identified this generic type device under the names "NADP reduction (ultraviolet) glucose-6-phosphate dehydrogenase," visual semi-quantitative (colorimetric) glucose-6-phosphate dehydrogenase," and "electrophoretic, glucose-6-phosphate dehydrogenase isoenzymes."

2. Recommended classification: The Hematology Device Classification Panel recommends that "glucose-6-phosphate dehydrogenase (erythrocytic), catalase inhibition," "glucose-6-phosphate dehydrogenase (erythrocytic), methemoglobin reduction," and "glucose-6-phosphate dehydrogenase (erythrocytic), quantitative," be classified into class II and that establishing a performance standard for these devices be a medium priority. The Clinical Chemistry Device Classification Panel recommends that "NADP reduction (ultraviolet) glucose-6-phosphate dehydrogenase" and "visual semi-quantitative (colorimetric) glucose-6-phosphate dehydrogenase" be classified into class II and that establishing a performance standard for these devices be a low priority. The Clinical Chemistry Device Classification Panel recommends that "electrophoretic, glucose-6-phosphate dehydrogenase isoenzymes" be classified into class II and that establishing a performance standard be a high priority.

3. Summary of reasons for recommendation: The Panels recommend that erythrocytic glucose-6-phosphate dehydrogenase assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The diagnostic information derived from the use of these devices is the basis for diagnosis and treatment of hemolytic anemias and of hemolytic disease of the newborn, which are potentially life-threatening conditions. The Hematology Device Classification Panel recommends that the product's labeling be required to state that this test is not specific for glucose-6-phosphate dehydrogenase deficiency, and that it may not be reliable in the diagnosis of a heterozygous glucose-6-phosphate dehydrogenase deficiency state.

4. Summary of data on which the recommendation is based: The Panels based their recommendation on the Panel members' clinical experience with this assay, which indicates that it is most useful in the evaluation of certain genetic hemolytic anemias. The Panels noted that standardized procedures for the study of glucose-6-phosphate dehydrogenase have been developed by the World Health Organization (Ref. *1*) and the International Committee for Standardization in Hematology (Ref. *2*).

5. Risks to health: Misdiagnosis and inappropriate therapy. Failure of the device to perform satisfactorily may lead to an error in the diagnosis of hemolytic anemia caused by drugs or by a genetic defect. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. The risks include inappropriate drug therapy, contraindicated splenectomy, and unnecessary transfusions.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that erythrocytic glucose-6-phosphate dehydrogenase assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Betke, K. et al., "Standardization of Procedures for the Study of Glucose-6-Phosphate Dehydrogenase. Report of a WHO Scientific Group," WHO Technical Report Series, 366, 1967.

2. Beutler, E. et al., "International Committee for Standardization in Haematology: Recommended Methods for Red-Cell Enzyme Analysis," *British Journal Haematology*, 35:331–340, 1977.

3. Beutler, E., "Glucose-6-Phosphate Dehydrogenase Deficiency. Diagnosis, Clinical and Genetic Implications, "*American Journal of Clinical Pathology*, 47(3): 303–311, 1967.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7360 as follows:

§ 864.7360 Erythrocytic glucose-6-phosphate dehydrogenase assay.

(a) *Identification.* An erythrocytic glucose-6-phosphate dehydrogenase assay is a device used to measure the activity of the enzyme glucose-6-phosphate dehydrogenase or of glucose-6-phosphate dehydrogenase isoenzymes. The results of this assay are used in the diagnosis and treatment of nonspherocytic congenital hemolytic anemia or drug-induced hemolytic anemia associated with a glucose-6-phosphate dehydrogenase deficiency. This generic device includes assays based on fluorescence, electrophoresis, methemoglobin reduction, catalase inhibition, and ultravioloet kinetics.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27067 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1888]

Medical Devices; Classification of Glutathion Reductase Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying glutathion reductase assays

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into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel and the Clinical Chemistry Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel and the Clinical Chemistry Device Classification Panel, two FDA Advisory committees, made the following recommendations with respect to the classification of glutathione reductase assays:

1. Identification: A glutathione reductase assay is a device used to determine the activity of the enzyme glutathione reductase in serum, plasma, or erythrocytes by such techniques as fluorescence and photometry. The results of this test are used in the diagnosis of liver disease, glutathione reductase deficiency, or riboflavin deficiency. The Hematology Device Classification Panel identified that device as the "glutathione, red cell." The Clinical Chemistry Device Classificiation Panel identified this device as "fluorescence, visual observation (qualitative ultraviolet) glutathione reductase."

2. Recommended classification: The Hematology Device Classification Panel recommends that "glutathione, red cell," be classified into Class II (performance standards) and that establishing a performance standard for this device be a medium priority. The Clinical Chemistry Device Classification Panel recommends that "fluorescence visual observation (qualitative ultraviolet) glutathione reductase" be classified into Class II and that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panels recommend that glutathione reductase assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panels believe that general controls would not provide sufficient control over this characteristic. The Panels believe that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' clinical experience, which indicates that this assay is most useful in a differential diagnosis between riboflavin deficiency and congenital glutathione reductase deficiency. The Panel noted that a standard for red cell glutathione has been developed by the International Committee for Standardization in Hematology (Ref. *1*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of liver disease, congenital glutathione reductase deficiency, or riboflavin deficiency. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panels' recommendation and is proposing that glutathione reductase assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Beutler, E., et al., "International Committee for Standardization in Haematology: Recommended Methods for Red-Cell Enzyme Analysis," *British Journal of Haematology*, 35:331–340, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7375 as follows:

§ 864.7375 Glutathione reductase assay.

(a) *Identification.* A glutathione reductase assay is a device used to determine the activity of the enzyme glutathione reductase in serum, plasma, or erythrocytes by such techniques as fluorescence and photometry. The results of this assay are used in the diagnosis of liver disease, glutathione reductase deficiency, or riboflavin deficiency.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27668 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1689]

Medical Devices; Classification of Hemoglobin A_2 Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying the hemoglobin A_2 assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of hemoglobin A_2 assays:

1. Identification: A hemoglobin A_2 assay is a device used to determine the hemoglobin A_2 content of human blood. The measurement of hemoglobin A_2 is used in the diagnosis of the thalassemias (hereditary hemolytic anemias characterized by decreased synthesis of one or more types of hemoglobin polypeptide chain). Electrophoresis or column chromatography is used to make this measurement.

2. Recommended Classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that hemoglobin A_2 assays be classified into class II because there is a need for a performance standards that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unncessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with this assay and the medical literature. The Panel stated that the International Committee for Standardization in Haematology (ICSH) has recommended methods for hemoglobin A_2 quantitation and a hemoglobin A_2 reference preparation (Ref. *1*). The ICSH recommendation concerns the pH and type of buffer, support media, electrical voltage applied, and duration of electrophoresis. The Panel also cited a 1973 study which showed excessive interlaboratory variability in the quantitation of hemoglobin A_2 (Ref. *2*). To solve this problem, the study recommended the adoption of a standard method for hemoglobin A_2 quantitation. The Panel also considered evaluations of the available methodology for the estimation of hemoglobin A_2 and (Ref. *3*) for large scale screening for hemoglobin A_2 (Ref. *4*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin abnormality. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk (b) Electrical shock: The user faces the risk of electrical shock from the electrophoretic chamber and power supply of the device.

Proposed Classification

FDA agress with the Panel's recommendation and is proposing that hemoglobin A_2 assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Haematology, "Recommendations for Selected Methods for Quantitative Estimation of Hb A_2 and for Hb A_2 Reference Preparation," *British Journal of Haematology*, 38:573, 1978.

2. White, J. M., "Haemoglobin A_2 Estimation," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 19–24, 1975.

3. Shibata, S., T. Miyaji and Y. Ohba, "Evaluation of Precision of Procedures for Estimation of Hb A_2 and Hb F in Hemolysates," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 25–32, 1975.

4. Huntsman, R. G., and D. McLellan, "The Estimation of Foetal Hemoglobin and Hemoglobin A_2: An Evaluation of Available Technology Suitable for Large Scale Screening," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 247–265, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7400 as follows:

§ 864.7400 Hemoglobin A_2 assay.

(a) *Identification:* A hemoglobin A_2 assay is a device used to determine the hemoglobin A_2 content of human blood. The measurement of hemoglobin A_2 is used in the diagnosis of the thalassemias (hereditary hemolytic anemias characterized by decreased synthesis of one or more types of hemoglobin polypetide chain).

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Electrophoresis or column chromatography is used to make this measurement.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27669 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1890]

Medical Devices; Classification of Abnormal Hemoglobin Assays

AGENCY: Food and Drug Adminstration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying abnormal hemoglobin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Adminstration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of abnormal hemoglobin assays:

1. Identification: An abnormal hemoglobin assay is a device consisting of the reagents, apparatus, instrumentation, and controls necessary to isolate and identify abnormal genetically determined hemoglobin types. The Panel identified this generic type of device as "hemoglobin, abnormal, quantitation" and "abnormal hemoglobin control."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that abnormal hemoglobin assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel noted that a quality control material is one of the most critical products in the hematology laboratory. The laboratory relies upon this material to determine whether its instrumentation is functioning properly. The development of a performance standard for the abnormal hemoglobin control is essential to the improvement of quality control in hemoglobinometry (the measurement of the hemoglobin in the blood). The allowed variation in the control's stated value must not be so wide as to make that value meaningless. The control's labeling should be required to list those instruments for which the product will give valid results. The abnormal hemoglobin control should never be used for calibration purposes. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with this device and upon evaluations of current screening methods, including electrophoresis, heat stability, isopropanol, and staining (Refs. *1* and *2*). The Panel stated that recommended methods for the identification of abnormal hemoglobins and an abnormal hemoglobin reference preparation have been developed by the International Committee for Standardization in Haematology (ICSH) (Refs. *3* and *4*). The ICSH recommendation addresses pH, electrolyte, support media, electrical voltage applied, and duration of electrophoresis.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin abnormality. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Electrical shock: The user faces the risk of electrical shock from the elctrophoretic chamber and power supply of the device.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that abnormal hemoglobin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performnce standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Schneider, R. G. and R. M. Schmidt, "Electrophoretic Screening for Abnormal Hemoglobins," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 33–83, 1975.

2. Kleihauer, E. and E. Kohne, "Application of the Acid Elution Technique for the Detection of Inclusion Bodies," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 149–159, 1975.

3. International Committee for Standardization in Haematology, Recommendations of a System for Identifying Abnormal Hemoglobins," *Blood*, 52(5): 1065–1067, 1978.

4. International Committee for Standardization in Haematology, "Recommendations for Abnormal Haemoglobin Standard," *British Journal of Haematology*, 35:161, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7415 as follows:

§ 864.7415 Abnormal hemoglobin assay.

(a) *Identification.* An abnormal hemoglobin assay is a device consisting of the reagents, apparatus, instrumentation, and controls necessary to isolate and identify abnormal genetically determined hemoglobin types.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27670 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1891]

Medical Devices; Classification of Carboxyhemoglobin Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying carboxyhemoglobin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of carboxyhemoglobin assays:

1. Identification: A carboxyhemoglobin assay is a device used to determine the carboxyhemoglobin (the compound formed when hemoglobin is exposed to carbon monoxide) content of human blood as an aid in the diagnosis of carbon monoxide poisoning. This measurement may be made using methods such as spectroscopy, colorimetry, spectrophotometry, and gasometry.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that Carboxyhemoglobin assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with carboxyhemoglobin and the medical literature. Van Assendelft discusses the absorption spectrum of carboxyhemoglobin and spectrophotometric methods for the determination of carbon monoxide saturation in suspected carbon monoxide poisoning (Ref. *1*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of carbon monoxide poisoning. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Electrical shock: If the spectrophotometer malfunctions, the user faces the risk of electrical shock.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that carboxyhemoglobin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Van Assendelft, O. W., "Spectrophotometry of Hemoglobin Derivatives," Charles C. Thomas Co., Springfield, Ill., pp. 59–61, 125–128, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority

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delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7425 as follows:

§ 864.7425 Carboxyhemoglobin assay.

(a) *Identification:* A carboxyhemoglobin assay is a device used to determine the carboxyhemoglobin (the compound formed when hemoglobin is exposed to carbon monoxide) content of human blood as an aid in the diagnosis of carbon monoxide poisoning. This measurement may be made using methods such as spectroscopy, colorimetry, spectrophotometry, and gasometry.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27671 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1892]

Medical Devices; Classification of Electrophoretic Hemoglobin Analysis Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electrophoretic hemoglobin analysis systems into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel and the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of electrophoretic hemoglobin analysis systems:

1. Identification: An electrophoretic hemoglobin analysis system is a device that electrophoretically separates and identifies normal and abormal hemoglobin types as an aid in the diagnosis of anemia or erythrocytosis (increased total red cell mass) due to a hemoglobin abnormality.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that electrophoretic hemoglobin analysis systems be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes that possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with electrophoretic methods for hemoglobin analysis and the medical literature. The Panel stated that voluntary standards currently exist. The International Committee for Standardization in Hematology (ICSH) has recommended a system for the identification of abnormal hemoglobins by electrophoretic procedures (Ref. *1*). The ICSH system specifies pH, electrolyte, support media, voltage applied, and the duration of electrophoresis. The ICSH has also developed a reference preparation of abnormal hemoglobins suitable for the standardization of electrophoresis (Ref. *2*). The Center for Disease Control (CDC) has published methods for hemoglobin electrophoresis (Ref. *3*). The National Committee for Clinical Laboratory Standards (NCCLS) has drafted a proposed standard for hemoglobin electrophoresis (Ref. *4*). The Panel also relied upon evaluations of electrophoretic methods for abnormal hemoglobin screening (Refs. *5* and *6*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin abnormality. Inappropriate therapy based on inaccurate diagnositc data may place the patient at risk. (b) Electrical shock: The user faces the risk of electrical shock from the electrophoretic chamber and power supply of the device.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that electrophoretic hemoglobin analysis systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Hematology, "Recommendations of a System for Identifying Abnormal Hemoglobins," *Blood*, 52(5): 1065-1067, 1978.

2. International Committee for Standardization in Hematology, "Recommendations for Abnormal Hemoglobin Standard," *British Journal of Haematology*, 37:161, 1977.

3. Schmidt, R. M. and E. M. Brosious, "Basic Laboratory Methods of Hemoglobinopathy Detection," DHEW Publication No. (CDC) 76-8266, pp. 32-37, 1976.

4. Schmidt, R. M. Report to the Board of Directors of the NCCLS, June 1978.

5. Schneider, R. G. and R. M. Schmidt, "Electrophoretic Screening for Abnormal Hemoglobins," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 33-63, 1975.

6. Huntsman, R. G. and D. McLellan, "The Estimation of Foetal Haemoglobin and Haemoglobin A_2: An Evaluation of Available Technology Suitable for Large Scale Screening," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 247-265, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 864 in Subpart H by adding new § 864.7440 as follows:

§ 864.7440 Electrophoretic hemoglobin analysis system.

(a) *Identification:* An electrophoretic hemoglobin analysis system is a device that electrophoretically separates and identifies abnormal and normal hemoglobin types as an aid in the diagnosis of anemia or erythrocytosis (increased total red cell mass) due to a hemoglobin abnormality.

(b) *Classification:* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27672 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1893]

Medical Devices; Classification of Fetal Hemoglobin Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying fetal hemoglobin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of fetal hemoglobin assays:

1. Identification: A fetal hemoglobin assay is a device that is used to determine the presence and distribution of fetal hemoglobin (hemoglobin F) in red cells or to measure the amount of fetal hemoglobin present. The assay may be used to detect fetal red cells in the maternal circulation or to detect elevated levels of fetal hemoglobin in hemoglobin abnormalities such as thalassemia (a hereditary hemolytic anemia characterized by decreased synthesis of one or more types of hemoglobin polypeptide chain). The hemoglobin determination may be made by means of such methodologies as electrophoresis, alkali denaturation, column chromatography, and radial immunodiffusion. The Panel identified this generic device as "fetal hemoglobin stains" and "hemoglobin F quantitation."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that fetal hemoglobin assays be classified into class II because there is a need for a performance standard that prescribed for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places that patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the labeling include specific directions for the use of positive and negative controls and for the calculation of the percent of the fetal cells in the mother's blood.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with fetal hemoglobin determinations and on the medical literature. The Panel stated that voluntary standards for fetal hemoglobin currently exist. The International Committee for Standardization in Hematology (ICSH) has recommended a system for the identification of abnormal hemoglobins, including fetal hemoglobin (Ref. *1*). A reference preparation of abnormal hemoglobins prepared by the ICSH includes fetal hemoglobin (Ref. *2*). The Center for Disease Control (CDC) has

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published methods for the detection of fetal hemoglobin (Ref. *3*). The National Committee for Clinical Laboratory Standards (NCCLS) has drafted a proposed standard for fetal hemoglobin (Ref. *4*). In making its recommendation the Panel considered evaluations of the present technology for large scale screening for hemoglobin (Refs. *5* and *6*). These evaluations concerned both manual and automated techniques, including those of Betke, (Ref. *7*), the alkali denaturation test, and column chromatography.

5. Risks to health: (a) Failure to detect fetal Rh prositive cells in the mother's blood: An erroneous result may cause the failure to detect fetomaternal transfusions of Rh positive cells that have have sensitized or that will sensitize the mother. This could result in failure to protect an unborn fetus. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin abnormality such as thalassemia. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (c) Electrical shock: The user faces the risk of electrical shock from the electrophoretic chamber and power supply of the electrophoresis device.

Proposed Classification

FDA agrees wtih the Panel's recommendation and is proposing that fetal hemoglobin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Hematology, "Recommendations of a System for Identifying Abnormal Hemoglobins," *Blood*, 52(5):1065–1067. 1978.

2. International Committee for Standardization in Haematology,"ICSH Recommendations for Abnormal Haemoglobin Standard," *British Journal of Haematology*, *35*:161, *1977*.

3. Schmidt, R. M. and E. M. Brosious, "Basic Laboratory Methods of Hemoglobinopathy Detection," DHEW Publication No. (CDC) 76-8266, pp. 46–51, 1976.

4. Schmidt, R. M., Report to the Board of Directors of the NCCLS, June 1978.

5. Shibata, S., T. Miyaji, and Y. Ohba, "Evaluation of Precision of Procedures for Estimation of HbA_2 and HbF in Hemolysates," in "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 25–32, 1975.

6. Huntsman, R. G. and D. McLellan, "The Estimation of Foetal Haemoglobin and Haemoglobin A_2: An Evaluation of Available Technology Suitable for Large Scale Screening," in "Abormmal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press, Inc., New York, pp. 247–265, 1975.

7. Kleihauer, E., H. Braun, and K. Betke, "Demonstration von Fetalem Haemoglobin in Den Erythrocyten Eines Blutausstrichs," *Klinische Wochenschrift*, 35(12):637, 1957.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7455 as follows:

§ 864.7455 Fetal hemoglobin assay.

(a) *Identification.* A hemoglobin assay is a device that is used to determine the presence and distribution of fetal hemoglobin (hemoglobin F) in red cells or to measure the amount of fetal hemoglobin present. The assay may be used to detect fetal red cells on the maternal circulation or to detect elevated levels or fetal hemoglobin in hemoglobin abnormalities such as thalassemia (a hereditary hemolytic anemia characterized by a decreased synthesis of one of more types of hemoglobin polypeptide chain). The hemoglobin determination may be made by means of methodologies such as electrophoresis, alkali denaturation, column chromatography, and radial immunodiffusion.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27673 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1895]

Medical Devices; Classification of Sulfhemoglobin Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying sulfhemoglobin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of sulfhemoglobin assays:

1. Identification: A sulfhemoglobin assay is a device consisting of the reagents, calibrators, controls, and instrumentation used to determine the sulfhemoglobin (a compound of sulfur and hemoglobin) content of human blood as an aid in the diagnosis of sulfhemoglobinemia (presence of sulfhemoglobin in the blood due to drug administration or exposure to a poison). This measurement may be made using methods such as spectroscopy, colorimetry, spectrophotometry, and gasometry.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that sulfhemoglobin assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with sulfhemoglobin and the medical literature. Van Assendelft discussed the spectral properties of sulfhemoglobin and methods for the determination and estimation of sulfhemoglobin saturation in detecting sulfhemoglobinemia (Ref. 1).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of sulfhemoglobinemia. Inappropriate therepy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that sulfhemoglobin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (HFA–305) (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Van Assendelft, O. W., "Spectrophotometry of Haemoglobin Derivatives," Charles C. Thomas Co., Springfield, Ill., pp. 74–85, 129–130, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7490 as follows:

864.7490 Sulfhemoglobin assay.

(a) *Identification.* A sulfhemoglobin assay is a device consisting of the reagents, calibrators, controls, and instrumentation used to determine the sulfhemoglobin (a compound of sulfur and hemoglobin) content of human blood as an aid in the diagnosis of sulfhemoglobinemia (presence of sulfhemoglobin in the blood due to drug administration or exposure to a poison). This measurement may be made using methods such as spectroscopy, colorimetry, spectrophotometry, and gasometry.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305). Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27674 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1896]

Medical Devices; Classification of Whole Blood Hemoglobin Assays

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying whole blood hemoglobin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. The actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of whole blood hemoglobin assays:

1. Identification: A whole blood hemoglobin assay is a device consisting of reagents, calibrators, controls, and photometric or spectrophotometric instrumentation used to measure the hemoglobin content of whole blood for the detection of anemia.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

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3. Summary of reasons for recommendation: The Panel recommends that whole blood hemoglobin assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with hemoglobin assays. The Panel stated that the International Committee for Standardization in Hemotology (ICSH) has recommended a cyanmethemoglobin method and a cyanmethemoglobin reference standard (Ref. *1*). The method and reference standard have been accepted by the College of American Pathologists, the American Society of Hematology, and the National Committee for Clinical Laboratory Standards. In making its recommendation, the Panel also relied upon the medical literature concerning hemoglobinometry. Van Assendelft discusses the standardization of hemoglobinometry and photometric errors (Ref. *2*). Van Assendelft, Zijlstra, and van Kampen discuss the sources of error in the cyanmethemoglobin method, including improper technique in obtaining and diluting the blood sample, storage of reagents in improper containers, accidental freezing of reagents and improper preparation of reagents (Ref. *3*). In addition, the hemoglobin determination may be in error if the measuring instrument is not calibrated and checked with a cyanmethemoglobin reference solution (Ref. *3*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a hemoglobin disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. These data may be the basis for a decision to initiate or stop treatment, including blood transfusion. (b) Potassium cyanide hazard: The potassium cyanide present in some hemoglobin reagents constitutes a hazard to the user. (c) Electrical shock: The user faces the risk of electrical shock from a malfunction of the photometer or spectrophotometer employed to measure the hemoglobin content of the blood.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that whole blood hemoglobin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "International Committee for Standardization in Haematology, Recommendations for Haemoglobinometry in Human Blood," *British Journal of Haematology*, 13 (Supplement): 71, 1967.

2. Van Assendelft, O. W. "Spectrophotometry of Haemoglobin Derivatives," Charles C. Thomas Co., Springfield, IL, pp. 35–38, 86–118, 1970.

3. Van Assendelft, O. W., W. G. Zijlstra, and E. J. van Kampen, "Haemoglobinometry: Challenges and Pitfalls," *Proceedings Koninklijke, Nederlandse Akademia van Wetenschappen*, 73;104–112, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7500 as follows:

§ 864.7500 Whole blood hemoglobin assay.

(a) *Identification:* A whole blood hemoglobin assay is a device consisting of reagents, calibrators, controls, and photometric or spectrophotometric instrumentation used to measure the hemoglobin content of whole blood for the detection of anemia.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27675 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1897]

Medical Devices; Classification of Heparin Assays

AGENCY: Food and Drug Administration.

ACTION: Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying heparin assays into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of heparin assays:

1. Identification: A heparin assay is a device used to determine the level of the anticoagulant heparin in the patient's circulation. These assays are quantitative clotting time procedures utilizing the effect of heparin on activated coagulation factor X (Stuart factor) or procedures based on the neutralization of heparin by protamine sulfate (a protein that neutralizes heparin). The Panel identified this generic type of device as "heparin assays, clotting time," "the heparin neutralization test," and "protamine sulfate."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that heparin assays be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with heparin assays and upon a description of the use of a heparin assay to determine the dosage of protamine sulfate required to neutralize the heparin in the patient's circulation (Ref. *1*).

5. Risks to health: Hemorrhage or thromboembolism: If this device incorrectly reports the level of heparin in the patient's blood, hemorrhage or thrombosis may result because of administration of an inappropriate amount of protamine.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that heparin assays be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Hardisty, R. M., and G. I. C. Ingram, "Bleeding Disorders," R. A. Davis Co., Philadelphia, PA, pp. 152–158, 320–322, 1965.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7525 as follows:

§ 864.7525 Heparin assay.

(a) *Identification.* A heparin assay is a device used to determine the level of the anticoagulant heparin in the patient's circulation. These assays are quantitative clotting time procedures utilizing the effect of heparin on activated coagulation factor X (Stuart factor) or procedures based on the neutralization of heparin by protamine sulfate (a protein that neutralizes heparin).

(b) *Classification.* Class II (performance standards). Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27676 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1898]

Medical Devices; Classification of Leukocyte Alkaline Phosphatase Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying leukocyte alkaline phosphatase tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of leukocyte alkaline phosphatase tests:

1. Identification: A leukocyte alkaline phosphatase test is a device used to identify the enzyme leukocyte alkaline phosphatase in neutrophilic

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granulocytes (granular leukocytes stainable by neutral dyes). The cytochemical identification of alkaline phosphatase depends on the formation of blue granules in cells containing alkaline phosphatase. The results of this test are used to differentiate chronic granulocytic leukemia (a malignant disease characterized by excessive overgrowth of granulocytes in the bone marrow) and reactions that resemble true leukemia, such as those occurring in severe infections and polycythemia (increased total red cell mass).

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that leukocyte alkaline phosphatase tests be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with these tests. The Panel believes that is is an accepted fact that stains are mixtures of compounds which are hard to standardize and often vary greatly from one lot to the next. It has been the Panel members' experience that 10 to 25 percent of stain lots are unusable.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in diagnosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk unnecessarily. Poor staining characteristics may lead to any of the following: (a) Failure to detect leukocyte alkaline phosphatase in various leukemoid states (conditions resembling true leukemia); (b) Inability to differentiate leukemoid-reactive cells; (c) Improper classification of a leukemia process; and (d) Inability to classify an anemia, polycythemia, or infection.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that leukocyte alkaline phosphatase tests be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that users can avoid poor staining characteristics by paying close attention to fixing, staining, rinsing, and drying the slides, and by staining control slides to assure that the stain is working properly.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7660 as follows:

§ 864.7660 Leukocyte alkaline phosphatase test.

(a) *Identification:* A leukocyte alkaline phosphatase test is a device used to identify the enzyme leukocyte alkaline phosphatase in neutrophilic granulocytes (granular leukocytes stainable by neutral dyes). The cytochemical identification of alkaline phosphatase depends on the formation of blue granules in cells containing alkaline phosphatase. The results of this test are used to differentiate chronic granulocytic leukemia (a malignant disease characterized by excessive overgrowth of granuloctyes in the bone marrow) and reactions that resemble true leukemia, such as those occurring in severe infections and polycythemia (increased total red cell mass).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27677 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1899]

Medical Devices; Classification of Leukocyte Peroxidase Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying leukocyte peroxidase tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of leukocyte peroxidase tests:

1. Identification: A leukocyte peroxidase test is a device used to distinguish certain myeloid cells (cells derived from the bone marrow i.e., neutrophils, eosinophils, and monocytes) from lymphoid cells (cells of the lymphatic system) and erythroid cells (cells in the red blood cell series) on the basis of their peroxidase activity as evidenced by staining. The results of this test are used in the differential diagnosis of the leukemias.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that leukocyte peroxidase tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with this test. The Panel believes that it is an accepted fact that stains are mixtures of compounds which are hard to standardize and often vary greatly from one lot to the next. It has been the Panel members' experience that 10 to 25 percent of stain lots are unusable.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of this device to perform satisfactorily may lead to an error in diagnosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Poor staining characteristics may lead to any of the following: (a) Failure to detect peroxidase-positive cells of the granulocytic series; (b) Failure to detect peroxidase-negative cell types; and (c) Improper classification of a leukemic process.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that leukocyte peroxidase tests be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that users can avoid poor staining characteristics by paying close attention to staining, rinsing, and drying the slides and by staining control slides to assure that the stain is working properly.

Therefore under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7675 as follows:

§ 864.7675 Leukocyte peroxidase test.

(a) *Identification.* A leukocyte peroxidase test is a device used to distinguish certain myeloid cells (cells derived from the bone marrow, i.e., neutrophils, eosinophils, and monocytes) from lymphoid cells (cells of the lymphatic system) and erythroid cells (cells in the red blood cell series) on the basis of their peroxidase activity as evidenced by staining. The results of this test are used in the differential diagnosis of the leukemias.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27676 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1900]

Medical Devices; Classification of Prothrombin Consumption Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying prothrombin consumption tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of prothrombin consumption tests:

1. Identification: A prothrombin consumption test is a device that measures the patient's capacity to generate thromboplastin in the coagulation process. The test also is an indirect indicator of qualitative or quantitative platelet abnormalities. It is a screening test for thrombocytopenia (decreased number of blood platelets) and hemophilia A and B.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that prothrombin consumption tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. An abnormal result for the prothrombin consumption test indicates a platelet dysfunction, a lack of plasma thromboplastin precursor activity, which causes reduced plasma thromboplastin activity, or both. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Risks to Health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a coagulation defect or platelet abnormality. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that prothrombin consumption tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide

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reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7720 as follows:

§ 864.7720 Prothrombin consumption test.

(a) *Identification.* A prothrombin consumption test is a device that measures the patient's capacity to generate thromboplastin in the coagulation process. The test also is an indirect indicator of qualitative or quantitative platelet abnormalities. It is a screening test for thrombocytopenia (decreased number of blood platelets) and hemophilia A and B.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27679 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1901]

Medical Devices; Classification of Prothrombin-Proconvertin Tests and the Thrombotests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying prothrombin-proconvertin tests and the thrombotests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of prothrombin-proconvertin tests and thrombotests:

1. Identification: The prothrombin-proconvertin test and thrombotest are devices used in the regulation of coumarin therapy (administration of a coumarin anti-coagulant such as sodium warfarin in the treatment of venous thrombosis and pulmonary embolism) and as a diagnostic test in conjunction with, or in place of, the Quick prothrombin time test to detect coagulation disorders.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that prothrombin-proconvertin tests and the thrombotests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unncessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with these tests and the medical literature. An evaluation of the thrombotest indicates that it was developed to be sensitive to a deficiency in a patient's blood of the coagulation factor X (Stuart factor) and that, in this respect, the thrombotest is superior to the prothrombin-proconvertin test (Ref. *1*). Although the thrombotest is not intended to diagnose hemophilia, it can indicate depressed levels of the coagulation factor IX (plasma thromboplastin component). A study by Rapaport and Ames (Ref. *2*) revealed significant differences in the prothrombin time as measured by the prothrombin-proconvertin method and a modified Quick prothrombin method.

5. Risks to health: (a) Hemorrhage or thrombosis in patients undergoing sodium warfarin therapy: If this device fails to perform satisfactorily, hemorrhage or thrombosis could result due to the administration of an inappropriate amount of the anticoagulant sodium warfarin. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of deficiencies of coagulation factors II (prothrombin), VII (proconvertin), or IX (plasma thromboplastin compenent). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. An undiagnosed coagulation factor deficiency may cause bleeding during surgery.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that prothrombin-proconvertin tests and thrombotests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Owren, P. A., "Control of Anticoagulant Therapy, the Use of New Tests," *Archives of Internal Medicine*, 111:248–258, 1963.

2. Rapaport, S. I., and S. B. Ames, "Relation Between Levels of Plasma Thromboplastin Component (PTC) and Prothrombin Times by the P and P and Quick Methods in Patients Receiving Warfarin, "*New England Journal of Medicine*, 267:125–130, 1962.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7735 as follows:

§ 864.7735 Prothrombin-proconvertin test and thrombotest.

(a) *Identification.* The prothrombin-proconvertin test and thrombotest are devices used in the regulation of coumarin therapy (administration of a coumarin anticoagulant such as sodium warfarin in the treatment of venous thrombosis and pulmonary embolism) and as a diagnostic test in conjunction with, or in place, of the Quick prothrombin time test to detect coagulation disorders.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Recieved comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27680 Filed 9–10–79; 8:45 am]

BILLING CODE4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1902]

Medical Devices; Classification of Prothrombin Time Tests

AGENCY: Food and Drug Administration.

ACTION: Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying prothrombin time tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of prothrombin time tests:

1. Identification: A prothrombin time test is a device used as a general screening procedure for the detection of possible clotting factor deficiencies in the extrinsic coagulation pathway, which involves the reaction between coagulation factors III and VII, and to monitor patients receiving coumarin therapy (the administration of one of the coumarin anticoagulants in the treatment of venous thrombosis or pulmonary embolism).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that prothrombin time tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The prothrombin time test is often used for the presurgical screening of patients for potential bleeding problems. The panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with the prothrombin time test and the medical literature. The Center for Disease Control is working with the International Committee for Standardization in Hematology and the International Committee on Thrombosis and Haemostasis (ICTH) to standardize this test (Ref. *1*). The ICTH has made recommendations on the standardization of methods and materials used for control of oral anticoagulants to encourage a similarity in the intensity of anticoagulant treatment that is generally used so that optimal therapeutic anticoagulant levels are attained in individual patients. In addition, other organizations have developed methods for the standardization of the prothrombin time test (Refs. *2* and *3*).

5. Risks to health: (a) Hemorrhage or thrombosis: If this device incorrectly reports the prothrombin time, hemorrhage or thrombosis could result due to the administration of an inappropriate amount of an anticoagulant drug. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of bleeding defects. Inappropriate therapy based on inaccurate diagnostic data

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may place the patient at risk. Hemorrhage during surgery could result.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that prothrombin time tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Ingram, G. I. C., and M. Hills, "Reference Method for the One-Stage Prothrombin Time Test on Human Blood. International Committee for Standardization in Hematology," *Thrombosis and Haemostasis* (Stuttgart), 36:237, 1976.

2. Biggs, R., and K. W. E. Denson, "Third Report on the Standardization of the One-Stage Prothrombin Time for the Control of Anticoagulant Therapy," *Thrombosis et Diathesis Haemorrhagica*, Suppl. 26:445–450, 1967.

3. Zucker, S., et al., "Standardization of Laboratory Tests for Controlling Anticoagulant Therapy," *American Journal of Clinical Pathology*, 53:348–354, 1970.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat.1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7750 as follows:

§ 864.7750 Prothrombin time test.

(a) *Identification.* A prothrombin time test is a device used as a general screening procedure for the detection of possible clotting factor deficiencies in the extrinsic coagulation pathway, which involves the reaction between coagulation factors III and VII, and to monitor patients receiving coumarin therapy (the administration of one of the coumarin anticoagulants in the treatment of venous thrombosis or pulmonary embolism).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27661 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1903]

Medical Devices; Classification of Sickle Cell Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying sickle cell tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of sickle cell tests:

1. Identification: A sickle cell test is a device used to determine the sickle cell hemoglobin content of human blood to detect sickle cell anemia (a hereditary hemolytic anemia characterized by joint and abdominal pain, leg ulcers, and sickle shaped erythrocytes). The Panel identified this generic device as the "solubility hemoglobin, abnormal" and "sickle cell test."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that sickle cell tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with sickle cell tests. The Panel stated that the International Committee for standardization in Haematology (ICSH) has recommended a system for the identification of abnormal hemoglobins, including hemoglobin S (Ref. *1*) and has developed a reference preparation for the standardization of electrophoresis (Ref. *2*). The National Sickle Cell Disease Program of the National Heart and Lung Institute and the National Hemoglobinopathy Standardization Laboratory of the Center for Disease Control (CDC) recommend that cellulose acetate electrophoresis be used for sickle cell screening (Ref. *3*). The Panel also relied upon evaluations of current methodology for sickle cell testing that include electrophoretic, cytological, and chemical methods (Refs. *4* and *5*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a sickle cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that sickle cell tests be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine if reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. The CDC has published sickling and solubility tests for abnormal hemoglobins, including a discussion of conditions contributing to false positives and false negatives, the accuracy of one- and two-step tests, tests for whole blood, hemolysates, and filter paper specimens (Ref. *6*).

FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. International Committee for Standardization in Haematology, "Recommendations of a System for Identifying Abnormal Hemoglobins," *Blood*, 52(5):1065–1067, 1978.

2. International Committee for Standardization in Haematology, "Recommendations for Abnormal Haemoglobin Standard," *British Journal of Haematology*, 35:161, 1977.

3. Schmidt, R. M. and E. M. Brosious, "Evaluation of Proficiency in the Performance of Tests for Abnormal Hemoglobins," *American Journal of Clinical Pathology*, 62:664–669, 1974.

4. Schneider, R. G., and R. M. Schmidt, "Electrophoretic Screening for Abnormal Hemoglobins," *in* "Abnormal Haemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press Inc., New York, pp. 34–37, 50–55, 1975.

5. Cabannes, R., "Methodologies Suitable for Detecting Hemoglobinopathies in Developing Countries," *in* "Abnormal Hemoglobins and Thalassemia, Diagnostic Aspects," Edited by R. M. Schmidt, Academic Press Incorporated, New York, pp. 70–71, 1975.

6. Schmidt, R. M., and E. M. Brosious, "Basic Laboratory Methods of Hemoglobinopathology Detection," DHEW Publication No. (CDC) 76–8266, pp. 49–60, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7825 as follows:

§ 864.7825 Sickle cell test.

(a) *Identification.* A sickle cell test is a device used to determine the sickle cell hemoglobin content of human blood to detect sickle cell anemia (a hereditary hemolytic anemia characterized by joint and abdominal pain, leg ulcers, and sickle shaped erythrocytes).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27662 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1904]

Medical Devices; Classification of Thrombin Time Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying thrombin time tests into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of thrombin time tests:

1. Identification: A thrombin time test is a device used to measure fibrinogen concentration and detect fibrin or fibrinogen split products for the evaluation of bleeding disorders. The Panel considered this generic device under the names "thrombin time test" and "thrombin."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that thrombin time tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a

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reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the product labeling be required to warn users that the reagents are unstable after reconstitution and should be used immediately.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with this test and upon a study of the thrombin time test that addresses the effects of fibrogen concentration, antithrombin activity, plasma viscosity, plasma dilution, and heat stability (ref. *1*).

5. Risks to health: (a) Hemorrhage during surgery: If this test fails to detect a bleeding defect, bleeding during surgery could result. (b) Postoperative bleeding: If this test fails to detect residual levels of heparin (an anticoagulant) in the patient's blood following surgery, hemorrhage could result. (c) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of disseminated intravascular coagulation (nonlocalized clotting within the blood vessels). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that thrombin time tests be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk at the above address and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Jim, R. T. S., "A Study of the Plasma Thrombin Time," *Journal of Laboratory and Clinical Medicine*, 50:45–60, 1957.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7875 as follows:

§ 864.7875 Thrombin time test.

(a) *Identification.* A thrombin time test is a device used to measure fibrinogen concentration and detect fibrin or fibrinogen split products for the evaluation of bleeding disorders.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27683 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1905]

Medical Devices; Classification of Thromboplastin Generation Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying thromboplastin generation tests into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of thromboplastin generation tests:

1. Identification: A thromboplastin generation test is a device used to detect and identify coagulation factor deficiencies and coagulation inhibitors.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exceptions.

3. Summary of reasons for recommendation: The Panel recommends that thromboplastin generation tests be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with this test.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a bleeding disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that thromboplastin generation tests be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7900 as follows:

§ 864.7900 Thromboplastin generation test.

(a) *Identification.* A thromboplastin generation test is a device used to detect and identify coagulation factor deficiencies and coagulation inhibitors.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27684 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1906]

Medical Devices; Classification of Partial Thromboplastin Time Tests

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying partial thromboplastin time tests into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of partial thromboplastin time tests:

1. Identification: A partial thromboplastin time test is a device used for primary screening for coagulation abnormalities, for evaluation of the effect of therapy on procoagulant disorders, and as an assay for coagulation factor deficiencies of the intrinsic coagulation pathway. The Panel identified this generic type device as "partial thromboplastin time" and "partial thromboplastin time reagents, controls."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device by a high priority.

3. Summary of reasons for recommendation: The Panel recommends that partial thromboplastin time tests be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The partial thromboplastin time test is used for presurgical and post surgical coagulation screening, to assay for coagulation factor deficiencies, and to regulate heparin therapy (administration of the anticoagulant heparin in the treatment of venous thrombosis and pulmonary embolism). The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel believes that the labeling for this device should be required to describe the effect of various heparin concentrations on the linearity of this assay, the sensitivity of this test for the detection of factor deficiencies, and the lot-to-lot variability of this test.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with this device and on the medical literature. The Panel members noted that because the partial thromboplastin time test is a primary coagulation screening test, its accuracy is essential. The medical literature reports considerable variation in the sensitivity and performance of the partial thromboplastin time test. The College of American Pathologists' surveys of proficiency in the partial thromboplastin time test revealed an unacceptable level of variability (Ref. *1*). Because the greatest variation and imprecision occurred with the nonactivated partial thromboplastin time test, the College recommended that the use of this test be discontinued. A 1971 survey of the partial thromboplastin time test, conducted by the Center for Disease Control, reached the conclusion that no currently available reagent can give reproducible results and be equally sensitive to all intrinsic clotting factors (Ref. *2*). A 1972 study by Poller and Thomson reached the same conclusion (Ref. *3*). A 1974 report by Babson and Babson (Ref. *4*) stated that reagents using colloidal silica as an activator gave the test increased heparin sensitivity and precision. However, a 1976 study shows that a simple, accurate method for monitoring heparin therapy has yet to be developed (Ref. *5*). The Center for Disease Control is working with the International Committee for Standardization in Hematology and the International Committee on Thrombosis and Hemostasis to standardize this test.

5. Risks to health: (a) Hemorrhage or thrombosis: If this device incorrectly reports the partial thromboplastin time, hemorrhage or thrombosis may result due to the administration of an inappropriate amount of heparin. (b) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a bleeding disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. There is a risk of hemorrhage from an undiagnosed bleeding defect during surgery.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that partial thromboplastin time tests be

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classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Koepke, J. A., "The Partial Thromboplastin Time in the CAP Survey Program," *American Journal of Clinical Pathology*, 63:990–994, 1975.

2. Sibley, C., J. W. Singer, and R. J. Wood, "Comparison of Activated Partial Thromboplastin Reagents," *American Journal of Clinical Pathology*, 59:581–586, 1973.

3. Poller, L. and J. M. Thomson, "The Partial Thromboplastin (Cephalin) Time Test," *Journal of Clinical Pathology*, 25:1030–1044, 1972.

4. Babson, A. L. and S. R. Babson, "Comparative Evaluation of a Partial Thromboplastin Reagent Containing a Non-Settling, Particulate Activator," *American Journal of Clinical Pathology*, 62:856–860, 1974.

5. Teien, A. N. and U. Abildgard, "On the Value of the Activated Partial Thromboplastin Time (APTT)" *in* "Monitoring Heparin Therapy," *Thrombosis and Hemostasis* (Stuttgart), 35:592–597, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart H by adding new § 864.7925 as follows:

§ 864.7925 Partial thromboplastin time test.

(a) *Identification.* A partial thromboplastin time test is a device used for primary screening for coagulation abnormalities, for evaluation of the effect of therapy on procoagulant disorders, and as an assay for coagulation factor deficiencies of the intrinsic coagulation pathway.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27685 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1907]

Medical Devices; Classification of Hematology Stains

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hematology stains into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of hematology stains:

1. Identification: Hematology stains are mixtures of synthetic or natural dyes, in solution, used in staining cells of peripheral blood and bone marrow on microscope slides for diagnostic hematology. The Panel reviewed these products under the names "brilliant cresyl blue," "esterase," "Heinze body stains," "iron stains," "Ponceau stain," "reticulocyte stain," "Romanowsky stain," and "cytochemical acid phosphatase."

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that hematology stains be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. However, the Panel recommends that control slides be used with every stain to assure that the stain is working properly.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. In making this recommendation, the Panel stated that it did not know of any applicable standards for stains. The Panel believes that it is an accepted fact that stains are hard to standardize and often vary from one lot to the next. It has been the Panel members' experience that 10 to 25 percent of stain lots are unusable.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in diagnosis. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. Poor staining characteristics may lead to any of the following: (a) failure to detect abnormal cell types; (b) inability to differentiate reactive from malignant cells; (c) improper classification of a leukemic process; and (d) inability to classify an anemic process.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that hematology stains be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that poor staining characteristics will rarely occur if users pay close attention to staining, rinsing, and drying slides and if they stain control slides to assure that the stains are working properly.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart I including new § 864.8030 as follows:

Subpart I—Hematology Reagents and Stains

§ 864.8030 Hematology stains.

(a) *Identification.* Hematology stains are mixtures of synthetic or natural dyes, in solution, used in staining cells of peripheral blood and bone marrow on microscope slides for diagnostic hematology.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27686 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1908]

Medical Devices; Classification of Bothrops Atrox Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying Bothrops atrox reagents into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. the Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of Bothrops atrox reagents:

1. Identification: A Bothrops atrox regent is a device made from snake venom and used to determine blood fibrinogen levels to aid in the evaluation of disseminated intravascular coagulation (nonlocalized clotting in the blood vessels) in patients receiving heparin therapy (the administration of the anticoagulant heparin in the treatment of thrombosis) or as an aid in the classification of dysfibrinogenemia (presence in the plasma of functionally defective fibrinogen).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this product be a low priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends Bothrops atrox reagents be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of disseminated intravascular coagulation. Inappropriate heparin therapy based on inaccurate diagnostic data may place the patient at risk. (b) Failure to detect fibrin split products (protein fragments produced by the ensymatic action of plasmin on fibrin): An erroneously short Bothrops atrox time may result in the failure to detect fibrin split products.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that Bothrops atrox reagents be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8100 as follows:

§ 864.8100 Bothrops atrox reagent.

(a) *Identification.* A Bothrops atrox reagent is a device made from snake venom and used to determine blood fibrinogen levels to aid in the evaluation of disseminated intravascular coagulation (nonlocalized clotting in the blood vessels) in patients receiving heparin therapy (the administration of the anticoagulant heparin in the treatment of thrombosis) or as an aid in the classification of dysfibrinogenemia (presence in the plasma of functionally defective fibrinogen).

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(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA—305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27687 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1909]

Medical Devices; Classification of Calibrators for Cell Indices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying calibrators for cell indices into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of calibrators for cell indices:

1. Identification: A calibrator for cell indices is a device that approximates whole blood or certain blood cells and that is used to set an instrument intended to measure mean cell volume (MCV), mean cell diameter (MCD), mean corpuscular hemoglobin (MCH), mean corpuscular hemoglobin concentration (MCHC), or other cell indices. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval these devices be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that calibrators for cell indices be classified into class III because this device is purported or represented to be for use in the calibration of instruments for the measurement of cell indices. This use is of substantial importance in preventing impairment of human health because the cell indices are essential to the diagnosis of certain serious blood disorders. In addition, calibrators for cell indices present a potential unreasonable risk of illness or injury if the physician relies upon inaccurate diagnostic information produced by an improperly calibrated instrument. The Panel stated that there are unanswered theoretical questions concerning the MCV and the manual and electronic methods used to obtain it. These unanswered questions preclude the possibility of assigning a true numerical value to a calibrator for the MCV or establishing a performance standard for such a calibrator. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that insufficient information exists to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The device therefore should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. Additionally, O. W. van Assendelft, M.D., Chief of the General Hematology Laboratory at the Center for Disease Control and a consultant to the Panel, stated that the technology for the determination of cell indices has not advanced to the stage that true values can be assigned to calibration materials for cell indices (Ref. *1*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a serious blood disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that calibrators for cell indices be classified into class III (premarket approval). The medical literature describes the source of error in the determination of the mean cell volume (MCV) (Ref. *2* and *3*). One study reported that an instrument calibrated with the reference material provided by the instrument manufacturer overestimated the MCV (Ref. *2*). A second study found that the calibration of this instrument is affected by the temperature and purity of the cell diluent employed with the instrument (Ref. *3*).

The agency believes that the device is purported or represented to be for use in the calibration of instruments for the measurement of cell indices, a use which is of substantial importance in preventing impairment of human health. The cell indices are an important diagnostic tool in the evaluation of various serious blood disorders. An elevation of the MCV is the first indication of a megaloblastic process such as megaloblastic anemia (a bone marrow disorder due to defective DNA synthesis). The MCV is also elevated in chronic alcohol abuse, bone marrow failure, sideroblastic anemia, drug-induced abnormalities in red cell production, and chronic hemolytic anemias.The MCV is reduced in iron deficiency anemia and α and β thalassemia (hereditary hemolytic anemias characterized by decreased production of the α and β hemoglobin polypeptide chains). The MCV is used to determine the cause of a decreased

demoglobin level in pregnancy. The MCH is reduced in severe iron deficiency anemia (Ref. *4*).

The agency agrees that this device presents a potential unreasonable risk of illness or injury if the physician relies upon diagnostic information produced by an improperly calibrated instrument. The agency believes that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Transcript of the Hematology Device Classification Panel Meeting, March 29, 1978, pp. 17–19.

2. England, J. M. and M. C. Down, "Measurement of the Mean Cell Volume Using Electronic Particle Counters," *British Journal of Haematology*, 32:403–409, 1976.

3. Young, M. and A. C. K. Lawrence, "The Influence of Extraneous Factors on Coulter S Measurement of the Mean Corpuscular Volume," *Journal of Clinical Pathology*, 28:12–15, 1975.

4. Chanarin, I., "Interpretation of Variance in the PCV," *in* "Quality Control in Haematology," Lewis, S. M. and J. F. Coster (eds.), Academic Press, New York, pp. 104–105, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8150 as follows:

§ 864.8150 Calibrator for cell indices.

(a) *Identification.* A calibrator for cell indices is a device that approximates whole blood or certain blood cells and that is used to set an instrument intended to measure mean cell volume (MCV), mean cell diamter (MCD), mean corpuscular hemoglobin (MCH), mean corpuscular hemoglobin concentration (MCHC), or other cell indices. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27688 Filed 9-10-79; 9:10 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1910]

Medical Devices; Classification of Calibrators for Hemoglobin and Hematocrit Measurement

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying calibrators for hemoglobin and hematocrit measurement into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health , Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of calibrators for hemoglobin and hematocrit measurement:

1. Identification: A calibrator for hemoglobin and hematocrit measurement is a device that approximates whole blood, red blood cells or a hemoglobin derivative and that is used to set instruments intended to measure hemoglobin, the hematocrit, or both. It is a material whose characteristics have been carefully determined.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these products be a high priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that calibrators for hemoglobin and hematocrit measurement be classified into class II because there is a need for a performance standard that prescribes for this device accceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. Additionally, O. W. van Assendelft, M.D., Chief of the General Hematology Laboratory at the Center for Disease Control and a consultant to the Panel, believes that technology has advanced to the stage where a true value can be assigned to calibration materials for hemoglobin and hematocrit measurement (Ref. *1*). The International Committee for Standardization in Hematology (ICSH) prepares and distributes a reference preparation for

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hemoglobin measurement (Ref. *2*). Other reference preparations have been developed according to the ICSH protocol (Refs. *2* and *3*). The National Committee for Clinical Laboratory Standards is developing standards for hemoglobin and the hematocrit, and the World Health Organization has recommended methods for hematocrit determination (Ref. *4*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of anemia or polycythemia (a condition characterized by an increased total red cell mass). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that calibrators for hemoglobin and hematocrit measurement be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the Hearing Clerk's office (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Transcript of the Hematology Device Classification Panel Meeting, March 29, 1978, pp. 17–19.

2. International Committee for Standardization in Haematology, "Recommendations for Haemoglobinometry in Human Blood," *British Journal of Haematology*, 13 (Supp.):71, 1967.

3. Lewis, S. M., "Standards and Reference Preparations," *in* "Quality Control in Haematology," Edited by S. M. Lewis, and J. F. Coster, Academic Press, New York, pp. 82–83, 1975.

4. van Assendelft, O.W., J. F. Coster, and P. J. Crossland-Taylor, "Methods for the Determination of Packed Cell Volume," World Health Organization Document LAB/76.3.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8165 as follows:

§ 864.8165 Calibrator for hemoglobin and hematocrit measurement.

(a) *Identification.* A calibrator for hemoglobin and hematocrit measurement is a device that approximates whole blood, red blood cells, or a hemoglobin derivative and that is used to set instruments intended to measure hemoglobin, the hematocrit, or both. It is a material whose characteristics have been carefully determined.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27689 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1911]

Medical Devices; Classification of Calibrators for Platelet Counting

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Admnistration (FDA) is issuing for public comment a proposed regulation classifying calibrators for platelet counting into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Admnistration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of calibrators for platelet counting:

1. Identification: A calibrator for platelet counting is a device that approximates platelets in plasma and that is used to set a platelet counting instrument. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval for these products be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that calibrators for platelet counting be classified into class III because this device is purported or represented to be for use in the calibration of automated platelet counting instruments, a use that is of substantial importance in preventing impairment of human health due to the essential nature of a platelet count in the diagnosis of bleeding disorders. In addition, calibrators for platelet counting present a potential unreasonable risk of illness or injury due to the lack of a suitable technology to assign a true numerical value to a material to be used as a platelet calibrator. This technology has been hindered by the difficulties inherent in platelet counting. Platelets are small, fragile cells that clump together and readily attach themselves to surfaces. In addition, platelets are difficult to distinguish from dirt particles. The patient may be placed at risk if the physician relies upon inaccurate diagnostic information produced by an improperly calibrated platelet counter. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that insufficient information exists to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. The device therefore should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device and on the expert opinion of Lewis (Ref. *1*). The Panel stated that no calibration material has sufficient stability or reporducibility to serve as a calibrator for platelet counting. Lewis coucurs with this statement. The Panel stated that technology has not advanced to the stage that a true numerical value can be assigned to a calibration material for platelet counting.

5. Risks to health: Misdiagnosis and inapropriate therapy: Failure of the deivce to perform satisfactorily may lead to an error in the diagnosis of a platelet disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that calibrators for platelet counting be classified into class III (premarket approval). The medical literature includes reports of difficulties encountered in calibrating automated platelet-counting instruments (Refs. *2* and *3*). An instrument calibrated with reference materials provided by the instrument's manufacturer consistently produced results that were 30 percent high. Such an error would cause the instrument to give a false normal value for a thrombocytopenic blood sample (Ref. *2*). (Thrombocytopenic blood contains a reduced number of blood platelets.) The agency believes that the device is purported or represented to be for use in the calibration of automated platelet-counting instruments, a use which is of substantial importance in preventing impairment of human health. The platelet count is essential to the diagnosis of bleeding disorders. Thrombocytosis (increased platelet count) occurs in polycythemia vera (a potentially fatal disease characterized by increased total red cell mass and blood volume often accompanied by increased number of leukocytes and platelets) and chronic myelogenous leukemia (leukemia originating in the bone marrow). The platelet count is decreased in certain anemias and acute leukemia (Ref. *4*).

The agency agrees that this device presents a potential unreasonable risk of illness or injury if the physician relies upon diagnostic information produced by an improperly calibrated platelet counter. The agency believes that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lewis, S. M., "Standards and Reference Preparations," *in* "Quality Control in Haematology," Edited by S. M. Lewis and J. F. Coster, Academic Press, New York, pp. 91–92, 1975.

2. Delange, J. A. et al., "Automation in the Hematology Laboratory," *Journal of Clinical Chemistry and Clinical Biochemistry*, 14:485–497, 1976.

3. Rutten, W. P. F. et al., "A Systematic Investigation on the Hemalog," *Journal of Clinical Chemistry and Clinical Biochemistry* 9:387–393, 1975.

4. Brown, B. A., "Hematology: Principles and Procedures," Lea and Febiger, Philadelphia, pp. 100–101, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8175 as follows:

§ 864.8175 Calibrator for platelet counting.

(a) *Identification.* A calibrator for platelet counting is a device that approximates platelets in plasma that is used to set a platelet-counting instrument. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four Copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27690 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1912]

Medical Devices; Classification of Calibrators for Red Cell and White Cell Counting

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying calibrators for red cell and white cell counting into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of calibrators for red cell and white cell counting:

1. Identification: A calibrator for red cell and white cell counting is a device that approximates whole blood or red or white blood cells and that is used to set instruments intended to count red cells, white cells, or both. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for these products be a high priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that calibrators for red cell and white cell counting be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommedation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. Additionally, O. W. van Assendelft, M.D., Chief of the General Hematology Laboratory at the Center for Disease Control and a consultant to the Panel, states that technology has advanced to the stage where a true value can be assigned to calibration materials for red cell and white cell counting (Re. *1*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a red cell or white cell disorder. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that calibrators for red cell and white cell counting be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because genral controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Reference

1. Transcript of the Hematology Device Classification Panel Meeting, March 29, 1976, pp. 17–19.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8185 as follows:

§ 864.8185 Calibrator for red cell and white cell counting.

(a) *Identification.* A calibrator for red cell and white cell counting is a device that approximates whole blood or red or white blood cells and that is used to set instruments intended to count red cells, white cells, or both. It is a suspension of particles or fixed cells whose size, shape, concentration, and other characteristics have been carefully determined.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27691 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1913]

Medical Devices; Classification of Blood Cell Diluents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood cell diluents into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of blood cell diluents:

1. Identification: A blood cell diluent is a device used to dilute blood for further testing, such as blood cell counting.

2. Recommended classification: Class I (general controls.) The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that blood cell diluents be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that blood cell diluents be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8200 as follows:

§ 864.8200 Blood cell diluent.

(a) *Identification.* A blood cell diluent is a device used to dilute blood for further testing, such as blood cell counting.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27692 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1914]

Medical Devices; Classification of Lymphocyte Separation Media

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying lymphocyte separation media into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierkshiede, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of lymphocyte separation media:

1. Identification: A lymphocyte separation medium is a device used to isolate lymphocytes from whole blood.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that lymphocyte separation media be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that lymphocyte separation media be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that part 864 be amended in Subpart I by adding new § 864.8500 as follows:

§ 864.8500 Lymphocyte separation medium.

(a) *Identification.* A lymphocyte separation medium is a device used to isolate lymphocytes from whole blood.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27693 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1915]

Medical Devices; Classification of Red Cell Lysing Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying red cell lysing reagents into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of red cell lysing reagents:

1. Identification: A red cell lysing reagent is a device used to lyse (destroy) red blood cells for hemoglobin determinations or to remove red blood cells to facilitate the counting of white blood cells.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that red cell lysing reagents be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation of the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that red cell lysing reagents be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8540 as follows:

§ 864.8540 Red cell lysing reagent.

(a) *Identification.* A red cell lysing reagent is a device used to lyse (destroy) red blood cells for hemoglobin determinations of to remove red blood cells to facilitate the counting of white blood cells.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27694 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1916]

Medical Devices; Classification of Hematology Quality Control Mixtures

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hematology quality control mixtures into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of hematology quality control mixtures:

1. Identification: A hematology quality control mixture is a device used to ascertain the accuracy and precision of manual, semiautomated, and automated determinations of cell parameters such as white cell count, (WBC), red cell count (RBC), platelet count (PLT), hemoglobin, hematocrit (HCT), mean corpuscular volume (MCV), mean corpuscular hemoglobin (MCH), and mean corpuscular hemoglobin concentration (MCHC).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this product be a high priority.

3. Summary of reasons for recommendation: The Hematology Device Classification Panel recommends that hematology quality control mixtures be classified into class II because there is a need for a performance standard that prescribes for this device acceptable ranges of accuracy, precision, sensitivity, and specificity, and thereby minimizes the possibility that the device may generate inaccurate diagnostic information. Reliance upon inaccurate diagnostic information could result in inappropriate therapy that places the patient at risk unnecessarily. The Panel believes that quality control mixtures are among the most critical products used in the hematology laboratory. The laboratory relies upon these products to determine that its reagents have not deteriorated and that its instruments are functioning properly. If a quality control mixture is defective, the laboratory could not know that its reagents had deteriorated or that its instruments were not functioning properly and could provide practitioners with erroneous clinical data. Use of erroneous data as the basis for a diagnosis could be hazardous to a patient's health. The development of performance standards for hematology quality control mixtures is essential to ensure consistency in the product as a quality control measure. the allowed variation in the product's stated value must not be so wide as to make that value meaningless. The Panel believes the labeling should be required to state the instruments for which its product will give valid results. Quality control materials should never be used for the calibration of an instrument. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a disease process. Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. For example, in the case of platelet disorders, a patient could suffer hemorrhage because of failure to detect severe thrombocytopenia (a decrease in the number of platelets), or spontaneous thrombosis because of failure to recognize thrombocytosis (an increase in the number of platelets in the blood).

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that hematology quality control mixtures be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8625 as follows:

§ 864.8625 Hematology quality control mixture.

(a) *Identification.* A hematology quality control mixture is a device used to ascertain the accuracy and precision of manual, semiautomated, and automated determinations of cell parameters such as white cell count (WBC), red cell count (RBC), platelet count (PLT), hemoglobin, hematocrit (HCT), mean corpuscular volume (MCV), mean corpuscular hemoglobin (MCH), and mean corpuscular hemoglobin concentration (MCHC).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27695 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1917]

Medical Devices; Classification of Russell Viper Venom Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying Russell viper venom reagents into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of Russell viper venom reagents:

1. Identification: Russell viper venom reagent is a device used to determine the cause of an increase in the prothrombin time.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that Russell viper venom reagents be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Panel recommended that the product labeling be required to state that the user should, when changing from one lot of reagent to another, check the calibration of this test for proper venom concentration.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, clinical experience with, this device. Additionally, the Panel members considered a study that suggested that this reagent be used to investigate prolonged prothrombin times (Ref. *1*) and a study of the coagulant activity of the venom (Ref. *2*).

5. Risks to health: Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of a deficiency in factor VII (the coagulation factor proconvertin). Inappropriate therapy based on inaccurate diagnostic data may place the patient at risk. There is a risk of bleeding during surgery or other procedure.

Proposed Classification

The FDA agrees with the Panel's recommendation and is proposing that Russell viper venom reagents be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Hougie, C., E. M. Barrow, and J. B. Graham, "Stuart Clotting Defect I. Segregation of an Hereditary Hemorrhagic State from the Heterogeneous Group Heretofore Called 'Stable Factor' (SPCA, Proconvertin, Factor VII) Deficiency," *Journal of Clinical Investigation*, 36:485–496, 1957.

2. Macfarlane, R. G., "The Coagulant Action of Russell's Viper Venom, the Use of Antivenom in Defining Its Reaction with a Serum Factor," *British Journal of Haematology*, 7:498–511, 1961.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart I by adding new § 864.8950 as follows:

§ 864.8950 Russell viper venom reagent.

(a) *Identification.* Russell viper venom reagent is a device used to determine the cause of an increase in the prothrombin time.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27686 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1918]

Medical Devices; Classification of Blood Bank Supplies

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood bank supplies into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding to the classification of blood bank supplies:

1. Identification: Blood bank supplies are general purpose devices for in vitro use in blood banking. This generic type of device includes products such as blood bank pipettes, blood grouping slides, blood typing tubes, blood typing racks, and cold packs for antisera reagents. The device does not include articles that are licensed by FDA's Bureau of Biologics.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that blood bank supplies be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, blood bank supplies which indicates that these devices are routinely used in blood banking and do not present any significant risk to health.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood bank supplies be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))] and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended by adding Subpart J including new § 864.9050 as follows:

Subpart J—Products Used in Establishments That Manufacture Blood and Blood Products

§ 864.9050 Blood bank supplies.

(a) *Identification.* Blood bank supplies are general purpose devices for in vitro use in blood banking. This generic type of device includes products such as blood bank pipettes, blood grouping slides, blood typing tubes, blood typing racks, and cold packs for antisera reagents. The device does not include articles that are licensed by the Bureau of Biologics of the Food and Drug Administration.

(b) *Classification.* Class I (general controls.).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27687 Filed 9–10–79; 8:45 am]

BILLING CODE 4110[illegible]03–M

[21 CFR Part 864]

[Docket No. 78N–1919]

Medical Devices; Classification of Containers for the Collection and Processing of Blood and Blood Components

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying containers for the collection and processing of blood and blood components into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of containers for the collection and processing of blood and blood components:

1. Identification: A container for the collection and processing of blood and blood components is an empty plastic bag or plastic or glass bottle used to collect, store, or transfer blood and blood components for further processing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that empty containers for the collection and processing of blood and blood components be classified into class II to provide for control of the risk of contamination of the blood or blood components placed in these containers. Contamination may be bacterial or may be due to toxic substances leached from the plastic used to construct the container. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with blood collection and processing containers.

5. Risks to health: (a) Bacterial contamination: Improper sterilization may result in bacterial contamination of the blood or blood component. (b) Emboli: The container may contain particulate matter that could cause emboli if infused into the patient's circulation. (c) Toxicity: The plastic container may leach carcinogenic or toxic materials such as plasticizers into the blood or blood component stored in it.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that containers for the collection and processing of blood and blood components be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device. The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Blood or blood components must be administered to a patient through administration sets which contain filters to remove particulate matter, thereby minimizing the risk of emboli. The viability of blood cells stored in plastic bags is influenced by the characteristics of the plastic from which the bag is manufactured (Refs. *1, 2,* and *3*). Significant characteristics include the surface, thickness, and any substances that blood or blood components may leach from the plastic (Ref. *1*). It is known that human or animal blood will extract plasticizers such as di-2-ethylhexyl phthalate (DEHP) from polyvinyl chloride (PVC) blood bags, tubing, and medical devices (Refs. *4* and *5*). Significant amounts of DEHP have been detected in plasma prepared from whole blood stored in PVC bags at 4° C (Ref. *6*). Transfusion of blood stored in plastic bags has resulted in detectable amounts of DEHP in patients' lungs, livers, and spleens (Ref. *7*). Contact with PVC plastics or the resins, plasticizers, and stabililizers constituting these plastics has been shown to have a destructive effect on animals (Refs. *7, 8,* and *9*), biological systems (Refs. *10* and *11*), and antisera (Ref. *10*). It has not been demonstrated that the infusion of blood or blood products containing DEHP has any adverse effects on humans (Refs. *6* through *12*). However, the effects of long-term or repeated

exposure to DEHP, especially in the case of transfusion recipients who are already in a weakened state, merits continued investigation (Refs. *13* and *14*). New plastics that are developed as alternatives to PVC must be carefully evaluated for their potential for leaching toxic or carcinogenic substances (Ref. *7*). The International Organization for Standardization has developed a standard for plastics and collapsible containers for blood and blood components (Ref. *15*).

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Slichter, S. J. and L. A. Harker, "Preparation and Storage of Platelet Concentrates II. Storage Variables Influencing Platelet Viability and Function," *British Journal of Haematology*, 34:403–419, 1976.

2. Murphy, S., S. N. Sayar, and F. H. Gardner, "Storage of Platelet Concentrates at 22° C," *Blood*, 35:549, 1970.

3. Mollison, P. L., "Blood Transfusion in Clinical Medicine," 5th Ed., Blackwell Scientific Publications, London, p. 65, 1972.

4. Jaeger, R. J. and R. J. Rubin, "Migration of a Phthalate Ester Plasticizer from Polyvinyl Chloride Blood Bags into Stored Human Blood and its Localization in Human Tissues," *New England Journal of Medicine*, 287(22): 1114–1118, 1972.

5. Jaeger, R. J. and R. J. Rubin, "Extraction, Localization, and Metabolism of Di-2-Ethylhexyl Phthalate from PVC Plastic Medical Devices," *Environmental Health Perspectives*, 3:95–102, 1973.

6. Valeri, C. R. et al., "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma 1. Effect of DEHP on Platelet Survival and Function," *Environmental Health Perspectives*, 3:103–118, 1973.

7. Tepper, L. B., "Phthalic Acid Esters—An Overview," *Environmental Health Perspectives*, 3:179–182, 1973.

8. Boiver, R. K., S. Haberman, and P. D. Minton, "Teratogenic Effects in the Chick Embryo Caused by Esters of Phthalic Acid," *Journal of Pharmacology and Experimental Therapeutics*, 171(2):314–324, 1970.

9. Peters, J. W. and R. M. Cook, "Effects of Phthalate Esters on Reproduction in Rats," *Environmental Health Perspectives*, 3:91–94, 1973.

10. Haberman, S. et al., "Effects of Plastics and Their Additives on Human Serum Proteins, Antibodies, and Developing Chick Embryos," *Society for Plastics Engineers Journal*, 24:62–69, 1968.

11. Guess, W. L. et al., "Characterization of Subtle Toxicity of Certain Plastic Components Used in Manufacture of the Polyvinyls," *American Journal of Hospital Pharmacy*, 24:495, 1967.

12. Contreras, T. J., R. H. Sheibley, and C. Valeri, "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma," *Transfusion*, 14:34, 1974.

13. Rubin, R. J. and C. A Schiffer, "Fate in Humans of the Plasticizer Di-2-Ethylhexyl Phthalate Arising from Transfusion of Platelets Stored in Vinyl Plastic Bags," *Transfusion*, 16(4):330, 1976.

14. Valeri, C. R., "Blood Banking and the Use of Frozen Blood Products," CRC Press, Inc., Cleveland, pp. 20–23, 1976.

15. International Organization for Standardization, "Plastics, Collapsible Containers for Blood and Blood Components," 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9100, to read as follows:

§ 864.9100 Container for the collection and processing of blood and blood components.

(a) *Identification.* A container for the collection and processing of blood and blood components is an empty plastic bag or plastic or glass bottle used to collect, store, or transfer blood and blood components for further processing.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27698 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1920]

Medical Devices; Classification of Vacuum-Assisted Blood Collection Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying vacuum-assisted blood collection systems into class I (general controls). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health , Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vacuum-assisted blood collection systems:

1. Identification: A vacuum-assisted blood collection system is a device that uses a vacuum to draw blood for subsequent reinfusion.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemption.

3. Summary of reasons for recommendation: The Panel recommends that vacuum-assisted blood collection systems be Classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The panel based its recommendation upon the Panel members' knowledge of, and clinical experience with, blood collection.

5. Risks to health: (a) Collection of an incorrect amount of blood: An improperly calibrated or malfunctioning blood collection system could result in the collection of too much or too little blood. (b) Poor cell or component recovery: Drawing blood through a small opening using a vacuum may result in cell damage, such as red cell hemolysis (disruption of the cell membrane accompanied by the release of hemoglobin), during collection or processing.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that vacuum-assisted blood collection systems be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that if the operating instructions in the product labeling are followed carefully, the device will present minimal risks to health.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9125, to read as follows:

§ 864.9125 Vacuum-assisted blood collection system.

(a) *Identification.* A vacuum-assisted blood collection system is a device that uses a vacuum to draw blood for subsequent reinfusion.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27699 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1921]

Medical Devices; Classification of Processing Systems for Frozen Blood

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying processing systems for frozen blood into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of processing systems for frozen blood:

1. Identification: A processing system for frozen blood is a device used to glycerolize red blood cells prior to freezing to minimize hemolysis (disruption of the red cell membrane accompanied by the release of hemoglobin) due to freezing and thawing of red blood cells and to deglycerolize and wash thawed cells for subsequent reinfusion.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that processing systems for frozen blood be classified into class II because a performance standard is necessary to control the risk of damage to blood cells from improper freezing. A performance standard also is needed to control the risk of a hemolytic transfusion reaction in the recipient because of improper removal of glycerol from blood to be transfused. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with processing systems for frozen blood. The Panel believes that the American Association of Blood Banks' guidelines provide an excellent basis for a performance standard (Ref. *1*).

5. Risks to health: (a) Hemolytic transfusion reaction: Incomplete removal of glycerol could result in a hemolytic transfusion reaction in the recipient of the transfused blood. (b) Infusion of damaged blood or blood components: If this device fails to perform satisfactorily, the blood or blood components recovered may not be suitable for use because of damage during collection or processing. One form of damage is red cell hemolysis. Infusion of damaged blood or blood components may harm the recipient. (c) Bacterial contamination: Improper freezing may result in bacterial contamination of the blood or blood components. (d) Toxicity: The plastics in this system may leach toxic substances into the blood or blood components exposed to them.

Proposed Classification

The FDA agrees with the Panel's recommendation and is proposing that processing equipment for frozen blood be classified into class II (performance standards). The agency believes that performance standard is necessary for

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this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device. The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Glycerol has been used as a cryopreservative to protect red cells against freeze-thaw hemolysis for over 25 years (Ref. *1*). However, the addition of glycerol may result in hemolysis unless great care is taken. After thawing, the cryopreserved cells must be washed and deglycerolized. The washing process should maximize the red cell recovery and remove certain unwanted substances from the red cells. These substances include glycerol, the storage anticoagulant, plasma, white cells, platelets, certain additives, and infectious agents (Ref. *2*). Deglycerolization presents the greatest difficulty in terms of time, cost, and red cell loss (Refs. *1, 3,* and *4*). The glycerol level should be less than 1 percent in blood to be used for transfusion. (Ref. *4*).

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," Seventh edition, Miller, W. V. et al., eds., J. B. Lippincott Co., Philadelphia, PA, pp. 47–53. 1977.

2. Contreras, R. J. and C. R. Valeri, "A Comparison of Methods To Wash Liquid-Stored Red Blood Cells Frozen With High or Low Concentrations of Glycerol," *Transfusion*, 16(6):539–565, 1976.

3. Meryman, H. T. and M. Hornblower, "A Method for Freezing and Washing Red Blood Cells Using High Glycerol Concentration," *Transfusion*, 12: 145–156, 1972.

4. Bryant, L. R. Jr., "The Large-Scale Use of Frozen Blood by the Hospital Blood Bank," *American Journal of Medical Technology*, 43(8):785–789, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9145, to read as follows:

§ 864.9145 Processing system for frozen blood.

(a) *Identification.* A processing system for frozen blood is a device used to glycerolize red blood cells prior to freezing to minimize hemolysis (disruption of the red cell membrane accompanied by the release of hemoglobin) due to freezing and thawing of red blood cells and to deglycerolize and wash thawed cells for subsequent reinfusion.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27700 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1922]

Medical Devices; Classification of Blood Group Substances of Nonhuman Origin for In Vitro Diagnostic Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood group substances of nonhuman origin for in vitro diagnostic use into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood group substances of nonhuman origin for in vitro diagnostic use:

1. Identification: Blood group substances of nonhuman origin for in vitro diagnostic use are materials, such as blood group specific substances prepared from nonhuman sources (e.g., pigs, cattle, and horses), used to detect, identify, or neutralize antibodies to various human blood group antigens. This generic type of device does not include materials that are licensed by FDA's Bureau of Biologics.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that blood group substances of nonhuman origin for in vitro diagnostic use be classified into class II to control the risk of transfusion reactions due to undetected antibodies in the recipient's serum. A standard prescribing acceptable ranges of sensitivity and specificity would minimize the possibility that an antibody would go undetected. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with blood group substances.

5. Risks to health: Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified, and this could result in a transfusion reaction.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood group substances of nonhuman origin for in vitro diagnostic use be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9160, to read as follows:

§ 864.9160 Blood group substances of nonhuman origin for in vitro diagnostic use

(a) *Identification.* Blood group substances of nonhuman origin for in vitro diagnostic use are materials, such as blood group specific substances prepared from nonhuman sources (e.g., pigs, cows, and horses) used to detect, identify, or neutralize antibodies to various human blood group antigens. This generic type of device does not include materials that are licensed by the Bureau of Biologics of the Food and Drug Administration.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27701 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1923]

Medical Devices; Classification of Automated Blood Grouping and Antibody Test Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated blood grouping and antibody test systems into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of automated blood grouping and antibody test systems:

1. Identification: An automated blood grouping and antibody test system is a device used to group erythrocytes (red blood cells) and to detect antibodies to blood group antigens.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated blood grouping and antibody test systems be classified into class II to control the incubation period, frequency of cell mixing, and temperature and concentration of reagents used so that inaccurate blood grouping will be minimized. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendaton is based: The Panel based its recommendation upon the Panel members' clinical experience with blood grouping and antibody detection. The Panel believes that the American Association of Blood Banks' standards for blood grouping provide an excellent basis for the development of a performance standard.

5. Risks to health: (a) Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified. This failure could result in a transfusion reaction. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (c) Blood grouping errors: Failure of this device to perform satisfactorily may cause errors in blood grouping. This failure could result in the selection of an inappropriate blood group for transfusion and a subsequent transfusion reaction.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that automated blood grouping and antibody test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard

would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9175 to read as follows:

§ 864.9175 Automated blood grouping and antibody test system.

(a) *Identification.* An automated blood grouping and antibody test system is a device used to group erythrocytes (red blood cells) and to detect antibodies to blood group antigens.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27702 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1924]

Medical Devices; Classification of Blood Grouping View Boxes

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood grouping view boxes into class I (general controls). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health , Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood grouping view boxes:

1. Identification: A blood grouping view box is a device with a glass or plastic viewing surface, which may be illuminated and heated, that is used to view cell reactions in antigen-antibody testing.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that blood grouping view boxes be Classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience in antigen-antibody testing.

5. Risks to health: Inaccurate blood grouping: If the temperature of this device exceeds a certain level, antigen-antibody reactions will be affected, and inaccurate blood grouping may result.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood grouping view boxes be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9185, to read as follows:

§ 864.9185 Blood grouping view box.

(a) *Identification.* A blood grouping view box is a device with a glass or plastic viewing surface, which may be illuminated and heated, that is used to view cell reactions in antigen-antibody testing.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27703 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1925]

Medical Devices; Classification of Blood Mixing and Weighing Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood mixing and weighing devices into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood mixing and weighing devices:

1. Identification: A blood mixing and weighing device is a device used to mix blood or blood components by agitation or to weigh blood or blood components as they are collected.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary the reasons for recommendation: The Panel recommends that blood mixing and weighing devices be classified into class I because these are simple devices in common use that do not present any risks to health. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, blood mixing and weighing devices.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood mixing and weighing devices be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9195, to read as follows:

§ 864.9195 Blood mixing and weighing device.

(a) *Identification.* A blood mixing and weighing device is a device used to mix blood or blood components by agitation or to weigh blood or blood components as they are collected.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27704 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1926]

Medical Devices; Classification of Blood and Plasma Warming Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying non-electromagnetic blood and plasma warming devices into class II (performance standards) and electromagnetic blood and plasma warming devices into class III (premarket approval). The FDA is also publishing the recommendation of the Anesthesiology Device Classification Panel that nonelectromagnetic blood warmers be classified into class II and the electromagnetic blood warmers be classified into class III, and the recommendation of the Hematology Device Classification Panel that all blood and plasma warming devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel and the Anesthesiology Device Classification Panel, two FDA advisory committees, made the following recommendations regarding the classification of blood and plasma warming devices:

1. Identification: A nonelectromagnetic blood and plasma warming device is a device that warms blood or plasma, by means other than electromagnetic radiation, prior to administration. An electromagnetic blood and plasma warming device is a device that employs electromagnetic radiation (radiowaves or microwaves) to warm a bag or bottle of blood or plasma prior to administration.

2. Recommended classification: The Anesthesiology Device Classification Panel recommends that nonelectromagnetic blood warmers be classified into class II (performance

standards) and that establishing a performance standard for this device be a high priority. The Anesthesiology Device Classification Panel recommends that electromagnetic blood warmers be classified into class III (premarket approval) and that premarket approval for this device be a low priority. The Hematology Device Classification Panel recommends that all blood and plasma warming devices be classified into class II and that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Anesthesiology Device Classification Panel recommends that nonelectromagnetic blood warmers be classified into class II (performance standards) because the Panel believes that the characteristics of these devices need to be controlled to assure that proper blood temperature is attained and that the system is leak-free to prevent air emboli from entering the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide a reasonable assurance of the safety and effectiveness of the nonelectromagnetic blood warmer and that there is sufficient information to establish a standard to provide such assurance. The Anesthesiology Device Classification Panel recommends that the electromagnetic blood warmer be classified into class III (premarket approval) because the device presents a potential unreasonable risk of illness or injury to the recipient if hemolyzed blood is infused. Because of the manner in which the radiation is emitted and reflected within the microwave warmer, the device heats blood unevenly. Uneven heating results in hot spots that can cause hemolysis (disruption of the red blood cells accompanied by release of hemoglobin). A means of eliminating this uneven heating has not been developed. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that insufficient information exists to establish a performance standard that would prevent uneven heating and thus provide reasonable assurance of the safety and effectiveness of the device. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness. The Hematology Device Classification Panel recommends that blood and plasma warming devices be classified into class II to assure that a standard controls the temperature of the warmer and thus prevents damage to the blood or plasma. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the warming of blood and plasma.

5. Risks to health: The Anesthesiology Device Classification Panel identified the following risks to health: (a) Infusion of chilled, hemolyzed, or coagulated blood: If a blood and plasma warming device fails to heat blood properly, the blood may be damaged. Uneven heating, a potential problem with the electromagnetic warmer, or excessive heating, a potential problem with both the electromagnetic and the nonelectromagnetic warmers, may cause hemolysis or coagulation of the blood. If hemolyzed or coagulated blood is infused into a patient, the patient could suffer pulmonary or cerebral complications or death. If chilled blood is infused into a patient, hypothermia (abnormally reduced body temperature) or cardiac arrest may occur. (b) Air emboli: With respect to the type of nonelectromagnetic warmer that consists of a coil of plastic tubing that is placed in a water bath or electric warmer, leaks in the tubing or inadequate trapping of flushed gas may allow air emboli to enter the patient. (c) Electromagnetic interference: The radiation emitted by the electromagnetic blood and plasma warmer could produce electromagnetic interference in other medical devices, and may thus result in erroneous data and inappropriate therapy.

The Hematology Device Classification Panel identified the following risk to health: (d) Bleeding: Failure of a blood and plasma warming device to perform satisfactorily may result in overheating and damage to blood cells, components, or blood products. Overheating damages blood or denatures plasma protein by inactivating various coagulation factors. Bleeding can result in patients who receive damaged blood or plasma.

Proposed Classification

FDA agrees with both Panels' recommendations with respect to nonelectromagnetic blood and plasma warming devices and is proposing that these devices be classified into class II (performance standards). The agency has reviewed additional data and information concerning the device to determine whether a performance standard will provide reasonable assurance of the safety and effectiveness of the device. One type of nonelectromagnetic blood and plasma warmer consists of a coil of plastic tubing that is inserted into the transfusion line. The coil is either immersed in an electrically heated water bath or placed between two electrically heated warming plates. This type requires use of a long piece of tubing to warm the blood sufficiently. Pressure must be exerted to force the cold, highly viscous blood through the tubing, and the greater the length of the tubing, the more pressure is required. This pressure may hemolyze the blood. The infusion rate that can be achieved with this type of device is necessarily slow, due to the length of time required to warm the blood. Therefore, this type of device is not suitable for rapid, massive transfusions in emergency situations (Refs. *1* through *4*). Another type of nonelectromagnetic warmer heats a plastic bag of blood or plasma between two electrically heated warming plates. The agency believes that a performance standard is necessary for both types of this device because general controls alone are insufficient to contorl the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA is proposing that electromagnetic blood and plasma warming devices be classified into class III (premarket approval). With respect to these devices, the agency agrees with the recommendation of the Anesthesiology Device Classification Panel that the devices be classified into class III and disagrees with the recommendation of the Hematology Device Classification Panel that the devices be classified into class II. Before deciding which Panel's recommendation to accept, the agency reviewed additional data and information concerning the device to determine whether general controls alone would provide reasonable assurance of the safety and effectiveness of the device or whether sufficient information exists to establish a performance standard to provide such assurance. Microwave blood and plasma warmers were in widespread use in the United States by the late 1960's. This type of warmer consists of a microwave oven containing apparatus that rotates the unit of blood, a temperature sensor that shuts off the device when the temperature of the unit of blood reaches a certain range, a timer that shuts off the device after a preset time regardless of the temperature of the unit of blood, and special shielding intended to eliminate uneven heating of the unit of blood (Refs. *2* through *6*). Despite improvements designed to provide more uniform distribution of radiant energy, reports of hemolysis of units of blood began to appear by 1971 (Refs. *2, 5,* and *7*). There have been two reports of overheating due to improper placement ot the temperature sensor (Ref. *5*) and improper positioning of the unit of blood (Ref. *7*). However, hemolysis has resulted even when the manufacturer's instructions were followed precisely (Refs. *2* and *5*). In one report the temperature sensing and control apparatus were inadequate, and small units of blood, i.e., 250 to 300 milliliters, exhibited substantial hemolysis (Ref. *2*). There are two types of overheating, gross and focal, that may damage blood. Gross overheating refers to a siutation in which the average temperature of the unit of blood is excessive. The agency believes that a standard assuring proper performance of the temperature sensing and control apparatus could control this risk. Focal overheating, the occurrence of hot spots within a unit of blood due to uneven power distribution, presents a more difficult problem. Hot spots are caused by the emission of radiation from a single point in the warmer and numerous subsequent internal reflections. At certain points within the warmer, the reflected radiations interact in an additive fashion and produce hot spots that are not detected by the temperature sensor. An effective means of eleminating hot spots has yet to be developed. Because radiowave warmers are similar in design to microwave warmers, the agency believes that radiowave warmers present a similar risk of undetected hot spots, and resulting hemolysis, in units of heated blood. Furthermore, there have been few studies of the effects of microwave or radiowave heating upon blood cells. It is possible that a microwave warmer produces a population of damaged but intact erythrocytes with a shortened in vivo survival (Ref. *7*). An additional hazard related to the use of microwave blood warmers is that the personnel operating the device may be exposed to microwave radiation. Microwaves have been implicated in cataract formation (Refs. *8* and *9*) and cardiovascular disease (Ref. *10*). Like the Anesthesiology Device Classification Panel, the agency believes that the electromagnetic blood and plasma warmer presents a potential unreasonable risk of illness or injury (including death) if hemolyzed blood is transfused into a patient. The agency also believes that the device is for a use (heating blood for use in massive, emergency transfusions) that is of substantial importance in preventing impairment of human health. The agency believes that premarket approval is necessary for the device because general controls are insufficient to control this risk and thus to provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is insufficient information to establish a performance standard to control this risk and thus to provide reasonable assurance of the safety and effectiveness of the device. When the electromagnetic blood and plasma warmer undergoes premarket approval, manufacturers will be required to demonstrate that their devices meet any performance standards for nonelectromagnetic blood and plasma warmers with respect to maintenance of blood temperatures and adequacy of the temperature control apparatus. If no such standard exists, these manufacturers will be required to demonstrate satisfactory performance in these respects.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Mollison, P. L., "Blood Transfusion in Clinical Medicine," Blackwell Scientific Publications, Oxford, p. 581, 1972.

2. McCullough, J. et al., "Iatrogenic Hemolysis: A Complication of Blood Warmed by a Microwave Device," *Anesthesia and Analgesia*, 51(1):102–106, 1972.

3. Restall, C. J. et al., "A Microwave Blood Warmer: A Preliminary Report," *Anesthesia and Analgesia*, 46(5):625–628, 1967.

4. duPlessis, J., A. Bull, and J. Besseling, "An Assessment of Radio Frequency Induction Heating of Bood for Massive Transfusion," *Anesthesia and Analgesia*, 46(1):96–100, 1967.

5. Arens, J. F. and G. L. Leonard, "Danger of Overwarming Blood by Microwave," *Journal of the American Medical Association*, 218(7):1045–1046, 1971.

6. Leonard, P. et al., "Microwave Warming of Bank Blood," *Anesthesia and Analgesia*, 50(2):302–305, 1971.

7. Staples, P. and P. Griner, "Extracorporeal Hemolysis of Blood in a Microwave Blood Warmer," *New England Journal of Medicine*, 285(6):317–319, 1971.

8. Zaret, M. and W. Snyder, "Cataracts and Avionic Radiations," *British Journal of Ophthalmology*, 61:380–384, 1977.

9. Zaret, M., W. Snyder, and L. Birenbaum, "Cataract After Exposure to Non-Ionizing Radiant Energy," *British Journal of Ophthalmology*, 60:632–637, 1976.

10. Zaret, M., "Potential Hazards of Hertzian Radiation and Tumors," *New York State Journal of Medicine*, 146–147, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9205, to read as follows:

§ 864.9205 Blood and plasma warming device.

(a) *Nonelectromagnetic blood or plasma warming device*—(1) *Identification.* A nonelectromagnetic blood and plasma warming device is a device that warms blood or plasma, by means other then electromagnetic radiation, prior to administration.

(2) *Classification.* Class II (performance standards).

(b) *Electromagnetic blood and plasma warming device*—(1) *Identification.* An electromagnetic blood and plasma warming device is a device that employs electromagnetic radiation (radiowaves or microwaves) to warm a bag or bottle of blood or plasma prior to administration.

(2) *Classification.* Class III (permarket approval).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27705 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

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[21 CFR Part 864]

[Docket No. 78N-1927]

Medical Devices; Classification of Cell-Freezing Apparatus and Reagents for In Vitro Diagnostic Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cell-freezing apparatus and reagents for in vitro diagnostic use into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cell-freezing apparatus and reagents for in vitro diagnostic use:

1. Identification: Cell-freezing apparatus and reagents for in vitro diagnostic use are devices used to freeze human red blood cells for in vitro diagnostic use.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that cell-freezing apparatus and reagents for in vitro diagnostic use be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device. The Panel noted that freezing red cells does not alter the antigens and any hemolysis (disruption of red cell membrane accompanied by the release of hemoglobin) that occurs is easily detectable.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with cell freezing apparatus and reagents for in vitro diagnostic use.

5. Risks to health: Blood cell damage: The red blood cells that are recovered may not be suitable for use because of damage, e.g., hemolysis, during collection or processing. Use of damaged red cells may result in inaccurate test results.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that cell-freezing apparatus and reagents for in vitro diagnostic use be classified into Class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed to amend Part 864 in Subpart J by adding new § 864.9225, to read as follows:

§ 864.9225 Cell-freezing apparatus and reagents for in vitro diagnostic use.

(a) *Identification.* Cell-freezing apparatus and reagents for in vitro diagnostic use are devices used to freeze human red blood cells for in vitro diagnostic use.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27706 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N-1926]

Medical Devices; Classification of Automated Blood Cell Separators

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated blood cell separators into class III (premarket approval). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee,

made the following recommendation regarding the classification of automated blood cell separators:

1. Identification: An automated blood cell separator is a device that automatically removes whole blood from a donor, separates the blood into components (red blood cells, white blood cells, plasma, and platelets), retains one or more of the components, and returns the remainder of the blood to the donor. The components obtained are transfused or used to prepare blood products for administration.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that automated blood cell separators be classified into class III because the device is purported or represented to be for use in the preparation of blood components for transfusion, a use that is of substantial importance in preventing impairment of human health. In addition, the device presents a potential unreasonable risk of illness or injury to the donor or the recipient. The major risk to the donor's health is that removing blood, handling the blood outside the patient's body, and returning the blood to the patient's circulation could injure the cellular components and could activate the complement system (a series of enzymatic proteins that interact to combine with the antigen-antibody complex, destroying antigen in the form of an intact cell). The Panel indicated its concern about leaks in the separator that can result in blood or pressure loss, the risk of hepatitis due to improper decontamination of the separator system between procedures, and the blood compatibility of the various segments of the separator. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that insufficient information exists to establish a performance standard that would provide reasonable assurance of the safety and effectiveness of the device. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the information provided by Dr. Thomas F. Necheles, the Panel's Chairman, and Dr. Dennis Goldfinger, a Panel member, and on the Panel members' clinical experience with this device. Dr. Necheles routinely uses automated blood cell separators to obtain white blood cells for infusion into patients. He has observed several instances in which recipient patients developed severe fevers because of the breakdown of granulocytes (leukocytes containing granules) during the pump cycle of the separator. Dr. Necheles also described several other patients' experiences with severe bleeding after infusion of white cells obtained with a blood cell separator. Dr. Goldginer, who has extensive blood-banking experience, stated that there is very little information available regarding the hazards associated with the device. He attributed this lack of information to the absence of a suitable forum for the exchange of information concerning problems with the use of automated blood cell separators.

5. Risks to health: (a) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (b) Poor cell or component recovery: If this device fails to perform satisfactorily, the blood or blood components recovered may not be suitable for use because of cell damage during collection or processing. One form of damage is red cell hemolysis (disruption of the cell membrane accompanied by the release of hemoglobin). (c) Electrical shock: The user faces the risk of electrical shock from the electrical system of the device. (d) Adverse donor reactions: If the device fails to perform satisfactorily, the following donor reactions may occur: (1) shock resulting from blood loss; (2) abdominal pain due to infection or the sequestering of damaged cells by organs such as the liver or spleen; (3) toxic reaction to high levels of anti-coagulants such as citrate or heparin that the instrument adds to the blood before it is returned to the donor; (4) a stress reaction due to the removal or loss of blood; (5) thrombosis due to activation of clotting factors by air or surfaces within the device; (6) fever or local infection due to bacterial contamination of the blood returned to the donor; and (7) a susceptibility to hemorrhage due to the loss of platelets.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that automated blood cell separators be classified into class III (premarket approval). The agency has obtained additional data and information concerning automated blood cell separators. Moriau, De Bruyere, and Bellenot (Ref. *1*) recommend that the donor's blood pressure and electrocardioscopic and fluid balance changes be monitored and that the plasma replacement fluids contain an appropriate amount of calcium and be free of hepatitis antigen. Sterilization of the cell separator bowl is also a concern (Ref. *2*). There have been instances of thromboembolism in white cell donors due to platelet-white cell aggregates (Ref. *3*). The automated blood cell separator must also meet the requirements of 21 CFR Part 606, relating to good manufacturing practices for blood and blood components, specifically § 606.65, which requires that all surfaces which contact the blood or blood component be sterile, pyrogen-free, and not have an adverse effect upon the blood or blood component (Ref. *4*). The agency believes that the device is purported or represented to be for use in the preparation of blood components for transfusion, a use that is of substantial importance in preventing impairment of human health. The agency believes that the device presents a potential unreasonable risk of illness or injury because of the possible adverse donor reactions and the possibility of delivering altered, damaged, or contaminated blood or blood components to the recipient. The agency believes that insufficient information exists to determine that general controls will provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Moriau, M., M. De Bruyere, and C. Bellenot, "Granulocyte Collections From Normal Donors Using the Continuous Flow Centrifuge," *in* "Leukocytes: Separation, Collection, and Transfusion," Edited by Goldman, J. M. and R. M. Lowenthal, Academic Press, London, pp. 88-96, 1975.

2. Cartledge, K. W., "Problems in the Sterilization of Cell Separator Bowls," *in* "Leukocytes: Separation, Collection, and Transfusion," Edited by Goldman, J. M. and R. M. Lowenthal, Academic Press, London pp. 43-45, 1975.

3. Oon, C. J. and J. R. Hobbs, "Medical Problems in Donors on Treatment Using the Continuous Flow Blood Separator," *in* "Leukocytes: Separation, Collection, and Transfusion," Edited by Goldman, J. M. and R. M. Lowenthal, Academic Press, London, pp. 576-577, 1975.

4. Code of Federal Regulations, 21 CFR Part 606—Current Good Manufacturing Practices for Blood and Blood Components, Subpart D—Equipment § 606.65.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9245, to read as follows:

§ 864.9245 Automated blood cell separator.

(a) *Identification.* An automated blood cell separator is a device that automatically removes whole blood from a donor, separates the blood into components (red blood cells, white blood cells, plasma, and platelets), retains one or more of the components, and returns the remainder of the blood to the donor. The components obtained are transfused or used to prepare blood products for administration.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27707 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1929]

Medical Devices; Classification of Blood Bank Centrifuges for In Vitro Diagnostic Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood bank centrifuges for in vitro diagnostic use into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It it proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of blood bank centrifuges for in vitro diagnostic use:

1. Identification: A blood bank centrifuge for in vitro diagnostic use is a device used only to separate blood cells for further diagnostic testing.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that blood bank centrifuges for in vitro diagnostic use be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with blood bank centrifuges.

5. Risks to health: (a) Transfusion reaction: Failure of this device to perform satisfactorily may cause errors in blood grouping. This failure could result in the selection of an inappropriate blood group for transfusion and a subsequent transfusion reaction. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood bank centrifuges for in vitro diagnostic use be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that if this centrifuge is operated according to the instructions in the labeling, and if blood samples are handled properly, the risks to health presented by the device are minimal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9275, to read as follows:

§ 864.9275 Blood bank centrifuge for in vitro diagnostic use.

(a) *Identification.* A blood bank centrifuge for in vitro diagnostic use is a device used only to separate blood cells for further diagnostic testing.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27708 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1930]

Medical Devices; Classification of Automated Cell-Washing Centrifuges for Immuno-Hematology

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated cell-washing centrifuges for immuno-hematology into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of automated cell-washing centrifuges for immuno-hematology:

1. Identification: An automated cell-washing centrifuge for immuno-hematology is a device used to separate and prepare cells and sera for further in vitro diagnostic testing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that automated cell-washing centrifuges for immuno-hematology be classified into class II to assure, by controlling the amount of saline used to wash the cells and the length of the spin, wash, and decant cycles, that the cells and sera prepared are free of interfering substances that may invalidate test results. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficent information to establish a standard to provide such assurance.

4. Summary of data upon which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with the cell-washing centrifuge for immuno-hematology.

5. Risks to health: (a) Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified. This failure could result in a transfusion reaction. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that automated cell-washing centrifuges for immuno-hematology be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. The American Association of Blood Banks (AABB) has made recommendations concerning automated cell washers (Ref. *1*). The AABB notes that the stream of saline used to resuspend the pellet of cells must be directed so that the cells are fully resuspended without creating a large amount of foam that may cause cross contamination. The fluid must be decanted from the cell pellet so that there are no residual amounts of serum that might interfere with further testing. The agency believes that the AABB recommendations will provide a basis for the establishment of a performance standard. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

"Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. B. Lippincott Co., Philadelphia, pp. 298–301, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9285 as follows:

§ 864.9285 Automated cell-washing centrifuge for immuno-hematology.

(a) *Identification.* An automated cell-washing centrifuge for immuno-hematology is a device used to separate and prepare cells and sera for further in vitro diagnostic testing.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27709 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1931]

Medical Devices; Classification of Automated Coombs Test Systems

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying automated Coombs test systems into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the

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device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel **Recommendation**

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of automated Coombs test systems:

1. Identification: An automated Coombs test system is a device used to detect and identify antibodies in patient sera or antibodies bound to red cells. The Coombs test is uesd for the diagnosis of hemolytic disease of the newborn and autoimmune hemolytic anemia. The test is also used in crossmatching and investigating transfusion reations and drug-induced red cell sensitization.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that automated Coombs test systems be classified into class II, to assure by controlling the incubation period, the incubation temperature, the suspending medium, and the concentration of the cell suspension, that the device detects and accurately identifies antibodies. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with automated Coombs testing systems. The Panel believes that the American Association of Blood Banks' guidelines for Coombs testing provide an excellent basis for the development of a performance standard (Ref. *1*).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: Failure of the device to perform satisfactorily may lead to an error in the diagnosis of hemolytic disease of the newborn or autoimmune hemolytic anemia. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that automated Coombs test systems be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

"Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. B. Lippincott Co., Philadelphia, pp. 156–165, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) it is proposed that Part 864 be amended in Subpart J by adding new § 864.9300 to read as follows:

§ 864.9300 Automated Coombs test system.

(a) *Identification.* An automated coombs test system is a device used to detect and identify antibodies in patient sera or antibodies bound to red cells. The Coombs test is used for the diagnosis of hemolytic disease of the newborn, and autoimmune hemolytic anemia. The test is also used in crossmatching and in investigating transfusion reactions and drug-induced red cell sensitization.

(b) *Classification. Class II (performance standards).*

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27710 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1932]

Medical Devices; Classification of Copper Sulfate Solutions for Specific Gravity Determinations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying copper sulfate solutions for specific gravity determinations into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. Its is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of copper sulfate solutions for specific gravity determinations:

1. Identification: A copper sulfate solution for specific gravity determinations is a device used to determine whether the hemoglobin content of a potential donor's blood meets the required level (12.5 grams per 100 milliliters of blood for women and 13.5 grams per 100 milliliters of blood for men).

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: the Panel recommends that copper sulfate solution for specific gravity determinations be classified into class I because the Panel believes the general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel stated that this is a very simple test requiring only that a drop of blood be placed in a copper sulfate solution of known specific gravity. If the drop sinks within 15 seconds, the specific gravity of the blood exceeds that of the solution. If the drop raises to the surface within 15 seconds, the specific gravity of the blood is less then that of the solution.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, the device.

5. Risks to health: Improper donor selection: An inaccurate specific gravity determination could result in the selection of a potential blood donor with an unsuitable hemoglobin level.

Proposed Classification

FDA agrees with the Panel's recommendation and is proposing that copper sulfate solution for specific gravity determinations be classified into class I (general controls), with no exemptions. The agency believes that gerneral controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9320 to read as follows:

§ 864.9320 Copper sulfate solution for specific gravity determinations.

(a) *Identification.* A copper sulfate solution for specific gravity determinations is a device used to determine whether the hemoglobin content of a potential donor's blood meets the required level (12.5 grams per 100 milliliters of blood for women and 13.5 grams per 100 milliliters of blood for men).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27711 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1933]

Medical Devices; Classification of Stabilized Enzyme Solutions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying stabilized enzyme solutions into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of stabilized enzyme solutions:

1. Identification: A stabilized enzyme solution is a reagent used to enhance the reactivity of red blood cells with certain antibodies, including antibodies that are not detectable by other techniques. These enzyme solutions include papain, bromelin, ficin, and trypsin.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that stabilized enzyme solutions be classified into class II (performance standards) because a performance standard can assure that enzyme solutions are reactive. Nonreactive enzyme solutions present the risk of inaccurate results. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that

there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of and clinical experience with, these solutions.

5. Risks to health: Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified resulting in a transfusion reaction.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that stabilized enzyme solutions be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. The American Association of Blood Banks (AABB) has made recommendations regarding stabilized enzyme solutions (Ref. *1*). The AABB notes that the potency of enzyme solutions varies. Enzyme solutions lose their activity with age and mask antigenic determinants such as those of the Lutheran, MNS, and Duffy blood group systems. Other important factors in the potency of enzyme solutions include the pH of the solution, the length the red cell-enzyme incubation period, and the enzyme concentration. The agency believes that a performance standard is necessary for the device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. B. Lippincott Co., Philadelphia, pp. 168, 325–328, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9400, to read as follows:

§ 864.9400 Stabilized enzyme solution.

(a) *Identification.* A stabilized enzyme solution is a reagent used to enhance the reactivity of red blood cells with certain antibodies, including antibodies that are not detectable by other techniques. These enzyme solutions include papain, bromelin, ficin, and trypsin.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27712 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1934]

Medical Devices; Classification of Systems for the Identification of Hepatitis B Antigen

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying systems for the identification of hepatitis B antigen into class I (general controls). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of systems for the identification of hepatitis B antigen:

1. Identification: A system for the identification of hepatitis B antigen is a device that consists of the equipment and reagents necessary for the detection of hepatitis B antigen. Hepatitis B antigen is usually detected by radioimmunoassay, reversed passive hemagglutination, counterelectrophoresis, or latex agglutination. The device does not include articles that are licensed by the Bureau of Biologic of the Food and Drug Administration.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that systems for the identification of hepatitis B antigen be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' clinical experience with hepatitis B antigen detection.

5. Risks to health: (a) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection. (b) Radiation hazard: The user may be exposed to radiation from radioisotopes that are a part of this device. (c) Electrical shock: If the device malfunctions, the user faces the risk of electrical shock from the electrical system of the electrophoresis equipment used to detect hepatitis B antigen.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that systems for the identification of hepatitis B antigen be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that if users carefully follow the instructions in the labeling for the use of these systems, and if the blood samples are handled properly, the risks described above will be minimized.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9500 to read as follows:

§ 864.9500 System for the identification hepatitis B antigen.

(a) *Identification.* A system for the identification of hepatitis B Antigen is a device that consists of the equipment and reagents necessary for the detection of hepatitis B antigen. Hepatitis B antigen is usally detected by radioimmunoassay, reversed passive hemagglutination, counterelectrophoresis, or latex agglutination. The device does not include articles that are licensed by the Bureau of Biologics of the Food and Drug Administration.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA—305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-27713 Filed 9-10-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 864]

[Docket No. 78N–1935]

Medical Devices; Classification of Lectins and Protectins

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying lectins and protectins into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lectins and protectins:

1. Identification: Lectins and protectins are proteins from plants and lower animals that cause cell agglutination in the presence of certain antigens. These substances are used to detect blood group antigens for in vitro diagnostic purposes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that lectins and protectins be classified into class II because a performance standard is necessary to assure the reactivity and specificity of these substances. Nonspecific or nonreactive substances present the risk of incorrect blood grouping. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of the data on which the recommendation is based: The Panel based its recommendation upon the Panel members' clinical experience with lectins and protectins.

5. Risks to health: Transfusion reaction: Failure of this device to perform satisfactorily may cause errors in blood grouping, resulting in the selection of an inappropriate blood group for transfusion and in a subsequent transfusion reaction.

Proposed Classification

FEA agrees with the Panel recommendation and is proposing that lectins and protectins be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. The medical literature concerning lectins and protectins indicates that these substances lose their stability and specificity with age (Ref. 1). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Reference

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by

interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

Abelson, N. M., "Topics in Blood Banking," Lea and Febiger, Philadelphia, p. 51, 1974

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9550, to read as follows:

§ 864.9550 Lectins and protectins.

(a) *Identification.* Lectins and protectin are proteins derived from plants and lower animals that cause cell agglutination in the presence of certain antigens. These substances are used to detect blood group antigens for in vitro diagnostic purposes.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27714 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1936]

Medical Devices; Classification of Environmental Chambers for Storage of Platelet Concentrate

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying environmental chambers for storage of platelet concentrate into class II (performance standards). The FDA is also publishing the recommendations of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of environmental chambers for storage of platelet concentrate:

1. Identification: An environmental chamber for storage of platelet concentrate is a device used to hold platelet-rich plasma within a preselected temperature range.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that environmental chambers for storage of platelet concentrate be classified into class II because a performance standard is necessary to assure that the platelets are held within a certain temperature range, thus avoiding damage to the platelets. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' knowledge of, and clinical experience with, platelets and platelet storage.

5. Risks to health: Infusion of damaged blood or blood components: Failure of the device to perform satisfactorily may result in damage to platelets because of overheating. Platelets deteriorate rapidly when the storage temperature rises to an excessively high temperature. Infusion of damaged platelets may cause serious harm to a patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that environmental chambers for storage of platelet concentrate be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Proper storage temperature to maximize platelet viability is the subject of considerable controversy (Ref. *1*). Certain groups advocate storage at 22° C with gentle agitation, while other groups recommend 4° C with no agitation (Refs. *2* through *4*). Federal regulations allow either method of storage (Ref. *5*). Regardless of the method of storage, platelet concentrates may be stored for only 72 hours (Refs. *1* and *6*). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., Philadelphia, p. 44, 1977.

2. Slichter, S. J. and L. A. Harker, "Preparation and Storage of Platelet Concentrates. II. Storage Variables Influencing Platelet Viability and Function," *British Journal of Haematology*, 34:403–419, 1976.

3. Murphy, S., S. N. Sayar, and F. H. Gardner, "Storage of Platelet Concentrates at 22° C," *Blood*, 35:549, 1970.

4. Becker, G. A. et al., "Studies of Platelet Concentates Stored at 22° C and 4° C," *Transfusion*, 13:61, 1974.

5. 21 CFR Part 640, Subpart C—Platelet Concentrate (Human) § 640.25(a) *Storage.*

6. 21 CFR Part 610, Subpart F—Dating Period Limitations, § 610.53 *Dating periods for specific products.*

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9575 as follows:

§ 864.9575 Environmental chamber for storage of platelet concentrate.

(a) *Identification.* An environmental chamber for storage of platelet concentate is a device used to hold platelet-rich plasma within a preselected temperature range.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27715 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1937]

Medical Devices; Classification of Potentiating Media for In Vitro Diagnostic Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying potentiating media for in vitro diagnostic use into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of potentiating media for in vitro diagnostic use:

1. Identification: Potentiating media for in vitro diagnostic use are media, such as bovine albumin, that are used to suspend red cells and to enhance cell reactions for antigen-antibody testing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that potentiating media for in vitro diagnostic use be classified into class II (performance standards) because of the need to control such characteristics as the incubation time, concentration, and pH of these media. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, potentiating media for in vitro diagnostic use.

5. Risks to health: Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified, or a blood grouping error may result. This failure could result in the selection of an inappropriate blood for transfusion and in a subsequent transfusion reaction.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that potentiating media for in vitro diagnostic use be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Antigen-antibody reactions are influenced by factors such as temperature, incubation time, the pH and ionic strength of the reaction medium, and the antigen-antibody ratio (Ref. *1*). Reducing the ionic strength of the reaction medium enhances the binding of antibody to red cell antigens (Ref. *1*). One form of potentiating medium, a low ionic strength solution (LISS), reduces the required incubation time and is superior to albumin in its ability to suspend red cells. The LISS and serum must be present in equal proportions. A large excess of LISS lowers the ionic strength and causes false positives, while an excess of serum increases the ionic strength and decreases the sensitivity of the agglutination test. To be effective, LISS should be stored at 4° C and kept free of microorganisms (Ref. *2*). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

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1. "Technical Manual of the American Association of Blood Banks," 7th ed., Miller, W.V., et al., eds., J. B. Lippincott Philadelphia, pp. 147–150, 1977.

2. Moore, H. C., and P. L. Mollison, "Use of a Low-Ionic Strength Medium in Manual Tests for Antibody Detection," *Transfusion*, 16(4):291–296, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9600, to read as follows:

§ 864.9600 Potentiating media for in vitro diagnostic use.

(a) *Identification.* Potentiating media for in vitro diagnostic use are media, such as bovine albumin, that are used to suspend red cells and to enhance cell reactions for antigen-antibody testing.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27716 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1938]

Medical Devices; Classification of Quality Control Kits for Blood-Banking Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying quality control kits for blood-banking reagents into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of quality control kits for blood-banking reagents:

1. Identification: A quality control kit for blood-banking reagents is a device that consists of sera, cells, buffers, and antibodies used to determine the specificity, potency, and reactivity of the cells and reagents used for blood banking.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that quality control kits for blood-banking reagents be classified into class II because a performance standard is necessary to control the risk of inaccurate test results due to lack of specificity, potency, or reactivity of the cells and reagents. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and experience in, blood banking.

5. Risks to health: (a) Transfusion reaction: If this device fails to perform satisfactorily, clinically significant antibodies may not be detected and identified, resulting in a transfusion reaction. (b) Hepatitis infection: Exposure of the user, donor, or patient to blood, blood products, or blood aerosols presents a risk of hepatitis infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that quality control kits for blood-banking reagents be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be assured by a performance standard. The American Association of Blood Banks' standards require that reagents be tested at regular intervals (Ref. *1*). Antisera being tested should react with red cells possessing weak antigenic determinants (Ref. *2*). Similarly, reagent red cells should detect weak antibodies. Testing should employ both negative and positive controls. Detailed procedures, including avidity and dilution methodologies, have been developed for quality control testing (Refs. *1* and *3*). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. C. Lippincott Co., Philadelphia, pp. 283–287, 1977.

2. Abelson, N. M., "Topics in Blood Banking," Lea and Febiger, Philadelphia, p. 45, 1974.

3. Myhre, B. A., "Quality Control in Blood Banking," John Wiley and Sons, Inc., New York, pp. 225–227, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9650 as follows:

§ 864.9650 Quality control kit for blood-banking reagents.

(a) *Identification.* A quality control kit for blood-banking reagents is a device that consists of sera, cells, buffers, and antibodies used to determine the specificity, potency, and reactivity of the cells and reagents used for blood banking.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27717 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1939]

Medical Devices; Classification of Blood Storage Refrigerators and Blood Storage Freezers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood storage refrigerators and blood storage freezers into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation for the classification of blood storage refrigerators and blood storage freezers:

1. Identification: A blood storage refrigerator and a blood storage freezer are devices used to preserve blood and blood products by storing them at cold or freezing temperatures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that blood storage refrigerators and freezers be classified into class II because a performance standard is necessary to control the risk of damage to blood or blood products by assuring that the device maintains the proper temperature. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel believes that the American Association of Blood Banks standards on blood storage refrigerators and freezers (Ref. *1*) provide an excellent basis for the establishment of a performance standard.

5. Risks to health: Heat damage: Failure of the device to perform satisfactorily may result in damage to blood cells, components, or blood products because of overheating.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that blood storage refrigerators and blood storage freezers be classified into class II (performance standards). The agency has obtained additional data and information on the device to determine whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. The American Association of Blood Banks' standards specify the allowable temperature range for refrigerators and require circulating fans, interior lighting, recording thermometers, and an audible and/or visible alarm with its own electrical system (Ref. *1*). The storage temperature for frozen blood is important in assuring its stability. Blood frozen in a high glycerol procedure is stable over a relatively wide temperature range, but low glycerol cryo-preservation requires that blood be maintained at temperatures below minus 100° C, or complete hemolysis (disruption of the red cell membrane accompanied by the release of hemoglobin) will result (Ref. *2*). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. B. Lippincott Co., Philadelphia, pp. 57–59, 1977.

2. Abelson, N. M., "Topics in Blood Banking," Lea and Febiger, Philadelphia, p. 35, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9700, to read as follows:

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§ 864.9700 Blood storage refrigerator and blood storage freezer.

(a) *Identification.* A blood storage refrigerator and a blood storage freezer are devices used to preserve blood and blood products by storing them at cold or freezing temperatures.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27718 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

Regulatory Affairs.

[FR Doc. 79–27716 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1938]

Medical Devices; Classification of Quality Control Kits for Blood-Banking Reagents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying quality control kits for blood-banking reagents into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of heat-sealing devices:

1. Identification: A heat-sealing device is a device that uses heat to seal plactic bags containing blood or blood components.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The panel recommends that heat-sealing devices be classified into class I because the Panel believes that general controls are [illegible] used for blood banking.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that quality control kits for blood-banking reagents be classified into class II because a performance standard is necessary to control the risk of inaccurate test results due to lack of specificity, potency, or reactivity of the cells and reagents. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard for this device.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of heat-sealing devices:

1. Identification: A heat-sealing device is a device that uses heat to seal plactic bags containing blood or blood components.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The panel recommends that heat-sealing devices be classified into class I because the Panel believes that general controls are [illegible] used for blood banking.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that quality control kits for blood-banking reagents be classified into class II because a performance standard is necessary to control the risk of inaccurate test results due to lack of specificity, potency, or reactivity of the cells and reagents. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9750, to read as follows:

§ 864.9750 Heat-sealing device.

(a) *Identification.* A heat-sealing device is a device that uses heat to seal plastic bags containing blood or blood components.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. C. Lippincott Co., Philadelphia, pp. 283–287, 1977.

2. Abelson, N. M., "Topics in Blood Banking," Lea and Febiger, Philadelphia, p. 45, 1974.

3. Myhre, B. A., "Quality Control in Blood Banking," John Wiley and Sons, Inc., New York, pp. 225–227, 1974.

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register**.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Certification Panel, an FDA advisory committee, made the following recommendation regarding the classification of transfer sets:

1. Identification: A transfer set is a

[Docket No. 78N–1939]

Medical Devices; Classification of Blood Storage Refrigerators and Blood Storage Freezers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying blood storage refrigerators and blood storage freezers into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA [illegible] refrigerators and freezers be classified into class II because a performance standard is necessary to control the risk of damage to blood or blood products by assuring that the device maintains the proper temperature. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel believes that the American Association of Blood Banks standards on blood storage refrigerators and freezers (Ref. *1*) provide an excellent basis for the establishment of a performance standard.

effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency has obtained additional data and information to determine whether general controls or performance standards are appropraite for the device and whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Human blood is capable of extracting plasticizers such as di-2-ethylhexyl phthalate (DEHP) from medical-grade plastic tubing, and these plasticizers are subsequently transfused into the patient (Refs. *1* and *2*). Contact with polyvinyl chloride (PVC) plastics or the resins, plasticizers, and stabilizer constituting these plastics has been shown to have a destructive effect on animals (Refs. *3*, *4*, and *5*), biological systems (Refs. *6*, and *7*), and antisera (Ref. *6*). It has not been demonstrated that infusion of blood or blood products containing DEHP has had any adverse effects on humans (Refs. *8*, *9*). However, the effects of long term or repeated exposure to DEHP, especially in the case of transfusion recipients, who are already in a weakened state, merits continued

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Technical Manual of the American Association of Blood Banks," 7th Ed., Miller, W. V., et al., eds., J. B. Lippincott Co., Philadelphia, pp. 57–59, 1977.

2. Abelson, N. M., "Topics in Blood Banking," Lea and Febiger, Philadelphia, p. 35, 1974.

6. Haberman, S., et al., "Effects of Plastics and Their Additives on Human Serum Proteins, Antibodies, and Developing Chick Embryos," *Society for Plastics Engineers Journal*, 24:62–69, 1968.

7. Guess, W. L. et al., "Characterization of Subtle Toxicity of Certain Plastic Components Used in Manufacture of the Polyvinyls," *American Journal of Hospital Pharmacy*, 24:495, 1967.

8. Valeri, C. R. et al., "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma 1. Effect of DEHP on Platelet Survival and Function," *Environmental Health Perspectives*, 3:103–118, 1973.

9. Contreras, T. J., R. H. Sheibley, and C. Valeri, "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma," *Transfusion*, 14:34, 1974.

10. Rubin, R. J. and C. A. Schiffer, "Fate in Humans of the Plasticizer Di-2-Ethylhexyl Phthalate Arising from Transfusion of Platelets Stored in Vinyl Plastic Bags," *Transfusion*, 16(4):330, 1976.

11. Valeri, C. R., "Blood Banking and the Use of Frozen Blood Products," CRC Press, Inc., Cleveland, pp. 20–23, 1976.

12. International Organization for Standardization, "Plastics, Collapsible Containers for Blood and Blood Components," 1975.

Therefore, under the Federal Food, [illegible]

§ 864.9700 Blood storage refrigerator and blood storage freezer.

(a) *Identification.* A blood storage refrigerator and a blood storage freezer are devices used to preserve blood and blood products by storing them at cold or freezing temperatures.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979, submit to the hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27718 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1940]

Medical Devices; Classification of Heat-Sealing Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying heat-sealing devices into class I (general controls) The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation The Hematology Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of heat-sealing devices:

1. Identification: A heat-sealing device is a device that uses heat to seal plactic bags containing blood or blood components.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The panel recommends that heat-sealing devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and efffectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' knowledge of, and clinical experience with, heat-sealing devices.

5. Risks to health: (a) Heat damage: Failure of the device to perform satisfactorily may result in damage to blood cells, components, or blood products because of overheating. (b) Bacterial contamination: Improper sealing may result in bacterial contamination of the blood cells, components, or blood products stored in the bag.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that heat-sealing devices be classified into class I (general controls), with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency believes that if the manufacturer's directions for use specify the proper temperature range and the proper technique for sealing a blood bag, and if the user follows these directions, the risk of the bag contents being damaged or contaminated will be minimal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9750, to read as follows:

§ 864.9750 Heat-sealing device.

(a) *Identification.* A heat-sealing device is a device that uses heat to seal plastic bags containing blood or blood components.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before November 13, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27719 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 864]

[Docket No. 78N–1942]

Medical Devices; Classification of Transfer Sets

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying transfer sets into class II (performance standards). The FDA is also publishing the recommendation of the Hematology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by November 13, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7234.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the **Federal Register** provides background information concerning the development of the proposed regulation. The Hematology Device Certification Panel, an FDA advisory committee, made the following recommendation regarding the classification of transfer sets:

1. Identification: A transfer set is a piece of tubing with suitable adaptors used to transfer blood or plasma from one container to another.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that transfer sets be classified into class I because this is a simple device in common use and does not present any unreasonable risks to health. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data upon which recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and clinical experience with, transfer sets.

5. Risks to health: None identified.

Proposed Classification

FDA disagrees with the Panel recommendation and is proposing that transfer sets be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk of bacterial contamination or the risk that toxic or carcinogenic substances will leach into the blood or blood components that contact these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device. The agency has obtained additional data and information to determine whether general controls or performance standards are appropraite for the device and whether reasonable assurance of the safety and effectiveness of the device can be provided by a performance standard. Human blood is capable of extracting plasticizers such as di-2-ethylhexyl phthalate (DEHP) from medical-grade plastic tubing, and these plasticizers are subsequently transfused into the patient (Refs. *1* and *2*). Contact with polyvinyl chloride (PVC) plastics or the resins, plasticizers, and stabilizer constituting these plastics has been shown to have a destructive effect on animals (Refs. *3*, *4*, and *5*), biological systems (Refs. *6*, and *7*), and antisera (Ref. *6*). It has not been demonstrated that infusion of blood or blood products containing DEHP has had any adverse effects on humans (Refs. *8*, *9*). However, the effects of long term or repeated exposure to DEHP, especially in the case of transfusion recipients, who are already in a weakened state, merits continued investigation (Refs. *10*, and *11*). New plastics that are developed as alternatives to PVC must be carefully evaluated with respect to their potential for leaching toxic or carcinogenic substances (Ref. *3*). The International Organization for Standardization's standards for plastics and collapsible containers for blood and blood components (Ref. *12*) also addresses transfer sets.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Jaeger, R. J. and R. J. Rubin, "Migration of Phthalate Ester Plasticizer from Polyvinyl Chloride Blood Bags into Stored Human Blood and its Localization in Human Tissues," *New England Journal of Medicine*, 287(22):1114–1118, 1972.

2. Jaeger, R. J. and R. J. Rubin, "Extraction, Localization, and Metabolism of Di-2-Ethylhexyl Phthalate from PVC Plastic Medical Devices," *Environmental Health Perspectives*, 3:95–102, 1973.

3. Tepper, L. B., "Phthalic Acid Esters—An Overview," *Environmental Health Perspectives* 3:179–182, 1973.

4. Bower, R. K., S. Haberman, and P. D. Minton, "Teratogenic Effects in the Chick Embryo Caused by Esters of Phthalic Acid," *Journal of Pharmacology and Experimental Therapeutics*, 171(2):314–324, 1970.

5. Peters, J. W. and R. M. Cook, "Effects of Phthalate Esters on Reproduction in Rats," *Environmental Health Perspectives*, 3:91–94, 1973.

6. Haberman, S., et al., "Effects of Plastics and Their Additives on Human Serum Proteins, Antibodies, and Developing Chick Embryos," *Society for Plastics Engineers Journal*, 24:62–69, 1968.

7. Guess, W. L. et al., "Characterization of Subtle Toxicity of Certain Plastic Components Used in Manufacture of the Polyvinyls," *American Journal of Hospital Pharmacy*, 24:495, 1967.

8. Valeri, C. R. et al., "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma 1. Effect of DEHP on Platelet Survival and Function," *Environmental Health Perspectives*, 3:103–118, 1973.

9. Contreras, T. J., R. H. Sheibley, and C. Valeri, "Accumulation of Di-2-Ethylhexyl Phthalate (DEHP) in Whole Blood, Platelet Concentrates, and Platelet-Poor Plasma," *Transfusion*, 14:34, 1974.

10. Rubin, R. J. and C. A. Schiffer, "Fate in Humans of the Plasticizer Di-2-Ethylhexyl Phthalate Arising from Transfusion of Platelets Stored in Vinyl Plastic Bags," *Transfusion*, 16(4):330, 1976.

11. Valeri, C. R., "Blood Banking and the Use of Frozen Blood Products," CRC Press, Inc., Cleveland, pp. 20–23, 1976.

12. International Organization for Standardization, "Plastics, Collapsible Containers for Blood and Blood Components," 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 864 be amended in Subpart J by adding new § 864.9875, to read as follows:

§ 864.9875 Transfer set.

(a) *Identification.* A transfer set is a piece of tubing with suitable adaptors used to transfer blood or plasma from one container to another.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before November 13, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 17, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–27720 Filed 9–10–79; 8:45 am]

BILLING CODE 4110–03–M

V 44/177 SE 11 79 UMI

federal register

Tuesday
September 11, 1979

Part III

Department of the Treasury

Fiscal Service

Depositaries and Financial Agents of the Government; Final Rule

V 4 4 / 177 S E 11 79 UMI

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 202

Depositaries and Financial Agents of the Government

AGENCY: Bureau of Government Financial Operations, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The Treasury Department is making three revisions to Title 31 of the Code of Federal Regulations, Part 202. Part 202.2 is being rewritten, in accordance with Pub. L. 95–147 of October 28, 1977, to broaden the classes of financial institutions that may be designated as Depositaries and Financial Agents of the Government.

31 CFR Part 202.4 is being changed to conform with Section 503 of the Veterans Employment and Readjustment Act of 1972, which exempts contractors that receive gross annual earnings of less than $10,000 on Government contracts from those provisions of the Act that promote the employment of disabled and Vietnam-era veterans. Also, Part 202.4 is being amended to implement Section 503 of the Rehabilitation Act of 1973, which requires Government contractors to take affirmative action to hire qualified handicapped individuals.

A new paragraph (paragraph e) is being added to Part 202.6 to impose requirements upon depositaries regarding actions to be taken with respect to collateral pledged by depositaries in the event that they become insolvent.

EFFECTIVE DATE: September 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Schwan III, Director, Banking Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226 (202/566–8488).

SUPPLEMENTARY INFORMATION: The highlights of these revisions and amendments are as follows:

Designation of Depositaries and Financial Agents of the Government

Among other provisions, Pub. L. 95–147 authorizes the Secretary of the Treasury to deposits public moneys in any federal- or state-insured financial institution. The designation as a Depositary and Financial Agent of the Government, which heretofore applied only to banks insured by the Federal Deposit Insurance Corporation, will include federally-insured savings and loan associations and credit unions, and savings banks, savings and loans, building and loans, homestead associations (including cooperative banks), and credit unions insured by a state or an agency thereof.

The law makes it possible for these institutions to maintain official accounts of Government officers who are authorized, for specified purposes, to have funds outside of the Treasury. In addition, the institutions may also be authorized to maintain accounts of the United States Treasury for the purpose of collecting receipts from Government agencies for credit in our account and for purposes of providing other services specifically authorized by the Secretary of the Treasury.

31 CFR Part 202.4 is being changed to conform with Section 503 of the Veterans Employment and Readjustment Act of 1972, which exempts contractors that receive gross annual earnings of less than $10,000 on Government contracts from those provisions of the Act that promote the employment of disabled and Vietnam-era veterans. Previously, only contractors that had gross annual earnings of less than $2,500 were exempt from these provisions. In addition, Part 202.4 is being amended to effect implementation of Section 503 of the Rehabilitation Act of 1973 requiring Government contractors to take affirmative action to employ qualified handicapped individuals, except that those depositaries which receive gross annual earnings of less than $2,500 are exempt from compliance with these regulations.

A new paragraph (paragraph e) is being added to Part 202.6 to eliminate certain problems pertaining to the perfection of the Treasury's security interest in the proceeds of pledged collateral in the event of the insolvency of the depositary. This is a revision of a technical nature which is intended to preserve, subsequent to the insolvency of a depositary, the Treasury's interest in the proceeds of the collateral which a Depositary and Financial Agent of the Government has pledged for the purpose of securing public monies on deposit or invested with it.

Since these revisions involve a matter relating to public contracts, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule-making, opportunity for public participation, and delay in the effective date are inapplicable.

Accordingly, Part 202, Chapter II, of Title 31 of the Code of Federal Regulations is amended as follows:

(Sec. 10, 56 Stat. 356, as amended, 12 U.S.C. 265; sec. 2, Pub. L. 95–147 (12 U.S.C. 266, 1464(k), 1725, 1789a, and 31 U.S.C. 1038); sec. 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793); and sec. 503 of the Veterans Employment and Readjustment Act of 1972, Executive Order 11701 (38 U.S.C. 2012))

PART 202—DEPOSITARIES AND FINANCIAL AGENTS OF THE GOVERNMENT

§ 202.1 [Amended]

1. Section 202.1 is amended as follows:

(a) By adding "and Sec. 2, Pub. L. 95–147, 91 Stat. 1227 (12 U.S.C. 1464(k); 12 U.S.C. 1725(d); 12 U.S.C. 1789a; 12 U.S.C. 266)." to the end of the first sentence.

(b) By substituting "Treasury Tax and Loan Depositaries" for "Special Depositaries of Public Money" in the last sentence.

2. Section 202.2 is revised to read as follows:

§ 202.2 Designations.

(a) Financial institutions of the following classes are designated as Depositaries and Financial Agents of the Government if they meet the eligibility requirements stated in paragraph (b) of this section:

(1) Every bank insured by the Federal Deposit Insurance Corporation.

(2) Every institution insured by the Federal Savings and Loan Insurance Corporation.

(3) Every credit union insured by the Administrator of the National Credit Union Administration.

(4) Savings banks, savings and loan, building and loan, and homestead associations, and credit unions created under the laws of any State, the deposits or accounts of which are insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts of such financial institutions.

(b) In order to be eligible for designation, a financial institution is required to possess, under its charter and the regulations issued by its chartering authority, either general or specific authority to perform the services outlined in § 202.3(b). A financial institution is required also to possess the authority to pledge collateral to secure public funds.

3. Paragraphs (a) and (b)(1)(i) of § 202.3 are revised to read as follows:

§ 202.3 Authorization.

(a) *To accept deposits covered by the appropriate federal or State insurer.* Every depositary is authorized to accept a deposit of public money in an official account, other than an account in the name of the United States Treasury, in which the maximum balance does not

exceed the "Recognized Insurance Coverage". "Recognized Insurance Coverage" means the insurance provided by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Share Insurance Fund, and by insurance organizations specifically qualified by the Secretary of the Treasury pursuant to 31 CFR Part 226.

(b) *To perform other services.* (1)

* * *

(i) The maintenance of official accounts in which balances will be in excess of the applicable federal or state insurance coverage;

* * * * * * *

4. Section 202.4 is being revised to read as follows:

§ 202.4 Contract of deposit.

A depositary which accepts a deposit under this part enters into a contract of deposit with the Treasury Department. The terms of this contract include:

(a) All of the provisions of this part.

(b) Any instructions issued pursuant to this part by the Treasury or by Federal Reserve Banks as Fiscal Agents of the United States or by any other Government agency.

(c) The provisions prescribed in section 202 of Executive Order 11246, entitled "Equal Employment Opportunity" (30 FR 12319) as amended by Executive Order 11375, entitled "Equal Employment Opportunity Clause".

(d) The requirements of section 503 of the Rehabilitation Act of 1973, 29 U.S.C. 793, and the regulations issued thereunder at 41 CFR Part 60–741, which are incorporated herein by reference, requiring Government contractors to take affirmative action to employ qualified handicapped individuals, except that depositaries which under this part receive gross annual earnings of less than $2,500 are exempt from compliance with these regulations.

(e) The requirements of section 503 of the Veterans Employment and Readjustment Act of 1972, 38 U.S.C. 2012, Executive Order 11701, and the regulations issued thereunder at 41 CFR Subpart 1–12.11, which are incorporated herein by reference, for the promotion of employment of disabled and Vietnam-era veterans, except that depositaries which under this part receive gross annual earnings of less than $10,000 are exempt from compliance with these regulations.

5. Section 202.6(e)(1) is revised to read as follows:

§ 202.6 Collateral security.

* * * * *

(e) *Disposition of principal and interest payments of the pledged securities after a depositary is declared insolvent.*—(1) *General.* In the event of the depositary's insolvency or closure, or in the event of the appointment of a receiver, conservator, liquidator, or other similar officer to terminate its business, the depositary agrees that all principal and interest payments on any security pledged to protect public monies due as of the date of the insolvency or closure, or thereafter becoming due, shall be held separate and apart from any other assets and shall constitute a part of the pledged security available to satisfy any claim of the United States.

(2) *Payment procedures.* (i) Subject to the waiver in subparagraph (iii) of this paragraph, each depositary (including, with respect to such depositary, an assignee for the benefit of creditors, a trustee in bankruptcy, or a receiver in equity) shall immediately remit each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section to the Federal Reserve Bank of the district, as fiscal agent of the United States, and in any event shall so remit no later than ten days after receipt of such a payment.

(ii) Subject to the waiver in paragraph (e)(2)(iii) of this section, each obligor on a security pledged by a depositary pursuant to this section shall make each payment of principal and/or interest with respect to such security directly to the Federal Reserve Bank of the district, as fiscal agent of the United States.

(iii) The requirements of paragraphs (e)(2) (i) and (ii) of this section are hereby waived for only so long as a pledging depositary remains solvent. The foregoing waiver is terminated without further action immediately upon the involvency of a pledging depositary or, if earlier, upon notice by the Treasury of such termination. For purposes of this paragraph, a depositary is insolvent when, voluntarily or by action of competent authority, it is closed because of present or prospective inability to meet the demands of its depositors or shareholders.

6. Section 202.7 is revised to read as follows:

§ 202.7 Maintenance of balances within authorizations.

(a) Government agencies must contact this Department before making deposits with a financial institution insured by a State or agency thereof or by a corporation chartered by a State for the sole purpose of insuring deposits or accounts. The contact should be directed to the Banking Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

(b) Government agencies having control or jurisdiction over public money on deposit in accounts with depositaries are responsible for the maintenance of balances in such accounts within the limits of the authorizations specified by the Secretary of the Treasury.

Dated: September 5, 1979.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79–28290 Filed 9–10–79; 8:45 am]

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Federal Register

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Tuesday, September 11, 1979

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

[Last Listing August 17, 1979]

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